

## Written evidence from Dr Andrew Blick<sup>1</sup> (PMO 01)

### Public Administration and Constitutional Affairs Committee The role and status of the Prime Minister's Office inquiry

#### Introduction

1. The status of Number 10, including its relationship with the Cabinet Office, is best understood by considering the constitutional position of the post of Prime Minister, and in particular its relationship with the Cabinet. The Committee rightly describes the Prime Minister's Office as 'opaque'. This quality reflects the nature of the premiership itself. It has developed over a long period over time, stretching at least as far back as the early eighteenth century. This emergence took place broadly in parallel to that of the Cabinet, traceable in its earliest phase to the late seventeenth century. Neither the premiership nor the Cabinet was brought into being at any specific point. Their emergence in their present form was protracted; and they can be expected to continue to develop. The instigation of the Cabinet Office did not take place until 1916, when David Lloyd George attached a secretariat to his War Cabinet. A formally labelled 'Prime Minister's Office' first appeared in the *Civil Service Yearbook* as recently as 1977. Convention – rather than statute – provides a basis for many key aspects of the institution of Prime Minister, and is nearly the entire foundation for the Cabinet. Comprehensive definition of the way in which they both operate is lacking. This submission holds that this amorphousness – rather than being an anomaly that might easily be corrected – is central to these entities. To seek to eliminate it would be fundamentally to alter them and the wider constitutional framework within which they are important elements. Nonetheless, this submission also proposes means by which it might be possible to hold prime ministers and Number 10, the body that supports the them, more clearly to account.

*To what extent does the formal status of Number 10 as part of the Cabinet Office reflect its operational role?*

2. The role of Prime Minister is by its nature flexible. The precise way in which it is deployed varies in accordance with who holds it; and the circumstances in which they operate. The approach taken can vary sharply from one incumbent to the next. Historically, for instance, there were marked differences of approach between James Callaghan and Margaret Thatcher, his 1979 successor; and between John Major and the Prime Minister who replaced him in 1997, Tony Blair. To generalise, Callaghan and Major were known for a more collegiate approach, seeking to carry their Cabinets with them; Thatcher and Blair, by contrast, were more disposed to lead their governments from the front.
3. The way in which premiers choose or are encouraged to behave is also to a significant extent dependent on the political context at a given time, that can change. For example, earlier this year, the present Prime Minister felt able to dismiss the Chancellor of the Exchequer seemingly for being unwilling to have certain conditions of dominance from Number 10 imposed upon him. Yet now it would be politically far more difficult for the premier to dispense with the replacement Chancellor.

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4. Furthermore, the exact functions that the Prime Minister is needed to perform are unclear. It is notable in this regard that, early this year, the government was able to continue functioning when the premier became physically incapacitated for a significant period.
5. For these reasons, given the variability applying to the post-holder it is charged with supporting, it is difficult to define with precision what is the 'operational role' of Number 10. The current relationship with the Cabinet Office – linked but not fully absorbed within it – makes sense from this perspective. The vagueness of the linkage between the two reflects the inherently indeterminate role of the premiership.

*What is Number 10's relationship with the Cabinet Office?*

6. The key features of the relationship between Number 10 and the Cabinet Office derive from the nature of the premiership. The Prime Minister is chair of the Cabinet, and as such has an important connection with the Cabinet secretariats located within the Cabinet Office entity. The Prime Minister is Minister for the Civil Service (though delegates this role to a more junior minister), and has a special responsibility for the machinery of government and oversight of the Intelligence and Security Agencies (as well as being, presently, 'Minister for the Union'). Given that central capacity for the management or coordination of these various functions is based within the Cabinet Office, it is appropriate that Number 10 should have a close relationship with the Cabinet Office. Prime ministers are also able to establish various initiatives within the Cabinet Office reflecting their own priorities – as, for instance, Tony Blair did with bodies such as the Efficiency Unit and Strategy Unit. The Cabinet Office, however, can house within it variety of other functions to which the Prime Minister is less directly connected, and can appear to be an incongruous and shifting conglomeration of offices.

*How has this relationship changed over time?*

7. In its origins, when there was no Cabinet Office, the premiership was connected to the Treasury. Most people regarded as being holders of the post of premier have also been First Lord of the Treasury; and until the mid-nineteenth century, if they were members of the House of Commons (rather than the House of Lords) they held this post concurrently with that of Chancellor of the Exchequer. After this point, the Prime Minister ceased to be directly responsible for the Treasury and the portfolio that came with it. The post of First Lord of the Treasury became a sinecure rather than a meaningful government office in its own right. But it was not until 1976 that the *Civil Service Yearbook* made it clear that the Prime Minister was 'not part of the Departmental Treasury'; and Number 10 Downing Street remains to this day the official residence of the First Lord of the Treasury.
8. The Cabinet Office was from its origins in the relatively small War Cabinet secretariat created in 1916 of importance to prime ministers. A later important development in the firming up of the relationship came in the early 1980s, when the Cabinet Office took on principal responsibility for the management of the Civil Service – which had, up to 1968, rested in the Treasury. In 1983 the Cabinet Secretary formally became Head of the Civil Service, and the two roles have been fused for most of the subsequent period. As Minister for the Civil Service (though delegating this role to another minister), this fusion gave the Prime Minister even more reason to be close to the Cabinet Secretary and the Cabinet Office.

*What is the most effective relationship?*

9. The most effective relationship is, for reasons discussed above, difficult to define in detail and in fixed terms. But it is fair to say that the connection between Number 10 and the Cabinet Office should reflect the need for flexibility on the part of the premiership. It should also reflect that the Prime Minister is not the sole executive head of government; and is – according to constitutional tradition – the convenor of a collective, the Cabinet. From this point of view, the Cabinet Office is a shared resource, though one which is of necessity in close proximity to the Prime Minister.
10. There is some confusion over the idea of collective government. Paragraph 4.1 of the 2011 *Cabinet Manual* states that: ‘Cabinet is the ultimate decision-making body of government.’ The same text then states in the following paragraph that ‘[t]he Cabinet system of government is based on the principle of collective responsibility. All government ministers are bound by the collective decisions of Cabinet...and carry joint responsibility for all the Government’s policies and decisions.’ Yet in a section on the ‘[r]esponsibilities’ of the Prime Minister, Gov.uk at present states that: ‘The Prime Minister is the leader of Her Majesty’s Government and is ultimately responsible for the policy and decisions of the government.’ It makes no reference to the Cabinet or to collective government. There is an apparent tension here. In particular, there seem to be difficulties in reconciling Cabinet members having ‘joint responsibility for all the Government’s policies and decisions’ with the Prime Minister being ‘ultimately responsible for the policy and decisions of the government.’ As suggested above, there is some scope for ambiguity in the role of the Prime Minister. But there could be a point at which lack of coherence can become a problematic hindrance to a proper understanding of the role of Number 10, the Cabinet Office and the relationship between them.

*Are the mechanisms for scrutinising and holding Number 10 to account adequate and, if not, how can they be improved?*

11. For the purposes of this question, in accordance with the principle of individual ministerial responsibility, accountability for Number 10 and for the Prime Minister are treated as broadly synonymous.
12. Number 10 is subject to both informal and formal types of scrutiny and accountability. Within the former category, the most obvious type of scrutiny and accountability is that exercised by the media in their various forms. Such coverage is of course essential to a democratic society. It often treats the Prime Minister as the embodiment of the government of the day. This tendency can potentially have the distorting effect of exaggerating the real extent to which a premier is able to control the government or achieve change in the outside world. But it should be noted that – contrary to frequent assertions – it is difficult to establish with certainty whether contemporary media accounts of government focus on the person of the Prime Minister to a significantly greater extent than they did, for instance, in the times of Robert Walpole, William Pitt the Younger, William Gladstone, or Lloyd George.
13. A key component of the *formal* accountability of the Prime Minister is provided by Parliament. The constitutional position is broadly that individual ministers answer to Parliament for their portfolios. Any efforts to increase the accountability of Number

10 need to take this model into account. If they involved holding the premier to account for activities which are technically within the remit of other Cabinet members, they could have the effect of blurring responsibility, making meaningful accountability more difficult to achieve.

14. But Parliament should give consideration to options by which it might seek to achieve greater accountability for prime ministers and the office, Number 10, that supports them. The recent assertion on Gov.uk about the premier being ‘ultimately responsible’ for government activities could be seen as inviting enhanced scrutiny.
15. Any attempt to enhance parliamentary oversight mechanisms could begin by focusing on those powers that are most clearly vested in the Prime Minister. Some of them rest in statute. Others exist under the Royal Prerogative and are attached to the premier by convention; some seem purely to be matters of convention. They might all be apt for parliamentary investigation.
16. At present, the Prime Minister answers to Parliament through questions, debates and twice-annual sessions with the House of Commons Liaison Committee. The most likely mechanism by which such scrutiny might be enhanced would be through the formation of a standing House of Commons select committee – perhaps a sub-committee of the Liaison Committee – charged with the exercising of continual oversight of prime ministers and their Office.
17. It could inquire into matters such as decisions over senior Civil Service appointments and appointments to other public offices. It might also investigate the way in which prime ministers, supported by Number 10, manage Cabinet; and how they exercise their responsibility for the structure of the machinery of government. The Committee could consider decisions taken at Number 10 about the drafting and implementation of texts such as the *Ministerial Code*. This latter kind of scrutiny could engage a range of activities, including how Number 10 seeks to promote maintenance of ethical standards across government. The present Prime Minister has chosen to take on the role of Minister for the Union, who as such (as Gov.uk puts it): ‘works to ensure that all of government is acting on behalf of the entire United Kingdom: England, Northern Ireland, Scotland, and Wales.’ Perhaps the Committee could inquire into how Number 10 was helping to attain this goal. The Committee could investigate the role that Number 10 takes on in briefing the media; in coordinating communications; and in managing official data. The Committee could hold pre-appointment hearings for special advisers appointed to Number 10. If a special adviser based at Number 10 had a role in managing special advisers across Whitehall, the Committee could take an interest in the handling of this task.
18. Such a Committee might need to develop protocols around who, precisely, within Number 10 it would engage with and how. The Prime Minister would not practically be able to cooperate in depth with such scrutiny. Perhaps a junior minister could take on this task. Alternatively, an official – perhaps a special adviser – could be a focus for parliamentary inquiries. Accountability of the latter type would be a considerable break with established practice.
19. It seems likely that such scrutiny and accountability would not be welcome to Number 10. But as in other areas of government, parliamentary oversight, though it

can be a source of discomfort, potentially contributes to enhanced performance as well as greater democratic legitimacy. Moreover, Number 10 might find this kind of review preferable to another type of formal accountability: that is, legal oversight via the courts. The *Miller II* case provided an example of how the judiciary can become engaged in inquiring into the activities of Number 10. That the present government found this experience negative is suggested by the stance it has taken towards judicial review, emphasising the possibility of its being restricted in future. The general position of the government at present seems to be that political matters should be resolved politically, by politicians who are electorally accountable to the public, rather than judges. Adoption of the measures suggested above would be in keeping with this platform, and surely, from the point of view of Number 10 preferred to judicial accountability.

*Does Number 10 meet the threshold for being a Government department?*

20. What precisely is the ‘threshold’ for being a department is not entirely clear. But compared to many such entities, Number 10 has a small number of staff and a limited budget; and has less clearly defined responsibilities, defined in statute or otherwise. Moreover, it has a relatively rapid turnover of senior staff, a high proportion of whom are political appointments. For this reason – for better or worse – it lacks the settled status and institutional memory of other Whitehall departments. It is worth recalling that, though historically many premiers have given the possibility consideration, none have avowedly established such a Department. Perhaps this forbearance has been a consequence of a recognition by prime ministers that the flexibility inherent in their role might be lost by a greater formalisation of their support structures.

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