



Public Administration and Constitutional Affairs Committee

Oral evidence: EU Referendum: Civil Service Guidance, HC
792

Tuesday 1 March 2016

Ordered by the House of Commons to be published on 1 March 2016

[Watch the meeting](#)

Members present: Mr Bernard Jenkin (Chair), Ronnie Cowan, Oliver Dowden, Paul Flynn, Mrs Cheryl Gillan, Kate Hoey, Mr David Jones, and Tom Tugendhat.

Questions 1 - 147

Witness: **Sir Jeremy Heywood KCB**, Cabinet Secretary and Head of the Civil Service.

Q1 Chair: May I welcome the Cabinet Secretary to this session and thank him particularly for agreeing to come at very short notice? Though we are involved in a matter of controversy, I very much hope that it can be resolved as quickly as possible so that it does not distract from the great debate that this country is involved with. I am sure, Cabinet Secretary, that you would agree. Could you identify yourself for the record?

Sir Jeremy Heywood: I am Jeremy Heywood, permanent secretary and head of the home civil service.

Q2 Chair: Thank you very much. We do not want to keep you for too long, so we will try to keep our questions as brief as possible. If you could keep your answers as short as possible, that would help; otherwise, I will pull you up, and I will pull up my colleagues. I will also pull you up if I find that you are answering a question that I or a member of the Committee has not asked. It was our experience this morning with Sir Jonathan Stephens that he tended to provide an answer to a question that had not been asked, and we did not get clarity.

I am reminded that the Minister yesterday said at the end of his statement: “I hope that this clarity will allow Members on both sides of the House to focus on the main debate”. At the moment, I am bound to say that if we have clarity, I hate to think what a muddle looks like. First, could you outline the steps that led you to produce this guidance?

Sir Jeremy Heywood: I think we started with the 1975 guidance. We looked at the Scottish referendum guidance. We looked at the observations of this Committee's predecessor on that guidance. We talked to the Prime Minister. That produced the guidance. Obviously, in the middle of all that, the Prime Minister produced a letter on 11 January that set out the overarching principles we are dealing with here, which is that the Government has an official position on the in/out question, and pretty much everything else flows from that starting point.

The civil service's job under the constitution is, as you know, to support the Government of the day, and that is what the guidance does. It puts flesh on the Prime Minister's letter of 11 January and sets out as clearly as we could that the civil service's job therefore is to support the Government of the day in making its position clear, while obviously being able to support Ministers who are dissenting from that position on all other aspects of Government business.

Q3 Chair: Who did you consult in addition to the Prime Minister?

Sir Jeremy Heywood: I consulted my expert team inside the Cabinet Office, and I consulted one or two senior permanent secretaries. It did not frankly seem to me to be much of a great controversy, because it is based, as I say, very carefully on the 1975 precedent and the Scottish referendum guidance, which this Committee had plenty of opportunities to comment on but chose not to raise any great concerns about. It is, in some senses, a statement of common sense that if the Government has a position, that is the position the civil service will support.

Q4 Chair: You keep referring to the 1975 precedent. I am reminded again of Philip Ziegler's remark that the British constitution is constructed of many "instantly invented precedents". Where is the precedent in 1975 for the extent of denial of information to dissenting Ministers that is proposed in your guidance?

Sir Jeremy Heywood: There has been a misunderstanding, if I may say so, about the denial of information to Ministers who are not supporting the Government's position. The area where the civil service is not going to be providing advice to Ministers in that position is very specific. It is set out in the Prime Minister's letter and it is set out in my guidance to permanent secretaries. That area is the provision of briefing material and speech material, because we do not think it is appropriate—the Prime Minister does not think it is appropriate and I do not either; they didn't have it in '75 and it is very much the same precedent—to provide material to Ministers who want to argue against the Government's position so that they can make that case against the Government. That is the material being denied to them. For all the other material that they need to run their Departments, to answer parliamentary questions and to handle European business that is not related to the question—normal EU business—we will of course continue to provide the usual limousine service.

Q5 Chair: I have quoted him before, but the former permanent secretary Sir Peter Thornton, who was looking after Peter Shore at the time, said: "It was jolly difficult putting

forward anti-Common Market briefs to Mr Shore, but I hope we did what he asked.” Is that what you expect permanent secretaries to do in this Government for dissenting Ministers?

Sir Jeremy Heywood: I have actually brought along the guidance from 1975, which says in terms: “Civil servants may provide normal office facilities and factual information on European matters on request to Ministers who differ, but they should not be asked to provide briefing or draft speeches contrary to the Government’s recommendation.”

Q6 Chair: So that is the position?

Sir Jeremy Heywood: That is the position in 1975. I don’t know what he was doing, but—

Q7 Chair: Is that the position now?

Sir Jeremy Heywood: That is the position in 1975. The position now—

Q8 Chair: Is that the position now?

Sir Jeremy Heywood: The position set out in my guidance is the position now.

Q9 Chair: In what respect does your guidance today differ from the position in 1975?

Sir Jeremy Heywood: I don’t think it does, materially, in relation to the civil service. In relation to Spads, there are minor differences, but there was no special adviser code in those days and so on.

Q10 Chair: You just read out words from the 1975 guidance. From the point of view of clarity, are those your instructions to civil servants today?

Sir Jeremy Heywood: No. As I just told you, my guidance is set out in my own words in the letter I sent round.

Q11 Chair: So in what respect does your guidance differ from the 1975 guidance?

Sir Jeremy Heywood: In material respects, in relation to the civil service, I don’t think it does. I am saying that the specific guidance I set out last week is what I am setting out as my guidance this time round. Peter Riddell, the esteemed head of the Institute for Government, put out a blog today that makes it quite clear that he thinks this is broadly consistent with ’75, and it is.

Q12 Chair: In a note of a telephone conversation between Sir Douglas Allen, the then head of the civil service, and Sir John Hunt, the then Cabinet Secretary, on 24
[Oral evidence: EU Referendum: Civil Service Guidance, HC 792](#)

February 1975, Sir Douglas Allen commented that officials should produce briefing when requested, but of a neutral kind, putting both points of view, from which Ministers could extract the information that they wanted. Is that what you instructed civil servants to do?

Sir Jeremy Heywood: I haven't instructed civil servants. I have given them guidance about what to do in my letter of last week. I just read out the 1975 Harold Wilson memo that set out what civil servants were obliged to do in '75, which I think is broadly consistent with what I am doing. The operative bit, as I have said, is that civil servants should not be asked to provide briefing or draft speeches contrary to the Government's recommendation, which is the hard kernel of what the guidance I issued last week is about—no more, no less.

Q13 Mrs Gillan: Sir Jeremy, you very helpfully circulated alongside your letter a Q and A sheet, which has been provided to us. I understand that the Q and A sheet was not published at the time that you published your letter. Why was it not published? I would have thought that in the interests of openness and transparency, which you obviously wish to pursue, it would have been helpful to have published it alongside your letter. Will you ensure that such guidance is always published in the future?

Sir Jeremy Heywood: Let me clarify the Q and A. The Q and A briefing is provided by my office at working level to the permanent secretary's office to help them interpret the guidance. The guidance is the key document; the Q and A is a living document that we update over time. We will issue another version of it in the next week or two, I should think. Our normal experience is that at the start of a period of purdah or a regulated period there are lots of teething problems, questions, details and issues, particularly from civil servants who haven't been part of this before. We generally issue them with a handy Q and A guide, but that needs refining over time.

Q14 Mrs Gillan: But the handy Q and A guide differs in language from your letter. The language of the Q and A guide talks about "papers that have a bearing on the referendum question", whereas in your own letter you refer to "issues relating to the referendum question". First of all, would you agree that there is a material difference between those two points?

Sir Jeremy Heywood: There wasn't intended to be, to be honest.

Q15 Mrs Gillan: Sorry, can I finish? Can you be confident that all civil servants will not have some confusion over those two different expressions that you used? How can you ensure that there is consistency of interpretation across the civil service?

Sir Jeremy Heywood: We continue to talk to private officers who raise questions of interpretation with us, and obviously give a consistent line. The Prime Minister's letter and my guidance are the guiding documents. They set out very clearly what we are talking about. The spirit is clear: all normal Government business, including EU business, continues, except in relation to the in-out question, on which we don't provide briefing material or speech material for Ministers to attack the Government position. That is the material that we are talking about, and that is what the Q and A refers to. The Q and A should be interpreted very

much within the context of the guidance that has been set out, which is the overarching document.

Q16 Mrs Gillan: Can you give me a practical example of what material may have a bearing on the referendum question? Pick a Department at large.

Sir Jeremy Heywood: If—this has not happened, because the guidance is very clear on this—a Minister who wanted to argue against the Government position commissioned a brief to find some facts to sound out that position or line of argument, that would be ruled out by the guidance because that’s exactly the sort of information that would have a bearing on the referendum question.

Q17 Mrs Gillan: But Mr Hancock yesterday said that all Ministers can ask for factual briefing and for facts to be checked in any manner. How is a civil servant going to be able to tell that a Minister is going to use any facts that he or she asks for within their Department to form the basis of a speech that is for the Vote Leave campaign, as opposed to the Remain campaign?

Sir Jeremy Heywood: The guidance is very clear that if a Minister who wants to vote against Britain’s membership asks civil servants to check the facts of his speech, that is legitimate. There is no judgment required.

Mrs Gillan: But Minister aren’t stupid.

Paul Flynn: Come on!

Q18 Mrs Gillan: Well, Mr Flynn thinks all Ministers are stupid. A Minister is quite entitled to ask his or her official to produce a series of facts. There is then no control that that civil servant may have over the way in which that Minister uses those facts. Isn’t it a bit pointless?

Sir Jeremy Heywood: It is consistent with the spirit in which the Prime Minister and the Cabinet discussed this that we should try to be as helpful as possible and that both sides will operate in a positive spirit. As in 1975, so now, the Prime Minister was comfortable that civil servants could provide facts to Ministers who want to argue against.

Q19 Mrs Gillan: It is not comfortable, is it? The—

Sir Jeremy Heywood: It is an unusual situation. Let me say this: the only exceptional thing about all this is that the Prime Minister has very exceptionally allowed a number of Ministers to stay in the Government even though they oppose the Government’s policy. That is what is exceptional. Everything else follows from that. We are trying to accommodate that as best we can within the absolute ethics and spirit of the values of the civil service, which are to support the Government of the day, but to remain honest, impartial and all those other good things that we stand by day by day. That is what we are trying to do.

Q20 Mrs Gillan: May I ask you about the guidance contained in your letter and the internal Q and A—that was circulated to all Cabinet members and they all saw it before they were asked to agree it?

Sir Jeremy Heywood: I think my guidance was circulated to permanent secretaries, actually. The Prime Minister's letter was circulated to Cabinet Ministers.

Q21 Mrs Gillan: But your guidance was not circulated to Cabinet Ministers, so they did not have sight of it—

Sir Jeremy Heywood: I cannot remember. I think it was circulated to permanent secretaries, but I am sure that they would have copied it within their Departments.

Q22 Mrs Gillan: Wouldn't it have been helpful to have circulated that Q and A to Cabinet Ministers, because, after all, they were going to be asked to agree the process and it might have shed more light on what has turned out to be fairly controversial?

Sir Jeremy Heywood: That would have given the Q and A a status well beyond what it was, which was working-level guidance to permanent secretaries' private offices, to help them in interpreting how to fill in the details of the guidance. But the key thing is the guidance and the Prime Minister's letter.

Q23 Mrs Gillan: Will you help me with other parts of ministerial life? From time to time, Ministers—junior Ministers, as well as Secretaries of State—attend Cabinet Committees or Sub-Committees, and it is not outwith the realms of possibility with the referendum coming up so shortly that on those Cabinet Committee and Sub-Committee agendas will be matters pertaining to this referendum. Will you be allowing junior Ministers to stay attending those Cabinet Sub-Committees, or will you suspend the Committee and ask those Ministers who have said that they are supporting Vote Leave to remove themselves from the meetings?

Sir Jeremy Heywood: We will basically try to run normal Government business, so if there is a Cabinet Committee set up to discuss an issue that needs to be dealt with now, then Ministers—

Q24 Mrs Gillan: But, as is quite likely, because European business rolls on on a daily basis, as we all know, if anything on those agendas has a bearing on the referendum, will you be asking those Ministers to leave the room?

Sir Jeremy Heywood: No, absolutely not. As I have told you, the overarching principle—

Q25 Mrs Gillan: So they would then be breaking the spirit of this *modus operandi* that you have set up.

Sir Jeremy Heywood: We would have to look at it case by case, but the spirit here is that this applies to proactive requests for information on briefing and speech material. That is what we are trying to stop.

Q26 Chair: This sounds much more reasonable, and I very much welcome that. May I just clarify why in your letter you said that, “it will not be appropriate or permissible for the Civil Service to support Ministers who oppose the Government’s official position by providing briefing or speech material on this matter. This includes access to official departmental papers, excepting papers that Ministers have previously seen on issues relating to the referendum question prior to the suspension of collective agreement”? What papers do you intend them not to see?

Sir Jeremy Heywood: Briefings and speech material.

Q27 Chair: Only briefings and speech material?

Sir Jeremy Heywood: That is the basic principle, yes. I cannot rule out that there may be other—

Q28 Chair: In the Q and A it says: “They can see or commission any papers produced by the Departments in the normal way except those that have a bearing on the referendum question or are intended to be used in support of their position in the referendum.” That only applies to briefings and speech material?

Sir Jeremy Heywood: That is the material we are talking about, yes, because the normal business—

Q29 Chair: So any material facts are available to any Minister?

Sir Jeremy Heywood: Facts are dealt with in a different paragraph of my guidance.

Q30 Chair: This is marvellous! What a breath of fresh air! This is so straightforward, we might be able to shorten this whole sitting.

Sir Jeremy Heywood: That would be a pleasure.

Chair: It would. But it is not quite what the Minister was saying in the House yesterday.

Sir Jeremy Heywood: It is fully consistent with what the Minister was saying.

Chair: I very much welcome what you are saying.

Do you want to pitch in, Paul?

Q31 Paul Flynn: In the book called “Cameron at 10” by the well-respected authors Anthony Seldon and Peter Snowdon is a very interesting account of the Scottish referendum, when it got to a very exciting point. It says that they had a very pessimistic-looking opinion poll. It goes on to say, “This was a desperate blow. Carmichael tells Cabinet hours later that, ‘This is a time to hold your nerve and take the prospect seriously but we have to stick to the strategy’. Whitehall goes into rapid action examining how London might extend Scotland’s powers while at the same time looking at what further can be done to warn Scotland of the dangers of independence. Within Downing Street, Cameron’s team decide to mobilise more business voices speaking out against independence. At the most secret and confidential levels, discussions are taking place between No. 10 and the Palace about whether the Queen might be willing to express her views before it is too late.” Is that what happened?

Sir Jeremy Heywood: I never comment on royal matters.

Q32 Paul Flynn: I think you should. This is a very serious matter because the Queen’s opinions were conveyed to the voters in a subtle way. She did not go on a platform and make a speech but it was conveyed to the voters that she had said that Scotland should think carefully about their vote. That was a message—quite clear—that she did not approve of independence. Is that not so?

Sir Jeremy Heywood: I really don’t want to get drawn into those matters.

Q33 Paul Flynn: I am accusing you of collaborating in politicising the royal family and that this matter—the break-up of the United Kingdom—was regarded as so important that something had to be done about it.

Sir Jeremy Heywood: I would never dream of trying to politicise Her Majesty the Queen.

Q34 Paul Flynn: You are not defending your position on this. Were you involved in discussions?

Sir Jeremy Heywood: I am simply not commenting.

Q35 Paul Flynn: I’ll give you another piece of evidence. On 16 February—not very long ago—Prince William said, “For centuries, Britain has been an outward looking nation. Hemmed in by sea, we have always sought to explore what is beyond the horizon. That sense of mission and curiosity is something that I know continues to drive our economy, our cultural and educational exports and our Armed Forces and Diplomatic Service. And wherever we go, we have a long and proud tradition of seeking out allies and partners. In an increasingly turbulent world, our ability to unite in common action with other nations is essential. It is the bedrock of our security and prosperity and is central to your work.” Would

not those words be fine if put into the campaign material for those who want to stay in the European Union?

Sir Jeremy Heywood: I certainly would not presume to advise the campaign. That is not my job.

Q36 Paul Flynn: What I am suggesting to you is that it was contrary to all precedent and contrary to the reasons that the royal family has continued to be respected—that they were not involved in politics and were not politically partial in any way. Here we have quite convincing examples that the Government, possibly with the connivance of civil servants, have used the royal family for party political aims. Is that not true? Are you involved in this? Do you take responsibility for it?

Sir Jeremy Heywood: I do not think there has been any attempt by anybody in Government or by the civil service to involve or politicise the royal family.

Paul Flynn: So were those two statements—particularly the Prince’s statement—just coincidences?

Q37 Chair: We must move back to the subject. I have one question. How normal would it be for the heir to the throne to make a speech in the Foreign Office that had not been seen by civil servants in advance?

Sir Jeremy Heywood: I honestly could not tell you that. It would probably be unusual.

Q38 Chair: So it is likely that No. 10 had sight of the speech before it was delivered.

Sir Jeremy Heywood: Was this the heir to the throne or Prince William?

Chair: Prince William.

Sir Jeremy Heywood: I wouldn’t know. I do not know what the clearance processes are for that.

Paul Flynn: Can I make a final point? Mr Heywood, we have spoken to you before—

Q39 Chair: Is it reasonable for us to ask whether anybody in No. 10 saw that speech before it was delivered?

Sir Jeremy Heywood: You can ask. I just simply do not know the answer, I am afraid.

Q40 Chair: Can you provide an answer for us?

Sir Jeremy Heywood: I will seek to provide an answer.

Q41 Paul Flynn: In the past, we have had questions for you about Mr Macpherson's interference in the referendum, when he issued guidance under his own name. Mr Peter Hennessy has said that the Government are daily inventing precedents to cover the mistakes they make. In that case, we were suggesting that this was without major precedent and that it should not have been done. It was an example of the Government again using the civil service to interfere in political matters. These are deeply serious charges against you, and you have a bit of form on this, because we remember your tribute to Mrs Thatcher.

Chair: Cabinet Secretary.

Paul Flynn: Could you ask about the Macpherson case?

Sir Jeremy Heywood: Is that a question?

Q42 Paul Flynn: The question is, did that transgress the traditions of the civil service for impartiality?

Chair: We have dealt with that matter before.

Q43 Paul Flynn: We came to a conclusion and we condemned the actions. We have been completely consistent.

Sir Jeremy Heywood: This Committee, or its predecessor, has been very consistent on that point. At the time, the Government made it clear that that was a very exceptional thing. There are precedents for it. We could go through them again if you want to, but it was very exceptional. I do not anticipate getting involved in that sort of thing in the referendum.

Chair: I would like to get back to the question as to why you have written to civil servants and issued a question and answer briefing that has led everyone to expect that civil servants are under an obligation to block information going to Ministers, when that is not the case.

Q44 Ronnie Cowan: Back to the here and now. When EVEL changed through Standing Orders, the adjudication as to whether it was EVEL or not EVEL fell upon the head of the Speaker. When it comes to the adjudication as to whether a paper with a bearing on the referendum should be passed to a Minister, who makes that decision?

Sir Jeremy Heywood: The permanent secretary will make that initial judgment, but in most cases it will be pretty obvious. There have not really been any problems so far in the interpretation of the guidance. It refers to briefing and speech material that Ministers might conceivably want to commission to argue their case. Everybody knows that that will not be possible consistent with the guidance, so people are not asking for them, so we are not running into any real difficulties at the moment.

Q45 Ronnie Cowan: Who decides if the Minister is going to use that information for his own means if he wants out of the EU?

Sir Jeremy Heywood: The way it would work is that the permanent secretary would form a judgment. If there was a disagreement, it would be referred to me and probably the Prime Minister, politically, or Ed Llewellyn, and we would have to form a view on whether it was a reasonable request or not.

Q46 Chair: Your briefing actually says that they are to withhold papers that are intended to be used in support of their position on the referendum.

Sir Jeremy Heywood: That is briefing and speech material, basically.

Q47 Chair: So it doesn't include facts and statistics.

Sir Jeremy Heywood: As I have said, statistics are clear. Ministers' access to official national statistics will continue on the same basis as now without any interruption. Facts are dealt with in a separate paragraph of the document. I am struggling to understand what the problem is here, to be honest. It is based on the 1975 guidance and on the Scottish referendum guidance.

Chair: It could have been cleared up a lot quicker if it is as simple as that.

Q48 Ronnie Cowan: Maybe I can help you there. Will there ever be a case where the paper does relate to the question of the EU referendum and yet it is passed to a Minister who is pro leaving the EU?

Sir Jeremy Heywood: I am not going to get into a hypothetical case.

Q49 Ronnie Cowan: These aren't hypothetical cases. These are situations that will happen and people will have to make decisions.

Sir Jeremy Heywood: They have not so far as all I can say. The spirit of this is very clear. There is an official Government position, there is official Government business, and anybody supporting official Government business will get the same civil service support as usual. In one area alone, in those cases where Ministers have decided they want to oppose the Government's official policy, the civil service will not be expected to provide briefing or speech material to support that case against the Government. It would be quite wrong if the civil service was involved in that. It would be a very significant change in the civil service's role in our country. To be actively briefing Ministers against the Government's policy would be a very significant change. I would not support it and I do not think anybody in the Cabinet is asking for that, to be honest.

Q50 Ronnie Cowan: How can an official determine what the intention of the Minister is?

Sir Jeremy Heywood: Fortunately, the motive doesn't come into it, because it is clear that briefing and speech material supporting the out position is not going to be provided. That is what the guidance says and it is what the Prime Minister's letter says, so it does not require any great telepathy.

Q51 Ronnie Cowan: So then you are presuming that the Minister who wants to leave would use that information as part of his campaign to leave Europe, even if he thought it was more important to perform his duty as a Cabinet Minister.

Sir Jeremy Heywood: I do not see any clash. We are not going to deny Ministers the information that they need to run their Departments.

Chair: That is very reassuring.

Q52 Ronnie Cowan: The code for the civil service dictates that the core values are honesty, objectivity, impartiality and integrity, which must be observed at all times, but we seem to be saying that a Cabinet Minister given that same opportunity would not be able to adhere to those standards.

Sir Jeremy Heywood: I am not suggesting that at all. I am simply—

Q53 Ronnie Cowan: You are not going to give them the information to do their job.

Sir Jeremy Heywood: My responsibility is for the civil service, and the civil service will operate in line with civil service values.

Q54 Ronnie Cowan: You are not going to give them all the information to do his or her job.

Sir Jeremy Heywood: You obviously have not listened to my answer. I am saying that we will supply information required for Ministers to run their Departments. The only information that we won't be prepared to supply them with—in line with the guidance, in line with 1975 and in line with Scotland—is material required to make the case against the Government. No one is asking for that information, I might add, and the guidance would stop us from doing it. In the unlikely event of a Minister deciding—

Q55 Chair: In 1975, the civil service did provide that information to Ministers.

Sir Jeremy Heywood: Not according to Harold Wilson's memo, they didn't. I haven't read the piece of biography that you are quoting.

Chair: In terms of neutral information, but not speeches.

Sir Jeremy Heywood: My guidance says that we can check facts.

Q56 Oliver Dowden: I was just going to come to this 1975 guidance. Do you think that the 1975 guidance is different? If so, how do you think it is different?

Sir Jeremy Heywood: I think it is broadly the same, to be honest. I am not going to tie myself slavishly to it being precisely the same, because I have got my guidance and I have just read out the '75 version of it, but to all intents and purposes, as Peter Riddell says today in his blog, it is broadly the same. Basically, we are not supplying briefing and speech material to Ministers who want to argue against the Government position.

Q57 Oliver Dowden: So you can't identify specific differences between 1975 and the current guidance?

Sir Jeremy Heywood: I do not have all my briefing notes with me, but I think there is a specific difference in relation to special advisers, conceivably, but in relation to civil servants—we don't express it in exactly the same way, but basically it gets to the same point, which is that the material that we are not providing to Ministers is material that they could use to attack the Government position, because it is an official Government position, and the civil service would be literally tying itself up in knots if it was supporting the Government position but also supporting Ministers to attack the Government position.

Q58 Mr David Jones: Sir Jeremy, you use the expression "briefing material." I take it that that is another word for factual material.

Sir Jeremy Heywood: It is arguments that you could use to rebut an alternative position, and so on.

Q59 Mr David Jones: Arguments rather than facts?

Sir Jeremy Heywood: Yes.

Q60 Mr David Jones: So factual material has to be supplied?

Sir Jeremy Heywood: If a Minister asks to see facts, we would be very relaxed about that, because facts are facts. Some of the media commentary that there will be two sets of facts is well wide of the mark.

Q61 Mr David Jones: But there may be factual material such as, for example, data and statistics of which the Minister is unaware. Would the official be expected to withhold that material if it might be used by the Minister in connection with a campaign to leave the EU?

Sir Jeremy Heywood: If we are just talking about pure facts, we wouldn't expect to withhold those from Ministers, no. Can I just come back to the point? The point is that we

want to withhold briefing material and speech material that allows Ministers who want to argue against the Government's position to use civil service resources to attack the Government. That is what we are trying to stop here. Every other part of Government business, including EU business, facts and access to official statistics, carries on as now.

Q62 Mr David Jones: So, for example, statistics that are newly minted—newly prepared statistics—in connection with the campaign to stay within the EU could be supplied to a Minister who wished to leave the EU. Is that right?

Sir Jeremy Heywood: I don't think there is any great difficulty with factual information, no. You've got to understand the spirit of this thing. I wouldn't say that the guidance was agreed collectively, because that is the Prime Minister's job, but everybody agreed that what we are trying to do here is to find a way for two sets of Ministers to rub along well together while arguing different sides of an argument and not dragging the civil service out of its constitutional role, which is to support the official Government policy.

Q63 Mr David Jones: We read in *The Times* yesterday that officials of the Department for Work and Pensions had been engaged by No. 10 to produce some statistical material without the knowledge of the Secretary of State, Iain Duncan Smith. Is that right?

Sir Jeremy Heywood: I have not read that article, but—

Mr David Jones: Surely you are aware of it.

Sir Jeremy Heywood: I don't think that the Secretary of State for welfare is concerned about where we are at the moment. I spoke to him about it today. I am very clear that if he wants to see the statistics that his officials are sharing with No. 10, that's fine.

Q64 Mr David Jones: Do you think it is right that officials in the DWP should be engaged on producing statistics for the benefit of No. 10 without his knowledge?

Sir Jeremy Heywood: That happens all the time, frankly. The civil service operates well below ministerial level on some issues. If officials in No. 10 or the Cabinet Office want some factual information from another Department, that often happens without Ministers being involved in the slightest, but if a Secretary of State wants to see some statistical information that his Department is providing, of course he can see it.

Q65 Mr David Jones: So you regard it as quite acceptable that the Secretary of State should be completely unaware of work that is being carried out by his own officials in his own Department on behalf of No. 10.

Sir Jeremy Heywood: It would be literally impossible for a Minister to know everything that was going on in his Department. Literally impossible.

Q66 Mrs Gillan: In my experience, which I appreciate is limited, if No. 10 asked for information from my Department, my officials would run it across my desk because it went across to No. 10.

Sir Jeremy Heywood: What I am saying very clearly, I think, is that—

Q67 Mrs Gillan: I am sure that is the same for many other Secretaries of State. They would want to make sure that the calibre of work going up to No. 10 was absolutely first class.

Sir Jeremy Heywood: I am very glad to hear it.

Q68 Chair: The point is that there would be no conspiracy among officials to deny Ministers sight of that information, even if they were on the leave side of the debate.

Sir Jeremy Heywood: No. This talk of conspiracy or bypassing is well wide of the mark. There is no intention of doing that. The only intention, as I repeat again for the umpteenth time, is to make it clear that the civil service is not going to be supporting Ministers who are against the Government's position to enable them to make that case.

Q69 Mr David Jones: Although they can have full access to all the factual material that they want, whether or not it has been prepared for the campaign or otherwise.

Sir Jeremy Heywood: I am very comfortable about Ministers seeing facts that are provided by the Department, yes.

Q70 Kate Hoey: Do you think this whole palaver that we have gone through has been worth it? Do you not think you could have produced guidance that might have been a little more clear, sensible and common-sense?

Sir Jeremy Heywood: I think my guidance is clear and common-sense.

Q71 Kate Hoey: Do you think that the permanent secretaries in all Departments and civil servants right across the civil service will be absolutely clear about your guidance?

Sir Jeremy Heywood: My experience over many years now has been that in the first week or two of one of these campaign periods there are always lots of detailed questions. It takes a bit of time for everybody to get up the learning curve and understand what the answers are to the detailed practical questions, so I could not, hand on heart, say that every single civil servant is now completely au fait with all this detail, but I am sure that will be the position within a matter of the next few days and weeks. We will continue to refine and update our Q and A until it answers everybody's questions.

Q72 Kate Hoey: We had Sir Jonathan Stephens before us this morning. I wonder whether you would consider a specific example of dealing with the Secretary of State for Northern Ireland. By the way, I see you say in paragraph 3 of your letter “the Government’s policy has been to negotiate a new settlement for Britain”—I presume you mean the United Kingdom?

Sir Jeremy Heywood: I do. I accept that my letter is not completely perfect.

Q73 Kate Hoey: Good. We have a Secretary of State for Northern Ireland who has made it clear that she is supporting Leave. Every day there will be something about the European Union passing over the desk in Northern Ireland, particularly relating to the relationship with the Republic of Ireland. Will the Secretary of State be shown absolutely everything that comes through that office where the word “EU” is mentioned?

Sir Jeremy Heywood: I can’t say that because as I have said there is a clear carve-out here for briefing and speech material and so on. I cannot really think of any other information that she wouldn’t be able to see in the normal course of business running her Department. I have not had any suggestion that she is unhappy with the guidance, or that Jonathan is having any difficulty in applying it in practice. I think he has talked to her about it, so it is so far so good, but obviously we’ll be keeping alert to the situation.

Q74 Kate Hoey: Can you give us an example of something that, when you were writing your guidance, you thought she might not be able to see? Or anything else? I am looking for an example relating particularly to Northern Ireland.

Sir Jeremy Heywood: Yes, any speech material or briefing.

Q75 Kate Hoey: You really should be defining this speech material or briefing, because you said earlier that there is not any material difference between this and what Harold Wilson and the civil service did in 1975, yet in that it seemed to be clear that they were going to be able to be given facts on both sides of the argument, and the Minister would then be able to use that in whatever way they wanted. That is not going to happen this time.

Sir Jeremy Heywood: We are not providing proactive material, factual or argumentative, to Ministers who are arguing against the Government.

Q76 Chair: Can I just clarify something then? Why wasn’t Sir Jonathan Stephens clear about it this morning? He was saying something completely different. When we tried to ask him what information that might have a bearing on the referendum question would the Minister not be able to see, he sort of treated it as a hypothetical question. He didn’t just say, “Oh, it’s only if it’s speech material or briefing in favour of one side of the argument.” He was much more guarded in what he was saying, so he clearly didn’t understand what you intended by your guidance and briefing.

Sir Jeremy Heywood: I cannot speak for Jonathan. I will speak to him later about it. All I can say is that I don't think he has any problem in practice with the way that this guidance—

Q77 Chair: Clearly not now, but there was this morning.

Sir Jeremy Heywood: I was told that he had told the Committee that there hadn't been a problem so far, but I maybe I was misinformed. Did he flag up a major concern that he had had with his Secretary of State?

Q78 Chair: No, everything in the garden was very lovely.

Sir Jeremy Heywood: Did he flag up any concern at all about the way that this guidance has been applied in his Department?

Q79 Chair: He just couldn't answer the question. That's all.

Sir Jeremy Heywood: Maybe that was because no problems had arisen because the guidance is so clear.

Chair: He couldn't answer the question because he didn't want to answer the question.

Q80 Kate Hoey: Obviously you discussed this in great detail with the Prime Minister before you produced this. Do you really think that the British public, who are going to have this vote on 23 June, will not be beginning to think, "Why has the Prime Minister done this? What is he hiding?" What is to fear about Ministers having seen everything and being able to see everything? Surely we want this open and transparent debate. Is there something that's worrying him?

Sir Jeremy Heywood: I would not presume to comment on what the British people want, but I think that people, as the Chairman said at the start, are more interested in the substantive issues than the interstices of the Cabinet Secretary's guidance, let alone his Q and A at working level. I agree that it is good to get this cleared up, because the spirit of this is very clear: the civil service works for the official Government position and does not provide material, of a briefing nature or of a speech nature, to those who want to oppose it. Otherwise, business as usual carries on, whether it is EU business or Government business. It certainly doesn't do anything to undermine Ministers' accountability for their Departments or their ability to answer PQs in a complete fashion and so on. That is not the intention. The intention is to limit this to the very small, profoundly important, but limited area where collective responsibility is being abandoned for this period, and that is on the in-out question and specific issues around the campaign. That is the point of this guidance.

Q81 Mrs Gillan: Can I just ask about the position of junior Ministers? If you have a pro-leave junior Minister in a Department where the Secretary of State is pro-remain, or vice versa, one of the problems is the relationship between the officials and the Ministers together. One of those Ministers, potentially a junior Minister, is going to be left out of the loop if at some stage some briefing material comes down that is interpreted in a certain way by someone somewhere in the Department—possibly the permanent secretary, who may suffer from overload if this is really going to be embedded into certain Departments—they will be missing out on part of the information. Aren't you worried that that pro-leave junior Minister, an agricultural Minister for example, may not be able to discharge their duty as a Minister if you are withholding briefings that are available to other Ministers in the Department?

Sir Jeremy Heywood: I am not really worried about that, because the only briefings that will be withheld are those on the question of the in-out decision and material that supports the out campaign. I think it would be completely wrong for the civil service, which has a legal obligation to support the Government of the day, to be supporting Ministers who want to argue against the Government's position.

Q82 Mrs Gillan: So if a junior Minister in Work and Pensions, for example, wanted to see the national insurance numbers issued to EU migrants, you would allow them to have that material, but you wouldn't allow them to have that material with any comment on it from officials.

Sir Jeremy Heywood: If it is factual material that is generally available in the Department, I would have to discuss it with the Prime Minister, but I am pretty sure that he would be comfortable about that being shared.

Q83 Mrs Gillan: So a junior Minister can actually ask for any information whatsoever in terms of facts—

Sir Jeremy Heywood: On factual information, we have said in the guidance that we will check facts—

Q84 Mrs Gillan: But they just can't ask for a speech to be prepared that is against Government policy.

Sir Jeremy Heywood: Or a briefing, arguments to use, or rebuttal points. Not on those sorts of issues, because it is not right that Ministers who have personally chosen to exempt themselves from collective responsibility should continue to get the full weight and support of the civil service to enable them to attack the Government.

Q85 Chair: On the question of national insurance numbers, we have today published the proposals for the changes to FOI. But for some reason a freedom of information request submitted by Jonathan Portes, a former chief economist at the Cabinet Office, for the number of active national insurance numbers held by EU migrants in the United Kingdom is being withheld by HMRC. It was originally withheld on grounds that "officials are engaged to

secure support from the European Commission and other Member States for changes in EU law governing EU migrants' access to benefits". Now that the negotiations are over, what is the purpose of withholding this information?

Sir Jeremy Heywood: I am afraid that I am not familiar with the argumentation behind that.

Q86 Chair: There is no reason why the number of national insurance numbers held by EU migrants should be kept secret, is there?

Sir Jeremy Heywood: I don't want to second-guess a decision that has been made somewhere else—

Q87 Chair: Can I invite you to look into the matter and find out why it was withheld on those grounds from a freedom of information request and whether it can now be released?

Sir Jeremy Heywood: I will look into it.

Q88 Chair: It would seem to fall into that category of information that the Government might regard as unhelpful, because our immigration statistics are notoriously inaccurate and it might point to a much higher level of immigration than is recorded by the annual passenger survey information, which is only an estimate.

Your guidance is directed at civil servants and special advisers. Why has a permanent secretary written to the head of a public sector, arm's length body—someone who is not a civil servant—implying that the guidance should apply to them as well? Is it intended to apply to them as well?

Sir Jeremy Heywood: I think it does apply to public bodies as well, yes.

Q89 Chair: But not to non-civil servants, surely.

Sir Jeremy Heywood: It says, "Staff in public bodies, like all public servants, are required to maintain political impartiality"—

Q90 Chair: Yes, but your guidance was not addressed to public servants who are not civil servants.

Sir Jeremy Heywood: I think it is, actually, but I will come back to you on that specific point.

Q91 Chair: Is it intended to apply to, say, non-executive directors of Government Departments?

Sir Jeremy Heywood: They are also mentioned in the guidance, as you will see.

Q92 Chair: Who is it not intended to apply to?

Sir Jeremy Heywood: It is not intended to apply to people who are not referred to in the letter.

Q93 Chair: It seems to apply to businessmen seeking peerages, for example.

Sir Jeremy Heywood: No, it certainly does not apply to the private sector.

Q94 Chair: We hear whispers indirectly from special advisers inveighing upon them to toe the Government line. Surely a non-civil servant who has taken on a public role is not meant to be bound by the collective responsibility of the Government.

Sir Jeremy Heywood: My guidance does apply to certain public servants, but whether it applies to all of them I will have to take clear and more detailed advice on and come back to you.

Chair: If you could write to me on that, I would be very grateful.

Q95 Kate Hoey: Are you going to sack them if they go against it?

Sir Jeremy Heywood: I don't want to get into a hypothetical discussion.

Chair: We will come to sanctions later on.

Q96 Mr David Jones: Are you entirely satisfied that none of the directions that you have given contravene in any way the civil service code?

Sir Jeremy Heywood: Absolutely, yes.

Q97 Mr David Jones: Civil servants have a duty under the code of honesty and objectivity.

Sir Jeremy Heywood: Absolutely.

Q98 Mr David Jones: The duty of honesty requires a civil servant to set out the facts and relevant issues truthfully and correct any errors as soon as possible. If a Minister should ask for information and it is withheld from that Minister because the permanent secretary or whoever deems that it will be used in connection with campaigning for Britain to leave the EU and that Minister then proceeds to make a speech or write an article based on information

that is not factual owing to that withholding, has not that official breached the civil service code?

Sir Jeremy Heywood: The guidance makes it very clear that civil servants are able to check the facts of speeches. But also we are talking here about Ministers who are operating in a personal capacity—they are not observing collective responsibility in that way. So I am very satisfied that this guidance is fully consistent with the civil service code.

Ministers who want to take a different view from the Government policy can ask the civil service to check their speeches for facts, if that is the point you are concerned about. I think I have made it clear repeatedly that there has been no intention of withholding key facts from Ministers who are arguing a different way. So I don't think the problem arises in the way that you suggest.

Q99 Kate Hoey: I am very interested. What are you going to do when someone—a junior Minister, a Secretary of State or a civil servant—looks like they have broken this guidance that has been so carefully constructed?

Sir Jeremy Heywood: I do not really like speculating about hypothetical situations. It would be entirely up to the Prime Minister to decide what to do about Ministers who breach this in some way.

Q100 Kate Hoey: And civil servants?

Sir Jeremy Heywood: I would regard it as a very serious breach of the management code if civil servants breached the guidelines on this, but it is very difficult to comment in the abstract. It depends on the gravity of the offence, whether it was intended and all those normal things.

Q101 Kate Hoey: Say a civil servant gets some information through about the European Union and thinks that the Minister should see it, because it is relevant—for example, for a junior Minister in DEFRA, practically everything they do is EU-related—and by some fluke or mistake, they just happen to hand it on to the Minister, who then sees it as quite an important issue and relevant to the debate on leaving or remaining. Would that civil servant be penalised?

Sir Jeremy Heywood: Honestly, it does not make any sense to speculate about abstract theoretical cases. We would obviously look at it in the round, using a common-sense approach.

Q102 Kate Hoey: What does that mean? If I was a civil servant, I would be feeling quite worried, given that I am not quite sure what would happen to me if I made a mistake and it got into the papers because the Minister had taken up something that I had given to them, not realising that—

Sir Jeremy Heywood: I simply do not think that that is a position. We obviously speak all the time to Departments, getting feedback on whether they are feeling worried and anxious about this. There are teething issues and clarifications required—we need to evolve this—but it is simply not the case that people are sitting there paralysed with fear, because it is clear what we are trying to do here.

We are trying to keep the Government business on track, as it always is, including EU business in the normal course of events, but the rules are pretty clear for the very small number of civil servants affected by the need to brief Ministers one way or the other on the campaign. There is not any sort of great ambiguity about them. Perhaps I am being complacent, but I don't think so. I don't think that there is a widespread anxiety and worry about this. Everyone realises that it is a very unusual position when some Ministers of the Crown wish to argue against the Government's position and against the Prime Minister's position. Everyone is trying to make the best of it in a collaborative spirit, and that is what we are trying to do here.

Q103 Kate Hoey: But it was not in the Government's manifesto that they would be campaigning to remain in the EU, so does that not actually go against the fact that it is a Government-mandated decision? It is something that a majority of the Cabinet has decided. It is not actually—

Sir Jeremy Heywood: The Government have come to a very clear position. Everyone agrees that that is the Government's position, even though some Ministers do not agree with it. The Government set out in their manifesto what they were trying to achieve in the renegotiation. It is for the Prime Minister to defend whether or not he achieved that. He thinks he did. The Government sat around a table, looked at the deal and agreed that this was the Government position.

Q104 Kate Hoey: So there are no sanctions, basically. You have not got a list of different penalties.

Sir Jeremy Heywood: That is not what I said. I am not going to give you a generic answer on a case in which there would be lots of personal circumstances to understand, such as whether they had been given proper guidance by their permanent secretary and whether it was a well-intentioned mistake. I do not think we would sack someone for one minor offence, but in general there is an acceptance that it is right that the civil service should support the Government of the day on their official position while endeavouring to support every Minister of the Crown on all the other bits of business that have to go on.

Q105 Chair: Just for clarity, supposing that there was a conflict between the instructions handed down to a civil servant and what the civil servant felt his or her obligations were under the code. In those circumstances, the code should prevail, is that correct?

Sir Jeremy Heywood: The civil service code should prevail, absolutely.

Q106 Chair: If the instructions were persisted with, the civil servant could go to the Civil Service Commission for an adjudication on whether he was being obliged or asked to breach the code.

Sir Jeremy Heywood: Yes, but I cannot imagine the circumstances arising, because there is clearly nothing in the guidance that requires civil servants to breach the code.

Chair: I agree. I very much hope that that will not happen.

Q107 Mrs Gillan: Just for clarification, did I hear you say earlier that the judge and jury in these instances, should they arise, is yourself, the Prime Minister and Mr Edward Llewellyn? Those were the three people I think you mentioned.

Sir Jeremy Heywood: I think the Prime Minister is judge and jury when it comes to ministerial conduct. I will have the first line when it comes to civil service conduct, but as the Chairman has just said, there is always an appeal to or an involvement of the Civil Service Commission on code issues.

Q108 Mrs Gillan: You mentioned Mr Llewellyn. What role does he have?

Sir Jeremy Heywood: If there was a dispute as to whether or not a Minister's activity or request to a civil servant was taking us into dangerous territory that might be incompatible with the guidance, I am sure we would discuss that and try to resolve it amicably rather than just assuming everyone was operating in bad faith. That is not how the Government operates.

Q109 Chair: I am very glad to hear it. There is a tendency perhaps to feel that in the private sector, everything would be referenced to the chief executive of the company, but in Government, different rules apply—like the code, which is mentioned in statute and overseen by the Civil Service Commission. There is a different framework. It cannot just be referenced to you, can it?

Sir Jeremy Heywood: The Civil Service Commission exists as a backstop in that way. I don't believe that anything we are suggesting here is going to bring anybody into non-compliance with the civil service code.

Chair: I am very encouraged to hear that.

Sir Jeremy Heywood: It is an extraordinary suggestion, in a way, because there is nothing in here that could possibly do so. The civil service has an obligation under the code to support the elected Government of the day, and that is what we are doing.

Q110 Kate Hoey: Do you think the media and everybody, including all of us here and the Chairman, who wanted you to come, are making a fuss over nothing?

Sir Jeremy Heywood: I couldn't possibly say that.

Q111 Mr David Jones: You have, I think, weekly meetings with the permanent secretaries. Has the issue of the conduct of the referendum, and specifically the guidance that you have issued, been discussed in one of those meetings?

Sir Jeremy Heywood: Yes, it has.

Q112 Mr David Jones: How recently was that?

Sir Jeremy Heywood: I think we had a meeting last week with the permanent secretaries and the directors general. Among many other things, we discussed this.

Q113 Mr David Jones: Was Sir Jonathan Stephens present at that meeting?

Sir Jeremy Heywood: I don't think he was; I can't remember.

Q114 Mr David Jones: That may possibly account for the fact that he did not appear to be across the circumstances that are prevailing, according to the evidence you gave.

Sir Jeremy Heywood: It is possible, but I think it is much more likely that there has not been a problem on his watch, and therefore it has not been something he has spent a lot of time thinking about.

Q115 Mr David Jones: Have you given any instructions, other than your letter of guidance and your Q and A, to your colleagues about the way that they should handle internal dealings in their Departments up to the referendum?

Sir Jeremy Heywood: No.

Q116 Mr David Jones: So that is the only guidance that exists.

Sir Jeremy Heywood: We had a conversation last week—

Q117 Mr David Jones: Which was presumably by way of clarification of what was in the guidance.

Sir Jeremy Heywood: Absolutely. The Prime Minister's letter is the overarching document. My letter sort of puts the flesh on it. That is the guidance. We will continue to update the Q and A over time.

Q118 Tom Tugendhat: What is your estimate of the number of Council of Ministers meetings that pro-leave Ministers may now attend between now and the referendum date?

Sir Jeremy Heywood: I have not done an estimate of that, to be honest. Generally, they run at about five or 10 a month, from memory. I don't know how many of those would involve out Ministers, but there is no reason why an out Minister cannot attend and represent the UK on normal EU business. They would get full briefing from civil servants to do so.

Q119 Tom Tugendhat: So no change in that at all?

Sir Jeremy Heywood: No.

Q120 Tom Tugendhat: I know this would never happen, but were those Ministers to get a briefing and then change their mind as to whether they were in or out, would that not have any material impact at all on the briefing they got?

Sir Jeremy Heywood: There is nothing I can do about that. If people change their minds, they change their minds.

Q121 Tom Tugendhat: What sort of material will you provide to these Ministers?

Sir Jeremy Heywood: It would be a very comprehensive and excellent brief by the civil service.

Tom Tugendhat: Naturally.

Q122 Mrs Gillan: I want to ask about the relationship between senior civil servants and their Secretary of State, which is usually very good. Quite frankly, it is not possible for you or anybody else who would adjudicate to be present in all situations where a civil servant is talking to a Secretary of State. The truth of the matter is that this is totally unenforceable, because if a senior civil servant is having a conversation with a Secretary of State, they can use that conversation to brief or to discuss statistics or facts and look at the way in which they will be affected by the referendum. Indeed, you would expect that, in a way, because the referendum will have enormous repercussions in some Departments. How can you police this? It is lovely to get the letter from the Prime Minister and the clear instructions in the Q&A, but the truth is that, practically, you cannot enforce it or police it at all, and it has caused an awful furore.

Sir Jeremy Heywood: Well, it is largely going to be self-policed, because there is a general consent for the proposition that we are putting forward, which is that the civil service should support the Government's position.

Q123 Mrs Gillan: They would say that, wouldn't they?

Sir Jeremy Heywood: I am not aware that any Minister who is subject to the constraints feels that they are unreasonable. I am not aware of a Minister seeking civil servants to write them a speech attacking Government policy—it just is not happening, because everybody accepts that it is the right thing for the civil service to support the

Oral evidence: EU Referendum: Civil Service Guidance, HC 792

Government side of this argument, and if people want to derogate from that in a personal capacity, then they will have to make their own arguments, and most of them want to do that.

Q124 Tom Tugendhat: Just for clarity, you have had no conversations at all with any Secretary of State or Minister of the Crown of any sort which has raised any concerns over the note that you have produced?

Sir Jeremy Heywood: I have had one conversation with one Secretary of State around a question mark about the availability of facts provided by his Department. I had that conversation today, actually.

Q125 Chair: And that has been resolved?

Sir Jeremy Heywood: Well, I believe so, yes.

Q126 Tom Tugendhat: The impression they gave you was that it was resolved.

Sir Jeremy Heywood: No, it was not resolved at the point at which we had the discussion. The question was raised at the point of the discussion.

Q127 Mrs Gillan: But isn't the truth of the matter that in the current atmosphere, it would be highly unlikely for a junior Minister, or any other, to raise it with you?

Sir Jeremy Heywood: No; I am an extremely approachable individual.

Mrs Gillan: Oh, but of course!

Chair: I concur with that.

Q128 Mr David Jones: I wonder, Sir Jeremy, were you surprised by the expressions of outrage coming from both sides of the House yesterday afternoon?

Sir Jeremy Heywood: I was genuinely surprised, and that is why I welcomed the opportunity of coming here, because I don't think there is much to see here, to be honest.

Q129 Mr David Jones: Given the expressions of outrage, would you possibly accept that your guidance could have been a bit clearer, so that people would not have got the wrong end of the stick?

Sir Jeremy Heywood: I am always happy to take feedback.

Q130 Mr David Jones: That being the case, do you think you might go away and rewrite your guidance?

Sir Jeremy Heywood: No, I think the guidance is very clear. Possibly the Q and A could do with a bit of updating.

Q131 Mr David Jones: You will be revisiting the Q and A?

Sir Jeremy Heywood: It has always been our intention to update that.

Q132 Paul Flynn: I do not know whether you saw today's *Guardian*, where they quote a source close to Mr Iain Duncan Smith saying that he is going to insist on his constitutional right to see everything produced in his Department. He is putting two fingers up to this arrangement, isn't he? It was a very plausible story.

Sir Jeremy Heywood: I have said very clearly that Ministers who support the out side of the argument will not be able to commission briefing from their civil servants on speech material or briefings. That is clear. I do not think that Iain Duncan Smith has any difficulty with that; he certainly has not asked his civil servants to produce material for him to attack the Government with, and I would not expect him to do so.

Q133 Paul Flynn: Is it not, in practical terms, unworkable to have the head of a Department denied information that his juniors can have? It's not going to happen. Wouldn't the sensible thing be to say, "Those Ministers who cannot agree with Government policy should do what Ministers have always done when they disagree with Government policy, and that is to resign, if just for the period until 24 June"?

Sir Jeremy Heywood: I think this is perfectly workable.

Q134 Chair: The Government are producing a number of documents like this one I have here, "The process of withdrawing from the European Union". Are these documents consulted on around Whitehall as usual? Cross-departmental documents would be consulted around.

Sir Jeremy Heywood: We have done two so far, and each has been done in a slightly different way, but—

Q135 Chair: This one contains quite a lot about trade, for example. Was it cleared with the Secretary of State for Business, Innovation and Skills and the Trade Minister?

Sir Jeremy Heywood: I think it was, yes.

Q136 Chair: When did they first see it?

Sir Jeremy Heywood: I couldn't tell you that.

Q137 Chair: When did they approve it?

Sir Jeremy Heywood: I don't have those dates in my head.

Q138 Chair: Could you let us know when this was passed to that Department and approved by it?

Sir Jeremy Heywood: Sure, of course.

Q139 Chair: Thank you very much indeed.

In summary, Cabinet Secretary, you have been very helpful. It always pains and worries you when I say that you have been helpful, but you read out the words from the 1975 guidance, "Civil servants may provide normal office facilities and factual information on European matters, on request, to Ministers who differ from the Government's recommendation, but they should not be asked to provide briefing or draft speeches contrary to the Government's recommendation". You have confirmed that they can have any facts, and we assume that that means any facts that are being passed to No. 10 or the Cabinet Office to be used on whatever side of the argument—yes?

Sir Jeremy Heywood: I have specifically said several times that I would refer back to my own guidance rather than this, but I am saying it is broadly similar.

Q140 Chair: Yes, but just for clarity's sake, if for example No. 10 asked for new estimates of how much money would be saved on the benefits bill by the changes effected by the agreement in Brussels from claims by EU migrants in the UK over the next few years, those facts would be available to the Secretary of State just as they would be to the Prime Minister.

Sir Jeremy Heywood: I think that would be very reasonable—just talking about purely factual information, not arguments.

Q141 Chair: We are not inviting civil servants to try to distinguish between facts, which they would not proactively produce for a Minister just because they have been asked for by somebody else.

Sir Jeremy Heywood: We are not producing proactive information.

Q142 Chair: That is fine. It is important for the impartiality of the civil service that the information it produces in terms of facts and figures is objective information. I am sure you would agree with that.

Sir Jeremy Heywood: Absolutely. Of course.

Q143 Chair: So why are we having this row? I think it is because your letter, if I may reiterate, says, “it will not be appropriate or permissible for” civil servants to provide “official departmental papers, excepting papers that Ministers have previously seen on issues relating to the referendum question”. That goes much wider than briefings and speech material. It does not say “briefings and speech material”.

Sir Jeremy Heywood: It clearly refers to providing briefings and speech material.

Q144 Chair: There is a degree of ambiguity there. In your Q and A you make it clear that: “They can see or commission any papers produced by their Departments in the normal way except those that have a bearing on the referendum question”. That is potentially a much broader definition than what you are now explaining to us.

Sir Jeremy Heywood: But the Q and A is nested within the guidance.

Q145 Chair: May I give advice that I think my Committee might share? If all this guidance and Q and A were withdrawn, and you produced something much more concise and clear, as was produced in 1975, we needn’t have had this row.

Sir Jeremy Heywood: I don’t agree with that at all. I think the guidance is extremely concise and clear, and we certainly aren’t going to be withdrawing it. This has been a good opportunity to clarify what it means.

Q146 Chair: I think people should read this transcript and see what you have said today rather than the guidance you have issued, because what you have said today is very much clearer.

Sir Jeremy Heywood: All I can say is that no one is having any difficulty with the guidance on the ground.

Q147 Chair: I am very glad to hear it. We have successfully cleared up this problem, and Ministers will now see all the facts that they want to see and all the figures and facts that are leaving their Departments.

Sir Jeremy Heywood: All the facts that have been provided to No. 10.

Chair: Problem solved. Thank you very much, Cabinet Secretary.

