



Public Administration Select Committee

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

HC 1149

Tuesday 13 May 2014

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Members present: [Mr Bernard Jenkin](#) (Chair), [Paul Flynn](#), [David Heyes](#), [Kelvin Hopkins](#), [Greg Mulholland](#), [Lindsay Roy](#), [Mr Andrew Turner](#)

Questions 385-473

Witnesses: Rt Hon Peter Riddell CBE, Director, and Akash Paun, Fellow, Institute for Government, gave evidence.

Q385 Chair: Can I welcome the Institute for Government to this session of the Public Administration Select Committee and our inquiry on the impartiality of the Civil Service in relation to referendums? I confess we find the topic going wider than just impartiality and referendums, and it may lead to other work for this Committee to do. Could I ask each of you to introduce yourselves for the record, please?

Peter Riddell: I am Peter Riddell, Director of the Institute for Government.

Akash Paun: I am Akash Paun, Fellow at the Institute for Government.

Q386 Chair: Could I ask you to keep your answers fairly crisp? We will also endeavour to keep our questions as short as possible, so we can get through our agenda. First, what is this quality of impartiality that we are really discussing? It seems impartiality takes on a different meaning depending upon who is speaking and the perspective they are speaking from.

Peter Riddell: Impartiality is the ability of the Civil Service not to be seen to be taking partisan positions in elections, or favouring one party over another, and being able—as in the traditional formula—to work for politicians of any party who happen to form a Government. As a number of your witnesses said, they have moved seamlessly from serving one Secretary of State one day to another Secretary of State another day. To my mind that is the definition of impartiality.

However, as you also heard, that does not mean they stand back holding their noses at anything political. The Ministers are elected and formed by a Government that has the confidence of the House of Commons. Ministers are entitled to pursue their policies. Civil servants are expected to advise a Minister and implement policies. I do not know if

you want to get on to a unified Civil Service yet, because that is very important, particularly in this context.

Chair: Not yet. Mr Paun.

Akash Paun: There is a degree to which the word impartiality is ambiguous and carries a different meaning. I would simply look to the definition set out in the Civil Service Code in the context of this inquiry and discussion. I know several of the witnesses before this Committee have highlighted that as well. There, of course, is the distinction between impartiality more generally and political impartiality, which I suppose is what we are talking about. The crucial element of it is in line with what Peter said: it is the obligation of civil servants to serve the Government of the day to the best of their ability without losing the ability to transfer that loyalty and support to a Government of a different political persuasion; so, that is the test. As far as serving a current Government is concerned, impartiality does not mean standing independently and casting independent judgment.

Q387 Chair: What is difference between impartiality and objectivity?

Peter Riddell: Objectivity is the sense of providing advice without fear or favour. If they are providing advice to a Minister, they are not—and this is often very difficult—trying to tailor it to the prejudices, views and preferences of the Minister concerned. This is in terms of policy formation, and revision of facts. Obviously, if a Minister decides to do X, the civil servant’s job is to implement it and not to dissent on it, having given whatever advice they have in the run-up to that.

Q388 Chair: How often do you think Ministers mistake objectivity for partiality, i.e. hostility or resistance?

Peter Riddell: It is a very interesting distinction between impartiality and resistance. I think what they feel is—particularly new Governments, and this is a real difficulty—the Civil Service has got used to the previous Government, particularly if it has been in power for some years, and therefore they see civil servants as having gone native. Often this is completely wrong. My view is that the Civil Service were probably too keen to please in 2010, 1997 and 1979, for understandable human reasons—and they can never get it right; I have a lot of sympathy for them. They were rather reluctant to say, “Hold on, are you sure this is the best way to achieve your objectives?”—not querying the objectives, but the best way to do it. Some of the problems that emerged were the Civil Service perhaps not being challenging enough because they wanted to get the trust of new Ministers. Talking to senior civil servants, as I do all the time, it is one of the dilemmas they face. They want to get the trust of Ministers, but how far is that jeopardised by them raising what is seen by Ministers, often falsely, as objections, challenges and issues?

Q389 Chair: What about this word “neutral”, or “neutrality”, that is also bandied around? What is the difference between being impartial and being neutral?

Akash Paun: I am not sure I have seen the term “neutrality” defined. It is not part of the Civil Service Code. It is not seen as one of the core values of the Civil Service.

Q390 Chair: The Head of the Civil Service used that word quite a lot last week.

Akash Paun: The word may be used, certainly in discussion. I am not sure I could draw a very clear distinction between those two concepts.

Q391 Chair: Are they the same thing?

Akash Paun: I did see from some of your previous witnesses the distinction being drawn. Neutrality might imply not being supportive of the policy objectives of a Government—being neutral to what the Government is seeking to achieve—and standing aloof from that. I am not sure if that kind of semantic question is the most useful way to approach these issues. The key thing is that it is recognised and deeply embedded in the culture of the entire Civil Service of the United Kingdom—and the respective bits within it—that their prime duty is to support Ministers of the day, but obviously within the framework of how Civil Service resources should properly be used, and the line between Government and party business, which is very important.

Peter Riddell: On that, there is a phrase I am trying to find in the evidence from Sir Nick Macpherson: when someone becomes a civil servant, they forswear part of their personalities. Their personality is to be candid in advice, but then to accept that they've got to shut up. That is what neutrality means in practical terms.

Q392 Chair: That applies to a great many professions and organisations. You cannot have organisations where everybody indulges themselves in their own beliefs—there is collective responsibility in political parties, or the collective responsibility of a board and the management of a company. We all have to have a discussion and then agree what to do. If we disagree with the course being taken, we are all confronted with this dilemma: “If I disagree fundamentally with what my company wants to do, do I stay with the company or find another job?”

Peter Riddell: That is true, but it exists in a more formal way within the Civil Service—Ministerial relationship. I accept that absolutely, but you take it to a further path. It remains the convention that with the Civil Service dissentient—if there is a scandal, whistleblowing, or he or she resigns—it is more extreme.

Q393 Chair: Is impartiality compatible with “A passionate commitment to delivering the Government of the day’s priorities.”

Peter Riddell: Yes, absolutely. Now, Governments are much more involved, as all your inquiries show, in implementation delivery and so on. You want people who really want to deliver those services. There are questions of balance there, but you would want someone who is bringing in a new policy to be really committed to it—absolutely.

Q394 Lindsay Roy: I understand the Civil Service in Scotland have been advised they must be impartial and objective but not neutral. I find this very confusing. Can you expand on what might be meant there?

Peter Riddell: I read Peter Housden’s evidence. Akash and I have quite a lot of contact with the Scottish Government, as we do with the Welsh Government. Akash is heading a project on intergovernmental relations in light of developing devolution and whatever, so we are quite well informed on that. They are serving the Ministers of the Scottish Government. It is their job to prepare plans—and the White Paper we saw in November,

Scotland's Future—in line with the political views of the clear majority party in the Scottish Parliament. They serve the Ministers when they go round the country, but there are limits on what they do, and I know you had some very interesting exchanges with Peter Housden last week on this. Then there are purdah periods and all that. They have also got to recognise there are elections in two years' time for the Scottish Parliament, and who knows what will happen there? I do not think anyone would like to guess. I do not see it as dramatically different from what would happen within Whitehall with a White Paper or, as a topical example, with civil servants in the Department for Education on free schools.

Q395 Lindsay Roy: I understand that both in the UK and Scotland, the Civil Service is self-managed. Whose responsibility is it to monitor that the Code is being adhered to, and to whom are they accountable?

Peter Riddell: Bob Kerslake and Jeremy Heywood are accountable to this Committee, and obviously to the Prime Minister. In Scotland they are accountable to the First Minister. This is where the unified Civil Service point comes in.

Chair: We will come to this.

Peter Riddell: Okay, but it is very relevant. One has to accept there are different Governments. Peter Housden's primary responsibility is to Alex Salmond, as First Minister of the majority party in the Scottish Government.

Q396 Lindsay Roy: Who monitors adherence to the Civil Service Code? Are you aware of any breaches?

Akash Paun: Responsibility in Scotland for adherence to the Code would rest with the Permanent Secretary there, as I understand it. You have put that question about complaints under the Civil Service Code to Peter Housden and Sir Bob Kerslake. We do not have any other evidence on that matter.

Q397 Lindsay Roy: Do you find it surprising there have been no recorded breaches or indications of what has happened if there has been a breach of a code, given that there are so many civil servants in the UK?

Akash Paun: Formal breaches of the Code are obviously quite a serious matter. One would not expect it to happen particularly often. No doubt there will be informal discussions more frequently where people have questions or queries about the right way to deal with requests from Ministers. Many things would be dealt with without formal recourse to report a breach of the Code.

Q398 Lindsay Roy: I agree with you. You would expect very few, but there have been none at all.

Peter Riddell: People have got to complain. There are broader issues here about the role of the Civil Service Commission, which is a very live topic, and the mechanisms for reaching complaints. Certainly, from the evidence you received, the key thing is complaints, and there do not appear to be many. This is what Select Committees exist for. If there is a really serious concern, why are you doing this inquiry?

Q399 Lindsay Roy: What are the big challenges in maintaining impartiality?

Akash Paun: The test of impartiality, as we have already discussed, is whether officials can credibly serve Ministers of a future Administration with different political objectives. There is a kind of “Are you burning your bridges?” test. As Peter said, both the Civil Service here and in Scotland have fairly recent and fairly successful experience of managing a transition from one Government to another. That illustrates this is an issue civil servants are well attuned to.

What civil servants want—from speaking to them about these matters—from their Ministers and political leaders is a clear sense of direction and clear objectives they can then work to the best of their ability to help implement. Both in the UK Government and Scottish Government, there is very clearly an objective that the whole system is set up to help achieve.

Q400 Chair: Okay. To what extent is this understanding of impartiality changing? Mr Riddell, you have talked about the need for the relationship between Ministers and officials to be based on trust. However, with less trust about these days than there used to be—and I think that is generally accepted—to what extent is this migration from impartiality to overt enthusiasm a requirement of the modern world that might not have existed previously?

Peter Riddell: It is partly a reflection of the changing role of Government too—the Government as project manager as opposed to administrator. I do not want to go too far down that route, but the State has a very different role from what it did 20 to 30 years ago; some of that is a reflection of that. For Government to work, it requires different qualities of project management and so on. It requires a lot of sensitivity about enthusiasm in implementing a project—say, the Olympics. No one queried the enthusiasm of the people involved in the Olympic Delivery Authority, who were public servants, and were delighted they did it. There are grey areas and it does make it difficult.

Q401 Chair: Are you saying there is a cultural change taking place?

Peter Riddell: At one level there is a requirement for people who are more effective project managers. With that comes a degree of enthusiasm we might not have seen in the past; the style is different. But one should not overdo that. The outward forms may differ, but that is not to say civil servants 100 years ago would not have been absolutely committed to carrying out the wishes of the Government of the day. They were committed in a rather different way, because the political culture was different.

Q402 Chair: So whatever this enthusiasm is, it is not a political enthusiasm?

Peter Riddell: In most cases it is not. It is actually an enthusiasm to get a job well done and achieve it. The people I know at that level—I haven’t a clue what their politics are.

Q403 Chair: To what extent do you think this debate about impartiality is a new one? Would Northcote and Trevelyan recognise this debate?

Peter Riddell: They absolutely would recognise this debate. There were different factors behind the Northcote–Trevelyan Report. You had a totally different system of appointment, which they were reacting against. They would recognise many of the dangers. But the key thing is we are talking about a different political structure—a more

pluralist one and a less monolithic State. Those are the things causing the strains you are describing.

Q404 Kelvin Hopkins: You used the word “accountability”, suggesting the Head of the Civil Service and Cabinet Secretary are accountable to this Committee. They report to us. We ask them questions, but they can bat us away because they are not accountable to us. We are accountable to the electorate. Ministers are accountable to Parliament. The Civil Service, if they are accountable at all, are accountable to Ministers.

Peter Riddell: You are absolutely right, Mr Hopkins, and I take that distinction. However, if you talk to permanent secretaries, they reckon to have multiple-answerability. Their appearing here or before the Public Accounts Committee is a form of accountability. Accountability is not a sole thing; it is multiple. One of the problems permanent secretaries have got is that they respond to Secretaries of State, heads of the Civil Service, cabinet secretaries, the Prime Minister, Select Committees and Parliament. It is a multiple-accountability. You might say it is answerability, but we are blurring lines there. They are held to account for what they do, and appearing here is part of that. You cannot determine their futures—very few people can—or, for example, the non-executive directors in a departmental board; it is multiple accountability, which actually is quite a problem.

Q405 Chair: What evidence have you uncovered of politicisation in the Civil Service in the study you conducted?

Akash Paun: Our study on devolution and intergovernmental relations is really just in the early stages, so we do not have a big evidence base to report on. I do not see any evidence of politicisation in the sense of civil servants being selected, appointed or promoted because of their personal political beliefs.

Q406 Chair: That was not really my question. Because civil servants are much more in the public spotlight than they used to be, because there is openness, transparency and freedom of information, to what extent are there new pressures on civil servants overtly to expose their enthusiasm, or passion, for the Government of the day rather than to remain anonymous and more publicly impartial figures than they were?

Peter Riddell: I do not see much of a problem. The issue goes back to your theme of enthusiasm. It is not this Government particularly or the last one. Even in the Thatcher era—and no one would say she did not have clear ideological views—she looked, to use this horrible phrase, for the “can-do” civil servants whose political views she did not know and were not necessarily sympathetic; they were people who were committed to implementing and actively advancing, rather than being sceptical. You might say there is a bias towards activism and commitment, but in no way do I view that as politicisation.

The politicisation sometimes comes in with the issue of temporary civil servants and things like that, but I do not see it in the behaviour of permanent secretaries, or senior civil servants. They want to serve the Government of the day, and I do not see any particular move on that. Yes, they are more public figures, but that could also make them warier and more cautious. As Mr Hopkins said, they are batting things off because they are aware they are much more in the public than they were in the past.

Q407 Chair: How much do you agree with the Minister for the Cabinet Office, Francis Maude, who described the Northcote–Trevelyan settlement as a “bargain” in the debate before the Easter recess? How much do you agree that it is a transaction between the ministerial class and administrative class?

Peter Riddell: I would not put it quite the way Francis Maude did. It goes back to the point I made earlier about when people become civil servants.

Q408 Chair: What is wrong with the way he expressed it?

Peter Riddell: The word “bargain”. There should be a mutual understanding between the limits of what Ministers do—and how they behave to civil servants—and what civil servants do. I would not quite use the word “bargain”, but I am happy with it.

Q409 Chair: He says, “The Civil Service must be very partial towards the Government’s getting their programme implemented; otherwise, the bargain starts to fall apart.”

Peter Riddell: What I would add is—as indeed Francis Maude has said in other contexts—but they should be free and totally fearless and objective in the advice they provide before decisions are taken. They have to be totally able to say, “Hold on, this is not working,” or “There is a better course.” It was just the word “bargain” I was coming at, but the implicit understanding is something I would agree with.

Q410 Chair: But is the bargain starting to fall apart?

Peter Riddell: In some Departments, it is strained, more because of what people say—leaks and things like that.

Q411 Chair: What is causing the bargain to start to fall apart today that has not occurred previously?

Peter Riddell: Restlessness: a desire to seek achievement on a very fast timescale. Sometimes life does not work like that and Ministers get impatient: “Why hasn’t that happened yesterday, if not today?” The timescales, the understanding of how change works, are providing some strain.

Q412 Chair: To what extent do you think Ministers are being tempted towards a different kind of settlement because they feel this bargain is starting to break down?

Peter Riddell: Some Ministers are. It varies enormously. I am very reluctant to generalise.

Q413 Chair: Do you think they are right?

Peter Riddell: It goes back to the bargain aspect. Inevitably, the personalities of Ministers and civil servants vary. Some Ministers are too impatient. If you look at the extent of change—something you have observed in this Committee—it has been massive since 2010. You have had 25% to 30% cuts in headcount at the top and huge structural changes in Departments. In some cases Ministers under-appreciate the extent of the change there has been, but equally, they are a bit impatient at the scale of achievement. Things do not happen that quickly.

Q414 Lindsay Roy: To what extent would it be normal practice for a group of civil servants to accompany a Minister at the launch of a White Paper?

Peter Riddell: Normal.

Lindsay Roy: Normal?

Peter Riddell: Absolutely normal. Perfectly normal.

Lindsay Roy: Thank you.

Peter Riddell: They should be wallflowers, but they would absolutely accompany them, as they or press people would accompany a Minister to a broadcasting studio—absolutely normal.

Q415 Lindsay Roy: Would they be involved in answering questions in relation to the White Paper, or would that be the Minister?

Peter Riddell: It depends on the nature of the questions. If it is a factual thing—you are getting into grey areas. If it is purely factual, yes, but that is where discretion and judgment come in.

Q416 Chair: Francis Maude launched a White Paper at the Institute for Government, about a year ago, I think.

Peter Riddell: Two years ago, and then he came back again.

Chair: The Head of the Civil Service also wrote a frontispiece and signed it off, and he was on the platform. I recall Lord Butler being somewhat affronted, saying this was a Government White Paper, not a Civil Service White Paper, and it was wrong for a Minister to hijack the Civil Service in support of what was a political policy. Is his a very antiquated, old-fashioned and cranky view?

Peter Riddell: No, but you are talking about a very special case here. After all, the Head of the Civil Service is the guy who administers the Civil Service. He is responsible for the change, in a very different way from, say, Universal Credit or Health Service changes.

Q417 Chair: What should we make of Lord Butler's view?

Peter Riddell: I remember Lord Butler expressing it, because I talked to him about it. It depends on subject matter. In this case what Bob Kerslake and Jeremy Heywood wanted to signal was their commitment to changing the Civil Service. They wanted to minimise friction between civil servants and Ministers by associating themselves with a change that they themselves had largely created. Going back to Francis Maude's phrase, there was a "bargain". In many other areas I would agree with Lord Butler. If one was talking about a separate policy area I would say, "No, civil servants should not be signing a White Paper," but in the case of running the Civil Service it is different. You have to accept it is a different category.

Akash Paun: The Civil Service Reform Plan contains some elements and proposals that you could see as more politically motivated reforms. I know your Committee has looked

at things like changes to the appointments process and the expansion of Ministerial offices. On the other hand, there is a lot in the reform plan that is much more managerial and about improving the skills of civil servants. Of course, the Head of the Civil Service and the Cabinet Secretary will take responsibility for making that happen and leading on that side of it.

Peter Riddell: You have got to accept it is hybrid.

Q418 Paul Flynn: In an incident described as “surreal” by a journalist, Sir Jeremy Heywood and others arrived at the *Guardian* office armed with drills, hammers and a degasser. They spent three hours smashing into smithereens four hard drives that contained information that won for the *Guardian* the highest international prize for investigative journalism. Do you think it was wise for Sir Jeremy Heywood to be physically present?

Peter Riddell: I am not aware he was physically present.

Q419 Paul Flynn: He visited the *Guardian* building.

Peter Riddell: I don’t know anything about that at all.

Q420 Paul Flynn: What would you assume from that? Do you think it is wise for top civil servants to be engaged in this? He went to the *Guardian* building on at least two occasions.

Peter Riddell: I really cannot comment on that because I do not know the background of it sufficiently to make a sensible comment.

Q421 Paul Flynn: Mr Paun, do you have any view?

Akash Paun: I also was not aware that he had been present. I read the reports of those hard drives being destroyed. Obviously, it was quite an unusual scene.

Q422 Paul Flynn: In a separate incident, Sir Jeremy Heywood travelled to Lancashire to host a dinner with the head of Cuadrilla, Francis Egan, and other local people. The purpose of the dinner was to promote fracking for shale gas. Knowing the connections there are between the company Cuadrilla and the Government, do you think this was wise of Sir Jeremy Heywood? Does it not suggest that he is not impartial on this issue?

Peter Riddell: You should ask him that. Why don’t you summon him to answer those questions? It is quite right that the Cabinet Secretary meets a wide range of external people to inform himself on upcoming policy issues. It has always been the case that he, in his role as Cabinet Secretary, co-ordinates policy advice on sensitive issues, and he should be informed on that.

Q423 Paul Flynn: He could do that from his office in London. On this occasion he arranged a dinner for Cuadrilla—and other potential customers and interested bodies—in Lancashire. Is that what a civil servant should be doing?

Peter Riddell: You would have to ask him that. You are raising things that are totally different from the subject of this session. You might want to talk to him about that. Actually, the fact that Jeremy Heywood is getting out of London is a good thing.

Q424 Paul Flynn: Adrian Bailey, Chair of the Business Innovation and Skills Committee, said, “You would reasonably expect the Government to appoint someone who was totally unconnected with either of the parties to be involved in the negotiations.” What he was talking about was the ongoing negotiations between Government, AstraZeneca and Pfizer. Sir Jeremy Heywood once worked for Morgan Stanley, who are advising AstraZeneca in this. Should we question his impartiality here?

Peter Riddell: No, not at all. The interesting thing is that we know all about this. Gus O’Donnell brought this in when he was Cabinet Secretary: there is now disclosure of whom senior civil servants meet. That is a thoroughly good thing. They need to meet people; they are not monks. In a sense, it goes back to what the Chair was asking about earlier. If you want an image of the Civil Service being totally remote—as when they were in the India Office and never went near India—that is fine; it is actually rather better that they meet people.

When you say “negotiate”, it is an emotive term. Jeremy Heywood’s job and other civil servants’ jobs are to find out what is going on and to advise the Prime Minister, the Business Secretary and the Chancellor, etc. on what the position is. That is the score on that.

Q425 Paul Flynn: You disagree that they should have someone neutral who does not have past connections with one of the two parties.

Peter Riddell: He worked for an investment bank that had multiple clients. There is absolutely no suggestion of any interest. Also, it was several years ago. It is getting on for a decade ago that he was at Morgan Stanley, having come back to the Civil Service at least eight years ago. I do not question his ability to provide advice on that—and the Prime Minister is entitled to that advice. Providing advice on awkward issues is one of the chores of Cabinet Secretaries. Really, however, you have to talk to him.

Paul Flynn: We would love to.

Peter Riddell: Why don’t you ask him?

Q426 Paul Flynn: There is an invitation from this Committee going to him. There is another matter, perhaps, than impartiality. The Prime Minister told me in an oral reply that he was not blocking the publication of the Chilcot Inquiry and he was not withholding information. The suggestion is that there might well be a civil servant that is obstructing the progress of this inquiry—a civil servant who had an important, influential job in 2003, when the decision to invade Iraq was taken. If that is true, is that not a civil servant overstepping his powers? Why on earth is the Prime Minister confessing his own impotence in hurrying along this investigation, which has already been delayed for three years?

Peter Riddell: You would be absolutely wrong to draw the inference you have. From my understanding of the issues—I have been involved in a Privy Council inquiry myself on detainees, so I do know something about these things, and I know a little about Chilcot—it is utterly wrong to imply that the Cabinet Secretary is delaying it. As far as I understand it, the issues are to do with correspondence between Downing Street and the White House that was understood to be secret, and the issue of Maxwellisation—showing the evidence to people who are criticised. Those are issues in what is—I am told—a million-word

report. The Cabinet Secretary traditionally had the role of trying to sort these things out. It is utterly wrong to suggest that Jeremy Heywood is a blockage in that. I am sure he would like to accelerate it as much as possible.

Q427 Paul Flynn: Who else is there? The Prime Minister cannot interfere; it is not the Head of the Civil Service. Who could it possibly be that is delaying it?

Peter Riddell: Obviously, the Cabinet Secretary is involved in it as a broker; however, from my understanding, what you are implying is utterly wrong.

Q428 Paul Flynn: Could you give us another scenario?

Peter Riddell: No. What I am saying is that these are very difficult issues.

Q429 Paul Flynn: It was set up in 2009 at the instigation of this Committee. It hoped to report within a year.

Peter Riddell: No, it did not. That was nonsense.

Paul Flynn: We will argue about that.

Peter Riddell: It is wrong.

Paul Flynn: That is what Chilcot said. I do not have the quote with me. I will happily send it to you, but they hoped to report very quickly. It is three years late, by anyone's standards.

Peter Riddell: Why don't you get John Chilcot in? Having done an inquiry, I can explain it to you. First, you can argue their remit was pretty broad. However, in a million-word inquiry, it is going to take time to show the critical passages to people. I know there is a desire to finish this as quickly as possible, but it is a complicated matter.

Chair: Mr Flynn, this is not actually the domain of our Inquiry. You have asked some very interesting questions and Mr Riddell has done his best to answer them. However, we are going to address this matter separately. Could we move on?

Q430 Paul Flynn: The publication by Nick Macpherson of his advice to the Chancellor of the Exchequer was a fairly rare event in Government. It was a reasonable decision that he should give his advice; was it reasonable that he should publish that advice? Has that destroyed his neutrality or impartiality?

Peter Riddell: As you said, it was an exceptional instance. I do not see it happening again.

Q431 Paul Flynn: We heard him; he gave evidence to this Committee. There are many matters that are of enormous importance to the country—there is nothing more important than going to war, for instance, but we do not have a report on that—but the accusation was made in this case that, as all three main parties are united in opposition to the independence of Scotland, he was influenced by that.

Now, it doesn't seem to be an issue. It is a financial issue, but it was not as exceptional as one would suggest to allow a Minister to behave in this way. It is extremely rare to publish that information.

Peter Riddell: It is, absolutely. It is quite clear from his evidence to you—and, indeed, Bob Kerslake’s evidence last week—that it is so rare that we are unlikely to see it repeated.

Q432 Chair: Why do you draw that conclusion from that evidence?

Peter Riddell: Because of what Nick Macpherson said to you—that it is very exceptional—and from what Bob Kerslake said to you last week. The word “exceptional” appeared as often as you earlier said “neutrality” did.

You can argue about wisdom of him doing it, although one thing that did occur to me—I was talking about this with Akash before the session—is that, if he had been in front of the Treasury Committee and someone had asked him a question about that, he would presumably have answered along the lines of his letter, as civil servants often do on that score. Again, there is a slight blurred line.

I agree—when he published it in the way he did, my eyebrows went up. I issued a statement from the Institute for Government saying, “If this is a new policy, we should know about it, because it does raise lots of question about precedent and, therefore, Freedom of Information.” Nick Macpherson can stand up for himself; he’s the senior Permanent Secretary. He clearly indicated to you that it was his recommendation to George Osborne; George Osborne had not suggested it to him. It is his thing. As I say, I would be startled if this occurred again.

Q433 Paul Flynn: Any civil servant in future can justly say, “This is a matter of enormous importance, in my judgment, and I will send it to the press.”

Peter Riddell: No, they cannot—he got the approval of his Minister for it.

Q434 Chair: Does it require the Minister to approve it?

Peter Riddell: Yes.

Q435 Paul Flynn: Ministers then become part of the conspiracy—if conspiracy it is—if they are saying to their civil servants, “It is in my political interest for you to back up a case I am pushing: not only I, a politician, am in favour of this line, but you, an independent, impartial civil servant, are also in favour of it.” Of course, politicians would welcome this, but it is a flagrant abuse of the tradition of the Civil Service if this is allowed to go by without anyone objecting to it, and the Head of the Civil Service giving his blessing to it.

Peter Riddell: As I say, I raised my eyebrows at it because of the precedent it set and the issues it raised. Funnily enough, however, his views may well have come out if he had been questioned about it by a Select Committee. I do regard it—this is interesting—as perhaps the exception, which will ensure it will not happen again.

Q436 Chair: How uncomfortable do you remain that it has happened?

Peter Riddell: I remain uncomfortable, but what has interested me has been the wider response. It has not been that this is a wedge to be followed by other things. The response indicates that a very senior Permanent Secretary felt very strongly about it, all parties in Westminster agreed, and this is an exception. I would be very uncomfortable if either, as

Mr Flynn implies, this became a habit or it was repeated. I regard this as the exception that actually reinforces the rule.

Q437 Lindsay Roy: The first priority of any state is to protect its people, its assets and its territory. Would that not be an exceptional circumstance, too? Could defence and security matters not be an exceptional circumstance?

Akash Paun: One reason why it is an exceptional circumstance, as people have already alluded to, is that there is cross-party consensus about this issue at Westminster. There was not a sense that this issue was being used in way that would make it more difficult for the Civil Service to support a future Government down here. It is different in that respect.

There are obviously very different considerations about the confidentiality of information in terms of security and defence matters, which, one would imagine, would make it less likely that there would be a case for publishing. There is a wider debate to be had about more open policy advice and the publication of policy advice. We have seen the creation of the Contestable Policy Fund by this Government, which commissions advice from outside Government. Other countries go a long way further in publishing advice.

My point is simply that one could have a wider debate about the merits of the publication of advice in these cases, but what is strange is it just being done in this one-off case like this.

Q438 Greg Mulholland: Unprecedented or not, is it simply reality that the Civil Service of both the UK Government and the Scottish Government have overstepped mark and gone beyond the norm of what is acceptable in terms of impartiality?

Peter Riddell: I do not think so. What has happened is that we are used to a unified Civil Service. We are not used to civil servants serving Ministers who have diametrically opposed views, as now is true of the referendum. That is what we are not used to. We are, therefore, seeing civil servants backing up their respective Governments and doing their jobs, providing totally different advice, support and all of that stuff—but that is because we have totally different Governments, which we are not used to.

We are seeing the adaptation of the traditional model to more pluralist or even a—I hate to use the word—federal structure. You have within it different Governments who have different views. Civil servants are serving their respective Governments. That is what we are seeing. I do not see them overstepping the mark. There are dangers in this, but an elected Government is entitled to put forward their views; civil servants are supposed to serve them. There are some very tricky areas, as we will see over the next few months leading up to the referendum. No one is denying that, but I do not see, as I say, the “raised eyebrows” Nick Macpherson episode being repeated—and no one would expect it to be. There were particular circumstances there that he explained—and he has, of course, been held answerable, in Mr Hopkins’ phrase, on that.

No, I don’t feel they are overstepping the mark.

Q439 Greg Mulholland: Of course, Governments put forward their views of what they are going to do as a programme for Government, but that is a very different thing from a manifesto about what may be the case in future.

Turning to the White Paper published by the Scottish Government last year, *Scotland's Future: Your Guide to an Independent Scotland*, was that really a White Paper?

Peter Riddell: What is a White Paper? I am old enough to remember when the issue has come up before. In 1979 the Thatcher Government came in believing that high public spending was not a good thing and it should be reduced. There is a White Paper that came out perhaps in 1979 or 1980 that actually explicitly said high levels of public spending are the root of our economic problems. This was diametrically opposed to what had been said under the Wilson and Callaghan Governments before. Exactly the same civil servants in the Treasury were supporting it. That is what elected politicians do: they have different views. Certainly, however, the nature of White Papers has evolved. The *Scotland's Future* one is a bit jazzier and all that, but the idea that they are neutral documents is pretty fanciful. They reflect the political views and preferences of the Government of the day—and can be taken or rejected on that basis.

Q440 Greg Mulholland: With respect, there is a big difference between putting forward a viewpoint, and something that is not neutral because it is a defence of something the Government intends to implement. We are well used to politicians suppressing Civil Service documents when they do not like what they say—most recently, the Home Secretary with regard to immigration. In this case, however, we have a document that is clearly full of unsubstantiated opinion, which is fine for a manifesto, fine for the Scottish independence campaign, but it is not fine for civil servants to have, effectively, their names to it.

Akash Paun: You refer to it as a Civil Service document. It is a Scottish Government document.

Greg Mulholland: It was ultimately produced by civil servants. It was not produced by the campaign.

Akash Paun: No, it is not a campaign document.

Greg Mulholland: You say it is not a campaign document; I would say it very clearly is a campaign document and not a genuine assessment. I am going to turn to the other side of the issue; I am going to show real impartiality here. Surely the job of the Civil Service is to say, honestly and openly, the reality, as far as it can be predicted, of Scotland going independent. There will be some things that are positive and some things that are negative. So it is reasonable to portray the positive and not leave the negative, but this document is full of unsubstantiated opinion.

Akash Paun: But that isn't what you would expect to find in any White Paper. I agree with you that it is duty of civil servants to provide advice about the merits and disadvantages of a policy that Ministers are considering. We have just been talking about how advice of that kind would not normally be published. This is a different category of document. This is a Government publication in the name, ultimately, of Ministers, not of civil servants, which sets out the Government's policy objective and the rationale, in their view, of why that is the right course for Scotland to take.

Q441 Greg Mulholland: Do you not accept there is a very dangerous blurring here? There is a legitimate democratic campaign happening, which is absolutely the way it should be. As

a democrat, I believe it is for the people of Scotland to decide which side of the campaign they ultimately back and which way they vote in that. That is happening; money is being spent on both sides; that is entirely legitimate. This document, however, blurred a Government blueprint for the future, which is what it was supposed to be, with campaigning on why you should vote for Scottish independence—very clearly. That blurring is dangerous.

Chair: Actually, on that point, it was campaigning for a future SNP Government to be elected after independence. That is what it was campaigning for.

Peter Riddell: It is very difficult to define. You said it should put the case in terms of pro and con. On Scotland, I have views; you have views; in this room, we all have views. Defining “objective” is very difficult. A lot of it is dependent on a whole range of highly contentious assumptions. It is important—this is one part of the debate—to look at the plethora of documents the UK Government is putting out on this, mainly from the Treasury but also from other Departments. Some of the Scotland Office’s documents are certainly not in any respect neutral: they are arguing very much for the retention of the Union, and fair enough; that is the view of the UK Government, and it is entitled to do so. These are bitterly contested documents. In terms of public policy, the important thing is that there is now a very vigorous debate with lots of independent commentators analysing the *Scotland’s Future* document, analysing the British Government’s various documents and reaching views that people in Scotland can therefore assess. That is the important thing. Everything is out in the open.

There are aspects in the *Scotland’s Future* document that, again, one would raise an eyebrow at, but it is terribly difficult to draw lines on anything. I have read enough White Papers that contain highly contentious statements. There was a period between July and September in 1974 when it was quite clear there would be another general election. There were a flood of White Papers from the minority Wilson Government that were effectively part of the Labour manifesto for the October election and were highly contentious documents on taking over land and various other things. That was what happened.

Chair: Your contention is that nothing has changed; everything is the same.

Peter Riddell: My contention is the form of it has changed a bit; I do not deny that. But one should not necessarily believe that in the past there was a wonderful world of terribly balanced White Papers that were neutral documents; they weren’t. It has become more vivid, because the language and presentation is more striking than it was in the past. I do accept what Mr Mulholland says—that this is probably pushing at the edges in some ways—but it is very difficult to define how you would do it differently.

Q442 Greg Mulholland: I did promise you impartiality from me. Is it right that the Treasury is coming up with 13 policy areas where we would be “Better Together”, which is surely what the Better Together campaign should be doing? Is it right that the Scotland Office is sending tweets such as “@hmtreasury analysis shows @scotgov deficit forecast is out of step with all other recent forecasts”? Is that not the kind of thing that should be left to campaigning? We want genuine analysis from our civil servants in both Governments—yes, it is putting forward a view and a vision, but we want that evidence. There has to be a separation between that and overt campaigning, otherwise we are effectively funding campaigning on both sides through this sort of behaviour.

Akash Paun: There are some difficult lines to be drawn in some of this in terms of how Civil Service resources are used. However, it is very well recognised within the Civil Service that there are lines one should not cross. Your Committee is obviously exploring whether, in certain cases, lines have been crossed. Our perception, based on not a hugely wide-ranging research project on the issue, is that they have stayed within the bounds of propriety on both sides. This is a once-in-a-generation issue of almost unprecedented importance for the Government of this country. As Peter was implying, a lot of these issues would happen in similar ways, just at a much smaller scale, in other policy areas in terms of how civil servants present information.

Q443 Kelvin Hopkins: On this point about White Papers, they are the creatures of Ministers. We do not know whether the civil servant has written every word and the Minister has not even read it, but it is still the Minister who is accountable for the White Paper, not the civil servant. We do not know, but it may be that the Minister rejected the advice of the civil servant and wrote his or her own White Paper and put it into the public realm. The White Paper is a ministerial document, and we can question it. When Labour in 1994 put forward a lot of White Papers suggesting what colleagues here might regard as a load of socialist nonsense, it could be challenged in Parliament by the Opposition, saying “We think this is nonsense”. The civil servants were completely impartial and in the background. Civil servants’ advice to Ministers is still exempt from Freedom of Information requests as well. This is completely anonymous and we do not know what happens behind the scenes.

Peter Riddell: From what Peter Housden said, it was a mixture of Ministers, special advisers and civil servants—as is always the case.

Akash Paun: Constitutionally, that is absolutely right and a very important point. I said something similar a minute ago: White Papers represent the views of Government. One could make the case for a completely different constitutional settlement, with the Civil Service at arm’s length from Ministers, putting out things in their own name in the way the OBR now produces forecasts independently from Ministers. That, however, is not the constitution that we have.

Q444 Kelvin Hopkins: I am old enough to remember the 1967 devaluation. Jim Callaghan was crestfallen and broken-hearted when we decided to devalue, very sensibly in my view, after defending the value of the pound over a long period. The civil servants may have been saying, “We have to devalue, Mr Chancellor. We have to devalue.” or they may have been saying, “Devaluation is unthinkable.” We do not know. In the end, it was the Chancellor’s decision, the Government’s decision and the Prime Minister’s decision to devalue rather than defend the pound. It was not the civil servants’ decision—and we do not even know what the Civil Service advice was. That is the traditional view; is that not the way we should always operate?

Peter Riddell: Yes.

Q445 Kelvin Hopkins: We come to this question of the Macpherson letter, which I found very alarming. You say it was exceptional; what about saying it was wrong, unacceptable and an extraordinary breach of a Government convention?

Peter Riddell: Because of the circumstances, I would not say that. A senior Permanent Secretary, on his own initiative, took it to the Chancellor and, from his own

account to you, did it that way. As I say, it is the exception that proves the rule. He said to you that he regarded it necessary to correct what was emerging from Edinburgh about currency union and so on. He could well have said exactly the same to a Select Committee. I am not heavy-handed on this issue. I raised my eyebrows and thought, “Unless you are totally changing the conventions, this is not a desirable precedent.” He explained, “It is not a precedent; it was exceptional, because of the currency,” and so on.

Kelvin Hopkins: I consider it wrong.

Peter Riddell: I know.

Q446 Kelvin Hopkins: Anyway, when he came before us, I asked him, very simply, whether it was done of his own volition. Was it the Chancellor saying, “Put it out there”? Did he go to the Chancellor and say, “Can I publish my letter?” One of those three must have been the case, but we still did not get a clear answer and it is still very fuzzy.

Peter Riddell: My reading of it—forgive me; I ought to re-read it—was that it was the latter. He went of his own volition to the Chancellor and said, “Can I do it?”, and the Chancellor thought about it for 24 hours. That was my reading of your evidence.

Q447 Kelvin Hopkins: It might be Chancellor’s mistake, then. Actually, it is the Permanent Secretary who has been in the firing line and got his fingers badly burnt.

Peter Riddell: Yes.

Kelvin Hopkins: There we are. Had the Chancellor come to the Commons and made a statement using exactly the same words, it would not have been controversial.

Peter Riddell: Absolutely.

Kelvin Hopkins: We could have disagreed with him—particularly on the matter of European issues, which he probably would not have raised. However, that would have been an entirely different matter. You can have a situation where the civil servant is even sitting next to a Minister, handing bits of paper to them, which the Minister is reading out, but it is still the Minister’s statement, not the civil servant’s. That is the way we operated and the way we should continue to operate, unless we want a fundamental rethink of how we operate Government.

Peter Riddell: Yes.

Kelvin Hopkins: I think I have made my point.

Q448 Mr Turner: Do you accept that he said that, given what he was giving over Scotland, it would apply also to Europe?

Peter Riddell: Europe is a really difficult one. On this currency point, the one thing that can be said is it is the only occasion I have ever known when Ed Balls and George Osborne have done something in agreement on the same day, backed by the Chief Secretary to the Treasury. It is a united view of the main parties of Westminster.

Who knows what is going to happen when on Europe, but we do not know whether it will be a united Government position. We might be in the position of the 1975 referendum. All I would say on that is that the Civil Service—they are well aware of this—will be ultra cautious. There is not a remote indication of a Nick Macpherson position. The Government was united and the likelihood is this will be a bitterly contentious question, if gets to a referendum in two years' time; it depends on what happens in the general election. The Civil Service should be ultra-cautious, because you are not talking about the current political situation on Scotland, which is totally different from anything on Europe. This is a question of judgment, going back to Mr Mulholland's point. It is a different, challenging point of factual information versus opinion, as happened in 1975—I was looking it up recently—when the onus was very much put on the campaigns and on the Government. Of course, then it was totally lopsided; the civil servants should really keep below the parapet on it.

Q449 Mr Turner: I can't remember exactly what you said about 1974, but has this happened with any other period since—before the Scotland business about how accurate it is or how broad something can be?

Peter Riddell: There have been lots of tendentious documents issued by Governments in the period. I will have to go back and look, but, certainly, in pre-election periods you often get White Papers where the balance between, as Mr Mulholland said, campaigning and other things is pretty blurred. It happened in 1974, because everyone knew there was going to be another general election and so on. However, it is not unusual.

I can give you another illustration, a very interesting one, which was tension in the Civil Service. Michael Howard took a view on prisons and produced a Government document that said, "Prison works." That was an aspect of his role as Home Secretary. Those responsible to the HM Prison Service disagreed, but they had to keep quiet about it. That is exactly an example of it.

Akash Paun: There is another parallel worth noting. The question was about whether the Scottish White Paper is setting up policy for a future SNP Government after another election at Holyrood, which is of course dependent on a yes vote and an SNP victory—yes, that is true. Looking back to the Labour Government here before 2005, however, there was the publication, as you may well recall, of a series of five-year strategies in all the main public service reform areas: health, education, policing and so on. Those were produced with Civil Service input. They were clearly setting out thinking and plans for what a future Labour Government would do if they won the election. However, it was seen as sensible for that kind of forward thinking to take place in Government. Again, some of these things are not as unique as one might think.

Q450 Mr Turner: Going back to Michael Howard, that is a situation where the Minister had taken a view and it is at least arguable that he was right. That is not like the situation with the Scotland people now.

Peter Riddell: There are dissimilarities. What I am saying is that Ministers have their views. There is not necessarily objectivity, and Government documents reflect Ministers' views, however contentious they are—and contentious means there are arguments on both sides. However much the Civil Service might disagree, they are entitled to their view.

That is why I am cavilling at the view that there was a golden age of White Papers. White Papers were duller, certainly, and written in more opaque language, but it does not mean they were any less controversial or tendentious. That is the point I am making. They have been jazzed up, which perhaps makes it clearer.

Q451 Chair: Before we move on, we keep saying, Mr Paun, that there are lines that should not be crossed. How shall we define these lines?

Akash Paun: The Civil Service Code—

Chair: It obviously does not define the lines. Where are the tests? What are the tests?

Peter Riddell: The test is, civil servants should not say vote yes or no.

Akash Paun: That is certainly one of the tests.

Peter Riddell: In their own names, I mean.

Akash Paun: Some of the other tests are set out in the Civil Service Code. We referred a couple of times to ensuring, as a civil servant, that you would be able to—I am reading from the Code now—“establish the same relationship” with Ministers in a future Government. That is a very important test; it is something the Institute for Government has been thinking about more generally—how the Civil Service should operate until the next election.

Q452 Chair: In his Mile End speech, Sir Nicholas said that he would expect the Treasury to play “a critical role in setting out the economic implications of the options of staying in or leaving the EU”. What exactly do we expect the Civil Service to do during an EU referendum or a campaign for an EU referendum, given that we now have this precedent set by the publication of this advice?

Peter Riddell: The Civil Service should try to do maximum analysis ahead of whatever decision is made—whatever the Government is at the time—be it staying in or leaving, and then it should remain silent as a Civil Service.

That is why I said I would certainly think it would be utterly wrong for civil servants to say anything at all after this decision has been reached—and, therefore, the recommendation has been made before a campaign, and there would probably have to be legislation and so on. They should play it safe.

Q453 Chair: How many months before the referendum should that be? That is what you are saying it amounts to.

Peter Riddell: I am saying it should be before the Government has reached a decision on which way it is going to recommend. At the moment, it is not a Government position; it is a Conservative position.

Chair: As soon as the Government has distilled a view as to whether it is staying in or getting out, the Civil Service should stay quiet.

Peter Riddell: Yes, absolutely.

Q454 Paul Flynn: Since 2003, Parliament has taken on itself responsibility for declaring war, as we demonstrated on 29 August. In 2003, the legal advice was not shown in full to the Cabinet. On future occasions, when there is the possibility of going to war, should that legal advice be reported to Members of Parliament?

Peter Riddell: Of course, an abbreviated form was shown. My own view is, yes, there should be much fuller reporting on what the Attorney General's advice is. Yes, absolutely. That is a material factor when the House votes. That advice should be available. It is a separate issue from this, but it is a material factor. It should have been, yes.

Chair: It is a very interesting question, but slightly off the point. Thank you for that, Mr Flynn.

Q455 David Heyes: In the light of the issues we have been discussing this morning, is it not beginning to look like it was a mistake not to establish a separate Civil Service for Scotland—as in Northern Ireland?

Peter Riddell: This is very interesting. It is true of the Civil Service, in lots of ways at present, that lots of things are changing but they are preserving their outward form. It goes back to the Chair's question earlier about Northcote-Trevelyan and the "bargain" and all of that. Things are being pulled in various directions. I don't think it is a mistake. It would be desirable to retain the essence of a unified Civil Service, whilst recognising that—as I say, it will almost be quasi-federal—there will be different structures reporting to different Ministers and, possibly, different pay scales.

Certainly, it is evident already that, in practice, Scotland and Wales are at least more distinct Civil Services. I will give two examples. One is that some of their pay scales are different. It is also quite clear from our conversations with members of the Welsh and Scottish Governments that it is much harder to transfer over than it was in the past. They are becoming more Scottish and more Welsh than was true in the past—even though you have a totally English Permanent Secretary in Edinburgh in Peter Housden. They are becoming more distinct.

Secondly, going back to Francis Maude and the Civil Service reform plans, Scotland has its own reform plan; it is not the same as the one that applies here. The Civil Service has changed an awful lot in Scotland. It is much more outcome-directed. There have been a lot of reforms. They, of course, have an integrated rather than departmental Government structure in Scotland. It has changed a lot, but not in the same ways as in England—and, to a lesser extent, that is true in Wales. You are talking about different Civil Services and, of course, they are reporting to different Ministers.

As I say, you are talking about a more federal structure, but, to my mind, the key—and it is possible to sustain it with a separate Civil Service in Northern Ireland—is appointment and promotion on merit and, going back to the values we discussed in the beginning, impartiality, objectivity and so on, and the ability to work with alternative Governments. That is the key to it, but within that we recognise they come in different forms.

As often is the case, the Civil Service is trying to preserve and say that nothing much has changed, but it has changed. What matters, however, is the essence of it. Whatever

happens on 18 September, we will see an increasing recognition that there are separate Civil Services within that umbrella.

Akash Paun: There was a reasonable rationale for maintaining the unified Home Civil Service at the outset of devolution—especially at a period when lots of civil servants in the different systems had personal networks and relationships with people in the other Governments and there was still a greater interchange of personnel. The perception was that it facilitated a more informal form of intergovernmental relations that enabled differences to be resolved without escalating to more formal dispute mechanisms.

Over time, however, what we have seen is, first of all, that political diversion since 2007 has pulled things apart and, also, the gradual evolutionary change of Civil Services in the respective capitals becoming more systems unto themselves. Peter Housden, of course, is a very noteworthy exception in having been a Permanent Secretary in Whitehall before moving to Edinburgh, but my understanding is that now, very few senior officials in Edinburgh have experience in Whitehall or vice versa.

Q456 David Heyes: Based on how both of you have responded, it is a stretch, isn't it? It is increasingly stretched. We entertain this idea of a unified Civil Service, but others would take the view that it was so stretched that it was broken. How damaged is it?

Peter Riddell: What concerns me—and I am sure this concerns the Committee—is that the core values are preserved. What you do not want is to get into a patronage system and all of that. I would like to see a more explicit recognition of what you describe rightly as stretch, Mr Heyes, but one that also keeps the good bits. That is doable. Ultimately, if there is a yes vote, naturally that will change, but even if there is a no vote, it is one of the things that people will have to recognise. The project Akash is running, which will report after the referendum, has as one of its themes how the civil service structure should evolve. It will cause a more explicit recognition. At the present, it is, “Oh no, we are all unified.” Well, you are right.

Akash Paun: After the referendum, it is very important to return to these kinds of issues and think about the future of intergovernmental relations across the country. The question is this: what difference would it make to formally devolve control of the Civil Services? The experience from Northern Ireland is that possibly it would not make a huge amount of difference. The Civil Service values we have been talking about are equally well embedded in the Northern Ireland Civil Service—or, indeed, more widely in countries set up along Westminster lines: the Republic of Ireland, Canada, New Zealand and so on. There is a core set of values.

Q457 David Heyes: You are doing some work currently to speculate about what might happen.

Akash Paun: Yes, that is speculative. The key point is that there are those shared values that would be sustained. The SNP might have been expected to make a big case for taking control of the Scottish Civil Service, but they have been content to work within established systems.

Q458 David Heyes: If we are speculating, what happens if the referendum comes down against independence? We would still have an SNP Government in Scotland, who are still

presumably committed to the long-term goal of independence. What would that do for the coherence of a unified Civil Service?

Akash Paun: In the way we have been discussing so far, it would not necessarily require a break-up of that Civil Service. Yes, Scottish civil servants would continue to support the SNP, potentially in thinking about how to achieve that longer-term goal of independence, but, if there was a change of Administration in Edinburgh in 2016, they would also be prepared to transfer their loyalty in the way they very successfully managed that transition in 2007. You could continue with the status quo, but, arguably, it becomes more and more of a constitutional fiction that there is a single unified Civil Service anymore, for all of the reasons we have been discussing.

Q459 Chair: Is it not already constitutional fiction?

Akash Paun: Arguably, yes.

Q460 Chair: What would lead the Head of the Civil Service to interfere in something in Scotland?

Akash Paun: That is only one way to approach the question.

Chair: Mr Riddell?

Peter Riddell: They would interfere if it was a reserved matter.

Chair: The Civil Service is a reserved matter.

Peter Riddell: No, what I am saying is, if it was something concerning, say, defence.

Q461 Chair: Let me rephrase. What would lead the Head of the Civil Service in London to interfere with the Civil Service that is answerable to the Scottish Executive?

Peter Riddell: If the Civil Service went into areas that are substantially reserved, that could happen. The Civil Service itself is an ambiguous category.

Q462 Chair: That would be a political matter, however, between the Scottish Executive and the Westminster Government.

Akash Paun: If a Scottish Government was operating in reserved areas, it might become a legal matter.

Chair: The horse has bolted and there is no point in shutting the stable doors now.

Akash Paun: There are some advantages in having the single structure, according to people we have spoken to. It does make it easier to transact business between the respective Governments.

Q463 Chair: Is it more difficult now with the Northern Ireland Office to transact business between Governments? The words you used, “constitutional fiction”, are very apt.

Peter Riddell: We are basically with you on this. There is a degree of constitutional fiction, but we are also saying that, whatever happens, going back to Mr Heyes' point, if there is a no vote, we would argue that all parties need to reassess—it would probably be after the general election, in practice—and recognise that there are separate structures, and will have to address the point you have just raised, Chairman. Therefore everything becomes a quasi-federal structure.

Q464 Chair: It has become a political reality. It is impossible to imagine the Head of the Civil Service in London disciplining a civil servant in the Scottish Executive for carrying out the wishes of a Scottish Minister. That is impossible to imagine.

Peter Riddell: As was clear from the evidence you got last week, on an issue like that, the responsibility does lie with Peter Housden.

Chair: They say the responsibility lies with Peter Housden; de facto it does. Yet we maintain this fiction.

Peter Riddell: It is one of the fictions. We are with you, in a sense, in recognising it is strained. There is a reluctance on this side of the referendum to admit these things. We would say you can do it without abandoning all relationships.

Q465 Chair: It is nothing to do with relationships. It is about who is accountable for enforcing the Civil Service Code. The Head of the Civil Service in London is nominally accountable for enforcing the Civil Service Code, but, in reality, he cannot.

Akash Paun: Yes.

Peter Riddell: There are some fuzzy areas. I am 80% with you; there are some areas where it would apply, but I fully acknowledge that they would have to be pretty outrageous for that to happen.

Q466 Chair: That is interesting. If the Scottish Executive sanctioned the Civil Service to hand out bribes, then perhaps the London Civil Service would intervene in such an extreme case.

Peter Riddell: I have no doubt Peter Housden would seek an accounting officer direction. This is one point you did raise last time, which Peter Housden of course did in his previous life, when he was at DCLG. That is a direct case for an accounting officer direction, if you think it illegal.

Q467 Mr Turner: What is it that makes Northern Ireland different from the point of view of the independence of their Civil Service compared with ours?

Akash Paun: It is partly a historical accident. There is no great rational design behind why Northern Ireland retained a separate Civil Service. It emerged out of the fact there was already a separate Civil Service for Ireland.

Mr Turner: It is accidental once again and does not seem to make any difference.

Akash Paun: I'm not sure it doesn't make any difference, but the Northern Ireland Civil Service operates along very similar lines in terms of the ethical codes and principles. It has its own Civil Service Commissioners and appointment processes that are regulated in similar ways to Whitehall. There is the potential for it to diverge, should there be a political desire to take the Civil Service in a different direction in Northern Ireland—to a greater extent than the Scottish Civil Service could do, because, of course, we have the 2010 Act, which requires that any Scottish Civil Service Code has the principles of the Whitehall one.

Q468 Chair: Can I ask one last question on a related topic: the possibility of a Parliamentary Commission on the Civil Service—a Joint Committee of two Houses? While there was enthusiastic support from Back Benchers and many in the House of Lords, there was no enthusiasm from the Government or, indeed, from the Opposition Front Bench. It is not happening; what will happen next?

Peter Riddell: Your Committee will no doubt be very busy over the next year. The onus falls on this Committee and on the Constitution Committee of the Lords, which will have a new Chair after the State Opening. It is for you, as you are now doing, to take up the strain on that.

Q469 Chair: On the day of the debate in the House of Commons, a new organisation was announced to look into the future of the Civil Service. It was almost posited as an alternative to a Parliamentary Commission. What did you make of this development?

Peter Riddell: Do you mean GovernUp?

Chair: I do.

Peter Riddell: There are many voices in the debate. That is my view. At the IfG, we took the view that it is a much more parliamentary organisation of MPs concerned about the issue. We welcome a pluralist debate on the issue. I do not see it as an alternative to a commission—far from it. I regard it as another voice that will be expressing its views on the subject. Obviously, it is not formally constituted in the way a commission would be or your Select Committee is, but it is another voice where there are a lot of voices in this debate. It is more a parliamentary one—of the particular views in Parliament. That is where whatever it does will emerge. We welcome an additional voice.

Q470 Chair: How important is it in the end for Parliament to have the final say over the future of the Civil Service?

Peter Riddell: Parliaments should have the final say over the future of the Civil Service, because you will be elected. You are the Committee, to which—I am careful of my words—people are answerable. I was going to say “accountable”. However, in the absence of a commission—it is quite clear there will not be one before the election for the reasons you stated—this is the function of this Committee, as you have been doing in this instance.

Q471 Kelvin Hopkins: Following the Chairman's point, if there were a really fundamental constitutional change, would it not be more appropriate to have that at least in a general election manifesto for one of the major parties, or even to have a referendum on a change of

that kind, rather than saying, “The Government has brought forward a White Paper; the Opposition do not like it but we are going to ram it through anyway”?

Peter Riddell: I am hesitant about endorsing referendums on anything but the most fundamental changes. I certainly think there should be full debate and discussion. This is one of the great virtues of having this Committee and it being looked at in different ways in other Committees. These issues are being aired in ways they would not have been before.

Q472 Chair: Supposing the manifestos of both the main parties, and maybe even the Liberal Democrats as well, all contain a commitment to give Ministers far wider powers over the appointment of senior officials; would that be the end of the decision, if they get a mandate?

Peter Riddell: No. First, they need legislation for it, because of 2010 Act. As Sir David Normington and the Civil Service Commission would have been vigorously arguing, that requires legislation. Therefore, it would have to be debated and discussed in Parliament. I would also hope that my organisation and others, if there are manifesto commitments, would facilitate quite big debates on it and we will see what is raised on it. It is certainly not the end of the matter; there should be public debate, and it requires legislation. It cannot be done by prerogative powers.

Q473 Chair: Are there any further questions?

Paul Flynn: I have a point of correction. I have checked what Chilcot said at the launch of his Inquiry. This is a quote: “We plan to report by the end of 2010.” It is three and a half years late.

Peter Riddell: That was 18 months.

Paul Flynn: That is what he said.

Peter Riddell: I know. I said it was 18 months, not a year. There is a difference between the two. It was certainly over-optimistic, the reason being the size of the remit.

Paul Flynn: It is three and a half years late.

Peter Riddell: I know, but the reasons for that are not the reasons you were implying earlier, Mr Flynn.

Chair: We will return to this subject later, unless the report on the Chilcot inquiry concludes very quickly. May I thank you both for a most interesting and illuminating evidence session? We look forward to continuing to engage with the Institute for Government on the future of the Civil Service.