



Constitution Committee

Corrected oral evidence: Revision of the *Cabinet Manual*

Monday 17 May 2021

11 am

Watch the meeting

Members present: Baroness Taylor of Bolton (The Chair); Baroness Corston; Baroness Doocey; Baroness Drake; Lord Dunlop; Lord Faulks; Baroness Fookes; Lord Hennessy of Nympsfield; Lord Hope of Craighead; Lord Howarth of Newport; Lord Howell of Guildford; Lord Sherbourne of Didsbury; Baroness Suttie.

Evidence Session No. 2

Virtual Proceeding

Questions 19 - 38

Witness

I: Simon Case, Cabinet Secretary, Cabinet Office.

USE OF THE TRANSCRIPT

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

Examination of Witness

Simon Case.

Q19 **The Chair:** This is the Constitution Committee of the House of Lords. Our current inquiry is into the need for the revision of the *Cabinet Manual*, and our witness this morning is Simon Case, who is the Cabinet Secretary. Good morning to you.

Simon Case: Good morning, Chair and committee.

The Chair: Can we start with a general approach? You have been in post now for about eight months. Do you think that the existing *Cabinet Manual* is a useful document, and do you think that we need a Cabinet manual?

Simon Case: Yes, is the simple answer. It is useful to have a single reference document. It does not have everything in it. You might see it as a gateway to lots of other documents and useful practices, but it is useful to have that single reference. As you would expect, I read in preparation the evidence given by two distinguished predecessors, Lords O'Donnell and Sedwill, and I rather liked Lord Sedwill's description of a Highway Code-type approach. It is a useful guide. Not everything is there, but it is helpful to have a single reference document that pulls together all the key elements of how our weird and wonderful constitution actually operates.

The Chair: Do you think Ministers refer to it frequently? Do you refer to it frequently? Do you think Ministers are sufficiently aware of this? Is it part of their induction when they first get appointed?

Simon Case: I think so. I have had conversations with Ministers and senior officials, where people are referring to the *Cabinet Manual*. In practice, the *Cabinet Manual* comes up less in conversation than the other codes. The Ministerial Code, the Civil Service Code and the special advisers' code tend to come up more in conversation than the *Cabinet Manual*, per se, but of course many of the things are repeated in both.

My practical experience of the *Cabinet Manual* is that it tends to come to the fore in the run-up to general elections. One of the most important elements of it is chapter 2, which is about the formation of government. It is in anticipation of that that you tend to find the *Cabinet Manual* comes out most on people's desks. But, as I say, I find it referred to in a good number of conversations.

The Chair: Does it reflect how government and Ministers are working, or should it reflect how Ministers ought to be working?

Simon Case: It has to be predominantly a document of the Executive, the Prime Minister and Cabinet, which describes how government is working, or how any particular Government think that they should be working. As much as anything else, especially with Lord Hennessy on this committee, I have to be careful about getting into the depths of how

Cabinet government has operated over the decades, but a document that describes how things are working at the time is right.

There will always be an element of how things should work. It has to be an articulation of how government thinks it should be working, but, if you end up with a document that just describes an ideal that is separate from the reality, it loses its value as a document and a guide to how government does work.

Q20 Lord Dunlop: Good morning, Cabinet Secretary. You mentioned your predecessors, Lord O'Donnell and Lord Sedwill. Just following up Baroness Taylor's question, both of them agree that the purpose of the manual was to set out expectations of good government and not merely to reflect current practice. Are they right about that? Should we not be looking to raise standards and, therefore, to have some concept of continuous improvement, to challenge ourselves a bit?

Simon Case: That is an absolutely right and fair point of view. If it just articulates something that is totally separate from how government works, there is a danger of the whole thing becoming irrelevant. The *Cabinet Manual* has to belong to the Prime Minister and Cabinet of the day, to articulate their view of how government should, and can, work.

Lord Dunlop: Would you, as Cabinet Secretary, and your senior Civil Service colleagues, in discussing these matters with the Prime Minister and with Ministers, be raising the issues and questions that they should be thinking about in arriving at the optimum practice that government should be following? That is what all good civil servants do: raise questions and issues.

Simon Case: As you will know well, Lord Dunlop, from your experience in government, that is the nature of the conversations that you have. Ministers are often asking for advice about the best way to do things and how to operate government to make it as effective as possible in delivering on manifestos, or what have you. One of the core roles of the Civil Service, particularly the senior Civil Service, is to constantly provide advice about how best to operate the machinery, to get the political will done.

Q21 Lord Howarth: Good morning, Simon. The *Cabinet Manual*, as we have it, was published almost 10 years ago. Your predecessor, Lord O'Donnell, has said to us that, if such a document is to be useful, it should be updated periodically, and you have said just now that it must articulate the view of the Prime Minister and the Cabinet of the day. Your other predecessor, Lord Sedwill, told us that work had been under way to update the *Cabinet Manual* while he was in post as Cabinet Secretary. Yet, in your recent conversation with our counterpart committee in the House of Commons, you were reticent. You said that an update was not formally planned.

From that, it would appear that the work has been paused, and I wonder why. Whose decision was it to pause it? Was it your decision or the Prime Minister's?

Simon Case: Any decision to update the *Cabinet Manual* must ultimately be for the Prime Minister, as chair of the Cabinet. As you say, the original intention was that the document should be periodically updated to reflect new developments. I think the specific work that you are referring to was done in late 2019, which was largely to identify the main areas where, in any refresh, you would want to update. I think the committee has heard about those.

Leaving the EU was one area and devolution another. The honest answer as to why it has not been progressed is that, understandably, the focus of government over the last 14 or 15 months has been on handling Covid and the response to the pandemic. Suggesting that it has been shelved, or anything like that, is not quite right. It is a question of relative priorities, more than anything else.

Lord Howarth: Do you have a target date for the revision of the *Cabinet Manual*?

Simon Case: No, not at the moment. We want to look at things such as this committee's findings before setting out on that path.

Lord Howarth: We certainly appreciate that.

Q22 **Baroness Fookes:** What is the process for updating the *Cabinet Manual*? Does it rest entirely with the initiative of the Prime Minister? Would you, as Cabinet Secretary, be expected to give him a prod, if I may call it that?

Simon Case: An indelicate idea of a prod. There is no set process. We have done this only once, but I believe, not least from the evidence of Lord O'Donnell, that it was originally at the instigation of the then Prime Minister. Gordon Brown asked the Cabinet Secretary to set about pulling it together. I would expect the same process to largely be followed again. It should be at the instigation of the Prime Minister and is likely to be based on advice.

The process that was adopted for the current version would be broadly the model that we should follow now, with work by our officials to identify the areas that need to be updated. We would want to consult with Parliament, as happened before. I think the Lords Constitution Committee reviewed the draft last time. There was engagement with academics and experts, and that would have real value. I believe there was a three-month consultation period before the final draft was produced, and that would be the model for how we would do it again.

Baroness Fookes: That is fine, but I am more concerned with who fires the pistol to get this process going, consultation and all. Should it be updated, as a matter of routine, at least at the beginning of each new Parliament?

Simon Case: I saw this come up in the committee's previous evidence. There would be real logic in adopting that automaticity, not necessarily meaning that it had to be updated, but at least a process for asking

whether it should be updated at the start of each Parliament. As the committee has heard, this is the model that they use in New Zealand. As the committee will know, we adopt this approach for things like the Ministerial Code, which is refreshed at the start of each Administration, when a Prime Minister comes in. There would be logic to adopting a similar approach. As I said, it would not necessarily lead to the *Cabinet Manual* actually being updated, but at least adopting a practice of reviewing, at the start of each Administration, would make sense, alongside the other codes.

Baroness Fookes: With the ease with which you can change things electronically, is there not a case for dealing with individual parts? If we go ahead with getting rid of the Fixed-term Parliaments Act, for example, that would immediately leave a gap.

Simon Case: I think so. It would be up to each Administration to decide whether they wanted to do a rolling update or to do something every few years. As the committee has heard, now we have left the EU, there have been changes to the devolution settlement. It is in your hands, among others, whether we repeal the Fixed-term Parliaments Act. If those things are done, they would argue for updating. It would be up to a government to decide whether, for such a significant change as repealing the Fixed-term Parliaments Act, to do a mid-term update on the *Cabinet Manual*. Ultimately, though, as I say, that would have to be a question for Ministers and Cabinet themselves to decide in the moment.

Baroness Fookes: I am getting the impression that your approach is what I would call on the leisurely side. Is that fair?

Simon Case: I do not think that is fair. I do not want to get into the world of thinking that this is not a document that has to be owned by the Prime Minister and Cabinet. There were good debates about the *Cabinet Manual* when it first came up: whose document it was and how it should be operated. I believe, rather importantly, in the founding principle of the Civil Service Code, which is that we are here to support the Government of the day.

Ultimately, these things must be the decision of the elected Government of the day, obviously on the basis of advice from people like me, but I do not want to start assuming the position of being the ultimate decision-taker on these things, because I advise and Ministers decide. It is fundamentally important that we maintain that approach.

Baroness Fookes: But you would agree that transparency, so that everybody can see what everyone is working to, is valuable in itself, for the wider public.

Simon Case: I completely agree, hence me being very happy to come and discuss this with the committee, and likewise my two distinguished predecessors. I completely agree that it is important that people understand how these documents work, and the process for updating them and decisions about them.

Q23 **Baroness Suttie:** You have just mentioned the importance of devolution and Brexit, and the impact that they will have on the *Cabinet Manual*. We heard from Lord O'Donnell and Lord Sedwill that devolution and Brexit will require the manual to be significantly updated. Would you agree with that, and what are the other key priority areas that would require updating in the manual?

Simon Case: It is right that two obvious big changes are Brexit and devolution. One other area has already come up, which is if Parliament decides to repeal the Fixed-term Parliaments Act. There are other areas, potentially more minor, in a sense, but quite significant. For example, Parliament voted, not that long ago, for ministerial maternity leave. There are other amendments, but the main areas would be Brexit, devolution and if Parliament decides to change the arrangements for dissolving and recalling Parliament.

Baroness Suttie: Can I press you a little more on the Fixed-term Parliaments Act? What would be the major challenges in updating the manual if it is indeed repealed?

Simon Case: We need to make sure that we have accurately recorded where Parliament's determination and intention comes out. There has already been good debate. The Joint Committee has looked at the Government's proposals and we responded on that. It is important that we end up with a *Cabinet Manual* that properly reflects Parliament's intent, once the Fixed-term Parliaments Act has been repealed and we end up with—I was going to say "new arrangements", but of course it is returning, by and large, to old arrangements, by and large. We need a Cabinet manual that sets that out, including the underlying principles. We want to be very sure that it accurately reflects the will of Parliament.

Baroness Suttie: How do you think the manual should deal with politically contentious issues, which may also include the Fixed-term Parliaments Act?

Simon Case: Ultimately, it is a document for the Executive. It is always going to be a document that records the Executive's intention and the interpretation of the Prime Minister, as chair of the Cabinet, and the Cabinet as to how things should work.

In terms of dealing specifically with politically contentious points, as you say, it is where the consultation with Parliament, experts and what have you gives you the opportunity to properly consider any areas of contention. As I said, it will end up being a document of the Executive recording their view.

To come back to Baroness Fookes's point, by going through that process of consulting with parliamentarians, other experts and the public, you are at least transparent about where those areas of contention would be, even though in the end the *Cabinet Manual* has to reflect the view of the Executive.

Q24 **Baroness Corston:** What role should Parliament play in updating the

manual and assessing compliance with its contents?

Simon Case: As discussed, it is clearly a document for the Executive. As before, any update and process needs to involve Parliament. I think there were two or three Select Committees involved in considering the first draft. It is obviously up to Parliament to decide who looks at it. That is important, not least because the document itself covers a good deal of the interaction between the Executive and Parliament. It is vital to have Parliament involved in that process.

As for compliance, this is an age-old debate between the Executive and the legislature about how the legislature oversees and scrutinises the role of the Executive. There are many mechanisms, such as Select Committees and Questions on the Floor of the House. Perhaps you would expect me to say this, but I cannot imagine the Executive being willing to hand over wholesale to Parliament the oversight and enforcement of things, such as the *Cabinet Manual*, which are rightly a job for the Prime Minister, involving the sovereign and advice under the royal prerogative. But, clearly, Parliament has many mechanisms for holding the Executive to account.

Baroness Corston: Handing over wholesale is not really the point. Is there a role at all?

Simon Case: A good deal of the practices and the issues set out in the *Cabinet Manual* are in fact to do with the operation of Parliament. Parliament already has a role in scrutinising how those function. Take, for example, questions about how Parliament is dissolved and recalled, or questions of confidence in the Government or what have you. Actually, Parliament already has a good deal of these roles in overseeing and influencing how the Executive operate. They are already there and captured in the document.

Q25 **Lord Sherbourne of Didsbury:** I also want to ask about the relationship between the code and Parliament, but from a different point of view, not so much the role of Parliament in influencing the code itself. I wonder whether the Cabinet Secretary sees the danger in the code perhaps restricting Parliament. So much of our constitution is the result of evolving conventions, about resignations or the accountability of Ministers to Parliament. Is there a danger that the code could circumscribe too much and prevent the evolution of conventions, which is the way in which our constitution operates?

Simon Case: That is one for deep constitutional debate about the relationship between the Executive and Parliament. We have a constitution, which, as you so rightfully say, adapts to times. It evolves. You may want to come back with specifics, but I do not think we are in a situation at the moment where any of the codes operate to prevent the adaptation or delivery of parliamentary scrutiny.

There are some fundamentals in this. Ministers are appointed by the sovereign on the advice of the Prime Minister. That is clearly our long-standing constitutional convention. I cannot imagine a world in which

either the Prime Minister or, indeed, the sovereign would be particularly keen for Parliament to start having a role in that relationship and that operation of a prerogative power. Parliament has many mechanisms for holding Ministers and officials to account as things stand, but there may be specifics you are thinking of that you want to come on to.

Lord Sherbourne of Didsbury: I am very happy to leave it there. Thank you.

Q26 **Baroness Drake:** Could I go back to your evidence to PACAC? It asked you questions about updating the *Cabinet Manual* and the role of Parliament, and you said two things of interest. One of them was this: "If we begin this process"—ie updating the manual—"it is something we will want to build consensus around, so views of parliamentarians will be important on this". It would be interesting to know what was in your mind when you made that statement. Who are the "we"? What would the processes and procedures be for building that consensus and, presumably, for maintaining it over time?

The other comment you made was that there is a case for it, ie updating the manual, but not one that we have fully developed yet. If there is a case for updating the manual, surely it cannot be that complex as to why there is a case. If it is not fully developed yet, what are the areas of consideration causing particular concern or delay, such that the Cabinet is holding fire on the updating?

Simon Case: On what I had in mind for engaging Parliament, there is this evidence session, for example, but the initial process for drafting was very much in my mind. That involved sharing drafts of the *Cabinet Manual* with interested parliamentarians and receiving their views. That is very much what was in my mind. That is how you build consensus on what needs to be done. What was in my mind was a similar process to the first time round.

On the argument for updating, the main issue is the rather pragmatic one of bandwidth within government over the last 14 or 15 months, during Covid. Enormous amounts of resource inside government, not least in the Cabinet Office, have been taken off other tasks and moved on to managing the Covid response. The main question is actually capacity.

There is always a question of timing. There is always an argument for now and an argument for later. It depends on your point of view. I think that argument is much clearer now that we have left the EU. We talked about the devolution settlements. The repeal of the Fixed-term Parliaments Act would strengthen again the argument for doing it in reasonably short order.

In my practical experience, it is in the processes of elections and the formation of government that the *Cabinet Manual* most often comes out and is used. That probably adds to the argument for wanting to update it in the coming period.

Q27 **Lord Faulks:** Good morning. I wanted to ask you about the position with

the *Cabinet Manual* as it currently is. There is a sense that quite a number of Ministers, despite the fact that it is a document of the Executive, have shown some reluctance to accept it or to comply with it. What is your role in this, if there is some reluctance to follow what is in the *Cabinet Manual* or, indeed, the Ministerial Code? Is the Civil Service somewhat disturbed by this tendency?

Simon Case: This question is an interesting one. Perhaps my experience surprises people. My lived experience, as well as that of the team that looks after propriety and ethics, and Permanent Secretaries, is, more than anything else, Ministers consulting us or officials consulting officials, because people are incredibly keen to stay within the rules and guidance. Most of the conversations are people coming to seek advice: "I'd like to do this. How do I do it in a way that's within the rules?" That is how the vast majority of conversations about propriety and ethics originate.

You asked about my specific role in this. Oddly enough, the Ministerial Code sets out quite clearly what the role of the Cabinet Secretary is, or rather is not, in relation to the Ministerial Code. It makes perfectly clear that I am not able to adjudicate the Ministerial Code and make decisions about compliance with it. First and foremost, and perhaps what often gets forgotten in the debate, propriety and ethics are the duty of everybody in public life. Upholding those standards of public life is the duty of everybody, including all parliamentarians. You cannot operate a system where it is just down to a few people who are titled in a certain way to be responsible for upkeeping propriety and ethics. It is the duty of everybody.

Contrary to many views out there, the role of the Cabinet Secretary is constrained in relation to the Ministerial Code. Lord Hennessy may remember better than I do, but I think it was early on in the Blair Administration, who of course moved it from *Questions of Procedure for Ministers* to the Ministerial Code, where it was made perfectly clear that it is not the role of the Cabinet Secretary to uphold the code. Ultimately, the Prime Minister has to be the judge of behaviour under the code, because Ministers have to retain his confidence.

It is a slightly odd one. Of course the Cabinet Secretary has a role in supporting the Prime Minister by providing advice and making sure the overall framework is in place. The most important thing under propriety and ethics is that it is actually the duty of everybody in public life to pay attention to upholding those values.

Lord Faulks: Thank you very much. Clearly, Lord Hennessy needs to come in on this particular question in view of his experience and your background with him. Before he does, to use the cliché that many journalists use, this sounds a bit like marking your own homework, from the point of view of the Prime Minister or senior Ministers. Do you have any comment about that?

Simon Case: As this committee will know more than most, the role of the Prime Minister and Ministers derives from a fundamental

constitutional principle. Ministers are appointed by the sovereign, on the advice of the Prime Minister, by the use of the prerogative powers. We now have the distinguished Lord Geidt in the role of independent adviser. Other people can get involved in the role of adviser, as the title makes clear, but under our constitutional settlement, the decision, the hiring and firing of Ministers, is an act by the sovereign on the advice of the Prime Minister. That is one of our basic constitutional principles. Sometimes people find that odd, but that is just the basics of our constitutional settlement.

Q28 Lord Hennessy of Nympsfield: I should declare that we worked very closely and amicably when you were at Queen Mary, preparing your very fine PhD on early Cold War intelligence history, years I remember very fondly, Simon. You will also remember that, in our Cabinet and premiership seminar, down the Mile End Road, we used to debate the so-called knicker elastic theory of government whereby, if a Prime Minister pushes the conventions too far, there is a danger that the conventions snap back on the said Prime Minister, hence the elastic metaphor.

I have two questions. Do you subscribe to the elastic theory of government? If you do, or to any variant of it, would you agree that, when you put together the Ministerial Code, the Nolan principles of public life, the Civil Service Code and the *Cabinet Manual*, they give us a very special quartet of expectations, which play very strongly into the elastic theory? As I think you have already indicated, those are the norms to which we all subscribe, because they reflect the probities and decencies of public life, in which I know you believe to your very last fibre. The consequence of that, if you agree with all this, is that the *Cabinet Manual*, like the others, has to be kept in good repair and very much a live document, not something to be left alone for 10 years.

Simon Case: This is a strange trip down memory lane. As you said, this reminds me of conversations once had down the Mile End Road, not always in a seminar room, I have to say. As you put it, the knicker elastic theory of constitution is a rather important one and one that we should all hold to be dear, important. Reflecting on some years since we were sitting, having these conversations, when you were my PhD supervisor, I add an awful lot of practical experience about how our constitution operates.

Yes, the documents are important. The codes are important. They set out, in any given moment, the norms by which government operates, the standard expected of Ministers and the Civil Service, and what have you. They are important and should be kept at the forefront of people's minds. If we end up in a system in which it is only the letter of the law, or of the codes or the guidance, that runs, we have missed something. It is about culture and people wanting to uphold those basic principles, of which, for me, the most important one is selflessness.

We should be in a world where, whether a document is one month or one decade out of date, the thing that matters is that the people in the most important positions in public life are there and, in their every everything,

are there to serve their country, the communities and the people they serve. That culture is far more important, in the end, than anything that is written in any document.

If you talk, as I know you do, Lord Hennessy, as many other members of this committee will do, and as I have the pleasure of doing, to people who are or have been senior figures in, for example, the military, they will tell you that, in the end, the culture and attitude of an organisation, or organisations plural, is more important than any rules you have written down in the way that organisation can function. That is not to say codes and documents are not important. It is just that they are not sufficient in and of themselves.

Q29 The Chair: Cabinet Secretary, if that culture is slipping at all, or if that elastic is getting stretched too far, do you think that the Cabinet Secretary has a particular role in trying to pull things back or alert people?

Simon Case: Yes, along with others, not least members of Cabinet. The most important thing is that those roles are played in private. Occasionally that will be frustrating for people. One of the important principles of how our system operates is that people like me, and Permanent Secretaries, give our advice in private, and it has to remain that way, in my view.

Yes, there is a role, but, as I said, we have to be careful that we do not end up creating a false impression of how things work. My experience and that of Permanent Secretary colleagues is that, in the vast majority of conversations about propriety and ethics, people are very genuinely keen to understand how to do things in the right way. They are not gotcha-style conversations: "You should've done this" or "You shouldn't have done that". You come back to culture. The vast majority of people are constantly trying to understand how to do things in a way that upholds those core principles of public life.

I have a role, as do Permanent Secretaries and Cabinet Ministers. Parliamentarians do too. We have already talked about it. Parliament has a role in holding the Executive to account for how it operates and functions. As I say, it is a role for all of us in public life to maintain that culture.

The Chair: Shall we move on? Lord Howell, you want to deal with a slightly different aspect.

Q30 Lord Howell of Guildford: Good morning, Cabinet Secretary. We are on to devolved Administrations now, which is probably a slight relief. There has been talk about opening up the UK Government by establishing hubs in Scotland, Wales and Northern Ireland. Can you first tell us what the progress is on this front, please?

Simon Case: Good morning. This is an equally important topic. We have three hubs open. The Edinburgh hub was opened in September 2020, the Cardiff hub in February this year and the Belfast hub in December 2019.

As the committee will appreciate, because of the unique circumstances of the pandemic, in terms of how they have operated, they are not necessarily fully up to speed yet.

Even since the announcement of those hubs, the committee may have seen, I think earlier this year, that the Government made a series of additional announcements. The Cabinet Office has announced that it is opening a second headquarters in Glasgow. What is now the FCDO is relocating more roles to East Kilbride. It is not relevant to devolved Administrations, but you will have seen that the Treasury is opening up a second headquarters in Darlington and MHCLG is opening up a second headquarters in Wolverhampton.

There is a team in the Cabinet Office, what we call the Places for Growth team, that is running all things. They are moving ahead. As I said, the pandemic has made the delivery of some of these plans difficult, but they are up and running.

Lord Howell of Guildford: You have to forgive me for being a slight sceptic about this decentralisation of administration, because some of us have been at it for an awful long time. In my case, it is ever since being a Civil Service Minister in 1970, 50 years ago. We were busily planning decentralisation then. Is this a genuine relocation of senior officials and Ministers? Can it be handled without undermining central performance? More than that, because of the context it is all taking place in, do you see these decentralisations of staff and functions as helping at all with maintaining the union, which we will come to in a moment? Or does it actually not make much difference at all?

Simon Case: I hesitate here to dive into 50 years of personal history on this topic. There is real determination in government, you will have seen, to move up to 30,000 posts, including senior civil servants, out of Whitehall and into other parts of the United Kingdom. You asked whether it is possible to do that and maintain the effectiveness of government. Through the pandemic, and today demonstrates it, we have all been doing Select Committee hearings by Zoom and we have demonstrated that it is possible to operate good chunks of government remotely. That gives us confidence.

Is this part of trying to maintain the integrity of the union? There is a broad and growing consensus, not just in this Government but across the political spectrum, that government absolutely has to reflect the whole country that it serves, in all its different parts. Moving Ministers and civil servants out of London and having more people working in Edinburgh, Glasgow, Belfast or Darlington is necessary. It is not sufficient. Having more of government operating outside London, having your Ministers and staff interacting with communities much more regularly, because they work there, will probably broaden the perspectives that are brought into government as you make policy and design public services. It is an important part of making government more effective, more representative and more likely to serve all of the United Kingdom.

Q31 Lord Howell of Guildford: This leads on to a further question. We have these new territorial offices, the UK Governance Group and the union directorate. We have a new Second Permanent Secretary, Sue Gray, appointed in the Cabinet Office. How do you see all these things fitting together? There will be a lot of integration problems arising, will there not?

Simon Case: The idea here, as you mentioned, Lord Howell, not least because of a recommendation made by Lord Dunlop, is that we have Sue Gray coming in as the Second Permanent Secretary with the responsibility to bring us all together. That integration and operating under a single plan is very much at the heart of the role that Sue will be performing. All those constituent parts of government involved in supporting the union and working across the devolved Administrations will be brought together under Sue.

As the committee may know—I think it was another of Lord Dunlop’s recommendations—we now have a Prime Minister-chaired union strategy committee, which sets the overarching approach. Sue’s role is focused very much on supporting that committee and setting strategy, as well as working with departments on implementing that strategy. One final thing that Sue will be taking on, which I suspect the committee might be interested in, to the point Lord Dunlop brought out, is ensuring Civil Service capability and awareness of operating in the devolved Administrations. That is equally vital. Helping to develop our programmes to make sure more civil servants are fully attuned to operation across devolution boundaries is a vital part of it as well.

If I may, I will finish on a slightly broader point. In protecting and preserving the union and operating across devolution boundaries, it is vital to have territorial offices, roles like the one Sue Gray is coming in to perform and teams in the Cabinet Office. But, again, this is something that all departments need to do. This is one of the big elements of the strategy as set out by the Prime Minister’s committee. We need to get all departments and all civil servants, as well as Ministers and everybody else, thinking much more about how to operate right across the United Kingdom.

Q32 Lord Howell of Guildford: I have always found the Northern Ireland Civil Service, with which I worked, immensely efficient and dedicated, even in the most challenging circumstances. Yet there does not seem to be any mention in any of these reports, or your Prime Minister’s pronouncements, of a separate Scottish Civil Service. Is that not something that Scotland, with its sense of national identity, should perhaps expect? Why has that been left out?

Simon Case: The Northern Ireland Civil Service is set up separately by statute. This Government’s position is very clearly that we are best operating one UK Civil Service across the Westminster UK Government, as well as Scotland and Wales. As you would fully expect, I spend a good deal of time talking to colleagues currently working in Scotland, Wales and elsewhere. There is certainly no clamour inside the Civil Service.

Colleagues in Scotland and Wales think that they benefit from being part of the wider UK Civil Service, given the breadth of opportunity and experience, and the exchange that you get in both directions.

There is great value in having a single UK Civil Service. It creates greater opportunity to have the Scottish and Welsh Governments operating more effectively, because civil servants can get a broader range of experience across the UK.

Lord Howell of Guildford: Thank you. I have more questions, but I have asked enough for the moment.

Q33 **Lord Hennessy of Nympsfield:** You probably cannot answer this question. You will recall that, in the run-up the Scottish referendum in 2014, and indeed the European referendum in 2016, the Prime Minister of the day prohibited Whitehall from doing any contingency planning at all for a Scottish separation or a Brexit. I thought that this was really very bad. In my personal view, it was almost a dereliction of duty. I know that you almost certainly cannot be drawn into this area. Do you not think, looking back as a historian, that people will be amazed that there was no contingency planning in case Scotland did separate in 2014 or we left the European Union this year?

Simon Case: That is definitely in the category of deeply unfair questions to ask me as a historian, rather than as Cabinet Secretary. I will leave it to you, as one of our foremost historians of contemporary history, to go into what the right thing was from the historian's perspective.

On the decisions that Governments take, you understand better than most that the Government of the day make decisions in the best interests of the country in the moment, and historians have the luxury some time afterwards of adjudicating on those decisions.

I will probably leave your kind invitation to comment on Governments I have served quite recently. I will leave that one to you, rather than diving into it myself.

Lord Hennessy of Nympsfield: Understood.

Q34 **Lord Hope of Craighead:** My question is to pursue the issue of Civil Service awareness a little further. The background to my question is provided by the interaction between the internal market Act and the common frameworks system. As you will know, the common frameworks were set up to replace the EU when we left the EU. One of the features of it that secured agreement right across all the devolved Administrations and the UK Government was that the devolved Administrations should have a degree of freedom to diverge, provided they secured agreement across the borders with the various other parts of the UK.

The internal market Bill, when it came in, had principles that cut right across that and did not allow for any divergence at all. Eventually, we were able to secure an amendment that provided some room where the common frameworks system could survive.

My question is really this: how do you ensure that implications for the union and the devolution arrangements are considered early enough in the Whitehall policy development process? Is it possible for the Civil Service to make further structural and process improvements to enhance policy co-ordination and development across the UK?

Simon Case: That is a very interesting question. Perhaps some people would be surprised how fast the reality of considering devolution in policy-making is changing. If you had asked me only a few years ago whether I thought that devolution or union-related questions were at the forefront of policy-making in Whitehall, I would have said probably not.

The experience of Brexit and obviously, more recently, Covid means that so much more of government and policy is involving consideration of devolution or union questions so much earlier in the process. There are not many conversations that go on in Cabinet or Cabinet committees now, across a whole range of issues, without questions about who is operating which powers and how this works in a devolution or supporting the union context. That is happening an awful lot more.

You asked a very important question: do we have further to go? We definitely do. There is definitely more that we can do in how we operate. I think you asked a question about systems and processes that the Civil Service can operate. There probably will be tweaks to that. It is actually much more about an awareness and culture. We are very clear with civil servants that, even though you traditionally thought, "I'm sitting in Whitehall and thinking about England only", we need to push back on that reflex.

I do not think that the world of devolve and forget, in which there is somehow something separate happening, is particularly relevant. "Relevant" is the wrong word. Certainly the Government's view is that that is not right. In everything that we do, we should be thinking about how this impacts on the union. Things are improving and probably improving particularly quickly. Covid, in particular, has meant that so many more bits of Whitehall are interacting day in, day out with their counterparts across the United Kingdom than before.

Brexit started that trend, but it is remarkable as you go around that people just drop into conversation: "Yes, I was having a call with my counterparts in Scotland, Wales and Northern Ireland, and talking about how you operate this in a Covid environment". There is a deep thickening in the awareness of issues across the union.

Lord Hope of Craighead: My impression is that the relationships across the Civil Service are very good. In practice, there is a lot of co-operation, whereas at a political level, particularly in Scotland because of the independence regime of the SNP, conditions or relationships are sometimes very difficult. That is why my question is directed to the role of the Civil Service. In a way, the anchor to keep the union together could be thought to be really intense co-operation within the Civil Service right across the four Administrations.

Simon Case: I understand the point of the question. There is very thick contact across the Civil Service. By the way, that is one of the benefits of having one UK-wide Civil Service, at least in England, Scotland and Wales. In my experience, ministerial interactions are by and large very positive as well. The politics of independence, as you put it, rarely comes into those. If I think through the meetings that have happened across the UK on Covid or other issues, there seems to be a broad determination across all politicians to get on and do the best for the people they service.

I very rarely personally see politics getting in the way of those interactions. I think we publish an update on those interactions once a quarter, or maybe once every six months. I happened to look at the most recent one last week. You can see the depth of meetings that are happening right across the political and official layers, across the United Kingdom, to try to learn from each other and operate joint approaches wherever possible.

My experience is much more positive than you suggest. Yes, there will always be some element of political disagreement and sometimes a bit of political knockabout in public, in a political sphere, but in my experience it tends not to come a great deal into those intergovernmental relations.

Q35 Lord Howell of Guildford: Building on Lord Hope's question, I think we all now accept that the integrity of the union is a first government priority, and so it should be. Does this not justify having a full-time Cabinet Minister in that role, or is that what you think we have already? How does this all link up with and cut across local government administration and the general feeling that the cities and regions of Britain are all looking for more decentralisation, particularly after the Covid and Brexit experiences, and rightly so?

Simon Case: The full-time Cabinet role is one where the Prime Minister would say, "Yes, we've got one and it's me". He has added it to his title: Minister for the Union. This is said with the greatest respect to Lord Dunlop, who I know made this recommendation. First and foremost, the Prime Minister is clear that he is responsible for thinking through union matters. He is supported in that at the moment by the Chancellor of the Duchy of Lancaster and the Secretaries of State for Scotland, Wales and Northern Ireland.

The bigger issue about Cabinet is that thinking through maintaining the integrity of the union, and thinking through the right operation of the devolution settlements, has to be part of what every Cabinet Minister does. It is not just down to one single individual; it has to be for everybody.

On the question about how this links to devolution to regions, cities or towns, this is something that the Government are very focused on, as previous Administrations have been. You will know this; there has been decades' worth of effort on this. The Government's view is that strong, local leadership, backed up with powers, is a very good way of delivering more effective public services right across the country. Where possible,

things should not just be sitting with Parliament in Westminster, in Holyrood and what have you.

Local devolution is a desirable thing. That is definitely this Government's view and has been for some time. Quite how that operates, as we know, needs very careful thought so that you get the best out of every component part of government. There is always a fair challenge to Westminster, or the Government in Whitehall, that we need to understand the local perspective more. As power is devolved, we need to get better at understanding how that power is being operated. It takes some effort to pull all this together, but it can be done. Most people would probably recognise that it is in the interests of everyone. Power operated more locally, more effectively, is in the interests of citizens up and down the UK.

Q36 Lord Howell of Guildford: I have one final question springing from Lord Dunlop's excellent report, which is fascinating reading. In response to it, the Chancellor of the Duchy of Lancaster, Mr Gove, said that you were setting up dedicated union non-executive board members within each department.

That sounds absolutely fine, but here is a specific question, which I do not apologise for, and it relates to the Foreign, Commonwealth and Development Office. Should there not be more consideration there? Is there not a high need for a union non-executive board member in that department to take account of Scotland's international role? There does not seem to be any allowance made for Scotland's international place in the comity of nations, where it has a vast cultural imprint but not much specific say. Does that not worry you? Is that not a priority area that you should be thinking about?

Simon Case: I am not sure I would agree with that, from having spent time in embassies overseas. I think you see the now FCDO and our missions demonstrating the contribution that the whole of the United Kingdom and all its constituent parts can make right across the world. It is very much part of promoting the whole of the United Kingdom and the part that every component part of the United Kingdom has to bear. My experience of working in missions overseas is that it is very much operated in that way. In my experience, it does not feel like the constituent parts of the United Kingdom are somehow forgotten in the work of the FCDO, at home or overseas.

Q37 Lord Dunlop: I wanted to follow up something you said there. Obviously, the Prime Minister is the Minister for the Union. In the context of the draft package of reforms that the Government published in March, which are very welcome, on how you manage intergovernmental relations, do you think the Prime Minister should commit to a more prominent role in those reformed mechanisms and take a larger role in helping to build relationships with the devolved leaders?

Simon Case: Thank you, Lord Dunlop, and I should add my thanks for your work. As you will have seen a fortnight ago, the Prime Minister invited First and Deputy First Ministers to a meeting to focus on

recovering from Covid together. The reality is that you will see the Prime Minister front and centre of that role. I do not want to put it as maintaining the integrity of the union. That is what it does, but, more importantly, it is getting all the constituent parts of the United Kingdom operating fully together for the benefit of everybody who lives and works inside the United Kingdom. You have already seen and will continue to see the Prime Minister playing a very active role in this.

Q38 Baroness Doocey: I liked and very much agree with your comments on the importance of a culture of service. When the manual is updated, do you believe that it should include some enforcement mechanism to deal with, for example, contraventions, if the Government are not playing by the rules?

Simon Case: Those sanctions, as you put it, are actually set out in the constituent codes themselves—the Ministerial Code, the Civil Service Code, the special advisers’ code and the processes around that. They are there. You can reflect more of that. The *Cabinet Manual* is a collation, by and large, of things that exist elsewhere. It is not the be-all and end-all itself. To Lord Sedwill’s articulation of the Highway Code, it is not every articulation of every last traffic regulation but is a handy place to go that, broadly speaking, tells you how to stay safe on the roads. I think that is right.

Yes, there is definitely a choice about putting more of those sanctions front and centre, but they are there and they are articulated in the in-depth elements of the Ministerial Code, the Civil Service Code et cetera.

Baroness Doocey: If you break the Highway Code, you have a penalty. It appears to me, from what I have read, that if you break the rules as set out in the *Cabinet Manual* there is no enforcement mechanism to deal with that.

Simon Case: I do not believe that is right. The sanctions are set out in the Ministerial Code or the Civil Service Code. It is very clear, for example, that the ultimate arbiter of behaviour under the Ministerial Code is the Prime Minister. That is how things operate. First and foremost, it is up to Ministers themselves to uphold and explain their behaviour under the code. Those sanctions are there.

The Chair: Cabinet Secretary, thank you very much for your evidence today. Some of what you have said on wider issues, devolution and local government may also be of interest to us in another inquiry, but certainly what you have been saying today is helpful. We will take on board what you said about the possibility of this committee helping to frame what happens next in any revision. Thank you for your evidence today.