



Constitution Committee

Corrected oral evidence: The appointment and dismissal of permanent secretaries and other senior civil servants

Wednesday 26 April 2023

10.20 am

Watch the meeting

Members present: Baroness Drake (The Chair); Lord Anderson of Ipswich; Baroness Andrews; Lord Hope of Craighead; Lord Mancroft; Baroness Suttie; Lord Thomas of Gresford.

Evidence Session No. 4

Heard in Public

Questions 66 - 89

Witnesses

I: Lord Macpherson of Earl's Court, Permanent Secretary, HM Treasury, 2005-16; The Rt Hon the Baroness Prashar, First Civil Service Commissioner, 2000-05; Lord Sedwill, Cabinet Secretary and Head of the Home Civil Service, 2018-20, and Permanent Secretary, Home Office, 2013-17.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Lord Macpherson of Earl's Court, Baroness Prashar and Lord Sedwill.

Q66 **The Chair:** Good morning and welcome, everyone. This morning, the Constitution Committee is taking evidence as part of its inquiry into the appointment and dismissal of Permanent Secretaries and other senior civil servants.

We will hear today from Lord Macpherson of Earl's Court, the right honourable Baroness Prashar, and Lord Sedwill. Thank you very much for coming. We are very grateful that you have come to help inform our inquiry. We do, predictably, have lots of questions we want to ask you. I hope you have had some indication of what those are likely to be.

Would any of you like to make any opening comments? No? We will go straight into the questions. We have quite a few. We are a little reduced in number today, but that is because there is a Parliamentary Assembly of the Council of Europe so we are in competition with another event.

I will open with the first question, and maybe Lord Macpherson will want to go first at answering it. Compared with your own time in post, do you think there has been an increase in recent years in the number of Permanent Secretaries who have left their posts prematurely?

Lord Macpherson of Earl's Court: Yes, I think there has been. Just to be clear, pretty much throughout history, certainly through my experience in the 1980s, 1990s and 2000s, Permanent Secretaries were removed from time to time, usually either because of performance or because their relationship with the Secretary of State did not work.

There is nothing wrong with that as a matter of principle, but the big change over recent years has been the scale of the defenestrations. There really were quite a number. I was in touch with my friend Lord Sedwill at the weekend and we were counting the numbers. I had forgotten quite how many did depart over recent years.

I would also highlight the nature of the removals, both in the publicity they attracted and, in the case of my successor at the Treasury, the fact he was fired before he had even had a chance of working with Mr Kwarteng. That is all I wish to say at this point.

The Chair: We are trying to get some quantitative feel about this. If you and Lord Sedwill have been reflecting on this, is there anything you would like to follow through on regarding the numbers or the volume? It would be good to get a sense of the scale of that trend, even if not at the moment.

Lord Macpherson of Earl's Court: The number is certainly something like six or seven. I do not know what you think, Mark.

Lord Sedwill: Yes, it would be something like that. It depends on the time period one is looking at, of course.

It can sometimes be cyclical. You would expect there to be more churn, for example, in the year after a general election. We usually ask Permanent Secretaries to stay on through an election to provide continuity, but then there is change within the Civil Service, either because it makes sense for career management reasons or because, as Lord Macpherson said, the relationship with a new Secretary of State, et cetera, has not quite worked. That will include people retiring. Sometimes we ask people to stay on just to see through an election.

Lord Macpherson has mentioned one particular dismissal in the last few months. There was a second, who was my successor as National Security Adviser, Stephen Lovegrove, who was dismissed at the same time. That was equally damaging, in my view. Those dismissals were without merit. It is a tribute to the system that their successors are very capable and strong public servants, but those dismissals were damaging.

There was a period about a year before that when, as Lord Macpherson has said, there were probably four or five more. You have to think about the period. It is not a completely linear trend, nor is it cyclical. It spikes.

It is worth the committee interrogating the underlying reasons for this. As Lord Macpherson has said, if people are not up to the job, it is right that they are removed. It is, by the way, in their interests as well. These are very high-pressure jobs, and it is miserable if you are struggling in them. We should always try to do that with courtesy and compassion, if we can. Certainly, some removals would fall into that category, although obviously one would not want to discuss individual cases.

The line of the committee's questioning, which is about whether there are deeper political motives and questions around political alignment, is clearly an area the Constitution Committee is going to be concerned about.

The Chair: That takes us to your point about underlying reasons. To what extent are these departures/dismissals motivated by perceived political alignment?

Lord Sedwill: It is a mix of reasons. If I can almost turn the example around—I know we will come to this later, but it is worth touching on at this point—the system for the appointment of Permanent Secretaries since the coalition Government has been that a Civil Service Commission-led process identifies those candidates who are above the line, who are appointable, and then the Prime Minister has the discretion to choose from all the candidates deemed appointable. The Civil Service Commission-led process does not rank them and say, "X was much stronger than Y". It is essentially saying, "X and Y both were above the line, but Z was not".

What has tended to happen is that the choice has been shaped not necessarily by political alignment but personal familiarity or comfort between a Secretary of State and a Permanent Secretary candidate. You have not necessarily had the person who, as Head of the Civil Service, I

would have regarded as the best candidate for a job. You have had the one who is most comfortable for the Secretary of State.

By the way, that does not always mean the one you would perceive from outside as the least Humphrey-ish. Sometimes a Secretary of State has prioritised going for the safest pair of hands available. There is no particular trend there either.

There is clearly a question around political alignment. That has been particularly the case over the last decade, when we have had these polarising issues arising out of the 2014 and 2016 referendums, but there is also a question of personal alignment and personal comfort. Given that Ministers are supposed to rotate faster than Permanent Secretaries or generally do, that does not always mean you have the right person for the job in the long term, because it can become too dependent on the personal relationship with the serving Secretary of State. Of course, Permanent Secretaries have a duty to be ready for subsequent Secretaries of State.

Baroness Prashar: I agree with what Lord Macpherson and Lord Sedwill have said but it is worth taking a little bit of a historical view here. If you look back, in each Administration there have been changes and you have seen a churn of Permanent Secretaries. For example, in 1997, when the Labour Administration came in, we saw a wholesale removal of the directors of communications, if not Permanent Secretaries. During the coalition Government, there was quite a churn of Permanent Secretaries.

What is important is the nature of what happened with Tom Scholar. The optics were wrong. He was not even given an opportunity. I am not privy to the conversations that took place, but the optics of someone instantly being dismissed by a Minister were not good. It is not the responsibility of Ministers to dismiss, in any event. The message that sent out was very negative. The message was that Ministers can take action. We should be worried about this kind of dismissal becoming a trend.

The Chair: Staying with the point you are making on Tom Scholar and drawing on the evidence we have had from other witnesses, because of the speed with which Tom Scholar was removed or dismissed from the post he held, there could not have been any due process. It was only one or two days. In a sense, it was a slam dunk. You cannot answer the process point, but what would one normally expect the process to be where an incoming Secretary of State or Prime Minister feels that a Permanent Secretary is not appropriate? What would be good behaviour?

Baroness Prashar: Good behaviour would be to have a conversation with the Cabinet Secretary and discuss it. As my colleagues have said, there might be a question of performance or of personalities. There are reasons. Never mind the Civil Service; good due process in terms of dismissal operates in good organisations. It is done with courtesy, compassion and understanding. There has to be a due process.

In this instance, the optics were that a terminology like the Treasury orthodoxy was stated and there was instant dismissal. The optics are very poor, particularly for a government department and its leaders. What sort of message have they sent to the country about how you run a decent organisation, never mind the question of impartiality? It did hit at the question of impartiality because due process was not followed.

Lord Macpherson of Earl's Court: It was almost as if it was a pre-emptive strike designed to demonstrate to the rest of the Treasury that, if you wanted to thrive and prosper under the Kwarteng regime, you had to tell them what they wanted to hear; namely, that unfunded tax cuts would have no consequences in the market. As it happened, unfunded tax cuts did have a massive impact on the market, and Tom Scholar, as the leading official who had experience of financial crises, would have been very valuable to them. It was a pity.

The Chair: We are going to drill down further in our questioning on the appointment and removal of senior civil servants.

Q67 **Baroness Andrews:** Good morning. It sounds as though Tom Scholar did not fit any of the criteria, either in terms of comfortableness or political alignment, as defined in economic terms, anyway. Lady Prashar, you have said that what should have happened was a conversation with the Cabinet Secretary because it is not a Minister's responsibility to dismiss Permanent Secretaries.

What could the Cabinet Secretary have done, if he had wanted to tell the Secretary of State, "You cannot do this. It is not optics; it is not an appropriate process and it is not defensible in terms of what we as a Civil Service do to protect our senior officials"?

Baroness Prashar: As a Cabinet Secretary, what would you have done?

Lord Sedwill: In the end, if the Prime Minister and the Chancellor decide, the Cabinet Secretary can only advise. We do not have the authority to prevent. Essentially, we have set out the arguments already. It would have been appropriate for Tom Scholar or any senior official—I have mentioned another of the very top officials—to have had the opportunity to demonstrate to the new Administration that they would serve them with the same loyalty and capability they had served previous Administrations. I have no doubt that they would have done precisely that. They would have advised that certain policies would have had the consequences that Lord Macpherson has set out, but, in the end, once the decision was taken, they would have done their level best, loyally, to implement that decision and deal with the consequences.

That is the issue with this particular pair of dismissals. The two individuals were pre-emptively dismissed. They were never given the opportunity to demonstrate, as they would have done, that they would work for the incoming Government. One can assume only it was a deliberate signal to Whitehall that political alignment with the new Government's views was the key criterion and that capability, loyalty and performance were not.

I do not know—I was not privy to it—but I am sure my successor as Cabinet Secretary would have made probably all of those points and doubtless others as well.

Q68 Lord Mancroft: It seems to me, standing back from this, that we should look at the way this is done by large international corporations, firms in the City of London and organisations like that. All dismissals now are much more public. Everything is more public nowadays than it used to be. There is not much we can do about that, but it seems to me that the dismissals of senior people in the private sector, in public companies and things like that, are pretty sudden. That is how it happens. There is not really a process. It sometimes just does look from the outside, and probably from the inside too, pretty savage and unpleasant. Sadly, that is the way the world goes, particularly if it is so public as things are nowadays.

I cannot quite see how you do it any other way. You used the word “pre-emptive” in the case of Sir Tom Scholar and the other example you came up with. That too is quite common nowadays. Sometimes it is a really good way of setting your ground, as it were. You get rid of somebody, and that is public on day one.

That is just the way the world is. I am not clear why the Civil Service should be any different. Is it unpleasant? Yes, it is unpleasant sometimes. If the boss—the Prime Minister, the Chancellor or whoever it may be—believes that is in the best interests of the Government, surely it is right that they should do that. Why should it be any different?

Lord Macpherson of Earl’s Court: I would draw a distinction between performance and alleged views. If a Government came in and for the previous few years there had been serious underperformance in a department and a whole series of projects or programmes had gone wrong, I could well envisage a pre-emptive move of that nature.

The distinction we are drawing is where the move is a reflection of perceived views. I hasten to add that, in the case of Tom Scholar, it was not about political views. I have worked with Tom for about 25 years, and to this day I have no idea what his political views are. That is the culture within which we work. It was actually about his alleged views on economic policy. Again, that was almost certainly misplaced.

If you are going to have an impartial Civil Service, taking decisions on the basis of alleged or perceived views is quite a dangerous path to go down.

Lord Mancroft: Would it not be equally dangerous to ignore that? If you come into an organisation and you find yourself intellectually at odds with the chief executive, your top man, there is going to be a problem, is there not? You are bound to part company at that stage of proceedings. It would be madness not to.

Lord Macpherson of Earl’s Court: The great thing about Civil Service departments, and certainly the Treasury, is that there is a diversity of views. The Treasury has certainly always been a pretty democratic

organisation. I have seen Chancellors who have been only too happy to take advice from a variety of sources, including high-quality special advisers, the Governor of the Bank of England and so on. The implicit view that there is some monolithic Treasury view is misplaced.

Lord Sedwill: You have to be careful about the private sector analogy. Very few chairs come into a plc board and sack the chief executive on the first day. That is really rare. It may be that, after a period, they conclude that the chief exec is not right for the future of the business, et cetera, and then they will make a change. That has happened.

Maybe you can, but I cannot really think of an example where a chair has been appointed to run a plc on the basis that they are going to sack the chief executive on the first day or where a chair has done so without giving the chief executive the opportunity to perform.

One has to be careful about private sector and public service analogies in any event, for all the obvious reasons, but, even if one were drawing that parallel, I am not sure that parallel supports the case that there should have been this day-one removal.

Q69 **The Chair:** I do not want to lose this important distinction between performance and alleged views and its relevance to the role of the Civil Service and the impartiality in serving any democratically elected Government. To what extent is a good process for dealing with the potential removal of a senior civil servant from their position dependent on the Cabinet Secretary being very strong and firm in arguing the case here? How relevant is that?

Lord Sedwill: It is as much as anything about the ministerial attitude. Of course, the Head of the Civil Service, usually the Cabinet Secretary, has to be strong and firm in the way you describe, but, again, one needs to make a distinction between the reasons for removal. There must be due process around removing somebody on performance grounds: the opportunity to recover, proper appraisal processes, development programmes, et cetera. That is true for senior civil servants, and that is a process led largely by the Head of the Civil Service. There is input from Ministers, but it is essentially a Civil Service-led process.

Then there is the question about moving someone because it is not working out with a Secretary of State, which may not be only about perceived alignment of views. It could also be that, for whatever reason, the chemistry in these very high-pressure environments is not working. That is a more informal process. You cannot have a structured due process around something of that kind.

That would be done in conversation with the Prime Minister and the Cabinet Secretary. If there were no performance issue but a decision was made to make a change, of course one would try to find another suitable job for the Permanent Secretary being changed out through no fault of their own, certainly if there was not a performance question.

Q70 **Lord Thomas of Gresford:** Is the problem not this? If perceived views

become a factor in the appointment of a Permanent Secretary, at some point during his career he has to demonstrate what his views are; in other words, he has to put forward a point of view that he knows will get him a promotion. Is that not really the crux of the problem?

Lord Sedwill: As Lord Macpherson said, we have all worked together for many years. I do not know Lord Macpherson's political views; he does not know mine. No one knows which way I have voted. What you try to do is give your best professional advice and then support the policies of the Government of the day. That means you have to support policies that will change from time to time.

There are different models. People have argued for it. There are some European countries where civil servants, our equivalents, are perceived to be aligned with the centre-right or the centre-left. Those models are clearly workable because they work elsewhere, but it would be a very big step for us to shift in that direction. I do not see any evidence to suggest that moving away from genuine impartiality, where civil servants are giving their best professional advice—not their views—on the basis of experience, evidence, et cetera, would create better outcomes in this country.

We should look at performance for the reasons Lord Macpherson has set out. That should be rigorous, particularly in the delivery of big programmes and so on. There are some structural constraints there. It would be quite damaging for people to feel that they had to demonstrate a political alignment, somehow or other, in order to be promoted. Then you just do not get candid, honest and challenging advice. It is hard enough to speak truth to power in any event. It would become doubly hard to speak truth to power if you were essentially prevented from doing so.

Q71 **Lord Mancroft:** Collectively, you have raised three issues that you think are important. One is process, the second is optics and the third is alignment of views. Which one is the really important one? Which is the priority?

Lord Sedwill: It depends whether you wish to make a change or whether you are wishing to defend the situation. In my judgment, perceived alignment of views should not be a factor, not least because it is a perception, and often an incorrect perception, that is assumed. It is assumed that people will take a particular view because they have done a particular job. The "orthodoxy" word is an example of that.

Then there is process and performance. This is not about optics in the sense of political handling. That is not at all what Baroness Prashar means, I think. It is the signal to the system that you should not speak truth to power that is damaging, because worse decisions will be made.

Lord Hope: I would like to pick up what Lord Sedwill has just been saying. We have had evidence that a good working relationship between the Secretary of State and the senior civil servant might require a basic alignment of political views. The witness who was describing that aspect

of the system was making it clear that “political views” does not mean politics in the sense of who you vote for. That is not the point. He was talking about a broader moral vision of the ends and values that society should be oriented towards and guided by. That is a rather broad concept, but he was talking about an attitude about the way in which the country should be governed.

If you broadened the issue out in that kind of way, would you still say that would not be relevant to the question of whether the individual should work for that particular Secretary of State?

Lord Sedwill: Broadened that far, it is difficult to think of the circumstances in which there would not be a basic alignment, unless one was dealing with a revolutionary Government of some kind who wished to completely overturn the entire system.

If we are talking about an attitudinal commitment to democracy, an impartial Civil Service, the public good, an independent judiciary and the rule of law, et cetera, in a sense, everyone is committed to those. I have not really come across any politicians who are not either. Saying that alignment is necessary in that sense is at risk of becoming otiose.

You are right, though, to make the point that it is not about party-political views. I think back to both my time at the Home Office and the experience of one of my predecessors. His example is probably more pertinent than mine. David Normington, who was later First Civil Service Commissioner, was Permanent Secretary through four or five different Secretaries of State, all under Labour Administrations until his very last few months, which was at the beginning of the coalition Government. The previous few were under the Labour Administration. The real distinction in Home Secretaries is not a party-political one. It is about where they are on the liberal versus authoritarian spectrum. Those variations happen within political parties as well.

Sir David worked very successfully for Secretaries of State who were under a single party-political banner but who took a more or less liberal view of some of the issues that were before the Home Office. If he were here, he would be able to evidence that he did not have to demonstrate an alignment even of attitudes on that particular spectrum to be able to serve those Secretaries of State effectively. He will have given them all his candid advice and his best efforts to implement the decisions they took.

Lord Hope: Is the problem in the perception that it has something to do with political attitudes? If there is that perception, you would say that is not the right way to proceed when you are considering an appointment or indeed a dismissal.

Lord Sedwill: Exactly, yes.

Lord Hope: Lord Macpherson, Lady Prashar, do you take that view as well?

Baroness Prashar: I absolutely agree with what Lord Sedwill has said.

Lord Macpherson of Earl's Court: As do I.

Q72 **Lord Hope:** This leads to my original question, which was looking away from the individual and looking at the effect on the Civil Service as a whole. I take it as a given that one looks to the Civil Service as a body which is constitutionally independent of government and politically impartial. That is the assumption of the question. Is it a fair assumption that that is the nature of the Civil Service: that it is without political alignment one way or the other and constitutionally independent from the Ministers it serves?

Baroness Prashar: The important word here is "impartial". It is not independent of the Government of the day, but it is impartial. The mistake always happens that these two terms are interchangeably used. People have this view that it is independent and it stands alone. It does not. It is impartial in the sense that its job is to deliver the agenda of the Government of the day but also to give impartial advice. Once that advice has been accepted and the Minister decides to do something, it is the civil servants' job to make sure it is achieved.

Lord Hope: Let us proceed on that basis, which I fully understand. If the position is that perceived political alignment is playing a part in appointments and dismissals, taking both of them together, what effect would that have on the Civil Service as a whole?

Baroness Prashar: To my mind, it undercuts the impartiality of the Civil Service. That is our constitutional arrangement. Therefore, it is very important that how appointments are made, how dismissals take place, how civil servants are treated and how their advice is taken should be done in a way that upholds that.

It is part of the Ministerial Code and the Civil Service Code. It is the responsibility of the Minister for the Civil Service to uphold the impartiality of the Civil Service. If you move towards a system where appointments take political alignment into account, it is a slippery slope. It does not take into account the fact that Governments change and Ministers change.

I also take the view that the Civil Service is a kind of national asset, and the Administration of the day hold it in trust for the next Administration. Therefore, the impartiality of the Civil Service matters.

Lord Hope: Continuity is a factor as well.

Baroness Prashar: Yes, absolutely.

Lord Macpherson of Earl's Court: The continuity point is important. Certainly, over the last decade or two, the turnover of Ministers has increased substantially. Some departments have had a new Secretary of State on average once a year or once every 15 months. The business department comes to mind in that context.

It genuinely improves the governance of Britain if the Civil Service is reasonably permanent. That does not mean there should not be ventilation or change, but there is an advantage in having some professional, impartial people who can keep government going.

The other point I would make is that, if it were perceived that political alignment was the key to progress or promotion in the Civil Service, that would radically change the implicit terms on which people join the Civil Service. It may well attract really good people, but a lot of us joined on the basis that you would serve Governments of all parties. In my time I did. I even had a Liberal Chief Secretary to the Treasury, latterly.

You join on that basis. If the terms of trade shifted radically, a lot of people would leave because it would not be the institution they joined. That would be a loss.

Q73 **Baroness Andrews:** This is really important and very interesting stuff. We struggled a little with the evidence we had last week. One of the witnesses said that it would be helpful if there were a shared moral vision. We all said, "What is a moral vision?" and so on. Lord Sedwill has described it interestingly in the context of all those temperamentally different Labour Home Secretaries whom David Normington had to serve, who did swing widely according to their perception of what was necessary. That gives us a bit more of an intellectual foundation to think about issues of compatibility. It is a very interesting example.

In contrast—I have to raise this now—Mr Raab seemed to present a vision of a Civil Service that was liable not to be challenging but to be rather subversive towards Ministers. I am just wondering whether that is a fair interpretation. How would you reflect on his views? Is that, in fact, an attitude that Ministers are more prone to have developed in recent years?

Lord Sedwill: I do not accept the argument that the Civil Service is subversive towards Ministers, for obvious reasons. I do not imagine we want to pursue the particular case. I always had a very good working relationship with him when I dealt with him in government, particularly in the period when he, as First Secretary, had to stand in for the then Prime Minister. He did a very creditable job. But I do not agree with that argument.

By the way, that is not new either. Baroness Prashar, in her opening response, pointed out the historical context. There was the whole "one of us" question even before Lord Macpherson and I joined the Civil Service at the beginning of the Thatcher period, which was about alignment. There was a perception then that Civil Service was part of a Butskellite establishment that was wedded to a corporatist view, et cetera, and that her Government wished to change that.

That Government did make changes to the top of the Civil Service as well. One could probably have had a rather similar evidence session all those years ago about that. It was probably done rather more elegantly than the case we have been discussing, but fundamentally there was the

whole “one of us” alignment question, and Lord Macpherson has mentioned a similar question at the beginning of the Labour Administration.

Notwithstanding the fact we have had a single party at least leading Governments over the past decade or so, within that there have been quite substantial differences in their attitudes to the key question of the day, which has been Brexit. Again, there has been a perception that there is, essentially, an establishment view that is at odds with their own.

If you look at the way the Civil Service supported the Brexit negotiations and the process in the run-up to the referendum as well, there is no evidence to suggest that there was any latent opposition or reluctance to serve the Government of the day’s policies; it is quite the reverse. People worked extraordinarily hard in those departments to help several Governments pursue quite different visions of how they were going to approach that.

Fundamentally, when it comes to an institution of this complexity and size, there are always questions about its capability, performance and effectiveness. Those are absolutely legitimate questions, and we should always be asking ourselves about what reforms and improvements can be made, how we ensure that the Civil Service is fit for the digital era, and so on.

In terms of the fundamental attitude and desire of the Civil Service to work for the Government of the day, whatever their political views, serving them with equal loyalty, there is no evidence that the Civil Service does anything other than give its best effort, including telling Governments of the day some uncomfortable truths. That is an essential part of the job.

In the end, that is not about the Civil Service; that is about the governance of the country, as Lord Macpherson mentioned earlier. Governments make worse decisions if they are not getting impartial advice. If people do not feel they can speak truth to power, this country will be worse governed. In the end, Ministers have to make the decisions. They will make good and bad ones, but they will definitely make worse decisions if they do not have impartial professional advice.

Baroness Andrews: Would it help if there were greater transparency so that people knew what sort of advice was being given? We have had a couple of instances recently. That could enable people to see the nature of the contested information or the judgment that goes into some very difficult decisions.

Baroness Prashar: I saw that. My view is that the relationship between the Permanent Secretary—the Civil Service—and Ministers is a relationship based on trust. They have to be able to give open advice and have a dialogue. If you make it formal and transparent, it would inhibit people from having an open, honest conversation. It is more about the relationship.

The focus is on the Civil Service, but, to make the system work, there is an equal responsibility on Ministers to appreciate the nature of the relationship. Uncomfortable advice on contentious issues such as Brexit can sometimes be seen as being obstructive, whereas what it is being spelled out is what the consequences are. In most cases it works well. Some Ministers value this.

There is inevitable tension in that relationship because the Ministers want to deliver quickly and the Civil Service, by its very nature, will tell you about the process, the consequences, and so on. There needs to be better understanding of that. If you formalise it, it is going to lead you into a blame culture. We have moved into an area where there is a blaming of one or the other. That is not going to be very good in terms of governance.

It goes back to what Haldane talked about: the interdependence of Ministers and Permanent Secretaries. It is a relationship based on trust, respect and understanding. What I have seen over the years is a corrosion of the understanding of impartiality and how it works in practice.

Sometimes there is also a question, as Lord Sedwill said, about the reform of the Civil Service not keeping pace with the capabilities required. It is much more to do with that. That is not the fault of the Civil Service because, in my experience, any reforms I have seen over the years have been partial and responsive. Nobody has paid attention to what the capacity and the capability of the Civil Service should be. Nobody pays that any attention. This is a cross-party issue. It is a much deeper issue.

If you look back at Northcote-Trevelyan, Haldane and so on, the world has changed massively. We need to look at the sort of support you give Permanent Secretaries, the kinds of teams they have, and so on. There are much deeper issues than focusing just on political alignment.

Lord Sedwill: It is worth keeping in mind the numbers. When we talk about reform of the Civil Service, we really mean reform of Whitehall. This entire conversation is largely about Whitehall. The Civil Service is over 500,000 people currently. The public service is over 5 million. Whitehall is less than 10% of the Civil Service, so it is less than 1% of the public service as a whole.

We do not give enough attention to the other 99%, or even the other 90%. We do not pay attention to the capabilities for delivery, service and so on, on which our citizens depend. Too much of our focus ends up being on the relationship between the handful of civil servants who are dealing directly with Ministers even within Whitehall. We are into fractions of 1%. It is important because that is where policy and decisions are made. Clearly it is important, but Civil Service reform should not just be about that. Civil Service reform and public service reform needs to be a much broader set of questions about capability, as Baroness Prashar just said.

The Chair: I acknowledge that point, but we have restricted the terms of our inquiry.

Lord Sedwill: I realise that. It is the Constitution Committee.

The Chair: I would love to come in on the point about the skill sets recruited into the Civil Service, but I will not go there.

Q74 **Baroness Suttie:** To a really large degree, Baroness Andrews' last question was the one I was going to ask, which was whether you had a response to or comment on Lord Maude's recent article on political impartiality, greater transparency and pragmatism. Do you have anything you would like to add on that article?

Lord Macpherson of Earl's Court: I do not have a huge amount to add. Much of the article made perfectly good sense to me. There is a paragraph at the end about political appointments that I found slightly less convincing, for the reasons we have just been discussing.

Earlier, Lord Sedwill was describing the changes in the appointment process, which Lord Maude introduced about 10 years ago now. Ministers have a very important role in informing the choice of senior appointments and setting out the criteria, but I would not want an environment where they had so much choice they could appoint pretty much whom they want.

There are interesting issues around the role of the Civil Service Commission. I left the Civil Service seven years ago so I am completely out of touch, but you want to have a strong regulator. On occasions in recent years I have wondered quite how strong our regulator is. For example, when it comes to the egregious misuse of statistics, Sir Robert Chote of the UK Statistics Authority will write a pretty sharp letter to the Minister involved. I have not seen any similar correspondence—it may have gone on in private—from the First Civil Service Commissioner. These are difficult issues.

Baroness Prashar: I did read that article with some care. I too was concerned because Lord Maude described us as being an outlier compared with other countries. First of all, it is incorrect to start comparing ourselves with other countries because we have our own constitutional arrangement.

On the question about greater involvement of Ministers, I can go back to when I was First Civil Service Commissioner. There was a battle then about Ministers being given a choice and not just one candidate when you follow the process.

We fought hard on that because my view and the view of the commissioners then was that what was important was to have the proper involvement of Ministers. We wanted to have a discussion with them about the kind of person they wanted—this was what I used to call front-loading, getting real clarity on the sort of person they wanted—to talk to all the stakeholders, to get the job description agreed with them and to

share with them the lists, the panel and so on. Ultimately, they would be given one person. We defined merit as the person suited to do the job at that particular time against the job description, which was very much developed.

Of course, this battle continued. Under the regime of my successor—I think it was David Normington—there was a decision, led by Francis Maude, that Ministers should be given the choice. When I read that article, I am afraid I did shudder a bit, because it is a slippery slope. Again, I go back to the point that you are focusing on the wrong things. You are wanting to make the system better. Are we confusing greater political alignment with greater professionalism within the Civil Service? You want capacity; you want to ensure that you have people who are capable of delivering your agenda. There is a certain confusion. I know it is not in your terms of reference, but nevertheless it does then hit on constitutionality. You have to see impartiality within the broader context of how we are governed.

If you look around the world, where there is more political involvement, there is a whole range of consequences in terms of the decline in services and so on. We will not go into that, but we have to deal with the issue with a great deal of care. We need to ensure we do not walk into this.

I also come back to my point that this is not something that should be done by the Government in power. As I said, the Civil Service is a national asset. There should be a cross-party discussion about any change that happens because it is a constitutional issue.

The Chair: I want to come back to this issue of the strengthening of the role of the Civil Service Commission in other questions but for the moment perhaps we could shift our focus to the practices around recruitment and departure. Lord Anderson has a suite of questions.

Q75 **Lord Anderson of Ipswich:** Lord Macpherson, you spoke about the change to the recruitment process during the coalition Government. I just wanted to focus a bit on that and on how it works. From reading the principles, my understanding is that, if you are looking to recruit at Permanent Secretary grade, the panel is chaired by the First Civil Service Commissioner or a nominee; there is input from Ministers; there is the list of appointable persons; and then the ultimate decision is taken by the Prime Minister.

Is that process in the right place? I am conscious that it has been tweaked a little already over the years. Does it work in practice in the way that it appears to work on paper? Has it resulted in appointments that would not have been made under the previous system? Is that a good thing?

Lord Macpherson of Earl's Court: I do not know because, as I said, I left the service seven years ago. I was in at the beginning of this process. It did not seem to be a terribly difficult issue then, partly because the relationship between the Prime Minister in the coalition Government and

the Head of the Civil Service was a productive and constructive one. There was not a high degree of tension there.

I am slightly disappointed that the system does not rank the candidates. If a panel has gone through the effort of seriously examining the qualities of the candidates, you would rather like it to have a view on who it thought were the best people for the job. It is slightly suboptimal.

Equally, under the regime that existed before then, the Prime Minister or the Secretary of State effectively had a veto on the appointment, and then you had to start all over again. That could be inefficient under certain circumstances, but it did protect the principle of merit.

If you go further back to the 1990s, you did not have any open process at all. All these decisions were made behind closed doors. The First Civil Service Commissioner would have been involved in those discussions, but it was pretty untransparent. I can remember witnessing it as a relatively junior official, as principal private secretary to the Chancellor, when the Permanent Secretary would come in and discuss with the Chancellor what was going to happen next. It always looked like rather cosy deals had been done.

I welcome the principle of opening these jobs up to competition and the transparent process in terms of criteria and so on, but it puts a lot of pressure on the interview panel to determine where the line is. If I were still involved, that would be my focus: setting that line quite high so that slightly dodgy candidates did not get in by the back door. Equally, I know that Ministers put a lot of pressure on those involved to ensure that their preferred people make it above the line. It is a difficult one.

Lord Anderson of Ipswich: I would like to invite the views of Baroness Prashar and Lord Sedwill, but could I throw another one into the mix as you consider that question? Last week we had suggestion from our witnesses, Dr Casey and Mr Zhu. They quite liked the process, but they thought it should be tweaked by the addition of a veto in the current process. If the Minister or Prime Minister did not like any of the candidates on the list, they could simply require another list of appointable persons to be produced. I am sensing that Lord Macpherson probably would not care for that very much. Do you have any reflections on either of those questions?

Baroness Prashar: If you could bear with me, could I give you a little bit of the history? It is important to look at the evolution. Until 1995, the First Civil Service Commissioner was a serving civil servant. A change was brought about in 1995, and the first First Civil Service Commissioner who came from the outside was Sir Michael Bett. I came in in 2000. From my experience, all these issues about the kind of process we should have were rumbling along then.

We spent a lot of time looking very carefully at how we could develop a system of selection that maintained fair and open competition and appointed on merit. The slogan we had was that we were very firm on

the principles but quite flexible on the process. How did we want to accommodate that? To my mind, this is a constitutional position, as a regulator, but it also intersects with what I call the management and the capabilities. At that time there was a lot of pressure on the Civil Service then, because the incoming Labour Government had wanted people for delivery and so on and more ventilation, with external people coming in.

The process we developed was very much, as I said earlier, about front-loading. We wanted Ministers to be very clear about the kinds of people they wanted. To some extent that dealt with the change required in terms of the kinds of people a Minister wanted in. We had a process agreed, which eventually was incorporated into the Constitutional Reform and Governance Act, in terms of the recruitment principles.

I still take the view that the danger in giving Ministers a list is the one that Lord Macpherson has spelled out. We have to make sure that the appointments made through that process are made on merit.

Having said that, the role of the Civil Service Commissioners, in my view, is not just in recruitment. We took the view that they were custodians of the impartial Civil Service. If anything untoward happened that was outwith the recruitment process, it was our responsibility to say that. When I became First Civil Service Commissioner, there was a great push for reform. I have to say that the three Cabinet Secretaries I worked with were very keen. They responded to change in their own ways.

My view was that the role of the Civil Service Commissioners was to work with them and to make sure you got the right people and that change happened. The balance of which appointments were internal and which appointments went out externally used to get discussed very carefully, so much so that the commission convinced successive Cabinet Secretaries that Civil Service Commissioners should be involved even in internal movements. We took the view that there could be bureaucratic favouritism. Human nature is what it is. You may want to promote people within that. Informally, that also began to happen.

I am sorry I have taken time and laboured this a bit, but I just wanted you to understand that. The only change that has happened after the Constitutional Reform and Governance Act was the change Lord Maude introduced: that Ministers should be given a choice. I know they want to go further in that direction.

Lord Anderson of Ipswich: I think I understand that you agree with Lord Macpherson that it would be desirable if the panel did not just produce a list of appointable candidates but graded them in order.

Baroness Prashar: Yes.

Lord Sedwill: I agree with both those points. I will not repeat everything that Lord Macpherson and Baroness Prashar have said.

There is one point that has not been made yet. When the reform was introduced to give the Prime Minister a choice of appointable candidates,

it was the Prime Minister, not the Secretary of State. The reason for that was because the Prime Minister is the Minister for the Civil Service and has this custodian responsibility.

This was also partly to deal with the concern Lord Macpherson mentioned earlier. The coalition Government were quite stable because of the nature of the political arrangement, but in some departments the Ministers and Secretaries of State changed quite frequently. Certainly, there was a case during my time where a Permanent Secretary was appointed, but the Secretary of State had changed by the time they got there. On their first day, they already had a new Secretary of State who had had no involvement at all in the process.

That was quite an important element of that reform, and therefore it is worth focusing on the degree to which Prime Ministers have exercised that responsibility or whether they have allowed, in effect, the serving Secretary of State of the day to make the choice on their behalf. You could make that system work if it were really clear to Prime Ministers that they do this as the Minister for the Civil Service, with that responsibility.

I agree with the point about ranking. By the way, I have been involved in other public appointments where this would apply as well, including in our old area of the Home Office and the homeland security system. At this level, you are not simply ranking on merit in the sense of, "We have A, B and C. Who is the best?" et cetera. These are extremely capable people even to get to that point. Therefore, what one might be talking about is fit. I do not mean the personal fit with the Minister, although that is a factor, but the right fit for what the job requires at that time.

I can think of a public appointment in which I was involved where two extremely capable people came through to the very final stage. The question was whether we wanted someone who was going to be an up-front reformer or a more consensual, lower-key figure. They were both extremely capable people. Both their leadership styles could have been appropriate. One would be appropriate for one set of circumstances; one would be appropriate for another. It was not a question of one being better than the other but of one being the right fit for what the Government of the day perceived to be necessary for that institution at that time.

In practice, there is still an element of that in the system. The Cabinet Secretary, certainly when I was doing that role, in discussion with the Prime Minister, after the panel had given them the list of appointable candidates, would have precisely that discussion: "Here are their strengths and weaknesses. Beyond the published job description, what do we really think we are looking for in these circumstances for this department?"

It would be better, as Baroness Prashar has said, if, through intense engagement up front, the job description and the candidate brief were really thoughtful about that. Therefore, the panel could have more of a role in ranking candidates. As I say, this is not just, "A is better than B"

but "A feels like a better fit than B for this department at this time, given what the Government are doing". That would produce a better set of outcomes.

Baroness Prashar: That is what we used to say merit is. There is a lot of discussion about, "What is merit?" Therefore, it is extremely important to define merit at the outset. We found that, if you began to do this, there was less dissatisfaction among the Ministers. They very rarely vetoed what we recommended.

Lord Anderson of Ipswich: I suspect Lord Hope might want to ask you more about what you mean by "merit", but could I just finish with a last question concerning departures? You have all been quite critical of certain high-profile departures. That seems to be an area where there is less process in place. Would you favour some set of principles, akin to the recruitment principles, to govern the departure of senior civil servants? If so, what would they look like? Would they be simply procedural or would they venture on to the territory of what substantive grounds might or might not be acceptable for dismissing a senior civil servant?

Baroness Prashar: It is good to have the principles without being too prescriptive because, as you heard from the two former civil servants, situations arise and there have to be discussions and so on. You have to have some flexibility. It is important to make it clear that it is not for Ministers to dismiss. There are certain principles. Due process should be followed, and it should be fair, both to the organisation and to the individual. That is how far I would go. I would not be in favour of too much prescription.

Lord Sedwill: One needs to distinguish between departure from a job and departure from the Civil Service as a whole. At this level, they will often be the same thing because there are not that many Permanent Secretary jobs available. There are times when people will be moved to another department because, for whatever reason, it does not feel like they are the right fit for that department at that time, and there is no reason for them to go. On other occasions, a discussion will happen between the Head of the Civil Service and the Permanent Secretary: "There is not anything likely to be coming up that is a good fit for you in the next few years. What do you want to do?"

We have to have that ventilation, like any big organisation. Lord Mancroft was drawing the parallel with big private sector organisations. The system cannot be completely gummed up by too much process. That is why Baroness Prashar's point about having strong principles but flexibility in implementation is an important one. It is necessary at this level.

People have reached the very top of their careers. Sometimes they would like to continue, but it does not seem appropriate for them to do so. Then you have to have a sensible process to enable them to depart with dignity and in order to pursue a further phase of their career. I should declare an interest at this point, but I guess that is self-evident. Certainly, I had those conversations with Permanent Secretaries who were leaving, who

might have wished to continue all the way through to retirement but there was not an obvious place for them.

This probably takes us into the line of questioning around the five-year tenure. We can touch on that now, but I suspect, if I recall the list of questions correctly, the Chair will take us into that explicitly at some point in the hearing.

Lord Macpherson of Earl's Court: I was going to mention the five-year tenure. I am with both Baroness Prashar and Lord Sedwill. You do not want to be too prescriptive. It is hard enough making changes as it is, but in a sense some principles are there already, such as the five-year break point. We could expand just a little bit on that to ensure that as much sensible thinking goes into departures as it does into recruitment.

Baroness Andrews: I have a question in relation to the process of dismissal. Would you say, therefore, that the case of Tom Scholar could be repeated in the future and nothing could be done to change that position?

Baroness Prashar: I hope not. You are doing this inquiry, and you were keen to look into this. It sets a very dangerous precedent. Therefore, it is important to spell out those principles we were talking about, because it is a very dangerous precedent.

Baroness Andrews: It is more a question of public reputation, public probity, the court of public opinion and professional integrity. It is about these sorts of issues rather than trying to invent a process that would require people not to do this because there would be consequences.

Baroness Prashar: To some extent, yes, but I was thinking about this. I know it was said that the private sector is becoming very savage, but normally, in any organisation, if there is a question of performance, there is a process. People are given warnings. They receive three warnings; there are appraisals; there is performance management. All of that leads to people's removal or dismissal.

To me, those are principles in any good organisation, and therefore they are all the more important in the public sector because government is setting an example. We have management schools talking about how to give people feedback and what sort of things to do. We should not be deviating from any of that.

In this instance, it is all the more important because the message this sends about impartiality, particularly if you think about the question of not giving people an opportunity, is very damaging. You need to have due process. You need to agree some principles, and they should be adhered to. There should be penalties if they are not. If you want to give more teeth to the Civil Service Commissioners, so be it. It just seems to me that this is something that needs to be spelled out.

Lord Sedwill: If I may just add a point, it cannot just be about process. In the end, if a relationship between a Permanent Secretary and a

Secretary of State or Chancellor is completely incompatible, then something has to give. The problem with saying, "It can only change if the following procedure has been followed", is that you would have a Permanent Secretary who is completely disempowered and unable to fulfil their duties.

Government is hard enough as it is. I have run the Home Office and seen how for my immediate predecessor—so the Permanent Secretary between me and David Normington—the relationship between her and the Home Secretary broke down and was not going to be effective. The Home Office was running into real difficulties as a result. You cannot say that there has to be an absolutely rigid process, and that is not what Baroness Prashar is saying.

If I can use a private sector phrase, culture eats strategy and strategy eats process. You hear that kind of language in the private sector. There is a really important point here about the political and governmental culture. Hopefully, the examples that we have described help us to realise that it was not just that the removal of the Permanent Secretary to the Treasury meant that they lost capability as the markets were then unsettled by their policies; actually, his removal was part of unsettling the markets.

Talking to people in the City, it was not just the mini-Budget that unsettled the markets. It was the fact that the OBR had not been asked to run the numbers and the Permanent Secretary to the Treasury had been dismissed. These were policy decisions that might otherwise have had a less dramatic effect. Hopefully, the political and cultural lesson from that is to do that at your peril, because the consequences for good governance, and thus your own political authority, will be damaging if you pursue it. There has to be process, but we cannot assume that process itself is going to answer the question. There has to be a political culture here that prizes having the best people able to give the best advice in these jobs.

The Chair: On your previous point, am I right in saying that the perceived weakening of the UK governance system spooked the market?

Lord Sedwill: Yes.

Q76 **Baroness Suttie:** Baroness Prashar, you have said that they should be firm on principles but more relaxed on process, which I understand.

Baroness Prashar: I did not say relaxed, but flexible on process.

Baroness Suttie: Who should decide these principles in order for them to be embedded in the culture to change?

Baroness Prashar: The principles I am talking about were embedded. These are the Civil Service's recruitment principles. As part of the process, flexibility meant that we used to be proportionate and use the methods of assessing people that would be most effective. A simple example is whether you have four people sitting and interviewing or

whether you talk on a one-to-one basis; you devise a system for assessing candidates according to what you think is required. This is something we did, and we were very successful in getting the right kind of people. It is about flexibility, not relaxation. We never deviated from merit and fair and open competition.

We were talking about the private sector. They spend a lot of time recruiting people. They invest time, and sometimes it needs one-to-one conversations and people coming together to talk about it; sometimes you get a psychologist involved to do the assessments. There were different methods that they used to assess the candidates. That is very important if we want to meet the merit criterion.

Baroness Suttie: My question is about how you would get the Ministers to agree to the principles.

Baroness Prashar: The Ministers are agreed. The point is that the principles are there. They are in the Constitutional Reform and Governance Act. The principle is appointment on merit through fair and open competition.

Baroness Suttie: And likewise for dismissal.

Baroness Prashar: Yes.

Lord Sedwill: There has never been any real difficulty getting Ministers of different Governments or different political complexions to agree the principles. The hard part is getting them to apply them in practice, and that is true for all of us. Let us be fair. I was involved in many of these decisions at different levels in the various jobs that I did. You are always struggling with the tensions between principle and pragmatism, and between the immediate and the future. You just have to apply your best judgment, but the principles are important because they give you the guardrails.

Q77 **Lord Hope of Craighead:** I would like to return to the concept of merit. Is the concept, as currently applied, still valid, given the level of appointment we are considering, at least in this discussion, or is there a case for revisiting the definition in the recruitment principles? The definition as it reads at present is, "Merit means the appointment of the best available person judged against the published criteria for the role".

Baroness Prashar, you added a few words a little earlier in defining merit. You said, "At that particular time". Perhaps that links to the published criteria for that particular role and there is not much of a difference there, but the question is whether the definition, as it is set out in the principles at the moment, is still valid. Does it need to be adjusted and, if so, in what way?

Baroness Prashar: I looked at the recruitment principles. I do not see why they need to be changed, because they basically say what I have defined merit to be. When I was there, we spent a lot of time talking this through. You will be familiar with us doing a similar exercise when I was

chairing the Judicial Appointments Commission in terms of what merit was in that context.

There are the core competencies that you require to be a civil servant but, on the other hand, given the nature of the job, what are the other things that are required? What are the hard and soft qualities? That is what merit is. You judge the candidate against those criteria. I do not see any reason why you need to change that.

Lord Hope of Craighead: Is there general agreement on that?

Lord Sedwill: Yes. The only point I would add is that the published criteria are often quite vanilla in the way that they are described. If I think of my own experience, what was my job when I became Cabinet Secretary? It was to stabilise the Civil Service after the tragic loss of a revered head of the Civil Service following his sudden illness. What was my job when I went to the Home Office? It had gone through a very turbulent period. Lord Anderson will remember this. My job was to restore genuine confidence and reputation to it as an institution. You do not write some of those things down in quite that way, but that is true of any really big job.

Lord Mancroft was drawing the parallel with the private sector. Look at the job descriptions for chief executives. The job description for the chief executive of Rolls-Royce, who has just taken over and made some pretty stark comments about what he inherited, did not say, "Come in and make changes of that kind". That is always going to be the case. Therefore, it is important that the published criteria encompass those things, but there is always going to be a nuanced and intelligent conversation. It goes to Baroness Prashar's point about flexibility within principles about exactly what the crux of a particular role might be.

Lord Hope of Craighead: If I pick up correctly, a lot of the importance attaches to the published criteria for the particular job at the particular time. Would that be right? You have to be very careful that the definition is adequate for the role that is being filled?

Baroness Prashar: That is really important. Because we were engaged with the departments in developing the job descriptions, we twinned a part-time Civil Service Commissioner with a department, so that they really understood what was required at that particular time. Therefore, it is very much about the job description being very precise.

I cannot overemphasise the importance of what I used to call front-loading, getting under the skin of the organisation to see what is required at that point in time. Of course, there are core qualities you need, but what are the specifics? Then discuss that with the Minister concerned, the stakeholders and even the junior Ministers. We used to spend a lot of time having discussions around the table about what the job required at that time. That is how you define merit.

Lord Hope of Craighead: Would you like the phrase "at that particular

time" written into the principle?

Baroness Prashar: Yes, if that would clarify matters.

Lord Hope of Craighead: It would highlight the importance of the description and it has to be very specific to the particular job at the particular time. Would that be right?

Lord Sedwill: That is an important point, in that you would probably write the same thing into almost all Permanent Secretary job descriptions, looking for these paragons who would do a bit of everything. The truth is that, for HMRC or DWP, you would not appoint someone who did not have deep experience of running big, complex operations. For smaller policy departments, you might well say that you would like them to also know something about that, but the truth is that it would be less of a priority. You would really be looking for perhaps a deep understanding of the policy area for which the department is responsible, given that it might be running a very different system to the kind that those very big operational departments are running.

Often, the job description will include quite a range of different skills, aptitudes and experiences. Taking the point that Baroness Prashar has just made, I would be thinking very much about the balance between those. What are you going to emphasise? What kind of candidate are you really looking for? You are never going to get anyone who has experience of everything because there simply is not the capacity to do that.

Lord Macpherson of Earl's Court: I am content with the definition of merit. Merit is still highly relevant. I am very happy to adapt it to the point in time. It comes back to the criteria. We have not really touched on expertise, but there are a whole lot of jobs where serious expertise is going to be one of the criteria. You would not want to appoint a Treasury Solicitor who was a second-rate lawyer. You probably would be taking a risk appointing a Permanent Secretary to the Treasury who had never had any involvement in economic policy-making of any sort. There is a balance.

Lord Hope of Craighead: That takes one to the criteria and defining what the criteria are for the particular position you are looking at.

Lord Macpherson of Earl's Court: That is correct.

Q78 **Baroness Andrews:** We have not had a job description for the Permanent Secretary's job. Baroness Prashar introduced the notion of the delivery specialist, which became a real phenomenon in the Labour Government. I am not quite sure whether they are still taking the same form or whether they are disguised as other bits of government now. Has the job itself therefore changed in relation to the emphasis put on delivery?

I am wondering about a second question that is slightly unrelated. How do you define leadership? I absolutely know what you would be looking for instinctively, but how do you test that when you are in that interview

situation?

Baroness Prashar: On the question of delivery, there are different ways in which it was responded to. There was discussion that one person cannot have all the qualities concerned and about whether you need a team of people with expertise in new technology, delivery of projects and so on and so forth. That is where the leadership of the Permanent Secretary became quite important, or at least creating a team around him or her to make sure that you had the expertise to deliver the agenda.

When you ask how to define leadership, you have the soft and hard qualities. All those things were assessed, partly through interview and partly through psychologists' reports. What kind of leadership is required? Do you need someone who is leading from the front and who builds consensus, or do you want a leader who can build teams and so on? That is what I said when I was talking about being flexible in the process we used to assess candidates. We deployed all those methods.

Last year, I had a good conversation with Andrew Likierman, the former head of the London Business School. He has been looking at this, and I had a long conversation with him, because judgment and assessments are very important things. Principles are fine, but it is about the application of them, and that is how you define this. Assessment processes become very important. Ultimately, it is the judgment. That is why you have multi-disciplinary teams.

Of course, the Civil Service should chair the panels. You had a range of other people who had different expertise. Sometimes we invited external people. Invariably, an external person with the expertise in the area concerned sat in. Psychologists' reports and different kinds of techniques were used. We even did a report where the references and appraisal reports were important, so that you get all the information on the track record to assess the kind of leadership you are looking for.

Baroness Andrews: You would apply those criteria irrespective of the knowledge content of the job. There are now many different definitions of experts within the professional Civil Service. If you are appointing an expert, you would apply all those criteria as well, irrespective of what you would require by sheer knowledge.

Lord Sedwill: Expertise is often a qualifying set of criteria. You do not even get to the final panel unless you know sufficient about the task. That will vary, of course, across a very diverse set of organisations. Then one is often looking, particularly at these senior levels, at those other, more qualitative issues such as leadership. Usually, people have a track record that shows whether they have displayed leadership in the past, but that is true of any big organisation.

Assessing leadership is a really challenging question. I was always looking for whether people could adapt their leadership styles. If they do a job for four or five years and they do it successfully, leadership style on

day one and leadership style on day 1,000 should be quite different, because you should have achieved something in that time.

It goes to Baroness Prashar's point about the team. It is not just about the individual. It is about what kind of team you are putting together in a department or institution to try to ensure that you have the balance of skills required.

Baroness Andrews: It is fundamentally about confidence.

Q79 **Lord Mancroft:** This is my own ignorance. Presumably the job description and therefore the criteria required for a Home Secretary would be slightly different in 2000 than they were in 1900, although it is the same job. Would the job description of the Permanent Secretary, and therefore the criteria, in 2024 be markedly different from 2023 or 2022? It is the same job in the same department.

Lord Sedwill: You would not expect it to be. I can give you a different example. When I was at the Home Office, we recruited a director-general for the Border Force at three-star level, just one level below the Permanent Secretary. What we looked for in 2013 and what we looked for in 2017 were quite different, because the successful and very senior ex-military officer who led the Border Force during that period had changed the nature of the job that was required. We would not have needed another person like him. It needed a different rhythm. Organisations need different rhythms.

The published criteria probably would not have looked very much different because one would have still been talking about operational experience and leadership, et cetera, but once looking at people with the expertise to do the job, we were certainly looking for a rather different personality type from the person we had appointed in 2013.

Lord Mancroft: For the Permanent Secretary, it would not be hugely different.

Lord Sedwill: No, you would not expect it to be. Do not forget that the machinery of government quite often changes the character of departments, but you would not expect those things to change radically over the kind of timeline that you are talking about.

Q80 **Baroness Andrews:** My question is about internal versus external appointments, and it is to Lord Macpherson. When you wrote the foreword to Benjamin Barnard's Policy Exchange report, you highlighted as particularly compelling a recommendation that all senior Civil Service posts be open to external competition. What was the problem you were trying to solve and why was the time right, at that point, to make that case? Would you consider that it is a case that has been accepted and implemented?

Lord Macpherson of Earl's Court: I was in a particularly radical mode at that time. I was picking up on some sensible suggestions in this pamphlet. I see huge benefit in ventilating the Civil Service. I would love

to see more interchange between the public and private sectors, making the system more porous. Inevitably, we have been focusing on Permanent Secretaries, but none of us is under any illusion that, if this country is going to progress, we need to raise the standards of the Civil Service, and the public sector more generally, and be ambitious.

The Civil Service does not have a monopoly on expertise or wisdom. I recognise that there are practical obstacles to opening up every single job. It may be that you do not want the head of MI5 to be some random person off the street but, given technological developments, it is very easy to put job descriptions on the internet and turn these things around quickly. Given public sector pay, it is often difficult to attract people at senior levels, which is a pity, because you do not want only the wealthy to be able to afford to come into the Civil Service. I must take my fair share of the blame for successive pay policies, not least in the Treasury.

This is important and the Government have committed to doing it. I was reading the Civil Service Commission's report, and a lot of jobs are opened up. Not all of them have been, but there are a lot more than there were 20 years ago, and I see that as a very positive development.

Baroness Prashar: The question of ventilating the Civil Service has been around for some time, from the time of Thatcher onwards. It is a good thing to get some new blood in. It is important to have external appointments, particularly if you are wanting to bring in the kind of capabilities that the Civil Service probably does not have in areas of project management, digital new technology and so on.

That is a good thing, but the point I would like to reinforce is that there has to be proper consideration as to which jobs should and should not be externally exposed. That is where the role of the Senior Leadership Committee, at least when I was a Civil Service Commissioner, used to be quite important, because it is a group in which the Cabinet Secretary and his Permanent Secretary used to sit and discuss which jobs should go out and which jobs should be for internal competition.

If you are going to go down that road, it is important to be considering what you are looking for externally. Where do you want the ventilation? What kind of different expertise do you want to bring in? Again, a lot of consideration needs to be given to that.

Having said that, when external people come into the Civil Service, it is quite important that the system inducts them in. In some areas, at least in my experience, retention was an issue because people did not often adjust to what are called the ambiguities of being within the Civil Service.

It is not just about external posts. It is about what happens once they come in and how they understand the ethos of the Civil Service and what impartiality means. At the same time, it is about how the Civil Service inducts them into the organisation. To me, it is not just about blanket advertising externally. Again, a deep consideration has to be given to

that, followed by making sure there are processes to retain the talent that you bring in.

Lord Macpherson of Earl's Court: I now remember that when I wrote this introduction it was against a background of the Greensill scandal. My other recommendation was that you really need to manage potential conflicts of interest, because you saw in the case of Greensill some quite strange practices in terms of conflicts of interest. It needs to be regulated. Again, I see that as a role for the commission as well as the Senior Leadership Committee.

Lord Sedwill: I agree with both Baroness Prashar and Lord Macpherson. The only point I would add is about ventilation. Lord Macpherson touched on this, but it is just worth emphasising. It should be two-way. When I became Cabinet Secretary, I would certainly have benefited from the kind of experience I have acquired in the private sector in the two and a half years since I left.

On the question of merit, you would find that having people with a broader range of experience in a different set of organisations would help with the point that Lord Macpherson made. In the end, the prosperity, security and success of this country partly depends on having the best possible Civil Service and wider public service. Ventilation in both directions would help with that.

That is quite hard to do because, as soon as someone, almost at any stage, heads out, they sometimes find it quite hard to get back in or to get recognition for what they have done when they were out. You have to police conflicts of interest quite carefully, for obvious reasons, but what makes people attractive to a private sector institution is the knowledge they bring. If they are told they can only go out if they go out into something wholly irrelevant to what they have been doing, they are not going to prosper very much. There is a whole area of activity we should look at around that.

We should not expect that we are going to have people joining the Civil Service in their early 20s and leaving 40 years later having never operated outside. If they reach the top, they will not be as effective in the job as if they had that kind of ventilation. That happens more effectively elsewhere and is certainly something that we should aim to adopt.

It also goes to the pay point as well. It means that people can think about a lifetime income, recognising, as they do in Washington, for example, that when they are in the public service, they will consume some of the assets they may have built up while outside, but while outside they have to recognise that they do not just live up to the standard of whatever salary they are getting at the time, because they need to bank some for when they come back in.

I am not arguing against better pay. There should be better pay in the public service. It should be smaller and better-paid, but the truth is it is never going to be as high as the private sector. That kind of ventilation

would help with that as well. That means some quite technical changes to pensions and all the rest of it to make those things work, but we would be better for it.

Baroness Andrews: There have been initiatives in the past, in the Fulton days, which were quite successful in getting experts and more technical people into the Civil Service, but the emphasis that you put on two-way traffic is interesting. I agree with you, although I am not sure people would come back in the numbers in which they left. Of course, this causes a reflection on the nature of incentives to come back.

You described the benefits, but what happens to the general morale and commitment of your internal staff if, in fact, they suddenly face external competition that they have not been used to, were not expecting and never anticipated? Suddenly they are exposed to a lot of new skills and different experiences from outside. The *Times* did an FOI request and found that 151 of the 457 roles hired for had not been opened up to outsiders between May 2022 and June 2023. Is that simply because the process is slow, or do you think there is an inhibition about embracing this fully?

Lord Macpherson of Earl's Court: In my experience, internal people really valued high-quality people coming in because they could learn from them. Those people would raise the game of the institution. I remember recruiting a really good tax lawyer, who went on to be chairman of Revenue & Customs, who had had a lifetime in the City.

Inevitably—I see it in the private sector—you tend to want to balance people with internal experience with outside people who can bring new qualities to the party, but that should not explain the fact that a whole lot of jobs were not opened to external competition. I suspect that is just the system being quite slow or due to special circumstances. If someone drops dead today, there are certain jobs that you need to fill very quickly, and I suspect that might have been an issue.

Baroness Andrews: There is not a cultural resistance.

Lord Macpherson of Earl's Court: I hope not, but you never know.

Lord Sedwill: If the Civil Service is as good as we think as it is, then internal candidates will prosper in an external competition. I remember one job I went for where there was an external competition. The fact that I won it meant that I felt I had more authority than I would have done had it just been the old kind of process. I was able to set out what I was planning to do and I was able to say, "This was the basis on which you appointed me. This is the agenda". I felt more empowered by it. That was a job at director level, so a long time ago.

Baroness Andrews: This comes back to what Baroness Prashar said. It is about the need to build confidence internally in the Civil Service, giving people knowledge that they can challenge. As a very junior Minister, I felt I was not challenged enough and I wondered whether that was because

people do not have the confidence to ask the really awkward questions.

Q81 **The Chair:** Baroness Prashar, if there is going to be greater external recruitment, is there an argument for the Civil Service Commission having greater regulatory powers to deal with things like conflicts of interest and how that process works?

Baroness Prashar: Yes, that is something that it would obviously be necessary to look at in terms of conflicts of interest. People do other things, and therefore whoever is appointed has to comply with the requirements of the Civil Service. It has not been a problem in the past because, as I said, when I was there, there was quite a bit of external appointment. I recall now about five or six people came in at a very senior level, and the question used to be about salaries because they commanded high salaries externally. That used to be the negotiation, and therefore looking at the conflicts of interest was something that was discussed with the Civil Service Commissioner and the Permanent Secretary, or whoever was responsible.

The Chair: My second supplementary question is about the role of the Senior Leadership Committee. Strictly speaking, the statutory requirement for appointments on merit is not laid down where it is internal recruitment only. Could you give us more of a feel of the role that the Senior Leadership Committee plays in the appointment, departure and redeployment of senior civil servants?

Baroness Prashar: Lord Sedwill, you have had more recent experience than I have.

Lord Sedwill: The SLC—the Senior Leadership Committee—does not really make the Permanent Secretary appointments. It is not directly involved in that, not least because half the people in the room would be conflicted because they might be interested in a particular job. There is a subset of the SLC that includes the First Civil Service Commissioner, the head of the Civil Service, usually the chief operating officer or chief exec of the Civil Service and the Permanent Secretary at the Treasury. They tend to look at the really senior Permanent Secretary appointments, which of course are then usually carried out under the aegis of the First Civil Service Commissioner, but under the Civil Service Commission

Therefore, what the SLC tends to look at is essentially the pipeline and appointments one level below that, which are some of the Second Permanent Secretary and director-general-level appointments, and what we need to do to ensure that the pipeline is robust and that there is sufficient diversity coming forward. That has been a big preoccupation of the Senior Leadership Committee in the time I sat on it and then was in the chair. It tends to be more focused on those things than individual Permanent Secretary-level appointments, at least.

The Chair: Are there any areas where their role could be improved or made more transparent?

Lord Sedwill: We have touched on quite a lot of these things. Lord Macpherson and I have both argued quite clearly about ventilation. Baroness Prashar's point about the Civil Service Commission's regulatory function, which Lord Macpherson touched on earlier, is important there. They should not just be regulating inward ventilation but outward ventilation as well.

The ACOBA process is quite complex and can only deal with a relatively small number of the most senior appointments, so the Civil Service Commission should have a role in that. If we are going to see proper ventilation throughout people's careers, it needs some governance and regulation. The Senior Leadership Committee is really the forum in which the Civil Service itself can help set the policies and frameworks for that, but it is a partnership between the two.

There is one final point I would make on ventilation, just before we move off this topic. The first hour of this hearing would have been a very different conversation if we had that kind of ventilation. There would be much less drama around senior departures of the kind we were discussing if the expectation was that you move in and out. You might not go all the way through to 60 or 65. Particularly when you reach senior levels, there is an expectation that you might move off to other kinds of roles. It is a more porous career. It would take a lot of the heat out of the kind of discussion we had in the first hour.

The Chair: There would be more easement in the system.

Q82 **Lord Mancroft:** Taking that point a bit further, would it be possible or practical to have external candidates coming into Permanent Secretary jobs? To be Permanent Secretary of a government department, you must have some experience of the Civil Service. You cannot just be parachuted in.

Lord Sedwill: We have done it. It has generally worked best when people have come in perhaps one level below for a few years beforehand. I can think of some very successful examples of people who have reached the very top, including a Second Permanent Secretary at the Treasury who was appointed in Lord Macpherson's time. It is quite hard to come straight into a Permanent Secretary role having never been in Whitehall. There are people who have made a success of it, but it is a more challenging prospect.

Baroness Prashar: I would agree with that. That was the view we took.

Q83 **The Chair:** If I could take us to the role of the Permanent Secretary as the accounting officer, if we see an increasing trend in the recruitment, redeployment and dismissal of senior civil servants in terms of greater politicisation or personalisation, do you see any effect of that on the way or willingness to discharge that accounting officer role? We have had evidence from others who say it could have a chilling effect on the discharge of that accounting officer role. Some have said they have been surprised there have not been more requests for ministerial direction,

given the levels of controversy. What is your sense of that interplay between greater personalisation and politicisation of the relationship between Permanent Secretaries and Ministers and the discharging of that accounting officer role, which has a public interest remit underpinning it?

Lord Macpherson of Earl's Court: This is a specific example of the problem of politicisation. As an accounting officer, you have specific personal responsibility for the regularity, propriety and value for money of public spending. It is your job to have quite serious and direct conversations with a Secretary of State if they are proposing, in your judgment, to cross one of those lines. I worry that, if we were to move to a politically appointed system, those appointed might be less inclined to take that responsibility as seriously as if you have come up through an impartial system. In one sense, it is not particularly different from advising on any other aspect of policy, but it is an area of potential tension.

Accounting officer directions became pretty regular during Covid simply because the Government were doing some pretty radical things. They had perfectly good reasons for doing them, but they did raise narrow, and sometimes broader, issues of value for money. You do not want to have to have a direction every day of the week, but it is quite a good device for putting these issues on the table and, in some cases, encouraging a Secretary of State to think again, so it is a good part of the constitution. It generally works pretty well, but it depends on having impartial civil servants at the heart of it.

Q84 **The Chair:** Given the comments that all of you made in our earlier questions about trends in possible politicisation or personalisation, do you think that has, in your experience, had a chilling effect on the way in which Permanent Secretaries have discharged that accounting officer role?

Lord Macpherson of Earl's Court: There is definitely a risk. As I say, I left seven years ago. I did not feel that it was a particular problem at that point, although I remember a colleague who was very integrated in No. 10 ringing me up once and saying, "Are you sure a direction is the right area of travel?" Actually, it was very important that the Treasury Permanent Secretary always supported accounting officers who were in this situation. I suspect it has become trickier with some of the hiring and firing that has gone on but, not being there, I cannot really tell you.

Lord Sedwill: I could not give you firm evidence either way, in my experience. I suspect what has happened is that it has meant that some Permanent Secretaries have become more reliant on the function of accounting officer and the direct personal accountability you have to Parliament that essentially goes around the Secretary of State in order to maintain their authority. In some ways, it may be that, because the accounting officer is such a particular responsibility, Secretaries of State understand that it is part of the Permanent Secretary's role.

If you are finding it harder in other areas, you probably find yourself relying on the accounting officer authority slightly more. That does not mean that is right. I have not seen evidence of people being weaker on the accounting officer function. I suspect they have probably had to rely on the formality of the accounting officer function perhaps rather more when they have been in that more challenging environment. That can erode confidence in the relationships. It is fundamentally about maintaining that balance across all the responsibilities and confidence in the key relationship between a Secretary of State and Permanent Secretary.

Baroness Prashar: There is an obvious point that is probably worth highlighting. It is really a question of checks and balances. It is the question of stewardship of resources. Therefore, it reinforces why impartiality is important.

Q85 **Lord Hope of Craighead:** The background to this question is the fact that we all recognise that the Civil Service in Great Britain survived devolution, in the sense that there is no separate Civil Service for Wales or for Scotland, but there are changes. Political accountability now is devolved in that the Welsh Civil Service is answerable to the First Minister in Wales, and it is the same position in Scotland, where it is answerable to the First Minister in Scotland. First of all, does that give rise to challenges that previously were not faced prior to devolution and, if so, what are these challenges?

Lord Sedwill: The key point I would make is that it partly depends on the political circumstances. If you have, as we have seen latterly, one party in a fairly unassailable position—this is true in local government as well—that inevitably has an effect on all of the institutions, not just the Civil Service, because it is even harder to maintain impartiality if you essentially know that you are going to be working for a Government of one political complexion for the foreseeable future.

That does not affect individual civil servants or the impartiality of the process and so on, but inevitably, if you have that position, you see that affecting a wider range of institutions. We have of course seen some evidence for that recently in terms of transparency, accountability and so on. Impartiality in any institution, not just the Civil Service, thrives when politics is contested, as it is at the national level. Even when there have been periods of long Governments of one particular political complexion, it is of course a highly contested political environment. Impartiality is easier to maintain when that is the case. It is not that it is explicitly ever challenged, but it implicitly becomes a factor.

Lord Hope of Craighead: How does that affect the position of the Cabinet Secretary who is seeking to assess the performance of civil servants in Cardiff or Edinburgh? Are you still able to perform the function?

Lord Sedwill: Yes. I do not think my predecessor, Lord Heywood, would have found this different. I remember he and I talked about this. I did

not feel any difficulty with that. I had a good, transparent relationship with the First Ministers and they recognised that, as Cabinet Secretary and head of the Civil Service, I was head of their Civil Service, if you like, as well as the UK one answerable to Westminster. The Prime Ministers for whom I worked recognised that I had to have a relationship with those First Ministers, notwithstanding the fact that they were from different political parties, and so I did not find it difficult. It was different, but I did not find it more difficult to make an assessment of the performance, capability, et cetera, of the senior civil servants there.

Lord Hope of Craighead: Does this divided accountability affect appointment, recruitment and possibly dismissal as well?

Baroness Prashar: I can comment on what happened during my time, because it was soon after devolution and there were appointments both in Wales and Scotland that I handled, not least the Permanent Secretary for the Scottish Government. There were sensitivities, and they were keen that there should be no involvement of the Cabinet Office, so I made sure that my interaction was mainly with the First Ministers concerned. I devised a process that they were very happy with.

Things can be handled with sensitivity, respecting the views and making sure, again, that you stick to the principles but that you have a process that is seen to be impartial from the point of view of those who are managing these particular devolved Governments.

The other point we took, which has been reinforced by the point made by Lord Sedwill, is that these relationships can be made to work. We also took the view that it should remain a unified Civil Service. There should be much more transfer to and from in terms of training, because it enriches both, so it can be made to work.

Lord Hope of Craighead: I think I am right in saying that, before devolution, there was a fair amount of movement between Edinburgh, Cardiff and Whitehall. In the course of his career, a civil servant would serve some of his time in Whitehall and get to know the system here, and that would transfer as he moved to Cardiff and Edinburgh. No doubt the Civil Service in those places would benefit as a result of that. Does that still continue, and is that in some way monitored by the commission in considering appointments?

Baroness Prashar: I am afraid I would not know what happens now. I was a commissioner and I have told you how it happened. I have not seen any evidence that it does not. Maybe you are more aware of it than I am, Lord Sedwill.

Lord Sedwill: I do not have the data at my fingertips. We kept an eye on this because there was a sense that there was less movement backwards and forwards. Frankly, house prices and frictions in the property market tended to have that effect. Edinburgh property prices are quite high, but if people moved north or out of London, it would then often be quite hard for them to move back to London and maintain the

same kind of house and living standard and so on. There are frictions that affect the Civil Service just as they affect other parts of the country.

One of the things we did, probably after your time, was that, with the Fast Stream, for example, we insisted that they spend some of their induction period out of Whitehall. Of course, there is a separate question that I suspect we do not have time to go into and I do not think the committee is looking at in detail, which is the question of how much of Whitehall we can move out of Whitehall. I am strongly in favour of that process as well.

Lord Hope of Craighead: Did I pick you up correctly that house prices affect the ability of people to move? If they sell a house in London, then getting back to where they were before is increasingly difficult.

Lord Sedwill: Yes. By the way, that comment is not restricted to the Civil Service. Frictions in the property market are a considerable constraint economically for this country.

Lord Hope of Craighead: It would seem to follow that levels of taxation would have the same effect, because the position in Scotland now is that people whose residence is in England are taxed severely.

Lord Sedwill: Yes, indeed, although you might find that there will be individuals who would think about the benefits of moving there in terms of fees, for example, if their children are going to university. People will always, rightly, make a rational decision, not just about their career but about their family circumstances as well. Increasingly, of course, households are not just dual-income but dual-career households, and therefore people have to manage that as well.

Q86 **Lord Thomas of Gresford:** In Wales, does the language issue come into the issue of merit in any way? Did you ever come across problems with language?

Lord Sedwill: I do not recall an example where proficiency in Welsh was a merit criterion. I cannot think of one, no. If we look at the very senior appointments in both Scotland and Wales, certainly at shortlist level, and if you look at the people in those jobs, there are people who would define themselves as English who have taken those jobs as well. It remains an open competition in that sense.

Q87 **The Chair:** Our final question is on political advisers. If I could just briefly deal with the fixed five-year tenure point, we know from the brief we have had from the Cabinet Office that the standard Permanent Secretary contract offers a five-year fixed-term tenure in the role, and that the individual's contractual rights underlying that, in terms of their permanent employment status, are not impacted. I am interested in how that operates in practice and, in particular, the incidence of departures from Permanent Secretaries in a period less than the five-year tenure. I am trying to see how much challenge there is to not completing that tenure period.

Lord Sedwill: There have been some. I was one of the first generation to sign up to the five-year tenure. It came in when I was fairly newly appointed at the Home Office. It means that there is an expectation that you will do five years, but there should be no expectation that you will do more than five years unless there is a reason to do so.

The balance of argument varies from time to time. Some Prime Ministers have taken the view that, unless there is a good reason to extend someone, there should be a change, because they want to keep ventilation going and to keep refreshing. Others have taken the view that, at least in some jobs, unless there is a good reason to make a change, then if someone wants to be extended, they should. That will vary from job to job and time to time, and links to Baroness Prashar's much earlier point about what is appropriate for the circumstances of the time.

What has been regrettable is that we have seen speculation in the press, clearly briefed out, that certain Permanent Secretaries are not going to get an extension. In some cases, they then did, but that kind of thing is quite debilitating. It is not fixed-term; it is fixed-tenure. The benefit of that is that it sets an expectation that there will not be changes before that unless there is a very good reason to do so. It should impose some kind of constraint on too much churn short of the five-year point.

The Chair: In your view, has it exercised that constraint over the last five or 10 years in terms of the churn?

Lord Sedwill: The numbers are so small that one is almost reasoning from anecdote and individual examples. It is implicit rather than explicit, but certainly, as the five-year point approaches, there is an explicit conversation. As the head of the Civil Service, when you are talking to someone who is reaching the four-year point, part of the annual appraisal development and discussion process is, "It is a year off. What do you want to do? Are you going to apply for an extension?"

Then there is a certain amount of formality around that. The head of the Civil Service writes to the Permanent Secretary to invite them to make a decision. It creates a dialogue, at least, around the expectations of the individual Permanent Secretary and of the head of the Civil Service. Obviously, the head of the Civil Service then needs to consult the Secretary of State and the Prime Minister before any formal recommendation is made. That is not a bad thing. If it is exercised responsibly, with all of the cultural principles that we have been talking about all morning, then it is no bad thing to have that kind of checkpoint in the appointment of a Permanent Secretary.

The Chair: We have been supplied with some figures on the number of appointments, redeployments and departures of Permanent Secretaries over the last 10 years, but the mention of dismissals never occurs, either in incident or process. In a sense, would it culturally be the case that it would be very rare to refer to a civil servant—a Permanent Secretary—being dismissed? Is the cultural context of the Civil Service that you try

to deal with it as a departure rather than a dismissal?

Lord Sedwill: Yes, that is correct. People have lives and careers to pursue after they have left the Civil Service. The word “dismissal”, certainly in public service terms, has connotations of disciplinary action of some kind. It is the most severe end of disciplinary action, with a sliding scale up to that point, whereas departure, retirement or redundancy—whichever one is appropriate for the circumstances—do not, and they would not have that effect.

If someone has been dismissed because there has been a conduct issue, that should be public. If, however, they have run out of road or there is not an available role for them, there then needs to be an appropriate process, whether that be early retirement or something else depending on their age and stage, that enables them to leave with dignity and then pursue a successful career after they have left the Civil Service.

The Chair: It is better to look at the departure figures rather than drill for a subset on dismissals to look for trends.

Lord Sedwill: Yes.

The Chair: I thought that would be the answer. The point about quoting the departure figures came up in another evidence session.

Baroness Prashar: I absolutely agree with Lord Sedwill, but one must guard against the potential downside. Given the five-year cycle coinciding with the five-year cycle of the elections, the system must not be misused. This is where the oversight by Civil Service Commissioners could be an important point to look at.

The Chair: There is a slight contradiction for the Civil Service Commission, because, on the one hand, it participates in the process of procedures; on the other hand, it is meant to regulate.

Baroness Prashar: If we are custodians of impartiality, you do not want the system to be misused. “Responsibly” is the word that was used. There may be a situation where you need continuity and you have to extend the tenure for another two or three years. I am just putting up a warning sign so that the five-year tenure is not used subversively to make sure that you bring politicisation through the back door.

The Chair: It should not give rise to a downside; you are focused on just the upside.

Q88 **Lord Mancroft:** The Code of Conduct for Special Advisers prohibits their formal involvement in the recruitment and dismissal of civil servants. We have heard that there is often a degree of informal involvement through advising Ministers. Is that a problem? To what extent has it changed or got worse or better over the last few years?

Lord Sedwill: I suspect it has always been a feature of the system. It would be unrealistic to assume that a Minister would not take a range of

sources of advice in discussing an appointment, including from special advisers or other parliamentary colleagues, such as their Parliamentary Private Secretary or Cabinet colleagues. Once a Minister has used whatever sources of advice they want to make up their mind, as long as the rules around how the Ministers made up their mind are then exercised, I do not have any difficulty with it. It would be unrealistic to suggest anything else.

Ministers should be not simply acting on the basis of their own instincts and judgment but taking whatever other sources of advice they can. I do not just mean special advisers. I certainly know of cases where Ministers have spoken to Cabinet colleagues who have known a civil servant in a previous department, for example, and said, "What did you think of them? How did you get on?" That is the nature of any human process.

Baroness Prashar: That is probably true in reality. It is important to underline the fact that special advisers are not allowed to manage civil servants, but it would be unrealistic to think that the Minister would not informally talk to them. You cannot legislate or guard against that, but you just have to watch that they do not exceed the authority that they have and that they respect the boundaries. There are codes, but sometimes those boundaries are not respected. It is worth underlining that point.

Lord Mancroft: As a supplementary, do you think that the current Code of Conduct for Special Advisers needs to be updated to better protect against indirect influence, or is it about right?

Baroness Prashar: It is not so much in terms of what you write and how you update codes. They have to be properly understood. There is a reason why these codes exist, and therefore they have to apply them. It has to impact their culture and behaviour. Sometimes we think, "We have changed the code. We have changed everything". The more regulations you have, the more people absolve themselves of responsibility. What we really need is a reinforcement of the different roles that special advisers, civil servants and Ministers play.

The one point I want to highlight is that normally they are seen as the unsavoury part of the system, but good special advisers really make a difference. If you look historically at the special advisers you had in the time of Harold Wilson, they were specialists, and Permanent Secretaries, in my experience, valued them as part of the team. It is about making that relationship work and getting each party to respect the boundaries.

Q89 **Lord Hope of Craighead:** I just wonder how that is policed. I follow what you are saying. Rules are one thing, but it is about how they are going to be applied and managed. At what stage do you instil an understanding of the principle you have explained into the mind of the special adviser, and how do you maintain control over this?

Baroness Prashar: It is not just about policing it. It is the responsibility of the Minister concerned because he or she appoints them. They are

responsible for them. They should make sure that, in the same way they expect the civil servants to behave in a certain way, there should be a similar expectation. You have to inculcate that particular culture in the organisation, and the responsibility is with the Ministers who appoint them.

Lord Hope of Craighead: Does that need to be spelled out more precisely in some way?

Baroness Prashar: I think it is.

Lord Sedwill: As Baroness Prashar says, it is all written down. I was going to make precisely the same point. It goes back to the culture and behaviour point that Lord Mancroft and I were talking about earlier. In the end, writing it down is just the first step. It is just the formalisation of a set of expectations. What really matters is culture and behaviour, and that everyone recognises that the job of the Civil Service and special advisers is to support the elected Government, but to do so in a way that ensures they are getting the best possible input, which means impartial and professional, et cetera.

Lord Hope of Craighead: You are quite right, of course, that it is written into the code for the special advisers, but one particular provision is that they must not exercise any power in relation to any management of any part of the Civil Service. That affects the question of dismissal, in terms of exercising an influence over dismissal. That would be out of bounds, according to this.

Lord Sedwill: Of course, and it is, but in the end the powers rest with Ministers and with other institutions, such as the Civil Service Commission or the head of the Civil Service. The question of special advisers is really about what sources of advice a Minister takes. Special advisers cannot dismiss, manage or direct civil servants, but of course they can advise a Minister. If the Minister then says, "On the special adviser's advice, I want you to do X", that is constitutionally entirely proper. Special advisers are there to give Ministers an alternative source of advice that is preferably, but not always, complementary. The decision, power and accountability lie with Ministers, and that is where they should lie.

The Chair: You are absolutely right that, without behaviour and culture in place, it does not work. Sometimes, in extremis, what is written down is the last line of defence, so you sometimes need to write it down. That is something we often struggle with.

Lord Sedwill, Baroness Prashar and Lord Macpherson, who had to leave slightly early to go and chair another meeting, thank you very much indeed for giving us a lot of your time this morning and answering a lot of detailed questions. It is much appreciated. You have given us a lot to reflect on. Thank you very much indeed.