



Public Administration Select Committee

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

HC 111

Monday 16 June 2014

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Members present: [Mr Bernard Jenkin](#) (Chair), [Mrs Cheryl Gillan](#), [Sheila Gilmore](#), [Kelvin Hopkins](#), [Greg Mulholland](#), [Lindsay Roy](#), [Mr Andrew Turner](#)

Questions 576-706

Witness: **John Swinney MSP**, Cabinet Secretary for Finance, Employment and Sustainable Growth, Scottish Government, gave evidence.

Q576 Chair: I welcome you, Mr Swinney, to this special session of the Public Administration Select Committee of the House of Commons here in Edinburgh and I express our thanks to you for giving up your time to be with us at what we know is a very busy time. I want to emphasise that we have not summoned you; we are not holding you to account. We are exploring this issue of impartiality of the Civil Service in relation to referendums and we would be very grateful for your evidence on this. Could you please confirm who you are for the record, please?

John Swinney: Happy to do so, Chair. I am John Swinney. I am the Member of the Scottish Parliament for the Perthshire North constituency and the Cabinet Secretary for Finance, Employment and Sustainable Growth in the Scottish Government.

Q577 Chair: As I say, thank you for being with us. First of all, could I ask you to explain the difference between two words that have been used a lot in relation to this question? What is the difference between impartiality and neutrality?

John Swinney: The definition of impartiality as it refers to the issues with which the Committee has an interest is set out clearly and simply within the Civil Service Code as essentially requiring civil servants to act solely according to the merits of the case and serving, equally well, Governments of different political persuasions. What that means to me is that civil servants are required to consider information and evidence and set that out to Ministers as part of the process.

When it comes to decisions made by Ministers and the explanation and communication of those decisions, I think that is where the Civil Service is not required to operate in a neutral fashion. It has to essentially argue for the position of the Government. You have that space of gathering the information and advice that goes to Ministers in that impartial fashion and then, when it comes to the explanation and articulation of the Government's position in a whole variety of different ways, the question of neutrality does not apply.

Q578 Chair: Isn't there a difference between enthusiastically implementing something that is Government policy and making the political arguments for it in public? Isn't there a difference between those two functions?

John Swinney: I think the requirement on the Civil Service is to explain the policy positions that the Government has arrived at. I think that is the duty of the Civil Service, to take forward that approach and operate in that style of operation. That is essentially the core requirement of the Civil Service, to promote the policy choices made by Ministers.

Q579 Chair: But there is a difference between implementing a project and being enthusiastic to achieve a positive outcome for that project and appearing on a public platform or exposing yourself as a public official in the heat of a political battle to make arguments for that policy. What is the difference between those two things?

John Swinney: I do not see any difference between the implementation of a policy priority—I think there can be absolutely no debate or dispute that that is within the territory of the Civil Service—and then explaining and setting out the arguments that underpin the Government's position in that respect. That, to me, is all the territory that civil servants have a duty to take forward as part of the routine exercising of their responsibilities.

Q580 Chair: Why do you think people are calling into question the impartiality of civil servants in Scotland?

John Swinney: We are obviously in a very intense debate in Scotland today and I think all sorts of things get said in the course of that debate. I think what Scottish Government civil servants are doing for the Scottish Government is exactly what civil servants working for UK Ministers are doing. They are taking forward the steps to implement the policy agenda of the Government and expressing that view and setting out the arguments in a relevant fashion to a public audience where that is appropriate to do so.

Q581 Chair: But why do you think people are getting churned up about this subject? What is different now compared with what was different before?

John Swinney: We are obviously in a very sensitive political environment. When things get hot politically there will be all sorts of things that get said, but I come back to the point I just made a second ago, Chairman. I think the civil servants in Scotland are simply acting for their Ministers in the fashion that civil servants in the United Kingdom Government are working for United Kingdom Government Ministers. There is no difference in the approach they have taken.

Q582 Chair: You have paid tribute to the candour and professionalism of the civil servants in Scotland. Do you think there is anything that is threatening that impartiality of these other positive attributes of the Civil Service?

John Swinney: I do not think there is anything threatening that, Chairman.

Chair: I think we will just move on to the next section.

Kelvin Hopkins: Maintaining impartiality?

Chair: Yes.

Kelvin Hopkins: There was something—

Chair: You can carry on if you have any follow-up questions.

Q583 Kelvin Hopkins: I think it is something that concerns us all, the threat to the impartiality of the Civil Service, but is this a new phenomenon? Is it a new worry, a new concern, or is it something you think has been behind the scenes for some time now, that impartiality is under threat?

John Swinney: I come to this point with what I think is a pretty objective background on this question. I became a Minister in 2007. I had never been in Government or in proximity to Government. I had not been a special adviser. I had never served in a local authority. The only dealings I had with the Civil Service were when they were essentially explaining a position or acting on behalf of Ministers in a previous Liberal-Labour coalition Government or a Labour Government in the House of Commons in the late 1990s.

I had seen the Civil Service as essentially individuals explaining the position of the other side of the argument to the one that I was on, so when I came to office in 2007 I had no other experience of the Civil Service. Obviously I was aware of the maxim that civil servants one day will be working for one side of the political argument and the next day they will be working for the next and it works very harmoniously, but I had had no experience of that whatsoever. I have to say, Mr Hopkins, that was my experience when I came to office.

In the six months or so before the 2007 election, I led the discussions that we had in private speech with the Civil Service in advance of the 2007 election on behalf of the Scottish National Party. I explained details to civil servants of what would be our policy priorities and some of the issues and questions that would be involved. There was absolutely nothing that I experienced from undertaking that work before 2007 and the 2007 election that made me suspect that any of that information had been shared with Ministers on the other side of the debate. That was a huge confidence booster to us as a team coming into office because we had been a bit nervous about it.

We had never worked with the Civil Service. They were working for the Government. How open could we be about our priorities? Our experience was absolutely first-class. When we came into office we became aware of a Civil Service that was then working on behalf of the Ministers who were properly elected by Parliament to take forward the functions and so that maxim that I mentioned a moment ago of working for one side one minute and the other side the next minute has certainly, in my experience, proven to be valid.

Chair: Can I just say one thing? We only have you until 10.30am. It is generous of you to give us your time. I am going to pull you up if your answers are a bit too long. Forgive me for that. I should have said that before. Short questions as well, please.

Q584 Kelvin Hopkins: Just a quick follow-up to that. Is that not the great strength of bureaucracies in general—in Britain, in the United Kingdom, no doubt in Scotland and in local government—the fact that they retain this impartiality and serve Governments of

different political parties with equality in everything they do? Indeed, I have spent 23 years working in a bureaucracy myself and, even with the staff here, we do not know, and I think it is wonderful that we do not, what their political views are. They are serving the Committee, whatever our views are, whether it is a Labour Government, a Conservative Government or a coalition or whatever. That is the great strength across the whole of the United Kingdom. Would you not think that is the great strength in Scotland as well?

John Swinney: I would agree with that conclusion, Mr Hopkins. Yes.

Q585 Chair: The important thing here is that the Civil Service maintains a separation from the business of party politics and parties and politics. Have I understood you correctly?

John Swinney: That is absolutely correct, yes.

Q586 Sheila Gilmore: Do you think that the referendum creates an unusual situation, even an exceptional situation, for the Civil Service?

John Swinney: I do not think it is particularly exceptional. I think it is a more challenging political climate. Obviously the political debate is more intense and that brings with it a lot more noise within the system, but I do not think inherently the issues are any different. The Scottish Government has a policy position. The United Kingdom Government has a policy position. On this they happen to be different. Our respective civil servants work to provide advice to us in respect of the policy positions that we respectively take and Ministers make decisions accordingly.

Q587 Sheila Gilmore: Is there a risk in this situation of some confusion between a Government's position on any referendum and a party's position, given that these pressures are so intense?

John Swinney: I do not think so. I think the approach to setting out the arguments in the referendum are essentially from the perspective of both the Scottish and the United Kingdom Governments, the setting out of the respective and relevant positions of each Government, and so it should be. That should be the approach that is implicit in how we advance on any of these questions.

Q588 Sheila Gilmore: What additional pressure do you think it has put on civil servants, both the UK Government and in Scotland?

John Swinney: I do not think it is a particularly different scenario. I think the Civil Service have been asked to operate within the terms of the Civil Service Code and fulfil their responsibility to their respective Ministers where their priorities are different. I think that is what the Civil Service Code envisages. It is what the Memorandum of Understanding envisages between the United Kingdom Government and the three devolved Administrations and I think that is what we see being fulfilled in the way in which the respective agendas of different Governments are taken forward.

Q589 Sheila Gilmore: Do you think the Code has been affected to allow this to happen?

John Swinney: I think the Code is a robust framework within which everybody can be clear, civil servants and also, importantly, Ministers, about the approach that should be taken in this respect.

Q590 Sheila Gilmore: Turning to the document *Scotland's Future*, first of all what was the role of civil servants?

John Swinney: Civil servants provided a very comprehensive amount of advice to Ministers about the document. Civil servants would have written, very substantially, the material within the White Paper, but ultimately the decisions about what was in the White Paper and the signing off of the White Paper were taken by Ministers.

Q591 Sheila Gilmore: Were there any discussions about whether this process might have, in any sense, crossed the boundaries of impartiality?

John Swinney: Because of the fact that we were very clear, as I just said a moment ago, about the importance of operating utterly consistently with the Code, there were no specific discussions required to enable that to happen. We were all very clear about what the approach should and would be and how that would be followed. Ultimately, the contents of *Scotland's Future* were a matter for Ministers, but it was essentially operating on the basis of advice and information supplied by civil servants.

Q592 Sheila Gilmore: One of the criticisms that I am sure you will be aware of that has been is that, as a document, it went far beyond the constitutional issues and how the independence should operate and gave policy content that some have described as a policy manifesto. Do you think that is an issue here?

John Swinney: I would not accept the point that *Scotland's Future* went beyond what one might consider to be the norm. I do not say this with any criticism involved. I think it is a statement of fact that it is very common for United Kingdom Governments to set out policy material of what is going to happen beyond the term of a Parliament.

I had cause to look the other day at the documents that were published around the 2010 Budget about six weeks before the United Kingdom general election and the contents of that Budget were largely about what the then Government would do in the period after the forthcoming election, which would require it to be re-elected. It was essentially talking about, "We will be doing this, we will be doing that, we will be doing the next thing", in that post-2010 election environment. As I say, I do not criticise that. I think it would give people a sense from Government about where future priorities lie. I do not think that is in any way out of the normal approach to the setting out of policy.

The other point I would make is quite simply that the document *Scotland's Future* is caveated to make it absolutely crystal clear what is material that would be incumbent on the election of a Government of a particular colour and makes it expressly clear that that is not a given outcome as a consequence of a "Yes" vote in the referendum in September.

Q593 Sheila Gilmore: Did you have any concerns expressed to you as a Government by civil servants about the process of producing this?

John Swinney: The process of producing the White Paper was carefully considered by Ministers in dialogue with civil servants and we received no concerns that we were in any way taking an approach that was beyond what was appropriate in the circumstances.

Q594 Sheila Gilmore: Do you think civil servants would have the confidence to express concerns if they had them?

John Swinney: I do, yes.

Q595 Chair: Just to be clear, what is the difference between explaining how a policy will be implemented beyond a general election date as, for example, an economic policy and explaining the effects of a policy that has not even been adopted and can only be adopted in the event of winning a referendum and a general election? What is the distinction between the two?

John Swinney: Providing those elements are clearly explained to members of the public as to the process that has to be gone through to achieve any particular outcome, I do not see any difference between the two scenarios.

Q596 Chair: But civil servants have told us that, while it is okay to prepare advice for Ministers for what is already being implemented beyond a general election date, they will not get involved in giving advice for a “blue skies” policy or completely new ideas that would be in a manifesto but are not Government policy. There is a whole page in *Scotland’s Future* that is clearly not policy of the present Executive because it does not have the powers to implement those policies.

John Swinney: But I think it is made expressly clear within the document as to how that is arrived at and how that distinction is clearly articulated to members of the public.

Q597 Lindsay Roy: You said the report had been substantially written by civil servants. Who wrote the other parts?

John Swinney: Well, it would obviously be subject to contributions by Ministers and contributions by special advisers, but ultimately I come back to the point I made a moment ago, Mr Roy, that the document was approved and signed off by Ministers.

Q598 Lindsay Roy: Can you tell us why you think a number of commentators have stated that the White Paper is a party manifesto?

John Swinney: There are plenty of commentators who have said other things, Mr Roy. “A bold and valuable contribution that cannot fail to raise the quality of the debate,” was what *The Herald* newspaper said on 27 November. Commentators will say all sorts of things. I am sure you and I will look at what commentators say on a whole variety of questions and choose to accept or reject what the commentators say.

Q599 Lindsay Roy: I appreciate there are different views on things, but a substantial number of people have said that they felt it was biased; it was a party manifesto. Why do you think that was? What evidence did they use?

John Swinney: I do not see how they could come to that conclusion.

Q600 Lindsay Roy: Even with, for example, policy statements about child care?

John Swinney: The Electoral Commission, for example, said that we should set out in sufficient detail to inform people what will happen if most voters vote “Yes”. What we felt was important was that people had a very clear understanding of what would happen if Scotland voted “Yes” and what policy choices could be pursued if we voted “Yes” to illustrate to people the choices that were available to Scotland as a consequence.

Q601 Lindsay Roy: You do not understand that criticism?

John Swinney: I don't understand that criticism, no.

Q602 Lindsay Roy: Normally in a White Paper you would have some detailed estimates of costs. As I understand it, in 2012 you had civil servants working on that, but that ceased. Why is that? It is not just a wish list, but a price list.

John Swinney: There are, throughout the White Paper, a variety of different examples of where costs of particular policy initiatives are set out and how they would be funded is explained at various places within the White Paper and that information is there for people to consider. When it comes to looking at some of the further details that would be implicit in implementing a successful "Yes" vote in the referendum, there is an element that is subject to negotiation with the United Kingdom Government. It is, therefore, impossible in those circumstances to be absolutely definitive about all of the costs involved because that is the subject of negotiation but, where we are able to do so, we have set out the information.

Q603 Lindsay Roy: I do not think people are looking for a definitive answer but certainly a detailed estimate. Why has that not taken place? For example, there is an assertion about DVLA. I understand that over a number of years there will not be an independent DVLA in Scotland for some time. Is that the case?

John Swinney: That is one of the options in the White Paper, yes.

Q604 Lindsay Roy: A separate one has not been costed?

John Swinney: What I am saying is that there is a whole variety of different prices that will be subject to negotiation and, without wishing to set out information where we cannot be absolutely conclusive about the costs, our judgment was that we should set out the framework within which those choices would be arrived at.

Q605 Lindsay Roy: Why did the estimated costs cease to be a matter of priority in 2012?

John Swinney: The work that was commissioned in 2012 fed into the White Paper that was published in November of last year.

Q606 Lindsay Roy: These are not estimates that are publicly available.

John Swinney: The material is implicit in *Scotland's Future*.

Q607 Lindsay Roy: But not explicit.

John Swinney: They are explicit in certain parts. For example, the White Paper sets out the Government's view about the network of international representative consulates and embassies that an independent Scotland would have, and we have set out the costs within the White Paper on that very question. Where it is possible to do that, where we can arrive at reasonable conclusions, we endeavour to do so.

Q608 Lindsay Roy: Can you understand the criticism that the SNP Government is looking for a blank cheque?

John Swinney: I have heard these things kicked around, but I do not pay particular attention to them.

Q609 Chair: There is information not in *Scotland's Future* that perhaps was offered by civil servants and Ministers or special advisers advised should be left out. That must be the case.

John Swinney: Well, *Scotland's Future* is a document that, I suppose, probably could have run to several hundred more pages. Yes, Chair, you are absolutely right.

Q610 Chair: How did you decide what to put in and what to put out?

John Swinney: Well, we decided what to put in by a test of how to make *Scotland's Future* an informative publication that would help the quality of the debate within Scotland and give people in Scotland a very clear concept of what a “Yes” vote would generate as a consequence.

Q611 Chair: It is a document that favours the “Yes” vote. It favours the “Yes” vote, does it not? It makes the case for independence.

John Swinney: It does, yes.

Q612 Chair: Yes. It is not an objective document. It is not an “on-the-one-hand and on-the-other-hand” document, is it?

John Swinney: It is a document setting out the Government’s policy position.

Q613 Chair: But it is designed to make the case for the Government’s policy?

John Swinney: That is correct.

Q614 Chair: Correct. So it is not an objective document, is it?

John Swinney: It is a document that sets out the Government’s policy position.

Q615 Chair: I will take that as a no or an agreement. It is an agreement.

John Swinney: It is identical to the position in 1997 when the Labour Government published a White Paper that set out the policy position of the then Labour Government, which was to establish a devolved Scottish Parliament within the United Kingdom. That White Paper in 1997 made the case for the then Labour Government’s policy.

Q616 Chair: The point is that the information left out is perhaps the information that would not strengthen the case for independence but would perhaps undermine the case for independence, like detailed costings of some of these policies.

John Swinney: Well, the White Paper is a product of the exercise of the responsibilities of Government in drawing together information from across a wide variety of different questions and putting that in a robust and effective way to members of the public.

Q617 Lindsay Roy: I am aware that there have been concerns about the impartiality of the UK Civil Service. Are you aware of these issues and do you believe there is credibility in them?

John Swinney: I have heard issues about that, yes, and obviously I have had issues about that raised with me. Yes.

Q618 Lindsay Roy: What specifically are your concerns?

John Swinney: One of the issues that was raised with me and which I have expressed concern about was the publication of the advice of the Permanent Secretary to the Treasury to the Chancellor, his private advice. I have obviously expressed concerns about that.

Q619 Lindsay Roy: I think you said that you felt it breached the terms of neutrality.

John Swinney: I am not aware that I said it was breaching the terms of neutrality. What I said was that I thought it crossed the line, “It was perfectly permissible for civil servants to provide advice to Ministers on all sorts of questions. To enter a debate in the fashion that Sir Nicholas entered the debate, which was a partial entrance, I thought was entirely over the line.” That is what I said on 22 February. Now, my view on that is that it is not Sir Nicholas’ opinions that were the issue. It is the fact that he has put them in the public domain and, as a consequence, comprised his impartiality.

Lindsay Roy: The quote that we have is about civil servants’ neutrality, but I think we have covered that point already.

Q620 Greg Mulholland: I think it is an important point to clarify. Is a White Paper not a specific statement about what a Government will do in legislative or policy terms from an actuality point of view within the current political climate, which is normally before a general election—in this case is before the referendum—and is a manifesto not what may happen after a significant vote, be it a general election or be it, in this case, the independence referendum? Therefore, very clearly, is it not the case that *Scotland’s Future* is not a White Paper in any understandable term of the word, and I say that as a graduate of public administration, and is it not very simply a manifesto—a perfectly reasonably written manifesto, but a manifesto—about what the SNP would do but only in the event of a “Yes” vote in November?

John Swinney: I do not think that is the case at all. What the document *Scotland’s Future* does is it responds to the appetite for information about what a “Yes” vote would mean, what the consequences of that would be, and the Government has sought, as comprehensively as possible, to explain that material to the people of Scotland. Of course, *Scotland’s Future* is not the only contribution to the debate from Government. We have also had more than a dozen Scotland analysis papers from the United Kingdom Government that have made a contribution to the debate. Now, they make a different contribution to the debate than *Scotland’s Future*. I accept that, but I take no issue with that. They are perfectly entitled to make those arguments and set out those documents in that fashion.

Q621 Greg Mulholland: I take no issue either with both sides of this debate issuing propaganda, arguments to that debate and to that, as you say, appetite for information, but you have already admitted that the document was not written from a neutral perspective, clearly. Therefore, it can be seen as being, surely, a manifesto for what your party would do if

the vote is a “Yes” in November and, therefore, if there is an SNP Government taking Scotland forward separate to the rest of the UK, but that is not a White Paper.

John Swinney: What the document does is establish very clearly the basis upon which Scotland could become an independent country and some of the measures that would and could happen if that happened. That, to me, is what the purpose of such a document would be; to explain to people in Scotland the consequences of a “Yes” vote in the referendum. That is precisely what people have asked us to put in place.

Q622 Greg Mulholland: You use the word “could”. Surely, a White Paper is about “would”, “This is what the Government will do in a set timescale.” This is about what could happen in the event of a vote that may go one way or may go another, but in a different political context. You yourself have used the word “could”. Now, that is not normally a word associated with White Papers. Do you not understand the difference and do you not accept that is why there has been the criticism of the presentation of the document rather than the document, which, as I say, as a manifesto is perfectly reasonable?

John Swinney: No, the document is a very clear outline of the process by which Scotland would become an independent country, the powers that would be available to an independent country and how those powers could be exercised as a consequence. In that respect, I think it is a helpful and informative contribution to the debate.

Greg Mulholland: But, again, as the politics—

Chair: Mr Mulholland, I am sorry. I think you have made your point. We have to press on. We are very short of time.

Greg Mulholland: I have one final question.

Chair: Very briefly.

Q623 Greg Mulholland: How many White Papers are accompanied with a £500,000 advertising spend that you are aware of?

John Swinney: There will be various examples of Government media spend. Government media spend on a whole variety of different policy initiatives to put forward Government propositions will be more significant than the cost of the White Paper, but I would simply, again, say that I think that question needs to take into account the fact that we have had a dozen or so Scotland analysis papers from the United Kingdom Government. Just last week the Secretary of State for Scotland made it clear that, if the reporting of the figures is correct, £720,000 of United Kingdom Government money will be spent sending a document to every household in Scotland to explain the arguments for maintaining the United Kingdom. I do not think there is an issue about media spend.

Q624 Sheila Gilmore: Do you think there is any onus at all in a Government paper—just in the same way if the UK Government did not do it—in terms of some of these issues that are very important, to at least indicate when something is contentious over different views? One example I would use is university funding. The White Paper appears to say there will be no problem in charging English students fees after independence, when that is quite a

contentious issue because it depends on interpretation and potentially negotiation to achieve that end.

John Swinney: On that issue the Government will set out the position that it will take and it will support. Across the White Paper there is ample reference to examples where negotiation will be required on certain questions. Indeed, I think the White Paper could not be criticised for highlighting the areas where negotiation would be required to reach a particular position that the Scottish Government favours.

Q625 Lindsay Roy: I said earlier on that there was a lack of cost. For example, critical to any state is the security of its people, its assets and its territory and yet we do not have a detailed costing of setting up a new intelligence service. Why is that?

John Swinney: Because there would be an element of negotiation involved in that process and, therefore, to put a definitive cost into the public domain that is going to be subject to negotiation I do not think is helpful to the debate. We saw an example a couple of weeks ago when the United Kingdom Government tried to set out some estimates of set-up costs. They cited Professor Dunleavy from the London School of Economics who demolished the projections on the basis that they had completely misconstrued his report and the Permanent Secretary to the Treasury last week conceded that the Treasury had mis-briefed this material.

Before embarking on that route where there is negotiation involved, I think it would be appropriate to set out those arguments and to leave those as the basis upon which costs are negotiated. In other parts of the White Paper what we also set out will be, for example, in addition to the issue of negotiation, the share of assets that an independent Scotland would have an entitlement to and the basis of how that could be considered within the financing of an independent Scotland. We try to be as comprehensive as possible in the explanation that we can put in place.

Chair: I am going to have to move on, Mr Roy, I am sorry, unless it is urgent.

Q626 Lindsay Roy: I think it is. Surely the critical difference about the Scottish analysis paper is there are figures there for scrutiny to be knocked down or challenged. We do not have these figures from the White Paper.

John Swinney: I beg to differ on that piece of analysis from the UK Government, Mr Roy. A proposition that did not even last to publication; it was demolished before the document even got published. I do not think that is a particularly wise use of taxpayers' money, putting out an analysis that does not even survive to publication.

Q627 Mrs Gillan: This is a different space that we occupy together now. Listening to the way you were speaking, I always valued advice from civil servants on both sides of the argument, whether it was for what I was trying to do in policy terms or what the issues and the problems were. It obviously pertains to the future of Scotland and you have just criticised what the UK Government has produced in terms of documentation. Would there be any objection to your producing advice for the other side of the argument so that people in Scotland could see what the Scottish Civil Service and what the impartial advice that comes from the Civil Service says about certain aspects of the argument on independence. I presume

you must have had all that advice given to you. I just wondered whether anybody had requested a document on the other side of the coin that would mean it was made in Scotland and would set it out for people to see.

John Swinney: I do not think there has been any lack of counter-argument to the position put forward by the Scottish Government. As I said in response to various questions this morning, we have had about a dozen Scotland analysis papers from the United Kingdom Government. They have been very comprehensive in the arguments that have been put. I think people are able to form a judgment based on the information that is in the public domain and to come to appropriate conclusions.

Q628 Mrs Gillan: But we have not had those counter-arguments put by the very Civil Service that is responsible for maintaining the administration in Scotland. It would be interesting to see, as there is obviously criticism of what the UK Government puts forward. Surely it would only be fair and even, as you have admitted that it is some sort of manifesto, that there was that argument put forward by officials who are capable of giving the inside story here in Scotland.

John Swinney: Well, we receive impartial advice from civil servants and we consider that advice and, as Mrs Gillan correctly says, advice will raise issues that have to be addressed and considered in coming to conclusions on these questions. I value that as a Minister just as much as I know that Mrs Gillan will have welcomed that advice on other occasions, but ultimately the document is a publication of Ministers. It is the contribution of Ministers to the debate. It is signed off by Ministers and agreed by Ministers and that is the practice of how these documents are managed.

Q629 Mrs Gillan: But this is an unusual situation. I was just suggesting that to be seen to be even-handed, particularly as there are many Members of the Scottish Parliament who do not agree with the Government, you would afford that courtesy to them and produce something that was from the other side.

John Swinney: My own sense of where we are just now is I do not think we have any lack of different options within the—

Mrs Gillan: The answer is “No”.

Chair: We must move on. There are two other aspects we want to cover; first of all, Sir Nicholas Macpherson’s advice that he chose to publish, which you mentioned earlier.

Q630 Kelvin Hopkins: Is not the crucial point that whatever advice civil servants give is in private and that as soon as anything is published, a White Paper or speech or whatever, is the creature of the Minister? The Minister’s responsibility is crucial in our political system. Civil servants are anonymous and, even if every single word has been written by a civil servant who may or may not support that view, once it is published it becomes your responsibility or the Prime Minister’s or the First Minister’s or whoever. That is the crucial point: the anonymity of the Civil Service and that they can serve Ministers of different parties.

Chair: What is your question?

Kelvin Hopkins: Isn't that the crucial point: not what is in it and what civil servants say, but it is the Minister and the First Minister, the politicians who defend the policies?

John Swinney: I agree with that. The answer is yes.

Q631 Kelvin Hopkins: You seemed to confirm this when you criticised Sir Nicholas Macpherson publishing the letter of advice to the Chancellor of the Exchequer. I must say I agreed very strongly when you said he crossed the line of Civil Service neutrality. Your argument is, whatever your view on the Scottish referendum—and I have a view as well, it may not be the same as yours—it is the politicians who stand up and are counted and have to be accountable, not the civil servants.

John Swinney: I agree with that.

Q632 Kelvin Hopkins: Sir Nicholas Macpherson was completely wrong in publishing his letter. I must say we have had him before us and it was never clear to me who agreed his letter should be published, whether it was himself or the Chancellor, whether he did it on advice or whatever, but that was wrong.

John Swinney: I certainly think that should not have happened.

Kelvin Hopkins: Yes, good. I think we agree on that and I hope that in future all Ministers of whatever Government will make that point; that when policies are made it is the policy of the Ministers, whoever wrote the words. I think that is all I have to say on that section.

Q633 Chair: Can I just clarify? If the Chancellor had made a speech or issued a document on the basis of that advice, that would have been okay in your view?

John Swinney: Yes. May I just speculate a little bit on this, Mr Chairman? If the Chancellor had said, "I have a letter from the Permanent Secretary, which is his strongest possible personal advice to me—"

Q634 Chair: That would be publishing advice, wouldn't it?

John Swinney: That is the distinction I am trying to make, Chairman. If the Chancellor had gone on to say, "I have looked at this issue and I have considered it", as he did, and the specific private advice of the Permanent Secretary had not been published, the Chancellor is perfectly entitled to say those things.

Q635 Chair: You have no objection to the Government distilling the advice they have received on various things, the UK Government putting this in a publication and distributing it to households in Scotland?

John Swinney: No. If they want to do that, that is up to them.

Q636 Kelvin Hopkins: Isn't that the point, though? If the Chancellor says, "I have a letter from the Permanent Secretary that says," in a sense it is hiding behind the civil servant. Even if the Permanent Secretary sits beside him and he pens a letter that he then reads out, it becomes his statement. It is not the statement of the civil servant.

John Swinney: The distinction I am making is about the point on private advice. I take no issue with a civil servant writing advice that says whatever they want it to say. I think we get into territory that is very difficult where a civil servant volunteers that advice as their advice in public, because I then think that affects their ability to be impartial in the way they exercise their responsibilities.

Q637 Kelvin Hopkins: We had a case a few years ago where a Labour Minister chose to blame a civil servant for a failure on immigration policy. It was a disgraceful occasion; the first time that kind of abdication of ministerial responsibility had been clear. The Minister said, “It wasn’t my fault. It was the civil servant”. There was a storm of criticism at the time, quite rightly, because the civil servant was brought into the picture. Ministerial responsibility is fundamental in our constitution. I was talking about the United Kingdom, but also in Scotland as well, and to break that rule would change the nature of the way we govern our countries.

John Swinney: Well, I and my colleagues operate to the same standards. Whatever is undertaken in our name as Ministers, we are responsible for.

Q638 Chair: I am asking the same question that I would ask in London of the UK Government and indeed have asked. What happens if the advice had been against the Government’s policy? Would it have been published? You are saying you would not allow any advice to be published, but would there not be a case for allowing civil servants to publish—particularly when you yourself accept that your White Paper is not neutral. It only reflects part of the advice you have received from the Civil Service. The contrary advice has been suppressed. Is there not an argument for allowing the other advice to be published in order that the public get a balanced view of what the arguments are about?

John Swinney: I think if you go down that route then you fundamentally alter all that the Committee has heard from all of your witnesses about the role of civil servants to support the Administration of the time properly, with impartial advice, and it is for Ministers to decide the contents of the policy agenda and to implement that.

Chair: I think we can move on to the next session on the single Civil Service.

Q639 Mrs Gillan: We are interested in the concept of the single Civil Service and appreciate that the Civil Service is a reserved matter and you have an integrated model, but could you just tell me how you see the civil servants for your Administration getting on with those civil servants in the UK Administration? Do you see any tensions? Do you see it working seamlessly?

John Swinney: Obviously I am not privy to all those discussions, but I get the sense that civil servants working for the Scottish Government and civil servants working for the United Kingdom Government are able to co-operate perfectly successfully on the areas of co-operation that they require.

Q640 Mrs Gillan: Have you seen any changes with the political diversity of the devolved Administrations from the complexion of the UK Government?

John Swinney: I would not say so. Obviously there are issues that we do not agree about. I think perhaps when Cheryl Gillan was Secretary of State there was an issue kicking

around about consequential funding from the Olympics where her Administration, the Welsh Administration and the Northern Ireland Administration all believed they were entitled to some consequential funding. The UK Government prior to 2010 said, “No”, and then we bashed away at that for ages, making no headway. After the change of Government in 2010 we used the mechanisms of the Joint Ministerial Committee and the dispute resolution procedure to properly address that issue and we got to a satisfactory conclusion that everybody agreed and it was concluded. You had there different perspectives of different Administrations. You had civil servants in Civil Service space pursuing the legitimate and respective interests of their Ministers and it was all done and reached a satisfactory conclusion. I think people are perfectly able to do that.

Q641 Mrs Gillan: Yes, the JMC is obviously the court of final resort when there is a dispute.

John Swinney: That is a very fair observation. There is a lot of distance before you get anybody in a JMC. My point is that, even in that ultimately contested environment, we could get to a solution by people working to get to that agreement. There are plenty of other issues that get resolved in a much more routine fashion.

Q642 Mrs Gillan: But we are supposed to have a unified Civil Service and it would appear by default the cadres of Civil Service in Wales or in Scotland, for example, are now drifting away and forming their own distinct bodies. Do you think that we should be codifying that? Do you think we should be mapping that journey, because it seems to be happening by default?

John Swinney: The advice that has been issued in the past, I think it was first issued by now Lord O’Donnell back in 2011, was essentially to clarify the point that it was perfectly appropriate—he may have clarified it earlier than that, but certainly I have seen one reference to 2011, which I think is in the Committee’s papers, which makes the very fair and proper point that civil servants in Scotland should pursue the agenda of Scottish Ministers in the Scottish Government and vice versa in the United Kingdom Government. I think that is quite established. Obviously that will drive the actions and the approaches that are taken by civil servants in that context.

Q643 Mrs Gillan: Do you see that as being difficult for civil servants in so far as it could set up additional pressures or conflicts of interest? For example, there are always demands and it has happened on occasions when Scottish Ministers have sat in a European context and represented the United Kingdom in the Council of Ministers. On an occasion such as that there would be civil servants from the UK, but also civil servants from, for example, Scotland. Do you not think that that sets up a tension because the policies may not always be in harmony but that is, of course, a reserve matter?

John Swinney: I think it is a particular problem, but I am not sure that is a Civil Service problem. I think that is a political problem. I can think of various circumstances where there will be different political interests from Scotland and also Northern Ireland and the United Kingdom Government on EU matters, for example, where we will have different political positions to take forward. I do not think that is something particularly acute as a problem for the Civil Service. I think that is a general political issue.

Q644 Mrs Gillan: I appreciate what the position is from the politicians. It is from the civil servants' perspective that I was looking at. Do you not think that that creates tremendous tensions?

John Swinney: I think civil servants will be pretty clear of their responsibilities and their line of sight in relation to their own Administration. I do not think there is any lack of clarity about that point at all.

Q645 Mrs Gillan: I just have one final question. How much movement do you have of officials between serving in Whitehall departments and serving in Scotland and is that something that you would encourage?

John Swinney: There is quite a bit of movement that goes on in both directions and has done.

Q646 Mrs Gillan: Do you think it is increasing or do you think it is decreasing? Will you let me know?

John Swinney: I will certainly drop the Committee a note and let you know. I do not know off the top of my head, but certainly I can think of patterns of that, yes.

Q647 Mrs Gillan: The very last thing: I am interested in how this has developed, and obviously the Cabinet Secretary and Bob Kerslake are nominally the heads of the unified Civil Service that we are supposed to have. Do you think that is the case in practice?

John Swinney: All civil servants operate to the same code. If that is the characteristic of the unified Civil Service then "Yes" is the answer to your question. The caveat is clearly the point I made about the advice from Lord O'Donnell, which is that you cannot expect civil servants in the Scottish Government, for example, to operate to UK Government priorities when they have Ministers to whom they are responsible, but they operate to the same standards, the same ethics, as contained within the Code.

Q648 Chair: Just following on from that, to what extent, therefore, because of that accountability question—the fact that the Scotland Civil Service is still part of the UK Civil Service—is that now a constitution fiction?

John Swinney: The point I would make, Chairman, is to do with what I said to Mrs Gillan, that all civil servants are operating to the same Code, but that is now post-1999. It has a different—

Q649 Chair: But if the First Minister and the Permanent Secretary decided to re-write the code for the Civil Service in Scotland—it is already marginally different—who would object and on what basis?

John Swinney: The point is that civil servants effectively have to work for the Ministers to whom they are responsible, and we happen to have a situation now, post-1999, where we have Ministers of different Administrations exercising functions, who are entitled to Civil Service quota, but across the board all civil servants are operating to the same code of conduct in exercising that responsibility.

Q650 Chair: But the code is not the question. The accountability is the question, isn't it?

John Swinney: The accountability to me is very clear. Scottish Government civil servants are duty bound to work to the priorities of Scottish Ministers, just as civil servants of UK departments are responsible to UK Ministers.

Q651 Chair: But shouldn't that difference in accountability have been constitutionally recognised at the outset of devolution?

John Swinney: It probably would have been better if it had been, yes.

Q652 Chair: It would have been better taken forward? The Northern Ireland Civil Service is separate.

John Swinney: Yes, and obviously I come from a policy position where I would want there to be a distinctive Scottish Civil Service so it wouldn't give me any issues. I am just trying to comment on the fact that the arrangements don't appear to get in the way.

Q653 Chair: If it were constitutionally separate what impact would it have on your work as a Minister?

John Swinney: I don't suspect I would see much difference.

Q654 Chair: Because that is the way it already behaves?

John Swinney: Yes.

Chair: I think we are done. We have kept you three minutes over time but we are very grateful for your testimony. It has been interesting and stimulating. Thank you very much indeed.

Witnesses: **Professor Susan Deacon**, University of Edinburgh, **David Clegg**, *Daily Record*, **Simon Johnson**, *The Telegraph* (Scotland), and **Scott MacNab**, *The Scotsman*, gave evidence.

Q655 Chair: Welcome to our next set of witnesses. We only have until 11.30am for this session, so I beg the four of you to be as brief and concise as you possibly can be. We will ask short questions. Could each of you please identify yourselves for the record? Just to remind you, you must turn your microphones on when you speak.

Simon Johnson: Simon Johnson from the *Daily Telegraph*. I am the Scottish Political Editor.

Chair: I was looking at Professor Susan Deacon.

Professor Deacon: My name is Susan Deacon. I am a former MSP and Scottish Government Member. I stood down from Parliament in 2007 and have since worked across a range of sectors and in academia and am a Professorial Fellow at the University of Edinburgh.

David Clegg: I am not quite as distinguished, I am afraid. I am David Clegg the Political Editor of the *Daily Record*.

Scott MacNab: Scott MacNab, Political Correspondent with *The Scotsman*.

Q656 Chair: Thank you all very much for being with us. First of all, can I ask you about this vexed question of what the difference is between impartiality and neutrality? There are two different perspectives in front of us. First of all, Professor Deacon?

Professor Deacon: I have read carefully the evidence that you have heard to date and, to be honest, I don't see it as a particularly problematic. At least in theory. We all recognise I think—as has been well rehearsed—that civil servants are there to support the Government of the day and, therefore, they cannot be impartial but there are obviously certain conventions that we expect them to abide by.

Q657 Chair: But the Civil Service Code enjoins them to be impartial.

Professor Deacon: We could spend a long time on semantics but what I think is very fruitful and very interesting, which as I understand is part of what this Committee is seeking to do, is to try to shine a light on how these conventions apply in practice.

Q658 Chair: So impartiality is honoured in the breach?

Professor Deacon: I think we are living in what might be described as interesting times in Scotland. Much has changed even in recent months, never mind in the 14 or 15 years since I initially served as a Minister, and I think many different practices are evolving and developing. That is why I think it is important to consider this in actuality rather than just in the abstract.

Q659 Chair: David Clegg?

David Clegg: The difference between impartiality and neutrality I think is a semantic difference. The definitions, which I have only come to think about in the last couple of days when I read through your evidence of the previous sessions, seem to be a distinction that has been made similarly for the Civil Service Code. I think we deal with issues of impartiality in the media all the time and particularly in the charged debate that we are having in Scotland now. It is very obvious to everyone that these questions are becoming more pressing because it is such a heated and divided issue. But as far as what the Civil Service are doing at the moment, it seems to me quite clear that they are there to do the work that the Ministers they work for ask them to do and they seem to be getting on with it as far as I can see.

Q660 Chair: In your dealings with civil servants on this issue of Scottish independence, do you feel that civil servants are treating this subject impartially?

David Clegg: Yes. They are under a lot of pressure, as you would expect, but I don't think they are dealing with it any differently than they deal with a range of policy issues.

Q661 Chair: So what is the pressure?

David Clegg: Everything is under a lot more scrutiny than before and also you have one Government that they work for on one side of the argument and then another Government, as part of the same set-up, on the other side. I can't pretend to be an expert on the inner workings of the Civil Service but it seems to me from outside that that is bound to bring more pressure upon it.

Q662 Chair: Simon Johnson?

Simon Johnson: I think we are in a unique situation here where we have basically two parts of the British Civil Service: one part being asked to produce information to argue for Scottish independence and another part basically arguing the opposite, and obviously producing material that contradicts each other and in some cases directly citing the other side's material and saying, "This is just gibberish". What is obvious to me is that both sides are coming under a lot of pressure from their political masters to produce this material. There is absolutely no doubt about that at all.

Q663 Chair: To what extent is that pressure legitimate?

Simon Johnson: I think it is inevitable, given what is at stake. Some of the evidence of the Treasury reports the other day referred to people being £1,400 better off, and we had the set-up costs in there. But John Swinney referred to Professor Dunleavy disassociating himself from that, despite it being raised as research. That was a very silly error and I would suggest it is probably from pressure to come up with a set-up cost. Why they didn't phone Professor Dunleavy and ask about his research I don't know. On the other side—

Q664 Chair: On that first question, to what extent do you think special advisers are involved rather than professional civil servants?

Simon Johnson: I think special advisers are heavily involved on both sides. I think so.

Q665 Chair: David Clegg, you are nodding.

David Clegg: Yes. My dealings with special advisers are minimal, so I would suggest that they are doing their best to drive the work of civil servants.

Q666 Chair: They are the pressure?

David Clegg: Possibly, yes.

Q667 Chair: Interesting. Scott MacNab, on the whole question.

Scott MacNab: On the initial question, I do see the difference between impartiality and neutrality, in terms of civil servants have to serve the governing party—it may be the Nationalists one day and then a Labour Government gets elected the next day—and they have to pursue those policies enthusiastically between one party and another. I suppose it is not quite the same as neutrality but it may be an indifference in standing back from it, but, yes, I would agree with what has been said about Scotland at the moment that around such intense scrutiny that is coming up on both sides. Because, as David said, you have got the Civil Service in Scotland essentially arguing the case for Scottish independence, the UK Civil Service doing the opposite with the Scotland analysis series. The whole thing has been brought into very, very sharp focus within the media.

Q668 Chair: Susan Deacon, do you think that, if there were now a Labour Administration elected in Holyrood, the incoming Labour Administration would have the same confidence in the senior Civil Service in Scotland as you had when you were there before?

Professor Deacon: I don't see any reason why they shouldn't. I think these things are often highly variable depending on individuals. We spend a lot of time analysing these issues in terms of which party is in power, but I think that at every level of government—as indeed in any other walk of life—it is relationships that matter. Across Scotland at the moment one of the things that we are experiencing is that people have to find very different ways of working together to manage and to navigate the constitutional debate, which is introducing all sorts of tensions and sensitivities that previously did not exist. I don't deny that any incoming Labour Administration would be in a very different place in that sense than was the case going back to 1997 and 1999—

Q669 Chair: So, to that extent, Sir Peter Housden has not compromised his impartiality?

Professor Deacon: What I observe is that Governments north and south of the border have changed their way of working quite significantly over the recent period around the constitutional question. I cannot think of any comparable situation, in 15 years of devolution, where you have had a UK Government and a Scottish Government on different sides of a binary proposition, and that is therefore reflected in what civil servants have done. So that does change the landscape but I don't think that the civil servants—

Q670 Chair: How does it change the landscape? Does it change it permanently or does it revert to how it was before?

Professor Deacon: These things are all dynamic. These things are all a journey. I don't think they have a beginning, middle and an end. One of the very fruitful areas for this Committee and others to consider going forward is what will happen post the referendum before any further Scottish Government, indeed UK election, but just immediately post the referendum. I think many of us in many walks of life are engaged in a lot of discussions to consider how relationships and dialogue can be developed and maintained in that period, as to once the war is over then the peace needs to be won.

Q671 Chair: Can I switch to Scott MacNab?

Scott MacNab: I think it might be worth pointing out that I don't know how difficult it would be for an incoming Labour Administration to work with the current Civil Service. Certainly there has been disquiet among all the opposition parties about the role of the Scottish Government, unfortunately, under Peter Housden I suppose because he is the man at the top; suspicions that they have been in with the SNP Government. I have seen myself that complaints have been made, I think, even to Bob Kerslake over this.

One example that springs to mind was the last election that we had in Scotland, which were the local government elections in 2012. An SNP Minister made a big funding announcement during the purdah period, which one or two people here might recall. It was over the council tax benefit that was being cut, and I think they announced a £40 million package to reverse the cut and exempt Scots who would be affected by it. It was during the purdah period and it infuriated the opposition parties. A complaint was made to Peter

Housden because the opposition felt it was an open and shut case of breaching purdah rules. The Minister in question was cleared. I don't make any judgment on whether it was right or wrong, but that prompted a joint letter of complaint from the opposition parties. There have been a few incidents like that appear and the suspicion that the Civil Service have got in the way a bit, gone—

Chair: The intention of the legislation is clear but as to the effect of the enforcement of the purdah period, my understanding is that the Political Parties, Elections and Referendums Act is extremely unclear that there is no system of enforcement of purdah.

Q672 Lindsay Roy: Can you tell us to what extent you are aware of complaints about the Civil Service and, indeed, what has happened as a result of these complaints?

David Clegg: As Scott has mentioned there have been—I have lost count—certainly a handful of complaints about Sir Peter Housden. On top of that, I would say it is very much the case that the leadership of the opposition parties, and their MSPs and MPs, have expressed privately severe doubts about his role. It is very clear that they are unhappy with him in particular. He seems to have become a figurehead for this view that the Civil Service has not been acting appropriately.

Q673 Lindsay Roy: You are not aware of any action that has been taken in relation to the complaints?

David Clegg: They have been dealt with but none of them have been upheld.

Scott MacNab: Do you mean complaints internally or complaints from the opposition leaders about the behaviour of the Civil Service?

Q674 Lindsay Roy: I think we are interested in both. There are many civil servants. It seems unreasonable to me, both at a UK level and at Scottish level, that we do not have any record of a complaint or any feedback as to what has happened if there have been complaints. Is that not something that needs to be addressed?

Scott MacNab: Possibly. I know you have been addressing the issue of complaints about work that has perhaps been misrepresented in, for example, the White Paper but the civil servants I know are quite defensive about the work they are doing, certainly in terms of complaints. I did find it quite surprising even in previous evidence that there is no record of any complaints whatsoever. Whether they tackle these issues upstream I don't know.

The only formal complaint I can think of from the opposition parties was a complaint made about the memo that Peter Housden wrote when he—

Chair: Sorry, we cannot hear that.

Scott MacNab: Sorry, I beg your pardon. Peter Housden was at the centre of another series of complaints about a staff memo that was circulated internally, I think urging people to embrace the bright constitutional future that was ahead. I think that all the opposition leaders made a formal complaint about that. Those are the examples that spring to mind at the moment.

Simon Johnson: I can probably help with that because I think that was my story. They used to circulate a series of weekly emails from the civil servants in Scotland, and they

made some comments in those that could be construed as being helpful to the Nationalists. I was leaked the comments by a civil servant who wasn't too happy about them, and my understanding was—but I have no proof that it happened—that a quiet word was had with him, and certainly there has been nothing of that ilk now for 18 months to two years.

Q675 Chair: But that has not compromised his impartiality? Susan Deacon?

Professor Deacon: I certainly would not comment on any of the specifics that have been raised. I am familiar with them just through the presence of the press, so I will defer to journalists to talk about them. It is not an area that I have looked at in great detail.

Chair: That is fine.

Q676 Greg Mulholland: The confidential nature of Civil Service advice to Ministers, isn't that fundamental to Civil Service impartiality? Their advice is confidential.

Professor Deacon: I think the confidentiality of advice to Ministers is very important. I was asked in advance of this to give some historic reflection so I will do that. I recall this being something that was visited and revisited a lot in the early days of devolution and, indeed, when freedom of information was introduced and I do hold to the view that the confidentiality of advice is important. I realise there will be exceptional circumstances, as there have been, where a decision for whatever reason is taken for a piece of advice to be published. In general, I think that principle is important and I think it is incumbent on Ministers—just as I think it is incumbent on elected parliamentarians—to inform themselves, from as many different sources and perspectives as they possibly can, and then reach a decision and be prepared to justify it because they are the ones that are accountable.

Q677 Greg Mulholland: Following on from that, was it not therefore unacceptable that Sir Nicolas Macpherson published his letter of advice to the Chancellor, when the Chancellor could and should have read out that letter as if it was his view and not leant on the Civil Service?

Professor Deacon: I don't think I would describe it as unacceptable, in the sense that there have been other examples where by exception that has been done, and you have heard evidence as to why individuals concerned have reached that decision in those circumstances. I think what is an interesting question going forward—not just apropos the referendum but more generally—is whether that ought to become any more normal than it has been. I would tend to say no. I know of colleagues and others who think otherwise.

Q678 Kelvin Hopkins: Sir Nicholas's letter raised heckles in all sorts of quarters because he went on to talk about Britain's relationship with the European Union, for example. It was a very political letter that could and should have been the words of the Chancellor, and should not have been the words of a senior civil servant, possibly the number three in the hierarchy of the British Civil Service even.

Professor Deacon: That is why I am sure that any senior civil servant would think very long and hard before taking the decision to publish, because they are stepping into terrain that is potentially fraught with difficulty. Indeed, given the way that the publication of that advice was handled, it could be argued that it played quite differently with different people

and different views, and was not necessarily universally felt to have informed the debate in the way that it might have done. But I would repeat I don't think there was anything wrong with that, *per se*, because we have had other examples of that. I think these are matters of judgment.

Q679 Kelvin Hopkins: It was seen rather differently by English Members of Parliament, like me, in London. It was a step into an area that has not happened in the past. Simon Johnson said earlier on that senior civil servants had been asked to produce information and argue a case in private and—no doubt in private too—one of our reports is speaking about if civil servants have a critical view they can put that privately, the Minister can accept or reject it and then the Civil Service can write the policy according to what the Minister wishes. Civil servants may be asked to write something counter to that, but that is perfectly legitimate as long as it is impartial and whatever is written becomes the creature of the Minister, the politician and not the civil servant.

David Clegg: I am not well placed to judge whether it comprises impartiality or not; I would just say two points about it. One, as journalists we are very, very keen to see private advice to Ministers. That may mean providing an FOI request to get hold of it. They protect it very fiercely normally. So it was a surprise that day to find the advice published. The second thing that strikes me as a spectator is that, if part of the Civil Service job is to be able to change from one Government to the other, the publication of that advice has limited Sir Nicolas Macpherson's hand in the future. Hypothetically, he could find himself working for a Government that is considering negotiating the currency union with an independent Scotland. It seems very difficult to see how he could do that when this advice is on the record.

Scott MacNab: If I can just say, Nicholas Macpherson said he provided the advice on the basis that it was an exceptional case and exceptional circumstances and he wasn't setting a precedent. But I think you could apply that to almost every issue in this referendum debate. For example, it would be very interesting to know what MoD officials are saying about alternative plans to be able to relocate Trident in the event of a yes vote. I would like to see that advice published, for example. But you could go round the houses on almost every issue and ask for the Civil Service advice to be published.

I think he also said it was done in order to end the confusion because the SNP had been accusing the British Government of bluster. His position wasn't seen as a campaigning position. But it has not ended the confusion because we had this *Guardian* leak a few weeks ago, which indicated it was a campaign position. So I think people in Scotland—speaking as a newspaper—are just as confused about what the position will be after the vote as they are about what was there before that.

Kelvin Hopkins: Yes. Once the breach has been made everything becomes, "Oh it is an exceptional case", time after time. When I am in the Commons and I ask a question of a Minister, I want to ask the Minister for his view and not for him to say, "That is my civil servants' view". That is not acceptable in our constitution. The Minister is responsible and accountable. That is fundamental and this was a breach of that constitutional principle, which some of us regard as very serious indeed. I don't know if you do.

One point I would make is that when journalists occasionally might meet civil servants secretly—and no doubt you make suggestions to civil servants—would they say, "Well, you

may say that. I couldn't possibly comment"? I think that would be about the right approach. Thank you.

Chair: Is there anything else to add on the Macpherson point? Go ahead.

Q680 Mr Turner: What I wanted to ask was: what will happen if there was a referendum on membership of the European Union, if someone like Sir Nicholas Macpherson has had views that he has expressed now but which may change before a referendum is held? What would you expect to be his position?

Chair: Anybody? Yes, Scott MacNab?

Scott MacNab: What would his position be on the currency union, joining the euro? Union?

Mr Turner: No, membership of the European Union after that referendum is held but the position may have changed from what it is now. Will he change his view or will he not change his view?

Scott MacNab: I can't speak for him, I'm afraid.

Q681 Chair: I think the substance of the question is: if a civil servant is on the record with an opinion and then a public question arises, perhaps in a referendum, where the view of the Government is different or the circumstances are different, does the civil servant have to update his opinion so that it is relevant to the question now in front of the referendum or does that opinion of his just lie on the record as his opinion?

David Clegg: It is a similar point I was making about the currency union. It is difficult to see how, once a Government publishes its Civil Service advice, it can take a contrary course.

Chair: I think that is a very powerful point. I think it is a very interesting point that has been raised.

Q682 Lindsay Roy: Why do you think the publication of the White Paper has caused a lot of controversy? In particular, Susan, if you could comment on is it is it a manifesto, is it a White Paper or is it a bit of both? I mean that happened in your time.

Professor Deacon: I am tempted to say—and I say this genuinely and respectfully—that was then and this is now. I repeat what I said earlier. I think these are very different circumstances we are in now. I totally understand the debate about the White Paper. Almost everything is open to debate and dispute at the moment along quite partisan lines, so no matter how the White Paper is framed I think there would have been some significant debate around its appropriateness and so on, and because we are in uncharted territory then I think existing codes, norms and conventions have only limited value because this is just new ground. So, yes, I understand the debate. I personally dislike a lot of aspects of the White Paper. A lot of that is about style and tone I have to say—and I recall one or two other witnesses commented on this to you—but I do want to reinforce something that Professor Michael Keating said to you on a number of occasions when he gave evidence.

I do think it is important to look at what has come out of both the Scottish Government and the UK Government, both of which have been unprecedented certainly when it comes to style and tone. For example, what came out of the Treasury in the Scotland Office in the last few weeks around—what was it?—12 things you can do with a £1,400 dividend. I personally think that that was quite insulting to the intelligence of the average Scottish voter. I think much of the White Paper was quite insulting to the intelligence of the average Scottish voter. That is a personal opinion. So, yes, I understand the debate and like so much of what you are considering in this inquiry that is what it is. It is a debate. Different people have different views and I think no doubt academics and others will have a field day for many years to come, perhaps looking in the rear view mirror and looking back over this period and unpacking some of these issues and perhaps then trying to apply them for what rules and conventions can be established for the future, indeed, for any future referendums that take place in these islands of ours.

Chair: This is very helpful. Thank you very much.

Q683 Lindsay Roy: How much of the White Paper would you consider is really a manifesto?

Professor Deacon: It is very explicitly produced in a way that it is divided into two parts, one part of which are quality propositions that a SNP Government would follow with an independent Scotland. But the word “manifesto” in a very literal sense is taken to describe what is produced by a party in advance of an election. So I guess in literal terms it is not that but it is explicitly what that party would do if they were an independent Scotland.

But I am going to say, as dispassionately as I can, I do think there are precedents and examples of where Governments of the day have projected forward in terms of what they would do beyond an election and, indeed, beyond a referendum. I just think we are in the terrain just now where these things are much more sharp and brittle even, as is the debate surrounding them, than has ever previously been the case.

Q684 Lindsay Roy: Any response from journalist colleagues?

Scott MacNab: It is a cause of controversy because obviously it is the blueprint for an independent Scottish state breaking up the United Kingdom so you can see why people are jumping on that. But I think John Swinney made a fair point when he pointed out that the Electoral Commission has specifically called for both sides to accept the consequences of a “Yes” or “No” vote. The White Paper was published against a backdrop of clear polling among Scots indicating that they did not feel they had enough information. So, given that the SNP Government is the Government of the day, it has the majority, I don’t have a problem with them setting out what may effectively be a policy manifesto in this White Paper. That is what they are elected to do. But clearly getting the other side from the Scotland analysis series, I know there is an issue the Committee has to discuss about Civil Service involvement. From the perspective of a journalist covering it for a newspaper these distinctions get a little bit nebulous, what sides set and cover that accordingly.

Simon Johnson: I would make the point I think that, in general, I would say the Scotland analysis paper is more heavily caveated than this document here. I remember going to the

press conference and the flavour of the questions that came from journalists in the immediate aftermath of its publication.

Chair: You are talking about the Scotland White Paper, are you?

Simon Johnson: Yes, the White Paper. For example, it contains statements as on page 25, “Scotland will continue to use the pound, just as we do today”, and statements like, “We will leave the European Union on the same terms” and so on. So the questions that were put to the First Minister from the start—I think Nick Robinson’s was the first question that was put—said, “This is all the stuff that you can’t promise because it is dependent on the agreement of others, whether it be the remainder of the United Kingdom, or the EU or whoever. The language in the White Paper is ‘will’. It’s not ‘could’ or ‘may’ or ‘subject to agreement’. It is ‘will’”. So I think the primary purpose of the White Paper—although there is a lot of information in there, you cannot publish a document this size without containing information that people will find useful—is probably rather to inform than to elicit a “Yes” vote. It is to make it seem as simple and straightforward as possible.

Then the second day after the White Paper, the next press conference that we had was the following day with Alistair Darling where he pointed to what he saw as another flaw in the document. That is the fact that there is one page of figures in it on page 75 for one financial year. He was making the point that you would not get away with that for a Bill for anything, never mind dividing a country. Recently, in the last couple of weeks, they have had to revise the old figures in here down by quite a few billion pounds. So again, the lack of detail on figures and things, things that people would probably want to see before they voted for independence, the lack of costs and expenditure leads me to the belief that this is a document intended to elicit the “Yes” vote primarily rather than a document to inform.

Q685 Lindsay Roy: It is more of a manifesto in your opinion?

Simon Johnson: Yes, basically.

Q686 Chair: I have to come back to some colleagues, but if I can go back to something Professor Deacon said, first of all. You said that both Governments have adopted an unfortunate tone, and that some of it has been insulting of voters in Scotland. Both Governments are guilty of this. Should civil servants be involved or should civil servants agree that public money should be spent on producing output of that tone?

Professor Deacon: The point I was making is that the tone and the style has changed. It has changed over time, anyway.

Q687 Chair: But shouldn’t there be a benchmark? The accounting officer is saying, “If this going out as a Government statement, this has to be removed from this or these facts have to be included”? Isn’t there a benchmark that civil servants should be setting?

Professor Deacon: I don’t think that there can be a benchmark, particularly if we really are dealing with issues of tone and style. These are no absolutes. I don’t know how you could possibly prescribe these things. I think some of this is a gradual change and it is also a function of us being in a 24/7 news environment and having social media and some of it is a function of the referendum to-be.

Q688 Chair: So how soon after the referendum do you think it can be changed back?

Professor Deacon: I don't know about changing back. I think it is about thinking, "What is required for the future?" and that is not necessarily about changing back. I think a lot of the style and the approach taken 10 or 20 years ago would not be fit-for-purpose today, for instance. I think we are still crafting in that 24/7 social media world how we do public policy and political debate. My personal long-held view is that we—and when I say "we" I mean "we" in the broadest possible sense—have not got to a proper place where we have developed a way of conducting our political debate, and taking decisions that go with the grain of the world that we live in and create a space for informed debate in the way that I would like to see it certainly.

Chair: Thank you.

Q689 Greg Mulholland: There have been some pretty angry comments about the White Paper. I quote from an article from *The Scotsman* by John McTernan. He says, "It will find much to be concerned about in the conduct of the civil servants who work for the Scottish Government, who have undergone a politicisation unprecedented in the UK". The same article goes on to say, "It is the entire Civil Service culture that has been corrupted". Do you agree with that?

David Clegg: No, I don't think so. I am not sure that it is so much about social media and the 24-hour news cycle but it is certainly about the fact that we have the Civil Service involved in political campaigning, which is essentially what they are doing at the moment. Simon has outlined quite eloquently there some of the difficulties with the White Paper. Some of it is nonsense frankly, but it is the position that the Scottish Government are putting forward and the Civil Service have a duty to help them to promote that policy position, and the same with the UK Government. Earlier we discussed the problems with their document recently on the economics of independence, which had the author of research that they quoted dismantling it before it had even been published. So there is a problem there. But I think what is unprecedented here is that it is the Civil Service on both sides of the equation being put to political campaigning, and I think it is inevitable that you are going to encounter these difficulties when you have that.

The question you have to wrestle with then is: do we not allow that to happen? As Scott mentioned, the big concern about the referendum debate early on was that there is not enough information. We don't know what is happening. We need these people to outline their views. The Civil Service has played an incredibly important role in allowing that to happen. It seems churlish to then turn round and complain just because you don't like the political position they were asked to outline.

Q690 Greg Mulholland: But are you saying you think it is fine for civil servants to be involved in political campaigning, because that would be a fundamental change in the constitutional position of civil servants? It would be a model—

David Clegg: I am not the arbiter of that. I am just expressing what has quite clearly happened.

Professor Deacon: In all fairness, I think I want to take issue with the suggestion that civil servants are engaged in political campaigning in either Government. They are not standing up advocating particular positions; they are not going knocking on doors or out in the streets at the weekends or whatever—all the things that we recognise as bone fide political campaigning. I think the issue comes back to how much they are engaged in advocacy. David made the point there about how much people cried out—and are still crying out—for information at an early stage in this debate. Some of that I think was based on a myth, in a sense, that there could be factual information upon which these decisions could be based within contested space here.

But I do think what would be an interesting thing for this Committee and others to reflect on, necessarily, would be post-referendum, now, or perhaps at the end stages of your inquiry, is why in both cases both Governments went beyond the publication of data, shall we say. Let's not use the word "facts" but data and information. Instead they got much more involved in advocacy and argument. I don't think any of us are in a position to say what was or is the right thing to do, either now or in the future, but I think that is where there has been the shift. But I think that is different from suggesting that civil servants have somehow stepped into political campaigning and I don't think I would want to leave that unchallenged.

David Clegg: It may have been better phrased as facilitating political campaigning, but I think that on some of the communication level they are at perhaps at the extent of political campaigning. Some of the quotes that you receive from press officers are more politically charged than were previously, in my experience.

Scott MacNab: I think the question reflects the uniqueness of the polarised political climate we have in the campaign of Scotland just now. As you said earlier, you have an elected majority Government in Scotland who are campaigning for independence. You have the opposite down in Westminster with the UK Government. The Scottish civil servants have to serve their masters. They have to reflect that in their output, and this Government are campaigning for independence and you will see that coming across in some of the communication. I don't see an alternative to that. I don't think I would say they have become politicised, and certainly the civil servants I speak to are a bit more defensive about their role in the White Paper and the Scottish Government than perhaps the evidence you have had so far, which would indicate they are unhappy with what has been presented.

Q691 Chair: Very briefly, Mr Johnson.

Simon Johnson: I would just say I think it is going too far to say the entire Civil Service is corrupt or politicised. I do have concerns about certain elements about the process and about the generalisation. The SNP have been in power now for seven years. I remember the shock that happened in 2007 when we went from a situation where we had a Labour administration in Westminster, a Labour administration in Holyrood and there was never any criticism of each other or hardly ever anyway. I remember that first press release coming out from the Scottish Executive attacking Westminster. I suppose we have had a culture on that since then criticising Westminster over X, Y, Z, and civil servants would probably learn what their political masters want in that respect.

Q692 Greg Mulholland: A final question. Do you think the Scottish public are clear what is Government documentation and information—as Mr Swinney was very clear to say that the White Paper is—to assist people and the propaganda being put out by the “Yes” and the “No” campaigns?

Simon Johnson: No. I think the line is distinctly blurred on that. Another of the changes that happened in 2007, in terms of the Scottish Government’s presentation, was the old Labour Administration very much left briefing the press to Civil Service, press officers, and what happened in 2007 is we got the spin doctors on that. What would happen is the Scottish Government would put out a press release about something, and then immediately afterwards it would just so happen that you would get the SNP press release on the same thing praising it. So, no, I think the line is very much blurred on both sides, on both the “Yes” and “Noes”, about what is Government, what is campaign and what is party.

Q693 Mrs Gillan: What you are saying worries me a great deal because one of the things that I valued as a Minister was the impartial and objective advice that I got from officials. I am sure Professor Deacon will understand this. I expect to hear from my officials the pros and cons, and then ultimately I take it forward as my policy in the way that I wish to but having heard all sides of the argument. What you said, Mr Johnson, there was, effectively, that the Civil Service was not providing accurate information in the White Paper and it was not of a standard that I would have expected, but because it suited the political persuasion of the people initiating it or being in government it was allowed to go forward. Would you agree with that or do you challenge that?

Simon Johnson: I think in my experience or my understanding of the way the Scottish Government works with some documents, such as this one, is that the Civil Service do provide the information, the figures or whatever, the research that Ministers need, but I think it does go through the special adviser’s office, then the political appointees and certainly directly to the First Minister’s office as well. They look at things like the language and they have the final say on how things are presented.

Q694 Mrs Gillan: So we do not really know what the officials—

Simon Johnson: No, exactly. There will be certain statements that are fairly uncontroversial on behalf of the Civil Service but it is all jumbled together. We can lift out the political stuff from the spads and Ministers and the factual basis from the civil servants.

Mrs Gillan: Do you want me to go onto the next section?

Chair: No, I don’t actually. Professor Deacon, you want to add something?

Professor Deacon: I just think it is very important to make the distinction here between the advice that is given to Ministers in private, as per the line of questions that Mr Hopkins was following earlier, and what the Government ultimately publishes. In all fairness, I think there is nothing to suggest that civil servants—either at Scotland or UK level—have ceased to give a range of advice and a range of options to their Ministers in private discussion. At least to my knowledge, none of us has evidenced that effect. If there is a debate and discussion to be had it is about what Government has then gone on to publish and I think that is a very important distinction.

Simon Johnson: I would agree with that. That is not clear from the evidence. I would absolutely agree with that.

Q695 Lindsay Roy: Colleagues, you are here to provide your best evidence, not to be severely grilled. Can I ask the colleagues in the press what comments they have had from the public on the lack of information about finance for the new Scottish State?

David Clegg: We have had quite a few letters and emails at the *Daily Record*; people saying, “We don’t have enough information” and when you ask them what information they want it is generally they want figures for things. We had a poll—we are running polls every month—with the headline figure of what the referendum is as the new question. But we also ask subsequent questions each month. The poll that we published last week said that 77% of the electorate are looking for figures on various issues, such as the state infrastructure that has been discussed widely. The Scottish Government’s position is—Mr Swinney outlined it earlier—that a lot of this will be based on negotiation with other parties and that any figure they would put on it now would be meaningless. It seems unlikely that we are going to get those figures but certainly there is an appetite among the public for it.

Scott MacNab: I would agree with David, but I think in September they will still be saying they have not had enough information, whether it is in the financial respects or anything else. It is slightly strange because I think, although it is correct to say there is so much of everything, there hasn’t been any referendum and related campaign where there has been more information put out there, whether it is by the parties, the official campaigns and independent academic think-tanks that seem to be springing up. It has almost become like a cottage industry, people commenting on this along with all the professional bodies. But I don’t know if it is almost information overkill. There is plenty out there. I think perhaps what people want is a sort of magic bullet where they can go to one paper that is going to give them all the answers. That is never going to exist. There is an element of perhaps too much information rather than not enough information.

Simon Johnson: I think it is fair to say that people expected a set of costing and it is something that people would like to see. Although I would say that it is something that I would imagine would be very, very difficult to do and it might not be particularly helpful for the Nationalist case. But, yes, the feedback I have had is it is something that people would like to see.

Q696 Lindsay Roy: Is that not then a major shortcoming? Because people tell us it is the economy and the cost of living that will determine how you vote. It is a substantial part.

Simon Johnson: Yes. It is a difficult issue for them and I think it will remain so until polling day. I referred earlier to the row about the figure produced by Professor Dunleavy, which obviously the Nationalists have used to attack but it rebounded on them that week because they were then asked, “What is your figure?” and they didn’t have one. That in a way was more difficult than the inaccurate figure produced by the Treasury.

David Clegg: I would make the point that I think the Treasury disputing figures did give us some idea just how difficult it was going to be to calculate these costs, because it is so unclear exactly what it would involve. The Treasury paper made an attempt to do so and it

seems pretty clear it was a very vague guess about what the costs will be, so just how you are meant to go about doing these detailed estimates I think is very difficult.

Scott MacNab: Apart from the initial set-up costs I have still not seen anything that gives you much more of a guide to these things than the ONS figures that are out every year anyway. They have been getting published for the past 10 years.

Q697 Kelvin Hopkins: Setting aside the issues, Professor Deacon talked earlier about her intelligence being insulted. That happens frequently in my case. My intelligence is frequently insulted by Governments of different kinds, including my own Government: weapons of mass destruction; the Iraq war. That was nonsense. But it is the politicians who have the right to do that. The civil servants don't insult our intelligence. It is the politicians that do that. They use words that may or may not be provided by civil servants, but the politicians are accountable; civil servants are not accountable in the same way. Isn't that the fundamental point?

Scott MacNab: Yes. The White Paper, for example, it is journalistic shorthand that sometimes get criticised—what we call Alex Salmond's White Paper. No one is saying it is the Civil Service's White Paper. It is Alex Salmond's.

Kelvin Hopkins: I see, yes.

Q698 Mr Turner: Would you agree with the proposition: everyone wants simple expressions from both sides that tell the truth? Why won't it happen?

Scott MacNab: Are you talking about the finances or just the whole—

Mr Turner: Generally.

Scott MacNab: It is such a huge issue, the White Paper and all the issues that are involved: setting up a separate military; setting up all the different organs of state; Scottish tax take and so on. Like I said, there is not going to be one simple paper that summarises in three or four pages, which gives you a magic bullet that the public can go to and say, "Ah, we will be better off", "We won't be better off". That said, I think the day before the referendum people will still be saying they don't have enough information, while I just think there has never been more information out there. You are almost swamped by it and it is a question of what to go to, what to trust and what is definitive? But there comes a point when people have to make a judgment, look at what is there on both sides and make a judgment.

I take the point entirely but—perhaps I have just been a bit weather beaten over the past couple of years trudging through one report after another—I don't think they are going to get that nice, simple, clean, crisp summary that takes them to "Yes" or "No".

Q699 Mr Turner: Isn't it the case that a proportion of people will not vote for two reasons. The first lot will not have made up their minds, even on voting day, and some people will not vote anyway. What I am concerned about is the proportion of those not voting will be quite significant. Is that going up or going down?

Simon Johnson: I think the turnout will be extremely high for the referendum, I really do. At the end of the day, as in any political campaign, it comes down to who you believe and

are you willing to take the chance basically. Given how long this has been going on, I think close to polling day people will engage more and more. We will have a television debate and so on, and at the end of the day it is about which country are you living in? It does not get much more fundamental than that. I don't think there will be that many people staying at home, I really don't.

Professor Deacon: Your exhortation there: could people not just tell the truth? I think the difficulty here is that there are genuinely different truths to different people. There are very, very strongly held views and beliefs on this issue, not just within and among the political classes but across Scotland. Therefore, we all see a lot of the information through a different lens. I think what has been fairly unhelpful is that—and this is well documented and widely criticised by a lot of people—both campaigns have tended to exaggerate and over-simplify and that just hasn't helped. It is important, therefore, that there are other views and voices that come into the debate. We have seen more of that more recently and I think that is a good thing. It is unfortunate that a lot of people—particularly people who hold positions of responsibility within the public sector or within business or charities or whatever—I think are understandably sensitive about stepping into that public debate because one or other side of the campaign will simply pounce on any word or comma and claim it as their own. That is just the dynamic that we are now in. But I do think that we are searching for a bit of a holy grail if we say that it is just about reaching for the truth.

Chair: That was a very full answer. Thank you very much.

Q700 Sheila Gilmore: I may be misquoting the person. I think Nye Bevan said, “This is my truth, now tell me yours”. In other words, in a politic, political context you are always going to get different views. The only potential problem I see with calling things White Papers and so on, is that there is a kind of dimension for things like White Papers where, for example, the current UK Government have published White Papers on the disability living allowance, which I profoundly disagreed with and thought was a very poor—

Chair: Could you make it a very short question, please?

Sheila Gilmore: Okay. But there was a constitutional process. Other organisations were able to feed into that and that is all on record and it is all there, so there is a two-way process of communication, which in this instance did not happen. Is it wrong to adopt the language that is normally, I would say, impartial for this purpose given that we are in a referendum?

Chair: David Clegg?

David Clegg: I am sorry; I didn't quite catch the question.

Sheila Gilmore: This was deemed to be a White Paper, an official document, a Government document, and usually there is a process of consultation, of organisations being able to come back and give their views. Those are all published as well and it is there in the public domain so that people can weigh that up.

David Clegg: There was a consultation for the White Paper but it tended—and you can correct me if I am wrong—to focus on the procedure of how the referendum would take place. I think. I can only imagine what the consultation process would have looked like if we consulted on the issues around independent Scotland.

Q701 Sheila Gilmore: I don't think my question was whether there should have been a consultation process but, in fact, whether we are adopting the language of something that is recognised within Government as a process for something that actually wasn't that because it was a Government's view of what it wanted to do. Equally, you could argue that some of what the UK has been putting out on the subject is the same. But they haven't necessarily called it an official governmental document, in the same wording.

David Clegg: I think it is certainly the case that, if you lined up all the White Papers over the last 15 to 20 years and put them in a row, the one on Scotland's future would feel very different in content and style.

Chair: The last topic, Cheryl Gillan.

Q702 Mrs Gillan: We are looking at what I think is probably the demise of the unified Civil Service. Believe it or not we still have one, and for Scottish civil servants their ultimate judge is the Cabinet Secretary and Sir Bob Kerslake. What is your view? Do you think we have a unified Civil Service or do you think it has gone by the board by default now?

Professor Deacon: I ought to have said from the outset that the views I am expressing are informed by a whole range of different things over many years, and this comes from being an anorak of 30 years standing, I think, of matters and public policy in Scotland. I think you could argue that we have always had a unified Civil Service and we have never had unified Civil Service. We have always had a unified Civil Service in the sense that there has been a certain core and standards of conduct and so on, and terms and conditions even that have been agreed across the UK. In a way we have never had a unified Civil Service because it has varied to different degrees in different parts of the UK. We had 100 years of administrative devolution in Scotland, which immediately in and of itself made it asymmetric. So I constantly want to inject that historical note into this discussion, because it wasn't as if in 1999 we started from something that was standardised across the United Kingdom. We just diverged further over that period.

As regards where we go from here, I went on public record more than a decade ago when I was still an MSP saying that I thought at the time—rightly or wrongly—that it was perhaps time to cut the umbilical cord with Whitehall. If that was then and this is now, then I think there is a discussion to be had. Not because of the broader constitutional or political debate that we are now having but simply because these relationships have evolved. I believe that there has been insufficient attention given over the last 15 years to what some of these UK relationships ought to look like, not just within Government but across many other bodies, like the health service and a whole host of other organisations across Britain. I think there is a need to think about that going forward. I am conscious we are nearly out of time. Could I add one other point, briefly?

Chair: Please do, it is gold dust.

Professor Deacon: About structures, and this was something John Swinney touched on earlier. We have talked an awful lot about what the Civil Service has done during the campaign, but I said earlier I think it is important to think about what happens afterwards. I think our civil servants are going to be absolutely critical in terms of rebuilding these relationships across the UK, whatever the outcome of the referendum. I was around when

the joint ministerial committees were first established. I was a complete sceptic about them. I sat in the health one that Tony Blair chaired. I revised my opinion completely. I found them invaluable in terms of sharing understanding and knowledge, developing policy and building relationships outside of these meetings as well as within them. That machinery largely I would say fell into abeyance to some extent towards the end of the Coalition and the SNP revived it, necessarily. They were different parties then in power. I think both the machinery that you have in place post the referendum, the actions of civil servants within that and the relationships that are built are going to be absolutely critical going forward. I guess that is a plea to this Committee to help shine some light in an area where there is a lot of heat just now but that we really need to all think about for the future.

Chair: Is this a question on which any of our journalists have strong views or can I allow Cheryl to press on?

Q703 Mrs Gillan: I think that is a really valid point and I agree entirely because I don't think there is enough co-ordination across the devolved Administrations to make the whole process of government cohesive, which I think is essential. But just leading on from that, how much damage do you think has been done to that relationship between Whitehall civil servants—if I can express it like that—and Scottish civil servants because of this debate? Do you think that there is a healing process or do you think that there have been tensions created for the civil servants operating because of this?

Professor Deacon: Undoubtedly, as I said earlier, this whole period has thrown up tensions of an order that haven't previously existed. But my genuine belief and observation, having been engaged in a lot of different discussions with different people around this period, is I think the civil servants will find it much easier than most to move forward and rebuild new relationships for the future, because I think that is in their DNA more than it is in many others and it is part of their professional training. That is why I think they will be so pivotal in the period ahead.

Scott MacNab: If I can just say something. I would point to the Edinburgh agreement in this as an example where, despite the political tensions, the civil servants and others thrashed this out with Ministers and obviously some civil servants came together to help establish the referendum process. Alex Salmond is very keen to talk about the Scottish independence movement and has gone so far to say that a drop of blood has never been spilt on this. Perhaps that advances this even further, and it is a process that has been looked at around the world. So, although perhaps there are tensions, you can see that has been one area where civil servants can still work together despite the political tensions.

Q704 Mrs Gillan: Can I ask the journalists as well—and this is perhaps a bit of a cheeky question—when you look at the so-called polling, it goes one way or the other way and it is close, obviously those polarised views are going to be reflected within the Civil Service. Have you been surprised by either the lack of leaks or the quantity of leaks that have come to you as journalists?

David Clegg: The only quite substantial leak that I can think of is the John Swinney document that has had a lot of coverage, which I think we can safely surmise was from a civil servant in the Scottish Government who had a view and took that course of action. But I would say two things. There is not a lot of leaking going on. I would say it is a fairly

tight ship on both sides. Also, I would say I have been impressed with the way the civil servants involved have conducted themselves when they are dealing with me privately. There has been a very professional set-up I would say.

Q705 Mrs Gillan: Does that apply to the rest of you as well?

Scott MacNab: I don't think it is as easy to do in Scotland as perhaps it is in the UK where you have different departments and different silos. We don't have a separate health department, a separate education department. It is all working and run in one big office. I think that makes it slightly—

Q706 Chair: You virtually do not have competing centres of power, which is certainly a problem in Whitehall.

Simon Johnson: The discipline within the Scottish Government and the SNP, generally, has been something to behold. The eyes are very much on the prize. Yes, there haven't been a lot of leaks like that generally. The civil servants I speak to are very professional about this.

Chair: It has been very, very helpful for you to appear before us. Thank you very much indeed. Unless there are any other burning questions, I would just like to thank you very much indeed.