



Public Administration and Constitutional Affairs Committee

Oral evidence: [The role of Non-Executive Directors in Government, HC 318](#)

Tuesday 17 January 2023

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Members present: Mr William Wragg (Chair); Jo Gideon; Mr David Jones; John McDonnell; Damien Moore; Tom Randall; John Stevenson; Beth Winter.

Questions 103 to 167

Witnesses

I: Rt Hon Jeremy Quin MP, Paymaster General and Minister for the Cabinet Office; and Michael Jary, Government Lead Non-Executive, Cabinet Office.

Written evidence from witnesses:

– [Cabinet Office](#)

Examination of witnesses

Witnesses: Rt Hon Jeremy Quin MP and Michael Jary.

Q103 **Chair:** Good afternoon and welcome to this meeting of the Public Administration and Constitutional Affairs Committee. Today the Committee is continuing our inquiry into the role of non-executive directors in Government. We are joined this afternoon by the right honourable Jeremy Quin MP, Paymaster General and Minister for the Cabinet Office, and Michael Jary, the Government Lead Non-Executive Director. Good afternoon to you both. Would you introduce yourselves briefly for the record?

Michael Jary: I am Michael Jary, the Government Lead Non-Executive, a role that I have occupied since March 2022. Prior to that I was a departmental lead non-executive for three and a half years in DLUHC, previously MHCLG.

Jeremy Quin: As you say, Mr Chairman, Jeremy Quin, Minister for the Cabinet Office and Paymaster General.



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Q104 **Chair:** Thank you very much. Mr Quin, I will begin with questions to you. Non-executive directors were introduced into Government in their current form in 2010. How has the role evolved since then and what, if anything, has changed?

Jeremy Quin: First of all, I think that we all view it as a positive step to have non-execs around the table. A Permanent Secretary described them as a silent powerhouse, and they are. I think the focus since the Declaration on Government Reform has been on how we professionalise that role. They are there as advisers, so clearly they are there to provide input and insight, particularly on the delivery of what a Department is doing.

I think what we all want to see, and it has been manifested—Michael may want to pick up on this—as more of a focus on: how do we test that they are consistently holding Departments to account? As you know, we paused ODPs this year, but ideally it is making certain that non-execs are fully engaged in the ODP process and are able to test the efficiency of the programmes that are going through. They were well instituted in 2020, so I don't think the structure was wrong.

The one thing that has changed is more of an emphasis on making certain that they are consistently providing the challenge and that we are testing that that is under way.

Q105 **Chair:** Thank you. Mr Jary, as the Minister indicated, the 2021 Declaration on Government Reform includes an action to, "implement consistent Non-Executive Director challenge of departmental performance" under your leadership. What does this look like practically and what are you doing to achieve that?

Michael Jary: The challenge role, which is a very important element that non-executive directors bring and the independent view on the board, is manifested in the board meetings and also to a certain extent outside board meetings. Non-executive directors have the ability to ask the board questions about the departmental plan, the outcome delivery plan, the business planning process, the way in which resource is allocated in the Department and that in their view that is appropriately designed to make sure that the Department can deliver its objectives. Outside the board, they often are tasked by the Secretary of State or other Ministers with deep dives into some of those areas as well to bring their expertise and to make recommendations to the Ministers. I think that role works well.

You mentioned the Declaration on Government Reform. In response to that particular action, which arrived when I was newly appointed, we have prepared a set of guidelines, which all non-execs are now equipped with and newly arriving non-execs also are briefed on, to give them examples of how they can perform that role most effectively.

There is specifically one on challenge, one on their role in the outcome delivery plan, one on how they should be able to support and fulfil their



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role in a crisis in a Department. We have also prepared other papers on the induction programme, buddying up with new non-execs to make them effective as quickly as possible. That set of papers was peer reviewed by the lead non-exec group and, as I say, is now being put into practice among all of the non-execs.

Q106 Chair: Leading on from there, the Declaration on Government Reform includes a number of actions that seemingly enhance the role of non-executive directors in Government—for example, talent development and, as you mentioned, scrutiny of outcome delivery plans. It might be early days but what impact is that having and, perhaps more importantly, how will success be measured?

Michael Jary: The Minister can perhaps pick up on the latest status of the outcome delivery plans because my understanding is that their status has been slightly paused in the current year. In their first year, I found them extremely effective as a way of giving a role for the board and for the non-execs to be able to challenge the business planning of a Department at the right point when that business plan was being finalised but before it had been launched.

Then there is the stocktake process, which the Cabinet Secretary developed on the back of the outcome delivery plans, whereby every quarter the Department is required to submit its metrics and the lead non-exec is invited to provide an independent report that goes to the Cabinet Secretary and to other senior officials in the Cabinet Office. That is quite an effective and empowering mechanism for non-execs to be able to have a grip on their scrutiny role for the plan. I think that is an example of a good step forward in process in the Department.

Jeremy Quin: I agree with all your witnesses to date—and I am sure Michael would—that so much of the effectiveness of the board depends on how a Secretary of State wants to use the board and make the most out of it. Having a system where the Secretary of State and the Permanent Secretary are aware that the lead non-exec will be providing a narrative account on progress quarterly into the centre focuses minds. It helps ensure that the board is taken into the confidence and is given the opportunity to test those plans through the course of the year.

Q107 Chair: This might be quite a long question I am about to ask the Minister with a relatively short answer to it. The Chancellor of the Duchy of Lancaster wrote to the Committee in November last year stating that Lord Maude had been set a deadline of 31 December last year to deliver his findings for the review of Civil Service governance and accountability. As the Minister responsible for overseeing this review, could you give us an update of its publication and perhaps explain any delay?

Jeremy Quin: The very short answer is: more time is required. I very much respect the work that Francis is doing, so I regret we did not receive that report on 31 December. I hope that we will receive it in the not too distant future. I do not have a date when I expect it to be



delivered. Lord Maude is working on it. He is working through it and we granted him an extension.

Q108 **Chair:** An extension for that piece of homework, which is fair enough I suppose. Hypothetically, therefore, if we can, what will be the next steps following the publication of that review? It is fully dependent upon the content of the review, I presume.

Jeremy Quin: You and the Committee will know that there are a number of reports that have been put out there. There is Boardman, the Committee on Standards in Public Life, there will be Lord Maude's report and I look forward to receiving your final tome on this particular issue as well. I am acutely aware that we have reports to come back to. The work of the Committee on Standards in Public Life is at an advanced stage now. We are keen to get that out. I cannot give you a date but we are keen to see that advanced.

Q109 **John McDonnell:** In the not too distant future maybe?

Jeremy Quin: In the not too distant future I think would be fair and I thank Mr McDonnell for his guidance. I am conscious that there are a number of things outstanding on which we are working hard to get a response out formally. I include Francis's report within that, providing the timing works.

Q110 **John McDonnell:** Can you give us just at least some expectation—six weeks, eight weeks, a month? What is your best estimate?

Jeremy Quin: I am inclined towards the eight weeks rather than a month but I am keen that we get do get this out. I can assure you this is not somewhere deep in the long grass. Weekly sessions are being held with Ministers to develop a coherent response.

Q111 **John McDonnell:** You want to get it right, so you are looking at that sort of two-month period roughly, are you?

Jeremy Quin: I hope that we will get it out as soon as we can. However, if it takes two months to get it right, we will take two months and get it right.

Q112 **John Stevenson:** Minister, the number of non-executive directors varies from Department to Department; some have seven, some have three. Why the inconsistency?

Jeremy Quin: It does vary on what the Department does, the breadth of its operations and what individual Secretaries of State need. On your terms, I think we are rather profligate. We are currently recruiting an extra two, so we will be going up to seven non-execs in the Cabinet Office.

We cover a very wide area of Government. We are blessed to have the Government Lead Non-Exec, but he has work to do outside of the Department. When I look at the contributions made by the non-execs in



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the Cabinet Office I absolutely see why we favour having a slightly larger number. It is tied to the number of Ministers you have as well. There is broadly equivalence between the number of Ministers, the number of officials and the number of non-execs.

Q113 John Stevenson: If that is the case, should we be prescriptive so we know exactly how many each Department should have?

Jeremy Quin: If you thought there is a problem. I don't see a problem. I think the smaller numbers tend to be in the territorial offices. Wales and Scotland will tend to have fewer non-execs. They also have fewer Ministers and their pattern of activity is more focused than would be the case for Defence or others. You could argue that in some places like DWP there is a fairly narrow set of priorities but there is a huge deal of complexity in delivery and I think they have tended to have more non-execs.

Q114 John Stevenson: I can see the logic in your argument. I am just suggesting that for openness and transparency wouldn't it be sensible if each Department clearly set out how many they should have?

Jeremy Quin: I am thinking about it. I have a tidy mind that likes the idea of saying, "It is very obvious, here you should have three".

John Stevenson: It seems a no-brainer to me.

Jeremy Quin: The only thing is different Secretaries of State think about their boards in different ways. If you suddenly have a new challenge—

Q115 John Stevenson: Isn't the purpose of non-executive directors to challenge not just the Permanent Secretary but potentially also the Minister?

Jeremy Quin: They should challenge the Department in all its facets including challenging the Minister about delivery—not policy but delivery: how is the Department going to deliver this for you?

To give you an example, if a new area of requirement or delivery is pressed upon the Department, it may be sensible—and this is what a corporate would do—to say, "Who do we have around the table who can challenge us to make certain that we are delivering on this?" Would it be sensible to have a new non-exec who really understands commercial this or that, or really understands digital, who can come alongside his or her colleagues to drive the Department's performance in that particular area?

I am slightly reserving my position on it because I can see circumstances where things change and you would say, "A new non-exec, alongside our existing cohort, would be useful". Michael might have a different view.

Michael Jary: If I may come in on this one, Mr Stevenson, every Department is required to undertake a board effectiveness review every year. Through that process the Department scrutinises its own composition and effectiveness of the board and decides, if it feels it



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appropriate, to vary the number of non-executive directors. That review is carried out usually on the remit of the Secretary of State but in practice is executed by the lead non-executive director. It would be discussed between them and usually also with the Permanent Secretary, and then they would form a view.

Q116 **John Stevenson:** Would they publicise the number that they think is appropriate?

Michael Jary: If they decided that it was appropriate to add one, there would then be a public notice on the Cabinet Office website for that additional one. I wouldn't want to be in the position—and I am not sure whether this would be a consequence—where a Department identifies a need on the board for digital or transformation experience, or whatever, and is unable to fulfil that because there is not a vacancy against the number that they previously published. I think that would be a constraint.

Q117 **John Stevenson:** Carrying on, just on the issue of open competition and counterbalancing, Minister. Non-executive directors are supposed to be appointed by an open competition but this does not appear to be happening. Why is that?

Jeremy Quin: I think it does.

Q118 **John Stevenson:** We have evidence that the appointments process is “variable”, sometimes without any process at all; some mirror the requirements of the code, some don't; some are direct appointments. Do you not think that there should be some openness, transparency and consistency?

Jeremy Quin: As the code says, it must be merit based. We have some 74 non-execs of whom five, debatably six, are directly appointed. The rest have gone through a process. Every time I have been involved the process has largely mirrored the public appointments process in having independent involvement in it. I wouldn't wish to suggest that there is anything other than an open and transparent process in the vast majority of cases. That is the rule. There have been direct appointments on occasions.

Q119 **John Stevenson:** I am sorry to interrupt, but you say it is the majority. Shouldn't it be all appointments?

Jeremy Quin: Well, even in the case of direct appointments, I think normally there is a recognition that there is a disclosure of the fact that a direct appointment has been made, and that is a very small minority of cases. It is five out of 74. Michael, you are involved in all the processes particularly around the appointment of senior—

Q120 **John Stevenson:** Sorry, to pick up on that point, it also says, “In such instances”—which you have just described—“explanation should be provided in the governance statements of departments' annual reports but they rarely are”.



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Jeremy Quin: They should be and so I think that is fair. The code sets out that there should be an open and transparent process but there are sometimes reasons, normally related to time rather than anything else, where a direct appointment may be appropriate. It should never be the rule.

The right way of getting the best candidates to fill positions is by having an open competition and I think we get good non-executives by following that route. There may be occasions where, for example, a particular person is building a portfolio and they need to know and there is a real reason to have a more rapid process. However, that should be the exception. I think that it is the exception rather than the rule.

Q121 **John Stevenson:** Therefore, you would also acknowledge that there should be a statement in the annual report explaining that process and the circumstances?

Jeremy Quin: The code says that you should declare all those things and I think that would be best practice. I agree.

Q122 **John Stevenson:** Mr Jary, we obviously want to encourage a wide range of candidates to become non-exec directors, hence we would like to have an open and transparent recruitment process. What is being done to ensure that that happens?

Michael Jary: Certainly, since I became Lead Non-Executive, every single appointment is advertised on the Cabinet Office public appointments website. To pick up on the previous question, that has been the general practice for the very large majority of cases and only where those that are made by the Secretary of State as a direct appointment is that not the case.

The Cabinet Office public appointments website specifies the standard information for that vacancy, the applicant specification and the characteristics for the role. Usually, the Department will amplify that through its own channels, social media channels, LinkedIn, Twitter and some job boards and so on. There is sometimes the practice of using executive search agencies and sometimes not, and sometimes pro bono, sometimes paid for. It is the choice of the Department whether to employ that. Whether that happens or not, we tend to get a very good field of depth of quality as well as number of applications.

Only yesterday, I was sitting in on the process for the screening of the long list of applicants for vacancies on the Department for International Trade board. We had a very good list of candidates who I think will see their way through to being potentially appointable. At the moment I don't think we have a problem with depth of quality.

You raise a very good point that we need to work as hard as possible to ensure that the profile of these roles is raised and that people who are potentially suitable are made aware of these opportunities, because that



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is the way in which we promote diversity in all its elements for those roles. That is certainly an objective of mine.

Q123 John McDonnell: When we received the Cabinet Office written evidence, it stated that the Government will implement the Committee on Standards in Public Life's recommendation that NED appointments should be regulated by the Commissioner for Public Appointments. That was in the evidence. Do you know when that will happen?

Jeremy Quin: The first point is that that was under the last Administration, but I did look at it again and it is a fair comment. You will be pleased to hear, Chair, that having thought about it and re-examined it, that still reflects our position. There will be a formal response to the reports that are being published, including information on how we will go forward with that. That will be coming out in due course as part of the wider response to the Committee on Standards in Public Life and the other reports. I cannot tell you exactly when but I know that will be alongside our response to the other recommendations.

Q124 John McDonnell: To be absolutely clear: you are going to implement the recommendation that they will be regulated by the Commissioner?

Jeremy Quin: That requires one further iteration, so the final decision will be taken as part of the response to all of those proposals but we are minded to do exactly that.

Q125 John McDonnell: That is good. You don't know as yet when it will happen. I fear to ask this question but can you give us a rough estimate of when on that one?

Jeremy Quin: It will be at the same time as we will be responding to the other points. I appreciate that this has been a long process. However, I reiterate that meetings are being held on this weekly to ensure that we get to a settled position on all those recommendations and a single coherent response is issued, which will include non-executive directors.

Q126 John McDonnell: You can understand why we are trying to press about dates. There is a general concern about appointments in Government overall and I am not making a partisan point. This is about making sure that people have confidence in the overall process whatever appointments process there is. That is why there is a significance about having this recommendation implemented promptly and that is what we are trying to get at.

Alongside that, let me get this absolutely clear: the Governance Code for Public Appointments prescribes that information be made public on decision-making processes and how conflicts of interest are managed. The Commissioner for Public Appointments also produces an annual report that includes details of any breaches of the code. Is the intention for all these measures to apply for NED appointments as well, specifically with conflicts of interest? You can understand the public concern that there may have been over a period of time about conflicts of interest and



how they are managed.

Jeremy Quin: I cannot give you an answer on that; I have not looked into it. To date, the way conflicts of interest are handled are by the relevant Departments and by the Permanent Secretaries. I don't have any news to impart to the Committee about that being changed, but I need to go away and have a think about that.

Q127 **Chair:** Would you be able to write to us on that specific point? That would be helpful, following the meeting.

Jeremy Quin: Yes.

John McDonnell: If we can have an explanation of your thinking on the processes of how you are going to implement this approach, that would be really helpful, and a timescale—you never know.

Jeremy Quin: You never know.

Chair: We live in hope and, on that sunny optimism: Damien Moore.

Q128 **Damien Moore:** Good afternoon. Is there a view from the centre on whether Departments should prioritise sector-specific expertise or functional skills such as HR or finance, general or specific?

Jeremy Quin: It is down to Secretaries of State to make certain they have the board that works, who will fit and they have something that will help them deliver. Through the board effectiveness survey, you need to look at the skills you have around the table. The code suggests that there is a weighting here towards commercial experience in large and complex organisations, so that individuals can bring their experience of those to what are large and complex organisations, the vast majority of Departments of State.

I would be very surprised if, as part of that board effectiveness process, you do not say, "Digital is incredibly important for this Department. Who do we have who can test our delivery on it?" I would be surprised if people do not say, "I need someone who has real commercial or legal expertise". It is functional but it is seen holistically as part of the overall skill set you have around the table.

I think it should reflect the nuances of each individual Department. If you are in the Home Office, people who understand borders and trade might be one aspect. You can go Department by Department and they say, "Around this table it would be useful to have somebody who can challenge us on that". I don't know if you want to hear Mr Jary's view if there is anything he wishes to add.

Michael Jary: The role that exists universally on every departmental board for functional expertise is audit and risk, because every board has to have a non-executive chair of the Audit and Risk Committee. That is mandated by the presence at that Committee.



The more general view about what is the appropriate composition of the non-executive board members is ultimately a decision of the Department led by the Secretary of State in making the appointments, In my role as Government Lead NED and across the network of lead non-executives, I am exchanging best practice of how boards are comprised and what skills are particularly necessary. Therefore, you find the same thematic responses coming up in appointments around digital, cybersecurity, transformation expertise, technology, people. These are very commonly sought after in all of the appointments.

Q129 **Jo Gideon:** I want to add into that. How do you avoid group think? Departments identify what they think they are missing because they have not identified things that they may be missing that they don't know about.

Michael Jary: Thank you for the question. Part of the responsibility of the non-executives and of the lead non-executive is precisely to avoid group think. The board, without their presence, would comprise Ministers and officials within the Department. The non-executives bring outside expertise. They are typically very often sitting on boards elsewhere. They have broad experience of commercial or other venues and that is their role, to bring in, "This skill seems to be in short supply. We need more of it. It is becoming an urgent or a current requirement". That is exactly the conversation that you would expect a board to have.

Jeremy Quin: To be fair, having seen boards in operation, I think Permanent Secretaries are keen to get that difference of view. Increasingly, they have had outside experience. That is a good thing but they are quite aware of the fact that they may be looking at things internally from a Whitehall perspective and they generally welcome that challenge from the board.

Also, as Michael said earlier, it is inserting non-execs, "The board would like you to look at this" or "the board would be grateful if you could sit down with this team and make certain that they are reflecting commercial realities when they come to the implementation". Having non-execs helps avoid group think. In my experience, the non-execs tend to be a varied bunch. Albeit most of them have some kind of commercial understanding, they will come from different perspectives, which is also helpful.

Q130 **Damien Moore:** Touching on the diversity, does the requirement for non-executive directors to be drawn largely from the commercial sector create a barrier to improving diversity and is that still necessary?

Jeremy Quin: Hopefully, decliningly so. The commercial entities from which people would tend to be drawn is not exclusive. There is a valuable role for people who have had public sector experience and it would be pretty vital to have one person from a public sector background on the board. It is not exclusive but there is a tendency towards commercial.



The commercial world happily is changing and being more diverse and that gives more opportunity for diversity in the boards.

We are doing better—Michael will confirm—than the FTSE 350 in gender balance. I think we have an 8% ethnic minority representation on our boards. We would like to do much better on both but we are heading in the right direction. There are other forms of diversity. Are we fairly reflecting all the regions of the UK? I do not know. That is not something we have analysed. However, there are ways of making certain that we get interaction while also focusing on the key purpose of the non-execs, which is the capability of achieving real challenge consistently of the Departments.

Q131 **John McDonnell:** The adverts that are put out refer to understanding the key challenges faced by the public sector, particularly around the efficiency agenda, sound judgment, a high level of integrity, proven leadership in large and complex organisations. Has any NED ever been appointed on that basis from a trade union?

Michael Jary: I don't know the answer to that. Within the current non-executive network, I am not aware of anyone who has had a primary career in that sector. No, I am not aware.

On the question of diversity, we have a number of NEDs who have deep experience in the third sector, charity leadership. That is a useful skill to add because they can also be very complex environments and often they have a deep ethos about serving the citizen, serving the individual, which is very relevant.

We also have some non-executive directors who have experience of local government. That is often extremely useful because it is often the delivery path for a number of Departments. There is diversity beyond the corporate membership and we should welcome that. Personally, I would like to see even more of it.

Q132 **Beth Winter:** I am interested to explore why there is a tendency to go to the commercial sector. What is the evidence base that they have the most appropriate skills? I was thinking about trade unions as well, public sector, third sector, voluntary sector. What evidence base are you using for this tendency to go to the commercial sector?

There is another question that I want to pick Mr Jary's brain on. You mentioned best practice. How do you define best practice and how do you share that best practice across Departments? What does best practice mean to you and what evidence are you using? What is the evidence base for best practice? These words are bandied around. Where is the evidence for these?

Jeremy Quin: I will start and Michael can do best practice. On the first point, the steer on commercial has been there from the beginning. I think the beginning of non-execs was back in 2004 but from the revitalisation in 2010. I don't know what evidence base they used, but I strongly



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suspect the view was taken at the time that we have Departments of State attempting to deliver extremely complex programmes, wanting to do so efficiently and well but not always getting it right.

Having people with experience in delivering very large programmes is often in the commercial world in large and complex organisations where they have to know how to pull levers and above all—and this is the most vital thing non-execs often bring in my experience—an understanding of the data, saying, “If I were you, if you want to look at this problem and try to work out how you do it, the starting point is to have this data and this data regularly presented so that we can keep track of it”.

I understand why my predecessors would have turned to the commercial sector and people with commercial experience in large organisations to say that that is a good starting point. It should not be exclusive. For example, entrepreneurs who have built small companies that are going great places may have as much insight. People with third sector or public sector experience will bring a different perspective. There are a lot of people around the table at a board who have public sector insight, so making certain they are grounded in some of the commercial realities is helpful. I think that would have been the mindset when that steer was given, but you also asked Michael about best practice.

Michael Jary: First, I fully echo what the Minister said about commercial sectors. It is not the case that the relevant skills are exclusively to be found in the commercial world. If you look at the remit of boards as they have been set up, which is around advising on performance, scrutinising large complex projects, scrutinising the business plan of the Department, looking at technology, talent and skills and people management, those are very often to be found in the corporate world. It is not exclusively, but I think it is understandable that a large majority of non-executives have that in their background.

The second thing is that, when people get to the career stage where they are likely to be Government non-executives, they often don't have a single path of getting there. I chaired Fairtrade for five and a half years and so I have some experience of what it means to chair a third sector organisation. We have people who are not just corporate executives but also come from a professional services background. Often even within the corporate set there is a significant breadth of variety of experience and expertise.

Your question on best practice is a tricky one for all boards. In the corporate world, the third sector world and elsewhere, as well as in Government, boards typically carry out an exercise of trying to monitor their own effectiveness: how can it be improved? Where can practice be improved and what constitutes best practice? It is always a very qualitative process and I am not sure you can ever do this thing entirely data driven. You rely on experience and judgment in these things.



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What we have done across the Government network—and it is part of my responsibility—is form a network of the non-executives and a network of the lead non-executives. The former meets twice a year. The latter meets every month. A very large portion of the agenda of that is exchanging our views on the disparity of practice and the commonality of practice across Departments, learning from each other and swapping good ideas where we have found it effective in ways of encouraging Ministers to pay attention to us, in ways in which we can add value to the Department, soft and hard ways. That is one.

Secondly, we have some common datasets across boards. Another initiative that I am championing is to extend the currency and depth of those datasets. We are equipping boards with datasets that look across Departments at things like, for example, their staffing ratios, their corporate structures, the number of major projects that are subject to the best practice rules on procurement, whether they are compliant with cyber requirements, and so on, a very large number of KPIs. That will be available across all the Departments. It gives the non-executives and the boards the ability to compare and challenge why they might be outliers on that data.

Thirdly, I mentioned previously to Mr Stevenson the board effectiveness review. This is done at least once every three years by peer review. The lead non-executives swap positions, observe each other's boards and usually also interview the board members in the corresponding Department.

When I was at DLUHC, I did one with the Department of Health and I found it immensely useful to see a different practice, different way in which the Secretary of State ran the board, to learn from useful things that we could take back into our Department and vice versa. We found that to be a very effective mechanism of trying to promulgate good practice or best practice.

Beth Winter: I would be interested to see some of the objective evidence base you use for a tendency—not exclusivity—to appoint people with a commercial background as well as best practice.

Q133 **Mr David Jones:** Mr Jary, in 2021 the Committee on Standards in Public Life reported that there was an increasing trend for Ministers to appoint political allies as NEDs. Is that something that you have witnessed?

Michael Jary: I wasn't Government Lead Non-Executive Director until after that report. As I mentioned, I was appointed at the beginning of 2022. Picking up on the previous comment, I would be interested to see their evidence base on that and precisely how political allies are defined in that respect. I do not recognise that as a generalisation.

As I mentioned, a very large majority, 93%, of all of the current appointees in non-executive positions have been through an open appointments process. That means they are subject to panel



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recommendation and then selected from that by the Secretary of State, so there is an independence in that respect.

Although I am sure that there are people who have party membership or some degree of history of being a donor to a party, for example, I don't see that that is strongly influencing the choice of non-executives on boards. Let me give you an example. The current lead non-executive director at the Scottish Office was previously a Labour Minister but he was selected by a Conservative Secretary of State for Scotland.

The other thing is: how do you define a political ally? It seems a very vague term to me.

Q134 **Mr David Jones:** I would suggest it is probably someone who one might expect might alternatively be a SpAd.

Michael Jary: I have seen no evidence of that at all. I see no movement between the universe of people who are SpAds and the people who are non-executive directors.

Q135 **Mr David Jones:** You have only seen what the Committee reported.

Michael Jary: As you have reported it to me—and I would be interested to go back and look at it in more detail to see what their evidence base was—I do not recognise that tendency as a general or universal tendency.

Q136 **Mr David Jones:** Minister, were you aware of that comment from the Committee on Standards in Public Life?

Jeremy Quin: I think I did see that as part of my prep for this session.

Q137 **Mr David Jones:** Do you think that they are making a fair point?

Jeremy Quin: I don't think so. As a general rule, certainly not, no. If you look across the piece at appointments of non-executive directors, Ministers know what their role is and it is to challenge on the implementation of policy. It is not to be a policy adviser. There is enough people doing that.

Mr David Jones: That was the basis of the concern of the Committee.

Jeremy Quin: Across Government as a whole, no, I am not aware of any such trend. It is a different role. The role of the non-executive director is to bring experience. If there are people who have all the right experience to serve as non-exec and do the job of a non-exec and challenge and be forthright in board meetings and add value outside of the board discussions in implementation and they happen to have a political outlook as well, that is fine but the key thing is: can they do the role of a non-exec?

Every Secretary of State would want to have people on their board who can do the role effectively as a non-executive director and, as Michael



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was saying, the vast majority of these are through open processes. Even when it is a direct appointment, I see no particular evidence that that is from a political perspective. It is normally timing, “We want to get this person in; we need to make a direct appointment to speed the process”.

Michael Jary: If I may come back, non-executives in my experience are very scrupulous about not straying into areas of formulation of policy. They recognise that is not their job description and they have no remit to do so and, indeed, no temptation to do so either. They know what they are there for, which is to advise on operationalisation of policy and delivery.

Second, it may interest the Committee to know that, as I said, I was a departmental lead NED and then appointed as Government Lead NED. In all of the conversations I have had over that period and through those appointments, nobody ever asked me what my political affiliation is, what party I might support or have voted for. Nobody asked me what my view was on Brexit. As far as I know, nobody knows.

Q138 **Mr David Jones:** I think that may have been because you weren’t a political appointee. The concern of the Committee is that there are political appointees.

Michael Jary: Well, I think we need to be specific.

Q139 **Chair:** I think Mr Jones is trying to spare some people’s blushes in his questioning because there have been, haven’t there? Is it not linked perhaps on occasion—I think it relates to Mr Gove. If you care to have a look at a number of those appointments you might find examples, but does it not speak more to the use of boards by certain Ministers as to their appetite for challenge, thereby determining who they wish to have around that table?

Michael Jary: I am glad you are now being specific. With regard to Michael Gove, as you know I was at the Department for Levelling Up, Housing and Communities when he was appointed as Secretary of State in September 2021. I was aware of his track record in previous Departments and when I first met Michael Gove I asked him, “Are we about to experience a bloodbath?” We didn’t. He did not replace a single member of the non-executive team. I believe the way he used us was very actively but very appropriately on areas of policy implementation. At no point did we cross the line into being asked to look at policy.

Chair: Sorry to interrupt, Mr Jones.

Q140 **Mr David Jones:** Thank you, Chair. Minister, do you think that there should be any limits on the categories of people who can be appointed NEDs? For example, should a peer or a former MP or a councillor be appointed? Mr Jary of course has mentioned that a former MP has been appointed as a NED in the Scotland Office. Do you think that there should be any limits on the categories?



Jeremy Quin: There should be quality control and that is what a proper, open and fair process should deliver.

Q141 **Mr David Jones:** Yes, I understand that, but should any categories of individuals be automatically debarred from applying?

Jeremy Quin: I suspect that certain types of criminal record but, beyond that, narrowing it down to what I know you have in mind, Mr Jones, I do not. We should not trammel that decision-making process. If someone has had former political involvement, they may have put that behind them and may have valid experience from before their time in Parliament or after their time in Parliament that they can bring to the table.

Even in the case of peers, there is a limit to how many members of the legislature you would want to have around a board table. That is a practical issue. There may even be people in the upper House who have—we know there are—a lot of experience that they can bring to bear to support particular boards. I can think of more than one person.

Q142 **Mr David Jones:** As you quite rightly say, they are legislators. Is it appropriate that a legislator should be in the position of a NED who, as you rightly say, is supposed to provide independent chairmanship?

Jeremy Quin: It can be. They have an extra onus on them and on themselves not to be overtly political and to steer well clear of the Department of which they are acting as a NED in any of their dealings in the upper House. They need to be careful about how they act in that capacity.

If you look at some of the examples of people who serve in both the upper House and also as NEDS, they do have absolute experience that they can bring to bear in an effective way. There is Jonathan Hill in HMT, I think I am right in saying, and there are others. Not that many former EU Commissioners floating around will understand what we need to do in a Brexit environment, how we make that work and be able to apply that expertise. There must be exceptions. Do I say no one is acceptable from the peerage? No, I would not want to do that.

Michael Jary: To give some data into the conversation, two out of 74 former Members of the House of Commons are currently non-executive directors and five Members of the House of Lords are currently non-executive directors—two of whom were appointed to the Lords in the most recent honours list quite recently and three who were Lords when they were appointed as non-executive directors. The numbers are relatively small. In fact, no departmental board has more than one Lord on it or more than one former MP on it.

I am not answering your question as to whether it is appropriate or not. I am saying that in practice it is not a big proportion of non-executive directors, so we are clear on that. It is five out of 74. That is 7%. There are five peers and two MPs. In total, just under 10%.



Q143 **Mr David Jones:** It has been suggested that NEDs can provide a form of corporate memory in a Department and provide continuity between administrations and Ministers. Do you think that that is correct?

Michael Jary: That is correct. First, NEDs are designed to be permanent in the sense that, when a Secretary of State changes or indeed when a Government changes, they keep their jobs, in the same way as the Civil Service does and SpAds do not. That is the design of the role. There is a lot of merit in that because it does provide continuity of thought and experience in the Department and knowledge in the Department when, otherwise, a lot of things are changing all around you.

Particularly in the circumstances of the last year or so when NEDs have found it quite challenging to deal with the speed of replacements of Ministers and Secretaries of State, the fact that they have been there has been useful to the Departments. It was also useful to senior officials who have someone else who has a degree of continuity and knowledge even though all the Ministers may have changed. That is a useful role.

Q144 **Mr David Jones:** Therefore, do you approve or disapprove of NEDs being sacked upon the advent of a new Minister? I will not spare his blushes this time. That of course was under Mr Gove.

Michael Jary: In that specific case, basically when the entire cohort of NEDs was removed at the same time, that is not useful or appropriate, no. As you quite rightly pointed out in your question, NEDs are there not as day-to-day political appointees but as people who provide a degree of ongoing support and scrutiny to the Department and to its Ministers. It is right that that role should be continuous when a new Secretary of State arrives.

Having said that, Secretaries of State may of course take a view that they want to evolve the composition of the board and they think that something is missing and, therefore, want to change or add a NED. That is entirely appropriate. We need to give them that right because we expect them to make the board responsible to them, but to remove them all at once is unfortunate.

Mr David Jones: Fortune did not come into it—it was quite deliberate.

Michael Jary: I was voicing Lady Haversham but, as I mentioned, in DLUHC we survived. Therefore, maybe those tendencies have moderated somewhat.

Q145 **Chair:** There was no repetition of the St Bartholomew Day massacre. Of course, Minister, please.

Jeremy Quin: Picking up on the last point Michael made, in all the witness statements you have had that I have seen—and I have been through the transcripts—it is a constant theme that the engagement of the Secretary of State is important to make certain the board is at its most effective. Therefore, you need to make certain that the Secretary of



State is comfortable with the board that they have around them. Therefore, how they choose to interpret their ability to change and evolve the board is up to them. However, it is important that they have the ability to say, "This board is not working for the challenges that I face and I need to have a little bit more support in a particular way".

Q146 **Mr David Jones:** With all respect, Minister, is the NED there to provide challenge? Is it entirely not the case that the Secretary of State should be comfortable with the cohort of NEDs; in fact, quite the reverse: he should be kept on his toes by the NEDs?

Jeremy Quin: We are all here counselling perfection and I am with you, Mr Jones. I want the Secretary of State to say, "I want challenge. I want the Department to be challenged. I want to be challenged on implementation. The best people to provide that challenge will be X, Y and Z".

Mr David Jones: "People I am comfortable with"?

Jeremy Quin: "People who I know will provide the challenge and that is why I am comfortable with them."

Q147 **Mr David Jones:** Did you approve of Mr Gove sacking his cohort of NEDs?

Jeremy Quin: I am supportive of a Secretary of State saying, "This is the board I need to take forward the challenges that I have and to provide the proper challenge in that boardroom setting and beyond".

Q148 **Beth Winter:** Looking at conflicts of interest and how they are managed, there is a lot of variation in terms of how these are reported within annual reports. Why is that the case and should that be standardised?

Jeremy Quin: I have some sympathy with the point you raise, Beth. It is important that conflicts of interest are declared on appointment. You go through the process. You have to work through with the Permanent Secretary whether it can work, whether it is an appropriate appointment and what you will do to mitigate any conflicts of interest or potential conflicts of interest that may arise.

Before a board meeting, if something is going to be discussed—which is unusual—where there will be a conflict of interest, that needs to be declared and people will need to work out how they will deal with it by recusing themselves or something more permanent. Handling conflicts of interest is important. That is done via the board process with the advice of the Permanent Secretary.

If you are asking whether there should be a standardised way of that being reported, I am not unsympathetic to that but there is openness about other interests. People then state what their other interests are and that is transparent. It is available. Whether there would be a better way of doing that or if the Committee thinks that there are ways of



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standardising that that would make it easier for the public to understand, I would be interested in those recommendations.

Q149 **Beth Winter:** Dr Matthew Gill has previously told the Committee that publication of interests is inconsistent and information available is limited. Why is that the case?

Jeremy Quin: I am not certain. I have looked at it from a Cabinet Office perspective and I have seen what people have declared from that perspective. That is a fair, open and transparent way of doing it online. I have not personally looked at other Departments to see how else people do it. Michael might have more experience than I.

Michael Jary: You raise a good point. In my experience, every Department does have a reliable process for ensuring that NEDs declare their interests as they join and then as they change over time and, where appropriate, mitigations are put in place for those conflicts of interest.

When it comes to those being disclosed publicly, there is a variation of format and practice. I welcome some simple standardisation of that, not only for the public's benefit so that they can find the information more easily, but also for the NEDs benefit because some NEDs feel uneasy that, if it is not clear what will appear public, they could be in jeopardy of being accused of having failed to disclose something. Clearly, that then leads them to say, "Perhaps I need to disclose everything, every tiny shareholding I have in my personal portfolio, even if it is not the business of the department", but that would be crazy, probably.

We do need to find some way of defining the threshold and, ideally, having a degree of consistency across Departments. It would be welcome.

Q150 **Beth Winter:** In terms of non-financial interests, should registers of interest include those and should they be published more regularly?

Michael Jary: Yes. For example, other appointments, roles on other boards and so on would definitely be potential conflicts of interest and, therefore, would be subject to disclosure, yes.

Q151 **Tom Randall:** Minister, Departments' annual reports and accounts and the evidence to our inquiry shows some considerable variation in the commitment from Secretaries of States to chairing boards and working with NEDs. You have acknowledged in some of your answers earlier how the approach of Secretaries of State to boards can vary somewhat. Is more directional training needed from the centre to set expectations for Secretaries of States on how they should handle their boards?

Jeremy Quin: Most of my experience has been on the MOD board, which I noticed from the last report to this Committee from Michael's predecessor met more frequently than any other ministerial Department. I was pleased to see that. I noticed in some of your witness statements someone said there was a sense of fear in the Department when it was



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suggested they could be summoned to the board, which I also welcome. I am pleased to say I have seen a well-functioning board where we all got a lot out of the discussions that we had.

It does vary. Secretaries of State need to be encouraged to use their boards because it can help challenge their Departments on the delivery of policy. I mean that. Throughout the boards I have been privileged to attend, I have seen examples where it has helped hone the thought process of the Department. Secretaries of State need to be engaged.

This Committee will be very aware that when a new Minister arrives in the Department there is a huge number of things they need to think about—their first appearance before their relevant Select Committee, the imminent danger of a UQ the next day on something—and perhaps it is easy for that to get neglected, but it should not be, because it is important. Permanent Secretaries have a role in that and Michael has a role in that, but Secretaries of State need to realise that it is for them to use and take advantage of. As we know, there is no report card for Secretaries of State and there are many things on their agenda.

Having said all that, when I looked at the stats, the number of times the Secretary of State was turning up was pretty good and I think it had gone up. The last lot I saw, which was the last report to this Committee, did show that at the vast majority of meetings Secretaries of State were there to chair the board, and that it had increased on the previous year. I do not think it is all doom and gloom. Far from it.

Q152 **Tom Randall:** Do you think that encouragement to Secretaries of State could go a bit further, perhaps to make the Ministerial Code include that expectation and formalise what is expected of Ministers?

Jeremy Quin: The only thing I worry about with Ministerial Code stuff is that we all know that Ministers have to balance a whole range of competing interests. This Committee would be the first to say that if you called an extraordinary meeting of this Committee and you wanted me or CDL here. You would expect it to take precedence over the board. It is a parliamentary engagement, as is a UQ or, for the Foreign Secretary, being in some part of the world urgently because they are required to be, and the Defence Secretary is the same.

I would hate to put Ministers in a situation where you are putting something into the Ministerial Code—"You are in breach of the Ministerial Code because you failed to turn up to your board meeting, please explain why"—when there are perfectly legitimate departmental reasons why they could not be there. I would not want to make it that prescriptive.

The more one tries to make these things prescriptive, the greater the risk that you go through a formulaic tick-box exercise rather than saying, "This is a really important part of my role as the Secretary of State. I am going to get the most out of this. It will be a two-hour session; I am going to prepare for it and do it properly". If you start saying, "The



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agenda will be as follows and you must have the following meetings”, that could use a hammer to miss a nut.

Q153 **Tom Randall:** You may have covered this in your answer to Beth Winter earlier, but how useful do you think board effectiveness evaluations are? Could they be strengthened? How else could board performance be managed?

Michael Jary: I find them to be very useful. When I was Lead NED and conducted them on behalf of the Secretary of State, I found that there was good feed-in to the review from both officials and Ministers, as well as other non-execs. There were always constructive suggestions that emerged from it for how the board could be made more effective. They are a useful mechanism.

As I mentioned, the peer review mechanism of reciprocal swapping of lead NEDs periodically in order to carry out those reviews has proven effective. Some of the data from the effectiveness reviews is sucked up centrally and reported in the Government Lead NED’s report, frequency of boards and attendance by the Secretary of State, as you mentioned, and that is probably appropriate to keep people on their toes.

I beg your pardon; I have lost the second part of your question.

Q154 **Tom Randall:** How else could board performance be managed, or how else is it managed?

Michael Jary: There is a role for code, for minimum expectations and for “comply and explain” against those. Things that are in the code or definitely should be in the code are that the board should take place, that it should have a minimum number of meetings, that it should in the majority of cases be chaired by the Secretary of State, and that it should have certain standing items on the agenda, such as performance, delivery, risk and probably a report from the Lead Non-Executive Director on the activities and findings of the non-executives. I do think that it would be appropriate that boards are required to confirm that they have complied with that and, if not, they should explain why not in the governance section of their annual review.

However, we have to be careful. I do not think you can regulate your way into an effective relationship on the board. Ultimately, it is for the triumvirate of the Secretary of State, the Permanent Secretary and the Lead Non-Executive to build a relationship of trust and mutual respect. That is at the centre of boards being effective. No amount of code will make that happen. It is a question of each of them being committed to working against that because they see the value in the board.

In most cases, that does broadly work and in a few cases it does not. I do agree with the Minister that it is generally because the Secretary of State is too busy or has not shown sufficient commitment to the board yet. In those cases, I can encourage the Permanent Secretary and guide them, and I can feed the lead non-executive in the Department with some ideas



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about best practice and how to deal with that situation. It is a situation that ultimately can be solved through building those personal relationships, and the code only takes you so far.

Q155 **Tom Randall:** That leads me to the final question, Minister. If we are not putting it into the Ministerial Code, I wonder whether Ministers should be assessed on their board leadership and their board evaluations. What would good look like in terms of how a Minister performs?

Jeremy Quin: First, Michael, I want to clarify something you said in case I got it wrong. When you mentioned the things that should be included in the code I think you were referring to the Corporate Governance Code for Government rather than the Ministerial Code, just to be clear.

Michael Jary: Fair. Yes—absolutely right, thank you.

Jeremy Quin: Mr Randall, if we are not putting it in the code—again, counsel is a perfection. I read in your transcripts how Ken Clarke chaired his board, according to some of your witnesses, and that must be the model of how Ministers should go about it. The best people to assess your performance as a chairman are the people around the board.

I think one would encourage the chairs of boards to be asking their non-execs, “Are you getting enough out of this? Is this working for you? The way we are interacting, are you able to contribute? I need your contributions”. This is the benefit of having a Secretary of State who knows he has a very good calibre of people around him on that board, or her, and is able to say, “Am I doing this right? How can you help me to do it?”

The evaluation of their performance comes through that board effectiveness survey. That must be the way that you judge the effectiveness of a board. People need to fill in those forms, they need to be honest in their assessments, and then people need to be able to listen to what is being advised. I think and hope that helps to establish the best possible chairmanship of those committees. Michael, is there anything you would add?

Michael Jary: No. I agree. I have nothing to add.

Jeremy Quin: I do not know who else would do it. The best people to assess the effectiveness of a chairman are the people who are sitting on that board, who can see the chair in action. In my experience, people will say, for example, “We need more time doing a deep-dive so let’s not rattle though. We need prosaic stuff. We need to go and make some more time. We will go away and have a board away day in order to ensure that we can get our heads around three important topics where we do not think the implementation—” That kind of feedback is extremely useful.

Q156 **Jo Gideon:** Mr Jary, NEDs undertake a wide range of roles across Government depending on the individual and the Department. What are



the appropriate uses of NEDs and what are not? As Government Lead NED, how do you monitor this?

Michael Jary: You are absolutely right in your question; they do undertake a very wide range of activities. The boundary of their activities is set in two ways. One is that NEDs are advisers, they are not decision-makers, and the second is that the exclusive domain of the Secretary of State and the Ministers in determining the policy of the Department is not a territory into which non-executives enter. The non-executives, therefore, are in the realm of operationalisation of policy, monitoring delivery of policy, and advising on the effective running and business planning of the Department. As you quite rightly say, that can take many guises.

My experience is that the best way of both directing non-executive directors in an effective direction, and also making sure that there is some supervision of what they are doing, is for the departmental board to have a role in commissioning non-executives to have a particular responsibility and then to receive the feedback from a non-executive director. I think it works very well when the Secretary of State says, "Michael, we are looking at a programme here that is going through a rough patch or seems to be struggling. Will you please have a look, work with the officials to give a fresh eye, and come back to the board to tell us what you have found?"

That is very effective because, first of all, it gives a commission to the non-executive, which makes the officials, of course, pay attention, and gives them some authority in asking for the information and the data. Secondly, it gives the board some oversight of the roles that non-executives are performing and it makes sure that the Ministers also have that visibility of what non-executive directors are doing.

That can be summed up in a report that, in my view, should be a standing item of the agenda; a report by the departmental lead non-exec on the activities that the non-executives have been carrying out over the past month, quarter, or whatever the period is, and the findings we have come up with or the areas in which we have worked with officials to improve things. There is some accountability then to the board as to what the non-executives are doing.

Q157 **Jo Gideon:** We all know there are many cross-departmental issues and quite often Westminster is accused of thinking in silos. What formal or informal cross-government networks are there in place to facilitate collaboration and learning, and are these enough?

Michael Jary: Yes. This is a very interesting area. Most non-execs primarily, of course, are working within their Departments. However, they can perform a very useful function across the network of non-executive directors to be able to have some influence over the delivery of cross-cutting policy and the Government's priorities across Departments, and also in functional areas. One of the things that we have recently done



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is to form groups of non-executive directors from across the Departments on particular topics on the Government's priorities.

One of those is a Union group that works together in order to ensure that every Department is reminded of the importance of the devolved nations, is developing its programmes with that in mind and is also recognising, where appropriate, the different ways that delivery must happen through devolved nations as opposed to in England. That group was originally sponsored by Michael Gove when he had that responsibility for the Union and it has been very ably supported by Sue Gray, who has come along to our meetings and explained how she is thinking about that particular topic. It has been very effective.

Another is on climate change and net zero, where again non-executives are exchanging information about how each Department is formulating plans against that objective. We recently met with Chris Skidmore, the Minister in BEIS who was charged by the Prime Minister with reviewing the net zero policy, and it was a very effective meeting.

I see these types of cross-cutting groups as being quite an interesting way of making sure that NEDs are not just delivering value in their Department but also forming an arm where Government can be more joined-up in its delivery.

Q158 Jo Gideon: In your view, does the Corporate Governance Code set out the responsibilities of a NED sufficiently?

Michael Jary: Broadly it does, yes, and I think it recognises that there are particular obligations and requirements for a NED role to be efficient and effective, particularly around the areas I have mentioned: scrutiny, challenge, advice, and support to Ministers and officials. I think it also recognises that the particular needs of the Department, the valid preferences of the Secretary of State as to how they wish to run things, and indeed variations in how things can be effective are quite significant. Therefore, my view is that the authors of that code sought to strike a balance between guidance, and room for customisation and different practice. I think that balance is broadly right.

Q159 Jo Gideon: Former NEDs we spoke to did not recall having board operating frameworks in their Departments. Can you confirm whether all Departments have board operating frameworks and whether those that do provide sufficient clarity on the remit of the board and individual NED responsibilities?

Michael Jary: First of all, I can confirm that all Departments do have board operating frameworks, yes. The issue where there may be room for improvement is the way in which those board operating frameworks are kept under review and are living documents, rather than something that was prepared a few years ago and may not be referred to very often.

Following the board effectiveness review that we were speaking about with Mr Randall, which is carried out annually, there would then be a



good opportunity for a review of the board operating framework. Are there any changes required? Does the Secretary of State want to make any changes to how the board is carried out in that Department? Then, a year later, you could test it. Was that effective? That would tie those two processes together and make the framework more of a living document.

Q160 **Jo Gideon:** Can and should they be published?

Michael Jary: I would not have a strong objection to them being published because I do not think it causes any degree of embarrassment and it may offer a degree of transparency, but their primary use is within the Department. Obviously, it is the members of the board who really need to own this document and make sure that it is fit for purpose.

Q161 **John McDonnell:** You can see that this whole section is around transparency and accountability. The Institute of Government suggests that the Permanent Secretary should be responsible for the use of NEDs, and if there are any breaches of the Corporate Governance Code they should be reported to the Government's Lead NED and the Cabinet Secretary and published in the Government's Lead NED's annual report. Minister, would you support that or are there any other methods of enhanced transparency or accountability for NEDs that you would propose?

Jeremy Quin: I struggle to think where the code would have been breached. I am not avoiding the question. I would be surprised if the code had been breached in any meaningful way in the ongoing running of a departmental board. Being candid, my gut reaction is that it is for a departmental board, the Secretary of State and the Permanent Secretary to sort things out and make certain the code is operating effectively. That would be my immediate reaction, candidly.

Q162 **John McDonnell:** You agree that the Permanent Secretary should have a responsibility?

Jeremy Quin: I think it is within the Department. It should be for the Secretary of State to work with the Permanent Secretary to make certain that the board is operating effectively. I am struggling to think of examples where it would be helpful to bring a third party into it, but that is just my gut reaction. I will think about it some more, having had it raised. Michael, do you have anything you wish to add in that?

Michael Jary: My understanding is that the Corporate Governance Code does set out some minimum criteria and that a Department is therefore expected, in the governance section of its annual report and accounts, to explain where it differs, in practice, from that.

For example, if they did not have a board or the board had no meetings, there would be a requirement to report that and to explain why, and I think a lot of people would pay pretty close attention to it. There is that mechanism already. I think there is an open question as to whether that needs to be strengthened. It could be that in the Government Lead NED's



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report, my annual report, there could be some summary or overview of that across the—

Q163 **John McDonnell:** You could expand on your report, you think?

Michael Jary: Yes. I would not like to repeat the governance section of every Department because that would make my report lengthy and boring, but there may be some way in which I could give an overview as to whether Departments have been effectively compliant with the code. That is worth thinking about.

The other mechanism, of course, which applies in extremis, is that the lead non-executive director of each Department writes a section in the annual report and accounts. If they feel that the Department is not using the board effectively, they have the opportunity to refer to that in their section. That is likely only to happen, I think, in extreme circumstances, because clearly it would cause conversations within the Department if the non-exec pulled that lever very frequently, but it is there and it is therefore a backup mechanism.

Q164 **John McDonnell:** Often those mechanisms are long stops anyway, aren't they?

Michael Jary: Yes.

Q165 **John McDonnell:** For example, if a Minister went rogue or something like that, you would want someone to be able to report him or her to someone, would you not? That is the whole point. That is where the Permanent Secretary has that whistleblowing role in some instances with regard to the use or abuse of NEDs, but also the Cabinet Secretary then has a role at a ministerial level.

Michael Jary: My interpretation is that I can also fulfil that role. If a lead NED raised a concern with me and I felt it was sufficiently important that it did require some degree of intervention from outside the Department, I could raise that with the Cabinet Secretary or with the Minister, as appropriate.

Jeremy Quin: The advantage of “comply and explain”—it is an interesting line effectively to stand on—is that people do not want to have to explain and if you are not compliant then there are questions asked. I think this will be something that will be appearing in due course. Happily, circumstances in which people go rogue, as you put it, are exceptionally rare, one hopes, but I trust that “comply and explain” does have teeth because you do not want to need to explain non-compliance.

Q166 **Chair:** It would not be PACAC without a couple of questions like this to close, Minister. I wonder if you would support non-executive directors appearing before relevant Select Committees in relation to their departmental work. I think that may be raised as an interesting constitutional principle.



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Jeremy Quin: In truth, I would not, and I would not be a Minister to come in to PACAC and say anything different. Well, here we are, I have Mr Jary beside me.

Michael Jary: I am here, Chair.

Jeremy Quin: There are particular circumstances but in the general scheme of things, aside from the constitutional niceties—which are more than niceties; it is the Secretary of State who is responsible to Parliament and must be held to account for what goes on inside their Department—I would also worry about it undermining the board itself. You want to have the circumstance where the Secretary of State is chairing a board and wants the non-execs to have full access to information and all the data they need to see the Department warts and all, so that they can be effective in holding it to account.

There may be Secretaries of State who would be a little bit nervous about doing that if they thought the following week all the NEDs would be summoned before the Select Committee and asked to run through all the problems they are witnessing. I think it may undermine the nature of the board, as well as the broader constitutional question.

Q167 **Chair:** I am not wishing to put Mr Jary in a difficult position by posing this particular question: should the Government Lead Non-Executive Director be subject to a pre-appointment hearing? Do you have an opinion on that?

Michael Jary: I would not object to that. I agree with the Minister's previous answer that I think the Committee should be very wary of calling departmental non-executives or lead non-executives before this Committee or any other Select Committee. Obviously you have the right to call whoever you like. However, as a practice, I think it would potentially put the non-executive in a position that they do not expect and a position that might actually be counterproductive. What they are trying to do is to seek a degree of confidence and trust in their relationship in the Department and with the Secretary of State.

In my case, I think it would not be inappropriate. I am very happy, on the publication of my annual report, to come and answer questions about it in front of this Committee if you wish to do so, because I think that is slightly different. What we are investigating there is the integrity and the effectiveness of the non-executive network and my responsibility is as co-ordinator of that. I think it would be reasonable for you to have that question.

Jeremy Quin: I am just reflecting again on your earlier question, Chair. Not only is it the responsibility of the Secretary of State but also, from a non-executive point of view, we are trying to get a wide variety and diversity of people to apply to be non-execs so that they can offer their advice, and it is advice. I fear they should only really be coming in front of a Select Committee if they are accountable for something. That would



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imply that they are taking decisions, and that is not what they are there for. They are there to provide advice and it is for the Secretary of State to take decisions.

It has taken me a while to think that, but you have heard from Michael what he thinks in terms of appearing before the Select Committee. I would worry about pre-appointment hearings in general because someone who a Committee regards as ideal may not be the right person for the relevant Government Minister and that would undermine the board itself, but you have heard what Mr Jary says about coming to see you and I will leave it with him. I would not wish to trammel the Select Committee.

Chair: On that very kind note, Minister, not trammelling the Select Committee, which is always good to hear, Mr Quin and Mr Jary, I would like to thank you both for your time this afternoon.

I think, Minister, you undertook on that very specific question earlier on to write and, Mr Jary, if there is anything further you wish to furnish us with please do let us know.