



Mr William Wragg MP
Chair
Public Administration & Constitutional Affairs Committee
House of Commons
London SW1

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You asked me to write to the Committee to elucidate my explanation in response to questions from Mr Russell-Moyle of the position should officials or other Crown servants be concerned about the lawfulness of a course of action mandated by Ministers.

First, let me reiterate that all public servants, whether Ministers, special advisers, officials or others, are required to respect the rule of law and thus, in good faith, to seek to operate lawfully in implementing public policy. This principle is reflected in the Codes. Civil servants who are concerned about the lawfulness of a course of action should raise this with their departmental management, including ultimately the Permanent Secretary, and it might, if serious enough, be referred to the Cabinet Secretary, who can seek legal advice and ultimately a ruling from the Law Officers where a particular issue is genuinely novel and contentious.

It is a cardinal principle of governance that the Attorney General, consulting the other Law Officers, is the principal adviser to the Crown on legal matters and, if there is contention, to resolve them. In doing so, unless and until the courts take a view, the Attorney shoulders the responsibility of providing the definitive ruling on the lawfulness of a course of action, and thus removes that responsibility from other Crown servants who execute it.

Therefore, once the Attorney has ruled that a course of action is lawful, however contentious, in executing it, ministers, officials and other Crown servants are

operating in accordance with their obligations under the Codes to act in compliance with the law. As I mentioned in the evidence session, I am acutely conscious, from my national security experience, of how essential this is when governments consider the use of force, but the same principle applies elsewhere.

In your letter of 23 November, you asked about examples of civil servants being permitted to change roles because of ethical considerations about a particular policy. This is extremely rare and is not recorded formally, but what I had in mind when mentioning this was the kind of issue that, in Parliament, would by convention be treated as a matter of personal conscience on which MPs are permitted a free vote.

May I conclude by thanking you, your predecessor and the Committee for your unstinting support for the Civil Service and the values by which all public servants seek to operate. While this was my last evidence session with you on matters of public administration during my tenure as Cabinet Secretary, I remain, of course, at the Committee's disposal should I be able to support your work on constitutional affairs, a topic in which I will continue to take a close interest when I take up my seat in the House of Lords.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Sedwill', written in a cursive style.

MARK SEDWILL
28 November 2020