

Public Administration and Constitutional Affairs Committee

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

Monday 26 April 2021

Ordered by the House of Commons to be published on 26 April 2021.

[Watch the meeting](#)

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

Questions 666 - 862

Witnesses

I: Simon Case, Cabinet Secretary and Head of the Civil Service; and Darren Tierney, Director General, Propriety and Ethics, Cabinet Office.

Examination of witnesses

Witnesses: Simon Case and Darren Tierney.

Q666 **Chair:** Good afternoon and welcome to this session of the Public Administration and Constitutional Affairs Committee. I would like to introduce our two witnesses today, starting with the Cabinet Secretary.

Simon Case: Good afternoon, Chair. Simon Case, Cabinet Secretary.

Darren Tierney: Good afternoon. Darren Tierney, Director General for Propriety and Ethics in the Cabinet Office.

Q667 **Chair:** Thank you both for coming this afternoon.

Mr Case, if I can begin with what has been covered substantially in the press this weekend and goes by the colloquialism of the “chatty rat leak”. A number of things have been said by the Prime Minister’s former senior adviser upon the nature of a leak inquiry. Essentially, is what Mr Cummings has said true?

Simon Case: Thank you very much. I hope that the Committee will understand that I am very constrained in what I can say, given the security classification of the exercise of this leak inquiry. What I can say



HOUSE OF COMMONS

is that the investigation is ongoing. This is a clear indication that all sources have not been identified. Given the time that has now passed, it is probable that the team will not successfully identify the source or sources but work is ongoing. These investigations are often complex and have many threads to them. Lines of inquiry develop and get resolved. Some run into the ground.

Because of the significant public and parliamentary concern around this leak, with the PM's permission, officials have been providing briefings on the investigation to the Speaker of the House on Privy Council terms. At the conclusion of the investigation, the Prime Minister has made clear that the Government will update Parliament.

Q668 **Chair:** Thank you. Can you give an indication of the timescale for the conclusion of this investigation?

Simon Case: I hope weeks rather than months.

Q669 **Chair:** Could I press you further? How many weeks rather than months are we looking at?

Simon Case: These investigations are complex and have different strands to pursue, but I hope it will not be long now before the House can hear of the conclusions. We are recognising legitimate public and parliamentary interest in this, but are trying to manage the issues around the security classifications of the context and the content. We have been updating the Speaker on Privy Council terms so that at least the parliamentary authority—the Speaker—is aware of progress.

Q670 **Chair:** Is an outcome actually desired?

Simon Case: Yes. You have to remember that this inquiry related to a matter of vital public concern. There was widespread anger, not only in government but beyond, about this leak that related to a vital part of our Covid response. From the outset, the Prime Minister, other Ministers, the teams and everybody were determined to try to find out who was responsible.

Q671 **Chair:** In the generality now, is it usual in the course of such an investigation to tell parties partway through that they are exonerated from an investigation?

Simon Case: Shall I spell out the broader process of how these inquiries are conducted?

Q672 **Chair:** Please do but, before doing that, could you answer that point? Is it usual to tell people partway through an investigation that they are not implicated any further?

Simon Case: For reasons that I hope you will understand, I cannot comment on individuals. Actually, public speculation risks being unfair to individuals and undermining the investigation. Providing updates as the



HOUSE OF COMMONS

investigation progresses is part of the normal process, which I am happy to set out.

Chair: Please do.

Simon Case: When a leak, or suspected leak, is identified, the Cabinet Secretary decides whether to initiate a leak inquiry, usually in discussion with the Prime Minister. Permanent Secretaries can also initiate leak inquiries in their own Departments should their information be released in an unauthorised way.

Leak inquiries instigated by the Cabinet Secretary or involving more than one Department are referred to the Government Security Group in the Cabinet Office to investigate, using a full range of techniques. You will understand that I will not go into the exact techniques they use to prevent undermining future inquiries. Once that information is gathered, the Government Security Group produces an initial report for the Cabinet Secretary on what has been established and, if deemed necessary, this report is also shared with the Prime Minister.

Going beyond that process, if there is reason to believe that the leaking of the information constitutes a crime—for example, under the Official Secrets Act or misconduct in public office—it is referred to the Metropolitan Police through a meeting known as the gateway process, which involves seniors in the Cabinet Office, the police and other relevant organisations, and looks at damage, evidence and so on. The threshold for police involvement is high.

Q673 **Chair:** Is it usual or indeed possible that investigations can be suspended without conclusion before they have gone the full course?

Simon Case: In theory, it would be possible, but I am not quite sure under what circumstances you would want to conclude an investigation before it had reached that initial stage. I am assuming that we are talking here about the initial review by the Government Security Group. I am not aware of circumstances in which that would happen.

Q674 **Chair:** To your knowledge, whether in your current post or those of your predecessors, has an investigation ever been stopped because the outcome of it would have been subsequently more embarrassing than the actual matter itself?

Simon Case: My knowledge is limited to my time, I am afraid. No, I am not aware of any instance.

Q675 **Chair:** Therefore, we can discount what appeared in the press this weekend?

Simon Case: In what sense?

Chair: A suggestion was made that an inquiry be suspended in case it brought forward an answer that was not particularly helpful.



HOUSE OF COMMONS

Simon Case: I am not entirely sure what press report that is but, no, in relation to this particular leak or others, the Prime Minister has always been clear and very determined to see these inquiries complete.

Q676 **Chair:** Is that determination met with any timescale more timely than a matter of weeks, given that this leak occurred in October last year?

Simon Case: These investigations are complex. There are usually many threads to them, and there is usually a range of people to interview, data and so on. The team is made up of professionals who do this work and they move as fast as they can.

Q677 **Chair:** I do not doubt the professionalism of those conducting any investigation—far from it—but surely relatively few people would have known about this subject matter in October, so it is a rather small pool in which to fish.

Simon Case: Chair, I am not trying to frustrate you or other members of the Committee on this, but we are going here into the details of the investigation and who knew what. This is an area where I am constrained because, if I go further on this, it will start to reveal the details of the investigation, which could—

Q678 **Chair:** That is fine, but you said that updates are provided. To whom are those updates provided? Are they provided to the Prime Minister?

Simon Case: Yes.

Q679 **Chair:** To anybody else?

Simon Case: Via me, yes.

Q680 **Mr Jones:** Mr Case, you will appreciate that the questions we are asking you now are in the light of a blogpost published on Friday last week by Dominic Cummings, which I am sure you have read. Is that right?

Simon Case: Yes.

Q681 **Mr Jones:** In that blogpost, Mr Cummings refers to conversations that he had with you, apparently in circumstances where no one else was present. Do you accept the truth of what Mr Cummings says in that regard?

Simon Case: Again, I am genuinely not trying to frustrate the Committee, but I am constrained in what I can say because it is in the context of an ongoing investigation. I am apologetic.

As I say, recognising legitimate parliamentary concern on this, we have gone down the exceptional route of providing briefings to the Speaker of the House on Privy Council terms so that, as far as we can, Parliament is being updated on the detail of the investigation.

Q682 **Mr Jones:** Did you authorise the Prime Minister's then official spokesman to tell the media that your inquiry had shown that neither Mr Cummings



nor the then Director of Communications were the “lockdown leakers”?

Simon Case: I am sympathetic to the Committee and I am not trying to frustrate, but this is drawing me into details of an ongoing investigation, which, for the reasons I have set out, I cannot go into in this setting, which is why we have taken the exceptional step of updating the Speaker of the House on Privy Council terms to make sure that at least the parliamentary authority is aware of the content and detail of the investigation.

Q683 **Mr Jones:** You made the point earlier that you did not want to be unfair on anyone who was being investigated, but of course if you were to simply confirm what I just put to you, you could immediately exclude both Mr Cummings and the Director of Communications from the inquiry.

Simon Case: But, again, you are inviting me to comment on the detail of an ongoing investigation. As I have said, I am under constraints relating to classification and so on, so I am afraid I cannot go into these sorts of details. We have been updating the Speaker on the progress with this inquiry and, as soon as it is concluded, the Prime Minister has committed to setting out the conclusions for Parliament so that you will be able to see where we have reached.

Q684 **Mr Jones:** Did you give instructions to the official spokesman to confirm that neither Mr Cummings nor the Director of Communications were the leakers?

Simon Case: Again, I am afraid, Mr Jones, my answer is the same as before. I cannot go into these sorts of details relating to an ongoing inquiry. I apologise to the Committee. It is not out of rudeness or disrespect to the Committee, but there are constraints on what I can say in this forum, which is why we have taken the exceptional steps of keeping the Speaker updated on progress. As the Prime Minister has said, we will update Parliament on the conclusions as soon as they are available.

Q685 **Chair:** When was the Speaker last updated?

Simon Case: I believe it was a fortnight ago. I will come back to you if I have that wrong.

Q686 **Lloyd Russell-Moyle:** Do you think that the leaker has broken any laws? Are we discussing lawbreaking here, or are we discussing embarrassment?

Simon Case: This was looked at as part of the gateway process involving the police, the Crown Prosecution Service and so on, which concluded that this leak did not meet the thresholds for an offence under the Official Secrets Act or the offence of misconduct in public office.

Q687 **Lloyd Russell-Moyle:** If it does not meet the offence criteria, and does not threaten national security or the Official Secrets Act, why are you unable to furnish us with some more detail on the questions that we have



just asked you, particularly when we have asked whether you have said things to press officers for them to pass on publicly? Why are you unable to either confirm or deny that if these are not legal matters anymore?

Simon Case: Just because something is not a criminal offence does not mean there are not national security issues—or classified matters, rather, I should say very specifically—involved in relation to how that investigation is conducted. That is why I am unable to comment.

Q688 **Lloyd Russell-Moyle:** Are the national security services involved in this investigation?

Simon Case: As you know, we have a longstanding policy of neither confirming nor denying such things. I am sorry: I recognise the legitimate public and parliamentary interest in this, which is why we have been updating the Speaker and why the Prime Minister has committed to setting out the conclusions of the investigations as soon as we can.

Q689 **Lloyd Russell-Moyle:** Who has informed you that you cannot answer these questions?

Simon Case: This is in collaboration with the Government Security Group, which owns the processes.

Q690 **Lloyd Russell-Moyle:** Has the Government Security Group deemed that you are not allowed to answer any questions on any detail of this, or have certain parameters been set?

Simon Case: No, beyond the things I have said, I am afraid I am constrained. On the ongoing investigation, I am afraid I am limited to not much more than that. I have already said what I can say to the Committee.

Q691 **Lloyd Russell-Moyle:** Why are you unable to answer our questions about conversations you have had that were not about the investigation but were with people like the press spokesperson? I am not asking about the process of the investigation; I am not asking how the investigation happens. David Jones asked specific questions about conversations you had had with a public press officer.

Simon Case: Because those conversations are covered by the bounds of the investigation.

Q692 **Lloyd Russell-Moyle:** I am not entirely convinced, but thank you very much.

Simon Case: I can only apologise to the Committee again for these constraints I am operating within, which is why, with the Prime Minister's permission, we have been updating the Speaker on Privy Council terms.

Q693 **Lloyd Russell-Moyle:** I do not want to put too much power in our Chair, but I wonder if there is a case to be updating our Chair on an in-camera basis. This is not a parliamentary procedure issue, per se; it is an internal scrutiny issue of the Cabinet Office. I mean no disrespect to the Speaker,



HOUSE OF COMMONS

but the Speaker is not in charge of scrutiny of the functioning of the Civil Service. This Committee is and our Chair is.

Simon Case: I am happy to pick that up with the Chair and the relevant authorities. That sounds like a potential way through. I understand and apologise for having to frustrate what are legitimate lines of inquiry.

Q694 **John McDonnell:** Mr Case, you can understand our frustration. It is five months since the beginning of this inquiry, so this hardly demonstrates some prioritisation of what should be, to you and others, a serious matter. At the same time as the inquiry drags on, No. 10 spokespeople are able to issue statements tarnishing the names of others who are subject to the inquiry themselves. I am incredulous that it has taken so long.

You mentioned that the instigation of these inquiries is in the hands of the Prime Minister or a Permanent Secretary. Is there to be an inquiry into today's leakage of the alleged statement by the Prime Minister about his preference for thousands of bodies being piled high in the streets rather than a lockdown?

Simon Case: I have not looked at this today. An investigation has not started. I will have to take that away, look into it and discuss with the Prime Minister whether we need to conduct an investigation into it.

Q695 **John McDonnell:** Will you have the authority to instigate that yourself?

Simon Case: Yes, but it would be very unusual to instigate a leak inquiry without first consulting the Prime Minister.

Q696 **John McDonnell:** Do you have the independence to do that after that consultation?

Simon Case: Yes, if necessary, but, in my experience, not ever needed.

Q697 **John McDonnell:** But that is for you to consider. Is it a responsibility that you will have after your conversations with the Prime Minister and you will consider it?

Simon Case: Yes.

Q698 **Jackie Doyle-Price:** I would like to try to help you out a bit here, Mr Case, because people watching these proceedings will not have much confidence in leak inquiries on the basis of what we are hearing. As you mentioned earlier, some of these leak inquiries will, inevitably, be complex. To be frank, if I was wanting to leak information and I was one of a limited number of people who had access to it, there are ways you could go to cover that up by going through your networks and contacts.

I do not know if you have seen that Robert Peston has this lunchtime published the details of the texts that he received outlining this decision. It is very clear that it has become third party. When it comes to a leak of that kind, obviously you can look at the phones of the protagonists who were in the meeting, but what else do you do once you have drawn a



HOUSE OF COMMONS

blank at those? Of course, the fact that it is not on their phones does not mean that they are not guilty of the leak.

In this Committee, we are concerned about this length of time. Why has there not been more progress? Is it not a priority?

Simon Case: I understand the point of the questioning. I can assure you and the Committee that at no point has this investigation been in any way deprioritised. It is in the hands of professional investigators who have a range of tools and techniques at their disposal. You will understand if I do not go into those in detail in open session because that would prejudice future inquiries. I can assure you that this has not been deprioritised in any way. As you picked up, these are incredibly complicated and complex inquiries, usually, with a range of threads to them. Lines of inquiries develop. Some get resolved; some take a long time and patient work to resolve. A lot of this is painstaking and patient work and it is done by professional investigators.

Q699 **Jackie Doyle-Price:** Recently, for example, Gavin Williamson was dismissed because he was highlighted as being responsible for a leak. That was a very quick investigation.

If somebody is being malevolent and deliberately covers their tracks, clearly it is going to be more difficult to source. The fact that we are still this many months into it is not a good disincentive for bad behaviour, is it? If people can see that leaks are happening with no negative outcome for the people doing it, I struggle to see how we can maintain confidence in our existing governance structures. Setting aside the fact that professionals run the investigation, do we need to do more to make sure that people understand their obligations here? That is not just Ministers, but for everybody who works for them, which seems to be an ever-growing number of people outside the normal Civil Service corps.

Simon Case: That sense of frustration that we are unable to catch more people responsible for leaks is shared by a range of senior people, not only this Prime Minister, but other Prime Ministers whom I and my predecessors have known. Of course, under the initial stages of this, at the first level with the Government Security Group, all the processes are voluntary.

We are able to place clear obligations on employees to co-operate with inquiries and, when they do not, which is rare, it would be a sign of something unusual. Outside that employment context, it is only once you reach the thresholds for the police to become involved that you have powers to compel. It is a matter for Parliament to decide what powers it is willing to give authorities in government to conduct inquiries. I know this has been looked at several times—

Q700 **Jackie Doyle-Price:** Or perhaps the Prime Minister could set some very clear rules about ministerial behaviour. The truth of the matter is that for the last decade, Ministers have been going to Cabinet meetings and then we have been getting a blow-by-blow account in the newspapers. Once



HOUSE OF COMMONS

you have that established behaviour going unchallenged, you are setting up a code of practice that enables people to say what they like to the press.

Could I invite you to comment? Would you like to see greater discipline by the Cabinet about all collective meetings where decisions are taken? Perhaps that could go some way to starting to set new rules about how we govern our political culture.

Simon Case: I agree with you that the culture is absolutely vital. I can assure you that Cabinet Ministers and officials, permanent and temporary, are regularly reminded of their obligations. I am not sure they could be more clearly spelled out, and it includes often reminding people at the beginning of meetings. I agree with the underpinning point in your question. This has a great deal to do with the culture and valuing the integrity of Government processes is vital.

Q701 **Mr Jones:** Briefly, you said that the last discussion with the Speaker on Privy Council terms was about a fortnight ago. Is that right?

Simon Case: Yes, that is my understanding but, as I said, if that is not correct, I will come back.

Q702 **Mr Jones:** There has been a huge number of developments over the past two weeks, not least the publication by Dominic Cummings last Friday of his blog. Given that the communication with the Speaker appears to be the only extent to which Parliament is being kept informed of developments, do you not feel that there should be more regular discussions with the Speaker, certainly now that Mr Cummings has published this article?

Simon Case: I am happy to take that up with the Speaker, yes, and to provide a bang-up-to-date update.

Q703 **Mr Jones:** Can you remember a time when Downing Street has been more leaky?

Simon Case: That is quite a difficult comparison. If you go back through the ages and read diaries and historical memoirs, leaks of information are a longstanding frustration in government.

One point that underpinned your question was Downing Street being leaky. Of course, it is not always proven or even believed that Downing Street is the source of leaks. That is one point underlying your question that I just pick up. As I said before—

Q704 **Mr Jones:** Do you dispute that? Has the leak not come from Downing Street?

Simon Case: You are inviting me back to comment on an ongoing investigation, which I am afraid I cannot do for the reasons set out. I can only apologise again for that, Chair.

Q705 **Karin Smyth:** Mr Case, you are the guardian of propriety, ethics and



HOUSE OF COMMONS

Civil Service conduct in your role. Is it acceptable that you come before this Committee to discuss these matters having been told that you cannot discuss them? You are essentially pleading the Fifth. Is that acceptable?

Simon Case: As I said, I can only apologise—

Karin Smyth: Thanks for your apology, but is it acceptable?

Simon Case: I am afraid it is necessary to protect the integrity of an ongoing investigation and the techniques involved.

Q706 **Karin Smyth:** You said your officers spoke with the Speaker two weeks ago. I would need to check exactly when you were coming before this Committee but, given the events of the last two weeks, why at no stage did you think it would be reasonable or acceptable to write to the Committee to set out what you were and were not prepared to talk to us about today?

Simon Case: I am not quite sure I understand the particular point about the last two weeks—

Q707 **Karin Smyth:** The point is that we gather to do work to scrutinise the Cabinet Office and your role. We have spent nearly 40 minutes going in a circle because you are not prepared to answer questions. You could have written to us previously to tell us that that was the case.

Simon Case: Again, accept my apologies for not making that clear in advance to the whole Committee.

Q708 **Chair:** Just to conclude on this, Mr Case, I inferred from one of your answers that you do not think the Official Secrets Act is up to scratch. Do we need a new one to bring it up to date?

Simon Case: This either is being consulted on or will be. Obviously it will come before Parliament. I am not sure; it might be in the next—

Q709 **Chair:** So it will be happening. I am aware of an even longer leak inquiry that began in August 2020 and has not yet concluded. I do not expect you to go into the specifics of any leak inquiries that were begun in August 2020, but will those that began in August be completed anytime soon?

Simon Case: I am afraid I am not sure which particular case you are talking about there.

Q710 **Chair:** Broadly. We are getting on for nine months or so. Is that not sufficient time for a leak inquiry?

Simon Case: It entirely depends on the circumstances of the investigation. Sometimes these things can take a long time indeed. When the professional investigators believe that there are no strands or lines of inquiry left, they will close an investigation. I am happy to look at the particular case if the Clerk could let me have more details.



Q711 **Chair:** Thank you.

Moving on, Lord Heywood listed one of the key roles of the Cabinet Secretary as the “guardian of propriety and ethics, ministerial and Civil Service conduct”. How do you see your role in this respect?

Simon Case: There are two aspects to propriety and ethics in relation to the specific role of Cabinet Secretary. One is the overall structure, framework, the codes and so on, often in support of the Prime Minister, to make sure the integrity of the Government is adequate. Then, in extremis, the Cabinet Secretary would have a role in particular cases or casework that came up in relation to propriety and ethics.

The point I would make—more importantly, it is made in all the codes and encapsulated in the Nolan principles—is that propriety and ethics is the responsibility of everybody in public service. Maintaining standards in public life is as much about culture as it is rules and regulations. Observing the spirit of those rules is the job of all senior leaders.

Interestingly, you picked up Lord Heywood’s quote. I have the pleasure of talking quite regularly to my predecessors in this role. They consistently say that their most difficult moments in their job were in their propriety and ethics work. This is a constant feature of Cabinet Secretaries’ lives.

Q712 **Chair:** Indeed. Your PhD supervisor, Lord Hennessy, described the role as “the greatest keeper of secrets”. With that in mind, what levers do you have as Cabinet Secretary to ensure that decisions on policy are made in a proper way?

Simon Case: There are probably three particular levers that the Cabinet Secretary has. The first is around the guidance and codes.

The second is that the Civil Service in the round is there to support Ministers in decision taking to make sure it is properly done. The way civil servants support Ministers with their training, skills and so on is important to support proper decision making.

Finally, the third is that the Cabinet Secretary is responsible for advising the Prime Minister on the collective system of government and the operation of Cabinet government, which is there to make sure that decisions are made properly.

Q713 **Chair:** Thank you. Mr Tierney, welcome to the Committee. You are in your early days in your post. We are grateful to have you with us this afternoon.

Given the reports about the reasons that contributed, perhaps, to your predecessor’s departure from the role, how concerned are you about having to tell Ministers and indeed others, “No”?

Darren Tierney: Thank you, Chair. I am not concerned by that at all. It is worth saying that, in my experience as a private secretary and senior



HOUSE OF COMMONS

adviser to Ministers, the reality is that most Ministers come to officials seeking advice on propriety and ethics issues because they want to stay within the letter and spirit of the codes.

I am expecting in this job the vast majority of the work to be incoming requests from Ministers for me and the team. Indeed, when I have spoken to my predecessors, they have confirmed that that is what happened with them. You should not see it as me sitting here waiting to say no to something. I see the role as more of an enabling function. I want to work with Ministers and Permanent Secretaries to help them to get the business of the Government done in the best way that we can.

Q714 **Mr Jones:** Mr Case, will the cost of refurbishing the Prime Minister's flat at No. 10 Downing Street be paid for through private donations?

Simon Case: If it would be helpful, I am willing to set out for you the thinking on this so far. I will not go through how Downing Street works in detail, but it is relevant.

There are working offices and state rooms, and then the residences. Refurbishment of the working rooms, state rooms and so on is funded through the normal Cabinet Office estates budget. For decades, there has been an annual allowance of up to £30,000 from the public purse to support the Prime Minister of the day in contributing to the costs of refurbishing the residence. Any costs beyond that are met by Prime Ministers privately.

On the question of a trust, work has been going on for more than 12 months on this idea. It was begun under Darren's and my predecessors. Chequers and Dorneywood are supported by trusts—one a trust and one a charitable trust—and I understand that equivalent buildings around the world like the White House are supported by trusts. No Downing Street trust currently exists. Work was begun last spring and Lord Brownlow agreed to be chair of a putative trust. There was work done to identify cross-party potential trustees.

I became aware of this earlier this year, along with Alex Chisholm, the accounting officer for the Cabinet Office, although other officials had been working on it before. We have been looking in much more detail at how a trust could work, building on the models from elsewhere.

It is safe to say that this is a genuinely complicated legal policy propriety issue, and there are questions for the Government and for the Charity Commission, which would regulate the operation of a charitable trust. There are two areas that I would pick out. First—

Q715 **Chair:** Forgive me for being rude, Mr Case, but in terms of answering Mr Jones's question, it would be most helpful if you would do so. Thank you.

Simon Case: I was just going to come on to the donor. First, a charitable trust cannot cover private areas of Downing Street—it is clear that that cannot be done. Secondly—



HOUSE OF COMMONS

Q716 **Mr Jones:** Forgive me for interrupting. You say that a charitable trust cannot cover private areas of Downing Street. We understand that, but there is no such trust in being yet, is there?

Simon Case: Correct. The trust is one of the things that is being explored.

Q717 **Mr Jones:** If you recall, my question essentially was: are any private donations are being used to pay the costs of refurbishing the Prime Minister's flat in Downing Street?

Simon Case: As the Prime Minister has said, all of this will be declared in the proper way. The Prime Minister will make relevant declarations through his ministerial—

Q718 **Mr Jones:** So you are not answering that question now. Are you aware yourself of whether any private donations have been used to cover the cost of refurbishing the flat at Downing Street?

Simon Case: I am happy to tell you that the Prime Minister has asked me to conduct a review, because I have not been involved directly in this, into past—

Q719 **Mr Jones:** Forgive me, Mr Case; I am so sorry to interrupt you. I asked if you were aware whether any private donations had been used to refurbish the flat. That is a straightforward yes or no.

Simon Case: As I said, the Prime Minister has asked me to conduct a review into how this has been done and has asked that I share the details of those conclusions with the Committee.

Q720 **Chair:** Forgive the impertinence of the question, Mr Case, but the last review you have spoken to has gone on for months, so how long will this review take?

Simon Case: Again, I suspect it would only be a matter of weeks.

Q721 **Mr Jones:** I still would like Mr Case to tell the Committee whether or not he is aware that any private donations were used to pay the costs of refurbishing the flat. Are you aware of that, Mr Case?

Simon Case: Mr Jones, I do not have all of the facts and details at my disposal on this, which is why the Prime Minister has asked me to conduct this review and, as I said, to set out the conclusions for the Committee.

Q722 **Mr Jones:** That is absolutely fine. So you do not have all those details. Could you tell us what propriety issues fall to be considered in relation to this?

Simon Case: Yes, absolutely. There are predominantly two areas. The first is making sure that any donations are sound from a propriety point of view and are not being used to seek preferment and such. The second area is making sure that such donations are declared in the proper way, which I know the Prime Minister is committed to doing in his own



declaration for the register of ministerial interests. That is the sort of detail on which I will need to get back to the Committee through this review.

Q723 Mr Jones: Thank you. To be absolutely clear, you have indicated that there is no charitable trust in existence to cover the cost of maintenance and refurbishment of the flat. Would any such donations, if there are any, be political donations?

Simon Case: I cannot answer that question today. I do not have all of those details. That is one of the things I will have to look at as part of the process the Prime Minister has asked me to do, and I am happy to set those out in writing for the Committee.

Q724 Mr Jones: It has been reported that the Electoral Commission is investigating this issue. Is that right?

Simon Case: As I understand it, there is an ongoing conversation between the Electoral Commission and CCHQ, but that is not a matter for civil servants or the Government, so I am not sighted on the detail of those conversations, Mr Jones.

Q725 Chair: Mr Case, you have known that you will be coming to this Committee—for which we are grateful—for some weeks now. There are a number of topical issues about the place at the moment, one of which is the vexed question of a flat's refurbishment. I am surprised that you have not been better furnished with answers to give to the Committee. Has no conversation taken place between you and others? Is this a storm in a teacup or is it more serious? I am surprised you have not been briefed further.

Simon Case: What I want to avoid, Chair, is misleading the Committee in any way by giving you partial insights. The Prime Minister has asked me to do this review, which I will do, and he has asked me to share those conclusions with you.

Q726 Chair: Will you be able to set the date for publishing that, or at least writing to us? The review will be on your terms, will it not?

Simon Case: Yes, absolutely.

Q727 Chair: Have you done so yet? How long will this take?

Simon Case: No, but I will come back to you, Chair, as soon as I can with the timescale for this.

Q728 John McDonnell: I do not wish to be rude, Mr Case, but this is coming across like a badly scripted version of "Yes, Minister". Could you at least provide us, within a limited period of time—say a week—with information about the advice the Prime Minister was given and by whom regarding the propriety issues of the flat refurbishment being funded by party political donations? If we could have just the trail of when the Prime Minister was advised and by whom, quickly—it should not require a



HOUSE OF COMMONS

detailed or time-consuming review—it would be helpful.

Simon Case: Yes, I am happy to do that, Mr McDonnell.

Q729 **Ronnie Cowan:** The Independent Adviser on Ministerial Interests is responsible for advising Ministers about how to comply with the Ministerial Code, but we have not had one for over five months since Sir Alex Allan resigned. How has this impacted on your role and on the oversight of propriety and ethics in government more generally?

Simon Case: The Independent Adviser on Ministerial Interests is an important role. It is, of course, only one part of the jigsaw underpinning propriety and ethics. The independent adviser has a couple of specific functions, one relating to ministerial interests and the other to do with investigations.

In my experience so far, it has not had a particularly significant impact, but the Prime Minister is clear that he needs to get a new independent adviser in post as soon as possible.

Darren Tierney: The principal source of advice for Ministers on propriety and ethics is their Permanent Secretaries. They have still had access to that during this last period. Of course, they can come to me and my team if there is something particularly complex.

Q730 **Ronnie Cowan:** It has been five months without one and nobody seems to have noticed. Is that the message I am getting?

Simon Case: I do not think it is not five months and nobody has noticed. That is not what we are saying. It has been noticed and it is an important role, which is why the Prime Minister is seeking to appoint somebody very shortly.

Q731 **Ronnie Cowan:** Would your own involvement in the Greensill affair been different if an independent adviser had been in post?

Simon Case: That is an interesting question. The majority of issues to do with the Greensill affair have related to former, not current, Government Ministers, which would not have been something for the independent adviser. Under any circumstances, given the scale of issues that have come up through the revelations, it certainly would have taken a good deal of our time. The independent adviser would not have been particularly involved. This is one of those things that require a bespoke process, which is why the Prime Minister has asked Nigel Boardman to conduct a review. I know that this Committee and the Treasury Committee are also looking into this.

Q732 **Ronnie Cowan:** You mentioned that the recruitment of the independent adviser is ongoing, but we were told that last December. Michael Gove told us that recruitment for Sir Alex's successor was underway. Do we know how far this has gone down? When should we expect an announcement?



Simon Case: The Prime Minister is in the final stages of discussions with the leading candidate, so I hope we will be able to announce very shortly.

Q733 **Ronnie Cowan:** Weeks rather than months?

Simon Case: I hope days rather than weeks, but do not hold me to that.

Q734 **Ronnie Cowan:** We are making progress, then. Given the circumstances under which Sir Alex departed, are you worried that his successor will lack public confidence?

Simon Case: Darren may want to comment on this, too. It has always been a tough job, given the role. It is an important role and has to be done by somebody of sufficient independence. It is absolutely vital that the independent adviser can command public confidence. That is why getting the right criteria, the right person and the right terms of reference is so important.

Darren Tierney: I have nothing else to add. I agree that the criteria is the important element.

Q735 **Lloyd Russell-Moyle:** The independent adviser is appointed by the Prime Minister. Seeing as it was the Prime Minister's inaction that led to the last adviser feeling like he had to leave, and we have now seen the Prime Minister texting friends about tax reforms in the UK so they can come back and not pay their taxes—and even some of the stuff on the front pages today—is it important that there is a role for people other than the Prime Minister in the recruitment process? What is your role in that recruitment?

Simon Case: As you say, this is a direct appointment for the Prime Minister. Darren can add, but we have had three aspects to our role in this. The first is developing criteria for the role, in HR speak the "person specification"—the characteristics that we are looking for. We have also been involved in drawing up a shortlist of candidates for the Prime Minister and we have been involved in supporting the Prime Minister in the remit of the job.

Darren Tierney: The criteria were: integrity and independence; expertise and experience, both of government and the constitution; and someone who could command the trust of the Prime Minister of the day.

Q736 **Chair:** Are you saying that there is a preferred candidate whom the Prime Minister is considering as we speak?

Simon Case: Correct.

Q737 **Lloyd Russell-Moyle:** Is that preferred candidate someone you have put forward?

Simon Case: Yes, we put forward a shortlist to the Prime Minister and discussed it with him. He has then gone for a preferred candidate from that list.



HOUSE OF COMMONS

Q738 **Lloyd Russell-Moyle:** This Committee would like to conduct a pre-appointment hearing with that preferred candidate. Can you undertake to ensure that that happens?

Simon Case: It could not be a pre-appointment hearing as such because it is a prime ministerial appointment, but I know that Sir Alex came before this Committee early in his tenure and we will encourage the same of the new independent adviser.

Q739 **Lloyd Russell-Moyle:** Is it appropriate that this is a prime ministerial appointment?

Simon Case: I think it is. It stems from the constitutional reality of how Ministers are appointed under the royal prerogative. Ministers are appointed on the advice of the Prime Minister.

Q740 **Lloyd Russell-Moyle:** Is the Prime Minister not also responsible for ensuring that they fulfil the standards that the independent adviser is meant to be laying down?

Simon Case: Everybody in government is responsible for upholding standards in public life. Sorry, have I misunderstood your point?

Q741 **Lloyd Russell-Moyle:** How can the independent adviser be looking at the actions of the Prime Minister if they are appointed by the Prime Minister?

Simon Case: That is perfectly possible when you have an individual in place who meets the sort of criteria that Darren has set out—somebody who is capable of commanding public confidence. I think that person would have the authority, by their very nature, to raise questions with the Prime Minister.

Q742 **Chair:** Are you confident that the person who has been recommended to the Prime Minister is such a character?

Simon Case: Yes. We would not have put the person on the shortlist if we did not believe that.

Q743 **Lloyd Russell-Moyle:** Sir Alex had to resign because the Prime Minister refused to uphold his advice. What additionally will this candidate have to prevent the Prime Minister running roughshod over them?

Simon Case: As part of this round, the Prime Minister has asked us to look at the remit of the role and the powers that the independent adviser has.

Chair: At that juncture, I will bring in Rachel Hopkins to pre-empt, perhaps, what you might be about to say.

Q744 **Rachel Hopkins:** Thank you, Chair. Lord Evans, Chair of the Committee on Standards in Public Life, has written to the Prime Minister suggesting that, among other things, the independent adviser is empowered to initiate their own inquiries into alleged breaches of the Ministerial Code?



Is this a change that you would welcome?

Simon Case: The Prime Minister's request is part of identifying a new adviser. We have been looking at how to amend the remit of the job. We will be announcing any changes at the same time as announcing the new independent adviser.

Of course those changes are ultimately a decision for the PM, but I know he has been paying close regard to Lord Evans's letter, which you referred to. I have been in discussion with Lord Evans about the remit and how the role might work. We will set out any changes when we make the announcement.

Q745 **Rachel Hopkins:** May I push on that question about your views on whether it is a positive thing that the independent adviser could initiate their own investigations? Currently the Prime Minister decides whether to investigate others. Does that mean he is immune from being investigated unless there is an independent adviser with their own remit to be able to investigate the Prime Minister?

Simon Case: Yes, this is one of the key changes to make, which was brought out in Lord Evans's letter. The point you are making has merit. Precisely how it works all needs to flow from the core constitutional principle that the Prime Minister advises the sovereign on who to call to be her Ministers. We are looking at this and will set out any changes when we make the announcement.

Q746 **John McDonnell:** Mr Tierney, when the Chair of the Committee asked you whether you were concerned about your own position if you were challenging Ministers, you answered firmly no, but it goes beyond that. How proactive a role do you and the propriety and ethics team take, for example, in relation to the enforcement of the Ministerial Code? How do you trigger action? What are the circumstances in which you would do that?

I give these examples because I am a bit mystified at the moment about why there has not been more proactive engagement from you and your team. The Chancellor of the Exchequer's texts have been published where he has been pushing civil servants to act after private lobbying. A number of firms' donations to the Conservative party have been reported at least on a ratio of 10 to one with contracts. The Secretary of State for Health has admitted belatedly that he is related to someone who has received a contract. Then we have had the register of ministerial interests delayed some considerable time. Surely some of that would have triggered you into action if you were being proactive.

Darren Tierney: First, we do not just wait for stuff to come to us although, as I said earlier, the vast majority of our casework comes from Ministers proactively seeking advice upfront.

It is important that the Ministerial Code is clear that it is for Ministers to satisfy themselves that they are following the code. It is even more



HOUSE OF COMMONS

explicit that it is not for the Cabinet Secretary or me to police the code. That is for Ministers. The ultimate arbiter of ministerial conduct is the Prime Minister.

That said, we do not just sit there and let things go by. We will get involved in specific cases as necessary when we see them or at the request of the Prime Minister.

Q747 **John McDonnell:** You provide advice, Mr Tierney. On any of those instances, have you provided advice?

Darren Tierney: I do not want to get into individual cases, if that is okay with the Committee.

Q748 **John McDonnell:** How can we tell whether you are doing your job if we ask you a specific question about whether you are doing your job and then you tell us you cannot tell us whether you are doing your job?

Darren Tierney: I am saying that I do not want to comment on any ongoing casework that the team is doing.

Q749 **John McDonnell:** So you are engaged in some of these matters I have listed.

Darren Tierney: We are engaged in a range of issues that are live at the moment.

Q750 **John McDonnell:** Thank you. That moves us a bit further forward.

The issue around the role of Permanent Secretaries is equally important. How important is the role of departmental secretaries in ensuring the relevant codes are adhered to? My fear is the one that the Chair raised. Recent experience suggests that Permanent Secretaries who displease their Secretaries of State do not seem to last long in their posts. We saw what happened to Philip Rutnam. How does a Permanent Secretary act as a regulator while keeping their job?

Simon Case: The role of Permanent Secretary in the Ministerial Code is clearly set out. There are some specific examples on security of Government business, matters relating to Ministers' constituencies and also supporting Ministers in making sure that they avoid conflicts or the perception of conflicts.

I think that the point about the role of Permanent Secretaries and relations came up when I was in front of the Committee last time. The overwhelming experience of the relationship between Ministers and civil servants and between Secretaries of State and Permanent Secretaries is incredibly collaborative. As Darren says, in the vast majority of cases, Ministers actively seek the support of their Permanent Secretaries and other officials like Darren in upholding their obligations under the Ministerial Code.

Q751 **John McDonnell:** Philip Rutnam's advice was not followed and, to maintain his integrity, he had no other choice but to resign. It sounds as



though other Permanent Secretaries may not be so robust in challenging their Secretaries of State and that is how they survive.

Simon Case: Personally, I do not share that view. Permanent Secretaries, I know, are as robust as they need to be when they need to be in making sure that Ministers' obligations under the Ministerial Code are upheld. More often than not, Ministers are actively asking civil servants for support in making sure that they uphold their obligations under the various codes.

John McDonnell: That sounds difficult to accept when the register of ministerial interests has been delayed yet again, but we will await publication.

Q752 **Rachel Hopkins:** The existing transparency scheme covers meetings, gifts and hospitality. Is that the one that is published quarterly with all those things in it?

Darren Tierney: That is right, yes.

Q753 **Rachel Hopkins:** Does it cover phone calls and text messages that senior Ministers or senior civil servants may make in relation to things they need to declare?

Darren Tierney: It does not cover phone calls unless the phone call is in place of a meeting. It covers phone meetings, but it does not include routine phone calls or texts.

Q754 **Rachel Hopkins:** Given everything we have been talking about today and the public interest in a lot of that, if those sorts of calls and text messages are not included, how can we ensure that standards are upheld and the Ministerial Code is enforced?

Simon Case: That is a good question. The underpinning principles are there to answer your point. Government business is Government business however it is conducted and by whatever means of communication. Any Government business has to be handled in line with the codes, FOI, the Public Records Act and so on. These things have to be retained and declared to officials as per the code, whatever the means of communication.

Q755 **Rachel Hopkins:** The Prime Minister has said that he is going to publish text messages between himself and Mr Dyson and other business leaders in the public interest. They have not come to light just yet. When can we expect them, in the spirit of what you have just said?

Simon Case: As I understand it, Downing Street published—I think it was on Friday—a document fulfilling the Prime Minister's commitment in the House. I think it was last Friday. I will have to check.

Q756 **Rachel Hopkins:** Other senior Ministers probably should follow suit, then, if that is the case with the Prime Minister. Is it appropriate that they should make public those sorts of text messages to ensure they are



being transparent in accordance with the Ministerial Code?

Simon Case: The processes are there for the purposes of transparency. For example, the Freedom of Information Act is a way of getting hold of material relating to Government business that can be released whatever the means of communication. There are vehicles there for transparency.

Q757 **Rachel Hopkins:** Government business usually takes place with officials present and there will be a record or a note and it is covered that way. Sometimes Government business takes place over the phone or through a message and it is for Ministers to then declare subsequently. We have picked up reports that the Prime Minister still uses a personal mobile phone, despite requests from the Civil Service to make sure that it can be managed and that it is secure.

What has been your advice about this? How do you help prevent inappropriate requests or lobbying through personal mobile phones if officials are not present?

Simon Case: On the specific point, the Prime Minister set out his account in the House last week, including by making clear, as he is required to do, that he has to declare to officials any contact he gets through his personal phone. He set that out in the House.

The question about personal mobile phones is a good one. Communications security is important and Ministers get advice on that. For example, we regularly do sessions at Cabinet on security. The Committee will understand that by longstanding convention, I will not go into the detail of the advice my predecessors and I have given the Prime Minister.

Changing personal telephone numbers can be a bit of a red herring, if I am honest. The Prime Minister and other Ministers, like parliamentarians, need to be in touch with a large number of people—colleagues around the House, across Government and so on. I will not invite you to comment, but the reality is that most parliamentarians' telephone numbers would become quite widely known just because of how you have to do your business. The question is how you protect overall security and there are a range of measures to do that.

As for the question about lobbying, the process is well established. If it is Government business and an official is not there, record it in the moment and, at the first opportunity, a Minister should be declaring it to their officials to make sure it is recorded.

Q758 **Rachel Hopkins:** I am pleased to hear you say about declaring at the first opportunity because we know through other recent issues—I am thinking of Westferry—that some of these had to be teased out because it was not at the time.

A big concern—you touched on it there—about security is whether personal phones are sufficiently encrypted or are as secure as



Government-issued ministerial phones. We have seen in other cases people have hacked into significant people's phones and have used that as a means to blackmail or embarrass. Can we be assured? What is to stop our Prime Minister being vulnerable to inappropriate lobbying or blackmailing in that respect if he is using a personal mobile phone?

Simon Case: We put security packages around all the communications that Ministers have by whatever means. The levels of encryption and standards of security on everybody's mobile phones are increasing all of the time because that is in the interests of the manufacturers. Customers all around the world demand it now. Everybody needs to follow basic cyber-security advice about how to protect their devices. It is the same advice to the public as it is to Ministers, to be honest.

Government-issued IT is, in most instances, slightly more secure. The highly classified stuff is much more secure, but the levels of encryption and security on most people's mobile phones is pretty good. If you use it in the right way—two-factor authentication and all that sort of stuff, and standard cyber-security advice—you can end up with very secure devices in everybody's hands or pockets.

Q759 **Rachel Hopkins:** A final point around people doing business in this whole new way—messages, mobile phones and stuff, as you were saying. Is the Ministerial Code suitably robust in relation to all of these more technological communication methods? Does it cover it sufficiently?

Simon Case: I think I come back to my point before, which is the principles are there that underpin this: if it is Government business, it is Government business and needs to be declared and recorded in the proper ways, and that is set out in the Ministerial Code. I cannot think that technology fundamentally changes the requirements. It is the means of communication that is changing, rather than the fundamentals of needing to maintain recording of Government business.

Chair: We are going to move on now to look at the Greensill episode, and to open questions on that is my colleague, David Jones.

Q760 **Mr Jones:** Mr Case, was Lex Greensill employed as a special adviser at Downing Street?

Simon Case: Before I go on, the answer to your question is he was not employed as a special adviser but, if I may say at the outset, we know the Committee is looking into this and we are here to help as much as we can on that. As you know, the PM set up the Boardman review, so what we will do today is give you as many of the facts as we have. Some of those we have only been able to have a cursory look at in terms of handing it over to Mr Boardman, so we will not be able to give you all of the answers. We will give you what we have and Mr Boardman will—Darren, do you want to go through—

Q761 **Chair:** You have given a clear answer to Mr Jones's first question that says that Mr Greensill was not employed as a special adviser at Downing



HOUSE OF COMMONS

Street. Is that correct?

Simon Case: Correct.

Chair: Right. Mr Jones, next question.

Q762 **Mr Jones:** I will just remark in passing that, famously, Mr Greensill's business card announced that he was a senior adviser at the Prime Minister's office, so what was the nature of his role?

Darren Tierney: I am happy to pick that up, Chair, if that is okay. As we said he was not a special adviser. His exact status is unclear and that is one of the things that we have asked Nigel Boardman to look into. He was appointed as an unpaid adviser, on supply chain finance, in January 2012. He did that until 2015. In 2013 he also became a Crown representative, which lasted until 2016 when he left the Cabinet Office. His status as an adviser is unclear on what basis that is, and that is something that we have asked Nigel Boardman to specifically look into.

Q763 **Mr Jones:** Was he present in Downing Street pursuant to the terms of any contract?

Darren Tierney: We have been unable to find a contract. What we have found so far are an appointment letter and then subsequent reappointment letters, which set out some conditions on his appointment—things like the Official Secrets Act, confidentiality, using the Business Appointment Rules when he leaves—but so far we have been unable to identify the contract.

Q764 **Mr Jones:** Who signed the appointment letter?

Darren Tierney: The initial appointment letter was signed by a director in the Efficiency and Reform Group of the Cabinet Office. We have had some evidence that the appointment was signed off by the then Minister for the Cabinet Office and the then Permanent Secretary of the Cabinet Office.

Q765 **Mr Jones:** That would be Sir John Manzoni?

Darren Tierney: No, that would have been Ian Watmore at the time and the Minister was Francis Maude.

Q766 **Chair:** I am interrupting David Jones—forgive me. Mr Tierney, would you be able to publish that appointment letter or at least furnish the Committee with it?

Simon Case: I cannot think why not, but if there is a reason why not we will let you know.

Darren Tierney: Obviously we have given all this to Nigel Boardman as well.

Q767 **Mr Jones:** Presumably Mr Greensill had a pass to work at No. 10?



HOUSE OF COMMONS

Darren Tierney: He did. He was given a pass and IT for the Cabinet Office and a pass and IT subsequently for No. 10.

Q768 **Mr Jones:** Was he subject to the same level of security vetting and clearance as other members of staff who work at Downing Street?

Darren Tierney: He did have the appropriate level of security clearance. It was not there immediately on his appointment. It happened several months later, but that is not entirely unusual.

Simon Case: Are we clear whether he worked in Downing Street? The fact that he had a business card does not necessarily mean he was working from Downing Street. I don't think he did.

Q769 **Chair:** He had access to Downing Street.

Simon Case: Yes.

Q770 **Chair:** What was he doing when he was there? Just popping in for a cup of tea—what was he doing?

Simon Case: We do not know. We were not involved at the time. This is something that—

Chair: No indeed. It is the purpose of the investigation to find out. David Jones?

Q771 **Mr Jones:** I find it extraordinary that you come before this Committee not really knowing anything about the terms upon which Mr Greensill managed to be installed in Downing Street, which members of the Committee may find rather alarming.

Simon Case: As Darren set out the—

Q772 **Chair:** Mr Case, if the Committee is alarmed, are you alarmed by this?

Simon Case: Yes.

Q773 **Mr Jones:** It was approved by a Minister and by the Permanent Secretary of the Cabinet Office?

Darren Tierney: The initial appointment, which was for three months, was approved by the Minister and the Permanent Secretary. We have found no evidence that subsequent extensions to that appointment were approved by Ministers, but that is one of the things, again, that we have asked Nigel Boardman to look into.

Q774 **Mr Jones:** Do you know the background to his introduction to Downing Street? Do you know why it was thought that it would be a good idea for him to work there?

Darren Tierney: I think we are reasonably clear that Jeremy Heywood was seeking to bring Lex Greensill in to work in the Cabinet Office—to bring his expertise of supply chain finance to bear to some policy issues that were around at the time.



HOUSE OF COMMONS

Q775 **Mr Jones:** Jeremy Heywood had worked with Lex Greensill in the private sector, is that right?

Darren Tierney: Yes, they both worked together. I think it was at Morgan Stanley.

Q776 **Mr Jones:** Is it fair to assume, therefore, that it was Jeremy Heywood's introduction that led to Mr Greensill being installed in Downing Street?

Darren Tierney: I think so, although as I said, Nigel Boardman is looking into the precise circumstances of his access to Downing Street.

Q777 **Chair:** Forgive me again, Mr Jones. You said it was Francis Maude and Ian Watmore who made the original three-month appointment, yet he was there for some years. Who signed off on the reappointment?

Darren Tierney: That is unclear.

Q778 **Chair:** Is there no documentation or a letter that says, "After three months you can carry on for another three months doing whatever it is you are doing"?

Darren Tierney: We have found further letters of appointment, either from HR teams or his then line management changed from one bit of the Cabinet Office to another. What we have not found is who authorised above those appointment letters.

Q779 **Chair:** You made clear that the first part of the oversight was in the Cabinet Office. Which was the second part?

Darren Tierney: It was then the Economic and Domestic Affairs Secretariat. It moved from ERG to EDS.

Q780 **Chair:** Who headed that?

Darren Tierney: The person named as line manager there was Clare Sumner.

Q781 **Chair:** Did she not sign it off? Was it not for a Minister to sign off, given that it had been done by a Minister in the first place?

Darren Tierney: Again I think that is unclear.

Chair: Forgive me, Mr Jones, for interrupting you.

Q782 **Mr Jones:** That is all right, Chair. To be clear, Mr Greensill was in the business of selling services to HM Government, wasn't he?

Darren Tierney: I am not sure I can answer that. At that point he had only just set up his company.

Q783 **Mr Jones:** That is how it transpired, isn't it? That he was selling services to the Government?

Darren Tierney: Again, we have asked Nigel Boardman to look into the details here, but my understanding is Greensill Capital did not have any contracts with Government until much later on, until I think 2018.



HOUSE OF COMMONS

Q784 **Mr Jones:** Is it fair to say that he would have been in a position to acquire information during his period working at Downing Street? He would have acquired information that would have been of assistance to him in deciding the basis upon which he would offer commercial services to the Government?

Darren Tierney: I think it is exactly that potential conflict of interest that we have asked Nigel Boardman to look at.

Q785 **Mr Jones:** You say "potential conflict of interest", but does it not look like a screaming, glaring conflict of interest?

Darren Tierney: Yes, it does.

Q786 **Mr Jones:** Does it not look appalling in competence on the part of those senior officials and Ministers who recommended that he be installed in Downing Street?

Darren Tierney: What we have not seen is the evidence of how the conflict was to be managed, and that is what we have asked Nigel Boardman to look into.

Q787 **Chair:** Mr Case, on one of the specific areas of alleged conflicts of interest with Mr Greensill, are you aware that Greensill's contract with the NHS was open to competitive tender?

Simon Case: I am not aware. I do not have that detail. Sorry, it is not something I am familiar with.

Q788 **Chair:** I assume, therefore, that the Boardman review will be looking at that?

Simon Case: Yes, of course it will. All of these questions are ones that the Prime Minister has asked Mr Boardman to look at.

Q789 **John Stevenson:** Mr Case, are there people working in government who are not paid by Government and, if so, how many are there?

Simon Case: Are there people working in government who are not paid by Government—so, unpaid advisers? Yes, there will be people who have unpaid adviser status, I would think.

Q790 **John Stevenson:** Do you have any indication of how many there are?

Simon Case: I am afraid I don't know. It would be something we would very happily look into and come back on. I am not aware—

Q791 **John Stevenson:** You will confirm to the Committee how many there are?

Simon Case: As much as we can determine. I don't think there is anybody who will be in a similar position to Lex Greensill, but there may be other unpaid advisers in government and we can set those out.

Q792 **John Stevenson:** You will confirm to the Committee.



Simon Case: Yes.

Q793 **John Stevenson:** Thank you. Are these individuals subject to the same regulatory regime as those who are employed and paid by the Civil Service? Are they covered by the same regulatory regime?

Darren Tierney: If they are employed as civil servants they will be, so Ministers can make direct appointments and they will be civil servants and will be subject to the code in the normal way.

Q794 **John Stevenson:** If they are not civil servants they are not covered by the same regime, is that correct?

Darren Tierney: If they are not civil servants, so if they are a special adviser, they have their own code. If they sit on the board of a Department or are a non-executive, there is a separate code that governs their conduct as well.

Q795 **John Stevenson:** Would they be included in the register of special advisers?

Darren Tierney: No, to be a special adviser it is quite a distinct process. They have a particular legal status under the Constitutional Reform and Governance Act, and we keep a register of who the special advisers are.

Q796 **John Stevenson:** How then can we find out exactly who they are? In what list are they published?

Darren Tierney: I am not sure that there is a separate list for direct appointments.

Q797 **John Stevenson:** Potentially, there are unpaid advisers to Government that we have absolutely no idea about being able to ascertain who they are?

Darren Tierney: Potentially, yes, but as the Cabinet Secretary said I do not imagine you are going to find very many of them.

Q798 **John Stevenson:** If there are only two or three they could be influencing Government in a way that I think we should be aware of. Would you agree?

Simon Case: They are very good questions and I would like to take them away and come back with the assurance that we can give you, or if we cannot give you the assurance, then what we are going to do about it.

Q799 **John Stevenson:** Right, so you will give us a list of who they are and how we can get a published list of individuals. Final question: what do you do with people who are seconded into government? Are they treated like contractors, or how are they dealt with?

Darren Tierney: It will depend on the basis on which they have been seconded. Most of them will be subject to ongoing duties of confidentiality and the like. It will depend on the specific circumstances.



HOUSE OF COMMONS

Q800 **John Stevenson:** Again, this Committee could get a list of those who are seconded into Government as well? Quite often they are seconded on a temporary basis.

Simon Case: I suspect there will be a large number of secondments into the Civil Service who will be there under the same status as civil servants. We will give you the best account that we can.

Q801 **Lloyd Russell-Moyle:** Do you think it is acceptable that there are effectively some people advising Government—however small numbers—that there is no record of that you can easily get to and who seem to be covered by no guidelines and standards?

Simon Case: I think the point is we do not have that list, but we do require—

Q802 **Lloyd Russell-Moyle:** I do not care about the list. I want to know whether you think it is acceptable that that is the practice that has proliferated.

Simon Case: I do not believe that it has proliferated. A clear obligation—

Q803 **Lloyd Russell-Moyle:** Do you think it is acceptable that one or two cases have happened?

Simon Case: For me, I cannot explain the Greensill case.

Q804 **Lloyd Russell-Moyle:** I am not asking you to explain. I am asking you whether you think it is an acceptable standard of practice. You are the Head of the Civil Service.

Simon Case: I don't think it is acceptable. I don't believe it is a common practice. I certainly don't think there is anything happening at the moment that is the equivalent. Of course, that is why we ask Permanent Secretaries and others who are in charge of Departments and senior officials. All of these responsibilities are delegated, of course, down to them.

Q805 **Lloyd Russell-Moyle:** Will you be asking your Permanent Secretaries to ensure that this does not happen in the future?

Simon Case: Yes, of course. That obligation is already clear on them and we have discussed it at length in the context of the Greensill revelations.

Q806 **Lloyd Russell-Moyle:** When was that obligation made clear to them?

Simon Case: The sound management of their Departments is set out in the Civil Service management code and *Managing Public Money*. It is all already clear, but obviously we have been discussing the implications and consequences.

Q807 **Lloyd Russell-Moyle:** They are unpaid advisers, so it is not about managing public money, is it?



Simon Case: No, but the principles around public money under the Civil Service management code are all there and they would apply in terms of how you oversee these appointments and manage them.

Q808 **Lloyd Russell-Moyle:** If you say that it was always clear that these appointments were unacceptable, do you believe that previous Permanent Secretaries and Cabinet Secretaries have dropped the ball and done things that were unacceptable or allowed unacceptable things to happen?

Simon Case: There are things that happened under Greensill that we at the moment cannot explain. It looks like there were conflicts and we are not clear how they were managed.

Q809 **Lloyd Russell-Moyle:** I am not talking about conflicts. I am talking about the appointment of unpaid advisers that are not recorded anywhere within the system.

Simon Case: So agreed, certainly from our cursory look—of course Nigel Boardman will go into the detail—we cannot see the evidence that you are looking for. We have not been able to see it. That does not look right, but equally Mr Boardman will go through this in detail and there may be things that he can discover and bring forward that show these things were there, but we have not seen them at the moment.

Lloyd Russell-Moyle: Let's hope that something will come to light. Thank you.

Q810 **Chair:** Thank you very much. Mr Case, thank you for writing to me earlier today with the outcome of the audit you conducted into Civil Service second jobs. Could you give me a very brief overview and express any concerns that you have as a result of that audit?

Simon Case: Yes, of course. As I set out in the letter, there are no instances of senior civil servants holding outside interests that conflict with or are considered to conflict with their roles or obligations under the code. There are fewer than 100 senior civil servants who hold paid employment outside the public sector alongside their Civil Service role, but these are roles like tutoring, yoga instructors and sports instructors. Those have all been considered by Permanent Secretaries and concluded that there is no conflict with obligations under the code.

In terms of conclusions, as I set out in the letter, there are some things that we need to tighten up. I think we need to get greater consistency across Departments about how outside interests are managed. There is a range of things that I set out in my letter to you about declarations being done on at least an annual basis including nil returns, declaring as you go. Then I think the really important steps are the assurance around that, so asking departmental audit and risk committees to provide assurance, setting more out in annual report accounts and providing annual returns to the Cabinet Office.



HOUSE OF COMMONS

I am also looking at any new structures that we need to monitor the overall position and look at any particular cases. Before doing that I am waiting for Nigel Boardman to conclude his review, because those will be the sorts of recommendations I want to incorporate.

Q811 Chair: In terms of those structures, of course, the key one is ACOBA—the Advisory Committee on Business Appointments. Have you made the same observation that I have: senior civil servants are perhaps given titles such as director, rather than more senior titles, so that they avoid the scrutiny of ACOBA when they come to leave their office?

Simon Case: I am not sure of the instances you are talking about, but I am very happy to look at any particular instances.

Q812 Chair: For example, they would be paid far more on the pay scale. Their responsibilities would be more extensive than the run of the mill director role, and yet they have been given that title because it seems to me to be the title that matters if a senior civil servant is considered by ACOBA rather than their remit and previous remuneration?

Simon Case: Apologies, I did not catch the point the first time around. Yes, ACOBA is determined by a grade. It is Directors General and Permanent Secretaries who have to go through ACOBA. Of course, exactly the same principles have to be applied, but they are done at a departmental level, so instead of going to ACOBA, it is Permanent Secretaries who have to apply the same rules to those below Director General.

Q813 Chair: They are quite senior roles with quite extensive responsibilities and, indeed, the cases for conflict of interest are sometimes quite apparent. The one advantage, I suppose, of the ACOBA process is at least the nicely-worded letters are put in the public domain. There is no such public scrutiny for those decisions made by Permanent Secretaries, is there?

Simon Case: That is a good point. I think Lord Pickles may have mentioned to the Committee that we have been working with ACOBA for the last few months on some reforms that they have made. We will need to now incorporate conclusions from the Boardman process in that. I think this is an area where reform is required, but we need to move in an informed way.

Chair: Can I check on my colleague, John Stevenson? He indicated he wished to come in on a supplementary question.

John Stevenson: I am fine, thank you, Chair.

Chair: In which case we will go to David Jones.

Q814 Mr Jones: Mr Case, is it right that Mr Bill Crothers was a senior civil servant who was permitted to work simultaneously with Greensill?

Simon Case: Yes, that is correct.



HOUSE OF COMMONS

Q815 **Mr Jones:** What was his role in the Civil Service at that time?

Simon Case: Chief Procurement Officer.

Q816 **Mr Jones:** The position is that the Government's Chief Procurement Officer was permitted to work simultaneously with an organisation whose business was selling services to the Government. Is that correct?

Simon Case: As we understand it that is what it looked like, which I think you will agree looked like a pretty extraordinary set of circumstances.

Q817 **Mr Jones:** It does look extraordinary and what I would like to know is who approved this arrangement?

Simon Case: A more detailed question and one for Nigel Boardman, but our understanding is that it was the then Cabinet Secretary and Chief Executive of the Civil Service who agreed this.

Q818 **Mr Jones:** Who was?

Simon Case: The Cabinet Secretary at the time would have been Jeremy Heywood, and John Manzoni.

Q819 **Mr Jones:** Sir Jeremy Heywood and Sir John Manzoni approved this. Did this require any ministerial approval?

Darren Tierney: I don't think it did.

Q820 **Mr Jones:** Mr Case, you mentioned it looks pretty extraordinary. That is I think possibly an understatement, given the roles that Mr Crothers was performing in the Civil Service and simultaneously performing within Greensill. You clearly have carried out some research into this. Was this approved without any ministerial input at all?

Darren Tierney: That is as far as we understand it, yes.

Q821 **Mr Jones:** Is this something that is routinely done?

Simon Case: When this came up, I think the phrase was "a source of acute concern" and I think the Prime Minister referred to this in the House two or three weeks ago in Prime Minister's Questions, that he and I felt. I personally have never heard of anything like it before and, having talked to current and former colleagues, no one else seems to have seen anything quite like it.

Q822 **Mr Jones:** Have you examined the papers surrounding the approval of Mr Crothers to work at Greensill?

Simon Case: I am going to have to let Mr Tierney answer this as he has been going into the details of these ones.

Darren Tierney: We have seen some e-mail exchanges, which look like they confirm the appointment but, as we keep saying, we have asked



HOUSE OF COMMONS

Nigel Boardman to look in more detail at the process and the decision-making here.

Q823 **Mr Jones:** Yes, I understand that Mr Boardman is conducting an inquiry but so is this Committee. I think it is very important that we have as much information as possible as soon as possible. In the light of the papers that you have consulted, can you find any good reason being set out for this arrangement being put in place?

Darren Tierney: There were two reasons. One is that at the time Greensill Capital did not have any public sector work. I cannot remember now what the second was.

Q824 **Mr Jones:** Why should it be a matter of concern to senior officials that Greensill Capital did not have any public sector work?

Darren Tierney: I cannot answer that. I wasn't involved in the decision making, but that was one of the factors.

Q825 **Mr Jones:** It seems an extraordinary point to make. It looks very much as though senior officials were putting in place an arrangement that would make it easier for Greensill Capital to obtain public sector work.

Simon Case: As you said, we cannot explain how these decisions were taken or why. That is why they are of acute concern. We recognise the Committee is conducting its own inquiry into this and we will help further where we can. At our first look we cannot explain many of these things. It does not look appropriate, but Nigel Boardman has been commissioned by the Prime Minister and this is one of the many things he will have to look into more, to tell us whether there are things we have not spotted. He will, of course, be able to interview people and will have more time than we have had to look into these things.

Q826 **Mr Jones:** Mr Crothers then went on to work permanently for Greensill. Is that right?

Darren Tierney: I think he was still working for them until the company collapsed, yes.

Q827 **Mr Jones:** He did not apply for approval from ACOBA?

Darren Tierney: He did not for the initial appointment because that was managed internally, because he was still in the Civil Service. He did not seek approval when his role changed from being a board adviser to being a director of Greensill. The rules state that if the role you have gone into changes substantially—I think that is the phrase—you ought to seek approval from ACOBA and he did not do that.

Q828 **Mr Jones:** Would you not agree with me that that is deplorable?

Darren Tierney: As I say, the rules are clear that if the role changes substantially, you are to seek approval from ACOBA.

Q829 **Karin Smyth:** Following up on Mr Jones's question there about the



HOUSE OF COMMONS

company seeking to be involved in the public sector, one of the issues with regards to Greensill is their supply chain finance model, particularly within the national health service, and using that as a reputational basis. It is hard to distinguish the financial gain to the company in the short term. Is the matter of the company using its access into the public sector to use the reputation of our public sector something that you think Mr Boardman should be looking at?

Simon Case: It is one of the things that he will be looking at.

Q830 **John McDonnell:** Lord Maude, as Minister for the Cabinet Office, was involved in the encouragement of the recruitment of people like Crothers as part of his plan to overhaul the Government procurement process and Lord Maude subsequently hired him. He has confirmed also that he has consulted with Crothers about procurement since Crothers joined Greensill, yet Lord Maude has been recruited by the current Government to conduct a review of the Cabinet Office. Can you tell us how that review is now going? Given the role that Lord Maude has played in all of this, is he the most appropriate person to be undertaking this review?

Simon Case: On the detail of the review, if I may I will ask Alex Chisholm to update the Committee because he is overseeing it. What I can tell you is that I know there was a very rigorous process of managing conflict around Lord Maude's appointment to conduct this review. As for his appropriateness, I think his long experience in government, including in the Cabinet Office, given the areas that he was looking at, which I think was on functional reform, is why he was judged a sensible person by Ministers to bring in to conduct the review. It was his experience.

Q831 **Tom Randall:** There are non-Civil Service roles, such as departmental non-executives and Crown representatives and, as I understand it, they are recruited externally on the basis of their experience and expertise. Can you tell me how any potential conflicts of interest are managed that might arise from that arrangement?

Darren Tierney: They are two different things. For non-executives, when they are recruited, they declare their conflicts of interest to the Permanent Secretary. Then they are published as part of the departmental board returns, if they sit on departmental boards. Crown representatives declare their conflicts every six months and on an ongoing basis if something comes up.

Q832 **Tom Randall:** In the light of everything we have heard so far, do you think those processes are robust?

Darren Tierney: Yes, I think they are.

Q833 **Tom Randall:** We have talked about Lex Greensill and Bill Crothers, but there are others such as Lord Hogan-Howe, a Cabinet Office non-executive, and David Brierwood, a Crown representative who also worked for Greensill or Greensill subsidiaries. Were these not deemed conflicts of interest and if not why not?



Darren Tierney: I do not know the answer to either of those, but Nigel Boardman is going to be looking into the Greensill aspects of that particularly.

Simon Case: I am afraid I do not know the details. There is a process I know in relation to Cabinet Office non-executives, but as I say all the Greensill aspects will be something that Mr Boardman will look into.

Q834 **Tom Randall:** Do you think Mr Boardman should look at the other aspects for these kinds of appointments as well?

Simon Case: Yes. One of the things that we have asked Mr Boardman to do is not just to tell us precisely what happened in relation to the specific Greensill aspects, but to draw out the broader lessons for us, to make sure that our current processes have been approved. For example, on the Crown representatives, I think there was a review in 2015 that improved the process around management of conflict. Anything that Mr Boardman tells us that is relevant that we need to amend we will.

Q835 **Jackie Doyle-Price:** The culture of Whitehall and the Civil Service has been historically based on political impartiality, the gentleman amateur and an ethos of public service. What we have witnessed in the last two decades is an increase in politicisation by the introduction of ever more SpADs who historically were meant to be the eyes and ears of Ministers but seem to have evolved into somewhat more than that. At the same time, in the last 10 years, there has been a desire by Ministers to bring in some elements of commercial discipline into our Civil Service, which is really around the examples we are looking at today. Do you think that those two developments have fundamentally compromised the ethos of our Civil Service as our system is currently arranged around?

Simon Case: It is a very important question. One of the things that I think all members of the Committee would agree, from the work that you do, is it is vital that we bring in expertise and skills from outside into government to improve the effectiveness of government and, equally, we create opportunities for civil servants to go outside to develop and then bring back their skills. How that is done is vital and needs to be done in a way that retains public confidence and maintains the integrity, as we have been discussing.

I think the principle of more commercial awareness and expertise is a good thing. That helps to deliver value for the taxpayer and brings in skills that the Civil Service does not naturally have. I think the challenge is—the revelations around Greensill bring it sharply home—that if we do not do that in the right way, we cause ourselves problems.

It is an interesting question about what that does to the ethos of the Civil Service. I think it adds skills and expertise, and adds things to the ethos. A number of mid-career arrivals to the Civil Service have raised this with me since the Greensill affair: we need to look at what we are doing to



support those people when they come in to understand and adopt the ethos of the Civil Service, as you describe it.

When you come in and you grow up through it, and take training courses and what-have-you, it can be imbued, but that important ethos that you describe, which is basically underpinned by the principles in public life, is something that I think, as people come in, we learn, but one of the reflections that people have shared with me is that we need to help them better to understand the underpinning ethos.

Q836 Jackie Doyle-Price: One of the suggestions that I would make for you to reflect on—and I expect Ministers to do the same—would be that on the behaviours we expect of people, it is essentially a voluntary code of practice. I would love to believe that we could continue to rely on that, but I am really depressed by what I am hearing and I am thinking that we cannot. You mentioned the Nolan principles—the principles of public life—which frankly as a code of behaviour capture everything. I bet if you asked Ministers and senior civil servants what they were they would not be able to tell you.

Essentially, the way in which we transmit these values is very benign. As a suggestion for you to take away and that I will leave out there, perhaps the Cabinet Office, as the guardian of our machinery of government, could think about how we could reboot the expectation of those principles.

Moving on to another example, we have heard about Lord Agnew and the Secretary of State for Health, Matt Hancock, who have been found to have shares in companies that could be direct beneficiaries of the policies of their own Departments. Could you explain to us how those have been arrived at, as to whether that would constitute a conflict of interest?

Darren Tierney: The process is that when Ministers are appointed they work with our Permanent Secretaries to declare all relevant interests. That includes them and close family members or spouses. Permanent Secretaries will then advise on the management. If there are conflicts, they will advise on how best to manage them. Then the Independent Adviser on Ministers' Interests will also advise on how best to mitigate, if there are genuine conflicts. That might involve disposal of the shares or it might involve a blind trust or something like that.

Q837 Jackie Doyle-Price: In those two cases, so the case of Lord Agnew and the Secretary of State for Health, presumably they have been found not to constitute conflicts of interest?

Darren Tierney: I am afraid I do not know on the specifics.

Q838 Chair: Do you know the specifics, Mr Case?

Simon Case: I don't. They will have been through the process, but the details I am afraid I do not know either.

Q839 Jackie Doyle-Price: It appears that, in the case of Lord Agnew, there



HOUSE OF COMMONS

has been some treatment of his shareholdings. I guess as well it comes back to this thing about the essentially voluntary principle of these things. Frankly, I am somebody who questions everything I do. I know what standards of behaviour I expect of myself and I expect to see them everywhere else.

When somebody assumes an interest after they have taken a job—there appears to be a level of scrutiny once somebody takes a position, but they are regulating their own behaviour subsequently—so if somebody was to pick up a business interest or their family was to pick up a business interest, who would they be expected to report that to? Would that be their Permanent Secretary or to the Propriety and Ethics Department at the Cabinet Office?

Darren Tierney: To their Permanent Secretary, first and foremost, and if it needed further advice on top of that, they would come to me and my team or the independent adviser.

Q840 **Jackie Doyle-Price:** In the case of both of these Ministers, that should have been reviewed by the Permanent Secretary in concert with you if appropriate, really.

Darren Tierney: Yes, and the duty is on Ministers to keep their conflicts updated.

Q841 **Chair:** Can I make this observation and this is done sincerely? Both of those examples that have been raised are topical, to say the least, in the news. I think it could have been guessed that we would ask questions on this. I appreciate the need for confidentiality in individual cases, and in particular for Mr Tierney's role, but I am surprised that you cannot furnish us with greater detail and answers on those two specifics. Mr Case?

Simon Case: We will follow up with more detail but apologies. As you say, it is due to confidentiality around individual cases, but we are very happy to set out more as required.

Chair: Rather than having the discourse through the press continually, we would quite like to imagine ourselves as a Select Committee capable of such things as well. Karin Smyth?

Q842 **Karin Smyth:** If we go back to Mr Hancock, who joined in 2018-19—I appreciate, Mr Case, it is before your time—he has described himself as following the process. I think we are a bit bereft of exactly how he has followed the process, or indeed what process. What you have just outlined to Jackie Doyle-Price is that the duty is upon the Minister, so Mr Hancock should have declared the interest in his family's firm before they became listed on the NHS contractor register. Did he ask that question or did he assume that he did not need to? I think, from what you have just said, that that question he would have been asked of the Permanent Secretary at the time, and the Permanent Secretary may well have come through to you for clarification. Is that right?



Simon Case: Neither of us was in post at the time.

Q843 **Karin Smyth:** No, I am asking about the process. Is that the right process we would expect to be able to see?

Simon Case: Apologies. Yes, that is correct.

Q844 **Karin Smyth:** So can we be furnished—again, it is up to the Chair. This is a very obvious question, given the publicity particularly, and I am really quite shocked that a family interest in a contracting firm to the NHS is not declared and that, given the public interest in that, you have not come to this Committee prepared with the knowledge. Could you then go back to the Department of Health and find out the answer to that question, and let us know or instruct them to let us know?

Simon Case: Gladly.

Chair: Thank you very much. We will go to my colleague, David Mundell, who has been waiting very patiently.

Q845 **David Mundell:** Mr Case, the last time that you appeared before this Committee I asked you if you were the line manager of the Permanent Secretary of the Scottish Government. At that stage you were not sure, but you subsequently wrote to the Committee to confirm that you were going to be the line manager of the Permanent Secretary. In practical terms, what does being the line manager of the Permanent Secretary of the Scottish Government involve?

Simon Case: It is similar in many ways to line management for colleagues working for the UK Government, but it is different in other aspects. The Permanent Secretaries for Scotland and Wales would be agreed with the First Ministers and myself. Then I would, as with other Permanent Secretaries, line manage with monthly meetings to go through performance issues and so on.

In relation to Permanent Secretaries in Scotland and Wales it is different. Because they work for the Scottish or Welsh Government, I have less day-to-day insight into the roles that they are performing. I do not see them interacting with their Ministers directly, for example, in the way that I do for other Permanent Secretaries.

Of course, they are still part of the Permanent Secretary community, so you see the wider contribution they make to the Civil Service.

Q846 **David Mundell:** Are you familiar with the evidence that was given in the civil proceedings raised against the Scottish Government by the former First Minister Mr Alex Salmond, the criminal case that was pursued by the Crown Office in Scotland against Mr Salmond, the Scottish Parliament's inquiry into the handling of harassment cases by the Scottish Government, and the review subsequently conducted by Laura Dunlop QC?

Simon Case: Yes.



HOUSE OF COMMONS

Q847 **David Mundell:** On the basis of that information, are you satisfied with the Permanent Secretary's performance? It is a very simple question.

Simon Case: Sorry, there was no complexity. I was simply drawing breath. The Permanent Secretary, of course, has been very clear about the failings and the mistakes made, and has apologised for those on many occasions. I have to say that that is typical of Lesley and the sort of leader that she is. That she is open about the mistakes she has made. That is the sort of behaviour that we expect.

On the broader question, the Scottish Government have not set out their response yet, including the steps that Lesley and her Civil Service colleagues will take in response to the Holyrood inquiry and the Dunlop report.

Q848 **David Mundell:** It is one thing to be open about making mistakes, but it is another thing for somebody to take responsibility for those mistakes. Do you share the widely-held view in Scotland that it is surprising that nobody has taken responsibility for the mistakes, which have been catalogued in the various places that I have mentioned previously, in relation to a major civil court case that the Scottish Government lost and in relation to the way in which many women who have made harassment complaints felt let down?

Simon Case: From what I have seen, Lesley has taken responsibility for those. She has been clear about the mistakes that were made. She has apologised especially to the women involved. On this sort of question about responsibility, of course the First Minister retains confidence in Lesley and has made that publicly clear. That is an important guide for me about how the overseeing Minister feels about the performance of a Permanent Secretary.

Q849 **David Mundell:** To expand on that, that is just a guide? Ultimately, it would be for you to determine whether or not the Permanent Secretary, or whoever it was, was satisfactory, not the First Minister?

Simon Case: The confidence, feedback and the report from the First Minister in this case would be a really important part of taking that judgment to me as line management. Then there would be wider factors as well, in terms of what I see in terms of contribution to broader Civil Service leadership. The feedback from and the ongoing confidence of the First Minister or Secretary of State would be a very important thing that I would take into account in assessing performance. It is not the only thing but it is important.

Q850 **David Mundell:** It would not be definitive?

Simon Case: It would be very unusual circumstances that you considered a Permanent Secretary's performance to be below standard if the Secretary of State or the First Minister was displaying full confidence and giving strong feedback on performance.



HOUSE OF COMMONS

Q851 **David Mundell:** What do you see your role is in terms now of giving confidence that these issues have been resolved, not least to the civil servants for whom you are responsible who work within the Scottish Government and who may subsequently have the need to report harassment?

Simon Case: This is a really important question. I have been discussing it with Lesley. I think the first stage in this is that the Scottish Government and the Civil Service in Scotland have not been able to set out their full response because of the election campaign. I know that they are keen to do so as soon as the election campaign is over. I am clear that there is a strong determination by the Civil Service in Scotland to learn the lessons of the Holyrood inquiry/Dunlop, and to make the changes to give people the confidence that you are talking about.

Q852 **David Mundell:** Do you see yourself and senior civil servants within Whitehall having a role in supporting that process?

Simon Case: Yes, supporting and also drawing lessons from it ourselves. It is a UK Civil Service. We have to learn from each other. It is not just all one way. It is talking through with Lesley and senior colleagues what they have seen, what they have learned, how we can support them in doing that and vice-versa. I think there are things that we should look at and reflect on too.

Q853 **Jackie Doyle-Price:** Given that much of what we have been talking about is about behaviours, perhaps one tool that could be used to reassert what behaviours we expect of Ministers, their advisers and their civil servants would be a revision to the Cabinet Manual. Are there any plans to revise it?

Simon Case: There is nothing formally planned but we are looking closely at this. There is a case for it, but not one that we have fully developed yet. There are obvious changes like leaving the EU. There are very recent developments like the Ministerial and other Maternity Allowances Act that are not covered. As I say, there is nothing formally in train, but it is something that we will reflect on. The Lords Constitution Committee is looking at this question and we will want to take into account its reflections. If we begin this process, it is something we will want to build consensus around, so views of parliamentarians will be important on this.

Q854 **Jackie Doyle-Price:** There was an issue that came up with the deliberations in the Joint Committee on the Fixed-term Parliaments Act because, of course, the current Act was largely written as a result of coalition and is obviously past its sell-by date. Also, given what has happened constitutionally with respect to the Prorogation in the last year or so, and the decision to get rid of the Fixed-term Parliaments Act, we were very concerned in the Committee about the solution or principles being somewhat thin. What deliberations and what role do you play in the development of those? Those sorts of things—those principles of



behaviour—are things that should be captured somewhere, and the Cabinet Manual might not be the only way to capture them, of course, but would be a convenient way of doing it.

Simon Case: It is a good suggestion and I know that the Committee looked at this and Ministers are going to respond to the Committee on these principles. As you say, you described them as “thin”. Of course, they were drawn as much as they could from the pre-existing modernised version of the Lascelles principles, as they were originally called. You cannot account for every scenario with these principles. The point that you are making about needing to update the Cabinet Manual, assuming that the Fixed-term Parliaments Act is repealed, is a point well made. It is for Parliament to decide that.

Q855 Lloyd Russell-Moyle: The Cabinet Manual seems to need to be updated. The register of ministerial interests is delayed in being published. The ministerial responsibility list was delayed by six months from being published. We have a round of inquiries that you say are ongoing. There seems to be a lot of treading water but no action—no outputs—on any of these things. Is there a problem with capacity in your team to get things done?

Simon Case: Mr Tierney can give a view. It is a hardworking and hard-pressed team. They are working incredibly hard and there are a great number of demands on them. I am sure, once Mr Tierney has been in for a short while, he will let me know if he believes he requires more resources to fulfil this range of functions.

Darren Tierney: I certainly will.

Q856 Lloyd Russell-Moyle: You have been in now for over six months and a lot of these things have been delayed under your watch. Why are there these substantial delays in terms of updating the Cabinet Manual but, also, in terms of publishing the Ministers’ register of interest?

Simon Case: The register of ministerial interests is a particular feature around the timing of Sir Alex’s departure and the time it has taken to get a replacement in. On the wider pressures, as you will appreciate, we have been through extraordinary times—we are still going through them—and the Cabinet Office has particularly been at the centre of the Whitehall organisation of the Covid response and of managing EU exit, and those things have put pressures on the whole Department. I think you will understand why. As we move beyond those immediate pressures, it may well make sense to give Mr Tierney more resource, and I will take his advice on that once he has made his assessment.

Q857 Lloyd Russell-Moyle: You have come here today. You have not been able to answer most of the questions we have asked in the first section, and you claim there is an ongoing inquiry. You were not able to answer any of the questions on how the Prime Minister financed the refurbishment, and you were not able to answer most of the questions on how staff or non-paid advisers were appointed. Do you feel like you have



been put out to dry by coming, or being sent to us, without any briefing?

Simon Case: I am not sure I would accept that description. We come here and we do our best to answer the questions that we can based on—
[*Interruption.*] I am sorry?

Q858 **Lloyd Russell-Moyle:** You have not answered almost all of the questions. The substantive question you have been unable to answer. Is it that you did not do your homework, or has someone set you up and put you out here without giving you the information you needed?

Simon Case: As I say, we come here to answer the questions as best we can. You have asked us lots of questions about the Greensill affair. As we made clear at the outset, we have been able to do some work into the detail. We have set that out. We made clear where the limits of our knowledge are because of Nigel Boardman now being set up to review.

Q859 **Lloyd Russell-Moyle:** At one point you said to us that you did not want to say something in case it was misleading. Is it better that you say nothing, or is it better that you give us the best evidence that you have and then come back later and correct where needed? At the moment, it feels like you are verging on the saying nothing rather than saying something that might need to be corrected later.

Simon Case: I simply do not accept that. On all the Greensill things, we have given you the best information that we have from the reviews that we have been able to do. We have been clear where the limits of our knowledge are, and where Mr Boardman will have to pick up the baton and understand more. We have offered more information on sharing letters of appointment and so on and offered to follow up with the Committee where you have asked for more.

Chair: Thank you very much, Mr Russell-Moyle. Our final set of questions—thank you for your patience—is from Tom Randall.

Q860 **Tom Randall:** A slightly different and rather more macabre topic, but an important one. Last year the Prime Minister became ill and was admitted to hospital, and there were questions about what might happen in a situation where the Prime Minister was to die or become seriously incapacitated. When writing about the events of April last year, Laura Kuenssberg said that the moment of genuine crisis came when he was moved to intensive care. No one knew if the Prime Minister would make it through the night or what the plan was if he did not. Could you talk us through what the process would be in such a situation?

Simon Case: Yes, and as you say these are macabre thoughts, but it is important that we learn lessons from that episode and be clearer about establishing and recording how we would approach it. Obviously, the appointment of the Prime Minister stems from an act under the royal prerogative, exercisable only by the sovereign.

The clear convention that the sovereign calls on the leader of the largest party, or in coalition with slightly amended circumstances, is there. I will



HOUSE OF COMMONS

not tread too much into commentary on party leadership rules, but they have changed over recent decades and are much longer processes than they have been historically.

What is very clear is that, in the event of a Prime Minister dying suddenly, the conventional party processes for identifying a leader and therefore it being clear who the sovereign should call on would not work. I think the assumptions would be that what you would end up having to do is to separate out the strict processes of party leadership and the job of Prime Minister and, in effect, have an interim Prime Minister.

Of course, constitutionally, there is no such thing, but it would likely have to be a decision for Cabinet to nominate somebody who could step into the role of Prime Minister in the belief that they could fulfil that requirement and command a majority in the House. The sovereign would need to be given a rapid and clear recommendation by the Government on who to call on. By our estimation, and given the pressures of the job, we do not think you would want to leave it for more than 48 hours before identifying such a person.

Q861 Tom Randall: As Cabinet Secretary, in terms of who you would take your instructions from, it would be a case of waiting until Cabinet had met and made a decision?

Simon Case: Yes. I think it would be encouraging Cabinet to meet as soon as possible to take those decisions to ensure that the gap is as short as possible. Obviously, as part of the historical convention, the Principal Private Secretary to the Prime Minister and the Private Secretary to the Queen work together to make sure there is good order in the constitution.

The assumption is also that Cabinet would need to identify an honest broker in the room to facilitate the Cabinet discussion. One assumes that would be, for example, the Chief Whip. Therefore, the Cabinet Secretary would be working with the Chief Whip to ensure that that conversation happened in such a way that a conclusion was drawn, so that the sovereign had clear advice and, above all else, we made sure that there was a Prime Minister who protected the sovereign from getting involved in any political controversy.

Q862 Tom Randall: In terms of your own role in this process, if the Cabinet meet to decide this, what would you see your own role as? Is it just brokering or fostering that process?

Simon Case: It would largely be a political discussion, but making sure it reached a conclusion along with whoever, in effect, had had to take the chair, and working with that person. It is a complicated one for a civil servant because it is a fundamentally political act for a party to nominate an "interim" Prime Minister. It would be to keep up the pressure to make sure that was done to preserve the sovereign's Government.



HOUSE OF COMMONS

Chair: Thank you. There were very few issues for levity in our questioning today, Mr Case. The Committee is grateful to you and to Mr Tierney for coming before us this afternoon and for the time that you have spent. We are looking forward to hearing from you in due course, as soon as possible, on those various undertakings that you have made to furnish us with additional information in addition to your oral evidence this afternoon.