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Permanent secretaries: their appointment and removal

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Evidence is published online at <https://committees.parliament.uk/work/7319/the-appointment-and-dismissal-of-permanent-secretaries-and-other-senior-civil-servants/publications/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

SUMMARY

The civil service plays a fundamental role in the governance of the United Kingdom. Its impartiality, and its perceived impartiality too, are of key constitutional importance. Civil servants are required to serve governments of differing political persuasion equally well and to the best of their ability. They must also retain the confidence of ministers to whom they give advice. Any loss of confidence in the impartiality and integrity of the processes by which they are appointed and removed risks impugning the effectiveness of that role. The way those processes are carried out deserves careful scrutiny.

Since our last report on the civil service in 2012, the relationship between ministers and civil servants has become more exposed and controversial. Recent departures of several permanent secretaries and civil servants of equivalent seniority have also raised questions as to the degree of ministerial involvement in the departure of senior officials as well as the appointment process, and whether there exists a desire to appoint politically sympathetic candidates to these positions.

While ministers are accountable for all aspects of their departments' work and have a legitimate interest in ensuring the right people are appointed to key posts and that those who are appointed perform to the highest standards, this has to be balanced against maintaining the constitutional principles under which the civil service operates: integrity, honesty, objectivity and impartiality.

The impartiality and perceived impartiality of the civil service is a central and uncontested tenet of our constitution. Any fundamental changes to the civil service—including changes to the constitutional balance of the appointment and departure processes for civil servants—should not take place through unscrutinised evolution of practice. Instead, changes should be made consciously and openly and should be implemented only following careful scrutiny.

Appointment process

While the underlying principles of recruitment to the civil service have a long history, it was the Constitutional Reform and Governance Act 2010 (CRAG) that put them on a statutory footing. CRAG also put the Civil Service Commission—responsible for ensuring that appointment to the civil service is conducted “on merit on the basis of fair and open competition”—on a statutory basis and required the Commission to publish Recruitment Principles.

The Recruitment Principles establish the permitted level of ministerial—and, in the case of permanent secretaries, Prime Ministerial—involvement in the appointment of senior civil servants.

The current formal level of ministerial involvement strikes the correct balance. It allows ministers input into the job description, the person specification and the composition of the panel while preventing them from engineering the process in favour of a preferred candidate. It preserves the concept of merit. However, ministers are not always sufficiently aware of the extent of their influence over appointments or the limits on it. They require further briefing by their departments to avoid tension during the recruitment process and reinforce ministerial ownership of the process.

For permanent secretary appointments Prime Ministers are presented with a choice of appointable candidates. While we see no need to alter this, it is important that the Prime Minister makes their choice conscious of the principle of merit and confident that the chosen candidate is able to work with a minister of any political persuasion who may be appointed to the relevant department.

Appointment of the Cabinet Secretary

The Recruitment Principles do not apply to the appointment of the Cabinet Secretary. The Cabinet Manual says cabinet secretaries are appointed by the Prime Minister on the advice of the retiring Cabinet Secretary and the First Civil Service Commissioner, but practice can vary.

We see benefits in regularising, setting out and making transparent the appointment process for the Cabinet Secretary in a manner similar to that for permanent secretaries. While the closeness of the working relationship between the Cabinet Secretary and the Prime Minister means the Prime Minister should remain closely involved, greater regularisation would strengthen permanent secretaries' confidence in the management of the civil service.

Involvement of special advisers

Special advisers are forbidden by CRAG from managing civil servants. The Recruitment Principles and the Code of Conduct for Special Advisers specify that they should not be involved in the recruitment of civil servants. Despite this, in recent years a series of disturbing comments by special advisers about the appointment or departure of officials have been reported. Public statements of this nature are unacceptable because they risk giving the impression—or tolerating the reality—that special advisers are managing civil servants. As the party responsible for the actions of their special advisers, ministers should ensure this does not happen.

We are clear, therefore, that special advisers should not be formally involved in the recruitment or departure process. We recognise that private discussions between ministers and their special advisers are impossible to regulate but the decision with respect to these issues must be that of the minister.

Oversight of external and internal appointments

The Senior Appointments Protocol—agreed in 2011—explicitly requires all director general, permanent secretary and equivalent appointments (other than lateral managed moves) to be made on merit in accordance with the Recruitment Principles, whether or not the post is advertised externally. The Protocol makes a number of stipulations, including that the selection route for a vacancy (external or internal competition or managed move) is decided by the Senior Leadership Committee (SLC).

However, we found that the governance structure concerning selection routes for very senior appointments has evolved significantly since the Senior Appointments Protocol was agreed and the most recent Recruitment Principles published. We therefore welcome the commitment of the Cabinet Secretary and First Civil Service Commissioner to ensure both are updated.

The SLC is an opaque body, and we received contradictory accounts of the exact role it plays. While we were pleased by an undertaking from the Cabinet Secretary to publish details of its terms of reference and membership, we

encourage further transparency, for example by publishing or providing to the Civil Service Commission an annual account of the SLC's activities.

Departures

It is very rare that it is necessary or appropriate to dismiss a senior civil servant on performance or misconduct grounds. Yet there are a range of other scenarios in which a senior civil servant may vacate their post—this could occur, first, because a permanent secretary's five-year fixed tenure comes to an end, second, as a result of an actual or perceived inability on the part of the secretary of state or Prime Minister to work effectively with an individual, or, third, it has been suggested, on personal, political or ideological grounds.

For a permanent secretary, fostering a positive relationship with the secretary of state is an element of effective performance and it is rare that a breakdown in this relationship will occur. However, forming a positive relationship is a two-way process and incoming ministers must allow permanent secretaries time to establish a productive relationship. If an irrecoverable relationship breakdown might have occurred, the Head of the Civil Service has a vital role to play in ensuring due process is followed.

It is particularly important that removal of a permanent secretary on the grounds of a poor working relationship does not become cover for arbitrary removal of permanent secretaries on personal, political or ideological grounds, which should not occur under any circumstances.

The Cabinet Secretary and Head of the Civil Service has a vital role in ensuring that individuals are not removed from their posts without due process. If the working relationship between a secretary of state and a permanent secretary is irrecoverable the Head of the Civil Service must be given the opportunity to manage the individual's transfer to another role or, where appropriate, their retirement. To guard against the improper removal of senior civil servants, formal departure processes should be set out in writing. Those processes should require ministers and the Prime Minister to explain to the Civil Service Commission—in private if necessary—their decision to remove and replace a senior civil servant. The reasons for the departure should be recorded. These should be sufficiently flexible to allow a minister to replace at short notice a senior civil servant with whom a working relationship has broken down.

Politicisation or personalisation?

We do not consider the small number of recent high-profile removals of senior civil servants on what appeared to be political or ideological grounds to amount to a trend. Nonetheless, some recent departures and appointments have been conducted in the public eye and might be seen to reflect a desire on the part of ministers to personalise appointments and assert their authority. This risks civil service turnover coinciding with ministerial churn, creating a perception of politicisation and damaging institutional knowledge.

Broad political alignment should not be a relevant consideration in the appointment of senior civil servants. Making it so would unhelpfully complicate the existing duty on civil servants to serve the government of the day to the best of their ability regardless of their own political beliefs. It would also risk undermining senior civil servants' ability to establish the confidence of future secretaries of state and governments of different dispositions.

Risks to the accounting officer role

A key function of the civil service is to provide evidence-based information and advice to ministers. Accounting officers have a duty to “assure Parliament and the public of high standards of probity in the management of public funds”. In doing so, accounting officers routinely assess proposed government policy against the criteria of regularity, propriety, value for money and feasibility.

The role of accounting officer is a valuable aspect of the constitution and one that relies on the impartiality of permanent secretaries and their ability to ‘speak truth to power’. A shift towards a system of senior civil servant appointments or departures with a greater degree of political ministerial influence would risk having a chilling effect on accounting officer functions to the detriment of the public interest.

Permanent secretaries in devolved administrations

Officials working for the governments of the UK, Scotland and Wales belong to the same civil service organisation. In each of Scotland and Wales, there is a single permanent secretary, who is the most senior civil servant and supports the devolved government in developing, implementing and communicating its policies, as well as being the principal policy adviser to the First Minister. The permanent secretaries of Scotland and Wales are accountable to the Scottish and Welsh First Ministers for “the delivery of their priorities” and to the Cabinet Secretary and Head of the Civil Service (as their line manager) for “the leadership of their departments”.

This arrangement has the potential to cause confusion, particularly when it comes to the boundary between devolved competence and reserved matters. However, it is important that the principle of a single civil service across England, Wales and Scotland is maintained. We welcome the Cabinet Secretary’s commitment to provide further guidance to clarify that civil servants in the devolved administrations should work and spend public funds exclusively on matters within devolved competence.

We consider it the role of the Cabinet Secretary, as Head of the Civil Service of the UK—including Scotland and Wales—to manage challenges as they arise. If the permanent secretaries in Scotland or Wales are concerned that civil servants are being asked to work on tasks outside devolved competence they should raise this as an issue with the Cabinet Secretary as their line manager. In cases of uncertainty the permanent secretary should seek a written direction from the relevant devolved minister.

Permanent secretaries: their appointment and removal

CHAPTER 1: INTRODUCTION

1. Several recent departures of very senior civil servants have been controversial. In 2020, 12 permanent secretaries or civil servants of equivalent seniority left their posts, including the Cabinet Secretary, Sir Mark Sedwill.¹ In September 2022, Treasury Permanent Secretary Sir Tom Scholar left his post on the day that Rt Hon Elizabeth Truss MP became Prime Minister and Rt Hon Kwasi Kwarteng MP became Chancellor of the Exchequer. This was widely reported as a sacking, in an attempt to move economic policy away from “Treasury orthodoxy”.² In a statement issued at the time, Sir Tom said: “The Chancellor decided it was time for new leadership at the Treasury.”³ On the same day, Sir Stephen Lovegrove moved to a new role from that as National Security Adviser, a move also described as a sacking.⁴
2. These incidents have highlighted the respective constitutional positions of ministers and civil servants and the degree to which the former should be involved in the recruitment, management and removal of the latter.⁵ This is not a new issue: it is something considered in our 2012 report *The accountability of civil servants*,⁶ but recent rhetoric on the relationship has

1 Now Lord Sedwill. Lord Sedwill gave evidence to this inquiry. For further details of permanent secretary departures see the written evidence from the Cabinet Office ([SCS0003](#)) and Alex Thomas, Programme Director at the Institute for Government, ([SCS0005](#)). Excluding heads of the security services and the Government Legal Department, those who left the civil service were Lord Sedwill, Dame Melanie Dawes, Sir Richard Heaton, Sir John Manzoni, Simon McDonald (now Lord McDonald of Salford), Dame Clare Moriarty, Sir Philip Rutnam, Sir Matthew Rycroft and Jonathan Slater. Sir Alex Chisholm moved from BEIS to become Civil Service Chief Operating Officer and Cabinet Office Permanent Secretary. Excluding 2020, in the years between 2013 and 2020 the number of permanent secretary level individuals leaving the civil service ranged between 4 and 9 per year, with an average of 5.7 per year.

2 ‘Kwasi Kwarteng sacks top Treasury civil servant’, *Financial Times* (8 September 2022), available at: <https://www.ft.com/content/9571c1f7-55b2-42ac-a126-ec0fcdeefca4>

3 HM Treasury, ‘Search to be launched for new Treasury Permanent Secretary’ (8 September 2022): <https://www.gov.uk/government/news/search-to-be-launched-for-new-treasury-permanent-secretary> [accessed 29 August 2023]

4 ‘Why is Liz Truss sacking top civil servants? Because she wants to suppress dissent’, *The Guardian* (12 September 2022): <https://www.theguardian.com/commentisfree/2022/sep/12/liz-truss-sacking-civil-servants-government>

5 See chapter 3 for a discussion of terminology. While this inquiry’s call for evidence mentioned “dismissal” and that word appears frequently in evidence and commentary on this issue we have sought to use more neutral terms such as “removal” or “departure” when discussing situations where there is no suggestion of misconduct.

6 Constitution Committee, *The accountability of civil servants* (6th Report, Session 2012–13, HL Paper 61)

been especially heightened.⁷ We considered that ministerial involvement in departures and the necessarily connected issue of appointments warranted detailed attention.⁸

Constitutional position and role of the civil service

3. The Civil Service code describes the civil service as “an integral and key part of the government of the United Kingdom” which “supports the government of the day in developing and implementing its policies.” Civil servants are expected to carry out this role with a dedication and commitment to the core values of the civil service: integrity, honesty, objectivity and impartiality.⁹
4. The code elaborates:
 - “‘integrity’ is putting the obligations of public service above your own personal interests
 - ‘honesty’ is being truthful and open
 - ‘objectivity’ is basing your advice and decisions on rigorous analysis of the evidence
 - ‘impartiality’ is acting solely according to the merits of the case and serving equally well governments of different political persuasions”.
5. The code also emphasises that civil servants must serve the Government to the best of their ability and act in a way that retains the confidence of ministers.¹⁰
6. The code was put on a statutory basis by the Constitutional Reform and Governance Act 2010 (CRAG) and these values reflect that Act’s minimum requirements that the code must require “civil servants who serve an administration ... to carry out their duties for the assistance of the administration as it is duly constituted for the time being, whatever

7 Press reporting on the matter includes: ‘What is “the Blob” and why is Michael Gove comparing his enemies to an unbeatable sci-fi mound of goo which once battled Steve McQueen?’, *Independent* (7 February 2014): <https://www.independent.co.uk/news/education/education-news/what-is-the-blob-and-why-is-michael-gove-comparing-his-enemies-to-an-unbeatable-sci-fi-mound-of-goo-which-once-battled-steve-mcqueen-9115600.html>. ‘Hard rain is going to fall on civil service, says Dominic Cummings’, *The Times* (25 June 2020) available at: <https://www.thetimes.co.uk/article/hard-rain-is-going-to-fall-on-civil-service-says-dominic-cummings-gcq79vcl0>. ‘Top civil servants on Tories’ “hit list”’, *The Sunday Telegraph* (23 February 2020) available at: <https://www.telegraph.co.uk/politics/2020/02/22/top-civil-servants-tories-hit-list/>. ‘Boris Johnson urged to pull back from cull of top civil servants’, *Financial Times* (23 February 2020) available at: <https://www.ft.com/content/98f18044-5641-11ea-abe5-8e03987b7b20>. ‘UK civil service head “ever watchful” of potential purge’, *Financial Times* (22 October 2020) available at: <https://www.ft.com/content/8deb4bff-c441-41d0-a111-7b7ced71d163>. ‘There’s a brutal war going on that pits Ministers against the Blob... and one side is being routed’, *Daily Mail* (23 April 2023): <https://www.dailymail.co.uk/columnists/article-12003399/DAN-HODGES-Theres-brutal-war-pits-Ministers-against-Blob-one-routed.html> and ‘The Blob strikes back’, *Prospect* (23 May 2023): <https://www.prospectmagazine.co.uk/politics/61512/suella-braverman-civil-service-blob>

8 We also received correspondence on the matter from Lord Macpherson of Earl’s Court and other senior former civil servants which contributed to our decision to launch this inquiry. Lord Macpherson, Lord Sedwill and Baroness Prashar subsequently gave evidence to the inquiry. Letter from Lord Macpherson of Earl’s Court et al to Baroness Drake, Chair of the Constitution Committee, (20 September 2022): <https://committees.parliament.uk/publications/41589/documents/204994/default/>

9 Civil Service, *The Civil Service code* (16 March 2015): <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code> [accessed 29 August 2023]

10 *Ibid.*

its political complexion”¹¹ and to carry out their duties with integrity and honesty¹² and with objectivity and impartiality.¹³

7. While CRAG created a statutory basis for the civil service and the Civil Service code the principles enshrined in it have a longer history. A Civil Service code first came into force on 1 January 1996, following recommendations of the House of Commons Treasury and Civil Service Committee, a series of government White Papers and comment on the Government’s draft code from the Nolan Committee.¹⁴
8. The 1996 code followed, and for a time sat alongside, the ‘Armstrong memorandum’ issued by then Cabinet Secretary and Head of the Home Civil Service Sir Robert Armstrong in the wake of the Clive Ponting affair.¹⁵

Box 1: Key principles of the Armstrong memorandum

“Civil servants are servants of the Crown. For all practical purposes the Crown in this context means and is represented by the Government of the day.”

“In general the executive powers of the Crown are exercised by and on the advice of Her Majesty’s Ministers, who are in turn answerable to Parliament. The civil service as such has no constitutional personality or responsibility separate from the duly elected Government of the day.”

“The British civil service is a non-political and disciplined career service. Civil servants are required to serve the duly elected Government of the day, of whatever political complexion. It is of the first importance that civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers, and as to be able to establish the same relationship with those whom they may be required to serve in some future Administration.”

Source: HC Deb, 26 February 1985, cols 128–30W

9. The constitutional position of the civil service expressed in the Civil Service code and the Armstrong memorandum stress its non-political nature, its permanence and, through those, a requirement to serve governments of differing political persuasions equally well and to the best of civil servants’ ability while retaining the confidence of ministers.

11 Constitutional Reform and Governance Act 2010, [section 7\(2\)](#)

12 *Ibid.*, [section 7\(4\)\(a\)](#)

13 *Ibid.*, [section 7\(4\)\(b\)](#)

14 See House of Commons Library, The Civil Service Code, Standard Note [SN/PC/6699](#), 18 March 2015 for an account of the code’s genesis. The text of the 1996 code can be found in House of Commons Library, The Accountability Debate: Codes of guidance and *Questions of Procedure for Ministers*, Research Paper, [RP97/5](#), 24 January 1997.

15 The Armstrong memorandum, ‘Duties and Responsibilities of Civil Servants in relation to Ministers’, HC Deb, 26 February 1985, [cols 128–30W](#). The House of Commons Library Note cited above suggested that the memorandum was based on unpublished work from the 1950s by Sir Edward Bridges (Cabinet Secretary from 1938 to 1946 and Permanent Secretary to the Treasury and Head of the Home Civil Service from 1945 to 1956; later, Lord Bridges) and earlier evidence provided to a select committee by Sir Warren Fisher (Head of the Home Civil Service 1919–39). Clive Ponting was a senior civil servant who, in 1984, leaked classified documents relating to the sinking of ARA General Belgrano during the Falklands war.

The Northcote–Trevelyan report

10. The basis of the modern civil service is considered to be the Northcote–Trevelyan report, compiled by Sir Stafford Northcote and Sir Charles Trevelyan in 1853 and published the following year.¹⁶ That report argued:
- “It may safely be asserted that, as matters now stand, the Government of the country could not be carried on without the aid of an efficient body of permanent officers, occupying a position duly subordinate to that of the Ministers who are directly responsible to the Crown and to Parliament, yet possessing sufficient independence, character, ability and experience to be able to advise, assist, and, to some extent, influence, those who are from time to time set over them.”¹⁷
11. The report went on to criticise the composition of the civil service of the time. It found that junior civil servants were often appointed through patronage and promoted without consideration of merit. This meant they were not motivated to perform well, requiring key posts to be filled from outside the civil service. This practice in turn caused resentment among existing civil servants and was itself prone to patronage, with:
- “numerous instances ... in which personal or political considerations have led to the appointment of men of very slender ability, and perhaps of questionable character, to situations of considerable emolument, over the heads of public servants of long standing and undoubted merit.”¹⁸
12. Their solution was to establish a system of career civil service, with entry to the service of “a carefully selected body of young men ... [whose] promotion and future prospects depend entirely on the industry and ability with which they discharge their duties.”¹⁹ Entry would be through competitive examination, administered by a central board of examiners,²⁰ with promotion “from class to class” on merit rather than length of service.²¹ The report acknowledged that where “such varied talent and such an amount of experience are required ... it will occasionally be found necessary to fill them with persons who have distinguished themselves elsewhere”²² and thought it “absurd” to subject such appointments to examination.²³ Nonetheless, the report recommended that the circumstances of such appointments should be placed on record through official correspondence with the Board of Examiners and reported to Parliament.²⁴
13. The notion of an impartial civil service, with appointment and promotion based on merit rather than patronage has long been entrenched in the UK constitution. While the Northcote–Trevelyan report took time to be fully implemented, its conception of the civil service persisted throughout the 20th century and through to the present day, periodically emanating in expressions such as the Armstrong memorandum and CRAG.

16 House of Commons, *Report on the organisation of the permanent civil service—presented to both House of Parliament by Command of Her Majesty* (23 November 1853): https://www.civilservant.org.uk/library/1854_Northcote_Trevelyan_Report.pdf [accessed 29 August 2023]

17 *Ibid.*, para 2

18 *Ibid.*, para 7

19 *Ibid.*, p 9

20 *Ibid.*, p 11

21 *Ibid.*, p 18

22 *Ibid.*, p 7

23 *Ibid.*, p 15

24 *Ibid.*, p 15

14. While the precise degree of ministerial involvement in appointments and departures has been a matter of debate, the importance of civil service impartiality has not been widely disputed. The Government acknowledges this. The Ministerial Code, most recently reissued in December 2022, requires ministers to “uphold the political impartiality of the Civil Service”²⁵ while, in a recent written statement to the House of Commons, Rt Hon Oliver Dowden MP, Chancellor of the Duchy of Lancaster and Deputy Prime Minister, said:
- “The impartiality and perceived impartiality of the Civil Service is constitutionally vital to the conduct of government. Ministers must be able to speak to their officials from a position of absolute trust, so it is the responsibility of everyone in this House to preserve and support the impartiality of the civil service.”²⁶
15. While the civil service may be impartial, that does not mean it is independent. The Armstrong memorandum describes it as having “no constitutional personality or responsibility separate from the duly elected Government of the day”²⁷ and this was echoed by some of our witnesses. For instance Alex Thomas, Programme Director, Institute for Government, described the civil service as “an agent of the Government of the day, but that must sit alongside impartiality.”²⁸ In a paper for the Institute for Government, published after Mr Thomas gave evidence to this inquiry, he described appointment by merit as a cornerstone of impartiality, its legitimacy based on its effectiveness, and stressed the need for the civil service to avoid complacency about its recruitment processes, using impartiality “as a shield to avoid scrutiny of appointment decisions.”²⁹
16. Ministers—and not civil servants—are by convention considered accountable for all aspects of their departments’ work.³⁰ In *The accountability of civil servants* we concluded that this convention was “an essential principle underlying the arrangements that enable Parliament properly to perform its function of holding the Government to account.”³¹ As ministers are accountable they have a legitimate interest in ensuring the right people are appointed to key posts, and that those who are appointed serve the Government to the best of their ability, but this has to be balanced against maintaining the constitutional principles of integrity, honesty, objectivity and impartiality.
17. **The impartiality and perceived impartiality of the civil service is a central tenet of our constitution and not seriously challenged. Any fundamental changes to it should be made consciously and openly, and should be implemented only following careful scrutiny. In some cases, the change would require amendment of the Constitutional**

25 Cabinet Office, *Ministerial Code* (December 2022), para 1.3j: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1126632/Ministerial_Code.pdf [accessed 29 August 2023]

26 HC Deb, 2 May 2023, [HCWS757](#)

27 HC Deb, 26 February 1985, [cols 128–30W](#)

28 [Q 7](#) (Alex Thomas)

29 Institute for Government, *Appointed on merit: the value of an impartial civil service* (24 May 2023): <https://www.instituteforgovernment.org.uk/publication/civil-service-impartiality> [accessed 29 August 2023]

30 Although accounting officers—normally the permanent secretary—are, in parallel, personally accountable to Parliament for the efficient and effective management of their organisation. See para 20.

31 Constitution Committee, *The accountability of civil servants* (6th Report, Session 2012–13, HL Paper 61), para 12

Reform and Governance Act 2010. Where legislative change is not needed change should still be carried out with appropriate scrutiny and cross-party agreement. Under no circumstances should significant changes to the constitutional balance of the appointment and departure processes for civil servants take place through unscrutinised evolution of practice.

Roles of permanent secretaries and other senior civil servants

18. This report focuses on permanent secretaries and other officials of that rank. It occasionally considers appointments and departures of officials of lower rank, for instance directors general, where relevant to the overall question of ministerial involvement and its effect on impartiality. We have not considered the ‘senior civil service’ (i.e. those at deputy director level or above) more generally, save for some discussion of those working in ministers’ private offices. Below, we briefly outline the role of a permanent secretary and other relevant positions.

Permanent secretaries

19. A permanent secretary is the most senior civil servant in a government department. They are responsible for the day-to-day running of the department and act as the principal adviser to the minister at the head of the department (usually the secretary of state). There are also permanent secretaries of the Scottish and Welsh governments. The civil service supporting the Scottish and Welsh governments (but not the Northern Ireland Executive) remains part of the UK civil service, despite the devolution of political power to those nations.³²
20. The permanent secretary is normally the accounting officer for their department. Accounting officers are personally responsible for the efficient and effective management of their organisation and are directly accountable to Parliament—particularly the House of Commons Public Accounts Committee—for the stewardship of the department’s resources.³³ Where a minister wishes to pursue a policy which the accounting officer views as infringing these principles the accounting officer may request a public “ministerial direction” that the policy should nevertheless be pursued.³⁴

Cabinet Secretary and Head of the Civil Service

21. The Cabinet Secretary is the most senior civil service adviser to the Prime Minister and Cabinet. The Cabinet Secretary is generally also the Head of the Civil Service and line manager to the departmental permanent secretaries. On occasion those roles may be split—for instance between 2012 and 2014 Sir Jeremy Heywood was Cabinet Secretary and Sir Bob Kerslake Head of the Civil service.³⁵ The current Cabinet Secretary and Head of

32 For further information see Civil Service, ‘Our governance’: <https://www.gov.uk/government/organisations/civil-service/about/our-governance> [accessed 29 August 2023] and Institute for Government, ‘Permanent secretaries’ (12 March 2022): <https://www.instituteforgovernment.org.uk/explainer/permanent-secretaries> [accessed 29 August 2023]

33 HM Treasury, *Managing Public Money* (May 2023), para 3.12: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1174979/Managing_Public_Money_-_May_2023_.pdf [accessed 29 August 2023]

34 This Committee has described this power as “a significant one ... [whose] very existence no doubt prevents impropriety in some cases.” Constitution Committee, *The accountability of civil servants* (6th Report, Session 2012–13, HL Paper 61), para 49

35 See Institute for Government, ‘Cabinet Secretary’ (26 June 2020): <https://www.instituteforgovernment.org.uk/article/explainer/cabinet-secretary> [accessed 29 August 2023].

the Civil Service is Simon Case, who gave oral evidence to the Committee. Since 2020 Sir Alex Chisholm has been Chief Operating Officer for the Civil Service, as well as Permanent Secretary for the Cabinet Office.

Other roles

22. Some departments have ‘second permanent secretaries’, officials considered to be at permanent secretary grade but subordinate to that department’s permanent secretary.³⁶ Other positions of permanent secretary grade include the Director of Public Prosecutions, First Parliamentary Counsel, National Security Adviser, Treasury Solicitor and the heads of the intelligence agencies.³⁷

36 There appears to be a rising trend in second permanent secretaries. See ‘What does a second permanent secretary do and why are there so many of them?’, *Civil Service World* (18 July 2023): <https://www.civilserviceworld.com/in-depth/article/second-nature-what-does-a-second-permanent-secretary-do-and-why-are-there-so-many-of-them> [accessed 29 August 2023].

37 See written evidence from the Cabinet Office ([SCS0003](#)), which discusses some of these roles.

CHAPTER 2: APPOINTMENT PROCESS

Underlying principles of appointments system

Constitutional Reform and Governance Act 2010

23. While the underlying principles of civil service recruitment have been in place since the Northcote–Trevelyan reforms, they were put on a statutory footing by CRAG. Section 3 of the Act gives the Minister for the Civil Service (i.e. the Prime Minister) the power to “manage the civil service”, with a corresponding power for the Foreign Secretary to manage the diplomatic service.³⁸ It also:
- requires, with exceptions, appointments to the civil service of those “who are not civil servants” to be made “on merit on the basis of fair and open competition”³⁹
 - requires the Civil Service Commission, having consulted the Prime Minister, to publish recruitment principles⁴⁰
 - gives the Civil Service Commission power to provide in the recruitment principles requirements about the Commission’s approval of certain selections and exceptions from fair and open competition⁴¹
 - gives the Prime Minister power to agree additional functions for the Civil Service Commission.⁴²

Civil Service Commission

24. The Civil Service Commission is a non-departmental public body sponsored by the Cabinet Office. It was established in 1855 by Order in Council to oversee the new merit-based system proposed by the Northcote–Trevelyan report.⁴³ Like the merit-based system itself, it was not put into statute until the Constitutional Reform and Governance Act 2010.⁴⁴ According to Simon Case, its inclusion in the Act was intended to “ensure its independence from government.”⁴⁵
25. Its primary purpose is to ensure that appointment to the civil service is conducted “on merit on the basis of fair and open competition”⁴⁶ and to help “safeguard an impartial Civil Service.”⁴⁷ The Commission consists

38 Constitutional Reform and Governance Act 2010, [section 3](#)

39 *Ibid.*, [section 10](#)

40 *Ibid.*, [section 11](#)

41 *Ibid.*, [section 12](#)

42 *Ibid.*, [section 17](#)

43 For a discussion of the creation of the Commission, which did not go as far as envisaged by Northcote and Trevelyan, see Peter Hennessy, *Whitehall* (London: Fontana, 1990), pp 46–47.

44 Constitutional Reform and Governance Act 2010, [section 2](#)

45 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023), Annex B, para 9 B: <https://committees.parliament.uk/publications/41154/documents/202176/default/>

46 Constitutional Reform and Governance Act 2010, [section 10](#)

47 Civil Service Commission, ‘About The Commission’: <https://civilservicecommission.independent.gov.uk/about-the-commission/> [accessed 31 July 2023]

of at least seven members, led by the First Civil Service Commissioner.⁴⁸ The Commission sits alongside the Northcote–Trevelyan principles in maintaining the constitutional position of the civil service.

26. A memorandum of understanding agreed in 2010 sets out the respective recruitment responsibilities of the Government and the Commission. While, according to the memorandum, the Commission “in discharging its functions, is independent of the Government and the Civil Service”⁴⁹, its resources are provided by the Cabinet Office, which under the terms of the memorandum is able to review its operation.⁵⁰ Its staff is seconded from the civil service and its chief executive performs the same function for the Office of the Commissioner for Public Appointments and the Advisory Committee on Business Appointments.⁵¹
27. Simon Case told us the memorandum “requires updating” and that a new Framework Agreement was expected to be finalised in the coming months:
- “The Framework Agreement will continue to make clear that the Constitutional Reform and Governance Act (2010) allows the Commission to assert greater independence should it wish to (for example by directly recruiting its own staff from outside the Civil Service).⁵²
28. According to the memorandum the Government is responsible for:
- determining the number and grading of posts, and conditions of service;
 - controlling the conduct of the civil service, including the amendment and promulgation of the Civil Service code in consultation with the Commission;
 - recruiting individuals;
 - prescribing the qualifications for appointment; and
 - upholding, with the Commission, appointment on merit on the basis of fair and open competition.
29. The Commission is responsible for:
- regulating and monitoring appointment on merit, including through the publication of Recruitment Principles;
 - approving specific appointments as set out in the Recruitment Principles;

48 Constitutional Reform and Governance Act 2010, [Schedule 1](#), para 1(1). There are currently 11 Commissioners, see Civil Service Commission, ‘About The Commission’: <https://civilservicecommission.independent.gov.uk/about-the-commission/civil-service-commissioners/> [accessed 29 August 2023]

49 Cabinet Office and Civil Service Commission, *Memorandum of understanding between the Cabinet Office and the Civil Service Commission* (11 November 2010), para 2.1.a: https://civilservicecommission.independent.gov.uk/wp-content/uploads/2019/03/01b_Memorandum-of-Understanding.pdf [accessed 29 August 2023]

50 *Ibid.*, para 1.1.b

51 [Q 111](#) (Baroness Stuart of Edgbaston)

52 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023), Annex B, para 9: <https://committees.parliament.uk/publications/41154/documents/202176/default/>

- hearing and determining complaints about breaches of the Recruitment Principles; and
 - regulating the filling of posts which fall under the remit of the Senior Leadership Committee (i.e. permanent secretary or director general posts, or equivalents).⁵³
30. The Commission also oversees departmental policies on the Civil Service code and hears certain complaints of breaches of that code.⁵⁴
31. In practice this means the Commission provides oversight of general recruitment and is closely involved in very senior appointments, including chairing competitions for those appointments. Its role is described in the Recruitment Principles required under section 11 of CRAG.⁵⁵

Recruitment Principles

32. The Recruitment Principles were first issued in 2010 and have been reissued periodically thereafter. The most recent version was issued in 2018.⁵⁶ The Principles set out in detail how recruitment to the civil service is to be conducted. Box 2 shows the elements of the Principles dealing with the Commission's role in appointments relevant to this inquiry.

Box 2: The Recruitment Principles: the role of the Civil Service Commission in senior appointments

- All competitions at SCS Pay Band 4 (permanent secretary) are chaired by the First Civil Service Commissioner.
- All competitions at SCS Pay Band 3 (director general) or above are chaired by a Civil Service Commissioner.
- Most competitions at SCS Pay Band 2 (director) are chaired by a Civil Service Commissioner.⁵⁷
- The Commissioner plays a full part in the selection panel's deliberations. As chair, he or she approves the terms of the competition and prepares the panel report at the end of the competition.
- The Commissioner's panel report authorising an appointment is required before an appointment may be made.
- The Commission must approve in advance any proposed exception to the Principles under section 12 of CRAG for appointments at SCS Pay Band 2 or above (or posts at equivalent salary).

Source: Civil Service Commission, *Recruitment Principles*, paras 50–63

33. The Principles also describe how ministers are to be involved in competitions in which they have an interest. The key points are in box 3.

53 See paragraphs 79–89 for more on the Senior Leadership Committee. Its role appears to have evolved since the processes described in this section were put in place.

54 Cabinet Office and Civil Service Commission, *Memorandum of understanding between the Cabinet Office and the Civil Service Commission*

55 Constitutional Reform and Governance Act 2010, [section 11](#)

56 Civil Service Commission, *Recruitment Principles* (April 2018): https://civilservicecommission.independent.gov.uk/wp-content/uploads/2019/03/02a_RECRUITMENT-PRINCIPLES-April-2018-FINAL-.pdf [accessed 29 August 2023]

57 Baroness Stuart of Edgbaston, First Civil Service Commissioner, told us that around two thirds of such competitions were chaired by Commissioners. [Q 90](#) (Baroness Stuart of Edgbaston)

Box 3: The Recruitment Principles: the involvement of ministers

- The chair must ensure the minister is consulted on and agrees the final role and person specification.
- The minister should agree the composition of the selection panel “in particular to ensure that there is sufficient challenge from outside the Civil Service.”
- The minister may ask to be kept in touch with the progress of the competition throughout. Any views the minister may have about the expertise, experience and skills of the candidates must be conveyed to the selection panel.
- The minister may meet the candidates and feed back on any issues they wish to be tested at interview. Any such meeting must be attended by a representative of the Civil Service Commission.
- The minister may not be a member of a selection panel and may not add or remove candidates from a competition.
- The panel must assess the merits of candidates using the best possible evidence, including testing issues raised by the minister. The panel must recommend the best candidate for appointment.
- The minister may ask the panel to reconsider its assessment, setting out reasons. The panel may then revise its order of merit—if so, the reason must be recorded and the approval of the Board of the Commission obtained before the appointment can be made.

Source: Civil Service Commission, *Recruitment Principles*

34. Provisions for ministerial involvement are set out in the Principles but that involvement is at the minister’s discretion. Ministers are expected to agree the role and person specification and the composition of the panel; if they wish, they can meet candidates and suggest issues to be tested at interview; and they can ask the panel to reconsider its assessment. On the other hand, ministers may not be directly involved in the panel, which must assess candidates purely on merit against the issues agreed to be tested.
35. The above description applies to competitions for roles at director general level and below. It also applies to permanent secretary appointments but with extra ministerial involvement, from both the Prime Minister⁵⁸ and the relevant minister.
36. These enhancements to ministerial involvement are:
 - both the Prime Minister and the relevant minister are involved as described above;
 - the assessment of the candidate should include whether they can work effectively with the minister and fulfil the role of principal accounting officer;
 - the panel provides the names of all appointable candidates to the Prime Minister; and

⁵⁸ In some cases, such as the Head of the Diplomatic Service, the statutory appointing authority is not the Prime Minister, in which case the decision is made by the appointing minister.

- the Prime Minister decides on the final appointment from that list, in consultation with the First Civil Service Commissioner and the Head of the Civil Service.⁵⁹
37. For appointments to the posts of permanent secretary to the Scottish or Welsh government, the relevant First Minister takes the place of the Prime Minister.

Senior Appointments Protocol

38. The statutory requirement for appointment to be on merit based on fair and open competition applies “to the selection of persons who are not civil servants for appointment to the civil service.”⁶⁰ It is possible for existing civil servants to be appointed to posts following either an internal competition or a managed move (where they are already at the relevant grade). The statutory requirement for appointment on merit does not apply to existing civil servants where a post is not advertised externally, but the 2016 Civil Service Management Code says: “all promotions and lateral transfers [must] follow from a considered decision as to the fitness of individuals, on merit, to undertake the duties concerned” and should follow good practice guidance issued by the Cabinet Office.⁶¹ We therefore understand that in practice internal-only appointment competitions are run on the basis of merit, even though the statutory requirement and the terms of the Recruitment Principles do not apply.
39. For very senior appointments the Senior Appointments Protocol applies. This was agreed in 2011 between the then Cabinet Secretary, Sir Gus O’Donnell, and the then First Civil Service Commissioner, Sir David Normington.⁶² The Protocol applies to all director general, permanent secretary and equivalent appointments and explicitly requires those appointments (other than lateral managed moves) to be made on merit in accordance with the Recruitment Principles, whether or not the post is advertised externally.
40. According to the Protocol, the following principles apply to senior appointments:
- The selection route (external or internal competition or managed move) is decided by the Senior Leadership Committee.⁶³
 - Appointment on promotion must follow an external or internal competition.
 - All competitions are conducted in accordance with the Recruitment Principles.
 - There is a presumption that internal competitions will be advertised civil service-wide.⁶⁴

⁵⁹ Civil Service Commission, *Recruitment Principles*, paras 44–47

⁶⁰ Constitutional Reform and Governance Act 2010, [section 10\(1\)](#)

⁶¹ Civil Service, *Civil Service Management Code* (9 November 2016), para 6.4: <https://www.gov.uk/government/publications/civil-servants-terms-and-conditions> [accessed 29 August 2023]

⁶² Civil Service Commission and Civil Service, *Civil Service Senior Appointments Protocol* (July 2011): https://civilservicecommission.independent.gov.uk/wp-content/uploads/2019/07/02_Senior-Appointments-Protocol-signed-July-2011-8.pdf [accessed 29 August 2023]

⁶³ The Senior Leadership Committee is an opaque body, rarely publicly mentioned outside the Protocol. We discuss it in more detail below.

⁶⁴ The Protocol explains that this requirement is intended to meet the requirement for “open” competition.

41. However, Simon Case told us that, although the Protocol was still available on the Civil Service Commission website, it did not “accurately reflect the way we currently operate—particularly on Permanent Secretary appointments”. Instead, for permanent secretary competitions, the Cabinet Secretary and the First Civil Service Commissioner consider the most appropriate selection route before consulting the secretary of state and, if necessary, the Prime Minister.⁶⁵ The First Civil Service Commissioner, Rt Hon Baroness Stuart of Edgbaston, gave an account which appeared to have a different nuance: in the case of permanent secretary appointments the “vacancy holder”, i.e. the Cabinet Secretary and the Prime Minister, would decide on the selection route “in consultation with others.”⁶⁶ The Cabinet Secretary and the First Civil Service Commissioner have agreed to revise the protocol accurately to reflect current working practices.⁶⁷

Changes to the current system?

Ministerial involvement

42. In general, witnesses considered the current level of ministerial involvement, as described in the Recruitment Principles, to be appropriate.⁶⁸ Baroness Stuart thought that “ministers already have quite considerable scope for being involved in the process” and praised CRAG as “really helpful ... because it creates frameworks and is quite permissive: it tells the Commission that it has to have recruitment principles, but not what is in them.” She thought ministers should consider the Recruitment Principles as “empowering”, defining the boundaries between the roles of ministers and the Commission, and said problems occurred when ministers had not thought about the process beforehand or when several ministers were competing for the same official and became dissatisfied with the process. The Commission had no appetite for increasing ministerial involvement, but would not rule out greater transparency and accountability.⁶⁹
43. Rt Hon Lord Maude of Horsham, former Paymaster General and Minister for the Cabinet Office, who as the minister responsible for the Civil Service Reform Plan in 2014 introduced the process of Prime Ministers being given a choice of permanent secretary candidates, thought ministers already had “a high degree of involvement in the appointment of permanent secretaries and directors general” but there was a case for more transparency. He echoed Baroness Stuart’s concern that ministers needed “more visibility into how the appointment process works” and that they “do not know what their powers are.”⁷⁰
44. Lord Maude noted that the Prime Minister in practice delegated statutory authority to manage the civil service but argued that the terms of that

65 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023): <https://committees.parliament.uk/publications/41154/documents/202176/default/>.

66 [Q 104](#) (Baroness Stuart of Edgbaston)

67 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023), Annex B, para 8: <https://committees.parliament.uk/publications/41154/documents/202176/default/>. As discussed below, the role of the SLC in decisions on the selection route for posts is also slightly different from that set out in the Protocol.

68 See, for instance, [Q 8](#) (Alex Thomas) and [Q 124](#) (Jeremy Quin MP).

69 [Q 95](#) (Baroness Stuart of Edgbaston)

70 [Q 112](#) (Lord Maude of Horsham)

delegation were unclear. Drawing attention to wording in the Civil Service Management Code that “ministers ... will have a legitimate interest in a small number of posts ... for example where the postholder will work directly to them”,⁷¹ he argued that ministerial interest was wider as they were accountable for the work of every postholder in their department. He thought there should be “a better balance”, perhaps with a stronger role for the Civil Service Commission in invigilating the process.⁷²

45. For director general appointments, the Recruitment Principles require the secretary of state to be presented with the name of the candidate whom the panel found most meritorious. Simon Case told us that the Prime Minister now authorises all director general appointments.⁷³ Since 2014, for permanent secretary appointments, the Prime Minister has been presented with an unranked list of the candidates who are ‘above the line’.
46. Lord Macpherson of Earl’s Court, former permanent secretary to HM Treasury, and Rt Hon Baroness Prashar, former First Civil Service Commissioner, expressed concern over this process. Lord Macpherson thought it was important to ensure that the line of appointability was sufficiently high to prevent “dodgy” candidates from succeeding. He added: “ministers put a lot of pressure on those involved to ensure that their preferred people make it above the line.” He and Baroness Prashar thought the list provided to the Prime Minister should be ranked.⁷⁴ However Baroness Stuart told us that as First Civil Service Commissioner she was not aware of ministerial pressure for permanent secretary or director general appointments, though she could imagine it happening for private office roles.⁷⁵ She thought it was right for the Prime Minister to have a choice at permanent secretary level “because the relationship at that top level is so close” but that appointments below that level should be purely on merit.⁷⁶ She described the sort of panel report that would be sent to the Prime Minister:

“You then write a hopefully very thoughtful report and spell out the choice that has to be made, the trade-off. Do you want to bring about change? Candidate A may be a very solid continuity candidate with no surprises or fireworks. Candidate B may move this role forward, although there are risks involved with that. The vacancy holder has to decide. That is where the report becomes really important in outlining and describing the merit and the foundation for that. That is why the panel composition is really important, because you find those outside voices really helpful.”⁷⁷

47. Lord Sedwill, former Cabinet Secretary and Head of the Civil Service, agreed with ranking permanent secretary candidates, and added that it was important that the Prime Minister, and not the secretary of state, made the choice. This was because the Prime Minister, as Minister for the Civil Service, had a “custodian” responsibility and because of churn at ministerial level. He referred to a particular case where “a permanent secretary was appointed, but the secretary of state had changed by the time they got there.

71 Civil Service, *Civil Service management code*, para 6.4.3

72 [Q 113](#) (Lord Maude of Horsham)

73 [Q 135](#) (Simon Case)

74 [Q 71](#) (Lord Macpherson of Earl’s Court, Baroness Prashar)

75 [Q 91](#) (Baroness Stuart of Edgbaston)

76 [Q 96](#) (Baroness Stuart of Edgbaston)

77 [Q 100](#) (Baroness Stuart of Edgbaston)

On their first day, they already had a new secretary of state who had had no involvement at all in the process.”⁷⁸

48. Lord Sedwill questioned the degree to which Prime Ministers had in fact exercised their responsibility or whether they had “allowed, in effect, the serving secretary of state of the day to make the choice on their behalf.” He thought it should be made clear to Prime Ministers that they made such choices as the Minister for the Civil Service, with that responsibility.⁷⁹
49. Dr Conor Casey, Assistant Professor of Public Law, University of Liverpool, and Yuan Yi Zhu, Assistant Professor of International Relations and International Law, University of Leiden, thought that the previous ability of Prime Ministers to “veto” permanent secretary appointments was not adequately reflected in the Recruitment Principles, which, since the provision of a shortlist to the Prime Minister was introduced in 2014, state that the “Prime Minister must take the final selection decision from the appointable candidates”.⁸⁰ In their view, the Prime Minister should be able to “veto the shortlisted candidates and start the competition again.”⁸¹ Lord Macpherson thought that the previous system, where there was such a veto, could be inefficient, but requiring a new competition protected the principle of merit.⁸²
50. Baroness Stuart confirmed that it remained open to the Prime Minister not to appoint any of the candidates selected by the panel: “We give permission to appoint. It is not a duty to appoint. If no-one is appointed, that is the end of the process, and you have to start again.”⁸³
51. For appointments below the level of permanent secretary, ministers are invited to appoint the candidate considered by the panel to have most merit. Paragraph 43 of the Recruitment Principles gives ministers the right to ask the panel to revise its order of merit.⁸⁴ Simon Case told us that this provision had been used twice, for director general appointments. In both cases the panel determined a new merit order “on the basis of clearer information about what the minister wanted to test.”⁸⁵
52. **The provision of formal ministerial involvement in the appointment process strikes an appropriate balance, allowing ministers input into the job description, the person specification and the composition of the panel while preventing them from engineering the process in favour of a preferred candidate. This balance preserves the principle of merit, and it is important that ministers have proper regard to that principle throughout the process.**
53. **We were told that ministers were not sufficiently aware of the extent of their influence over appointments, or the limits on it. *It is incumbent upon permanent secretaries to brief incoming ministers on the degree to which they can be involved in the appointment of senior***

78 [Q 71](#) (Lord Sedwill)

79 *Ibid.*

80 Civil Service Commission, [Recruitment Principles](#), para 47

81 [Q 57](#) (Dr Conor Casey and Yuan Yi Zhu)

82 [Q 75](#) (Lord Macpherson of Earl’s Court)

83 [Q 91](#) (Baroness Stuart of Edgbaston)

84 Civil Service Commission, [Recruitment Principles](#)

85 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023), Annex B, para 5: <https://committees.parliament.uk/publications/41154/documents/202176/default/>

civil servants, and to repeat this briefing and clarify the extent to which the minister wishes to be involved when a relevant vacancy arises. This will help to avoid tension during the recruitment process and reinforce ministerial ownership of the process and the quality of those appointed.

54. **We see no reason to alter the current practice by which the Prime Minister is presented with a choice of appointable candidates for permanent secretary posts. It is important the Prime Minister makes such a choice conscious of their constitutional position as Minister for the Civil Service and with proper regard for the principle of merit. They should ensure that the chosen candidate is able to work with any minister, of whatever political persuasion, who might be appointed to the relevant department.**

Defining merit

55. Appointments to the civil service are legally required to be made on merit.⁸⁶ This is defined in the Recruitment Principles as “the appointment of the best available person judged against the published criteria for the role.”⁸⁷
56. We considered whether “merit” needed further clarification. Baroness Prashar told us that in her time in the Civil Service Commission merit was defined as “the person most suited to do the job at that particular time against the job description.”⁸⁸ Lord Sedwill spoke of finding the best “fit” for a role, given the Government’s activities at the time.⁸⁹ He described the published criteria as often “vanilla” but thought that at different times different personalities would be needed for a role. Baroness Prashar thought it was important that the job description was precise.⁹⁰
57. Baroness Stuart was attracted to the idea of refining the definition of merit in the Recruitment Principles to include reference to “the particular time” in which the recruitment was being carried out.⁹¹ Lord Maude was unconvinced.⁹²
58. **In our view “merit” includes having the right personality and characteristics to carry out the tasks required at a particular time. We are not convinced the Recruitment Principles need to be amended to reflect this. But it should be implicit in the preparation of a good job description and person specification. It would also help give ministers confidence that they have appointed the right person for their requirements if they have worked closely with the Civil Service Commission to ensure their priorities are reflected in the job description and pursued at interview.**

86 Constitutional Reform and Governance Act 2010, [section 10\(2\)](#). We discuss above the limits of this statutory requirement and how the principle of merit is applied where there is no external competition.

87 Civil Service Commission, *Recruitment Principles*, para 4

88 [Q 74](#) (Baroness Prashar)

89 [Q 75](#) (Lord Sedwill)

90 [Q 77](#) (Lord Sedwill, Baroness Prashar)

91 [Q 105](#) (Baroness Stuart of Edgbaston)

92 [Q 117](#) (Lord Maude of Horsham)

Appointment of the Cabinet Secretary

59. The Recruitment Principles do not apply to the appointment of the Cabinet Secretary. The Cabinet Manual describes the process:
- “The Cabinet Secretary is appointed by the Prime Minister on the advice of the retiring Cabinet Secretary and the First Civil Service Commissioner.”⁹³
60. Witnesses speculated on whether this was still appropriate. Baroness Stuart thought the appointment process for the Cabinet Secretary should be more open and transparent, noting that previous First Civil Service Commissioners—Ian Watmore and Baroness Prashar—had thought similarly. Her ambition was to make the process more open “until it matches the other appointments” but was clear that the Prime Minister should continue to choose from those found appointable.⁹⁴ Alex Thomas thought the Civil Service Commission could become more involved in setting the job description of the Cabinet Secretary.⁹⁵
61. Lord Maude thought the roles of Cabinet Secretary and Head of the Civil Service should be separated, but the appointment process for either of those roles did not need to be done “in a very different way from what is prescribed in the Recruitment Principles, with strong involvement of the Civil Service Commission.” Ultimately, it was a decision for the Prime Minister.⁹⁶
62. Simon Case described his appointment process, which was similar to that used in 2005, when Sir Gus O’Donnell was appointed. Candidates submitted a “manifesto” of the key things they would do with the job and were then interviewed first by the First Civil Service Commissioner and then by the Prime Minister. He hoped that this process would be the minimum used in the future and was open to setting out a more detailed and transparent process and revising the Cabinet Manual accordingly.⁹⁷
63. ***Given the importance of the Cabinet Secretary’s role, including as Head of the Civil Service, the appointment process for that post should be regularised, set out and made transparent in a manner similar to that for permanent secretaries. The exact nature of the process would need to be adapted in accordance with this unique role, with different considerations potentially applying to the roles of Cabinet Secretary and Head of the Civil Service, should they be separated. This would strengthen permanent secretaries’ confidence in the management of the civil service. The closeness of the working relationship between the Cabinet Secretary and the Prime Minister means that the Prime Minister should remain closely involved with the appointment and make the final choice. The Recruitment Principles should be updated to provide for a strengthened process for Cabinet Secretary and Head of Civil Service appointments. This should then be reflected in an updated Cabinet Manual.***

93 Cabinet Office, *The Cabinet Manual* (October 2011), para 4.53: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60641/cabinet-manual.pdf [accessed 29 August 2023]

94 [Q 93](#) (Baroness Stuart of Edgbaston)

95 [Q 5](#) (Alex Thomas)

96 [Q 120](#) (Lord Maude of Horsham)

97 [Q 134](#) (Simon Case). Mr Case noted that other Cabinet Secretary appointments had not involved a competition.

Involvement of special advisers

64. Special advisers are temporary civil servants. They are bound by the civil service standards of integrity and honesty, but not objectivity or impartiality.⁹⁸ CRAG explicitly excludes them from appointment on merit on the basis of fair and open competition⁹⁹ and they are not subject to the Recruitment Principles. Instead, they are appointed directly by the minister for whom they work, following approval from the Prime Minister.¹⁰⁰
65. CRAG is clear that special advisers may not “exercise any power in relation to the management of any part of the civil service of the State”¹⁰¹ although they may manage other special advisers.¹⁰² It does not further define “management”, but the Recruitment Principles add that special advisers “may not be involved in the recruitment of civil servants”¹⁰³ and the Code of Conduct for Special Advisers states that they should not be involved in “matters affecting a civil servant’s career such as recruitment, promotion, reward and discipline”.¹⁰⁴ How these restrictions are to be applied in practice does not appear to be further spelt out. These considerations apply to both departures and appointments, with similar considerations as to the appropriateness of special adviser involvement. We discuss departures in greater depth in chapter 3.
66. There has been speculation about the role of special advisers in respect of senior civil servants, particularly during Dominic Cummings’ tenure in the Prime Minister’s office when a series of disturbing comments were made about the appointment or departure of officials.¹⁰⁵
67. Alex Thomas expressed concern at the idea that a special adviser such as Mr Cummings might purport to have recruited or dismissed officials:

“We only have his tweets and evidence to go on it, but I think that Dominic Cummings’s sense of, ‘I appointed so-and-so’, or ‘I dismissed so-and-so’, is deeply unhealthy. It obviously formally comes back to the Prime Minister and is done in the name of the Prime Minister. A reinforcement and underpinning of that important principle would not go amiss.”¹⁰⁶

98 See Cabinet Office, *Code of Conduct for Special Advisers* (December 2016), para 8: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/832599/201612_Code_of_Conduct_for_Special_Advisers.pdf [accessed 29 August 2023]

99 Constitutional Reform and Governance Act 2010, [section 10\(3\)\(b\)](#)

100 *Ibid.*, [section 15\(1\)](#)

101 *Ibid.*, [section 8\(5\)\(b\)](#)

102 *Ibid.*, [section 8\(6\)](#)

103 Civil Service Commission, *Recruitment Principles*, para 58

104 Cabinet Office, *Code of Conduct for Special Advisers*, para 6

105 See, for instance, ‘Hard rain is going to fall on civil service, says Dominic Cummings’, *The Times* (25 June 2020) available at: <https://www.thetimes.co.uk/article/hard-rain-is-going-to-fall-on-civil-service-says-dominic-cummings-gcq79vc10>, ‘Mark Sedwill seeks end to Whitehall briefing war’, *Financial Times* (24 February 2020) available at: <https://www.ft.com/content/737b79aa-56ff-11ea-abe5-8e03987b7b20>, “‘Two hands are a lot’—we’re hiring data scientists, project managers, policy experts, assorted weirdos...”, Dominic Cummings’s Blog (2 January 2020): <https://dominiccummings.com/2020/01/02/two-hands-are-a-lot-were-hiring-data-scientists-project-managers-policy-experts-assorted-weirdos/>

106 [Q 11](#) (Alex Thomas)

68. Witnesses were clear that special advisers should have no formal role in appointments or departures.¹⁰⁷ Baroness Stuart elaborated on her view of the appropriate level of involvement:

“The two absolute red lines ... are, first, that ministers cannot see candidates without the presence of a commissioner or representative of the commission; and, secondly, that special advisers must play no role in the entire process.”¹⁰⁸

And:

“it is [at the moment of a formal meeting between the minister and candidate attended by a Commission representative] when it can become uncomfortable. I think it is when ministers, or private offices, are not sufficiently aware of the rules. That is the moment when we have to be absolutely vigilant that special advisers, who usually have a very close relationship with ministers, play no role in this at all. They cannot be in the room and that can be tricky.”¹⁰⁹

69. However, many witnesses thought it unrealistic to expect that ministers would not take advice from special advisers. Alex Thomas said ministers could “take advice from whoever they want about the merits or otherwise of a candidate.”¹¹⁰ Lord Sedwill thought a minister would “take a range of sources of advice in discussing an appointment, including from special advisers or other parliamentary colleagues.” He believed ministers should not act “simply on the basis of their own instincts and judgement but taking whatever other sources of advice they can.”¹¹¹
70. Baroness Stuart acknowledged that it was impossible to control whom ministers consulted outside the formal recruitment structures “but they have to own the decision.”¹¹²
71. **Private discussions between ministers and their special advisers are impossible to regulate, but the decision with respect to these issues must be that of the minister. Special advisers should not be formally involved in the appointment or departure processes.**
72. **Public statements by special advisers about the recruitment, performance or departure of civil servants are unacceptable as they risk giving the impression—or tolerating the reality—that special advisers are managing civil servants. Ministers are responsible for the actions of their special advisers and they should ensure this does not happen.**

External and internal appointments

73. In May 2022 it was announced that senior civil service appointments would be advertised externally by default. This was intended to “boost diversity, broaden expertise in senior posts and open opportunities to people outside

107 [Q 11](#) (Alex Thomas), [QQ 91 and 106](#) (Baroness Stuart of Edgbaston)

108 [Q 91](#) (Baroness Stuart of Edgbaston)

109 [Q 96](#) (Baroness Stuart of Edgbaston)

110 [Q 11](#) (Alex Thomas)

111 [Q 88](#) (Lord Sedwill)

112 [Q 106](#) (Baroness Stuart of Edgbaston)

of London.” Exceptions to this should, in theory, be approved by a minister.¹¹³ It has since been reported that many such jobs are still not advertised externally.¹¹⁴

74. Most witnesses supported external appointments. Lord Macpherson saw “huge benefit in ventilating the civil service” and making the system more “porous”.¹¹⁵ Baroness Prashar described how a desire for external appointments had been present since the Thatcher administration and thought it was important to have external appointments to bring in “the kind of capabilities that the civil service probably does not have in areas of project management, digital new technology and so on.” Nonetheless she thought there needed to be proper consideration of which jobs should be advertised externally.¹¹⁶ Lord Sedwill added that the process should work in both directions. He thought that, as Cabinet Secretary, he would have benefited from the experience he had since gained in the private sector¹¹⁷ and argued that there would be less “drama” around senior departures if there were more frequent movement in and out of the civil service.¹¹⁸
75. Lord Maude also supported external appointments but thought it was “neither necessary nor practical” to advertise externally by default.¹¹⁹ The answer was to “solve the problems that make it difficult to effectively recruit externally, and then integrate people successfully.”¹²⁰
76. Some witnesses saw cultural or expertise issues which made it difficult to recruit externally at a very senior level. Alex Thomas said that, while permanent secretary competitions were generally open, “the sorts of skills that permanent secretaries and senior civil servants demonstrate—and that ministers and other senior officials want—are ones that are grown by a period in the civil service.” Successful external candidates tended to join the civil service at director or director general level before becoming a permanent secretary.¹²¹ Lord Sedwill made a similar point.¹²²
77. Baroness Stuart told us that the Civil Service Commission monitored external job advertisements to ensure they did not include essential requirements that could be acquired only through time in the civil service.¹²³ However, she thought certain roles were “exceptionally unlikely” to be filled externally, including that of permanent secretary to the Treasury.¹²⁴
78. **External appointments to the civil service can fill skills gaps and refresh organisational culture. There may be great benefit in encouraging inward and outward moves, both for the career**

113 Cabinet Office, ‘All Senior Civil Service jobs to be advertised externally from today’ (13 May 2022): <https://www.gov.uk/government/news/all-senior-civil-service-jobs-to-be-advertised-externally-from-today> [accessed 29 August 2023]

114 ‘A third of senior civil servant jobs are not opened up to external candidates,’ *The Times* (19 April 2023) available at: <https://www.thetimes.co.uk/article/a-third-of-senior-civil-servant-jobs-are-not-opened-up-to-external-candidates-s2znbbvdt>

115 [Q 80](#) (Lord Macpherson of Earl’s Court)

116 [Q 80](#) (Baroness Prashar)

117 [Q 80](#) (Lord Sedwill)

118 [Q 81](#) (Lord Sedwill)

119 [Q 114](#) (Lord Maude of Horsham)

120 *Ibid.*

121 [Q 5](#) (Alex Thomas)

122 [Q 82](#) (Lord Sedwill)

123 [Q 91](#) (Baroness Stuart of Edgbaston)

124 *Ibid.*

development of individuals and to ensure the civil service is as effective as it can be. Nonetheless, skills acquired and experience accrued in the civil service should be valued, as should the continuity provided by a cadre of long-serving civil servants working for administrations of different political persuasions. If the ‘external by default’ system is to succeed it must be monitored closely to ensure that departments properly commit to it.

Oversight of external and internal appointments

79. The Civil Service Commission is the key body providing oversight of appointments, as described above. The Senior Leadership Committee (SLC) is also important, as is the Advisory Committee on Business Appointments (ACOBA) with regard to departures. If there is a desire for a more porous civil service then the roles of these bodies and their relationship to one another may need to be examined.
80. The SLC comprises a number of senior civil servants, the Government’s lead non-executive director and the First Civil Service Commissioner. It is currently chaired by Sir Chris Wormald, permanent secretary to the Department for Education. Alex Thomas described the SLC as the civil service’s “internal succession planning forum.”¹²⁵ Dr Casey told us little was known about the SLC and referred to a Policy Exchange report which argued that “its exact terms of reference, rules of procedure and the frequency with which it meets are all unknown. No minutes of its deliberations have ever been published.”¹²⁶
81. The Senior Appointments Protocol says that “the selection route for any appointment [at director general level or above] will be decided by the Senior Leadership Committee.”¹²⁷ Since the advent of the policy of ‘external by default’ this appears no longer to be strictly true, an issue raised by witnesses.¹²⁸ Simon Case confirmed this—he told us that when deciding an approach to director general recruitment, a permanent secretary must first seek their minister’s approval and then put the case to SLC.¹²⁹
82. Lord Sedwill told us that the SLC was not usually involved in permanent secretary appointments because of conflicts of interest—a subset of the Committee would deal with very senior permanent secretary appointments.¹³⁰ He described the main committee as focusing on the level of appointment below: second permanent secretary and director general posts.¹³¹ Simon Case said that while the SLC did not make individual recruitment decisions it ensured the director general “cadre is of sufficient quality and that chosen

125 [Q 5](#) (Alex Thomas)

126 [Q 59](#) (Dr Conor Casey) and Policy Exchange, *Open, Meritocratic and Transparent: Reforming Civil Service Appointments* (8 November 2021), p 42: <https://policyexchange.org.uk/wp-content/uploads/2021/11/Open-Meritocratic-and-Transparent.pdf> [accessed 29 August 2023]

127 Civil Service Commission and Civil Service, *Civil Service Senior Appointments Protocol* (July 2011): https://civilservicecommission.independent.gov.uk/wp-content/uploads/2019/07/02_Senior-Appointments-Protocol-signed-July-2011-8.pdf [accessed 29 August 2023]

128 [Q 13](#) (Alex Thomas), [Q 59](#) (Dr Conor Casey)

129 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023), Annex B, para 8a: <https://committees.parliament.uk/publications/41154/documents/202176/default/>

130 The First Civil Service Commissioner, Head of the Civil Service, Chief Operating Officer/Chief Executive of the Civil Service and Treasury permanent secretary.

131 [Q 81](#) (Lord Sedwill)

recruitment routes uphold this quality.” This could involve testing whether external recruitment should be used or challenging “lengthy temporary promotions”.¹³²

83. Baroness Stuart referred to her predecessors taking different views about the place of the First Civil Service Commissioner on the SLC, with one feeling that it was problematic to be involved in strategic discussions about individual careers, then to chair a recruitment panel for that person later. Her view was that the Civil Service Commission had no interest in many issues discussed by the SLC, on which she did not seek to intervene. But on issues such as external by default or interview processes, she would contribute.¹³³
84. Baroness Prashar appeared to take a more expansive view of the role of the First Civil Service Commissioner. She thought the role of the Commission went beyond recruitment, as custodians of an impartial civil service, and described discussing “very carefully” the balance between internal and external appointments and becoming involved in internal competitions.¹³⁴
85. Simon Case said the SLC’s role was to advise him, as Cabinet Secretary and Head of the Civil Service, on talent management, particularly among directors general, and to ensure that the civil service had the right skills and people. He explained how the decision whether to advertise a vacancy externally or internally, or to fill it by managed move is taken:

“That decision is taken in the first instance by the permanent secretary consulting their secretary of state. The Senior Leadership Committee will then endorse or challenge that decision.

The department of the permanent secretary is then responsible for making that DG appointment, with ministerial involvement ... It is then the Prime Minister who authorises the final appointment of any DG. Whether [it is] a managed move or whether it is an internal or external competition, in the end the Prime Minister authorises all appointments at DG level and above.”¹³⁵

86. Mr Case confirmed that approval from a secretary of state (or sometimes the Prime Minister) was required in order not to advertise a director general role externally, and that the SLC played no role in determining whether permanent secretary competitions should be advertised externally.¹³⁶ He undertook to publish the SLC’s terms of reference and membership, and provide us with a list of topics it had discussed.¹³⁷ He subsequently did so and told us that he had agreed with the First Civil Service Commissioner to update the Senior Appointments Protocol.¹³⁸

132 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023), Annex B, para 8a: <https://committees.parliament.uk/publications/41154/documents/202176/default/>

133 [Q 102](#) (Baroness Stuart of Edgbaston)

134 [Q 75](#) (Baroness Prashar)

135 [Q 135](#) (Simon Case)

136 [Q 137](#) (Simon Case). The process described by Mr Case is different from the set out in the Recruitment Principles and Senior Appointments Protocol, as described earlier in this chapter.

137 [Q 135](#) (Simon Case)

138 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023): <https://committees.parliament.uk/publications/41154/documents/202176/default/>

87. The Senior Leadership Committee is accountable to the Cabinet Secretary/ Head of the Civil Service and, through them, to the Prime Minister.¹³⁹ It is not currently chaired by the Cabinet Secretary though Baroness Stuart argued that it should be.¹⁴⁰
88. **The Senior Leadership Committee is an opaque body, with its role having been described in apparently contradictory terms. We welcome the Cabinet Secretary's undertaking to publish details of its terms of reference and membership. *The Senior Leadership Committee should be as transparent as possible, for example by publishing or providing to the Civil Service Commission an annual account of its activities.***
89. **The governance structure concerning selection routes for very senior appointments is convoluted and unclear, and has evolved significantly since the Senior Appointments Protocol was agreed and the most recent Recruitment Principles published. Among other changes, the Prime Minister now appears directly to approve appointments at director general level, an evolution not widely publicised. *The Senior Appointments Protocol and Recruitment Principles should both be updated, in particular to reflect the 'external by default' policy and the Prime Minister's role in approving director general appointments.* We welcome the commitment of the Cabinet Secretary and First Civil Service Commissioner to ensure this is done.**
90. The Advisory Committee on Business Appointments (ACOBA) considers the propriety of outside appointments taken up by former ministers and senior officials. It shares a secretariat with the Civil Service Commission.¹⁴¹
91. While ACOBA deals with roles taken up after leaving the civil service, if there is a desire for greater movement in and out of the civil service the rules on outside employment¹⁴² become relevant to inward appointment, as well as for civil servants leaving and then returning to the civil service. Lord Sedwill argued that it was important to regulate such outward appointments and thought that the Civil Service Commission could play a role beyond that currently played by ACOBA, which was a complex process dealing only with the most senior civil servants.¹⁴³ Lord Maude thought the ACOBA process might discourage potential inward candidates.¹⁴⁴
92. Simon Case told us that discussions had taken place through the Senior Leadership Committee, the Civil Service Commission and ACOBA about how to make 'external by default' work and that proposals were imminent on providing more clarity of the sort that Lord Maude advocated.¹⁴⁵
93. **We look forward to seeing the forthcoming work, promised by the Cabinet Secretary, on the rules concerning business appointments and the role of ACOBA in setting expectations for those seeking to**

139 [Q 135](#) (Simon Case)

140 [Q 102](#) (Baroness Stuart of Edgbaston)

141 [Q 119](#) (Lord Maude of Horsham)

142 Cabinet Office, 'Business appointment rules for Crown servants' (21 December 2016): <https://www.gov.uk/government/publications/business-appointment-rules-for-crown-servants/business-appointment-rules-for-crown-servants> [accessed 7 September 2023]

143 [Q 81](#) (Lord Sedwill)

144 [Q 122](#) (Lord Maude of Horsham)

145 [Q 127](#) (Simon Case)

enter the civil service. Regularisation of inward and outward moves might entail a greater role for the Civil Service Commission. This might require the relationship between its responsibilities and those of the Senior Leadership Committee and ACOBA to be redefined.

CHAPTER 3: DEPARTURES

94. This inquiry was prompted by a series of high-profile permanent secretary departures, often characterised as “sackings” or “dismissals”. As the inquiry progressed we came to appreciate the range of circumstances under which an individual might leave a post, where it was not always straightforward to describe the situation as a “dismissal”. This chapter considers the circumstances under which permanent secretaries depart their posts, reserving the term “dismissal” for those in which an individual is removed from post having been subject to disciplinary action. This would usually occur only following misconduct or incompetence.
95. “Departure” covers a range of scenarios in which a senior civil servant vacates their post, not necessarily following formal disciplinary action. This could occur because a permanent secretary’s five-year fixed tenure comes to an end, as a result of an actual or perceived inability on the part of the secretary of state or Prime Minister to work effectively with an individual,¹⁴⁶ or, it has been suggested, on political or ideological grounds.
96. Simon Case told us that permanent secretaries were appointed as members of the senior civil service of their department but were ultimately employed by the Crown. In cases of departure, individuals could rely on their employment rights and on appointment received an employment contract setting out principal terms and conditions, including the particulars required by the Employment Rights Act 1996. Nonetheless, the Prime Minister has authority to appoint or dismiss civil servants through section 3 of CRAG.¹⁴⁷
97. Other than the Prime Minister, ministers do not have the authority to dismiss civil servants, including permanent secretaries.¹⁴⁸ The Civil Service Commission does not have a role in departures. Its statutory role is “in relation to selections for appointments to the civil service”¹⁴⁹ and the Commission’s Recruitment Principles are silent on departure.¹⁵⁰ However, similar bodies in Australia and New Zealand, albeit in different political and organisational contexts, do have a role in departures.¹⁵¹ We examined the reasons for departures of senior civil servants and whether there was scope for greater regularisation of the process.

146 [Q 50](#) (Dr Conor Casey) and [Q 87](#) (Lord Sedwill)

147 [Q 130](#) (Simon Case), Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023): <https://committees.parliament.uk/publications/41154/documents/202176/default/>

148 [QQ 66 and 75](#) (Baroness Prashar). Ministers are able to contribute to the performance management of those who work directly with them and wield informal influence over the composition of their teams. See, for instance, Constitution Committee, *The accountability of civil servants* (6th Report, Session 2012–13, HL Paper 61), paras 36–39.

149 Constitutional Reform and Governance Act 2010, [section 2 \(3\)](#)

150 Civil Service Commission, *Recruitment Principles* and written evidence from Cabinet Office ([SCS0003](#)), para 2

151 The Australian Prime Minister may recommend in writing that the Governor-General terminates the appointment of a department secretary but before doing so must have received a report about the proposed termination from the Public Service Commissioner. Public Service Act 1999 (Australia), [section 59\(1\) and \(2\)](#). In New Zealand, the Public Service Commission may investigate the chief executive if a minister or the Prime Minister believes there is a problem with their performance or conduct, and remove them from office for just cause or excuse with the agreement of the Governor-General in Council. Public Service Act 2020 (New Zealand), Schedule 7, [section 8\(1\)](#).

Dismissal on performance or misconduct grounds

98. Baroness Prashar and Lord Macpherson considered it essential that due process was followed for dismissals on performance or misconduct grounds.¹⁵² Baroness Prashar said steps had to be taken in any good organisation—including performance management, appraisals and warnings—before dismissal could take place. She thought the Government should be no different, particularly as irregular dismissals could give rise to questions about civil service impartiality.¹⁵³
99. Simon Case assured us that formal processes were in place for matters of performance, misconduct and discipline.¹⁵⁴ The Cabinet Office explained the process of performance and misconduct management for permanent secretaries:
- “Secretaries of state are consulted about the performance of their permanent secretaries at regular points: formal performance appraisal processes and tenure renewal negotiations. They may also raise any performance concerns directly with the Cabinet Secretary at any point ... feedback on permanent secretaries’ delivery of ministerial priorities and departmental leadership is reviewed at regular delivery stocktake discussions, which are chaired by the Cabinet Secretary and attended by the organisation’s lead non-Executive Director (NED). The outputs from these discussions inform the performance appraisal process.”¹⁵⁵
100. If issues of permanent secretary underperformance or misconduct arise, concerns—including any concerns the secretary of state has—can be raised through regular “stocktake” discussions with the individual’s line manager.¹⁵⁶ The Cabinet Office stated: “permanent secretaries are subject to the same HR policies and processes to which other employees are subject”. However, the permanent secretary’s role as head of the organisation meant “(reasonable) amendments to the departmental processes may need to be made in order to achieve a swift resolution—particularly where ministers have concerns and it is necessary to re-establish the important relationship of trust and confidence between them.”¹⁵⁷ This sentiment was somewhat echoed by Lord Sedwill, who said it was right that if someone was “not up to the job” they were removed from post.¹⁵⁸
101. Some witnesses supported the Civil Service Commission providing a “guardianship” role over the dismissal process, particularly in increasing transparency.¹⁵⁹ Alex Thomas thought this could include becoming involved in the performance management of permanent secretaries, but was opposed to making it “impossible or too hard” to remove a permanent secretary who was not performing.¹⁶⁰
102. **In the rare circumstances in which a permanent secretary must be dismissed on performance or misconduct grounds this should be treated wholly as a human resources matter, following due process.**

152 [Q 75](#) (Baroness Prashar, Lord Macpherson of Earl’s Court)

153 [Q 75](#) (Baroness Prashar)

154 [Q 127](#) (Simon Case)

155 Written evidence from the Cabinet Office ([SCS0003](#)), para 10

156 *Ibid.*, para 16

157 *Ibid.*, para 15

158 [Q 66](#) (Lord Sedwill)

159 [Q 6](#) (Alex Thomas) and [Q 95](#) (Baroness Stuart of Edgbaston)

160 [Q 6](#) (Alex Thomas)

We welcome the current process of performance and misconduct management for permanent secretaries as outlined by the Cabinet Office.

103. **There is scope for the Civil Service Commission to play a role in the dismissal of senior civil servants on performance or conduct grounds, by ensuring due process is followed.**

Departures on other grounds

Fixed five-year tenure

104. Fixed five-year tenure was introduced for standard permanent secretary contracts in 2014. The tenure applies to the role rather than the individual—in the words of the Cabinet Office: “an individual’s contractual rights and underlying permanent employment status are unaffected by their tenure period in a particular role at this level.”¹⁶¹ While there is no automatic presumption in favour of renewal, renewals may be granted at the discretion of the Prime Minister where a permanent secretary’s performance is strong.¹⁶²
105. Lord Sedwill explained the process as follows: as the five-year point approached the Head of the Civil Service would talk to the permanent secretary during their annual appraisal to ascertain whether they intended to apply for an extension. The Head of the Civil Service would then consult the secretary of state and the Prime Minister before making any formal recommendation.¹⁶³ The Cabinet Office explained that, if an appointment was not renewed, the permanent secretary was expected to depart their post when the tenure period ended.¹⁶⁴ If an appropriate alternative post could not be identified compensation might be offered.¹⁶⁵
106. Lord Sedwill viewed the five-year tenure as a means of preventing “too much churn short of the five-year point”, while also providing an important opportunity to assess the value of a permanent secretary’s continuation in post beyond five years.¹⁶⁶ Lord Maude saw the benefit in having the option not to reappoint a permanent secretary after five years, which did not exist prior to the introduction of five-year tenure.¹⁶⁷ While Baroness Prashar did not disagree with this point of view, she cautioned that the five-year tenure system—which often coincided with elections—could be misused to “bring politicisation through the back door”.¹⁶⁸
107. The risks involved in senior civil servant terms coinciding with political cycles was raised in a report by the Irish Government in June 2023:

“International research suggests that the use of limited term appointments for senior level Public Service appointments is relatively common across OECD countries. These countries use limited-term appointments for such senior positions in order to promote a focus on performance, avoid complacency, generate renewal at the top level and

161 Written evidence from Cabinet Office ([SCS0003](#)), para 13

162 *Ibid.*, para 13 and [Q 87](#) (Lord Sedwill)

163 [Q 87](#) (Lord Sedwill) and written evidence from Cabinet Office ([SCS0003](#)), para 10

164 Written evidence from Cabinet Office ([SCS0003](#)), paras 13–14

165 *Ibid.*, para 14. The Cabinet Office said compensation should be “in accordance with the relevant provisions of the Civil Service Compensation Scheme and as set out in their contract of employment”.

166 [Q 87](#) (Lord Sedwill)

167 [Q 115](#) (Lord Maude of Horsham)

168 [Q 87](#) (Baroness Prashar)

ensure opportunities for talent to progress. Most OECD countries have term limits for Senior Civil Service positions which do not correspond with political cycles, which ensures stability of leadership and can also act to protect independence of the civil service.”¹⁶⁹

108. We considered whether the introduction of the five-year tenure had affected the manner and timing of permanent secretary departures. The Institute for Government provided figures on the average tenure of permanent secretaries since 2010:

Table 1: Figures on the average tenure of permanent secretaries since 2010

Period	Average tenure
2010–13	3 years, 9.5 months
2014–present	3 years, 10.5 months
2010–18	4 years
2019–2023	3.5 years

Source: Written evidence from Alex Thomas, Programme Director, Institute for Government ([SCS0005](#))

109. Simon Case provided a slightly different set of figures:

Table 2: Average years in role for permanent secretaries since June 2019

Data point	All permanent secretaries			Heads of Department only		
	Years in current role (avg.)	Years as a permanent secretary (avg.)	Number of permanent secretaries	Years in current role (avg.)	Years as a permanent secretary (avg.)	Number
June 2019	6.8	8.0	40	6.7	8.5	21
June 2020	5.3	6.3	40	5.6	7.0	18
June 2021	4.0	4.8	43	4.3	5.6	18
June 2022	3.4	4.1	47	3.6	4.9	19
June 2023	2.4	3.2	45	2.7	4.2	19
Average	4.4	5.3	43	4.6	6.0	19

Source: Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023), Annex B, para 7b: <https://committees.parliament.uk/publications/41154/documents/202176/default/>

¹⁶⁹ Government of Ireland’s Department of Public Expenditure, NDP Delivery and Reform, *Review of Senior Public Service Recruitment and Pay Determination Processes* (27 June 2023), p 71: <https://www.gov.ie/en/publication/ddd08-review-of-senior-public-service-recruitment-and-pay-determination-processes/> [accessed 29 August 2023]

110. The two sets of figures use different methodologies, one measuring completed tenure and the other recording time in post at a particular time. There appears to be insufficient evidence of a significant long-term reduction in tenure. Nonetheless, Alex Thomas described a “notable dip” between 2019 and 2023, largely coinciding with the Boris Johnson premiership and the first five-year tenures starting to conclude.¹⁷⁰ We have previously noted that 12 individuals of permanent secretary rank departed the civil service in 2020, significantly above the average number.¹⁷¹ The figures from Simon Case also show a reduction in time in post between 2019 and 2023, possibly reflecting the events of 2020.
111. **There is insufficient evidence that fixed five-year tenure has had any general impact on churn at permanent secretary level, notwithstanding the notable dip between 2019 and 2023. Nonetheless, it serves as a valuable check on a permanent secretary’s continuation in post, allowing the Head of the Civil Service, the secretary of state and the Prime Minister to consider various factors before deciding whether renewal is appropriate.**
112. **We acknowledge the risk that where the completion of a permanent secretary’s five-year tenure coincides with a change of Government, it could be used as an opportunity to appoint a permanent secretary more politically aligned to the incoming Government. However, there is insufficient evidence to suggest this has happened to date.**

Poor relationship between a permanent secretary and secretary of state

113. The importance of a positive working relationship between a secretary of state and a permanent secretary was captured in written evidence by the Cabinet Office:

“The permanent secretary is the head of their organisation and an important part of their role is to secure the absolute confidence of their Secretary of State. The success of that relationship is critical to their effectiveness in the role.”¹⁷²

114. An irrecoverable relationship breakdown was described by Rt Hon Jeremy Quin MP, Paymaster General and Minister for the Cabinet Office, as “very rare” and Lord Maude said it “should not be frequent”.¹⁷³ During an event at the Institute for Government former Cabinet Secretary and Head of the Civil Service Lord O’Donnell recalled ministers telling him they could not work with a particular official, sometimes very shortly after taking office, which he considered “ridiculous”. But if the relationship continued to be difficult, he accepted that sometimes personalities did not work well together and would seek to find a solution. He thought that, ultimately, if the Prime Minister lost confidence in a permanent secretary they would need to be moved, but it was better to avoid reaching that point.¹⁷⁴

170 Written evidence from Alex Thomas, Programme Director, Institute for Government ([SCS0005](#))

171 The average number of departures per year for 2019–2022 was 7, slightly above the 2013–2022 average of 5.7.

172 Written evidence from the Cabinet Office ([SCS0003](#)), para 11

173 [Q 115](#) (Lord Maude of Horsham), [Q 127](#) (Jeremy Quin MP)

174 Institute for Government, ‘Has civil service impartiality had its day?’ (23 May 2023): <https://www.instituteforgovernment.org.uk/event/civil-service-impartiality> [accessed 31 July 2023]

115. There was a clear sense among witnesses that in these circumstances the Cabinet Secretary and Head of the Civil Service¹⁷⁵ should have “sufficient personal authority and gravitas to be able to interrogate reasons for [removal]” and to advise against it where he or she considers it unwise.¹⁷⁶ Simon Case told us he would expect to be “intimately involved” in managing a poor relationship between a permanent secretary and a secretary of state and he would expect this to “play out over weeks, if not months.”¹⁷⁷ He said:
- “When there are issues around performance, you would expect to be consulted early to try to help bring the parties back together, to identify the particular issues, and to put together improvement plans, whether formally or informally, to try to make that work. If, in the end, you cannot make the relationship work to both parties’ satisfaction, you begin the discussion about either redeployment or what we call voluntary exit, which is a conversation that I would be involved with, as would the Prime Minister.”¹⁷⁸
116. This was in line with evidence from Lord Maude, who thought a period of reflection should take place to discover whether there is any possibility of resolving the situation.¹⁷⁹
117. However, given the importance of this relationship, and its inevitable impact on a permanent secretary’s overall performance, witnesses were clear that secretaries of state and permanent secretaries with incompatible working relationships should not be forced to continue to work together.¹⁸⁰ In such circumstances the Prime Minister, as Minister for the Civil Service, could remove the permanent secretary from post.¹⁸¹
118. Witnesses agreed that in such circumstances there was a limit to what the Cabinet Secretary could do to resist the decision.¹⁸² Simon Case said that where a “mutually agreed breakdown in relationships” occurred, there was a need to act quickly and no process should “get in the way of doing what all parties think is the sensible and right thing to do.” However, he thought that ensuring a “proper process” was followed, albeit at times rapidly, would help maintain the integrity and impartiality of the civil service.¹⁸³
119. Baroness Prashar said that, if the removal of a permanent secretary became unavoidable, it should be done with “courtesy, compassion and understanding”.¹⁸⁴ Many witnesses thought every effort should be made to identify another suitable job in the civil service for the official.¹⁸⁵ Though, Alex Thomas suggested that in recent times it was more difficult for

175 The role of Cabinet Secretary is combined with the role of Head of the Civil Service and has been since 2014 (the two roles were also combined prior to 2012). As Head of the Civil Service, the office holder manages senior civil servants, including by setting objectives, delivering feedback, and rewarding good performance. Institute for Government, ‘Cabinet secretary’ (26 June 2020): <https://www.instituteforgovernment.org.uk/article/explainer/cabinet-secretary>. [accessed 29 August 2023]

176 [Q 66](#) (Baroness Prashar), [QQ 67, 69](#) (Lord Sedwill) and [Q 121](#) (Lord Maude of Horsham)

177 [QQ 129 and 130](#) (Simon Case)

178 [Q 129](#) (Simon Case)

179 [Q 121](#) (Lord Maude of Horsham)

180 [Q 75](#) (Lord Sedwill) and [Q 120](#) (Lord Maude of Horsham)

181 [Q 131](#) (Simon Case)

182 [Q 4](#) (Alex Thomas), [Q 67](#) (Lord Sedwill), [QQ 129 and 130](#) (Simon Case)

183 [Q 131](#) (Simon Case)

184 [Q 66](#) (Baroness Prashar)

185 [QQ 69 and 87](#) (Lord Sedwill), [QQ 42 and 53](#) (Dr Conor Casey), [QQ 115, 120 and 121](#) (Lord Maude of Horsham) and [Q 57](#) (Yuan Yi Zhu)

permanent secretaries to find another post to which to transfer if they had lost the confidence of the secretary of state.¹⁸⁶ Lord Sedwill thought a transfer at permanent secretary level would be challenging, given that there were a limited number of equivalent roles.¹⁸⁷ In the correct circumstances, retirement could be offered instead.¹⁸⁸ This would allow the individual to “depart with dignity” and pursue other career opportunities.¹⁸⁹

120. We considered whether, and to what extent, further processes should be put in place to regularise the departure of permanent secretaries when their relationship with the secretary of state was not viable. Simon Case said there was an argument that the civil service should not be managing this alone for fear of “marking [its] own homework”. He thought “it would benefit everybody to have absolute transparency around ... departure” and saw a potential role for the Civil Service Commission given its existing role in protecting and preserving the impartiality of the civil service and the notion of appointment “on merit”.¹⁹⁰ He noted, however, that there was “a limit on what you can put into the public domain” about individual departures.¹⁹¹
121. Lord Sedwill was not convinced it would be possible to introduce “structured due process” where a secretary of state or Prime Minister felt unable to work with a particular permanent secretary. He thought prohibiting the departure of a permanent secretary until a particular procedure had been followed would result in permanent secretaries who were “completely disempowered and unable to fulfil their duties.”¹⁹²
122. **We recognise that for a permanent secretary fostering a positive relationship with the secretary of state is, in itself, a matter of performance. The Recruitment Principles require panels to assess a candidate’s ability to work with the minister as part of the permanent secretary appointment process and it is rare that a breakdown in relationship occurs. However, forming a positive relationship is a two-way process. Incoming ministers must allow permanent secretaries time to establish a productive relationship before seeking their removal. It is vital that ministers prize expertise and good advice over pre-conceived notions about their ability to work with a particular permanent secretary. Removal on the grounds of a poor working relationship must not become cover for arbitrary removal of permanent secretaries on political or ideological grounds.**
123. **The Cabinet Secretary and Head of the Civil Service has a vital role in ensuring that individuals are not removed from their posts by a Prime Minister without due process. If the working relationship between a secretary of state and a permanent secretary is irrecoverable the Head of the Civil Service must be given the opportunity to manage the individual’s transfer to another role or, where appropriate, their retirement. There is a case for formalising the departure process in situations where there is no issue of performance or misconduct (see paragraph 131).**

186 [Q 3](#) (Alex Thomas)

187 [Q 75](#) (Lord Sedwill)

188 [Q 87](#) (Lord Sedwill)

189 [Q 50](#) (Dr Conor Casey, Yuan Yi Zhu) and [Q 75](#) (Lord Sedwill)

190 [QQ 129 and 130](#) (Simon Case)

191 [QQ 127 and 129](#) (Simon Case)

192 [QQ 69 and 75](#) (Lord Sedwill)

Political or ideological grounds

124. It has been widely speculated that recent senior civil servant departures may have taken place on political or ideological grounds:
- Professor Dennis Grube, Professor of Politics and Public Policy, University of Cambridge, suggested that former permanent secretary of the Department of Education, Jonathan Slater, departed from post in August 2020 because a view had been formed that somebody needed to take responsibility for several exam-related policy mishaps during the COVID-19 pandemic.¹⁹³
 - Sir Mark (now Lord) Sedwill departed as Cabinet Secretary in September 2020 following briefings that tension had emerged with senior members of then Prime Minister Boris Johnson’s team.¹⁹⁴
 - Lord Sedwill told us that former National Security Adviser Sir Stephen Lovegrove was dismissed “without merit” when he departed his post in September 2022.¹⁹⁵ He was moved to the position of ‘Defence Industrial Adviser’.¹⁹⁶
 - Some suggested that Sir Tom Scholar was removed as permanent secretary to the Treasury in 2022 by then Prime Minister Elizabeth Truss and then Chancellor of the Exchequer Kwasi Kwarteng to make a statement about the new Government’s intention to depart from “Treasury orthodoxy”.¹⁹⁷ Lord Macpherson described the move as “a pre-emptive strike designed to demonstrate to the rest of the Treasury that, if you wanted to thrive and prosper under the Kwarteng regime, you had to tell them what they wanted to hear; namely that unfunded tax cuts would have no consequences in the market.”¹⁹⁸ Simon Case confirmed there was no question of underperformance in Tom Scholar’s case.¹⁹⁹
125. The critical point about both Sir Tom Scholar and Sir Stephen Lovegrove’s departures was the short time frame in which the decisions were made, which would not have allowed for any meaningful process to be followed. Lord Sedwill emphasised that these individuals would not have had the opportunity “to demonstrate to the new administration that they would serve them with the same loyalty and capability they had served previous administrations.”²⁰⁰ Lord Macpherson thought a “pre-emptive” move of this nature might be justified if there had been serious underperformance in a department but in the circumstances it appeared to be based on the perceived views of the individuals in question.²⁰¹

193 [Q 24](#) (Prof Dennis Grube)

194 BBC News, ‘Sir Mark Sedwill: UK’s top civil servant steps down’ (28 June 2020): <https://www.bbc.co.uk/news/uk-politics-53210773> [accessed 29 August 2023]

195 [Q 66](#) (Lord Sedwill)

196 Cabinet Office, Prime Minister’s Office, 10 Downing Street, and Elizabeth Truss MP, ‘Sir Tim Barrow appointed as National Security Adviser’ (7 September 2022): <https://www.gov.uk/government/news/sir-tim-barrow-appointed-as-national-security-adviser> [accessed 29 August 2023]

197 [Q 3](#) (Jill Rutter), [Q 22](#) (Prof Dennis Grube) and [Q 66](#) (Baroness Prashar and Lord Macpherson of Earl’s Court)

198 [Q 66](#) (Lord Macpherson of Earl’s Court)

199 [Q 129](#) (Simon Case)

200 [Q 67](#) (Lord Sedwill)

201 [Q 68](#) (Lord Macpherson of Earl’s Court)

126. That due process was not followed gave rise to questions about impartiality and may, in Lord Sedwill's view, have been a "deliberate signal to Whitehall that political alignment with the new Government's views was the key criterion and that capability, loyalty and performance were not."²⁰² This was concerning, not least because perception of a civil servant's views could be incorrect.²⁰³ Baroness Prashar was concerned Tom Scholar's removal sent a message to ministers that it was within ministerial power to dismiss permanent secretaries, and that this could become a trend.²⁰⁴
127. Simon Case noted widespread feeling that Tom Scholar's removal was "an unusual and potentially unwise act".²⁰⁵ Alex Thomas thought there was an argument that the existing system for the departure of senior civil servants had "failed the stress test" when it came to these individuals. He thought there should be a "higher bar" for removing permanent secretaries: the Government should "justify much more rigorously and, over a reasonable but not indefinite period of time" why the permanent secretary should be removed.²⁰⁶
128. Simon Case acknowledged that permanent secretaries looked to the Cabinet Secretary and Head of the Civil Service to protect them from removal on political or ideological grounds. He considered this part of his role. He cautioned, however, that there was a limit to what he could do publicly given the private nature of civil servant advice to ministers.²⁰⁷
129. Baroness Stuart was hesitant to involve the Civil Service Commission in dismissal or departures, which she thought risked straying into human resources functions.²⁰⁸ However, while noting Baroness Stuart's reservations, Simon Case thought there was scope for the Commission to play a greater role in protecting civil servants from politically or ideologically motivated dismissals. He noted that formal processes existed for performance management and discipline issues but not for the sort of departure caused, for example, by a breakdown of relationship between a permanent secretary and a minister. While acknowledging that it was sometimes necessary, for instance where there had been a machinery of government change, to move quickly, and that "in politics there are questions about personal fit" he thought it "advisable to make sure that those are dealt with in an open, transparent and proper way". Such a process would need to be fair to the individual while protecting their rights and should capture "what the evidence is for a breakdown in relationship".²⁰⁹ Mr Case thought information about such departures could be shared, privately as necessary, with a scrutiny body such as the Civil Service Commission.²¹⁰
130. **While removal of senior civil servants on political or ideological grounds may be rare, we are concerned that recent examples may be an indication that there are insufficient safeguards around the departure of senior civil servants.**

202 [Q 67](#) (Lord Sedwill) and [Q 66](#) (Baroness Prashar)

203 [Q 71](#) (Lord Sedwill)

204 [Q 66](#) (Baroness Prashar)

205 [Q 129](#) (Simon Case)

206 [Q 9](#) (Alex Thomas)

207 [Q 132](#) (Simon Case)

208 [Q 101](#) (Baroness Stuart of Edgbaston)

209 [Q 127](#) (Simon Case)

210 [Q 129](#) (Simon Case)

131. *Formal departure processes should be set out in writing, requiring ministers and the Prime Minister to explain to the Civil Service Commission—in private if necessary—their decision to remove and replace a senior civil servant . A written record of the decision and the reasons for it should be kept. These processes should be sufficiently flexible to allow a minister to replace at short notice a senior civil servant with whom a working relationship has broken down. However, it is desirable that senior civil servants are given sufficient opportunity to build a positive working relationship with the minister and demonstrate that they can deliver the Government’s priorities. Under no circumstances should civil servants be dismissed on purely political or ideological grounds.*

CHAPTER 4: POLITICISATION IN APPOINTMENTS AND DEPARTURES

Politicisation or personalisation?

132. In chapter 2 we concluded that the current degree of formal ministerial involvement in appointments struck an appropriate balance. In chapter 3 we expressed concern that recent removals of senior civil servants on what appeared to be political or ideological grounds might be an indication that there are insufficient procedural safeguards around the departure of senior civil servants. In our inquiry we also sought to interrogate whether these recent high-profile examples amounted to evidence of an emerging trend towards greater political or ideological motivation behind ministerial involvement in appointments and departures. Any loss of confidence in the impartiality and integrity of the processes by which they are appointed and removed risks impugning the effectiveness of their role. The way these processes are carried out deserves careful scrutiny.
133. Alex Thomas had not seen any evidence of appointment or dismissal of permanent secretaries by ministers and prime ministers as a result of “capital P politicisation”. He thought the desire to replace permanent secretaries and other senior civil servants was about “personalisation” not “politicisation”. He did, however, consider there was an increasing desire by ministers and Prime Ministers for a personal relationship with the permanent secretary and to have made an appointment themselves.²¹¹ Professor Grube agreed: he did not see a trend for permanent secretaries and other senior civil servants to leave their posts when a change of Prime Minister or cabinet reshuffle took place, and there was not significant evidence of permanent secretaries being removed to replace them with people who were “demonstrably of either party”.²¹²
134. Several witnesses were of the view that in recent years ministers were much more willing to make a public statement by dispensing with the services of a civil servant.²¹³ This was exemplified by the removal of Sir Tom Scholar in September 2022. Nonetheless, Alex Thomas and Jill Rutter suggested that when permanent secretaries had “moved on” from their posts in recent years—including in the case of Sir Tom Scholar—their replacements had been very “conventional” and “obvious” civil servant candidates. This suggested the point of the exercise was the act of removing the permanent secretary, rather than trying to appoint somebody who would “change the ethos of departments”.²¹⁴
135. Lord Sedwill thought it was not always the objectively best candidate who was selected for a permanent secretary vacancy but the one with whom the secretary of state felt most comfortable.²¹⁵ Lord Macpherson said ministers put pressure on the recruitment panel to ensure “their people make it above the line”,²¹⁶ though according to the Civil Service Commission Recruitment Principles, the selection panel “must recommend the best candidate for

211 [Q 3](#) (Alex Thomas)

212 [QQ 14 and 25](#) (Prof Dennis Grube)

213 [Q 2](#) (Jill Rutter, Alex Thomas), [QQ 18 and 25](#) (Prof Dennis Grube), [Q 40](#) (Yuan Yi Zhu), [Q 51](#) (Dr Conor Casey) and [Q 66](#) (Lord Macpherson of Earl’s Court, Baroness Prashar)

214 [Q 2](#) (Jill Rutter, Alex Thomas) and [Q 4](#) (Alex Thomas)

215 [Q 66](#) (Lord Sedwill)

216 [Q 75](#) (Lord Macpherson of Earl’s Court)

appointment”.²¹⁷ Baroness Stuart had not encountered this kind of ministerial pressure and would expect any commissioner who did to “raise it and find it inappropriate”.²¹⁸

136. **The small number of recent high-profile removals of senior civil servants on what appeared to be political or ideological grounds does not amount to a trend. However, some recent departures and appointments have been conducted in the public eye and might be seen to reflect a desire on the part of ministers to personalise appointments and assert their authority. *This practice should be avoided. It risks senior civil service turnover coinciding with ministerial churn, creating a perception of politicisation and damaging institutional knowledge.***

Is broad political alignment necessary or desirable?

137. Policy Exchange emphasised the need for a good working relationship between the appointed permanent secretary and the secretary of state. This relationship:

“might require, for example, a basic alignment of political viewpoints between the Permanent Secretary and the Secretary of State.”²¹⁹

138. The authors—Dr Casey and Yuan Yi Zhu—made clear that they were not referring to political alignment “in the narrow party-based or partisan sense of the word”. Instead, they meant “a broadly shared moral vision of the ends and values politics, economics and society should be orientated toward and guided by.”²²⁰
139. Elaborating on this point, Dr Casey thought that forced co-habitation between a senior civil servant and a secretary of state who were “at odds ... on every moral or economic fundamental” increased the risk of “foot-dragging or obstructionism”. He did not think this would necessarily be the result of bad faith on the part of the civil servant but rather a reluctance to “burn the midnight oil” if they fundamentally disagreed with a policy.²²¹
140. Yuan Yi Zhu argued that the pace of political life meant that secretaries of state did not have time to wait to find out if senior civil servants were going to drag their feet and thought there was an advantage in considering the issue of basic political alignment “before any potential problems arise”.²²² He noted that secretaries of state were “constitutionally responsible” for the performance of their departments and if the secretary of state had not been involved in the appointment of their permanent secretary there was “always a temptation to blame civil servants for being wicked and for sabotaging the Government”. By contrast, if the secretary of state had been involved it would “increase the level of accountability and political commitment”.²²³
141. However, it was unclear how a system in which each secretary of state appointed a permanent secretary based on perceived political alignment—or on any other grounds—would work, given that ministerial tenure in office

217 Civil Service Commission, *Recruitment Principles*, para 42

218 [Q 91](#) (Baroness Stuart of Edgbaston)

219 Written evidence from Policy Exchange ([SCS0004](#)), para 12

220 *Ibid.*, para 13

221 [Q 45](#) (Dr Conor Casey)

222 [Q 47](#) (Yuan Yi Zhu)

223 [Q 45](#) (Yuan Yi Zhu)

was often shorter than the five-year tenure afforded to permanent secretaries.²²⁴ Jill Rutter thought that if there were to be a new permanent secretary every time a new minister entered a department it would “wreck one of the assets of our system” by undermining the sense of continuity.²²⁵

142. A contrary view was offered by other witnesses. Lord Sedwill thought it was difficult to imagine circumstances in which there would not be a basic level of political alignment in the manner described by Dr Casey and Yuan Yi Zhu:

“If we are talking about an attitudinal commitment to democracy, an impartial civil service, the public good, an independent judiciary and the rule of law, et cetera, in a sense, everyone is committed to those. I have not really come across any politicians who are not either. Saying that alignment is necessary in that sense is at risk of becoming otiose.”²²⁶

143. Lord Sedwill referred to Sir David Normington’s time as permanent secretary to the Home Office, during which he served four different Labour secretaries of state.²²⁷ Although those Home Secretaries belonged to the same political party they sat at different points on “the liberal versus authoritarian spectrum”. Sir David did not have to demonstrate alignment of attitudes on that spectrum in order to serve those secretaries of state effectively—he gave them candid advice and deployed his best efforts to implement their decisions.²²⁸

144. Lord Maude told the Committee that during his time in the Cabinet Office he “could not give a stuff what the politics were” of the civil servants working there. He said ministers wanted people who challenged the existing culture and were “disruptive in a good way”.²²⁹ He emphasised the importance of having a civil service that was “ready and able to serve an incoming Government of a different disposition effectively”.²³⁰ This contributed to the sense of permanence in the civil service which, in Lord Macpherson’s view, improved the governance of the country.²³¹

145. During an Institute for Government event in May 2023 Rt Hon George Eustice MP questioned the use of the word ‘impartiality’ when describing the civil service. Civil servants had to produce plans to implement Government policy and arguments in response to urgent questions that would help the minister “shoot down” the opposition. This was very ‘partial’. What was important was that civil servants could set aside their own views in order to serve the Government of the day.²³² This was echoed by Lord Maude, who

224 Q 72 (Baroness Prashar)

225 Q 7 (Jill Rutter)

226 Q 71 (Lord Sedwill)

227 Sir David Normington was permanent secretary to the Home Office 2005–11. During that time, he served the following Labour Home Secretaries: Charles Clarke, John Reid (now Lord Reid of Cardowan), Jacqui Smith and Alan Johnson. He also served Conservative Home Secretary Theresa May MP.

228 Q 71 (Lord Sedwill)

229 Q 117 (Lord Maude of Horsham)

230 Q 113 (Lord Maude of Horsham). The Civil Service Code states that civil servants must “act in a way which deserves and retains the confidence of ministers, while at the same time ensuring that you will be able to establish the same relationship with those whom you may be required to serve in some future government”. Civil Service, *Civil Service code* (16 March 2015): <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code> [accessed 29 August 2023]

231 Q 72 (Lord Macpherson of Earl’s Court)

232 Institute for Government, ‘Has civil service impartiality had its day?’ (23 May 2023): <https://www.instituteforgovernment.org.uk/event/civil-service-impartiality> [accessed 29 August 2023]

thought “[w]e should be much calmer about civil servants having political backgrounds or going on to do political things.”²³³

146. **We reject the notion that broad political alignment should be a relevant consideration in the appointment of senior civil servants. The role of the civil service is to provide honest, objective and impartial advice to the Government. After advice has been provided and a secretary of state makes a decision, it becomes the job of the civil service to implement that decision. If a civil servant fails to implement the secretary of state’s decision it is a performance issue and should be dealt with according to the processes outlined in chapter 3. Introducing a criterion of broad political alignment between the secretary of state and the permanent secretary unhelpfully complicates the existing duty on civil servants to serve the government of the day to the best of their ability regardless of their own political beliefs. It risks undermining senior civil servants’ ability to establish the confidence of future secretaries of state and governments of different dispositions.**

Risks to the accounting officer role

147. A key function of the civil service is to provide evidence-based information and advice to ministers.²³⁴ In Lord Maude’s experience, some ministers were concerned that civil servants told them what they wanted to hear rather than giving “challenging, independent and dispassionate advice”.²³⁵ Baroness Stuart described the importance of boundaries as well as trust in the relationship between ministers and senior civil servants: occasionally ministers would request something that could not be done and civil servants must have the confidence to say so.²³⁶ There was some concern among witnesses that high-profile removals of senior civil servants could lead to officials hedging their advice by being less forthright about the quality or deliverability of Government policy.²³⁷
148. This concern was particularly pertinent when it came to permanent secretaries’ role as accounting officers. Accounting officers have a duty to “assure Parliament and the public of high standards of probity in the management of public funds”. In doing so, accounting officers routinely scrutinise proposed Government policy against the criteria in box 4.²³⁸

233 [Q 117](#) (Lord Maude of Horsham)

234 Civil Service, *The Civil Service code* (16 March 2015): <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code> [accessed 29 August 2023], [Q 126](#) (Simon Case, Jeremy Quin MP)

235 [Q 113](#) (Lord Maude of Horsham)

236 [Q 97](#) (Baroness Stuart of Edgbaston)

237 [Q 7](#) (Alex Thomas and Jill Rutter)

238 HM Treasury, *Managing Public Money* (May 2023), pp 19 and 22: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1153523/Managing_Public_Money_-_May_2023_.pdf [accessed 29 August 2023]

Box 4: The standards expected for projects and proposals

Regularity: the proposal has sufficient legal basis, parliamentary authority, and Treasury authorisation; and is compatible with the agreed spending budgets.

Propriety: the proposal meets the high standards of public conduct and relevant parliamentary control procedures and expectations.

Value for money: in comparison to alternative proposals or doing nothing, the proposal delivers value for the Exchequer as a whole.

Feasibility: the proposal can be implemented accurately, sustainably and to the intended timetable.

Source: HM Treasury, *Managing Public Money* (May 2023), p 19 and 22: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1174979/Managing_Public_Money_-_May_2023_.pdf [accessed 29 August 2023]

149. According to Treasury guidance, where an accounting officer perceives a conflict between a minister’s instructions and the criteria in box 4, they should first consider whether the proposed action or policy can be modified to bring it in line with the criteria. If it cannot, and the minister chooses to proceed regardless, the accounting officer “shall ask their senior minister for a formal written direction to proceed.” Treasury guidance specifies: “[t]he acid test is whether the accounting officer could justify the proposed activity if asked to defend it”.²³⁹
150. Witnesses considered it constitutionally important that accounting officers could request a direction where they considered ministerial instructions to fall short of the four tests.²⁴⁰ Some witnesses described requests for ministerial directions as an essential “safeguard”.²⁴¹
151. Alex Thomas told us that as accounting officers, permanent secretaries should “feel the heat” from Parliament on compliance with the four tests. Lord Macpherson described it as an accounting officer’s job “to have quite serious and direct conversations with a secretary of state if they are proposing ... to cross one of those lines.”²⁴² Lord Maude thought ministers should, in return, have the confidence to justify a policy and proceed with it if they thought it prudent to do so.²⁴³ As Professor Grube described it, this was effectively a minister saying that they had personally assessed the national interest and would take responsibility for the decision to act despite the reservations of the accounting officer.²⁴⁴
152. Dr Conor Casey said there would always be a tension between a civil servant’s duty to serve the Government of the day and their duty to fulfil their role as accounting officer. However, he considered the system of appointments effective in ensuring that only candidates with the ability and character to manage this tension would be presented to the Prime Minister for appointment.²⁴⁵ The risk would come if the checks in the appointment system were removed and a system of political appointees was introduced.

239 *Ibid.*, paras 3.6.2 and 3.6.4

240 Q 7 (Alex Thomas), Q 58 (Dr Conor Casey)

241 Q 113 (Lord Maude of Horsham), Q 7 (Alex Thomas) and Q 58 (Yuan Yi Zhu)

242 Q 83 (Lord Macpherson of Earl’s Court)

243 Q 116 (Lord Maude of Horsham)

244 Q 32 (Prof Dennis Grube)

245 Q 58 (Dr Conor Casey). It is a requirement of the Recruitment Principles that a recruiting panel should assess a permanent secretary candidate’s ability to act as an accounting officer.

In such a scenario both Lord Macpherson and Dr Conor Casey feared that those appointed would be less likely to challenge ministers. This would be a loss because directions were an effective means by which to “put things on the table” and in some cases encourage a secretary of state to rethink their approach.²⁴⁶ Lord Macpherson acknowledged a risk that “some of the hiring and firing that has gone on” in recent years may have had a chilling effect on the way permanent secretaries discharged their accounting officer role.²⁴⁷ Baroness Prashar thought the risk of a chilling effect on accounting officers reinforced the importance of an impartial civil service.²⁴⁸

153. Simon Case thought there was no reason why greater ministerial involvement would necessarily make the accounting officer role any more or less difficult to discharge robustly, but suggested that if the balance changed it would need to be reviewed over the lifetime of relevant appointments.²⁴⁹
154. Lord Sedwill said in the challenging environment of recent years it was possible some permanent secretaries had become more reliant on the “formality” of their accounting officer duties to Parliament as a means by which to maintain their authority. He was concerned that over-reliance of accounting officer duties could erode confidence in the “key relationship between a secretary of state and permanent secretary” and emphasised the importance of permanent secretaries maintaining balance across all their responsibilities.²⁵⁰
155. **The role of accounting officer is a valuable aspect of the constitution. To be effective, this function relies on the impartiality of permanent secretaries and their ability to ‘speak truth to power’. A shift towards a system of senior civil servant appointments or departures with a greater degree of ministerial influence would risk having a chilling effect on accounting officer functions to the detriment of the public interest.**

246 [Q 58](#) (Dr Conor Casey) and [Q 83](#) (Lord Macpherson of Earl’s Court)

247 [Q 84](#) (Lord Macpherson of Earl’s Court)

248 [Q 84](#) (Baroness Prashar)

249 Letter from Simon Case, Cabinet Secretary and Head of the Civil Service, to Baroness Drake, Chair of the Constitution Committee, following up on the Committee evidence session with the Paymaster General and Cabinet Secretary on 18 July 2023 (30 August 2023), Annex B, para 6: <https://committees.parliament.uk/publications/41154/documents/202176/default/>

250 [Q 84](#) (Lord Sedwill)

CHAPTER 5: PERMANENT SECRETARIES IN DEVOLVED ADMINISTRATIONS

Appointment of permanent secretaries in Scotland and Wales

156. The Northern Ireland Civil Service (NICS) is separate from the civil service serving the UK, Scottish and Welsh governments.²⁵¹ The NICS was established in 1921 following the partition of Ireland, with staff initially transferred from relevant departments in Dublin. The NICS has its own Head, its own grading system and its own Civil Service Commission.²⁵² As such, our inquiry did not examine the appointment and departure of permanent secretaries and senior civil servants in Northern Ireland.
157. However, officials working for the governments of the UK, Scotland and Wales belong to the same civil service organisation. In each of Scotland and Wales, there is a single permanent secretary, who is the most senior civil servant and supports the devolved governments in developing, implementing and communicating their policies, as well as being the principal policy adviser to the First Minister.²⁵³
158. Permanent secretaries in the devolved nations were previously appointed by the Prime Minister following consultation with the relevant First Minister. However, following the Calman Commission on Scottish Devolution in 2009 and the National Assembly for Wales report *The appointment of the permanent secretary to the Welsh Government* in 2012, the Prime Minister's role in these appointments was delegated to the Cabinet Secretary and Head of the Civil Service, with oversight from the Civil Service Commission. The Civil Service Recruitment Principles apply to the recruitment of permanent secretaries to the Scottish and Welsh governments,²⁵⁴ and the only political input is final approval from the relevant First Minister.²⁵⁵

Position of permanent secretaries in devolved nations

159. The permanent secretaries of Scotland and Wales are accountable to the Scottish and Welsh First Ministers for “the delivery of their priorities” and to the Cabinet Secretary and Head of the Civil Service for “the leadership of their departments”.²⁵⁶ Their appointment processes mirror that for departmental permanent secretaries but with the political involvement coming from individuals who may not be of the same political party as the

251 Cabinet Office, Civil Service, and Department for Levelling up, Housing and Communities, ‘Devolution: Guidance for civil servants’ (21 June 2023): <https://www.gov.uk/government/publications/devolution-guidance-for-civil-servants/devolution-guidance-for-civil-servants> [accessed 29 August 2023]

252 Paul Carmichael, ‘The Northern Ireland Civil Service: Characteristics and Trends since 1970’, *Public Administration: an international quarterly*, vol 80, Issue 1 (Spring 2002), p 26: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/1467-9299.00293>

253 Scottish Government, ‘Government structure’: <https://www.gov.scot/about/how-government-is-run/> [accessed 29 August 2023]. Welsh Government, ‘New Permanent Secretary of the Welsh Government announced’ (9 September 2021): <https://www.gov.wales/new-permanent-secretary-of-the-welsh-government-announced> [accessed 29 August 2023]

254 Civil Service Commission, *Recruitment Principles*, para 2 and footnote 2

255 Written evidence from the Cabinet Office (SCS0003), paras 20 and 21. Scottish Parliament’s Finance and Public Administration Committee, *Inquiry into effective Scottish Government decision-making*, FPA/S6/23/14/1 (14th Meeting, 2023 (Session 6), 16 May 2023), p 7: <https://www.parliament.scot/~media/committ/5833> [accessed 29 August 2023] and Audit Wales, *Payment to the Welsh Government’s Former Permanent Secretary on Termination of Employment* (September 2022), para 16: https://www.audit.wales/sites/default/files/publications/Payment_to_the_Welsh_Governments_Former_Permanent_Secretary_on_Termination_of_Employment_English.pdf [accessed 29 August 2023]

256 Written evidence from the Cabinet Office (SCS0003), para 22

UK Government, and not subject to collective cabinet responsibility, which regulates the political direction of individual secretaries of state.

160. Both permanent secretaries are ‘line managed’ by the Cabinet Secretary and Head of the Civil Service.²⁵⁷

161. The Cabinet Office explained how this operates:

“The First Ministers of Scotland and Wales provide an assessment of their permanent secretaries’ performance and delivery of their priorities which feeds into the performance appraisal process. They are supported in this by their lead NEDs who collate feedback on the permanent secretaries and also attend stocktake discussions.

In this way, the permanent secretaries in the DAs operate as part of the UK civil service: they are members of the wider (CS) leadership, and “Wednesday Morning Colleagues” groups;²⁵⁸ and they provide organisational leadership to the civil servants in their organisations. At the same time, they are politically accountable to their First Minister.”²⁵⁹

162. Simon Case described the permanent secretary arrangements in Scotland and Wales as “unique”. For example, when it came to performance management of these permanent secretaries he said:

“rather than specifically judge, as I would with other permanent secretaries, whether they are delivering the political objectives set by the Government, I have to look much more at whether they have the systems and processes in place that allow them to deliver”.²⁶⁰

163. Some witnesses thought the permanent secretaries in Scotland and Wales might occasionally find themselves in a difficult situation due to political disagreements between the UK Government and the Scottish or Welsh governments. Professor Grube commented on “the heat of many of the political arguments between the nations of the United Kingdom”,²⁶¹ and Alex Thomas listed the 2014 Scottish independence referendum, Brexit and the ongoing discussion of independence in Scotland as areas of tension.²⁶²

164. However, Alex Thomas and Jill Rutter thought the situation faced by the permanent secretaries in Scotland and Wales was not entirely different to that faced by permanent secretaries whose departments were at “loggerheads”. In these circumstances, the permanent secretaries of the respective departments would maintain a relationship, cooperating to “manage collective issues” without attempting to resolve policy differences between departments.²⁶³

165. Professor Grube disagreed. In his view there was a “qualitative difference” between negotiating between two government departments serving the

257 Scottish Parliament’s Finance and Public Administration Committee, *Inquiry into effective Scottish Government decision-making*, p 7 and Audit Wales, *Payment to the Welsh Government’s Former Permanent Secretary on Termination of Employment*, para 16

258 “Wednesday Morning Colleagues” are weekly meetings of permanent secretaries, chaired by the Cabinet Secretary. Institute for Government, ‘Permanent secretaries’ (12 March 2020): <https://www.instituteforgovernment.org.uk/explainer/permanent-secretaries> [accessed 29 August 2023]

259 Written evidence from the Cabinet Office (SCS0003), paras 23 and 24

260 Q 138 (Simon Case)

261 Q 33 (Prof Dennis Grube)

262 Q 10 (Alex Thomas)

263 Q 10 (Jill Rutter and Alex Thomas)

same government and negotiating between two different governments, one serving the UK and one serving Scotland or Wales. He thought that there was a need for clarity as to which government the permanent secretaries in Scotland and Wales were serving.²⁶⁴ Alex Thomas thought any difficulties arising from these arrangements were a matter for the Cabinet Secretary and Head of the Civil Service to manage with the relevant permanent secretary.²⁶⁵

166. Lord Sedwill said he had had a positive relationship with the First Ministers in Scotland and Wales during his time as Cabinet Secretary and Head of the Civil Service: they recognised that he was also Head of the Civil Service in Scotland and Wales. The then Prime Minister recognised that as Head of the Civil Service he had to have a relationship with the First Ministers in Scotland and Wales. That they were from different political parties from the party in government in the UK was not a problem and he did not face any difficulty carrying out his role as line manager in assessing the permanent secretaries' performance and capability.²⁶⁶
167. **We recognise that the arrangement whereby senior civil servants in Scotland and Wales are accountable to the Scottish or Welsh government but are line managed by the Head of the UK civil service has the potential to cause confusion about the boundary between devolved competence and reserved matters. However, it is important that the principle of a single civil service across England, Wales and Scotland is maintained. For this reason we consider it the role of the Cabinet Secretary, as Head of the Civil Service of the UK, including Scotland and Wales, to manage any challenges as they arise.**

Boundary between devolved competence and reserved matters

168. A key issue that emerged was the boundary between devolved competence and reserved matters. Yuan Yi Zhu considered it appropriate that the permanent secretaries in Scotland and Wales should be accountable to the UK Government when it came to patrolling this boundary.²⁶⁷ Simon Case said in accordance with the Civil Service Code and the law “civil servants in Scotland and Wales can spend their money only on areas that are within their competence.”²⁶⁸
169. The most pertinent recent example of this boundary being engaged was the First Minister of Scotland's decision in March 2023 to appoint a Minister for Independence with specific responsibilities for independence strategy.²⁶⁹ On 15 June 2023, in response to a freedom of information request, the Scottish

264 Q 33 (Prof Dennis Grube)

265 Q 10 (Alex Thomas)

266 Q 85 (Lord Sedwill)

267 Q 61 (Yuan Yi Zhu)

268 Under the Scotland Act 1998 “the Union of the Kingdoms of Scotland and England” is a reserved matter. Scotland Act 1998, Schedule 5, [para 1\(b\)](#). Under the Government of Wales Act 2006 “the union of the nations of Wales and England” is a reserved matter. Government of Wales Act 2006, Schedule 7A, [para 1\(b\)](#). The Civil Service Code and the Scottish and Welsh Civil Service Codes place a duty on civil servants to “carry out [their] fiduciary obligations responsibly (that is make sure public money and other resources are used properly and efficiently)” and “comply with the law”. Civil Service, *The Civil Service code* (16 March 2015): <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code> [accessed 29 August 2023], Scottish Government's People Directorate, *Civil Service Code* (11 November 2010): <https://www.gov.scot/publications/civil-service-code/> [accessed 29 August 2023] and Welsh Government, *Civil Service Code* (19 October 2017): <https://www.gov.wales/civil-service-code-html> [accessed 29 August 2023]

269 Scottish Government, ‘Minister for Independence’: <https://www.gov.scot/about/who-runs-government/cabinet-and-ministers/minister-for-independence/> [accessed 29 August 2023]

Government stated that staff in the Scottish Government’s Constitutional Futures Division²⁷⁰ included one senior civil servant and 23 other officials.²⁷¹ The constitution, including the union between Scotland and England, is a reserved matter.²⁷²

170. Simon Case agreed it would be “unusual and a bit worrying” if civil servants in Scotland were supporting an effort to “break up the United Kingdom” and provided assurances that he was examining this issue to determine whether “further guidance and clarification” should be issued to civil servants “about what is and is not appropriate spending”. He said he would consult the Civil Service Commission if necessary, given the importance of protecting the integrity and impartiality of the civil service.²⁷³
171. Witnesses suggested that if the permanent secretary in Scotland or Wales felt they were being asked to act outside devolved competence it would be appropriate for them to raise the matter with the Cabinet Secretary²⁷⁴ and ask for a written direction from the relevant minister in the devolved administration.²⁷⁵
172. **We welcome the Cabinet Secretary’s commitment to provide further guidance to clarify that civil servants in the devolved administrations should work and spend public funds exclusively on matters within devolved competence. *If the permanent secretaries in Scotland or Wales are concerned that civil servants are being asked to work on tasks outside devolved competence they should raise this as an issue with the Cabinet Secretary as their line manager. The Cabinet Secretary should be in a position to provide direction with respect to the permanent secretary’s executive responsibility. In cases of uncertainty the permanent secretary should seek a written direction from the relevant devolved minister.***

270 The Constitutional Futures Division coordinates work on the Scottish Government’s ‘prospectus for an independent Scotland’. Scottish Government’s Constitution Directorate, *Information regarding the Independence Prospectus, Constitutional Futures Division and the Minister for Independence: FOI release* (12 June 2023): <https://www.gov.scot/publications/foi-202300354789/> [accessed 29 August 2023]

271 Scottish Government’s Constitution Directorate, *Staffing information regarding independence work: FOI release* (15 June 2023): <https://www.gov.scot/publications/foi-202300358071/> [accessed 29 August 2023]

272 Scotland Act 1998, [Schedule 5](#), para 1(b)

273 [QQ 138 and 139](#) (Simon Case)

274 [Q 139](#) (Simon Case)

275 [Q 123](#) (Lord Maude of Horsham) and [Q 10](#) (Alex Thomas)

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Introduction

1. The impartiality and perceived impartiality of the civil service is a central tenet of our constitution and not seriously challenged. Any fundamental changes to it should be made consciously and openly, and should be implemented only following careful scrutiny. In some cases, the change would require amendment of the Constitutional Reform and Governance Act 2010. Where legislative change is not needed change should still be carried out with appropriate scrutiny and cross-party agreement. Under no circumstances should significant changes to the constitutional balance of the appointment and departure processes for civil servants take place through unscrutinised evolution of practice. (Paragraph 17)

Appointment process

2. The provision of formal ministerial involvement in the appointment process strikes an appropriate balance, allowing ministers input into the job description, the person specification and the composition of the panel while preventing them from engineering the process in favour of a preferred candidate. This balance preserves the principle of merit, and it is important that ministers have proper regard to that principle throughout the process. (Paragraph 52)
3. We were told that ministers were not sufficiently aware of the extent of their influence over appointments, or the limits on it. It is incumbent upon permanent secretaries to brief incoming ministers on the degree to which they can be involved in the appointment of senior civil servants, and to repeat this briefing and clarify the extent to which the minister wishes to be involved when a relevant vacancy arises. This will help to avoid tension during the recruitment process and reinforce ministerial ownership of the process and the quality of those appointed. (Paragraph 53)
4. We see no reason to alter the current practice by which the Prime Minister is presented with a choice of appointable candidates for permanent secretary posts. It is important the Prime Minister makes such a choice conscious of their constitutional position as Minister for the Civil Service and with proper regard for the principle of merit. They should ensure that the chosen candidate is able to work with any minister, of whatever political persuasion, who might be appointed to the relevant department. (Paragraph 54)
5. In our view “merit” includes having the right personality and characteristics to carry out the tasks required at a particular time. We are not convinced the Recruitment Principles need to be amended to reflect this. But it should be implicit in the preparation of a good job description and person specification. It would also help give ministers confidence that they have appointed the right person for their requirements if they have worked closely with the Civil Service Commission to ensure their priorities are reflected in the job description and pursued at interview. (Paragraph 58)
6. Given the importance of the Cabinet Secretary’s role, including as Head of the Civil Service, the appointment process for that post should be regularised, set out and made transparent in a manner similar to that for permanent secretaries. The exact nature of the process would need to be adapted in accordance with this unique role, with different considerations potentially

applying to the roles of Cabinet Secretary and Head of the Civil Service, should they be separated. This would strengthen permanent secretaries' confidence in the management of the civil service. The closeness of the working relationship between the Cabinet Secretary and the Prime Minister means that the Prime Minister should remain closely involved with the appointment and make the final choice. The Recruitment Principles should be updated to provide for a strengthened process for Cabinet Secretary and Head of Civil Service appointments. This should then be reflected in an updated Cabinet Manual. This would strengthen permanent secretaries' confidence in the management of the civil service. The closeness of the working relationship between the Cabinet Secretary and the Prime Minister means that the Prime Minister should remain closely involved with the appointment and make the final choice. (Paragraph 63)

7. Private discussions between ministers and their special advisers are impossible to regulate, but the decision with respect to these issues must be that of the minister. Special advisers should not be formally involved in the appointment or departure processes. (Paragraph 71)
8. Public statements by special advisers about the recruitment, performance or departure of civil servants are unacceptable as they risk giving the impression—or tolerating the reality—that special advisers are managing civil servants. Ministers are responsible for the actions of their special advisers and they should ensure this does not happen. (Paragraph 72)
9. External appointments to the civil service can fill skills gaps and refresh organisational culture. There may be great benefit in encouraging inward and outward moves, both for the career development of individuals and to ensure the civil service is as effective as it can be. Nonetheless, skills acquired and experience accrued in the civil service should be valued, as should the continuity provided by a cadre of long-serving civil servants working for administrations of different political persuasions. If the 'external by default' system is to succeed it must be monitored closely to ensure that departments properly commit to it. (Paragraph 78)
10. The Senior Leadership Committee is an opaque body, with its role having been described in apparently contradictory terms. We welcome the Cabinet Secretary's undertaking to publish details of its terms of reference and membership. (Paragraph 88)
11. The Senior Leadership Committee should be as transparent as possible, for example by publishing or providing to the Civil Service Commission an annual account of its activities. (Paragraph 88)
12. The governance structure concerning selection routes for very senior appointments is convoluted and unclear, and has evolved significantly since the Senior Appointments Protocol was agreed and the most recent Recruitment Principles published. Among other changes, the Prime Minister now appears directly to approve appointments at director general level, an evolution not widely publicised. The Senior Appointments Protocol and Recruitment Principles should both be updated, in particular to reflect the 'external by default' policy and the Prime Minister's role in approving director general appointments. We welcome the commitment of the Cabinet Secretary and First Civil Service Commissioner to ensure this is done. The Senior Appointments Protocol and Recruitment Principles should both be

updated, in particular to reflect the ‘external by default’ policy and the Prime Minister’s role in approving director general appointments. (Paragraph 89)

13. We look forward to seeing the forthcoming work, promised by the Cabinet Secretary, on the rules concerning business appointments and the role of ACOBA in setting expectations for those seeking to enter the civil service. Regularisation of inward and outward moves might entail a greater role for the Civil Service Commission. This might require the relationship between its responsibilities and those of the Senior Leadership Committee and ACOBA to be redefined. (Paragraph 93)

Departures

14. In the rare circumstances in which a permanent secretary must be dismissed on performance or misconduct grounds this should be treated wholly as a human resources matter, following due process. We welcome the current process of performance and misconduct management for permanent secretaries as outlined by the Cabinet Office. (Paragraph 102)
15. There is scope for the Civil Service Commission to play a role in the dismissal of senior civil servants on performance or conduct grounds, by ensuring due process is followed. (Paragraph 103)
16. There is insufficient evidence that fixed five-year tenure has had any general impact on churn at permanent secretary level, notwithstanding the notable dip between 2019 and 2023. Nonetheless, it serves as a valuable check on a permanent secretary’s continuation in post, allowing the Head of the Civil Service, the secretary of state and the Prime Minister to consider various factors before deciding whether renewal is appropriate. (Paragraph 111)
17. We acknowledge the risk that where the completion of a permanent secretary’s five-year tenure coincides with a change of Government, it could be used as an opportunity to appoint a permanent secretary more politically aligned to the incoming Government. However, there is insufficient evidence to suggest this has happened to date. (Paragraph 112)
18. We recognise that for a permanent secretary fostering a positive relationship with the secretary of state is, in itself, a matter of performance. The Recruitment Principles require panels to assess a candidate’s ability to work with the minister as part of the permanent secretary appointment process and it is rare that a breakdown in relationship occurs. However, forming a positive relationship is a two-way process. Incoming ministers must allow permanent secretaries time to establish a productive relationship before seeking their removal. It is vital that ministers prize expertise and good advice over pre-conceived notions about their ability to work with a particular permanent secretary. Removal on the grounds of a poor working relationship must not become cover for arbitrary removal of permanent secretaries on political or ideological grounds. (Paragraph 122)
19. The Cabinet Secretary and Head of the Civil Service has a vital role in ensuring that individuals are not removed from their posts by a Prime Minister without due process. If the working relationship between a secretary of state and a permanent secretary is irrecoverable the Head of the Civil Service must be given the opportunity to manage the individual’s transfer to another role or, where appropriate, their retirement. There is a case for

formalising the departure process in situations where there is no issue of performance or misconduct (see paragraph 131). (Paragraph 123)

20. While removal of senior civil servants on political or ideological grounds may be rare, we are concerned that recent examples may be an indication that there are insufficient safeguards around the departure of senior civil servants. (Paragraph 130)
21. Formal departure processes should be set out in writing, requiring ministers and the Prime Minister to explain to the Civil Service Commission—in private if necessary—their decision to remove and replace a senior civil servant. A written record of the decision and the reasons for it should be kept. These processes should be sufficiently flexible to allow a minister to replace at short notice a senior civil servant with whom a working relationship has broken down. However, it is desirable that senior civil servants are given sufficient opportunity to build a positive working relationship with the minister and demonstrate that they can deliver the Government’s priorities. Under no circumstances should civil servants be dismissed on purely political or ideological grounds. (Paragraph 131)

Politicisation in appointments and departures

22. The small number of recent high-profile removals of senior civil servants on what appeared to be political or ideological grounds does not amount to a trend. However, some recent departures and appointments have been conducted in the public eye and might be seen to reflect a desire on the part of ministers to personalise appointments and assert their authority. This practice should be avoided. (Paragraph 136)
23. This practice should be avoided. It risks senior civil service turnover coinciding with ministerial churn, creating a perception of politicisation and damaging institutional knowledge. We reject the notion that broad political alignment should be a relevant consideration in the appointment of senior civil servants. The role of the civil service is to provide honest, objective and impartial advice to the Government. After advice has been provided and a secretary of state makes a decision, it becomes the job of the civil service to implement that decision. If a civil servant fails to implement the secretary of state’s decision it is a performance issue and should be dealt with according to the processes outlined in chapter 3. Introducing a criterion of broad political alignment between the secretary of state and the permanent secretary unhelpfully complicates the existing duty on civil servants to serve the government of the day to the best of their ability regardless of their own political beliefs. It risks undermining senior civil servants’ ability to establish the confidence of future secretaries of state and governments of different dispositions. (Paragraph 146)
24. The role of accounting officer is a valuable aspect of the constitution. To be effective, this function relies on the impartiality of permanent secretaries and their ability to ‘speak truth to power’. A shift towards a system of senior civil servant appointments or departures with a greater degree of ministerial influence would risk having a chilling effect on accounting officer functions to the detriment of the public interest. (Paragraph 155)

Permanent secretaries in devolved administrations

25. We recognise that the arrangement whereby senior civil servants in Scotland and Wales are accountable to the Scottish or Welsh government but are line managed by the Head of the UK civil service has the potential to cause confusion about the boundary between devolved competence and reserved matters. However, it is important that the principle of a single civil service across England, Wales and Scotland is maintained. For this reason we consider it the role of the Cabinet Secretary, as Head of the Civil Service of the UK, including Scotland and Wales, to manage any challenges as they arise. (Paragraph 167)
26. We welcome the Cabinet Secretary's commitment to provide further guidance to clarify that civil servants in the devolved administrations should work and spend public funds exclusively on matters within devolved competence. If the permanent secretaries in Scotland or Wales are concerned that civil servants are being asked to work on tasks outside devolved competence they should raise this as an issue with the Cabinet Secretary as their line manager. The Cabinet Secretary should be in a position to provide direction with respect to the permanent secretary's executive responsibility. In cases of uncertainty the permanent secretary should seek a written direction from the relevant devolved minister. (Paragraph 172)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Lord Anderson of Ipswich
 Baroness Andrews
 Baroness Drake (Chair)
 Lord Falconer of Thoroton
 Baroness Finn (from 27 April 2023)
 Lord Foulkes of Cumnock
 Lord Hope of Craighead
 Lord Howard of Lympne (until 20 April 2023)
 Lord Keen of Elie
 Lord Mancroft
 Lord Strathclyde
 Baroness Suttie
 Lord Thomas of Gresford

Declarations of Interest

Lord Anderson of Ipswich
Member of the Advisory Panel for the Institute for Government and the Bennett Institute for Public Policy, Cambridge's Review of the Constitution

Baroness Andrews
Minister between 2003 and 2009

Baroness Drake (Chair)
No relevant interests

Lord Falconer of Thoroton
Son was a senior civil servant until December 2022
Held ministerial posts 1997–2007, employing a special adviser

Baroness Finn
Former special adviser; co-chair of FMAP Ltd; Conservative member of the Committee on Standards in Public Life

Lord Foulkes of Cumnock
No relevant interests

Lord Hope of Craighead
No relevant interests

Lord Howard of Lympne
No relevant interests

Lord Keen of Elie
Advocate General for Scotland 2015–20; Lords minister in the Ministry of Justice 2016–20, employing a special adviser

Lord Mancroft
No relevant interests

Lord Strathclyde
Leader of the House of Lords, 2010–13, employing a special adviser

Baroness Suttie
Former special adviser

Lord Thomas of Gresford
No relevant interests

A full list of Members' interests can be found in the Register of Lords' interests: <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at <https://committees.parliament.uk/work/7319/the-appointment-and-dismissal-of-permanent-secretaries-and-other-senior-civil-servants/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral evidence and written evidence. Those witnesses marked * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

- | | | |
|----|--|----------------------------|
| ** | Alex Thomas, Programme Director, Institute for Government, and Jill Rutter, Senior Fellow, Institute for Government and Senior Research Fellow, UK in a Changing Europe | QQ 1–13 |
| * | Professor Dennis Grube, Professor of Politics and Public Policy, University of Cambridge and Research Lead, Bennett Institute for Public Policy, Cambridge | QQ 14–39 |
| * | Dr Conor Casey, Assistant Professor of Public Law, School of Law and Social Justice, University of Liverpool, and Yuan Yi Zhu, Assistant Professor of International Relations and International Law, Leiden University, Research Fellow, Harris Manchester College, University of Oxford and Senior Research Fellow, Policy Exchange | QQ 40–65 |
| * | Lord Macpherson of Earl’s Court, Permanent Secretary, HM Treasury, 2005–16, Rt Hon the Baroness Prashar, First Civil Service Commissioner, 2000–05, and Lord Sedwill, Cabinet Secretary and Head of the Home Civil Service, 2018–20, and Permanent Secretary, Home Office, 2013–17 | QQ 66–89 |
| * | Rt Hon the Baroness Stuart of Edgbaston, First Civil Service Commissioner | QQ 90–111 |
| * | Rt Hon the Lord Maude of Horsham | QQ 112–123 |
| * | Rt Hon Jeremy Quin MP, Paymaster General and Minister for the Cabinet Office, and Simon Case, Cabinet Secretary and Head of the Civil Service | QQ 124–140 |

Alphabetical list of all witnesses

- | | | |
|---|---|-------------------------|
| | Cabinet Office | SCS0003 |
| * | Simon Case, Cabinet Secretary and Head of the Civil Service (QQ 124–140) | |
| * | Dr Conor Casey, Assistant Professor of Public Law, School of Law and Social Justice, University of Liverpool (QQ 40–65) | |
| | Dr Andre Clark, Lecturer, University of South Wales | SCS0001 |

- * Professor Dennis Grube, Professor of Politics and Public Policy, University of Cambridge and Research Lead, Bennett Institute for Public Policy, Cambridge ([QQ 14–39](#))
- * Lord Macpherson of Earl’s Court, Permanent Secretary, HM Treasury, 2005–16 ([QQ 66–89](#))
- * Rt Hon the Lord Maude of Horsham ([QQ 112–123](#))
Policy Exchange [SCS0004](#)
- * Rt Hon the Baroness Prashar, First Civil Service Commissioner, 2000–05 ([QQ 66–89](#))
- * Rt Hon Jeremy Quin MP, Paymaster General and Minister for the Cabinet Office ([QQ 124–140](#))
- * Jill Rutter, Senior Fellow, Institute for Government and Senior Research Fellow, UK in a Changing Europe ([QQ 1–13](#))
- * Lord Sedwill, Cabinet Secretary and Head of the Home Civil Service, 2018–20, and Permanent Secretary, Home Office, 2013–17 ([QQ 66–89](#))
- * Rt Hon the Baroness Stuart of Edgbaston, First Civil Service Commissioner ([QQ 90–111](#))
- ** Alex Thomas, Programme Director, Institute for Government ([QQ 1–13](#)) [SCS0005](#)
- * Yuan Yi Zhu, Assistant Professor of International Relations and International Law, Leiden University, Research Fellow, Harris Manchester College, University of Oxford and Senior Research Fellow, Policy Exchange ([QQ 40–65](#))

APPENDIX 3: CALL FOR EVIDENCE

The House of Lords Constitution Committee, chaired by Baroness Drake, is conducting a focussed inquiry into the appointment and dismissal of permanent secretaries and other senior civil servants.

As a matter of constitutional principle, the Civil Service is politically impartial and independent of Government. Civil servants are expected to comply with the core values outlined in the Civil Service Code: integrity, honesty, objectivity and impartiality. Recruitment of civil servants “must be on merit on the basis of fair and open competition”.

The Constitution Committee seeks to examine the degree of ministerial involvement in the recruitment process for permanent secretaries and other senior civil servants and the extent to which ministers and prime ministers have become involved in the dismissal of post-holders. In particular, the Committee will consider whether an informal shift has taken place in the process of appointment and dismissal of permanent secretaries and other senior civil servants and if so, whether this is motivated by a desire to appoint candidates more sympathetic to ministers’ views. The Committee will explore whether there is justification for a different approach to recruitment and dismissal and if so, how this can be formalised in a transparent and constitutionally appropriate manner. The Committee invites interested organisations and individuals to submit written evidence to the inquiry.

The deadline for written evidence submissions is 5pm on 3 April.

Background

Permanent secretaries are the most senior civil servants in each government department. As accounting officers, permanent secretaries are responsible for running the department day-to-day—including by managing the budget—and report to Parliament on these matters. They also provide support to the government minister in charge of the department, who is accountable to Parliament for the department’s performance and actions.

There is no separate civil service for Scotland or Wales, but the permanent secretaries of the Scottish and Welsh governments are politically accountable to Scottish and Welsh ministers.

The Constitutional Reform and Governance (CRAG) Act 2010 stipulates that appointments to the civil service must be “on merit on the basis of fair and open competition.” In accordance with its obligations under CRAG, the Civil Service Commission has published a set of principles (the Recruitment Principles) for this purpose. The Recruitment Principles specify in detail how ministers (and, in the case of permanent secretaries, the Prime Minister or relevant First Minister) should be involved in the recruitment of senior civil servants and permanent secretaries.

Traditionally ministers have not been formally involved in disciplinary matters for civil servants, except in narrowly defined exceptional cases. If a Minister was unwilling to work with a particular civil servant then the civil servant would be moved to another department.

Recent developments suggest there may have been a shift in practice for recruiting and dismissing permanent secretaries and other senior civil servants. It is a timely moment for the Committee to investigate this.

Questions

The Committee welcomes written submissions on any aspect of this topic, and particularly on the following questions:

1. Have ministers and/or Prime Ministers departed from the Civil Service Commission Recruitment Principles (most recently updated in April 2018) by becoming more closely involved in dismissing permanent secretaries and other senior civil servants?
 - If so, what is the nature of the departure that has occurred, how has it revealed itself and why has it happened?
 - Is it based on a desire to replace permanent secretaries and other senior civil servants with candidates more sympathetic to ministers' views?
 - Does it risk reducing the effectiveness of the civil service by undermining impartiality and appointment on merit?
 - Is a departure from the Civil Service Commission Recruitment Principles constitutionally appropriate?
 - Historically, has the duty to appoint civil servants on merit on the basis of fair and open competition been applied differently in the case of very senior civil servants?
2. Is there a notable trend for permanent secretaries and other senior civil servants to leave their posts when a change of Prime Minister or cabinet reshuffle takes place? Has this changed over time?
3. Is there a case for amending the Recruitment Principles to allow for greater ministerial involvement? If so, how? Would this affect the constitutional independence and political impartiality of the civil service?
4. Are there any challenges involved in permanent secretaries and other senior civil servants in Scotland and Wales forming part of the UK civil service while being politically accountable to the Scottish or Welsh governments?
 - Does this arrangement have any implications for the recruitment and dismissal of permanent secretaries in Scotland and Wales?
5. To what extent are other actors—such as special advisers—involved or influential in the recruitment and dismissal of permanent secretaries and other senior civil servants?

