



Public Administration Select Committee

Oral evidence: [Civil Service impartiality and referendums](#), HC 1149

Wednesday 9 April 2014

Ordered by the House of Commons to be published on 9 April 2014.

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Members present: [Mr Bernard Jenkin](#) (Chair), [Paul Flynn](#), [Sheila Gilmore](#), [Kelvin Hopkins](#),

Questions 100-182

Witnesses: Sir Nicholas MacPherson, Permanent Secretary to the Treasury, gave evidence.

Q100 Chair: May I welcome you, Sir Nicholas, to this second evidence session on impartiality of the Civil Service and referendums? We will endeavour to keep our questions as brisk as possible; if you can keep your answers short as well, I am sure we can finish in good time, because I know you have other business to attend to. Thank you for being with us. Could I ask you, please, to identify yourself for the record?

Sir Nicholas Macpherson: Nicholas Macpherson, Permanent Secretary to the Treasury.

Q101 Chair: Could I just advertise the hashtag “#CSScotland” for those following this session on Twitter?

May I ask, first of all, what you understand that “impartiality” means in respect of a civil servant?

Sir Nicholas Macpherson: Yes. I think it is set out perfectly well in the Civil Service Code, which I have—I always carry it with me.

Chair: I can read it for you.

Sir Nicholas Macpherson: “Carry out your responsibilities in a way that is fair, just and equitable and reflects the Civil Service commitment to equality and diversity.” “You must not act in a way that unjustifiably favours or discriminates against particular individuals or interests.”

Q102 Chair: But in practical terms, you are required to support Ministers in respect of the policies of the Government of the day, and that requires you to be partial. Is that fair?

Sir Nicholas Macpherson: No. I would draw a distinction between the various activities in which a civil servant takes part. Of course, your job is to serve the Government of the day, but how you carry out that activity goes to the heart of our system. There is a good

test, as someone who has gone through several transitions. For example, back in 1997, one day I was working for Ken Clarke as his Private Secretary, the next day for Gordon Brown. In 2010, one day I was working for Alistair Darling and the next for George Osborne. It is absolutely critical that the Chancellor of the day trusts you and is prepared to engage with you, and fundamental to that is their belief that, whatever private views you have, you leave those at the door, you will give advice without fear or favour, and in all ways demonstrate that you are trustworthy and prepared to implement their priorities.

Q103 Chair: And, above all, to retain the confidence of Ministers of whichever party.

Sir Nicholas Macpherson: That is very important.

Q104 Chair: But that is rather looking at the whole question of impartiality through the domestic political lens. Is impartiality any more objective than that, or is it just about pleasing the two main political parties?

Sir Nicholas Macpherson: No, I think it goes further than that, but fundamentally, as a civil servant, you are there to serve the national interest. That national interest, obviously, is to a certain degree defined by the Government of the day, but in pursuing national interest, inevitably there will be occasions where you might upset other authorities. I daresay that in 1940, British civil servants did not spend a lot of time worrying about how they might come across to the forces that Britain was fighting. I do think this comes back to the interests of the United Kingdom, and the requirement to serve its interests.

Q105 Chair: Of course, the code goes on to say about political impartiality that you must not “allow your personal political views to determine any advice you give or your actions”.

Sir Nicholas Macpherson: Absolutely. I think that is absolutely right.

Q106 Chair: Can we turn now to the advice that was published by the Treasury in respect of the Scottish referendum debate and the difficulties that you have advised the Chancellor would be encountered in trying to involve Scotland in a currency union with England, should they vote for separation? First of all, how did this advice arise?

Sir Nicholas Macpherson: This advice arose in the context of analysis that the Treasury has been carrying out on the economic implications of independence. The Treasury has been publishing a series of papers on issues surrounding Scotland and the possibility of independence. Through the course of the last year, that Treasury analysis has become increasingly refined. Last year, we published a paper on currency and monetary policy, and earlier this year we started work on assessment of a sterling currency union, the proposal of the Scottish Government. The Scottish Government had asserted that this was not only in Scotland’s interests but, actually, in the interests of the UK. The Treasury produced some rather high-quality analysis, reflecting the best traditions of the Civil Service. More generally—and this comes to the point of why I published a very short covering note to what is a very substantive 75-page paper—my view is that the soundness of our currency, sterling, is absolutely central to the national interest.

Q107 Chair: Can I just stop you there? We are not interested in the substance of the advice; we are only interested in the process.

Sir Nicholas Macpherson: The substance of the advice, although I am not going to go into it, is relevant, because throughout the debate on economic issues the Scottish Government have sought to cast doubt on the British Government's position. They have claimed that we are blustering and bluffing, in effect casting aspersions on the UK Government's integrity. My view in this case—and it is a very exceptional case—is that if publishing advice could strengthen the credibility of the Government's position, it was my duty to do it. It was important in this specific case, which goes to the heart of the currency issue, that the arguments were exposed before a referendum, rather than after it. I do not want to exaggerate the significance of my advice; it was merely a short covering note to a much more comprehensive Treasury paper.

The other point I would make is that it is not actually unprecedented to release advice. For example, there was the O'Donnell Review of the revenue department; there was the Stern Review of climate change; and, indeed, when we recently sold Lloyds shares, on the day of the sale a short note from me to the Chancellor saying that, in my view, this was value for money was published. There are precedents for this, but, as I say, I would attach a high bar, and it was my decision to publish my advice. I discussed it with the Chancellor. This was about how we could establish, without doubt, the credibility of the Treasury's position.

Q108 Chair: Can I just make sure I clarify this? This work was going on in the Treasury, uninvited by Ministers.

Sir Nicholas Macpherson: The work on currency union?

Chair: Yes.

Sir Nicholas Macpherson: No, this is part of a programme that has been agreed with Ministers.

Q109 Chair: So Ministers asked the Treasury to do this work on possible currency union with an independent Scotland.

Sir Nicholas Macpherson: Yes.

Q110 Chair: When did the Chancellor first see the short note summarising the advice?

Sir Nicholas Macpherson: He would have seen it a couple of days or 24 hours before.

Q111 Chair: Had he asked for it?

Sir Nicholas Macpherson: No, he had not actually asked for it. I gave it to him, because I thought it was my duty as Permanent Secretary to give him some advice on this issue, which summarised my view of the analysis.

Q112 Chair: There are two views about what the Civil Service is for. One is that the Civil Service is there merely to serve Ministers and do as Ministers tell them. The second is that, in fact, you have—as a permanent and impartial Civil Service—a more important role, which is to provide Ministers with advice, whether they want it or not. You seem to be fulfilling that second function. Is that correct?

Sir Nicholas Macpherson: In this instance, yes.

Q113 Chair: So the Chancellor was presented with this note, which he did not ask for; is that correct?

Sir Nicholas Macpherson: No, he did not ask for it. I presented it to him. At that point, it was far from inevitable—it had not been decided—that that advice would be published.

Q114 Chair: Who made the decision to publish that advice?

Sir Nicholas Macpherson: It reflected discussion with the Chancellor, but ultimately this was my call. The Chancellor is a traditionalist in his approach to the Civil Service. I am quite certain that if I had said that I did not want to publish this advice, he would not have pressed me. I thought it was the right thing to do in this exceptional circumstance.

Q115 Chair: I will come to colleagues in just a moment, if I may. So you believe this advice to be true and accurate, and a proper reflection of the facts.

Sir Nicholas Macpherson: I do.

Q116 Chair: And it is, in fact, your opinion. It reflects your opinion.

Sir Nicholas Macpherson: It is my opinion.

Q117 Chair: What if you had been required by Ministers to provide contrary advice?

Sir Nicholas Macpherson: I have worked with a number of Governments. Sometimes I have had to give them advice that they did not want to receive.

Q118 Chair: But what would happen if they had invited you to give advice that they wanted to receive and you did not agree with?

Sir Nicholas Macpherson: I would not do that. I simply would not do that. If they wanted someone to do that, they would have to find a different Permanent Secretary.

Q119 Chair: Coming to a more hypothetical situation, perhaps, supposing your advice was contrary to what they wanted to hear, would you still have been able to publish your advice?

Sir Nicholas Macpherson: You then get into quite difficult territory. As I said, I would attach a very high bar to publishing any advice. This is not something I would want to make a habit of.

Q120 Chair: What if you felt it to be very much in the public interest to publish your advice?

Sir Nicholas Macpherson: There have been occasions in the past when I have received an Accounting Officer direction. There are conventions about when Accounting Officer directions are published. At the point you ask for one and receive it, you copy the correspondence to the Comptroller and Auditor General, and I think, actually, reflecting developments in case law on Accounting Officer directions, there is now a convention that those are published, albeit with a lag.

Q121 Chair: When Haldane first established the architecture of Whitehall, he did also envisage Select Committees at the same time, and he remarked in his famous report that Ministers as well as officials would have to appear before these Committees in order that they

should have the requisite information, the implication there being that there would be direct accountability between officials and Parliament. If you were asked by a Select Committee about your advice to a Minister that you felt was very strongly in the public interest and the national interest, but which the Minister had not wanted to hear and had suppressed, what would be your obligation?

Sir Nicholas Macpherson: My view is that my obligation when appearing before a Committee is to explain a Government policy, and my quite strong view is that you are not there to expose different views that exist within the Department; you are there to explain Government policy.

Q122 Chair: In your Mile End speech, which I suspect you knew I was going to come to, you said: “Just as the Treasury has played a leading role in setting out the implications of Scotland leaving the free trade area that is the United Kingdom”—may I correct you, actually, as the United Kingdom is a customs union, or it is part of a customs union; it is not a free trade area—“so would I expect it to play a critical role in setting out the economic implications of the options of staying in or leaving the EU, should there be a referendum on our membership in the next Parliament.” Can I assume that if the Government of the day were arguing against continued membership of the European Union, you would therefore be explaining why the United Kingdom would be better off outside the European Union?

Sir Nicholas Macpherson: Absolutely. I was slightly surprised that this passage got picked up by some commentators as suggesting that the Treasury had some independent view on the European Union. Historically, the Treasury is sceptical about most things; it is fair to say that, looking back in time, it has been rather more sceptical about the European Union than some other Departments. But, putting that to one side, clearly the Treasury will serve the Government of the day.

Q123 Chair: Hang on a minute; there is a conflict here, is there not? On the one hand, you have said that the advice you have given the Government on currency union with Scotland reflects the facts and is your own opinion, which you believe to be in the national interest—

Sir Nicholas Macpherson: Sorry; can I expand on what I was going to say? There are issues up until the point a decision of the Government is taken on where it is going to position itself on the European Union. I would expect the Treasury to give very clear, impartial, objective advice on that, just as it has done on reducing the deficit, for example. The Government then decide, and at that point, it is the Treasury’s role to explain to the best of its ability why and how.

Q124 Chair: That suggests that your opinion does not come into it.

Sir Nicholas Macpherson: Sorry?

Chair: That suggests that it is Ministers’ opinions that count, not your opinions.

Sir Nicholas Macpherson: Of course—

Q125 Chair: But previously, you said that the advice you gave to the Chancellor about the currency question was uninvited; it was your own opinion.

Sir Nicholas Macpherson: Yes, and no doubt, if I still have the privilege of being around when we reach the end of a negotiation on the European Union—if that were to happen; if we had a Government that supported that renegotiation—officials would advise. The Treasury rests on having a very strong internal debate. There is a strong culture of challenge within the Treasury, but reflecting years of working at the Treasury, there is a debate about the decision but once a decision is taken, you do not storm off and go and sulk. You get behind the decision, and it is your duty as a civil servant to help to explain it. If there is some paper that has to be written setting out that the Government of the day wish to leave the European Union, it is the job of the official to help to write it and support it, and in doing that to provide the analysis. Actually, if you cannot cope with that sort of environment, you should not be in the Civil Service.

Q126 Chair: All I am trying to elucidate here is what the dilemmas might be for a senior official advising the Government. It can be very difficult, I imagine.

Sir Nicholas Macpherson: It can be difficult; it is difficult. Especially in the Treasury, very difficult issues come up. Ministers often do not want to be in the position that they are, but they are, because of the markets or because of events beyond their control. It is really important as a civil servant to work in an environment where you can give your best advice.

Q127 Chair: But in a referendum debate where there are two sides to a question, the Government of the day might have decided in one particular direction, and there might be quite a body of civil servants who very, very strongly and firmly believe that the national interest is served by another view. For example, in today's Financial Times—I am sure you have seen this—a diplomat has scooped a €100,000 prize for mapping out Britain's EU exit. He is a serving public official bound by the code.

Sir Nicholas Macpherson: That is very impressive.

Q128 Chair: I am glad you—does that mean you agree?

Sir Nicholas Macpherson: I am impressed that there is time, working in the Foreign Office, to write such learned papers. If it had been a Treasury official—

Q129 Chair: Yes, how would you have dealt with that?

Sir Nicholas Macpherson: These things are quite tricky. I do remember, some years back, this arising in the context of an official who had very strong religious views, and applied these in relation to either the ERM or the euro; I cannot remember. I do think that officials need to be quite careful on these issues. Certainly, if we come to a European referendum, we need to be very careful indeed, because this is an issue that could divide Governments and parties—I am not saying it does now—and we would need to be very careful in those circumstances.

Q130 Chair: Is not the objective of a referendum, and indeed all the regulations and law governing the fairness of referendums, to ensure that the voters get a balanced view of both sides of the argument? If the Civil Service were to be very divided over the matter—as most political parties and most households are on the question of European Union membership—and if it is right for you to give your advice to the Minister, which happens to coincide with

the Minister's advice, is it not also right for serious and well-researched opinion based on facts also to be published in order to provide for fairness?

Sir Nicholas Macpherson: This is a hypothetical question.

Chair: Of course.

Sir Nicholas Macpherson: There is not yet a Government who have a majority to call a referendum, as far as I know. There will be a whole lot of precedent, going back to the referendum in 1975. I was too young to be working in the Civil Service in 1975, so I cannot actually remember how that was organised, but you want to see a fair debate. You want to see it informed by sensible, rigorous analysis, but there are limits in terms of the Civil Service's role in these circumstances, because it does serve the Government of the day.

Q131 Chair: Does not the publication of your advice in such a manner set a precedent? A lot of commentators seem to agree with that. Previously, that would have been a private matter.

Sir Nicholas Macpherson: A lot of commentators do. As I said, it is not unprecedented.

Q132 Chair: What precedent does it set?

Sir Nicholas Macpherson: The precedent it sets is that, where the UK's interests are very much at stake and you are serving the UK Government, and—in this instance—if the publication of advice could strengthen the credibility of the British Government's agreed position, which in this case is not entering into a currency union with Scotland on the basis of Scotland's proposals, under those very rare circumstances, there could be a case for publication. You may take the view that I made the wrong call.

Chair: I am not making any comment.

Sir Nicholas Macpherson: But it may be that future Governments take that view, in which case I am happy to carry the can and walk off into the distance.

Q133 Chair: What I am trying to establish is whether—and forgive the slightly pejorative choice of language I am going to use—civil servants are either independent, thinking people who tell truth to power and, when the power is with the people in a referendum, are prepared to tell the truth to the British people, and to give them the advice, whether or not Ministers want the advice; or whether you just serve Ministers and are, effectively, almost Vicars of Bray: you stamp on your own opinions, however important, well-informed and factually-based they may be, and are under an obligation to suppress your own opinions just because you are serving the Minister of the day. Which is it, or is it a dilemma?

Sir Nicholas Macpherson: In one sense, it is a dilemma, but there is already clear precedent in this area. In my role as Treasury Permanent Secretary, I am accountable to the Chancellor of the day. To a certain degree, I am accountable to the head of the Civil Service and the Cabinet Secretary, in terms of the Civil Service hierarchy, but I am also accountable directly to Parliament through the PAC for the value for money of expenditure incurred by the Treasury. In that latter context, I already have a special role where, if a Minister asks me to spend money in a way that I believe is not value for

money, or is illegal or in some way improper, I can ask for a direction. In that context, the exchange of letters between the Chancellor and myself will be published. It goes to the Comptroller and Auditor General immediately, and if it is not published before the next lot of accounts, it would be published in those accounts. There already is that space that reflects a long-standing convention going back to the 19th century.

In principle, if future Governments and, indeed, Parliament decided to extend that space, you could do so. In a sense, the dilemma you are setting out reflects something that is, to a degree, the case already. You could broaden that space where the civil servant is almost speaking in an independent capacity, but I personally would be quite careful about doing that. I think it works very well in the VFM area.

Q134 Chair: But you have already breached that precedent by submitting advice and agreeing for it to be published.

Sir Nicholas Macpherson: Yes, I have, but that is not novel. The now Lord Stern, who was a civil servant, published a massive review on climate change.

Q135 Chair: But was he not invited to do that?

Sir Nicholas Macpherson: He was invited to do it, but he was a civil servant.

Q136 Chair: But if the Government commission advice, no doubt the advice is tailored to what Ministers want it to say, because that is the way these things work.

Sir Nicholas Macpherson: My recollection of Nick Stern's review was that it was pretty Nick Stern-centric.

Q137 Kelvin Hopkins: I must say that I find this whole episode extraordinary. You say you agreed with the Chancellor in some way that your letter should be published. Did you actually say, "May I publish this letter, Chancellor?" and did he say, "Yes, of course"?

Sir Nicholas Macpherson: No. The context was what things we could do to make the British Government's position absolutely unambiguous and clear. This was in a context where the Scottish Government were claiming that something was not only in Britain's interest, but that somehow the British Government were blustering and bluffing. This was quite an exceptional set of circumstances, which goes to the heart of the integrity of our currency. I should also say that, as Accounting Officer, I have a wider responsibility to ensure that the British Government can borrow as cheaply as possible. By setting out my views on the Scottish Government's threat to walk away from their share of the debt in the event of independence, I was seeking to provide reassurance to the markets, not just in the short run, but potentially further into the future. I regard this as a very exceptional set of circumstances, but it is one where the interests of the British state—the Government, the official Treasury, and the pound sterling's position in the markets—were all completely aligned.

Q138 Kelvin Hopkins: But if your very words had been used by the Chancellor in a statement to the House, that would have been politically legitimate. It would have been perfectly legitimate to use the same words, and he could even have said, "I am advised by my advisors that blah, blah, blah." He is the politician; he is answerable to Parliament and to the nation. You are a civil servant, and your job is to advise the Chancellor, not to make public

statements. I feel there is a real breach of tradition there; you say the Chancellor is very conservative in these matters, as, indeed, am I. I think that fundamental difference between a politician and a civil servant is something that should be preserved. Do you not agree?

Sir Nicholas Macpherson: I am in my ninth year as Treasury Permanent Secretary. During that period, I have sought to have no public profile at all. I do not give interviews to newspapers and so on. I know other civil servants seem to take a different view. I hope you will understand that as someone who does not seek publicity, publishing this two-page covering note to the wider paper was not something I entered into lightly. I happened to believe that this was vital to the national interest, and this is not an issue to play around with. I am confident I did the right thing. If others take the view that I did not, then I am very happy to listen to them.

Q139 Kelvin Hopkins: The other scenario is that the Chancellor might have said, “Yes, Sir Nick, get it out there. We want your view to back up what I am saying, so publish your view as well, because it will help us.” I would have criticised the Chancellor for doing that, personally. Did he do that? Did he say, “Yes, get your letter out there”?

Sir Nicholas Macpherson: No. As I said, this reflected discussions with the Chancellor about how to make the British Government’s position absolutely crystal-clear. In this unique context, where you have another Government within the United Kingdom asserting what the United Kingdom would do, I think that was in the national interest. Similarly, in the context of a European negotiation, if Germany or France or some other power was asserting what the British Government’s position was, I do think that would be another quite exceptional circumstance that goes right to the heart of the national interest. I remain unapologetic about the issue.

Q140 Kelvin Hopkins: I accept that these go right to the heart of the future of our country, and I am personally one of those who hope that we will stay together, but that is neither here nor there. It is the Chancellor’s job, and if the Chancellor and the Prime Minister—who are close and locked together—both said this sort of thing, we would say, “That is the Government view”. But if a civil servant says it, and there is some doubt as to whether he has been set up to do it by the Chancellor or whether he has got permission from the Chancellor, and it is a bit blurred and fuzzy around the edges and you cannot really say whose decision it was, that is a very different matter.

Sir Nicholas Macpherson: As I say, I think these were exceptional circumstances. I do not propose to make a habit of publishing advice, and in the context of Mr Jenkin’s hypothetical question about European referendums, I would tread very carefully. The fact is that in this instance, on the same day, the Chief Secretary to the Treasury and the shadow Chancellor were making broadly similar points. This was about convincing the British people, the wider world, and the markets of the sincerity of the Government’s position.

Q141 Kelvin Hopkins: One question, just on the content: you talk about being neutral and not having a particular view, but actually, what comes out of your letter is a very strong pro-eurozone view. You mention the direction of travel of the eurozone. What has the eurozone got to do with this? We are not joining the eurozone; we are not in the eurozone. You also say something about Greece contemplating reverting to the drachma; something I

think would have been a very good thing, actually, and would have solved a lot of problems. You sound in that as someone who is committed to the eurozone.

Sir Nicholas Macpherson: That I really do disagree with you on. I have got views on the eurozone, so I am really quite surprised that you have concluded that from this.

Q142 Kelvin Hopkins: I am sure I am not the only person to whom this appears to be a pro-euro view.

Sir Nicholas Macpherson: Why is the Treasury cautious about a currency union, and why is it that, in this note, I have advised against the currency union as currently proposed by the Scottish Government? Primarily because of the travails of the eurozone. There will be some members of this Committee who will have said, “You could have spotted that years ago”, but the eurozone crisis has been monumental. At the heart of that lies the credibility of the future of the eurozone. The point I was making in the case of Greece was a very simple one: that if you enter into a currency union saying, “We may adopt a different currency”—

Chair: We are not interested in the substance of the letter.

Sir Nicholas Macpherson: Mr Hopkins does appear interested. I would appeal to you to re-read the letter. There is no prejudice.

Q143 Chair: Just to summarise, before we come to Mr Flynn, what your Mile End speech suggests is that the Treasury develops a house view, and that there is an obligation on the Treasury to make its house view known in the national interest.

Sir Nicholas Macpherson: No, I think that is a simplification of what I was saying down at Mile End.

Chair: “So would I expect it to play a critical role in setting out the economic implications of the options”.

Sir Nicholas Macpherson: Why is the Treasury doing so much on Scotland? You would not necessarily assume that it would fall to the Treasury to lead analysis on Scotland. It is because we have got quite a strong analytical capacity; we have got, in my view, quite able officials who work there. What I was trying to do in my Mile End speech, which in my view was completely un-political and impartial, was to set out some propositions about things like how markets work, how it was difficult to get revenue in, and how the Treasury quite likes free trade.

Q144 Chair: The only thing I am interested in, which you seem to agree with, is that you are presented with dilemmas. It is a question of how we address these dilemmas, and it is a fact that the Civil Service Code does not really seem to help much, because while the code addresses quite a lot about party politics, it does not address referendums, does it?

Sir Nicholas Macpherson: It does not address referendums specifically.

Q145 Chair: What kind of recommendation should we be making to the Government to amend the Civil Service Code in respect of civil service impartiality and referendums?

Sir Nicholas Macpherson: To me—and I perhaps have not spent as much time examining the Civil Service Code as this Committee has—

Chair: I do not think anybody has.

Sir Nicholas Macpherson: The Civil Service Code sets out some very general principles. I personally am supportive of those principles. I am maybe insufficiently imaginative; I rather like the new settlement that came into place in the mid-19th century. Long may it last, although it has to adapt to different circumstances. I always worry about updating codes for specific events. These are a set of principles. What you do need for any referendum is quite strong guidance to the Civil Service, which in effect, translates those general principles into “Here are 15 dos and don’ts, and certain other points.” Indeed, the Cabinet Office have circulated guidance to the Civil Service for this period, and no doubt there will be new guidance when the formal campaign starts. This is an unusual campaign. We have not entered the formal phase, but from the moment the Edinburgh Agreement was reached, in a sense, the firing gun went off. I do not know if you are calling the Cabinet Office in this inquiry, but you should look at their guidance.

Q146 Chair: Sir Bob Kerslake, in his evidence to us, has highlighted the guidance that has been circulated: “We are a single Civil Service, and we will continue to support our respective administrations through this period according to our core values of honesty, impartiality, integrity and objectivity”. That is a rather mixed sentence, because there could be circumstances where you are either loyal to your Administration or you are honest, impartial, and objective. There might be circumstances where you cannot be both. Do you deny that?

Sir Nicholas Macpherson: I think I do.

Chair: We will come to the Scottish White Paper in a moment.

Sir Nicholas Macpherson: I think I disagree with you. I am in my 30th year at the Treasury. There have been a lot of times where, for various reasons—not for political reasons—you develop quite strong views on what needs to be done, and it can be frustrating when Ministers, perfectly legitimately, reject your advice and do something else. By the time you get to my time of life, you are used to being ignored. It is just part of the game, but for young, passionate officials, my advice is that if you cannot handle that—if you cannot handle giving advice, that advice being rejected, and having to then go out and explain something that you think was the wrong thing to do—you are in the wrong occupation.

Q147 Chair: How concerned are you, therefore, that the Civil Service could be used or even misused to present arguments that might suit Ministers, but do not suit the national interest?

Sir Nicholas Macpherson: I do not think that is anything particularly special about referendums.

Q148 Chair: But you accept that the advice that you are giving is not just for Ministers; it is advice to voters.

Sir Nicholas Macpherson: No, it is not for me to provide direct advice to voters. It must be for the politicians.

Q149 Chair: That is exactly what you did. Why else did you publish the advice?

Sir Nicholas Macpherson: I have explained at great length the very exceptional circumstances.

Q150 Chair: If you did not intend to advise the voters, why did you publish the advice?

Sir Nicholas Macpherson: I have provided tons of advice over the last few years, and with the exception of the odd Accounting Officer direction or the odd note about Lloyds, I have not published anything.

Q151 Chair: But this was advice to voters. You cannot deny that.

Sir Nicholas Macpherson: No, I do not regard it as anything to do with voters.

Q152 Chair: Then why did you publish it?

Sir Nicholas Macpherson: It was about being very clear on the UK's position in relation to the pound sterling.

Q153 Chair: Clear to whom?

Sir Nicholas Macpherson: First, the markets, in terms of what the British Government's position is, because—

Q154 Chair: So it was more than advice to Ministers; it was advice to markets, then. I am sorry; I am being very brutal with you, but it is a very difficult question.

Sir Nicholas Macpherson: These are difficult questions and, as I say, this was an exceptional case about making the position of the UK Government absolutely clear.

Paul Flynn: Can we break up the dialogue?

Chair: Yes, please do.

Q155 Paul Flynn: In your sunset years as a civil servant, are you now demob-happy and kicking over the traces?

Sir Nicholas Macpherson: Sorry; can you repeat that?

Paul Flynn: Are you now demob-happy, and willing to take risks that you would not take when you were a young civil servant?

Sir Nicholas Macpherson: I do not think so.

Q156 Paul Flynn: What effect did you expect the advice that you published to have on the opinion of Scottish voters?

Sir Nicholas Macpherson: Scottish voters should not inform what I do. What informed this was that the integrity of the British Government and the Treasury's position we're being called into question. I felt, in these very exceptional circumstances, it was necessary to make that position crystal-clear. This is exceptional. Let me assure you that, even if I

stay at the Treasury for another 10 years, I do not propose to make a habit of doing this sort of thing.

Q157 Paul Flynn: Had it occurred to you—you are not indifferent to the political situation—that the effect of your advice, as being seen to be another English voice—another establishment English toff advising the Scots what to do—would be counter-productive, and that you would have added to the mounting support for the Yes campaign in Scotland?

Sir Nicholas Macpherson: I am not a politician. It is not my job to make those sorts of calculations. Had the Chancellor said, “Look, this is all going to be completely counter-productive; just forget it,” that would have been fine.

Q158 Paul Flynn: On your advice to young civil servants, which we look forward to reading in your valedictory book, could you contemplate those civil servants in the past who were opposed to the building of Concorde; the development of the steam-generating heavy water reactor; or the excursion into Helmand, who have found that history has judged that opposition was right? Do you think that it is true that the title of your memoirs and advice to young civil servants would be *The Unimportance of Being Right as a Civil Servant*?

Sir Nicholas Macpherson: I think the Cabinet Office’s rules now preclude me from writing such memoirs. There are rules for whistleblowing. There are very important rules around Accounting Officer directions, and I would hope that future civil servants faced with a Concorde might well seek an Accounting Officer direction. These are difficult areas.

Q159 Paul Flynn: Just today, we have heard of the account given by someone in Government employment of the disaster of going to Helmand, which cost us 448 lives. The Government were almost certainly wrong at that time, going in in the belief that not a shot would be fired. Where is the loyalty of that public servant? Some military people resigned on Helmand, but civil servants have a duty to their Ministers. Where would you put that? What about the agony of guilt when they realise they contributed to a disaster far worse than the charge of the Light Brigade?

Sir Nicholas Macpherson: These are difficult issues. They sometimes are issues of conscience. Being a civil servant is largely about the abnegation of the self. Occasionally, I have come across cases where people, for moral reasons, do not want to work in a specific area, and I will try to meet those concerns. If it was for political reasons, alarm bells would start ringing, but if for some religious reason they just did not want to work on defence spending, I would seek to move them if I thought they had something to offer the Treasury. I am afraid that if an issue of conscience becomes too big, your only choice as a civil servant is to leave.

Q160 Chair: But that is only where you conflict with Ministers. That is the point, is it not? If you are in conflict with Ministers, you have got a problem, but otherwise, everything is fine.

Sir Nicholas Macpherson: It is Ministers who determine the Government’s position of the day; it is the Government who determine whether you are in Helmand. I can remember a Minister who had grave concerns about Helmand.

Q161 Chair: The question Mr Flynn is asking is whether, if you feel under obligation to publish advice that happens to coincide with Ministers on a great question of the day faced by the British people, you are not also under a similar obligation to publish advice that Ministers might disagree with?

Sir Nicholas Macpherson: As I have made clear, there is scope for that in the context of an Accounting Officer responsibility, where you can seek a direction. Let us create a hypothetical example.

Chair: I understand the point you are making; you do not need to enlarge it. We will come to it later.

Q162 Paul Flynn: We have had the case that we looked at a fortnight ago, wherein it was not obvious that the civil servant was indulging in the abnegation of self. It concerned a civil servant who was of very high rank, who met some particular company 48 times in his position as a civil servant and negotiated with them a reduction in their tax bill from £6 billion to £1.25 billion, and, months after retiring, took a lucrative job with that company. Do you think there needs to be a change in the Civil Service rules, because of the danger that that civil servant or other high people are undertaking their high office and public service with an eye—

Chair: Sir Nicholas?

Paul Flynn: This is an important point.

Chair: You have made your point. Sir Nicholas?

Sir Nicholas Macpherson: There are rules. We should always keep those rules under review, and you make a very good point, which is that we have to be above suspicion in terms of what is informing our activity. I have the same issue. If some official at Treasury is going off to work at a bank, on the one hand, you want people to move in and out of the public and private sectors; on the other hand, you have got to be very careful of the basis on which they are doing it.

Q163 Paul Flynn: We have been waiting 20 months from the very critical report that this Committee gave to Government about the Advisory Committee on Business Appointments. So far, there has not been a sign of it. If we take the relationship between the Welsh and Scottish civil servants and the UK civil servants, do you think that in the light of something that happened very recently, when the Prime Minister sent a message to Welsh civil servants asking them to give him information he was going to use at Prime Minister's Question Time—asking the Welsh civil servants to verify what was going to be a criticism of their conduct—should he have relied on the UK civil servants, rather than involving the Welsh civil servants?

Sir Nicholas Macpherson: There are standard rules and conventions about how Departments that serve the UK interact with the Welsh, Scottish and, indeed, Northern Irish Civil Service. I am not close to that case.

Q164 Paul Flynn: The Northern Irish civil servants are in a different category.

Sir Nicholas Macpherson: They are, because they are a different Civil Service altogether, but equally, if I wanted to check a fact with the Northern Irish Civil Service, I would be optimistic that they would do it. Although he is First Lord of the Treasury, I am not close enough to what the Prime Minister or the Cabinet Office does.

Q165 Paul Flynn: What about the Scottish ones? This is a situation involving Scotland. Are the Scottish civil servants entirely free, if we follow your conduct, to publish their own information, even if it is at variance with what the Cabinet is saying?

Sir Nicholas Macpherson: One of the reasons I published my advice is that the Scottish Government and its fiscal commission, which was served by Scottish civil servants, were asserting things about the British Government and the Treasury's intentions. I have the highest regard for the Scottish Civil Service, and I have also got very high regard for Sir Peter Housden, the head of it, so I am confident that they will act consistently with their Civil Service Code.

Q166 Paul Flynn: There is no way of working out what exactly is going to happen in the almost unprecedented situation of a yes vote. We did have the precedent of the setting up of the Irish Free State, and we can learn from that, but your statement seemed to suggest that the interest of the UK was supreme compared with the interest of Scotland, even though they might be separate entities in the near future. Your justification for publishing the document was the interests of the UK as a unit, and not—in what would be the new situation—Scotland as a separate nation. Is it reasonable for you to do that?

Sir Nicholas Macpherson: Yes, I think it is. I serve the UK Government. Currently, finance and economics Ministry issues—at least, most of them—are reserved to Her Majesty's Treasury. We serve the whole of the United Kingdom. If Scotland were to leave the Union, we would serve that smaller state, but I do not think I have any choice, other than to pursue the interests of the UK Government. I am not a civil servant of the Scottish Government; I am a civil servant working for the UK Government.

Q167 Paul Flynn: And that is a very different thing. Should that not be reflected in the new code for the Welsh and Scottish Governments as they are, and as they might be if the political weather is changed after a yes vote?

Sir Nicholas Macpherson: It is always important to keep these codes up to date. The decision was taken at the time of devolution not to go for the Northern Irish precedent. There could have been a choice to create a special Welsh Civil Service and a special Scottish one. I was not part of those discussions. I am agnostic in terms of how the system as a whole works. I have always had very good relations with the Northern Ireland Civil Service, but these are issues that, no doubt, should be kept under review.

Q168 Chair: Could we now turn to the Scottish Civil Service and the Scottish White Paper in the last few minutes? If Sir Peter Housden was asked to produce advice that countered your advice, would he be right to produce it?

Sir Nicholas Macpherson: I would hope that any advice from Sir Peter would be specific to Scotland. One of the problems we have had with their fiscal commission is that it was also opining on what was in the UK's interests. These are all deeply personal things. It is

a matter for Sir Peter. I am not going to criticise Sir Peter, not least because I admire the man considerably.

Q169 Chair: Your mutual respect is not in doubt, but in the White Paper, if you were asked to produce and—this comes to the point about your Accounting Officer role—pay money for a White Paper that said that “Trident is an affront to basic decency with its indiscriminate and inhumane destructive power”, and citing a cost for Trident of £100 billion, which is not the UK Government’s official figure—

Paul Flynn: But it is the true figure.

Chair: It happens to be the figure the SNP uses in its propaganda. Would that not be an abuse of public money?

Paul Flynn: That is an abuse of your duty.

Chair: Shush. Order. I am not asking you the question.

Paul Flynn: I am not shushing up. You have made a statement that is overtly political, which demeans your office as Chairman of a Select Committee.

Chair: I have merely quoted from the Scottish White Paper.

Paul Flynn: You commented on it.

Sir Nicholas Macpherson: My job is not to pass judgment on what goes on in the Scottish Government.

Q170 Chair: Do you think the Civil Service Code is being applied objectively?

Sir Nicholas Macpherson: There are two things here. All of us have a duty to set out the facts, and if Ministers use the wrong facts, you need to put them right.

Q171 Chair: What is the fact?

Sir Nicholas Macpherson: In this case, Mr Flynn has already ensured that there is debate about what the fact is. Getting the facts right is absolutely essential.

Q172 Chair: How much does Trident cost?

Sir Nicholas Macpherson: I have not come here briefed to talk about that.

Q173 Chair: The official figure that the Treasury uses is £25 billion over 50 years. Is that figure correct?

Sir Nicholas Macpherson: I would have to go back to the Treasury and check. I am sorry; I have not come here with the facts on that. I would just pick up two points. One is that you should use the proper facts. The second is that the Treasury tends to favour rather drier language than, perhaps, some elements of that White Paper. There is a general movement across Government, if you look at publications, to use slightly more charged language. I am a traditionalist; I prefer quite dry explanations of what Governments are doing, but I recognise tastes have changed.

Q174 Chair: That is what this session is really about. To what extent is the Civil Service being involved in a change that really changes its status, its independence, and the respect in which it will be held by people with different views?

Sir Nicholas Macpherson: My view, for what it is worth, is that you should try, in drafting documents, to use fairly uncontentious, dry language. Maybe one of the reasons why the Treasury's papers on Scotland analysis have not perhaps got the traction they deserve is that we have not used the sort of language that gets traction, but I can remember the Cabinet Office putting out papers from time to time under successive Administrations that sought to explain what the Government have achieved and what it is doing, and that is fair enough, up to a point. Governments have a right to explain what they are doing.

Q175 Chair: But if civil servants are increasingly using what you call "charged language" in Government documents in order for the Government to better make its case, and if civil servants are prepared to have their advice published in support of the Government's political objectives, are we not in danger of losing something in terms of the respect and the regard for the Civil Service, not just from commentators and the public, but from politicians themselves? They are expecting you to become more cheerleaders of their policy, instead of impartial civil servants.

Sir Nicholas Macpherson: They would argue that they want to use more modern language that resonates with potential readers of those documents.

Q176 Chair: But if you are expected to carry out these functions, does it not undermine the case of the Civil Service Commission that civil servants should be appointed entirely on merit, without regard to their ability to write charged language in documents and to give useful advice that can be published in support of the Government of the day?

Sir Nicholas Macpherson: You can write clearly and attractively without things becoming politically charged. That would be my aim in an official document. If you read a George Osborne Budget speech, it is very different from a William Gladstone Budget speech. If you read the Haldane report, you will find it reads rather differently from a modern tract on Civil Service reform. Tastes change.

Q177 Chair: So it is just a matter of taste and fashion.

Sir Nicholas Macpherson: No. Some of it is taste and fashion, yes, but I always look through the Red Book, for example, when we are about to be publishing a Budget just to make sure that we are not descending into sloganeering.

Q178 Chair: Would you ever consider it a proper use of public money to publish a Treasury White Paper about what the Government intended to do after the next General Election?

Sir Nicholas Macpherson: As I said earlier, being a Treasury official, I tend to be cautious and sceptical.

Chair: I think that is a "no."

Q179 Kelvin Hopkins: Whatever the style, and whatever the tastes in language, if it is published by the Government, it is effectively the possession of the Minister, the Prime Minister, or whatever. The big difference is that if it is a statement by a civil servant, in

whatever form of language, that is private advice to a Minister. It is not something that is published as a political statement. If a civil servant wants to be a politician, they can resign and stand for election if they wish. I do not know what the rules are, but even in Sir Peter Housden's case, that was leaked transcripts prepared for Ministers in the Scottish Government. It was not him saying, "This is what I think". No doubt, somebody said to him, "Sir Peter, we want papers prepared for us that recommend independence for Scotland", and he said, "I will write them, because that is my job". If he had published a statement saying, "I think independence would be a great idea", that is a political statement, inappropriate for a civil servant. The difference is whether it is an official statement on behalf of the Government or whether it is the personal view of the civil servant.

Sir Nicholas Macpherson: I have covered the exceptional circumstances in which I published my covering note. There is a convention that Government documents are different from party political documents. I know we have a coalition at the moment, but I have worked for most of my Civil Service career under one-party Governments, whether it is Labour or Conservative, and there are quite strong conventions about what you put in a Government document as opposed to a party political one. Actually, from time to time, I have told Ministers, "If you want to make a speech in that way, you should put it out under a Conservative Central Office banner rather than the Treasury banner," or, "If you want to make it a Treasury speech, we had better take out that sentence." I think that is a reasonably valuable convention, simply because there is always a risk that taxpayers' money will be used to support party political activity. I do think the language of official documents matters, but coming back to my point to the Chair, what is deemed to be acceptable changes over time.

Q180 Chair: Can I just ask one other question? Have you ever put your name or your signature to a Government White Paper as Permanent Secretary?

Sir Nicholas Macpherson: Unless this is a trick question, I am not aware of so doing.

Q181 Chair: But would you consider it appropriate that, if the Government were launching a new policy, the Chancellor signs it, and the Permanent Secretary signs it too?

Sir Nicholas Macpherson: If it was some statement on how the Treasury was going to be run in the coming period, then I think it would legitimately enter my operational responsibilities. But, again, I would be quite cautious about doing something that was a wider policy statement.

Chair: It was a trick question, and you avoided it.

Kelvin Hopkins: Process is one thing; policy is something else.

Q182 Chair: Sir Nicholas, you have been very frank with us. You have also given us an insight into the tensions and dilemmas faced by civil servants. We are looking at impartiality; I hope we are also going to look at accountability, and where this rests. Would you accept that if civil servants themselves are going to be giving their own opinions, then the accountability of civil servants—not just to Ministers, but to Parliament—becomes a question relevant to the relationship between civil servants and Parliament?

Sir Nicholas Macpherson: I agree that civil servants should tread very carefully indeed in this area.

Chair: Thank you very much indeed.