HOUSE OF COMMONS

Scottish Affairs Committee

Oral evidence: Intergovernmental Relations: The Civil Service, HC 600

Monday 20 May 2024

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Watch the meeting

Members present: Pete Wishart (Chair); Wendy Chamberlain; Douglas Ross.

Questions 1 - 75

Witnesses

I: Philip Rycroft, Former Head of UK Governance Group, Cabinet Office; Richard Parry, Honorary Fellow, University of Edinburgh.

Examination of witnesses

Witnesses: Philip Rycroft and Richard Parry.

Q1 **Chair:** Welcome to the Scottish Affairs Committee in our first session of our brand new inquiry into the Civil Service in Scotland, "Intergovernmental Relations: The Civil Service". We have two distinguished guests who will give us some background to the conversations and debates that are currently in place about the arrangements. Could you please introduce yourselves, who you represent and anything by way of a short introductory statement? We will start with Mr Parry.

Richard Parry: I am Richard Parry. I am an Honorary Fellow at the University of Edinburgh in the School of Social and Political Science. I suppose I am here because I have been an academic researcher on Civil Service and devolution for a very long time.

Philip Rycroft: I am Philip Rycroft. I was a civil servant for coming up to 30 years, 20 years of which was in the Scottish context for the Scottish Office and then the Scottish Executive and Scottish Government. I spent the last 10 years or so in Whitehall where, from mid-2012 to early 2019, I was responsible for constitutional and devolution issues, first in the Deputy Prime Minister's Office, then in the Cabinet Office and the UK Governance Group. This set of issues came within my remit through those seven years.

Q2 **Chair:** Thank you both for coming to speak to us this afternoon and changing your arrangements to meet our requirements. Thank you for that. Let us get right to the heart of the matter, then, to get things started. We have two Governments and one Civil Service. How on earth does that work?

Philip Rycroft: It works. In the seven years that I dealt with many difficult issues at the interface between those Governments, not least a referendum and then Brexit, this was one issue that I did not have to spend a lot of time on, despite the fact that in the 2007 SNP manifesto for the Scottish Parliament elections there was a commitment to see devolution of the Civil Service.

It was, in many ways, a dog that did not bark. It did not raise many controversial issues through my time. It was an arrangement that had been in place since devolution and there were few challenges to it from within or without the system. People just accepted this was part of the way things worked and, for the most part, it worked.

Q3 **Chair:** That is your view. It works. Is this your considered opinion of the current arrangements just now? This is a thing we should leave alone. I noted in Mr Parry's evidence to us that there was an SNP commitment in 2007 that we would have similar arrangements to Northern Ireland, but that has not been pursued or pushed with any great vigour.

Philip Rycroft: In the grand scheme of things, with all the other problems that need sorting out and all the other issues around the relationship between the two Governments, which are hugely important on a day-to-day basis, this was one that has not disturbed the ability to transact that business.

In preparation for coming to speak to you, I have actually thought about it a little bit for the first time in a little while, and you can see there are clearly some advantages in having a unified Civil Service. For example, civil servants from Scotland have access to training programmes. It underpins the arrangement whereby the permanent secretaries of the Scottish and the Welsh Governments attend the so-called Wednesday Morning Colleagues meeting, which is the meeting in Whitehall of permanent secretaries. It should facilitate interchange, because you have at least at senior Civil Service level a commonality of terms and conditions.

Having thought about it, that is all good and well, but then you look at the arrangements for our colleagues in the Northern Ireland Civil Service, which, of course, is a separate Civil Service, their permanent secretary attends Wednesday Morning Colleagues. Their senior folk have access to interchange opportunities and training opportunities. I suspect that the value of this arrangement is more symbolic, and symbolic of the Union, than it is practical, because you could, through a separate arrangement, achieve many of those things.

Q4 **Chair:** You are telling this Committee the arrangements that we currently have in place for the Civil Service, with one Civil Service serving two Governments, are about symbolism, not practicalities.

Philip Rycroft: It has practical benefits, as I have outlined, but those practical benefits, with a will, could be replicated in a different system, as indeed they are with the Northern Ireland Civil Service. It would be very odd, if the Civil Service were separate, that Whitehall turned against the civil servants from Scotland and Wales and did not try to incorporate them into cross-UK mechanisms.

As I say, it has not caused friction or strain for the most part. I am very aware there are some political issues out there right now about how civil servants hold themselves north and south of the border but, in terms of the underpinning arrangement, as I say, it was not something that in my time in Government, when I had some responsibility for dealing with these things, caused many issues.

Q5 **Chair:** What is your view, Mr Parry? What are the advantages and disadvantages of a unified Civil Service for Scotland's Government?

Richard Parry: I would say that it is one of these features of the way of doing things in Britain that works in practice but does not work in theory. It is working in theory less and less well, actually, as the years go by, but it is still working pretty well in practice.

What were the reasons for it? I was just looking at the White Paper before the devolution referendum in 1997. I was just looking at the arguments put. Two arguments were put. It would mean that in Scotland the new devolved system would enjoy the highest standards of public administration and all the good things about the Civil Service, which we have seen for 100 years in Scotland, would be perpetuated. It also said it would facilitate interchange. You could easily, without any problems at all, move from a job in the UK Government to a job in the devolved system.

That was not the main argument that was put. If you read it, it said that terms and conditions of the civil servants of the then new Scottish executive would be in line with arrangements in the Civil Service management code. Therefore, they would be part of the Home Civil Service. I was doing interview research at the time, even with you, I think, Philip. At the time a big issue was what you do about terms and conditions issues, because all of the staff will say, "What will happen to my job, my pay, my grading, my pension?" To be able to say they will not change at all was a very easy thing to do, at a time when all the other arrangements around the new Scottish Parliament were being made and everyone was getting very anxious.

The other thing, which everyone has kind of forgotten, is that the first intention was that there would be a one-year handover period for the new system. The elections would be in 1999. It would be the next year before it would actually take over. That was the same arrangements as for local government. They had just gone through one before that in the 1990s. There was going to be a whole year. There was not a year. There was from early May until 1 July. Every single thing had to be worked out then.

That was the reason at the time. As Philip said and as you have said, there was a commitment by the SNP that they would seek a Scottish Civil Service along the same model and lines as the Northern Ireland Civil Service. That opens up the question of what Northern Ireland is able to do that Scotland and Wales are not able to do. If Scotland and Wales can do almost everything that Northern Ireland can do, there is no big deal on the issue.

There was a sequence of events on this, because in 2010, for the first time ever, the position of the Civil Service was put into law under the Constitutional Reform and Governance Act. That was passed by Gordon Brown's Government, just at the very end of that Parliament. That said the Civil Services of the Crown are the Home Civil Service, the Northern Ireland service, the diplomatic service and that kind of thing.

That would have been an obvious opportunity, if the SNP Government had wanted to make progress on the issue. They did have to give legislative consent to that Bill, which they did. They were asked at the time. They said, "No. We are still looking at this issue of the Civil Service.

We are working on it with the UK Government. It is a very complex issue and we are still working on it. We are not saying that this Bill should be the vehicle for it". Actually, they were saying, "Everything is working fine."

In that same year, in 2010, we had the very dramatic thing that a new permanent secretary of the Scottish Government was an import from England, from Whitehall on a transfer. I believe you had Alex Salmond with you a month or two back and he said, "I was told by the Head of the Civil Service that this guy, Sir Peter Housden, was the most wonderful civil servant on earth." Maybe, maybe not—I do not know. People such as John Swinney did the talks with the Civil Service just before the 2007 elections in Scotland. They were working with the Civil Service and everything was working well.

I suspect that it was an instant in history when the SNP were interested in this proposition and, once they found they did not need to take it further, that was the end of it and it has not been mentioned in any SNP manifestos after that.

Q6 **Chair:** What you are both saying to us is the fact that Northern Ireland has a different and distinct Civil Service and we have an arrangement where we share a Civil Service across two Governments makes absolutely no difference whatsoever. Would our colleagues from Northern Ireland tell us the same thing?

Richard Parry: It is not absolutely true. One thing about Northern Ireland is that they still have their own Civil Service Commissioners. There is in GB the Civil Service Commission, which oversees all the appointments, the procedures, how posts are advertised and the role played by Ministers—quite important things like that—but there are also the Northern Ireland Civil Service Commissioners. There are three of them and they are not devolved. They are appointed on the nomination of the Secretary of State for Northern Ireland and they do the same kind of thing.

That immediately begs the question: if there were to be a separate Scottish Civil Service, would it use the existing Civil Service Commission? That might suggest there is hardly any change. Would it need its own? Would they end up all doing the same thing?

One thing that is important is that, in Wales and Scotland now, through one or two changes that have happened since 1997, there is not any role for the UK Prime Minister in the appointment of senior civil servants. There is absolutely no role at all. One thing that was argued was that perhaps the UK Government might wish to put their own people in, as it were. This really has not happened, I suspect.

Philip Rycroft: Colleagues from Northern Ireland might grumble from time to time that they do not get the access they wish to in Whitehall. They may say that they are not told about stuff when they want to, and

they may look jealously at their Scottish and Welsh colleagues and assume that they are getting better access. If you talk to civil servants from Scotland and Wales, they will probably tell you that they struggle with that as well.

The deeper issue, in a way, is the way that Whitehall manages relations with the devolved parts of the UK as a whole. A unified Civil Service does not get in the way of that. It may be, at the margins, a benefit to it. You could argue that the fact this change was not made early on confirmed in the Whitehall mind that Whitehall did not need to do a lot of adjusting to accommodate devolution, because these were people who they had worked with in the pre-devolution days and were still part of the unified Civil Service. The world was continuing to turn as they were used to. In fact, the world had changed pretty dramatically with devolution.

The story of the last 25 years from a Whitehall perspective—which I was very involved in, as part of my job to encourage Whitehall to understand what was going on in devolution—has been about Whitehall catching with what has been a momentous change in the governance of the UK. It did not happen then. You did not have that shock in saying, "These people from henceforth are going to sit in rather different space", but, as I say, the bigger issue is the learning of Whitehall about devolution, the politics of devolution and how to amend their own practices to accommodate the changes that have come consequent of devolution.

Q7 **Chair:** On that, you have served in both Scotland and in the UK senior Civil Service. What do you note about the differences in arrangements, working practices and cultures?

Philip Rycroft: I was an example of interchange. I came south in 2009 on secondment from the then Scottish Government to work in the Department for Innovation, Universities and Skills, which lasted about five weeks after my arrival, but subsequently became the Department for Business, Innovation and Skills. I then left the Civil Service. When I rejoined, I came in as a Cabinet Office official, so no longer on secondment.

I have direct experience of the possibilities, but also of the hindrances to that sort of interchange. It is actually quite difficult to do. In my case, it meant my family were not prepared to move south. My older boy said, "If dad is going to London, he is going on his own." That was the end of that argument. I commuted for a long time, it turned out. I ended up commuting for about 10 years or so. You have all the differential of schooling, housing and so on. It is not actually as easy to have those longer-term secondments or exchanges as people tend to assume.

Q8 **Chair:** What was the better experience—Scotland or the UK?

Philip Rycroft: In terms of working, I loved working in both Edinburgh and London.

Chair: That is a politician's answer, as well as a civil servant's.

Philip Rycroft: A serious answer to that is they are very different experiences. I have said to many people who sought my advice when thinking about moving from Whitehall to Edinburgh that, in a devolved context, early on in your career you have far better oversight of a broader policy domain, because there are fewer of them. In areas such as health and education, the devolved areas, the policy responsibilities are very similar. You get a broader experience.

You can see how Government works across the piece better. That is very valuable experience for Whitehall folk, whose careers can get rather locked into narrow stovepipes. Whitehall was fun as well.

Q9 **Wendy Chamberlain:** Can I, Mr Parry, get a little bit of clarity around this? You said that in Northern Ireland the commissioners are appointed by the Secretary of State for Northern Ireland. Potentially, if there was a decision to move in terms of an independent Civil Service for Scotland and there were commissioners, the expectation would be that that would be mirrored. From a Scottish perspective, it would be the Secretary of State for Scotland who would appoint those commissioners, as opposed to the First Minister. Would that be your understanding?

Richard Parry: Yes, I suppose so, or you could still use the Civil Service Commission as it is, understanding it was working for more than one Civil Service. The diplomatic service is quite interesting. More than half the employees of the present Foreign, Commonwealth and Development Office are not actually in the diplomatic service. They absorbed overseas development, many of them. There is quite an interesting question here as to who is in charge of the diplomatic services. Is it the Foreign Secretary, who actually does choose the head of the diplomatic service?

There are all sorts of models you could use. The interesting thing about the three Northern Ireland commissioners is that they are all female, along with a female head of the Northern Ireland Civil Service, a female First Minister and a female Deputy First Minister—everybody in the system who is choosing these grey people to be civil servants. They are certainly are not grey men themselves. Perhaps that might be quite interesting. The Civil Service Commissioners in Northern Ireland are not ex-civil servants at all, and that is a bit of an issue in the UK Civil Service Commission. You may know that quite a lot of them in the past have been ex-senior civil servants.

All sorts of models would be possible, but asking the question does very much to point out that, if you wanted to make this change, you would spend a lot of time thinking about everything and it would be unproductive, I suspect.

Q10 **Wendy Chamberlain:** My question, then, is given that the template was the fact that the decision was made in 1921 for Northern Ireland to have a separate Civil Service, what was the reasoning behind not having separate Civil Services when devolution took place. If you were looking for consistency, there was a clear decision not to provide that back when

devolution happened.

Richard Parry: There is an answer to that, which would have been given by the Cabinet Office and was given in their evidence to the Calman Commission in 2008. They said, "We only had a Northern Ireland Civil Service because we had an Irish Civil Service before that and, if we did not have it, we would not have needed to have the Northern Ireland Civil Service." That is a kind of clever answer, if you like, which does not really resolve what the issue is.

The other interesting thing is the recent report by Francis Maude—Lord Maude. His independent review of governance and accountability in the Civil Service, which was issued last year, said it should be one way or the other. He cannot see why it should be one system for Northern Ireland and a different system for Scotland and Wales. It should be either the one or the other, he said, which is not actually argued through, but this was a senior Conservative politician asked to look at the Civil Service from the outside. It is worth reading, from that point of view.

As with everything to do with Northern Ireland, you can always say, "Northern Ireland and Ireland have a very unusual and unique system".

Q11 **Wendy Chamberlain:** What has become very clear already from the evidence is that politics does play a part in this decision making. It did so in 1921 and it did so in 1997 and 1999 as well. The House of Lords Constitution Committee last year said it is important that the principle of a single Civil Service across England, Wales and Scotland is maintained, but it sounds to me from the evidence so far that there does not seem to be a huge, inherent difference or improvement. Would that be fair?

Philip Rycroft: That is fair, though change, of course, comes with cost. If it is working and it is functioning perfectly adequately, those who wish to make the change have to, in a sense, argue that through what benefits change would bring. Of course, in any change, you have all the questions that Richard has adumbrated, such as how you would manage appointments to the Civil Service and how you would govern it.

Nervous folk across the country would worry, perhaps, that the verities of the Civil Service Code would somehow shift in relation to civil servants serving a Government in Scotland or in Wales. There is some reassurance in a unified Civil Service in that all civil servants are bound by the same code, but of course that makes the assumption that a Government in Scotland or in Wales would wish to move away from those sorts of standards, wherein probably lies the politics of this.

Q12 **Wendy Chamberlain:** Yes, absolutely. If we were looking at consistency, as Lord Maude said, the reality of the politics is that the consistency would be to move the Scotland and Wales setups, not to change Northern Ireland. Let us be honest about that.

Philip Rycroft: I agree with that. Trying to shift the status of the Northern Ireland Civil Service, which has been hallowed by many decades

of usage, as it were, in the context of Northern Ireland, would be a wrong track to go down. As I say, I am not sitting here urging change particularly. To me, the issue remains perhaps more about why more use is not made of the potentialities of the unified Civil Service in terms of that.

The big issue for me—we may come on to it later on—is how you facilitate, essentially, working across the border, where policies impact on populations east, west, north and south, and how you ensure that the civil servants who are tasked with managing those policies have the right capabilities, skills, experience and, indeed, political understanding to do that effectively.

Q13 **Wendy Chamberlain:** Other than the commissioners and the UK Cabinet Secretary managing the Scottish permanent secretary, are there any other ways in which Whitehall has oversight of Scottish Government officials?

Philip Rycroft: I was responsible for this for quite a long time. I did not spend much of my time worrying about it. The key element of this, of course, that we have not discussed much is that Cabinet Secretary is the line manager of the permanent secretary in the Scottish Government and the Welsh Government. That clearly is a very important relationship.

That relationship is over the appointment to that post, where the final decision, following a Civil Service Commission process, for those that get above the line rests with the respective First Ministers. It is important. Therefore, that relationship—the Cabinet Secretary to First Minister relationship—is actually a rather important one.

Q14 **Wendy Chamberlain:** Yes. It is kind of matrix management, is it not? You have line management through the Cabinet Secretary, but the day-to-day is via the First Minister.

Philip Rycroft: It is also about where the candidates are going to come from for those posts. Richard has already set out what happened in 2010, when Peter Housden came from a permanent secretary job here to take up that post in Scotland. The current permanent secretary in Scotland also came from a Whitehall context. Indeed, at the director-general level, having a Cabinet Secretary able to facilitate and support those appointments in an atmosphere of trust with the First Minister is really very important indeed.

Q15 **Wendy Chamberlain:** My question, therefore, is whether either of you are aware of that ever being an issue or there ever being a conflict.

Philip Rycroft: Without going into too much of what probably should remain for the records office in due course, in my experience, that relationship was handled very adroitly with due respect and understanding, even through the tough times. You could not get tougher than a referendum campaign, where the two Governments were taking opposite sides on the issue—

Q16 **Wendy Chamberlain:** Political leadership in relation to that was part of it, was it not? There is that mutual respect.

Philip Rycroft: Yes, absolutely. If politicians had not been willing to play in that space, it could have got really very difficult indeed. Do not forget that there were plenty of folk outside the system who were putting pressure on that. It withstood that pressure, partly because, both on the Civil Service side but with credit also the politicians involved, there was no wish to make it a campaign issue.

Richard Parry: One thing that was an accident of history was that, one year before devolution, the Civil Service had really reconfigured into two. The senior Civil Service, which is the top four grades—permanent secretary, deputy secretary, under-secretary and assistant secretary, now called permanent secretary, director-general, deputy director-general—were separated from the other grades. The senior Civil Service is still looked after by the Cabinet Office. The senior civil servants have an individual contract and the scale of pay is done under job evaluation procedures and so on.

The very curious thing is that the Northern Ireland Civil Service chose to join the senior Civil Service idea. They organise their senior jobs in the same way, I suspect because, under devolution, you can prove that your job is a big and important job. You have a bigger span of responsibility. We have the senior Civil Service.

Within the senior Civil Service, the top two grades are the top 200 so-called permanent secretaries and the directors-general. There, there is a career planning thing. There is a thing called the Senior Leadership Committee, which has some senior permanent secretaries on it. We learned last week who they were for the first time, in fact. They plan the thing in the old-fashioned way.

There is that but, in terms of everything else other than the senior Civil Service, the great majority of grades were in 1996 delegated to Departments. Whitehall Departments, Scotland and Wales are all the same. They can organise it exactly as they want in terms of the grades, the pay and the recruitment, if it is in line with the Civil Service Code and the Civil Service management code, which is a much longer document that goes into dismissal procedures and holidays. Remember that they have the same trade unions. That is very important.

Q17 **Chair:** I am struggling to find out what added value the Cabinet Secretary brings to managing the permanent secretary of Scotland. How does that management manifest itself?

Richard Parry: The most important consequence of it is the permanent secretary of the Scottish Government has a person up above them, basically. That fulfils the line management idea. It is an access route for the permanent secretary of the Scottish Government into the UK Civil Service and the UK Government. The head of the Northern Ireland Civil

Service is able to attend these Wednesday morning meetings and, indeed, sometimes will, but it is not as intimate.

We have this curious relationship of the First Minister directly with the Head of the Civil Service and then the permanent secretary. When there is a new permanent secretary, the first Civil Service Commissioner is in on the thing in a big way as well. We have all these people who are big actors. All of them are big actors and they have a sociological mechanism, almost, which I suppose—

Q18 **Chair:** *It is a Sir Humphrey ménage à trois, perhaps.

Richard Parry: Yes, if it did not work, but I suspect it probably is working.

Philip Rycroft: There the mind boggles, Chair. It is a personal relationship, clearly, because the lines of political authority go in separate directions. I was not permanent secretary in Scotland or Wales, or indeed Northern Ireland, so I cannot speak from personal experience in that space, but I can see the value of relationship of having a relationship with a Cabinet Secretary who has that different set of experience and is managing the wider entity, as somebody to share issues with, to use for coaching, mentoring and those sorts of purposes. I absolutely see the utility of that.

Would the world fall over if that was not available? You would hope not, but, again, that is the system that have. What I saw over the years was that system working. It is not just in the Wednesday Morning Colleagues that there is interaction with senior colleagues from the Scottish and Welsh Governments. It happens a lot. We were seeing a lot of them, for example, through the Brexit time, and no doubt that was replicated through Covid time.

Q19 **Wendy Chamberlain:** My initial thought is, without that link, potentially you are then relying on the politicians overall, are you not? It is that concrete connection.

Philip Rycroft: Do not forget that, in the current arrangement, you cannot take the politicians out of the mix. If you had a situation where the Cabinet Secretary was saying, "I think the performance of one of these other permanent secretaries is inadequate", but the respective First Minister is saying, "I do not agree with you", you have a problem. It is by dint of the building of those relationships, and particularly trusting relationships, that we have not encountered those sorts of difficulties.

If you had a different system, where you did not have a unified Civil Service, maybe it would give more latitude to a Cabinet Secretary to say that he or she was not content with the way that things were being managed in a devolved Government, but we have never been in that space, so we do not know what that would look like.

Wendy Chamberlain: That would be a politicisation, almost.

Philip Rycroft: So much of this is premised on what one's understanding is of how the politicians in the devolved Governments would manage.

Q20 **Wendy Chamberlain:** Has that, in either of your views, evolved, given the fact that devolution has evolved in last 25 years? I am thinking particularly of the fact that there have been more powers devolved to Scotland.

Philip Rycroft: In my personal experience, of course there has been a change. If you go back to when I joined the Scottish Office, a lot of folk from Edinburgh and Cardiff spent a lot of time here, because all the legislation went through Westminster. There was a lot more up and down to manage the legislative programme, and people inevitably built up understandings and relationships with their colleagues in Whitehall.

Inevitably, over time, that has attenuated as the legislatures have gone about their business in Cardiff and in Edinburgh. There are fewer people now who have had that sort of experience. In fact, we are more or less coming to the end of the careers of people who had senior-level experience before devolution.

The understanding of what it means to work in Edinburgh and Cardiff has to be constantly refreshed, and vice versa as well. The folk who work in Edinburgh and Cardiff need to put the effort in to understand how their colleagues in Whitehall function. You just cannot take that for granted anymore and that is such an important part of this picture.

Richard Parry: The big thing was when the two SNP First Ministers decided that their new permanent secretary would be a person from England, who had never been in Scotland before. That is quite extraordinary, in a way, when you think about it in each case. Peter Housden was an existing permanent secretary, so it was said at the time that the Scottish Government wanted a big guy for a big job, which he was.

Nicola Sturgeon chose to jump on that. Under the new regime, where the First Minister has the last word and can choose between the candidates considered worthy of appointment, which was not the case before, she chose John-Paul Marks, who was in the Department for Work and Pensions, very much working on the new social security matters that were being devolved.

Once the SNP said, "We are going to bring in someone from the outside," it really changed things, because the whole system worked. The outcome of the system was that it was like an import. That is happening in all walks of life. It is a wonderful feature of Scotland. Coming from Wales, I can tell you it is a wonderful feature of Scotland that people can come in from outside and they are very much welcomed into the biggest jobs. It is not like an SNP First Minister saying, "I want this person who I know from Scottish local government".

It did not happen that way at all and it was because Alex Salmond and Nicola Sturgeon could see that this job is not a means of control from the UK on to Scotland. It is a channel of influence from Scotland into the UK and it could be useful.

Q21 **Wendy Chamberlain:** Having a navigator that knows the territory is helpful.

Richard Parry: Yes.

Q22 **Douglas Ross:** Mr Rycroft, can I start with you? Today is a big day with the infected blood inquiry and some Scottish Office officials and Ministers are criticised. According to Sir Brian Langstaff, decision-makers in Scotland knew there was a real risk but, due to a lack of knowledge, their response was insufficient and too slow.

I know you joined the Scottish Office in 1989. During your entire time there, did this issue get raised? Were you involved in any way? Do you remember discussions about this, either in the UK Government or when you moved to the Scottish Government?

Philip Rycroft: The answer to that is no, because I was never in a policy area that touched on this. If you look at my career, I started off in agriculture and fisheries, then moved on to European affairs and education. I did a lot, but never worked on the health side of things. It was never across my radar screen, north or south.

Q23 **Douglas Ross:** Even as it became a bigger issue more recently, it never crossed—

Philip Rycroft: No.

Douglas Ross: I am not asking because—

Philip Rycroft: It is a very fair question to ask, because it is one of those issues where there is going to be a lot of explaining to do and absolutely rightly so, but I do not recall being party to any conversations. If I had been, it would have been in the context of other things. It was not part of my responsibilities at any time.

Q24 **Douglas Ross:** You mentioned earlier that you are very aware of political issues and how the civil servants hold themselves is coming to the fore. Do you want to describe that comment a bit more and your views on that?

Philip Rycroft: One of civil servants' core obligations is to demonstrate their impartiality. That is what underpins the constitutional status, such as it is, of the Civil Service. If that is challenged or is being seen to be challenged, that is worrying for the integrity of the Civil Service over time. Civil servants have their job to do in that, but the politicians they work for also have a duty in that space as well not to put pressure on civil servants in a way that might transgress those boundaries.

Q25 **Douglas Ross:** Are there any recent examples that you have looked at

that have concerned you or otherwise?

Philip Rycroft: I left the Civil Service at the end of March 2019, so I have been out for a little while. I am now watching this from the outside.

Q26 **Douglas Ross:** That means you are freer to comment as well.

Philip Rycroft: Yes, indeed. I have been concerned about the way that the debate, particularly around Brexit, has put pressure on the Civil Service. We have seen quite a lot of instances where Government in Whitehall and Westminster have, for example, been pushing a line that might mean the Government is in transgression of its international legal obligations and, of course, part of the Civil Service Code is respecting your international legal obligations.

When you move into that sort of territory, as a former civil servant, that indeed does worry me.

Q27 **Douglas Ross:** Do you have any concerns about the actions of the Civil Service in Scotland at the moment?

Philip Rycroft: I can guess what you are driving at. There is clearly an issue about whether the Scottish Government has the vires to commission work on what is a reserved issue and essentially a constitutional issue. That was something that we dealt with, of course, in the run-up to the 2014 independence campaign. There was a pressure on both Civil Services as to whether we had gone over the boundaries of that space. I am aware that it is part of the political discourse now and that there has been a stepping over of that boundary.

Q28 **Douglas Ross:** Do you think it is a stepping over of the boundary?

Philip Rycroft: There is an issue there, undoubtedly, and there is probably a legal issue there. Do not look to me to opine on that with authority, because I am not a lawyer and you are not asking me to do that. One or two people have said that the way that you deal with this is to put pressure on the permanent secretary and the Scottish Government, via the management routes from the south, to either refuse to undertake that work or seek a ministerial direction.

I can understand why that has been proposed, but my personal view is that that is the wrong way to sort the problem out. It would be potentially very destructive of the relationship between the Cabinet Secretary and the First Minister and, indeed, possibly the First Minister and the permanent secretary in Edinburgh. Ultimately, there is a risk there that it would impact good governance.

The question is whether there is a problem. Yes. How do you sort that out? That takes you more into the political space. There, the question, if I could put it very straightforwardly, is, if you have a Government that are elected democratically, where clearly the key policy is to promote independence, whether that Government should be denied the

opportunity to present to the public arguments that are supported by work done by civil servants that promote that policy.

That is a political question and, if the answer to that is actually, democratically, that is a fair thing to expect, then you would have to change the Scotland Act to allow that to happen. That argument, it seems to be, sought to be engaged with in the political space. You as politicians, north and south, can come to your own conclusions.

All I would say on that is that, having watched a debate unfold on a referendum in 2014, both sides put a lot of evidence in front of the public. It was contested evidence, inevitably, but you could argue that there was a balance of evidence of there for the public then to make up its mind.

We went through another referendum not so long since where, particularly on the leave side in terms of what leaving the EU would actually mean, there was never a clear proposition put in front of the public. You can see the debilitating impact that that has had on the body politic ever since.

Q29 **Douglas Ross:** You are not suggesting, I do not think, that the White Paper was so well written and evidenced that, had we voted for independence in 2014, oil would still be over $100 a barrel and paying for everything we were told it would pay for.

Philip Rycroft: Of course, as I said, that was contested, but at least there was a document there to be contested. That is my point. If the Scottish Government are putting forward their arguments now as to why Scotland would be better off being independent, those arguments are in the public domain. You would hope that there is some substance in terms of factual underpinnings of that, particularly if it is supported by civil servants' work, but then those arguments are in the public domain and can be contested. That debate can go backwards and forwards, informing the public view about the decision they make.

This, to my mind, takes us quite a long way from the minutiae of management of the Civil Service, into a rather higher plane about the engagement of a democratic process of debate to help people understand the constitutional choices they have before them. I was a member of the Independent Commission on the Constitutional Future of Wales, which reported earlier this year, and that in its own way sought to do that. We were not taking a position on the constitutional future of Wales, but we were setting out some of the considerations that people in Wales should consider as they contemplated their possible futures, not just now but as the world changes around them and into the future.

My vote in all of this, ultimately, is for the informing of the public debate and for that to be done through the production of quality argumentation that people can make a judgment on.

Q30 **Douglas Ross:** Just to clarify what you have told us there, first, you believe there is a problem with the production of these papers and some of the debate around that; secondly, you said, if there was to be a route that does not lead to the Cabinet Secretary getting involved, the permanent secretary and a written direction, it would be a change in the Scotland Act, to allow them to do that. Therefore—and I know you are not a legal expert—are you saying the Scottish Government are acting outwith the law with the current production of these papers?

Philip Rycroft: I cannot look at this and say, "There is the line in the Scotland Act". I think it is indeed a problem. It would be very wrong to deny that.

Q31 **Douglas Ross:** If it means changing the law, you believe they are acting outwith the current Scotland Act and therefore outwith the law.

Philip Rycroft: Yes, that is the implication of it. As I say, it is the sort of thing that should be put to lawyers, and doubtless the Scottish Government would have a counter-view to that, but my point is that it is an issue that has been there essentially since 2007, since there was a Government in power in Scotland that wish to see an alternative constitutional future. My point is that the resolution of that problem through a Civil Service management route is the wrong way to go about it.

The fact that the issue has been there since 2007 and it has been capable of resolution since then suggests that quite a lot of folk have not looked at it and thought that this a major problem. If we are now getting to the point where there are those in the political world who think that it has reached a point that it needs resolution, my view very strongly would be that that is resolved through the political route, not through using the Civil Service route.

Q32 **Douglas Ross:** I want to come back to some other examples that we might touch on but, Mr Parry, you mentioned this in your written evidence to the Committee at point 24. You were discussing the issue flaring up in 2022 and 2023 with the appointment of a Minister for Independence and then the subsequent issuing of papers. When you put in this evidence it was 11, with a hiatus between October 2022 and June 2023 while the Supreme Court ruled on this issue.

You then make the comparison that Mr Rycroft has just made about the referendum in 2014, when both Governments published papers for their side of the argument. However, does that really stand up? In 2014, we had the agreement of the UK Parliament and the Scottish Government to hold a referendum. There was a joint agreement, the Edinburgh Agreement. It was the gold standard. The issuing of these papers came at a time—and some subsequently—when the Supreme Court had ruled it was not within the competence of the Scottish Government and Scottish Ministers to pursue an independence strategy.

Therefore, nothing changed. The papers continue to be issued and,

indeed, until the recent reshuffle, the position of Minister for Independence was maintained. We have now been told, although that ministerial portfolio has gone, his roles and responsibilities will be assumed by the Cabinet Secretary. Nothing has really changed, despite a Supreme Court ruling telling the Scottish Government they cannot legislate in this area.

Richard Parry: Yes. It was interesting that the new First Minister decided to get rid of the two junior ministerial portfolios that were dealing with the tricky areas of Europe and international and independence. I wondered if that was an accident or a bid to defuse the situation. You are absolutely right that, in 2014, when everyone wondered, "This is going to be really hard to deal with. How on earth can we have a civilised debate on an issue lie this?", one lot of civil servants advised one side and the other lot of civil servants advised the other side. They produced their own things. That was not contested at all.

This has changed. The reason we have had these *Building a New Scotland* papers is actually, I would say, being a political scientist, because the SNP needed to have a suggestion of action, in a sense. What were they doing? At least they were working on it and they were producing these papers.

In terms of whether things changed in a big way after the Supreme Court decision, of course it was the SNP's wish to have that decision. They would not have needed to have it if they wanted to put a Bill through first. My personal view on this is that we have been told for months now that the UK Government is working on considering what further guidance may be needed to support best practice and adjustments to the Civil Service Code. We have not heard anything.

I do not have idea of what status the debate is at, but I suspect they are finding it really difficult to draft it, to try to put into words what they are trying to say. First, it is not worth it, actually. These situations will be resolved in other ways. Secondly, I take the view that it is probably healthy, rather than unhealthy, for these things to be produced by the SNP Government under Civil Service advice. If you are really building a new Scotland, of course, they are the SNP and there are scenarios of how good things would be, but compared with the 2013 paper you mentioned, *Scotland's Future*, where the contention was very much, "Will it be bad?" "No. It will be wonderful", this is a bit more analytical.

It is harmless, I would say, in that kind of sense. I would be happier to have these sort of things done under Civil Service advice than just done via SNP channels. In terms of whether you want to spend money on 20 civil servants to work on it, to some extent, the way it is organised in Government is that it is the decision of the Government. They can organise the Government and Civil Service the way they want, but there is a channel here. You can only deal with independence-related issues in the context of whether the devolved system is working. Are the present powers working?

If you say, "What is going to happen at independence?" you have to say, "We are not able to do A, B and C at the moment, but independent we might be able to". Then you really need the Civil Service to advise you about what you cannot do at the moment—A, B and C. That is the way I would see it. It is politically, of course, a rather tempting thing to mix it on this, and I do agree that the Civil Service has been put in a slightly difficult position, in terms of this being able to be resolved through Civil Service channels.

I would take a benign view of the whole thing and hope that it would gradually defuse. The last *Building a New Scotland* was about Scotland's place in the world; we are talking about the world now. It is not outer space. That might be the thirteenth paper, but it is the world. You could say, without actually saying it, that this work is going to slowly wind down and we are not going to get worked up about it.

Q33 **Douglas Ross:** My points on this are twofold. First, there is a cost to this. There is a cost to the Scottish and UK taxpayer, because civil servants' time is not free and many people in Scotland believe this is not a good use of taxpayers' money.

My second point is about point 25 in your evidence about a precedent having been set in 2014. I do not see that as a precedent, because we had a legally binding decision by both Governments to hold a referendum, with both Governments then producing these papers.

Since then, we have had a decision of the Supreme Court that the Scottish Parliament does not have the powers to hold another referendum, yet we continue to have the Scottish Government publishing papers. That is where the precedent does not exist. Would that be fair?

Richard Parry: I would say on that one that people wondered what the role of the Civil Service in the independence referendum would be. There was some feeling either that the Civil Service should be unionist in some kind of way, and the Home Civil Service as a unified entity was part of this, but also that the Civil Service should be even-handed. You could well have said in 2014 that the Scottish Government civil servants had a duty to the people to be even-handed.

That did not happen. They were not even-handed, but of course their job is to support the Government that they are working for and it was handled by the civil servants of the UK Government putting the equal and opposite. There was a certain precedent that, if an SNP Minister asks a civil servant, "Will you please work on independence, give me some arguments, look at the evidence and build up something for me as a draft?" it is not an unreasonable thing to ask.

Chair: Surely the job of the Civil Service is to serve the Government of the day. If that is their objective and that is their ambition, that is a matter for the Civil Service to make sure it is done to their best ability.

Q34 **Douglas Ross:** Even though it is impossible for that Government to

enact any of this, because there had been the Supreme Court ruling.

Richard Parry: They can only take things forward with the consent of the UK Government. That is being withheld at the moment and they might say, "We hope it would not be withheld after the general election. In the meantime, we need to be up to speed with what we are not able to do at the moment, changes in the EU and all of that".

The internal organisation of the Scottish Government and how it is all paid for is really up to them. There is no UK control on the running costs of the Scottish Government within the overall budget. Of course, it is a very good political argument for the Conservatives to make—and they are making it, clearly—to say, "Look at what is going on, the things they are spending". They could equally say they have lots of civil servants working on this, that or the other thing.

Q35 **Douglas Ross:** Mr Rycroft, can I come back to another example of potential conflict between civil servants and their impartial role, as they should always have? During the Covid pandemic, in July 2020, a very senior Scottish Government official emailed Ministers saying that imposing a quarantine on travellers from Spain would be seen as "entirely political" by the Spanish Government. They continued, "They won't forget; there is a real possibility they will never approve EU membership for an independent Scotland as a result". Is that the type of thing impartial civil servants, during a pandemic, should be discussing and proposing to Ministers?

Philip Rycroft: I am not going to comment on the individual case, because I do not understand the context of that.

Q36 **Douglas Ross:** To allow you to have more information, the Government at the time at a UK level had imposed a travel corridor. The Scottish Government then decided not to, hours after receiving this email from a very senior Scottish civil servant, the director of external affairs. They chose not to impose that travel corridor and then, a few days later, because of cases, had to impose it anyway.

A civil servant advising a Minister in an impartial role was discussing the impact of that health decision and that travel corridor on how that could then be viewed for their future success of getting support for an independent Scotland, if that were ever to be the case. How could that be defendable in any way?

Philip Rycroft: Very often, as a civil servant, you are put in a context where the Ministers you are working for are thinking very politically. I worked in the Deputy Prime Minister's Office for three years. I am not a Liberal Democrat; I have never been a Liberal Democrat. He saw it as a big advantage that I was not a Liberal Democrat, because there were lots of Liberal Democrats around him who were giving him advice.

I needed to understand how he was thinking politically, in order to give him my advice. In a cognate circumstance, perhaps my advice would

have been, "Deputy Prime Minister, you have a choice of paths to go down here. You could impose a travel ban, but you are aware that there is an issue with the Spanish Government. They would likely object to that". That is factual. You might then say, "You might want to talk to talk your special advisers about this, because there is a political dimension that I cannot really discuss".

Q37 **Douglas Ross:** That is different. There are those two roles. For the public watching this, the special advisers are appointed by the politicians and paid for by the taxpayer, but we understand that every Government needs special advisers. For the rest of the Parliament, for the rest of the Government, for the public in Scotland, we have to trust that our civil servants act impartially. There was a lot of concern in Scotland when these emails were finally released during the Covid inquiry that an independent civil servant, someone at a very senior level in the Scottish Government, would suggest during a Covid pandemic that there are implications that could dent the aspirations of those who want to separate Scotland from the rest of the UK if a travel corridor was introduced.

Philip Rycroft: One day, perhaps all of my emails will be in the public domain, where I was advising Ministers in Whitehall through the referendum campaign and subsequently. I have absolutely no doubt at all that, somewhere in there, there will be an email that somebody will pick up and say, "You crossed the line, Mr Rycroft".

Q38 **Douglas Ross:** Do you think this crossed the line?

Philip Rycroft: In the way it was formulated, yes. It is not a careful use of language. You need to use language carefully. The fact is that you are only giving one example from what is a very fraught time, a very pressurised time in public policy. The implication of what I think you are driving at is, somehow, this cohort of civil servants have become politicised, that they have lost—

Q39 **Douglas Ross:** This individual civil servant had other issues and I am quite happy to go into that, but the Chair may stop me.

Philip Rycroft: Again, I do not want to individualise this, but somehow the culture is such that they are now serving the ends of a political party, not the Government of the day. The test of that actually comes if there is a change of Government in 2026 in Scotland, whether your party, the Labour Party or a coalition takes power in Scotland. Would you see a mass resignation of civil servants, or would the vast majority of those civil servants loyally and properly serve the incoming Government of the day?

We are looking into a future that nobody can predict but, in my view, knowing a lot of those folk, they would loyally and properly serve the Government of the day, just as will happen down here if there is a change of Government later this year or early next.

There is something in all of this and it is just worth bearing in mind that, when political parties have been in power for a long time, habits, thoughts of mind and ways of speaking sink quite deep into the Civil Service psyche. You can see the same happening down here in the way that press releases are issued and tweets are sent out. A lot of people think, "Is that pushing up to and crossing the boundary of what is appropriate?"

Q40 **Chair:** It is a really fascinating area to explore when it comes to the unitary service of the two Governments that we started this very debate on. The Scottish National Party's stated political ambition is independence for Scotland. That is a tension. It surely must be right and appropriate that civil servants would work in order to not so much assist but to ensure that that was a Government view that would be part of the general thinking when policy was being developed. That would surely be appropriate.

Philip Rycroft: What I experienced in 2014 was, of course, that absolutely happening. You referenced the White Paper. Part of my job was to find as many holes in that White Paper as I possibly could.

Douglas Ross: That was one of your easier roles, I am guessing.

Philip Rycroft: Can I just finish the point? At the same time, we were publishing all these analysis papers. I would defend all those papers and say they were wholly accurate, but clearly my colleagues in the Scottish Government were examining those to see whether they could find the gaps in them. We came under pressure once or twice. That was part of the cut and thrust.

The point—in a sense I am agreeing with you, Chair—is that it is better that the public has those expositions, fallible as they are. In that debate one was more fallible than the other. I think you know where I am coming from on that point. It is better for the public to be so informed than not to be informed.

I absolutely agree with you that there is a problem here. As I say, my argument is that it is a problem that should be addressed politically, and if you as politicians put your hats on to think about this, you should put your democratic hat on as well and think what is best for the people of Scotland rather than just about—

Q41 **Chair:** Scotland had just voted for a Scottish Government that believed in a further referendum on Scottish independence, which was denied by the UK Government. That is the basic democratic case. Is that part of the issue and difficulty that we have here? There is what is in the Scotland Act, there are the laws and how that should be arranged, and then there are the democratic arrangements of having a Government.

Philip Rycroft: This is fascinating territory, but at the moment there is no known route whereby a Scottish Government, whatever the situation in terms of electoral geometry, could move to a second referendum. The

UK Government have not set out formally the terms under which they would allow that.

Clearly, there are a lot of issues around this. In my view—I am now five years out of the Civil Service so I am free to speak my mind—these issues will persist as long as there is a substantial body of opinion in Scotland supporting independence. We cannot run away from that. It seems to me better that those who wish to preserve the union should take on those arguments in an open, free and fair debate to seek to persuade more people in Scotland that that is the wrong road to go down.

If you remember where we started off in the referendum campaign back in 2011-12, the opinion polls suggested there was only 30% to 33% support for independence. It would be far more comfortable in all these debates for those who are promoting the union if we were back there, but we are not. We are still in the mid-to-high 40s.

Those who wish to promote the continuity of the union should have confidence in the quality of their arguments and go toe to toe with the Scottish Government on the political arguments, the arguments of emotion and sentiment, and the factual arguments, such as, "What is going to happen to trade? What is going to happen to defence?" and all the rest of it. There are some very strong arguments on the union side of the debate.

Q42 **Douglas Ross:** With the Chair's intervention we have slightly moved away from where my question started. Just to go back to that, the Chair's point was that the Civil Service supports the Government of the day and their manifesto commitments. The Government were returned as a minority Government and we are seeing the repercussions of that.

In 2020, when this email was sent, we were in the middle of a pandemic. At that point the leader of the Government, the First Minister, was standing up daily, saying, "Do not worry. I am not taking any partisan decisions. I am doing things in the best interests of keeping people safe and avoiding any constitutional battle or any party-political debates and discussions that could be perceived that way". For an impartial civil servant then to insert a very partisan comment into email advice to Ministers is different to what the Chair was describing about generally supporting a Government and their manifesto commitments.

Philip Rycroft: I do not want to litigate this one to endlessness.

Q43 **Douglas Ross:** Do you accept there is a difference?

Philip Rycroft: Indeed I do accept that there is a difference there. As I say, there but for the grace of god go I. I hope you do not apply the same scrutiny to all my emails over time. Undoubtedly, this can happen in the heat of the moment. I do not know the circumstances, but I have been in similar circumstances. You are short-circuiting a known set of arguments. You know there is going to be a political concern over here.

Q44 **Douglas Ross:** At that point he should have known there was not because he was being told, like the rest of us, "Put all that to the back of your mind. We are not thinking about politics or independence or constitutional issues. We are thinking about keeping people safe". Yet still he emailed the First Minister and other senior Ministers within the Scottish Government to say, "Hold on a second. You might not want to do that because in a few years' time, if we ever get independence, it could cause us trouble".

Philip Rycroft: Again, I go back to the form in which it was said. There was a way that that could have been expressed that would not have exposed it to the ire that you clearly feel about it.

Chair: Mr Rycroft has done his best to answer that question. We should maybe leave him alone on that one.

Q45 **Douglas Ross:** Yes, indeed. I am grateful for that. I want to come back to one of the other areas that you were heavily involved in, the UK Governance Group. What do you feel about that now, all these years on? In your evidence to the Public Administration and Constitutional Affairs Select Committee earlier on this year, you mourned the loss of the UK Governance Group.

Philip Rycroft: The history of this, for those who are not familiar with it, is that it emerged essentially out of the learnings of the Scottish referendum campaign. The learning of that was about the shallowness of the understanding of the governance of the United Kingdom in respect of devolution in Whitehall. The argument that I made to Jeremy Heywood, which he took to then Prime Minister Cameron, was that we needed to establish a centre of authority, a centre of Government, that would combine the Scotland Office, the Wales Office, the Office of the Advocate General for Scotland and the constitution group in the Cabinet Office as a powerhouse of constitutional and devolution understanding and support for the Prime Minister and for the respective Secretaries of State.

We set that up and we oversaw the Scotland Act 2016, the Wales Act 2017, the introduction of English votes for English laws and so on. That came under the Brexit cosh because clearly Brexit then subsumed many of those debates within the UK context.

The point of setting it up was to build up a cadre of expertise. People would come into the Governance Group, work there for three or four years, go out to a Department, taking that knowledge with them, and then maybe come back in again. It was about building up that expertise. I have been sorry to see that that has dissipated somewhat.

Q46 **Douglas Ross:** Is there still a role for it?

Philip Rycroft: There is absolutely still a role for it. It was partly the moving of these responsibilities into the Department for Levelling Up that broke that Cabinet Office nexus. These responsibilities—I hope you as a Committee might agree with me on this one—are so important to the

future of the United Kingdom. At the centre of Government, we need the capability, understanding and experience to advise the Prime Minister on the UK constitution and devolution. That is what the UK Governance Group was set up to do. The situation that we inherited in 2011-12 was a really weak understanding of these issues at the centre of Government and in Whitehall more generally.

Q47 **Douglas Ross:** Mr Parry, Mr Rycroft mentioned people coming into post and the osmosis of people moving around Scottish and UK Governments. In point 13 of your evidence you mention that, generally speaking, the second level posts, the directors-general, have been promoted from within. Is that positive or negative? Do you have a view on that?

Richard Parry: Two out of eight of them entered from outside the Civil Service. They were doing economics. They both came in as economists. The others have moved their way through.

These days all the senior jobs are usually open to being advertised. There is an open advertisement so that not only civil servants can apply. There is now a positive interest in bringing people into senior posts who have had other kinds of experience rather than Civil Service experience.

The question is whether these jobs are attractive to civil servants and candidates from elsewhere. They probably are. There have been instances, though not that many, where key jobs within the Scottish Government over the whole history of devolution have been filled by people from Whitehall, either because they have been heard of through Civil Service personnel channels or just because they were interested in the work. That is important.

Secondments are being proposed now. I saw that the evidence from the UK Government to you was that they are still working on this and that there is a working group on this. We have to be very careful on secondments. A secondment implies that you are thinking not just about the reasons that you have come in but where you will return to afterwards. You will think of your job afterwards and any home issues. Philip was mentioning those. I am not sure whether it is the complete answer to get people in a different position for two years and then let them return.

I suspect the bigger answer is people saying, "This is a great job in Wales, Scotland or Northern Ireland." It is not quite that simple, but they should be thinking that it is a great job. Curiously, the one person who did say it was a great job was Sue Gray, who went to Northern Ireland as permanent secretary of the Department of Finance there. I am not sure of the reasoning for that. As was reported in the Northern Ireland media, she interviewed for the job of head of the Northern Ireland Civil Service with other Northern Ireland permanent secretaries. They could not reach a decision and it was re-advertised.

That kind of thing is interesting. She was there for three years on secondment once again. Again, it was at the outer limit of the length of secondments, but it was a real job and it was a big job. That model is preferable.

Q48 **Douglas Ross:** On point 7 of your evidence, you look at the effectiveness of working relationships and changes over time. You largely focus on Brexit and the changes that has led to it. Mr Rycroft has done the same in his evidence today. Have you considered the recent Scottish Government legislation that has been passed by the Scottish Parliament? I am thinking particularly about when they had a majority with their coalition partners, the Greens, and the particular legislation that has caused trouble between both Governments.

Indeed, some of it has ended up in court. If we look at the Gender Recognition Reform (Scotland) Bill, the deposit return scheme or some of the issues around taxation and highly protected marine areas, there has been quite a lot of conflict in recent years. How have you viewed that from the outside, not necessarily in terms of legislation coming from Westminster covering Scotland but Scottish legislation that has then fallen down when it has come to Westminster or indeed the courts?

Richard Parry: There will always be issues when the Scottish Parliament wants to do something—

Q49 **Douglas Ross:** There seem to have been a few more recently.

Richard Parry: There have been more recently. You can only look at them individually, case by case. The gender recognition thing is an example, as are the others you mentioned—both the deposit return scheme and protected marine areas. They are all examples of issues where the trend UK-wide appeared to be that way. Gender recognition reform may be necessary; it may be a good thing. The deposit scheme is being introduced UK-wide in the end. That was a UK-wide track that we were on. There is also a concern about protecting marine areas.

You will know a great deal about how these things turned the heads of all the actors in the system. What seemed relatively uncontroversial—MSPs of all parties were in favour—suddenly turned into a very difficult issue to handle, which in the case of gender recognition led to the first use of Section 35 of the Scotland Act, which is an absolute veto by the UK Government. It had never been used.

Because it was a veto, it could only be challenged by judicial review, which was really asking, "Was it wholly unreasonable?" It was not wholly unreasonable. It may have been an unwise action by the UK Government, but it is one that could be defended. The UK Government ended up arguing it would be a good thing if this were the same all through Britain, if we did not have different laws.

Q50 **Douglas Ross:** Likewise, with DRS there were suggestions that you could have a UK-wide scheme.

Richard Parry: Yes, precisely.

Q51 **Douglas Ross:** The theme here is Scotland wanting to do it slightly differently and then ending up with legislation that was not compatible and the issues that that leads to.

Richard Parry: I would see it more as Scotland being on the leading edge of a change or a trend in policy. They have always wanted to be first. It is quite important: "We can prove that devolution works because we can be first to do it". In these cases, the Scottish Government did not quite realise that they had to bring UK Government along with them.

Q52 **Douglas Ross:** Yes, or industry, if we look at DRS in particular.

Richard Parry: Yes, absolutely. Those are examples of policy not being implemented very well for all sorts of reasons. It is usually a great mix of reasons.

On the generality of what you are asking—that over a whole range of issues this is something we can observe as a phenomenon—I am not convinced. It is more that the Scottish Parliament and Government always wanted to be a leader on tracker policies that were happening anyway.

Philip Rycroft: Both those episodes were not a great example of cross-Government working, to say the least. There is certainly a lot in what Richard says. In a sense, the Scottish Government were pushing ahead and using these issues as a political wedge. It was not in the interests of the UK Government to go the extra mile to seek to accommodate that so it ended up with conflict. That was unfortunate for business, as you say, and the community affected by the Gender Recognition Reform (Scotland) Bill. It did not do anybody any favours that it fell apart so badly and with such discord.

These things can be dealt with. There are lots and lots of cross-border issues that are dealt with by the respective Governments on a day-to-day basis. Some of them are controversial and difficult, but that is done through a recognition of mutual interest in getting things sorted out.

I point you to the common frameworks, which emerged out of some controversy in the Brexit time about the shape of the withdrawal legislation as a mechanism to resolve many of the issues that emerged once powers were repatriated from Brussels. The basis of that is the Governments sit down, talk it through, work out where the respective interests lie and try to reach a common way forward. That seems to me good Government.

It is a shame that it broke down in these instances. You are absolutely right. In terms of the deposit return scheme, you could really only conceive of that on a UK-wide basis, due to the nature of the market. Gender recognition reform would also have been better done on a cross-UK basis.

I have to say, in the same breath, the way in which the UK Internal Market Act was pushed forward and pushed through was slightly a laying down of the gauntlet, particularly in terms of the powers of the UK Government to spend money in devolved areas for pretty much the first time, as well as the harmonisation requirements and so on, which seemed to run counter to devolved responsibilities.

My argument about that was whether that Act was necessary when you had the common frameworks that could deal with the vast majority of these issues. If there were cross-border consequences to pursuing different policy routes, it would be far better to go down the route of collaborative working than to go down a conflictual route. I agree with the essence of what you are saying. Nobody will look back on both those episodes and say that either of the legislatures had their finest hour.

Q53 **Douglas Ross:** I have a final question for Mr Parry. I have been doing some research into some of the other documents that you have published. You published an article in April 2012—I do not expect you to remember it verbatim—called "The Civil Service and Intergovernmental Relations in the Post-Devolution UK". Do you have a copy in your bag there?

Richard Parry: I might have. I have my magna opera from the last 40 years. No, I do not have that one.

Q54 **Douglas Ross:** I will read out the bit I wanted to ask you about. You say, "In the longer term the 'interdepartmental' mode of working may be harder to sustain as operating procedures set up in a path-dependent way from before 1999 erode as more civil servants are externally recruited and contact with Whitehall Departments is reduced". You conclude, "It is even possible to envisage a reversal of attitude in which the devolved Administrations value the Civil Service link to Whitehall more than does the UK Government".

Twelve years on from writing that, after significant changes at both a Scottish and UK level, what are your feelings on that now?

Richard Parry: Thank you for asking me this kind of thing. It is the first time ever that someone has referred back to such an old piece.

I made the point earlier that what looked like a channel of control had become a channel of influence. I underestimated the extent to which things would really remain as they are. I was a bit concerned that there was a generation of people, like the first two permanent secretaries, Muir Russell and John Elvidge, who had very much gone down the Whitehall-y route. They had spent two years in the Cabinet Office. I rather suspected that, as the years went by, people in the Scottish Government would only have worked there. We had that with Leslie Evans, who had not worked in Whitehall. We have reverted now to a permanent secretary who has worked in Whitehall.

My feeling is that things have held up reasonably well. The issues that are troubling us these days are not to do with the Home Civil Service. I am quite impressed by these meetings of the Head of the Civil Service and the First Minister, doing his annual appraisal and asking the First Minister whether she or he is helping you to fulfil the objectives of your Government. That has become quite a theme now.

In Whitehall, the performance appraisals of senior officials are very much about whether you are delivering the political objectives of the Government explicitly, in a way that we did not have before. That does not work in Scotland because it is not the same Government. In the evidence of the Head of the Civil Service to the House of Lords Committee last year, he said, "I do it in a different way, but I still ask the First Minister". It is an irony, but it seems to work. That is the impression that I have over the years.

Q55 **Chair:** I just want to return to some of the themes that you have raised with Mr Ross. During the course of this inquiry we are going to hear quite a lot about the politics side of it all. In your evidence, Mr Parry, you came close to just putting it out and suggesting that this is going to be very complicated for Government in how far they might go to issue instruction to the Civil Service in Scotland. You mentioned that it is not clear what form that guidance and support might take.

Is this going to be difficult for the UK Government to do? Should they be giving instructions to the Civil Service? Both of you said this is about a political solution. A political solution might impact the operation of the Civil Service in Scotland, if the UK Government were to decide to issue an instruction or a message about how the Civil Service in Scotland should operate.

Richard Parry: Yes, this is one of these issues that did not seem like an issue for a long time and then became an issue. How is it handled? It seems like the way it is to be handled is for the Civil Service, through its internal mechanisms, to issue instructions.

As I said earlier, I am not sure what form they would take and I am not sure how easy it is to draft. Part of it is the loose drafting of the Civil Service Code, which just says, "As a civil servant, you are accountable to Scottish Ministers, who in turn are accountable to the Scottish Parliament". That really does not leave you much room for manoeuvre.

Interestingly, the Northern Ireland Civil Service Code of Ethics, which is their version of it, says, "Individual civil servants are accountable to their Department's Minister, who in turn is accountable to the Assembly", and then it says, "All civil servants have a shared responsibility to support the work of the Executive as a whole". That is added in Northern Ireland in a way that it is not in GB.

I could see that you might add a line saying, "You must have due regard to the distribution of devolved and reserved responsibilities", and so on,

but, even if you were to draft it, you can see that that is not a route to go down.

Q56 **Chair:** It is interesting that you mention Northern Ireland in that response. If the Northern Ireland Government were back up under the leadership of a Sinn Féin First Minister and part of their policy were the ambition and aim of having a united Ireland, what should the Civil Service in Northern Ireland do, if that were to become a more stated objective?

Richard Parry: They do work, of course, on an all-Ireland basis for lots of things. They are in touch and they advise their Ministers. The progress on a Northern Ireland referendum is very much in the hands of the UK Government because there is a legal framework for the Northern Ireland border poll. It is not within the responsibility of the Northern Ireland Executive at all.

In terms of what would happen in a united Ireland, I am not aware of that being a thing that the Northern Ireland Civil Service is spending a lot of time on. I am just not sure because I have not researched it for a while, but you could see scenarios in which a Northern Ireland situation could raise the same issues that have been raised in Scotland.

Q57 **Chair:** Mr Rycroft, what do you think about the view that guidance should be issued to the Scottish Government and civil servants?

Philip Rycroft: I was just thinking that in other circumstances it might be my job to try to draft it. I would have struggled, to be honest. There is some ambiguity here, and doubtless there will be different legal views about what precisely pertains here. I made my view clear earlier on. I think there is a problem, but others would maybe argue that there is not.

How do you resolve that problem? I started my evidence by saying that during my time this whole question of a unified Civil Service was a bit of a sleeping dog. This risks poking the sleeping dog with quite a sharp stick. If you make this an issue, you then have one side of the debate saying, "The Scottish Government are acting ultra vires and we are going to address this through the Civil Service route", and you have the other side of the debate saying, "We have a democratic mandate to talk to the people of Scotland about this". You have that conflict.

That becomes a political conflict, and out of that might pop a renewed demand for a separate Civil Service. It could be a counterproductive route to take for those who are worrying about this. There is ambiguity in every constitution, and in my time I have sometimes recommended masterful inactivity as the resolution to a problem. That might have been my recommendation here, but clearly it has emerged as a political issue.

As I say, my view very strongly is that using the Civil Service route to resolve it will exacerbate the problem; it will not, ultimately, solve the problem. The way to solve it is to think about what is the right democratic approach to the powers of the Scottish Government and, if

they are found to be wanting in this regard, ultimately to correct that, but I do not hold out the hope that that will happen any time soon.

Q58 **Wendy Chamberlain:** I want to move on to talk a little bit about capability learning and development aspects in relation to the Civil Service. When Jack McConnell was here as former First Minister in our other inquiry, he said on the record that he believed that it should be a requirement for civil servants to serve both in devolved Administrations and at Whitehall. If I can come to you first Mr Rycroft, what are your thoughts on that?

Philip Rycroft: I have made a similar argument. I would expand it a little bit beyond the devolved Administrations, but it is really important that, if you aspire to be a senior civil servant in the unified Civil Service, you should be able to demonstrate not just a couple of weeks shadowing somebody but a good chunk of experience—two or three years—in a devolved Government, in local government, the NHS, business or the voluntary sector. You need to be able to bring a perspective to your job from outside the Government machine.

I worked in the European Commission, but I also did a good stint, 20 months or so, in a major Scottish business. That was hugely beneficial to me in terms of my understanding of how others see Government. From this perspective, having more people who have worked in the Scottish, Welsh or Northern Ireland context who then pursue their career in Whitehall would be a very good thing.

Q59 **Wendy Chamberlain:** The other criticism that is made from a Civil Service perspective is that civil servants have to choose from a career path of promotion or expertise. Is that a challenge in this regard?

Philip Rycroft: There is something in that. It suits some people to specialise. That is absolutely right. You need specialists. In the Civil Service as a whole, we need more specialist people. If you want to understand the modalities of education and what works in a school context, you need to have more people in the house who have that very deep experience.

You still need your policymakers, who are going to be advising successive Governments on how to implement their manifestos. You need their expertise in how Government works, how legislation functions and how you translate a manifesto commitment into a policy that can change lives on the ground. Those people, as well as accruing some expertise, should also have some breadth. Some of that breadth should be about seeing Government from the outside.

A lot of them could benefit, as I said earlier on, from the way in which policy is done in a devolved context. You get a far wider span of responsibility at any particular level than you do in Whitehall. You begin to see the joins in policy; you begin to understand how the systems of policy function. That is a very healthy thing.

Q60 **Wendy Chamberlain:** Do you concur, Mr Parry?

Richard Parry: I was interested to read Jack McConnell's observations on that because he seemed to want to bring back the system that operated before 1997, when there was a very clear view that anyone who would occupy a very senior position in the Scottish Office should spend time particularly in the Cabinet Office or the Treasury, and they often did. Because that was happening to them, it was clear to everybody that they were being regarded as people who might go on to do that. That was part of the old way of doing things in the Civil Service.

Q61 **Wendy Chamberlain:** Part of the thinking is this acknowledgement that we are 25 years on, whereas everybody knew everybody in the initial period of devolution. This has been the political reality as well. You cannot rely on those relationships anymore. That is just as true for the Civil Service as it is for politicians.

Richard Parry: Yes, that is right. There is a huge issue about what skills an applicant for a senior position in the Civil Service should have.

I am just a little surprised. There is a leadership elite in Scotland—local authority chief executives, health board chief executives, university people and so on. Many of us thought that would be the group that would occupy those senior positions. That has happened to a certain degree. What makes a CV look good will change. It might be that saying, "I have been in the UK Civil Service; I have been in a Government Department in Whitehall, and I can bring that with me", will be seen as good. That will be perhaps a little bit of a change from the pattern in recent years, where experience in the third sector, business and so on was seen as the important thing.

We will never get back to the days of career planning, as it were, when there was a long-term route looking five, 10 or 15 years ahead for a keen young civil servant—present company excepted—who was working their way up and thinking, "First this, then a bit of time in London, then back to this and then on to that". We have seen the end of that. It is very much a job thing. The Civil Service is not a grade to be occupied; it is a job to be done.

Q62 **Wendy Chamberlain:** It sounds like, as is true for so many professions now, it has simply become more porous. People do not stay in jobs, organisations or career pathways for 30 years. Going back to the expertise within the Civil Service, is it a risk that we are potentially not keeping people at the lower levels for a period of time?

Philip Rycroft: There is certainly a risk there. The volatility of turnover in the Civil Service is way too high on both fronts. You want people who understand climate change policy, health or whatever it is, but you also need the people who are there to advise Ministers on transacting their manifesto and their policy business.

On people staying in jobs, I always thought that it takes you about 18 months to get up to cruising altitude. That is when you are delivering best value. You ought to stay in a job for two or three years beyond that. People's career patterns have also changed. I am glad that Richard thinks my career was planned because it did not feel like that to me at the time.

Richard Parry: No, I did not put that very well, Philip.

Philip Rycroft: I ran the Department for Exiting the EU, which was a very young Department in terms of the literal age of the very good officials who worked in that Department. They had a very different attitude to their careers. They were not looking at being civil servants for 30 or 40 years. They were coming in on a more transactional basis. They wanted to do it while it was interesting and they were getting good challenges, but some of them would say quite openly, "No, my next job will be outside". Quite a lot of them had come in from other jobs.

That intermixing is a very good thing, but, in amongst all of that—we talked about the UK Governance Group earlier on—you need a leavening of expertise both in the experts in particular policy domains and those people in the policy profession. It is a profession.

I would also argue that your route into that profession ought to be a professional one. In other words, you ought to understand something about public policy, if you aspire to become a public policy professional. Whether you do an undergraduate or master's degree or you undertake a programme of training, you need to give Ministers and the public confidence that you understand the constitution, public finance, how parliament works and all the rest of it.

There is of course quite a lot of training that goes on, but it is not as systematic, thorough and grounded as it ought to be. Critical amongst that is an understanding of the governance of the United Kingdom. That is what I, in my personal experience, found wanting when I was thrown into the mix in 2012 to support Ministers, helping them run one side of the referendum campaign.

Q63 **Wendy Chamberlain:** In your view, any devolution capability teams within Whitehall were just not getting it right in relation to understanding devolution.

Philip Rycroft: There are some wonderful people in the Departments. Lots of the people with whom I worked in the devolution teams were very committed to that.

Wendy Chamberlain: I mean from a knowledge management perspective.

Philip Rycroft: The risk is that they are the people who do devolution. They almost become an excuse for the rest of the Departments to say, "We do not have to worry about that because they worry about it". It ought to be a concern for every civil servant to have that understanding.

If you think of where the problems and tensions generally arise, it is not with Departments that are dealing with stuff on a day-to-day basis. Defra has been deeply inured in this for years and years because of EU policy, where you had to reach a common UK position, and all of these cross-border impacts that carry on in environment, agriculture and fisheries. Defra understands that.

In particular, when people introduce legislation in reserved areas where there are not a lot of dealings with the devolved Governments, that is when you find that they are quite reluctant to share or they forget to share and consult. That is when the problems tend to occur.

Q64 **Wendy Chamberlain:** It is interesting. With the new structure coming in in 2022, we have looked at intergovernmental relations in previous inquiries and reviewed the groups that have met. It is exactly the Departments that you have just mentioned that have not met at all. The argument should be that they should be over-indexing in that space.

Philip Rycroft: You can map it pretty much. The other point about all this is that post devolution you have this real-time policy experiment going on. You have different policies being driven by different Governments with similar populations in socioeconomic terms. There is far too little of people asking, "Why are you going down that route? What is your learning from that?" That might be in education policy, health policy, economic development or wherever it may be. We simply have not done enough of that since devolution. It is a real missed opportunity.

Q65 **Wendy Chamberlain:** Mr Parry, where does the Scotland Office sit in all this?

Richard Parry: Where does the role of Secretary of State for Scotland sit in all this? That is probably the most interesting thing.

Q66 **Wendy Chamberlain:** As part of our 25 years since devolution inquiry, a former Secretary of State for Scotland said that we should scrap the role of Secretary of State for Scotland. It should be one Minister for—

Richard Parry: They tried, of course. In the early years under Tony Blair, he did merge the job with other jobs. For a while, they were holding other jobs. It is a curious job, which has been in the UK Cabinet for almost 150 years.

The idea was that we would have civil servants in Whitehall who would be the Whitehall face of Scotland. Immediately, the first post-devolution Secretary of State, John Reid, wanted a real job to do. He was building offices in Glasgow and intervening in rescues to prove that to the UK Government even though it was his own Government in Scotland, which was a very unexpected thing. I should not stray into the Conservatives, but, if you only have one MP in Scotland and you have to find a Secretary of State for Scotland, that can be a bit of a difficult issue as well.

Much the best route, as Philip was suggesting, is to merge all the capabilities into one thing and have a UK Governance Group. The recommendation of Andrew Dunlop's review was to have a Secretary of State for Intergovernmental Relations, a force alongside the three great offices of state. What has happened is we have had Michael Gove as an individual who has become the Minister in a way because he is from Scotland and he can operate collegially in some way.

Q67 **Wendy Chamberlain:** I thought the Prime Minister was Minister of the Union.

Richard Parry: That was just a slogan more than anything else. Clearly, the Prime Minister is always the Minister for the whole of the UK in that sense.

It did not ever become a big organisational entity because it always drew its personnel from the devolved system. It never tried to run an independent operation for its own personnel. That might have been quite useful. Philip probably has some thoughts on that. I suspect we need to have that, but much the bigger need is for a general understanding around Whitehall.

Everyone joining the senior Civil Service in Whitehall should be compelled to spend one day in Edinburgh, Cardiff and Belfast just to relate physically to the guy who is doing their work in the devolved system, so that they have at least been there. At the moment, it is a very hit and miss. Some people have visited the places, are very interested in them and are up to speed with what is going on in the devolved nations; some people are not interested at all. It is very unpredictable.

Q68 **Wendy Chamberlain:** Sadly, they are not interested until they need to be, and by then it is too late.

Philip Rycroft: The Secretary of State for Scotland and those other jobs should be maintained. They are really important. I agree with Andrew Dunlop. In a sense, they should report to a First Secretary of State in the Cabinet Office. I worked for three Cabinet Ministers. Secretary of State for Scotland, Secretary of State for Wales and the Cabinet Office Minister. I was perfectly comfortable with that.

It is really important that people in Scotland, Wales and Northern Ireland see that there is somebody speaking on their behalf in Cabinet. It is really important that their voices are heard in Whitehall as well. I had the privilege of sitting behind the Deputy Prime Minister in many Cabinet meetings through the coalition time. Knowing that the Secretary of State for Scotland could come in on the debates around what the UK Government were doing on the referendum was hugely important.

Even though the offices perforce are going to be quite small, they do have an influence in Whitehall that is way above their physical size. That is really because they have a Secretary of State to lead them. It would be a retrograde step to abolish those offices.

There is an argument that one of the mistakes made in early devolution time was not to give them a substantial programme budget, which they could deploy to encourage collaborative working, to put money into the reserved policy space or to join up the Scottish and Welsh Governments in the devolved policy space to make interesting things happen along the lines of the city deals, which had to be invented.

Wendy Chamberlain: Yes, or indeed levelling up funding, which has come via DLUHC.

Philip Rycroft: Exactly, yes. You could encourage collaborative working to mutual benefit. Those offices remain an important part of our constitutional makeup. It is a bit asymmetrical, of course, but that is the nature of the United Kingdom.

Q69 **Wendy Chamberlain:** Yes, absolutely. On that, I have a final cheeky question. Would a more federal approach make things easier?

Philip Rycroft: We looked at this very carefully in the Welsh constitutional commission context. In some respects, yes, it would, because it would clarify the boundaries. Where you draw those boundaries would be up for negotiation.

One of the attractions of a federal option is that it would require the centre to change its mindset because you would have, in a sense, an equalisation of powers. At the moment, devolution is essentially granted from this place and it could, in theory, be taken back with a short Bill going through Parliament here. That sets the tone of the relationship.

Q70 **Wendy Chamberlain:** That is where the politics comes in because you are working on that basis of trust that the pen will not—

Philip Rycroft: Yes. One of the things that I have argued for in the way that intergovernmental relations is transacted, in the Civil Service as well as subsequently, is that it has to be done on the basis of respect and parity of esteem. Federalism would push you into that space whether you liked it or not. It would oblige Whitehall to change in a way that Whitehall has not really changed since devolution.

Is it going to happen? No, not least because of the problem of sorting out England. England is the other dog that never barks in these debates, certainly not loud enough, but that is not your remit.

Q71 **Chair:** I wanted to let you gentlemen leave by 4 pm, but it has been quite a fascinating session even though there are only three Members here. There are a couple of quick questions that I want to ask as part of the inquiry. I will ask one of each of you, if that is okay.

Mr Rycroft, the UK Government have relocated some 2,000 officials to Scotland under its Places for Growth scheme. What effect might this have on the Civil Service and the operation and co-operation between the two Governments?

Philip Rycroft: It is a good question. There always have been a lot of civil servants working for UK Government Departments located in Scotland, with HMRC and the rest of it, ditto in Wales. That is a good thing because those jobs should not be based here. People tend to forget that a relatively small proportion of the Civil Service overall works out of Whitehall.

The important thing about those jobs going to Scotland, Darlington, Swansea or wherever it be is that senior jobs go with them. There are lots of operational jobs. They are hugely important jobs. They keep the country functioning. To be meaningful, you have to move senior policy jobs out of Whitehall and allow people to develop career structures out of Whitehall, whether that is in the north-east, Scotland or elsewhere. That is where you will get the real benefits. Do not forget that those folk are then talking to their colleagues back down here and saying, "It is not like that in Cumbernauld".

Q72 **Chair:** That does seem to be happening. We visited Queen Elizabeth House recently. We were really impressed by the place. There were UK civil servants from all the Whitehall Departments. There did seem to be senior managers coming with them.

Philip Rycroft: Yes, it is good that we have that building. When I was looking after the Scotland Office, it was tucked away in Melville Crescent. It was not a building that you could put many more folk into. Having that very visible presence and giving people the sense that, "Okay, there is a career structure. I can work for the Treasury, the Department for Business, the Home Office or whatever it may be and I can make my mark as a policy civil servant and see a track for my career", is a very good thing.

Q73 **Chair:** Mr Parry, there are a number of policy areas that are now devolved and reserved, such as social security and increasingly issues to do with transport. Is this a good thing for working together across the Parliaments? Is it a good thing for civil servants to be able to work with colleagues on areas of mutual interest?

Richard Parry: You can end up with a situation in which you find it no easier to draw the boundary between what is devolved and what is reserved within each area. It is of great significance that the Scottish Government have now moved into the social security area in a big way after the Smith Commission because it is handing out lots of money. This adds to it.

Devolution worked quite well because it was not in the taxing and benefits area for a long time. It kept away from that. It could do many other things. It is now into income tax hugely and it is now into social security. Generally speaking, the operationalisation of this after Smith, after the Scotland Act 2016, has gone quite well given the issues involved.

Q74 **Chair:** Did the officials help with the friction?

Philip Rycroft: Completely, yes. They need to work together. HMRC is now serving as a single delivery agency for income tax working for two Administrations. That route has not been adopted with work and pensions because, frankly, of the attitudes towards social security in Conservative Administrations. That made it quite simple for the Scottish Government to say, "No, we do not really want them to be doing it. We want to do it our way, and we will have a distinctive way of working on it".

There are many issues there about the generosity of benefits. If you have a lot of benefit payments, it pre-empts everything else to a certain degree. It is an example of devolution at work. What happened after 2016 is under-researched. The irony of the 2014 referendum was that a regime with much more devolution, which everyone thought should have been put to a referendum, was not even put to a referendum but happened.

Q75 **Douglas Ross:** Just very briefly, some of the issues that exist with Social Security Scotland still have to be resolved. It is not all plain sailing as a result of that. The Scottish Government had to hand some of these powers back because they were not equipped and ready to introduce them when they envisaged. Just for clarity, it has not all been plain sailing and as effective as people would have wanted, given that some of the powers had to be returned.

Richard Parry: I absolutely agree that it did not go very smoothly. To anyone who had done any research on social security, it was clear that it was not going to be easy. It was going to be very difficult with so many benefits in Scotland being administered from England and requiring to be assessed personally. It was always going to be very difficult.

I see the fact that it seems to have been happening and it was not just totally unworkable as a reasonable achievement, but that is simply because anyone who has ever looked at social security knows what a hard area it is. It would make sense to have a single agency, but that was not the route that was chosen.

Philip Rycroft: We came under quite a lot of pressure in 2016 after the Scotland Act went through to get these things pushed out to Scotland very quickly. It has taken a lot longer and it has been a lot more expensive to establish these arrangements than anybody predicted at the time.

It is worth going back to the rationale for what went into that Act both on tax and welfare. In the view of the Government at the time, they were very clearly almost trying to complete the devolution settlement. You had a Parliament that had a very constrained tax-raising power. It did not have any welfare powers but was very critical of welfare policy at UK level. They were giving it the powers to raise money and spend on

welfare, if that is what it wished to do, subject to persuading the people of Scotland to keep voting for it.

From that point of view, as Richard said, this is now beginning to percolate through into political consciousness. Do not forget that soon after those powers came in we had the big distraction of Brexit. As we are getting through that, the political debate in Scotland should be enriched by the fact that the Scottish Government can now levy taxes. I am a Scottish taxpayer. It taxes me more than I would be taxed if I were living south of the border. By the same token, it can deliver those greater welfare benefits to people in Scotland.

It is absolutely right that the devolved Government and devolved Parliament should be able to do that. From that point of view, credit should go to the Smith Commission, the Government and the Government of Scotland for putting those powers in place.

Chair: On that note, thank you both ever so much for helping us out today. We have got this inquiry off to a flying start. There is certainly lots for us to digest as we go forward in this inquiry. If there is anything else that you feel you could usefully contribute, please get in touch with the Committee. For this afternoon, thank you for attending this sitting.