



Public Administration and Constitutional Affairs Committee

Oral evidence: Inter-institutional relations in the UK, HC 525

Tuesday 1 March 2016

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Members present: Mr Bernard Jenkin (Chair), Ronnie Cowan, Oliver Dowden, Mrs Cheryl Gillan, Mr David Jones, Gerald Jones, Tom Tugendhat.

Questions 229 - 333

Examination of Witness

Witnesses: **Philip Rycroft**, Second Permanent Secretary and Head of the UK Governance Group, Cabinet Office, **Francesca Osowska OBE**, Director of the Scotland Office, **Sir Jonathan Stephens**, Permanent Secretary for the Northern Ireland Office, and **Glynne Jones**, Director of the Wales Office, gave evidence.

Q229 Chair: May I welcome our four witnesses and apologise for the late start of this session on inter-institutional relations within the United Kingdom? Could I ask each of you to identify yourself for the record, please?

Philip Rycroft: Philip Rycroft, Second Permanent Secretary at the Cabinet Office and Head of the UK Governance Group.

Sir Jonathan Stephens: Jonathan Stephens, Permanent Secretary at the Northern Ireland Office.

Francesca Osowska: Francesca Osowska, Director for the Scotland Office.

Glynne Jones: Glynne Jones, Director of the Wales Office.

Q230 Chair: Thank you very much. We have some questions to go through, which we will try to keep short. If you could keep your answers as crisp and short as possible we would very much appreciate it. I will pull you up if I feel you are going on a bit too long.

We are looking at how things have been working and how things can improve. Reading the briefing on this, there is an awful lot to learn, that good institutions work when the understandings that exist between people do not need to be spoken about because they are in the culture of the organisation. What strikes me about the evidence we have taken so far on

all this is that there is still an enormous amount of learning required and the continued turbulence around the devolution settlement makes that learning extremely difficult. What would each of you like to comment on that?

Philip Rycroft: Maybe I could begin, Chairman. Clearly, the changes coming in the devolution settlements make that learning even more important, so that everybody in Whitehall Departments understand what their responsibilities and roles are in respect of the devolution settlements and the devolved Administrations. It is part of the job of my team and my colleagues to make sure that those relations are good. We work very hard to have those good understandings with our colleagues in the devolved Administrations. I will say a bit more about that if you so wish, but it is also a big part of our job to ensure that every Department has the capability to play their part in the devolution settlement so that they build their own relationships with the devolved Administrations and understand the devolution settlements. After all, they are all UK Government Departments and their responsibilities extend across the UK, so it is a very big part of what we have to do. We have come a long way over the last few years, but is there more to do? Absolutely, yes.

Q231 Chair: Anybody else? Nothing to add on that?

During our evidence session in Cardiff, Sir Derek Jones, Permanent Secretary to the Welsh Government, described “good official-level collaboration” when asked about his relationship with counterparts in Whitehall. How would you describe the relationships between yourselves and colleagues in Whitehall and counterparts in devolved Administrations? Perhaps we will start with the devolved Administrations.

Sir Jonathan Stephens: None of us, of course, represents the devolved Administrations. We are all representing the UK Government.

Chair: I am so sorry, I meant the territorial Departments. How would each of you describe your respective situations?

Sir Jonathan Stephens: Picking up on Northern Ireland, for example, I would say that there is close and good working co-operation with colleagues in the Northern Ireland Civil Service. We work together on a wide range of issues: promoting economic growth; maintaining political stability in Northern Ireland; working together on issues around security and crime. I sit down weekly with the head of the Northern Ireland Civil Service. There are a host of other close contacts, not just between the Northern Ireland Office and the Northern Ireland Executive, but between other Government Departments. My colleague, Martin Donnelly, from BIS was over recently visiting colleagues in Northern Ireland and my colleague, Simon McDonald, from the Foreign Office was also over recently visiting.

Francesca Osowska: From a Scotland point of view, you might be aware that I used to work for the Scottish Government. I worked there for 17 years before moving to the UK Government, when I took up the post of Director for the Scotland Office, so I maintain a range of contacts with my Scottish Government counterparts. We engage on a range of issues, in particular and most recently the Scotland Bill and how that has progressed through these Houses. By way of example, this year I have had 10 specific meetings with Scottish Government colleagues on a range of issues, from constitution to security issues, and have participated in a workshop with Scottish Government colleagues on improving relationships. More generally there is a range of policy issues on which we work together

with Scottish Government colleagues, including the Wilson Review on exporting and the response to that; the Sawers Review of women's contribution to the Scottish economy. Beyond that, we obviously work very closely to maintain the architecture of the devolution settlement in terms of legislative consent motions and Scotland Act orders.

Just to echo something that Philip said earlier, the other part of our work in terms of engagement is obviously with other Whitehall Departments to encourage them to engage more in Scotland and with the Scottish Government. For example, in terms of the Scotland Bill, we work with 10 other Whitehall Departments on that Bill, given the wide-ranging nature of it, and we encourage and support UK Government ministerial engagement in Scotland. Most recently, the Department for Transport executive committee visited Scotland and had an extensive range of stakeholder engagement and engagement with Transport Scotland.

Chair: Lots of examples. Thank you. Mr Jones.

Glynne Jones: It was gratifying to see Derek speak positively about the relationship from his side, because it makes it easier for me to say that it is reciprocated. I think we do have a good working relationship with Welsh Government colleagues. Examples are going on as we speak of the way the two Governments are working together to tackle the very real challenges the steel industry faces in Wales, a perfect example of the two Governments working closely together. The Export Hub that has been doing its tour of the country is another example, with UKTI and the Welsh Government working hand in hand to improve the export base for Wales. There was the great news for St Athan last week of Aston Martin bringing car production back to Wales; again, the two Governments are working together on that. It is not just warm words about our relationship; there is plenty of evidence to back it up.

Q232 Chair: Mr Rycroft, perhaps you could give an overview not of what is going right, but of what concerns you might have.

Philip Rycroft: You have heard how the territorial offices are the hub of those relationships with the devolved Administrations, but, as I said earlier, this is not just for us; it is for every Whitehall Department to make sure that Whitehall is engaging properly with the devolved Administrations and their responsibilities for Scotland, Wales and Northern Ireland. Clearly we have now had some years of experience of the devolution settlements and Whitehall has adapted its business in response to those devolution settlements. Every part of Whitehall has to engage and you can see that on a day-to-day basis.

Chair: Forgive me, but what concerns do you have? What does not work as it should?

Philip Rycroft: My concerns are that, in that context, clearly Whitehall has to continue the learning process, particularly as the devolution settlements evolve.

Q233 Chair: Give an example of where liaison or communication has proved not to be so good or so positive.

Philip Rycroft: It is probably not for me to give specific examples.

Chair: Yes, it is, because I have asked you the question.

Philip Rycroft: There are issues, for example, from time to time about the level of communication before legislation is introduced.

Q234 Chair: Can you give an example of where that has not worked very well?

Philip Rycroft: I do not think there are any particular recent examples. There have been tensions in respect of the Scotland Bill, which are in the public domain, where the Scottish Government had concerns about the level of communication at particular moments. The same has applied to—

Q235 Chair: What about the drafting of the draft Public Services Ombudsman Bill, which we know is in progress, where we know there is a devolution wrinkle to be addressed? How are you dealing with that?

Philip Rycroft: On the specifics of the Bill itself, I don't have that information to hand, but the normal process for that, if there is a devolution wrinkle, is that we would expect the lead Department to be engaging with the devolved Administrations to do what they can to sort that out.

Chair: Which is the Cabinet Office, which is your Department.

Philip Rycroft: Colleagues in the Cabinet Office are dealing with that. If problems emerge that they cannot sort out, then they should come and speak to us to help them to engage in order to ensure those problems are resolved. Sometimes these issues arise because people do not have as good an understanding of the devolution settlements as they should. Sometimes the problems arise because there is a political difference between the UK Government and the Governments of the devolved parts of the UK. For example, on the Trade Union Bill—again, this matter is in the public domain—the Governments of Wales and Scotland do not agree with where the UK Government is taking that piece of legislation. That is a matter for political debate between the Governments and, ultimately, for political resolution.

Q236 Chair: Post the Smith Commission and the Scotland Bill, things are going to get more complicated. How do you think the system will cope with that?

Philip Rycroft: Indeed, it will get more complicated, and that is a consequence of a response to the wishes of the people of Scotland to take control of more of their own affairs. What we will move into specifically with the Smith Commission proposals is more shared space, particularly on tax and welfare, where the Scottish Government will have to work hand in glove with DWP and HMRC to ensure that those powers can be implemented successfully in Scotland. This is a challenge for the Scottish Government, but it is also a big challenge for colleagues in DWP and HMRC. There is a very good track

record there of HMRC working with the Scottish Government to implement the 2012 tax powers on landfill, stamp duty and the Scottish rate of income tax, which of course comes into play on 1 April this year. Through that collaborative relationship, they have built the systems that allow those taxes to be managed in Scotland. All of that will have to step up a gear when the new Smith powers are implemented two or three years hence.

Q237 Chair: How much of this positive communication depends upon the political goodwill of the leadership of Whitehall and the political leadership in the devolved Administrations?

Philip Rycroft: Clearly, from the Whitehall perspective, it is hugely important that people understand what the Prime Minister has said about all of this, governing for the whole of the United Kingdom and governing with respect for all parts of the United Kingdom. That sets the tone with which we approach this business. Clearly the Governments of the other parts of the UK hold very different political views; they have very different political objectives. That means that we do get into some quite tough negotiations from time to time, as was evidenced by the fiscal framework negotiations, which happily concluded successfully last week. There you see two Governments engaging, both wishing to achieve an end, which was a successful deal to be done on the fiscal framework so the Smith powers could be introduced, but to get that deal clearly required what you are describing, which is the political will on both sides to make the compromises in order to get to that point.

Q238 Chair: What would you describe as the main advantages of maintaining a unified Civil Service in Britain, if not in Northern Ireland?

Philip Rycroft: Briefly, Chair, I think this is relatively straightforward in many ways: we share the same set of values; we share the same senior leadership structure; we share the same training and leadership development opportunities. Colleagues from Scotland and Wales will join the High Potential Development Scheme for potential Director Generals and the equivalent scheme for potential Permanent Secretaries. That gives us a context in which we are working together in a number of different contexts, which helps us to build the relationships that are so important to manage the good relationships between the various Governments.

Q239 Mr David Jones: If I could just intervene, Mr Rycroft, to what extent would you say the territorial offices have a role to play in smoothing relationships between Whitehall and the devolved Administrations?

Philip Rycroft: I may ask Francesca and Glynne, and indeed Jonathan, to comment on this, but they have very important roles to play, indeed. It is a big part of their job. They have a deep understanding of the devolution settlements and the political situation in different parts of the UK and what is required to ensure that the UK Government goes about its business in a way that is sensitive to the devolution settlements.

Q240 Mr David Jones: Before you pass it on, to what extent would you say that the devolved Administrations themselves are happy with this arrangement? I think we heard from Professor Richard Wyn Jones that the Welsh Government, for example, sometimes were frustrated at having to deal via the Wales Office.

Philip Rycroft: Clearly there have been those frustrations expressed in the past, and indeed there has been a political view taken about whether or not the territorial offices are necessary in the world as we have it today. Certainly the Ministers I work for and the UK Government believe territorial offices are very necessary because they do bring that focused view and understanding of the devolution settlements. They can build particularly close relationships with our devolved counterparts, and critically they can take that understanding across Whitehall to help guide Whitehall Departments to do the right thing in respect of their devolved responsibilities.

Q241 Mr David Jones: Would you say that is a view that is shared by the devolved Administrations?

Philip Rycroft: Certainly at an official level, I think they do see the value of what my colleagues and I can bring to these relationships. I get no pushback from them saying, “We don’t want to talk to you; we just want to talk to Whitehall Departments directly” because I think they recognise the value we can offer to them in helping to guide them through what is a very complicated system in Whitehall, to make sure they are talking to the right people at the right time.

Q242 Ronnie Cowan: Sir Jonathan, unlike Scotland and Wales, Northern Ireland does have a separate Civil Service. Is this a disadvantage?

Sir Jonathan Stephens: I think we manage to make it work. The Northern Ireland Civil Service has done very good work supporting the political arrangements. I would not over-magnify the difference. The Northern Ireland Civil Service has its origins in the UK Civil Service: it shares the same values; it is set up on the same basis; it has a regulatory set of Civil Service Commissioners for Northern Ireland. In many ways it is, although separate, identical to the UK Civil Service and we work very closely with them.

Q243 Ronnie Cowan: Would it be a good model on which to base a separate Civil Service in Scotland?

Sir Jonathan Stephens: Personally, I rather take the view that if it works, do not change it. There has been a separate Civil Service in Northern Ireland since the 1920s, for historical reasons. We make that work; we make it work well. I think the existing arrangement for a unified Civil Service elsewhere also works and, personally, I would not change it.

Q244 Ronnie Cowan: But if there were to be a separate Civil Service in Scotland, is that a good working model that could be copied?

Sir Jonathan Stephens: As I say, a separate Civil Service could be made to work; it has been made to work in Northern Ireland. I think you have to work harder at some aspects, you have to work harder at keeping the professional competence and learning going across the Civil Services, and you have to work harder at enabling lessons to be learned across the two Governments. There are not so many natural interchanges and flows that exist within a unified Civil Service.

Ronnie Cowan: We are all for working hard.

Sir Jonathan Stephens: Jolly good.

Q245 Ronnie Cowan: Ms Osowska, if I caught you right earlier on, you said there had been 10 meetings this year. Are they pretty much based around fiscal framework, or is that a normal level of engagement?

Francesca Osowska: No, that is the normal level of engagement. They have covered a wide range of issues, from constitutional issues to, as I said, meeting with the Scottish Government Director for Safer Communities on resilience and security issues. It also includes a session that I did with Scottish Government directors looking at exactly this issue: how we can improve engagement; how the Scotland Office can support engagement between the Scottish Government and other Whitehall Departments. Those are only the formally recorded engagements, if you like. Just by the nature of the work that I do and the contacts I have, there will be more frequent informal messages and contact with members of the Scottish Government.

Q246 Ronnie Cowan: You have worked for Whitehall and for the Scottish Government, so you have seen the position from both sides.

Francesca Osowska: Indeed.

Philip Rycroft: As indeed have I.

Q247 Ronnie Cowan: Interesting. Looking towards the EU referendum coming up, is there some sort of information going back and forward there about the differences in what the Scottish Government is looking for and what the UK Government is looking for?

Francesca Osowska: I will maybe let Philip speak about that.

Philip Rycroft: Through the EU referendum campaign, an important part of our job has been to ensure that business as usual can continue. Clearly European business will continue through that period. We will need to sustain and maintain the contacts with our colleagues in the devolved Administrations to ensure that happens. Of course we have the

added complication of the election period for the devolved Administration elections as well, but we need to make sure that the good contacts are sustained even through those periods so that normal business can continue in good order.

Q248 Ronnie Cowan: Also impartially?

Philip Rycroft: Also impartially, of course.

Q249 Chair: If I might ask, Sir Jonathan, whether the separate Northern Ireland Civil Service is a bit of fiction, that whether you are separate or not is a technical structural thing that does not affect how you behave?

Sir Jonathan Stephens: The reality is that it is a separate Civil Service, regulated by separate Civil Service Commissioners for Northern Ireland.

Q250 Chair: What is the effect of that?

Sir Jonathan Stephens: As I said earlier, in practice, the values are widely shared; the same values of integrity, impartiality, objectivity and honesty are shared; the same principles of appointment and recruitment on merit are shared. But it is a Civil Service that is specific and—

Q251 Chair: What is the effect of being legally separate?

Sir Jonathan Stephens: The effect is that the Civil Service is regulated by the Civil Service Commissioners for Northern Ireland.

Q252 Chair: No, I understand that, but what is the outcome? I do not want the input; what is the difference in outcome?

Sir Jonathan Stephens: As I was saying earlier, the system works and it works well. I think it does, as I said earlier, require some more effort to maintain those links of professional understanding and professional competence between the Civil Services. It does require more effort to encourage interchange.

Q253 Chair: Less is assumed; more is consciously willed?

Sir Jonathan Stephens: That would be a good way of putting it, yes. You have to work harder at maintaining those links.

Q254 Chair: But wouldn't it be better in Scotland and Wales if less was assumed and more was consciously willed? Wouldn't that be a better outcome?

Philip Rycroft: In terms of the day-to-day workings, the way that we engage with colleagues across the devolved Administrations?

Q255 Chair: What I am getting from you is that it does not make any difference whether you have a separate Northern Ireland Civil Service or a unified British Civil Service, in terms of the working relationships.

Philip Rycroft: I would be pretty clear that if the GB unified Civil Service was broken up, we would lose something.

Q256 Chair: What is the something we would lose?

Philip Rycroft: For example, it is relatively straightforward to organise joint learning experiences right the way across the Civil Service. Just last week we had 50 colleagues from the Welsh and Scottish Governments in Whitehall for a week of shadowing with one of the Departments.

Q257 Chair: Do officials from the Northern Ireland Civil Service never come to Whitehall for joint working groups and joint education?

Sir Jonathan Stephens: They are not organised on that same basis. The Northern Ireland Civil Service is responsible for organising its own learning opportunities. Sometimes it will look to, and seek to bring in learning from, Whitehall, but there is nothing automatic that underpins that.

Q258 Chair: What about the accountability, because the accountability of the Northern Ireland Civil Service is clearer than it is in Scotland and Wales? For example, the authority of the Cabinet Secretary as head of the Civil Service is devolved.

Philip Rycroft: The accountability arrangements are clear, so the Permanent Secretaries of the Scottish Government and the Welsh Government clearly are accountable for their accounting officer responsibilities to the Scottish Parliament and the Welsh Assembly, and accountable to their First Ministers for the proper transaction of their business, but in personal terms, in terms of their behaviour and performance, they are accountable to the Cabinet Secretary.

Q259 Chair: What is the argument against either having a unified United Kingdom Civil Service that includes Northern Ireland or having the same arrangement in Scotland and Wales as for Northern Ireland? What is the argument against uniformity?

Francesca Osowska: If I could make two points from a Scottish context, in terms of the consciously willed point that you made, one of the after-effects of the referendum was it did cause relationships between the UK Government and the Scottish Government to become slightly more difficult, but since then we have moved into a consciously willed phase, because we are very conscious that we need to rebuild those relationships, and colleagues in the Scottish Government are also very conscious. In terms of the engagement that I have spoken about, that is very consciously willed and we have a lot of cross-team engagement between the Scotland Office and the Scottish Government and we encourage that.

Q260 Chair: But if it works so well in Scotland and Wales, why don't we do the same for Northern Ireland?

Philip Rycroft: As with so much of our constitutional arrangements, Chair, we are the product of our history. There has been a separate Northern Ireland Civil Service for many decades now.

Q261 Chair: But we have been tearing up our historical settlement with gay abandon since 1997. Why should we stick with this particular anomaly?

Philip Rycroft: As has been pointed out to us many times, you do not necessarily achieve uniformity across the UK through that. We have devolution that is asymmetric.

Q262 Chair: What would the Northern Ireland Civil Service lose if it were incorporated into the United Kingdom Civil Service?

Sir Jonathan Stephens: If you were starting afresh, not back in the 1920s, when the Northern Ireland Civil Service started, you would start off with an assumption that you continued with a unified Civil Service, but as Philip says, we have the burden of history and that tends to be particularly strong in Northern Ireland. I am not aware that the issue of whether the NICS should be part of a unified Civil Service or not is a particularly pressing issue within Northern Ireland. Certainly there is no pressure within Northern Ireland for a change to the current arrangements.

Q263 Chair: It is clearly the policy of the Government that you are expressing, which is to leave well alone, and that was our view in our report last Session. But given that everything else is changing so rapidly, it is something we might return to. Do you want to add something, Mr Rycroft?

Philip Rycroft: Yes, I would. In terms of a unified Civil Service, I would not say the policy is to leave it well alone; it is to optimise the benefits of that. I am under a very clear injunction from the Cabinet Secretary and the Civil Service Board to ensure that we revivify the pattern of interchange between Whitehall and the Scottish and Welsh Governments so that we get more of the benefits of a unified Civil Service and that is the job we are embarked on now.

Chair: What I do not have from you is why one is working better than the other or one arrangement might be more optimal than the other. It seems to me one does not need to be a pedant to argue that one arrangement must be better than the other. It cannot just be a matter of circumstance or history. Anyway, we will move on.

Q264 Mrs Cheryl Gillan: Mr Jones, first of all, happy St David's Day. I am very pleased to see you are still the Director at the Wales Office. Could you just remind the Committee how long you have been in the Wales Office? Because I think you have considerably more experience than your colleagues in the other territorial offices.

Glynne Jones: Last November saw my tenth year in the Wales Office.

Q265 Mrs Cheryl Gillan: Thank you for that. The Constitutional Unit at UCL recently claimed that too many officials and Departments tend to treat the devolved Governments as an afterthought. Certainly Sir Derek Jones claimed that being treated as an afterthought happens all too frequently. How fair do you think that assessment is?

Glynne Jones: It is probably fair to say no Whitehall Department would deliberately treat the Welsh Government as an afterthought.

Q266 Mrs Cheryl Gillan: Why would Sir Derek say that then?

Glynne Jones: The Committee talked earlier about areas where things have not gone quite so well. Often in those areas you look at where things have not turned out as you would like, it is less about the systems and the people involved in the systems that have caused the problems. It is often that people just do not agree on where the outcome was and a belief in some parts that had there been better understanding from the other party, it would have arrived in a different place. It is the concept, as I said, "You would agree with me if you properly understood what the issue was". I think there is some of that at play. As Philip has said, it is also undoubtedly true that Whitehall needs to continue with the journey; we need to be better at what we do and we do need better understanding of the Welsh devolution settlement.

Q267 Mrs Cheryl Gillan: How much of that depends on the politicians in the devolved Administration? For example, the currently First Minister for Wales is the first who has not served as a Member of Parliament in this House.

Glynne Jones: I think the political tone and political leadership obviously can aid relationships or make them slightly more difficult. I can only speak from the experience of dealing with Derek Jones. Derek and I speak regularly, as recently as last Friday, and we continue as officials to work productively together. I mentioned some of the examples earlier where there are concrete examples of it happening. I think good working continues to go on between the two Administrations.

Q268 Mrs Cheryl Gillan: But I suppose basically what you are saying is if the devolved Administration does not get its way in whatever subject is being negotiated, that is when the toys start getting thrown out of the pram?

Glynne Jones: I am not sure I would use the phrase “toys getting thrown out of the pram” but it is undoubtedly the case that when two sides reach a disagreement where they feel very strongly about where they have ended up, both sides feel that, with a little more understanding from the other, it could have arrived at a different place.

Q269 Mrs Cheryl Gillan: So it is a constant scenario of bartering and trying to get both sides into a good position vis-à-vis the other?

Glynne Jones: Some of it is that. Often we do have very common and shared objectives, particularly around the Welsh economy and about promoting the Welsh economy and doing the best, steel being the shining example of where the two Governments are shoulder to shoulder.

Q270 Mrs Cheryl Gillan: Therefore you sometimes feel, as a civil servant in your position, you are refereeing in many instances?

Glynne Jones: I would be a very bad referee, I suspect, if that was the case. The Wales Office is not a referee. We see ourselves more as facilitators, enabling discussions to take place.

Q271 Mrs Cheryl Gillan: Sir Paul Silk said there is always difficulty and potential danger that the Civil Service in London is too London-centric when it comes to devolved Administrations. Do you agree with that?

Glynne Jones: Speaking for the Wales Office first, we have practically half of our staff based in Cardiff and working out of Cardiff, so almost by definition they cannot be London-centric. As for the rest of Whitehall, there has definitely been a step change that I have noticed, certainly in the last year, in terms of the frequency with which senior Whitehall figures from Departments come to Wales, go around Wales and meet the stakeholders in Wales. So I think it is back to the conscious effort. If there is any instance of London-centricism—if that is a word—I think there are definite efforts being made to work on it.

Q272 Mrs Cheryl Gillan: First of all, how many officials work in the Wales Office and what is the proportion based in Wales and what is the proportion based in London?

Glynne Jones: We have fewer than 50. Around 20, mostly policy teams, are based down in Cardiff.

Q273 Mrs Cheryl Gillan: Sorry, you have fewer than 50 officials in the Department?

Glynne Jones: We have fewer than 50 in the old Department.

Q274 Mrs Cheryl Gillan: How many officials do you have based in Cardiff now?

Glynne Jones: Around 20.

Q275 Mrs Cheryl Gillan: What is the movement of those officials, because Lord Michael Forsyth suggested that pre-devolution there was a lot of movement of officials going to other Departments such as the Treasury from the territorial offices, that people were always lining up to move between Departments and that that was the glue that stuck the Civil Service together? What sort of mobility do you have with officials? Are you attracting officials? Are they queuing up to join the Wales Office from other Departments or are you finding that a lot of Wales Office officials want to go out to other Departments? How is that working?

Glynne Jones: There is an awful lot of flow between the Wales Office and the rest of Whitehall, in particular.

Q276 Mrs Cheryl Gillan: What is your turnover?

Glynne Jones: I think at last count it was somewhere around 40%. I am the exception rather than the rule in the Wales Office now, having been there for 10 years.

Q277 Mrs Cheryl Gillan: How long is the average stay of an official in the Wales Office?

Glynne Jones: I would need to take that away with me.

Q278 Mrs Cheryl Gillan: Could you look at that and let us have a written answer, in a letter, on that? I would like to know where in the last five years, say, officials have come

from or travelled to. Do you have trouble in recruitment, in filling all the posts in the Wales Office?

Glynne Jones: No, I cannot remember the last time a vacancy was advertised that did not attract a good field. No, we are able to fill our vacancies.

Mrs Cheryl Gillan: I think my colleague wants to come in on this question.

Q279 Tom Tugendhat: A very quick one. Given the stats on the turnover in the Wales Office and the Home Civil Service, I wonder if you can give me a comparison with the Northern Ireland Office.

Sir Jonathan Stephens: In the Northern Ireland Office we have a number of Northern Ireland civil servants on secondment; about 25% of the office is Northern Ireland civil servants at any one time. The rest is made up of Home civil servants. Some of those are on secondment from other Whitehall Departments. As it happens, I started in the Northern Ireland Office in 1983. I then moved out, had times in the Cabinet Office, the Treasury and the Department for Culture, Media and Sport and have now returned to the Northern Ireland Office.

Q280 Tom Tugendhat: From the 25%, it sounds like therefore you will get less rotation between the Northern Ireland Office and the Home Civil Service than you would in the Wales Office or the Scotland Office. Is that correct?

Sir Jonathan Stephens: I am not quite sure on what basis you are saying that.

Q281 Tom Tugendhat: I am guessing, I admit, but I am guessing based on the fact that 25% is from the Northern Ireland Civil Service, so therefore you only have 75% to play with anyway. Therefore if it is 40% in the Wales Office, it is 40% of that 75%, so less than 40% of 100%.

Sir Jonathan Stephens: Are you talking about interchange with the rest of Whitehall?

Tom Tugendhat: Yes.

Sir Jonathan Stephens: That does not seem to be borne out in practice. I was just reflecting before I came here on where some of our past civil servants have ended up. I think former Northern Ireland Office civil servants now include the Principal Private Secretary to the Prime Minister, an Assistant Private Secretary to the Prime Minister and the Director General of GCHQ. They are spread in quite a wide range around Whitehall and we pull in people on secondment from a range of other Departments, such as the Ministry of Justice, the Cabinet Office, the Home Office and so on.

Q282 Oliver Dowden: Is this experience shared with the Scotland Office as well, just for completeness?

Francesca Osowska: Yes, certainly. For completeness, in the Scotland Office we currently have 60 staff in post. We have 21.5—because we have some part-time workers—on secondment from the Scottish Government; 32.5 from the MOJ; one person on secondment from the Cabinet Office; one person on secondment from HMRC and four agency workers. In terms of flow, we tend to see flows out of the Scotland Office in Edinburgh to the Scottish Government, logically, but in London it flows out to a range of Departments: the Department for Transport recently, the Northern Ireland Office and the Cabinet Office, so it is quite broad.

Q283 Oliver Dowden: What about the flow back the other way, so people from the Scottish Executive into the Scotland Office or the wider Government? Is there a tendency for a career path to develop within the Scottish Executive so then it is harder to come back?

Francesca Osowska: I do not think so. Some of this is obviously based in terms of people's personal preferences, so as people progress and—dare I say it?—get older, location and mobility can be more of a factor. Colleagues based in Edinburgh kind of flow between the Scottish Government and the Scotland Office in Edinburgh. Indeed, we have seen people moving to other parts of the UK Government in Scotland, because we should not forget that there are approximately 27,000 UK Government civil servants based in Scotland. Then obviously the London market can operate between the Scotland Office and a range of Whitehall Departments.

One factor to mention here in terms of how we build career paths for people is the creation of the UK Governance Group, which Philip heads. This was created last year and brings together the Constitution Group of the Cabinet Office, the Scotland Office, the Wales Office and the Office of the Advocate General to bring constitutional issues to the heart of Whitehall. Part of the advantage of that is to develop career paths for people in a constitution and devolution specialism, which could see them move from the Wales Office to the Cabinet Office to the Scotland Office.

Q284 Oliver Dowden: Presumably if you are working for the Scottish Government and you develop relationships with Scottish Ministers, there must be a bit of a tendency to start to have a career path working for the Scottish Government, so taking a jump back into the wider UK Government disrupts that career path.

Francesca Osowska: I can see exactly what you are saying. From my own perspective, having moved from the Scottish Government to the UK Government, I think you have to think carefully about what the routes are going to be subsequently. What I have seen since I have been in the Scotland Office is that a number of staff who have been on secondment from the Scottish Government to the Scotland Office have been with the Scotland Office for a number of years, through the referendum, through the general election, and have decided that now is the time to go back to the Scottish Government, so we have seen that kind of 360 degree flow.

Philip Rycroft: It is perhaps worth mentioning that it is a huge advantage to us in the territorial offices, but also more widely across Whitehall, to have people around who have worked in the devolved Administrations because they bring that understanding into Whitehall, so the obverse is true. It is a big advantage to the Scottish Government and the Welsh Government that they have people on their books who understand Whitehall and get how it works. So there is a positive advantage both ways on this. I think that facilitates the career moves when people choose to step out for a while, then they can step back in.

Q285 Mrs Cheryl Gillan: Can I ask Mr Jones whether this movement is also affected in Wales at all by knowledge of the Welsh language?

Glynne Jones: We always try to make sure we have a proportion of staff within the Wales Office who are Welsh speakers, so for certain posts we make an effort to ensure that we recruit Welsh language speakers.

Q286 Mrs Cheryl Gillan: Mr Rycroft, with the devolved Administrations and the officials in each of the Whitehall Departments that are not the territorials, how do you achieve that co-ordination between the devolution champions in each Department? There was originally in 2010 a Cabinet Sub-Committee, which was abandoned after a year. How do you now achieve that co-ordination?

Philip Rycroft: Part of our job in terms of advising Ministers is to ensure that all issues that arise in the devolution and constitutional space are given proper consideration through the normal ministerial channels, whether that is around discussion with Cabinet committees or indeed at Cabinet itself.

Q287 Mrs Cheryl Gillan: But there is no forum right across Whitehall, it always gets channelled back through the Cabinet Office?

Philip Rycroft: There is a Constitution Committee, of course, which Oliver Letwin chairs, but, as he explained to the Committee and the House of Lords, a lot of the business that might go through that Committee is transacted through the Home Affairs Committee because you have a broader group of Ministers around that table. At official level, I chair a group of senior officials from right the way across Whitehall. We have been meeting now every month for, I think, about three years, so that is my route to ensure that every Department knows what is happening on the Scotland Bill, the Wales Bill or in the Northern Ireland context to ensure that we know what their understanding is of where their responsibilities lie, so we have that proper co-ordination on a regular basis.

It is worth pointing out that the next meeting of that Committee is next week and we will be in Cardiff making the point that these folk need to understand and get close to their colleagues in the devolved Administrations as well as in the stakeholder community in Wales and Scotland.

Q288 Mrs Cheryl Gillan: But isn't that still slightly fragmented?

Philip Rycroft: There is always a risk of fragmentation, clearly, and we are reliant on Departments to go about this business in the proper manner and one of the other things that I have been doing with the support of the team is going around every Whitehall Department over the last few months to ensure that they have a plan for dealing with devolution issues over the next five years, which includes improving their capability, so ensuring they have the right devolution learning packages in their Departments; that they are engaged in interchange so that they are bringing experience in from the devolved Administrations and vice versa; that senior officials, as Jonathan has described, are making the visits to the devolved parts of the UK; and that they are engaging with their Ministers to help ensure that the policies of the UK Government are communicated effectively in Scotland, Wales and Northern Ireland. This is work in progress. Each of those plans is owned by the Department. They are not my plans, but part of my job will be to monitor performance against those plans over the next five years to ensure that capability across Whitehall goes in the right direction, which is to improve.

Q289 Mrs Cheryl Gillan: You say it comes under the Home Affairs Cabinet Sub-Committee. Wouldn't it be better that it had its own Cabinet Sub-Committee? Wouldn't it give it the importance that the devolved territories should have and also ensure some sort of continuity of information and intelligence passing between Departments, because so many issues that involve devolution are cross-departmental and it still seems to me as if it is being placed in various silos and being dealt with by the Constitution Committee over here, the JMC over here, maybe Ministers being persuaded to visit a territorial—

Philip Rycroft: That is always a risk and it is a big part of our role to guard against that risk and to remind colleagues of the importance of ensuring that this is properly co-ordinated. I refer you to the answer Oliver Letwin gave to the House of Lords Constitution Committee, as he was asked exactly the same question about the role of the Constitution Committee, and his answer to that was in a sense that the Constitution Committee did risk the narrowing of these issues, because you did not have the number of colleagues around the table who were interested in the various issues that might be under consideration. Therefore, his preference, and indeed the way that practice has turned out, was to use the Home Affairs Committee route rather more often than the Constitution Committee, which in a sense confirms your point, to ensure that there is sufficient visibility of devolution issues across those Departments.

Q290 Mrs Cheryl Gillan: But then it means, surely, that devolution matters are subjugated to the main business of the Home Affairs Committee. There are always going to be things that are much more important on that Committee's agenda than devolved matters. In an ideal world, and to give the territorial operations the diligence they deserve from Whitehall Departments, to have their own Cabinet Sub-Committee would still be the best way to go?

Philip Rycroft: I would argue that the issues that we have been dealing with, and are dealing with at the moment, are absolutely top priorities for the Government. There is very

little else that is more important to the Scotland Bill and the Wales Bill. These are very profound changes to our constitutional settlement, which impact on all Whitehall Departments and therefore they are proper meetings, and not just for the Home Affairs Cabinet Sub-Committee but for the Cabinet itself. I think what we have witnessed over the last few months is that they do indeed get that attention. So this is not about relegating these issues to the margins, as it were; it is about ensuring that they get the due attention ultimately from the Cabinet itself.

Q291 Mrs Cheryl Gillan: Could you let us know what percentage of time the Home Affairs Cabinet Sub-Committee has spent on devolved matters—

Philip Rycroft: I do not have that number.

Mrs Cheryl Gillan: —for the last, say, year's meetings?

Philip Rycroft: Yes.

Mrs Cheryl Gillan: Thank you.

Q292 Oliver Dowden: I have just one quick point. Does the Constitutional Affairs Committee meet frequently and is it that engaged, or is it just one of those that sort of sits on the roster and does not transact that much?

Philip Rycroft: It met early in the course of this Administration to look specifically at English votes for English laws and it has not met since. But again, Mr Letwin, as the chair of that Committee, set out his explanation as to why it had not met, because of business he felt was better transacted through other routes.

Q293 Mr David Jones: Mr Rycroft, I would like to ask you a few questions about the devolution toolkit. What were the circumstances that prompted the Cabinet Office to produce the devolution toolkit in the first place?

Philip Rycroft: This is part of our wider programme to ensure that there is sufficient capability and understanding of the devolution settlements across Whitehall. One of the ways we can do that is by promoting learning tools such as the devolution toolkit so that people have access to the right sort of advice and guidance as to how they should undertake their devolution responsibilities. This is something that we will develop over time. We will put more learning modules on to the toolkit in the course of this year to ensure that all officials, wherever they are, have access to that sort of learning.

Q294 Mr David Jones: I think the toolkit was first published last year, some 16 years after devolution was instituted in this country. Is its publication at such a late date possibly an indication that progress in embedding devolution in the culture of Whitehall has been a patchy process?

Philip Rycroft: It is an indication that we are putting more effort into that. Clearly there was guidance and learning available before the toolkit was published, as has been reflected in various comments that have been made. Part of the creation of the group that I lead is a sign, if you like, that we have to get better at this, that we have to improve our understanding of devolution right the way across Whitehall. The toolkit is part of doing that, alongside the work we do with Departments on their own plans and alongside the increase of interchange across the unified Civil Service.

Q295 Mr David Jones: So, to revert to my question, would it be fair to say that progress in assimilating to the reality of devolution had been a patchy process?

Philip Rycroft: As someone who has spent most of my career working for the Scottish Government and its predecessors, clearly there were times when I wished that Whitehall had got its understanding of devolution better.

Q296 Mr David Jones: So the criticism that we heard that many Whitehall Departments tend to regard devolved Administrations as extensions of Whitehall is possibly not an unfair criticism?

Philip Rycroft: Clearly from time to time Departments will not get their understanding of devolution absolutely right. This is work in progress. As the devolution settlements change, it becomes ever more important that Whitehall Departments understand devolution and what it means for their departmental business. Could it be better? Of course it could, and part of our job is to make sure it becomes better.

Q297 Mr David Jones: Do you regard the toolkit as something that will evolve with time as the devolution settlement evolves?

Philip Rycroft: Absolutely. This is a working tool, so it will be developed and it should get better. We will get feedback from Departments on the utility of it. We will respond to that, we will improve it and we will put more material on it.

Q298 Mr David Jones: Apart from the toolkit, what extra support is there in Whitehall to instil awareness of devolution in Whitehall Departments?

Philip Rycroft: Colleagues at the table have a big role in that. A big part of the job of the territorial offices is to ensure that Whitehall Departments understand the business. My team in the Cabinet Office support that. We are very rigorous in getting around Departments to talk to the devolution leads to ensure that they are going about their business appropriately, but also that they have the support they need to work with their colleagues in Departments to improve capability.

Q299 Mr David Jones: To what extent did you consult with colleagues in the devolved Administrations when producing the toolkit?

Philip Rycroft: Extensively. A lot of what we are doing is done in very close collaboration and co-operation with the devolved Administrations. If I bring it back to the example I used earlier of the shadowing scheme that took place last week, self-evidently that was done with their collaboration, and we will repeat that both in Cardiff and Edinburgh, so this is an example, if you like, of the unified Civil Service in action. Both Derek Jones and Leslie Evans, who are the Permanent Secretaries of the Welsh and Scottish Governments, are very committed to this. As I said in response to a colleague earlier, clearly it is to their advantage that their officials understand how Whitehall works and have the relationships with Whitehall because it helps them to go about their business as well.

Q300 Mr David Jones: If there were separate devolved Civil Services in Scotland and Wales, do you think it would be less easy to instil devolution awareness in Whitehall?

Philip Rycroft: As I said, personally I think we would lose something. I think it would just make it that little bit more difficult to establish and develop the close relationships that we have at the moment. It would make interchange a little bit more complicated. I refer to the earlier discussion: what we have has value, which is why from a central UK Government's perspective it is worth keeping the unified Civil Service.

Q301 Mr David Jones: It seems to me that effectively it would be like dealing with a foreign Administration.

Philip Rycroft: There would be a risk of a growing divide, depending on the politics that drove that, and clearly from an official point of view we would strive to maintain the relations that are necessary for the good conduct of business, but it wouldn't make that any simpler.

Q302 Mr David Jones: Would you say that a unified Civil Service is part of the glue that binds the United Kingdom together?

Philip Rycroft: That phrase has been used and it is certainly one that the UK Government would support.

Q303 Chair: Before we move on, in the absence of a National School for Government or a Civil Service College, shouldn't your toolkit and this catching up of understanding and methods of operation be embedded in the Civil Service training, and how should that be done?

Philip Rycroft: That is a very good question, Chair, and indeed we are working with those who look after the Civil Service, learning to do precisely that. If you take the policy profession learning, for example, ensuring that learning about devolution is embedded in that, I would certainly look forward to a time in the not-too-distant future when if you are on a fast stream development programme or any development programme that you will encounter devolution learning as part of that process.

Q304 Chair: But what we found in our previous inquiries in the last Parliament is that following the abolition of the National School for Government, there is far less formalised training about the European Union, for example, and far less formalised training about how Parliament works. Aren't you trying to push water up a hill unless we get back some kind of institutional underpinning for Civil Service learning?

Philip Rycroft: I hope that we are responding to the natural instincts of civil servants to understand the governance of the country in which they work. It is so important now that every civil servant must understand the structure and nature of Government in the United Kingdom. It is a big part of my job, supported by colleagues, to ensure that that happens. That does mean getting our learning, the devolution learning, embedded in as many outlets as we can, and that is what we are embarked on at the moment, and any support from the Committee to that end would be gratefully received.

Chair: I was going to say that I think we have recruited you to our cause.

Q305 Mrs Cheryl Gillan: You keep referring to your team, and you have an enormous brief taking in all sorts of areas. How many are there in your team?

Philip Rycroft: Francesca has given you the numbers already for the Scotland Office, so 65 or 67, and in the Wales Office about 45—

Mrs Cheryl Gillan: No, I mean your team in the Cabinet Office.

Philip Rycroft: Both Francesca and Glynne report to me—

Mrs Cheryl Gillan: No, they are separate territorial Departments, so how many in your team in the Cabinet Office?

Philip Rycroft: They are my team. In the Cabinet Office specifically there are about 80 staff, and then there is also the Office of the Advocate General for Scotland, which has about 40 staff, most of whom are based in Edinburgh. So that is the totality of the UK Governance Group.

Q306 Gerald Jones: Sir Jonathan, what advice has been given to you by the Cabinet Secretary on your conduct during the EU referendum? Specifically, what support can you provide to your Minister?

Sir Jonathan Stephens: The advice is as set out, first of all, in the Prime Minister's letter to Cabinet colleagues and then supplemented by the guidance that has been circulated by Jeremy Heywood, and that sets out the very clear position that the Civil Service is here to support the policy of the Government of the day.

Q307 Gerald Jones: Do you see any practical issues with that in terms of your relationship with the Minister?

Sir Jonathan Stephens: I have not encountered any yet. I have one Minister who supports remain and one Minister who supports leave, and both are conscious of the guidance circulated by the Prime Minister, support it and are seeking to work with it.

Q308 Gerald Jones: It is safe to say it is early days yet and watch this space?

Sir Jonathan Stephens: Indeed, but I am confident that we can make the arrangements work.

Q309 Chair: Can I just ask a little further on that? The letter from the Cabinet Secretary instructs you, "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 had previously seen on issues relating to the referendum question prior to the suspension of a collective agreement". What do you understand that to mean?

Sir Jonathan Stephens: I understand it to mean that Ministers see all the normal business of their Department in the normal way, with the exception, originally set out by the Prime Minister in his note to colleagues, that on the specific question of the referendum on whether to leave or to remain, those colleagues who have decided to take a personal position in opposition to the Government position do not generally receive briefings or support from the Civil Service in respect of that position.

Q310 Chair: Do you accept that that goes further than the guidance issued in the 1970s in a similar situation when Peter Shore's Permanent Secretary, Sir Peter Thornton, is quoted as saying, "It was jolly difficult putting forward anti-common market briefs to Mr Shore, but I hope we did what he asked". You would be denied providing—under these circumstances—that kind of support; you are not allowed to do that?

Sir Jonathan Stephens: I must confess, I don't know about the position in the 1970s. The position—

Chair: Just to be very clear, you couldn't do what Sir Peter Thornton said he did in the 1970s?

Sir Jonathan Stephens: The position is clear: the Civil Service is here to support—

Chair: Is that a yes or a no?

Sir Jonathan Stephens: —the Government policy—

Chair: No, no, I am asking a yes or no question.

Sir Jonathan Stephens: I am sorry, I do not know what happened in the 1970s, so I cannot comment. I can't comment on the 1970s.

Q311 Chair: Let me just put this again. This is very, very clear. This is terribly clear: Sir Peter Thornton said, "It was jolly difficult putting forward anti-common market briefs to Mr Shore, but I hope we did what he asked". You couldn't put forward similar briefings to your Secretary of State under this guidance, could you?

Sir Jonathan Stephens: So if the question is, "Do you provide briefings and support in support of those Ministers who are opposing the Government's position?", the position is no, we do not. We provide briefings in support of the Government's position.

Q312 Chair: The letter from the Cabinet Secretary goes on to say, "In line with usual practice, Departments may check facts for such Ministers on request". If the Secretary of State comes to you, she supports leave and she has a speech in her hand that has been drafted by somebody else and it has facts about Northern Ireland relating to the referendum question, which you have withheld from her under the instruction, you would then be obliged to say, "No, that is not right. This has changed because we have just given this information to No. 10 and what you have said in your speech is not correct". You would be obliged to check the facts in her speech, wouldn't you—yes or no?

Sir Jonathan Stephens: As set out in the guidance—

Chair: It is a yes or no question.

Sir Jonathan Stephens: No, I am sorry, but there are a large number of suppositions in that question, including several hypotheticals that have not arisen. However, the guidance is clear: Ministers who support leave may ask for facts to be checked.

Q313 Chair: That would include any of the facts that you have previously withheld from the Secretary of State?

Sir Jonathan Stephens: I am sorry, but we are getting some way down hypothetical scenarios at the moment.

Chair: No, we are not, this all very simple: are you obliged to give her all the facts or will there still be some facts that you will withhold from her?

Sir Jonathan Stephens: No. Look, the Civil Service is there to support the policy of the Government of the day. If asked to check facts, as indeed we are if someone submits a Freedom of Information request or a parliamentary question, we will confirm those facts.

Q314 Chair: It is very simple. Sir Jonathan. It is very, very simple. I am asking a very simple question. You might have withheld some papers containing facts from the Secretary of State under this guidance, because that is what it says. When she comes to check facts with you, would you be obliged to reveal those facts or would you feel bound by the guidance to withhold those facts from her? It is one or the other.

Sir Jonathan Stephens: This has not arisen as yet, but if someone comes and says, “Can you check these facts?” we will say either, “Yes, that is factually accurate” or, “It is not factually accurate”.

Q315 Chair: The Civil Service Code places a duty of honesty and objectivity on all civil servants and says, “You must set out the facts and relevant issues truthfully and correct errors as soon as possible”. And it says, “You must not ignore inconvenient facts or relevant considerations when providing advice or making decisions and you must provide information and advice, including advice to Ministers, on the basis of the evidence and accurately present the options and facts”. If there were circumstances in which the Civil Service Code came into conflict with the guidance issued by the Cabinet Secretary, which would you feel bound to follow?

Sir Jonathan Stephens: I do not believe that is the case, not least because the guidance emphasises that civil servants should act in accordance with the Civil Service Code at all stages.

Q316 Chair: So you feel the code should prevail over any understanding about the guidance?

Sir Jonathan Stephens: Indeed, the guidance sets out the position under the code, which is that the Civil Service exists to support the Government of the day.

Q317 Chair: We accept that premise, but that same stricture applied to Sir Peter Thornton in 1975. The Q and A briefing, which has also been circulated, says, “Ministers 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 on the referendum”. How will you decide what papers have a bearing on the referendum question or are intended to be used in such a way?

Sir Jonathan Stephens: I will seek to apply the guidance and to assess whether something is relevant to the specific question on the basis that normal business continues on the overwhelming majority of the Department’s business, and if there is a case at issue where

something is uncertain or in doubt, obviously refer it to the Cabinet Office and ultimately the Cabinet Secretary, if necessary.

Q318 Chair: But were anything to interfere with the normal business of Government, given that that is what Ministers are primarily there for, and obviously the Prime Minister has decided that your Secretary of State should stay in office during this referendum so that presumably she can carry out the normal business of Government, isn't your first obligation to maintain the normal business of Government, and therefore if there is any doubt about what she should see or not see, she should see it in order to maintain the normal business of Government?

Sir Jonathan Stephens: My obligation is to support the Minister in charge of my Department in support of Government policy. That is what I am spending my time doing.

Chair: You are not quite answering the question.

Sir Jonathan Stephens: I have to say that as a practical issue this has not arisen. There is no sense in which this is getting in the way of the normal business of Government. We have a very busy agenda, we have an important Bill to implement and a fresh start agreement in the House. The Secretary of State moved Second Reading last week and she will take further stages next week. She has important security responsibilities in Northern Ireland. She is working with the Executive to advance economic growth in Northern Ireland; she was present yesterday at an important announcement of 300 more jobs for Northern Ireland, and so on. All this normal business of Government is going forward in the normal way.

Q319 Mr David Jones: Sir Jonathan, it is envisaged that it could be a practical issue, isn't it, because otherwise the guidance would not be issued in the first place?

Sir Jonathan Stephens: What we are facing is a wholly exceptional situation.

Chair: No, it isn't; it has happened before.

Sir Jonathan Stephens: Once in 40 or 50 years is, in my terms, wholly exceptional, and the fundamental principle has always been the same, which is that the Civil Service exists to support the Government of the day. I interpret the guidance as simply explaining how that applies in this very unusual, wholly exceptional situation, in which the Prime Minister has agreed that on this specific question Ministers can take up a personal position in opposition to the position of the Government of the day. In doing so, they are not articulating an alternative Government position, they are articulating a personal position. Personally, I would struggle with an argument that says that the Civil Service should support one particular person or position.

Chair: No, we are not arguing that.

Q320 Mr David Jones: Forgive me, when you say "one particular person", that is actually the Secretary of State of your particular Department. Is it not therefore the case that,

as a consequence of the guidance that has just been issued, your duty to the Government as a whole will supersede your personal duty as a departmental civil servant to support your Secretary of State?

Sir Jonathan Stephens: My duty as a civil servant is to support my departmental Minister in support of Government policy. I have to say that is the position set out by the Prime Minister, and it is a position that I know the Secretary of State supports; she has said to me that she understands that that is the position the Department will need to adopt, that it will need to operate in support of Government policy.

Q321 Mr David Jones: It puts you personally in a very difficult position, doesn't it?

Sir Jonathan Stephens: I do not personally find that. I am sure that there will be some challenging issues and it is certainly unusual, but as a civil servant, as a senior civil servant, you are used to having a number of personal responsibilities. I have a personal responsibility as an accounting officer to Parliament, which is distinct from my responsibility to my departmental Minister, and there are occasions when the issues around that and resolving the respective responsibilities have to be confronted. It is unusual, but I do not find it puts me in an impossible position by any means.

Q322 Chair: As well as the letter and the guidance, have there been any other instructions issued to Permanent Secretaries such as yourself?

Sir Jonathan Stephens: I am not aware of any, no.

Q323 Chair: Have you had any conversations with the Cabinet Secretary about this matter?

Sir Jonathan Stephens: No, we have been encouraged to read the guidance very carefully and to raise any issues where there is an element of doubt, but beyond that I am not aware of anything else.

Q324 Chair: If information is requested from the Cabinet Office or No. 10 that relates to the referendum question, are your officials instructed to withhold that information from the Secretary of State?

Sir Jonathan Stephens: We have been through this before. We operate in support of Government policy—

Chair: It is a yes or no. You could answer yes or no. Do you understand that it is your instruction to withhold information from the Secretary of State if it is information that has been requested by No. 10 or the Cabinet Office and is related to the referendum question?

Sir Jonathan Stephens: That is consistent with the guidance, which makes it very clear that the Civil Service operates in support of the policy of the Government of the day.

Q325 Chair: It is a yes or no, so can you just answer yes or no?

Sir Jonathan Stephens: I have just said. Why I hesitate is because I genuinely have a Secretary of State who has said to me that she understands that this is the position set out by the Prime Minister—

Chair: Does she understand that you are going to—

Sir Jonathan Stephens: —she supports that and understands that the Department will have to operate in support of the policy of the Government of the day.

Q326 Chair: Sir Jonathan, you are incapable of answering yes or no to a perfectly simple question. This is not a trap. I am just asking you, do you understand your instruction to be that if No. 10 or the Cabinet Office requests information relating to the referendum question that you and your officials are under an obligation under the Cabinet Secretary's guidance to withhold that information from the Secretary of State—yes or no?

Sir Jonathan Stephens: Yes, that information is to be used to support the policy of the Government of the day.

Q327 Chair: All right, so she would not see that information?

Sir Jonathan Stephens: I am struggling because we are talking here about hypothetical situations.

Q328 Chair: No, we are not. The purpose of this conversation is to try to forestall future misunderstandings, which presumably is why the guidance was issued in the first place. The problem is that the guidance and your answers—until that particular moment when you replied yes—have not been very clear. We are now in the position where, for example, the Prime Minister might be making a speech, referring to figures produced by your Department that the Secretary of State has not seen. That is possible, is it not?

Sir Jonathan Stephens: I am not aware that has arisen.

Chair: But it is possible, isn't it?

Sir Jonathan Stephens: It would be an unusual situation—

Q329 Chair: That is another yes?

Sir Jonathan Stephens: It would be an unusual situation in which some sort of well-known figures were used that had not previously been seen by the Secretary of State.

Q330 Chair: But if they had not previously been seen, you would feel under an obligation not to let her know that these figures had been asked for?

Sir Jonathan Stephens: I would certainly be under an obligation, if I was shown a speech by the Prime Minister or something in support of remaining in the EU, that that was something that was suitable for those Ministers supporting that position and supporting the Government position.

Q331 Chair: If you were providing facts and figures from your Department that she had not previously seen and was not previously familiar with it, you would give those figures to No. 10 and the Cabinet Office for that speech for the Prime Minister without her knowledge?

Sir Jonathan Stephens: I would provide whatever support, be it factual, advice or whatever—

Chair: I think that is another yes.

Sir Jonathan Stephens: —to No. 10 that was asked for.

Q332 Chair: So we could be in a position in which somebody puts in a Freedom of Information request or you finish up drafting a parliamentary answer that includes this information that the Prime Minister might not have used, which is available to Parliament and to the public, but you have denied to the Secretary of State?

Sir Jonathan Stephens: I think this is all based on a misunderstanding of what is going on here, because—

Chair: You bet there is plenty of misunderstanding.

Sir Jonathan Stephens: Fundamentally, all that the guidance is saying is that the Civil Service exists to support Ministers is support of Government policy.

Chair: Unfortunately, the letter says a bit more than that.

Sir Jonathan Stephens: On this issue, some Ministers are taking a personal position, which is not Government policy—

Chair: I understand the line you have taken and that you have been given.

Sir Jonathan Stephens: —and in that respect they are operating in a personal capacity and in that respect, yes, if they put in a Freedom of Information request or a parliamentary question, that will be answered and facts will be checked in the normal way, but they will

not be receiving the support of the Civil Service in support of what is a personal position in opposition to Government policy.

May I just say, as an experienced Permanent Secretary, that it is very important to maintain the smooth running of the Department, the normal business of Government and good and effective relations with one's Secretary of State? That is the basis upon which I believe both the Secretary of State and I are approaching this issue. We have discussed it. She has made it clear that she supports the arrangement set out by the Prime Minister and she has said to me that she understands that the Department will need to support the policy of the Government of the day. I am confident that with common sense and goodwill on all sides, these arrangements can be made to work.

Q333 Chair: If common sense were to prevail—and I think it will—you would be saying to us very clearly that the normal functioning of the Department prevails over every other consideration, because that is what the Secretary of State is there for, and if there was any doubt as to whether the Secretary of State should see some information for the normal functioning of Government, she would see it. Is that the position?

Sir Jonathan Stephens: I am not aware of any impact on the normal functioning of the Department.

Chair: Right. Well, I hope we can clarify these issues further when we interview the Cabinet Secretary this afternoon. Thank you very, very much indeed for being so helpful. I hate to frighten you; I think you have been very helpful. Thank you very much.