

Public Administration and Constitutional Affairs Committee

Oral evidence: The Work of the Civil Service Commission, HC 1227

Tuesday 18 April 2023

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

Questions 1 - 47

Witness

I: The Rt Hon. the Baroness Stuart of Edgbaston, First Civil Service Commissioner.

Examination of witness

Witness: Rt Hon. the Baroness Stuart of Edgbaston.

Q1 Chair: Good morning and welcome to the Public Administration and Constitutional Affairs Committee. Today the Committee is holding a session on the work of the Civil Service Commission. We are joined this morning by the First Civil Service Commissioner, the right hon. Baroness Gisela Stuart of Edgbaston, to discuss the work that she has been doing in this role since her appointment just over a year ago following a pre-appointment hearing before this Committee. Baroness Stuart, good morning. Would you care to introduce yourself for the record?

Baroness Stuart: Good morning. I am the First Civil Service Commissioner.

Q2 Chair: The annual report notes that the commission's secretariat has been carrying vacancies for a protracted period due to the Cabinet Office delaying recruitment. Why has this been the case and what has the impact been?

Baroness Stuart: Let me turn to the impact first. We have been blessed by a very good Act of Parliament, which is both enabling and empowering. It allows us considerable room for manoeuvre. It means that we have to have a minimum of seven commissioners and within that framework are able to fulfil the very fundamental function of chairing the



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senior Civil Service Commission competitions. However, when the budget is not fully spent, there is some strategic work that we simply cannot do because the resources are not there. My answer is that we have been able to fulfil our function, but we probably have not been as strategic as we could have been.

As for the appointment process—we may want to come back to that—it is a rather curious position that the statutory regulator within the Act that is entitled to be completely independent and employ its own staff, has chosen to use the facilities of the Cabinet Office, shares its secretariat with two other organisations—ACOPA and OCPA—and at times has been treated as if it was a business unit of the Cabinet Office, and that is where negotiations have happened over the last nine months. I very much hope that we can bring about some changes in that.

Q3 Chair: On that theme of resources, is the commission, frankly, adequately resourced?

Baroness Stuart: It is resourced to fulfil its statutory function, but I think it could be more strategic. We have not had a budget settlement for the coming year, but we expect it to be around the £2.7 million of the last year.

Q4 Chair: Are you satisfied that the Cabinet Office is complying with the terms of the memorandum of understanding in providing “active support” for the commission?

Baroness Stuart: This is a bit of a two-edged sword because active support would be that you ensured that the payroll is done, the pensions schemes are done, that the HR function is fulfilled, but you still have to respect the independence of the commission. Where I think we require less active support and more independence is in making our own staffing decisions by deciding on the grades ourselves. Also, I have to say to encourage the Cabinet Office, not just for us but for a lot of other public bodies, to make non-departmental public appointments in a timely fashion, particularly when there are members with time-limited, non-renewable terms of office.

Q5 Chair: Drawing those things together, is the memorandum of understanding a sufficiently robust mechanism to ensure that the commission is both adequately resourced and independent?

Baroness Stuart: I would reflect on the fact that the memorandum of understanding, which I think we are now going to call a framework document, was drafted in 2010 with instructions that it should be renewed every three years. As our annual report notes rather drily, in 2018, at the request of the Cabinet Office, we delayed the review. I am determined that should I have the honour to appear on my two-yearly review, by that stage we will have negotiated a new framework agreement that will look at combining the operational independence of the Civil Service Commission with the economic efficiency of being sited within the Cabinet Office.



Q6 John Stevenson: Following on from your annual report, you expressed frustration with the delays in the appointment of new commissioners. Why were there delays? What is the reason behind that?

Baroness Stuart: We may return to this a couple of times when we look at the figures. We have to acknowledge that 2022 was a most unusual year. Having said that, in 2021 I was very grateful that an interim First Civil Service Commissioner stepped in. The previous First Civil Service Commissioner had a very clear succession plan to ensure that there was always a full complement of commissioners. Appointments then simply were not made, and again I say that it was not just in the Civil Service Commission, it was in other public bodies as well. I would almost draw you back to the Grimstone review on public appointments in 2014, "Better Public Appointments". It seems to be that too many people are in the process of making decisions and that just slows it down.

To give you just one example, in May last year it became clear that there was a danger that we would fall below the statutory minimum of seven commissioners. We were then able to draw on some of the commissioners who had been found appointable in the previous round of recruitment but who were not appointed. We started a recruitment process and having literally used the fastest way possible—because we knew there would be a new Prime Minister in the first week of September and we thought if that process had not gone through No. 10, through the Privy Council, through everything, by that week, we would lose months—we just about made it by the end of August. Even with the best of political will and support, we are talking about four months-plus.

Q7 John Stevenson: Who is directly responsible for the appointments?

Baroness Stuart: The Minister who is looking after public appointments in the House of Lords is Lucy Neville-Rolfe, overseen by the Public Appointments Commissioner, but essentially it is the Cabinet Office.

Q8 John Stevenson: Was it the failure of the Cabinet Office to ensure that there were sufficient commissioners?

Baroness Stuart: I think it is a bit like "An Inspector Calls" rather than pinpointing at one point. It is insufficient case management or project management to ensure that the variety of individual decisions are taken as speedily as possible.

Q9 John Stevenson: The commission has limited first-hand experience of the civil service. I understand one commissioner out of 10 has had experience of the civil service. Do you see that as a weakness?

Baroness Stuart: It is an interesting question. We had a board meeting yesterday where I put that observation to my fellow commissioners because it has been quite a shift from 10 years ago. The charge then against the Civil Service Commission would have been that it was too heavily slanted towards the civil service and that if you want to bring in external talent—the Civil Service Commission is external recruitment—we ought to have more experience of the external world. I think collectively we came to the conclusion that our role of chairing competitions, always



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together with the vacancy holder and usually together with an independent panel member, who I tend to hope can be the lead NED or a NED of the board, collectively provides both internal and external views.

Having said that, for the next round of recruitment I am very keen to get people with more of an NHS background, because there is a lot of secondment from the NHS, and we require a Welsh link commissioner. We have a Scottish link commissioner. We failed to identify a good Welsh link commissioner in the last round.

Q10 John Stevenson: Do you not feel it has been a direct policy decision to have less civil service and more external involvement?

Baroness Stuart: I think it was a policy decision because, in the end, both the advert for the commissioners and the final approval for those who go forward for the appointment is done by the appointments unit in No. 10. It was a policy decision, but one that I welcome.

Q11 John Stevenson: How far do you feel it is your role to facilitate Government reform of the civil service? Do you feel that it is something that the commission should be proactive in doing?

Baroness Stuart: I have a problem with the word "reform". It is a bit like the "House of Lords reform" in that everybody talks about it, everybody is in favour of it, but somehow we fail to pin down what we mean by it.

If I tell you what I think we have a role in, I think public service is an enormous privilege and the positions offered, particularly at the senior level, are some of the most exciting jobs available. However, I don't think we are spelling that reality out. I regard the commission's role as to be an innovator in recruitment methods and to encourage innovation across a Department. The Government announcement requires greater porosity—not a word that I particularly like but I know what it means—external-by-default, more movement in and out, in all those areas, I think the Civil Service Commission has an enormous role to play.

Q12 John Stevenson: Is it your role to resist as well?

Baroness Stuart: The resistance would come in if it was contrary to the three fundamental principles that define the Civil Service Commission, which are that entry into the civil service has to be based on open, fair and based-on-merit recruitment unless there were schemes like Going Forward into Employment where you create exceptions.

But can I tell you about another thing that I feel very strongly about and where I would encourage reform? I think the civil service talent management at director general and permanent secretary levels is very good and works well. However, at deputy director and director levels, and I would even say at grade 6, there is too much focus on individuals having to manage the talent rather than a structured organisation of talent management to give people a career path. There we would encourage the civil service to do more.



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- Q13 **Mr David Jones:** The “Declaration on Government Reform” committed to ensuring that Ministers should have visibility of senior appointments. How much ministerial involvement do you believe there should be in those senior appointments?

Baroness Stuart: It is one of those things we only ever hear about when there is friction. I think people have forgotten how much say Ministers can already have in the recruitment principles. The involvement of Ministers is clearly spelled out. A relevant Minister who has an interest, must ensure the Minister is consulted, advertising person-specification, composition of selection panel—there are various stages. The one area that is absolutely prescribed, and I would argue was probably the reason why the CRAG Act was passed in the first instance, is that special advisers must play no role in the appointment of civil servants.

Ministers, provided they are aware of what they can do and think sufficiently far ahead, can shape anything from the candidate pack to what they think are the specifications or areas they want candidates to be probed on, but the Civil Service Commission has a role to ensure that the process is managed, that it is supervised. For example, if a Secretary of State or Minister wishes to see any of the candidates, a representative of the commission has to be present for those conversations.

- Q14 **Mr David Jones:** Has there been any discussion about changes to the process for the appointment of permanent secretaries?

Baroness Stuart: There have not because in a sense, for appointments, where permanent secretaries are different from all the other grades is that the Civil Service Commission, rather than saying, “We give you permission to appoint candidate A and should they refuse, you take candidate B,” with permanent secretaries, the Civil Service Commission offers a choice of appointable candidates. The real line is that once a person is appointable, our letter to the Prime Minister and to the vacancy holder will outline the strengths and weakness of the candidates. However, there have not been any discussions about why that last final say should not be with the Prime Minister. Reflecting on that, I don’t think I would advocate a change to it.

- Q15 **Mr David Jones:** You have set out the limits on the roles of Ministers in the recruitment process. Since you have taken up your tenure, have you been aware of Ministers seeking to exceed that role?

Baroness Stuart: There have been the odd frictions, but they more or less have always been due to people not being clear about what they could or could not do. One thing that struck me was a conversation with a very senior Secretary of State who, when I congratulated him on his post and said, “There is an appointment coming up,” said, “But how do I know what I can do and what I can’t do?” You have civil service appointments and public appointments, and that line is not always very clear. I would really encourage private offices to have proper instructions—some Departments do it well—to say to a Minister, “This is what you can do; this is what you cannot do. When you see a candidate, this is the stage at which you do it.” We try to ask for that documentation as much as we



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can ahead of this because I want to stave off problems. I think success is where the Ministers feel that they have had a say and the candidates are treated fairly, but there is still work that we need to do together with civil service HR.

Q16 Karin Smyth: I want to talk now about the annual report and the number of exceptions to the recruitment principles that we are interested in. The number of exceptions granted halved from 30,000 in the previous year to just 15,000. Is this the result of action by the commission and, if so, what action in particular?

Baroness Stuart: Do you mean overall exceptions?

Karin Smyth: Yes.

Baroness Stuart: I come back to last year being quite an unusual year. We have the data for the first three quarters in preparation for our next annual report and I have just pulled out that partial data to give you a trajectory of what has been happening.

First, we find that Departments are getting much better at understanding exceptions. However, in the last year, we have had a change to exception 1, which is temporary appointments. There has been a 45% drop in temporary appointments. It has gone from 13,000 exceptions 1 to 2 last year—18% of overall appointments—down this year by 11% of overall appointments to 7,500. During Covid, a lot of temporary appointments were made and an unprecedented number of appointments, by comparison, have been made permanent, although some people have moved in and moved out again. I think that high number is a reflection of the demands on the system created by Covid at that time.

Q17 Karin Smyth: Overall, is it too early to say whether that large drop from 30,000 generally is a result of actions by the Departments or a function of circumstances?

Baroness Stuart: I would urge a three-year approach on exemptions. I would like to see where 2021 and 2022 were and then what happens in 2023. However, some of the things we are doing on exemptions are for temporary appointments, when we get a request for a temporary appointment. During the Covid period, we would grant 12 months and say, "Then we want you to start a recruitment process." We have tightened up on that and said, "You can make a temporary appointment now, but could you start your recruitment process within six months?"

Q18 Karin Smyth: Sorry to interrupt, but we would want them to stick to those recruitment principles more generally or I think we all know that if we recruit on that basis, temporary does become permanent. That might lock into the system in the longer term.

Baroness Stuart: I am not sure that I would take the view that exemptions are not part of complying with the recruitment principles. This is why I said that we have a good Act of Parliament that enables us to have recruitment principles that can be changed so we can be responsive to what happens, administering the recruitment principles and



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making sure that if we allow an exemption, Departments do not overstep it—that temporary appointments do not remain temporary for too long. My fellow commissioners and I are slightly concerned that if someone has been in a post temporarily for too long, trying to run an open and fair competition with other candidates becomes more problematic but I don't think exemptions in themselves are part of not complying with the recruitment principles.

- Q19 **Karin Smyth:** BEIS won your inaugural commissioners' mark of excellence award for, among other things, using AI to score interviews. We are interested to know if any challenges to the recruitment principles arise out of the use of AI in this sphere.

Baroness Stuart: When you go to bulk recruitment—that is recruiting a large number—we encourage Departments to try new things. For us the challenge is always about where the commission steps into what is the Chief People Officer's role and an HR function. On things like that, when we encourage innovation—and I am sure you will have the Chief People Officer in front of you—we say, "What is best practice? How can we support and encourage best practice?"

I hope we can talk more broadly about auditing processes, but we will be running another commissioners' mark of excellence award in the autumn, and I very much hope that part of our grading goes, "No fear that you can become excellent because you innovate," and then we watch, but we have not really looked at AI as anything very specific at this stage.

- Q20 **Jo Gideon:** Staying with recruitment, what role, if any, did you and the commission play in the extension of the open-by-default approach to recruitment?

Baroness Stuart: Exceptionally encouraging, I think, is the answer. What was remarkable, and it is something that surprised me, was that when the Minister wrote the letter extending external-by-default for all SCS grades from 1 to 4, I kind of expected phone calls from people asking, "How does this change SCS 1, because we know you do all perm secs and we know you do all DGs and we know you do about 60% of directors? How would you like us to treat deputy directors?" I think I am right to say that no phone call came.

What we are doing now, starting the system of link commissioners again, is going out to Departments saying, "How do you comply with this? How many ministerial exceptions have been signed off?" It ranges from one Department that managed to persuade the Secretary of State to give them a blanket exception for nine months to not have to comply with it to another Department which, when I went across with the link commissioner and said, "How are you operating external-by-default?" printed out, "These are the exceptions we have asked Ministers for over the last nine months, these are the reasons for why they were granted". I am very much encouraging that through our link commissioners we get greater compliance.



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Having said that, I think it also challenges the commission because I don't think it would be resource-effective, nor would we make a significant improvement to the recruitment principles, if we said, "Well, we will just chair all those competitions and extend it to SCS 1". What we are looking at now is what we call earned autonomy, that we audit the processes in compliance and just how strong the HR function is and then they can continue with the autonomy they already have in many ways, but in a way that is monitored, that we can track, and we can intervene and do special audits if we think things are not going right.

However, this takes me to what I said earlier. I think that the talent management at SCS 1 and SCS 2 level across the civil service is not sufficiently co-ordinated.

- Q21 **Jo Gideon:** In your annual report you noted that commissioners were very stretched. What impact will the increase in open competitions have on the commission and are there plans to increase the number of commissioners to cope with these additional competitions?

Baroness Stuart: The last round of recruitment for new commissioners came in October. They are now all up and running and chairing their own competitions. We introduced a more extensive induction programme where they first shadow experienced commissioners and then, when they have chaired their first competition, they will be shadowed by commissioners. That is up and running now. I think with the next round we will be able to reduce the workload—some commissioners have carried a lot of workload—to levels that are much more reasonable. I want to say publicly a big thank you to those commissioners who over the years when they were stretched, never stopped performing their functions and performed them well.

- Q22 **Jo Gideon:** Do you think that there needs to be an increase in the size of the commission?

Baroness Stuart: Not really. Instinctively, I think that if you want to be a coherent group, anything between about 12 and 15 is a good number. Once you get over that number, it becomes more difficult to be a commission that speaks with one voice and that is important for us. With the next round of recruitment, we will be a full complement.

- Q23 **Jo Gideon:** Other than coping with the increase in workload, has the increase in open competitions presented the commission with any other challenges and, if so, what?

Baroness Stuart: I think the challenge for us has been to be less reactive and therefore become more strategic, draw conclusions from data, do more deep-dive investigations and update some of our documents. I have looked at some very good documents, one on the Civil Service Code for example that was from 2018, and you can just see that the commission would have been at a place of coming to its three-year renewal cycle and Covid happened. Just as we are encouraging Departments to get back to a more steady response, I think the commission faces that same challenge.



Q24 Damien Moore: The current iteration of the recruitment principles is still the version that you inherited in 2018 on your appointment as First Civil Service Commissioner. Will the extension of open competitions require a new version and, if so, when can we expect it?

Baroness Stuart: I think it will, not least because at the moment it says, "Commissioners will normally also chair competitions for open (external) competitions at SCS Pay Band 2 (Director) level". It does not mention SCS 1. If nothing else, at a minimum I think the recruitment principles will have to include how we deal with the deputy director level.

I also think—I am very conscious that I do not wish to encroach on other organisations—that we have to look very seriously at close co-ordination between the Civil Service Commission and ACOBA on rules of entry and exit and what is the expectation. Therefore, I would expect that we relook at the recruitment principles in the light of our changing our auditing process to allow that earned autonomy, make SCS 1 much clearer and also have something to say about the rules of entry, which have to be clear, as they are now, about the rules of exit and across all the grades.

Q25 Damien Moore: What difference has the extension of open competitions made to civil service recruitment to date?

Baroness Stuart: That is very difficult to answer. We have tried to work very closely with the Chief People Officer to make sure that the data they gather that we then use—because the last thing you want as a regulator is to start arguing over data with Departments. It is tricky to say anything about things that didn't happen, but I looked over the last nine months at occasions when we didn't make appointments, when candidates were not deemed appointable. In 2022-23 we have identified about 12 out of the competitions we chair. It seems to suggest that there is a reluctance on the part of external candidates to come forward. That to me is because of a combination of two things. We still do not sell the privilege and the sheer excitement of some of the Government jobs we are offering and we are encouraging Departments to do videos to explain, the permanent secretary saying, "This job that we are advertising is absolutely amazing." I always—it may sound frivolous, but it really is not meant to be—use this phrase, "You are about to be allowed to play with the biggest trainset available." We ought to convey that excitement and that with it also comes a public service element.

I hope that opening up that recruitment will bring in people, but I also want to say that it doesn't threaten the civil service as such. I want to see much greater coming in and out and then re-entering, and the one area where I hope we can make some progress is with local authorities.

Not only does the civil service want to move out of Whitehall but there is also a UK-wide policy of levelling up. That means that the quality of governance and the quality of decision-making, versus policy and implementation, has to be improved across the whole country. My ideal outcome is that when a policy or delivery job comes up at Andy



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Burnham's office or Andy Street's office, in Birmingham or Manchester, that that is in Civil Service World and is advertised and that people are encouraged to move in and out.

Q26 Damien Moore: Thank you for that answer. In an interview with Civil Service World last month, you suggested how open competition would improve civil service diversity, and how would that change things?

Baroness Stuart: I encourage people to approach diversity with diversity of thought, because we have measuring of diversity on ethnicity and background and all those things. What we are not measuring is are we attracting people who look at a problem and say, "There is a different way of approaching this problem." You see that across the House of Commons. Members of Parliament who come from different regions will bring different experiences and different sets of questions. I want the civil service to embrace that far more. By the way, it also includes Scotland and Wales and UK civil servants in Northern Ireland. I want to see greater movement between those as well.

Q27 Damien Moore: Is there any evidence that people with protected characteristics have been more successful in the open competitions than the standard way?

Baroness Stuart: I don't think I have any evidence for that one way or another, but when I talked to commissioners yesterday we were saying, "How do we ensure as we do the candidate pack, as we prepare the job specifications or in those conversations, do we push back if we feel that diversity is not respected?" It was even to the extent that I was assured by my fellow commissioners that if the diversity statistics are not available for writing the report, they are not writing the report. There is an absolute insistence that that is properly monitored.

I think that is for CSHR. That is why we need to work much more closely with them. The regulator can encourage, the regulator can recognise when good things have been done, but it has to be underpinned by a much more coherent approach across Whitehall.

Q28 Damien Moore: Apart from your excellent interview and recruitment being done through Civil Service World, for those non-subscribers to Civil Service World could we have recruitment done in other ways that more people from outside the civil service might seek to be employed? As you said, you want to bring in all that talent. I am not quite sure how many people from outside the civil service look at Civil Service World but there might be some room for manoeuvre there.

Baroness Stuart: You are absolutely right, and you are touching a raw nerve here. I have been trying to encourage this exceptionally modest pilot of two jobs being advertised on Civil Service World from a local authority. I am still having a go at it, but when the commissioners do their information packs, and particularly when we use external recruitment agencies, we go through where it is advertised, what is being used, and there is considerable awareness of it.



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I am much more worried about that if you apply as an external candidate for a job where you are a narrow miss for that particular job, if you were inside the civil service there is much more of a system of capturing talent and narrow misses. Some Departments manage capturing those candidates well, but not all of them do, and I think that we are not doing as well as we ought to.

Q29 Mr David Jones: We have already discussed the role of Ministers and the appointment process. Has there been any change in the level of ministerial involvement in appointments as a result of the drive for an increase in open competition?

Baroness Stuart: Not that I have been able to quantify in any shape or form. However, we have had discussions. There are some positions that you never announce. It is most likely to be an external candidate who will fulfil that, very specific ones—the National Statistician, the Chief Scientific Adviser. Patrick Vallance's replacement was an internal candidate but there was a very strong external candidate. I think it always depends very much on the Secretary of State and the Ministers as to how much they push and to what extent they are prepared to then also pay for executive search agencies to widen the field.

As a commission, it is always our starting point that it must be open to external and there has to be a reason as to why it would only be internal. I sometimes wonder—and at this stage this is a semi-developed thought—whether we couldn't do more with arm's length bodies and use the recruitment route from there. People from the outside who work at ALBs then get a sense as to whether they want to work within a civil service structure and that becomes a much stronger pipeline into the civil service.

Q30 John McDonnell: Can we pursue that process? Under what circumstances can a derogation from the open competition be granted?

Baroness Stuart: That is where your exceptions come in. Let's park Covid for a moment or even the energy crisis. No responsible regulator would say, "No, you can't have someone responding to a crisis," but the most common ones would be very special skills where we are increasingly also doing more secondments from the NHS. The Welsh Government, for example—I am going to Cardiff in a few weeks' time for a DG on health. If you are the Welsh Government and more than 50% of your spend is on health and social care, there will be quite significant movement on that.

I think what my predecessor encapsulated well—and I try to copy that way—is that we want to be an enabling regulator and not one that stops things. At the same time, we keep coming back to that it has to be open and fair, and if you have to make an exception you have to regularise the process at the earliest opportunity.

Q31 John McDonnell: Just to be absolutely clear, are there some posts that should only ever be internal?



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Baroness Stuart: There are some posts where I would find it exceptionally difficult that you would have anything but an internal candidate. National security is one area. There are some Ministry of Defence ones. I would also venture to say that if we are serious about external by default to permeate the whole system, it is the pipeline, starting with grade 6, which will allow you to have the people, because by the time you are a DG or a perm sec—particularly at the perm sec level—the knowledge of Whitehall is an important component, but if you have been outside before for an extensive time, you will be a better permanent secretary.

Q32 **John McDonnell:** Let me throw one example at you that I think might be relevant for the future. Would you be content, for example, if a Cabinet Secretary could be appointed with no civil service experience whatsoever?

Baroness Stuart: It was my predecessor, Ian Watmore, who started to regularise the process of the appointment of Cabinet Secretaries. As it stands currently, the Cabinet Secretary is appointed on the advice of the First Civil Service Commissioner and the outgoing Cabinet Secretary. Various models have been tried over the last 15 years. If you have not worked in Whitehall, you would find it difficult. However, I think, if you have only been in Whitehall, you might equally find it difficult.

There is this ongoing debate about should the Cabinet Secretary and the head of the civil service be the same or should that be two roles? Again, various versions have been tried. Just looking at things, my hunch is that there is a role of the Cabinet Secretary function, which is that go-between to keep fixing problems—you keep going through this door between 70 Whitehall and No. 10. I wonder if that isn't a role you might want to look at a kind of deputy so that the Cabinet Secretary in their function also as the head of the civil service can be more strategic.

Q33 **Tom Randall:** One of the commission's roles is to adjudicate on complaints made for breaches of the Civil Service Code, and there has been a significant fall in the number of appeals for breaches of the Civil Service Code. Why do you think that is?

Baroness Stuart: It is an interesting question because on the one hand my ideal state would be that there aren't any. It will be a reflection that any concerns that are being raised are being dealt with properly and appropriately within the Department. If you look at the remit of the Civil Service Code and our role in it, we are the final appellate. At the same time, if nothing comes through you begin to wonder, "How do I know that the system is working well?"

On previous occasions, we have succeeded in getting extra questions into the staff survey about the awareness of the Civil Service Code. I looked at the figures for 2022-23, as we have them at the moment. In total, if you look at three years you would have: 2021, 121; 2021-22, 64; and 2022-23, 84. There has been a dip and then up again.



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On breaches of the code, the note here, which I thought was very encouraging, is there was only one breach identified and that was identified by the Department concerned. I thought that was a really good sign of success, that the Department concerned identified that it had done something wrong and there was a sufficiently good relationship that was, "We know it and you record it." What I would want to see is a continued focus in the Department on the code.

I have brought you somebody else's report "Leading in practice", the review of the Committee on Standards in Public Life. I am not sure whether you have taken evidence from Jonathan Evans on that, but it has very much pushed the Civil Service Code, that the ethical code should be owned by all Departments. Our commissioners will ask questions about awareness of the code. When we sign a letter of exemption, we write on the letter of exemption, "An awareness of and compliance with the Civil Service Code." We require vigilance and to promote the code, and I regard this to be the role of all of us in the commission as individual commissioners, that as we chair those competitions we make it clear that that is important.

That is a rather long-winded answer to your question. Numbers have gone down; they have gone up a bit. That shows me there is some activity, but I also think that Departments are taking greater ownership and that is the way it should be.

Q34 Tom Randall: As I understand it, almost all appeals have been deemed to be out of scope of the Civil Service Code or referred back to the relevant Department for further investigation before the commission can make a judgment. In light of that, what steps can be taken to ensure that decisions are reached in those cases? Do you think those steps that you have just outlined would do that or is further work necessary?

Baroness Stuart: I think this is one of those things where for the data we require we have to talk with the Chief People Officer to ensure that the Departments gather the data. The thing that always worries me is the complexities in Departments and the standards, even sometimes the Civil Service Code requirements and the Departments have their own HR requirements. There is tremendous variability and I think that unless it is centrally gathered we will find it difficult to compare how Departments operate.

On the new auditing process, we agreed for the 70-odd Departments that we audit, which literally go from the Queen Elizabeth conference centre with 40 employees to DWP with 93,000, to have a risk of one to five, and we have greater focus on the ones that are larger, more complex. That is where I hope we can work more closely together to gather the data on that.

Q35 Tom Randall: You mentioned the civil service people survey. That report has a slight fall in those reporting confidence that complaints about breaches of the Civil Service Code would be investigated properly. It was a slight dip from 76% to 74.8%. Do you think there is a trend there or do



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you think there is a concern for a trend, and how much of a concern is there for broader issues of morale for the Civil Service Commission?

Baroness Stuart: I think the morale concerns us greatly because the whole reason for the creation of the Civil Service Commission in the first place was to ensure that the best people work in public service and if morale is low, I think it should concern us.

I would be very surprised if there was any other organisation that, when you went back on its people survey, said that 2022 was a year that anybody felt particularly confident about knowing what will happen next. That puts the onus on us to ensure that we have a positive message, career structures, making sure people feel valued. I think the morale question is one that civil servants too often find that people only ever talk about them when they find fault with them. When anything goes right it is taken for granted and we really don't celebrate the extraordinary achievements enough.

Q36 **Chair:** Thank you. I have some questions about politics, which I suppose is an occupational hazard for us all—

Baroness Stuart: A fine profession, Chair.

Chair: Indeed. You told us at your pre-appointment hearing that you would recuse yourself from any Cabinet Office-related activity as First Commissioner. Have you had to do so and, if so, how often?

Baroness Stuart: The way we allocate competitions as they come into commissioners, the temptation is to—there are always other commissioners available but I actually checked and I said, "How many competitions came out of the Cabinet Office?" By the way, because the Cabinet Office has so many other functions, it is all the competitions that are to do with the running of the Cabinet Office as a Department in itself, so whether it was director of Government Property Agency, director of Economic Affairs, Chief Technology Officer, the whole list. It looks like about 20-odd, but all chaired by other commissioners, and there was a clear understanding about that. It did not cause difficulty.

I can make another point. When it comes to conflicts of interest, I think it is the recognition of where they exist and how you manage them that is very important. We have made it much more transparent that where commissioners may have a conflict of interest, we record them properly. We start the meetings recording them and then you manage it. That is the best way of dealing with it.

Q37 **Mr David Jones:** To continue that conversation, in your role you would normally sit on the civil service senior leadership committee, but that of course falls within the purview of the Cabinet Office so there is a danger of you being seen to be conflicted. Have you participated in the work of that committee and, if so, what contribution have you made to that?

Baroness Stuart: When I was asked that at my pre-appointment hearing, I said it is very difficult for me to comment on a committee and its workings without having been on it. On the constitutional structure,



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for the Cabinet Office it is only the secretariat that is provided by it. The remit is much wider. It is the top-level management of permanent secretaries and DGs across, and some people are invited to appear on that and I am one of the people invited. There is a Government lead NED on that committee and the Chief People Officer is invited.

I make no comment on which candidates are selected for leadership programmes or any of those. There may be occasions where there is a debate about processes, and I will point out that the Civil Service Commission may take an interest in that. I regard it as a function that I observe. When there is an element of its decisions that may have an impact on the Civil Service Commission I will contribute, but I would not regard myself to be an active member of that committee. Nevertheless, I think it is important that some people are invited to that committee to provide for the cohesiveness of the decision-making.

Q38 **Mr David Jones:** Are other commissioners invited to that committee?

Baroness Stuart: No, it is only the First Civil Service Commissioner.

Q39 **Mr David Jones:** How is the commission effectively inputting into all the work of the committee if on certain occasions you are recusing yourself?

Baroness Stuart: No, it is not that I recuse myself.

Mr David Jones: All right, you remain silent.

Baroness Stuart: Let me give you a very concrete example. When a Department wishes to create a second permanent secretarial role—and there has been quite an increase of second permanent secretaries across Whitehall—the senior civil service leadership will take a decision as to whether this is an extension of the numbers or not. Sometimes an email will come that says, “This is for information only,” or it will say, “There is a suggestion of creating a second permanent secretary.” As far as the First Civil Service Commissioner is concerned, that is a decision that they will make and, other than on numbers, it has no reflection on our work.

However, if they are currently looking at whether we may want to change the way we interview people—is the panel process really still the most effective way of doing it—if they want to look at it differently, I would say, “We will take an interest in that because how do we ensure it is fair, it is open and is still transparent?” Tell me if it doesn’t answer your question.

Q40 **Mr David Jones:** I perceive that there are some difficulties, but you are making every effort to overcome them. Is that correct?

Baroness Stuart: Yes, but you know that in life, and in particular that level of politics, there comes the time when certain plates meet, and you have to manage that encounter rather than avoid it. I think that is an encounter that needs to be carefully managed.

Q41 **John McDonnell:** I will follow on from that. Can you give us another example where you have had to sit silent on an issue?



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Baroness Stuart: I can give you several examples like, "Which civil servants should be put forward for honours?" to which I say, "Absolutely nothing to do with me, sir." "Which civil servants should go on senior leadership training?" It is those kinds of decisions that are really HR decisions, where I think it is important to know how they are being arrived at and how it is being done because, unless you know how these processes work, you cannot know whether you ought to have a say as a regulator on that, but it is not the regulator's role.

Q42 **John McDonnell:** You are interested in the process rather than the individual decision?

Baroness Stuart: Absolutely, yes.

Q43 **John McDonnell:** What are you doing to reassure the civil service and the public overall about your impartiality?

Baroness Stuart: There is a practical question on impartiality. You could almost turn it around and say, "Do you think I am impartial?" I can only conduct myself in a way that I regard to be impartial, and then it will be for others to decide whether they agree that my conduct has been such. I entered the House of Lords as a non-affiliated peer and to join the Cross Benches you have to apply to the Crossbench Convenor who will decide whether you are deemed to have redeemed yourself.

John McDonnell: Rehabilitated yourself, yes.

Baroness Stuart: Rehabilitated, but not actively, so I joined the Cross Benches last year. Just the civil servants have to be impartial. It is that conduct. In contributing to the House of Lords, I ask occasional questions. They tend to be about defence and national interests. I tabled an amendment to the DLUHC levelling-up legislation, which concerned the Malvern Hills conservators, because that is where I live, and they are redrawing the boundaries and administratively it is causing some problems.

Therefore, impartiality does not mean inactivity or irrelevance. I think the point I am making is that people sometimes make the mistake of saying that to be impartial requires you to do nothing. No, it requires you in your professional decisions to give due respect to the framework within which you operate, and I hope that people think that that is what I have done.

Q44 **John McDonnell:** Apart from the contentious issue with Malvern, I take it that you have been careful about the subjects upon which you intervene in the Lords itself. How has your participation in the debates around Brexit affected your credibility?

Baroness Stuart: I challenge you that other than my historical involvement in Brexit—and it would be rather curious if I tried to deny the fact that I chaired Vote Leave in 2016—since I have become the First Civil Service Commissioner, I don't think I have made any comments whatsoever on the current proceedings in Brexit. However, I think I have an interest to ensure that His Majesty's Government is run most efficiently, if it is Government policy that we do trade deals, it is



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Government policy to make sure we deal with Northern Ireland properly. While I would not advocate a campaign on it, it is still a legitimate interest.

- Q45 **John McDonnell:** I do not want to overemphasise this or over-pursue it, but you have pursued the Brexit policy issue, haven't you? You participated in the two-day summit at Ditchley Park on this issue. How do you think your engagement in those sorts of activities impacts upon your credibility or impartiality?

Baroness Stuart: I think it is a fair question, if you rely on what you have read in the newspapers. The remit of the Ditchley conference was to say that we are beginning to reach certain deadlines, certain decisions have to be made and, therefore, how can the Government best make them? There were as many people around that table who voted for Brexit as those who voted against it. When I read the reports that this was the deep state gathering in Oxfordshire, I am afraid my initial response was if I had known that I wouldn't have arrived late and left early.

John McDonnell: Or at all.

Baroness Stuart: It comes back to the fact that impartiality does not mean inactivity. It is not a partisan stance to take that I would like this Government to be economically successful and the United Kingdom to be cohesive and coherent. Whether I am a civil servant or whether I am a former Minister or whether I work for industry, I have a role to play in that.

- Q46 **John Stevenson:** Following on from that, we talked earlier about diversity of thought. Do you think that your views, which we have just discussed, in any way influence the people that you would like to see recruited into the civil service?

Baroness Stuart: No. I find 2016 a kind of division that was opening up, which is actually not in party political ideological, and it is really curious that it is deemed to be irredeemable and that people cannot overcome it. There were as many reasons as to why people voted for one side as the reasons they voted for the other side, and that will reflect itself in a whole lot of areas.

However, when someone applies to become the DG in, say, social mobility and health at the ONS, I will look and say, "What are your professional qualifications? Can you run a team? What is your background? Can you evidence that you can produce outcomes?" Where you were in 2016 really does not matter one way or another. You have to prove that you are actually capable of doing the job in a fashion that is in line with the Government of the day.

- Q47 **Chair:** An unusually open question on which to end from me, but what are your priorities for the next 12 months?

Baroness Stuart: It is not even just 12 months. We all start off by saying it is a fixed-term appointment. When I go how would I like to be remembered? I think the key thing for me is that porosity—however ugly



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a word it may be—actually has meaning. In a world where people's career structures have long since ended from starting a job in your 20s and go until you retire, people will have to move in and then they will have to move out of the civil service. The days of the generalist are numbered. We actually need some particular skills. Some of them will start growing in the private sector, and we need to bring in from the private sector so that the civil service can grow itself.

My greatest fear is irrelevance and, therefore, the Civil Service Commission has to play its role in keeping those doors open, not by granting exemptions, but that it is totally accepted and anticipated that you will have worked. If I had my way, I would say that if you want to become a permanent secretary, you should have worked outside London, ideally probably been in a devolved Administration at some stage, ideally been out in delivery or in the private sector and then brought back.

That requires career management at a lower level, so that we start rewarding not your ability to work your way across Whitehall but your ability to deliver on policy, and that would be the thing that I would look at. Therefore, over the next 12 months I want us to make external by default an absolute reality, that Departments report on where I think quite legitimately on a number of occasions they didn't but we monitored, and then we move in and out more smoothly.

Chair: Thank you. That is a useful exposition on which to end. We are very grateful for your time this morning. If there is anything further you wish to inform us of please do write, but for the meantime thank you very much indeed for coming.