

Reforming civil service accountability

Lessons from New Zealand and Australia

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Executive summary

Learning from the Antipodes

As the UK government moves forward with its ambitious civil service reform plans, it has stated its desire to learn from international experience, not least in New Zealand and Australia.

These two countries have much in common – with each other and with the UK – but have followed rather different paths as far as their approaches to reform of accountability and minister-official relationships are concerned. There is no single Antipodean model.

In New Zealand, the most significant reform came after 1987 when ministers began to commission departmental chief executives to deliver stated outputs, and then publicly hold them to account for performance.

In Australia, on the other hand, concern about civil service responsiveness led to an increase in political control over the civil service and the appointments process for the most senior officials.

In both countries, there has been ongoing change to these arrangements, and both are currently engaged in yet another ambitious change programme. Consequently, there is no static ‘New Zealand model’ or ‘Australian model’ either.

The history of innovation and reform in Wellington and Canberra offers much that the UK can learn from, even if models adopted in one political system can rarely be imported wholesale.

This paper attempts to chart these two countries’ stories and to draw out the most relevant lessons for the current UK reform programme.

Background: civil service reform in the UK

The UK government’s civil service reform agenda includes a number of proposed reforms to accountability mechanisms in Whitehall.

This appears to be driven by a view among ministers (and others) that poor performance in Whitehall is ineffectively handled. But the convention of ministerial responsibility means that it is ministers who are held responsible for operational and administrative failings by civil servants.

Consequently, there is a desire to “sharpen” the personal accountability of individual officials in Whitehall – for instance by extending the traditional accounting officer role. This also implies a more direct accountability of civil servants to Parliament, which others such as the chair of the Public Accounts Committee have called for.

At the same time, the Government is proposing that ministers need a greater role in the appointment and performance management of top officials. The logic is that if ministers are to be held responsible for departmental failings, then they should have the tools to tackle the problems directly through hiring and firing powers.

Arguably, the two strands of this reform agenda run in different directions. Making civil servants more personally and publicly accountable implies that they will be given a greater degree of independence from political control, while strengthening ministerial powers over officials implies that ministers themselves will, if anything, shoulder even more responsibility for departmental failings.

The crucial questions for the UK government therefore are how far the two approaches can be pursued in parallel, and how far they are in tension with each other. The New Zealand and Australian experiences can cast light on this issue.

The importance of the corporate centre

In New Zealand, a key part of the system of civil service accountability and capability improvement is the State Services Commission (SSC). This body (and its head, the state services commissioner) are responsible for functions that in the UK are split between different actors (such as the Civil Service Commission and parts of the Cabinet Office).

The SSC – along with the Treasury and the Department of the Prime Minister and Cabinet (DPMC) – make up the corporate centre of the New Zealand public service.

The importance of a strong corporate centre is widely recognised in New Zealand. Steps are currently being taken to further strengthen the SSC's role in improving public service capability and performance management, and to better join up the three central agencies to create a corporate head office.

Australia's corporate centre is more closely integrated with the political leadership of government. The most powerful player is the secretary of the Department of the Prime Minister and Cabinet (PM&C¹), who works closely with the prime minister (PM) and helps to ensure that the rest of the public service respond to the PM's wishes.

The current Australian reform agenda, however, is seeking to strengthen the role of the commissioner, who is more independent from ministers, as part of a new focus on civil service management capability.

Sharpening accountability: the New Zealand story

New Zealand retains a strong commitment to an impartial public service. Appointments of departmental chief executives (permanent secretary equivalents) are made strictly on a merit basis in a process run by the SSC and overseen by the commissioner personally, though ministers are consulted during the process.

New Zealand does offer a clearer form of accountability for chief executives. Chief executives are held to account by the state services commissioner and by their minister for delivery of clearly expressed departmental objectives. Unlike in the UK, it is explicit that chief executives, not ministers, are responsible for the day-to-day management of their departments.

The use of renewable fixed-term contracts for all chief executives in New Zealand also sharpens the personal accountability felt by chief executives. Performance is closely scrutinised after five years when deciding whether or not to reappoint the chief executive (as well as during annual appraisals).

The corollary of clearer personal accountability for senior public servants is that they gain a correspondingly greater public profile. It is often chief executives who appear in the media explaining government policy and its implementation.

In exceptional cases, chief executives may even publicly advocate policies that run counter to the policy of the government of the day.

The fact that policy advice from departments to ministers is often published further underscores the division between departments and ministers (since that advice may differ from the government's eventual policy decisions).

The risks of fragmentation

One of the central challenges for the New Zealand accountability framework for chief executives has been how to encourage collaboration across departmental boundaries.

The development of a contractual relationship between ministers and chief executives created strong incentives for departments to focus on delivery of the specified outputs, but this could come at the expense of attention to the ultimate outcomes government wished to achieve.

¹ Both New Zealand and Australia have a Department of the Prime Minister and Cabinet. In Wellington this is abbreviated to DPMC and in Canberra to PM&C. We follow local practice in this regard.

The current reform agenda in Wellington is strongly focused on collaborative working between departments in pursuit of a small set of priority outcomes (or 'results') set for government as a whole.

Designing clear accountability frameworks for jointly-owned outcome objectives is complex however, and it may be that there is a trade-off between sharp lines of accountability and government's ability to tackle complex social problems that cut across departmental lines.

The Australian experience: managerial politicisation?

In Australia, tenure for departmental heads was removed at an early stage of the reform process in the 1980s. But unlike in New Zealand, appointments and, more rarely, dismissals of departmental secretaries in Canberra are the decision of the prime minister.

Unlike in New Zealand, there is no independent appointment process, nor such an array of formal mechanisms for evaluating performance and holding secretaries to account. Instead, secretaries can be reshuffled and dismissed at the PM's discretion.

Some PMs in Canberra have used this power extensively – John Howard sacked a third of all secretaries on taking power in 1996, but subsequent leaders have been more circumspect.

Despite the scope for politicisation, it is in fact notable that almost all departmental secretaries appointed are longstanding public servants not party political figures. This reflects strongly entrenched expectations of a politically impartial public service.

Consequently, the Australian Public Service (APS) is not politicised in a partisan sense, as in the US or France. However, episodes such as Howard's cull of secretaries fed a perception that ministers were too dominant over senior officials, and that this may have undermined the capability of the public service and its ability to provide constructive challenge to ministers.

More recent changes (including the current reform agenda) have rebalanced the relationship, however. There has been an attempt to strengthen performance management processes and to move away from excessive prime ministerial discretion over hiring and firing.

The high number of direct political appointees in ministerial private offices (around 400 in total) also gives rise to concerns about politicisation, although their distinct employment arrangements can also protect public servants from pressures to undertake 'political' functions. Moreover, many ministerial advisers themselves have a background in the public service.

To some extent, the public service may be further insulated from day-to-day political pressures by the *physical* separation of ministers from departments. As in New Zealand, all ministers in Canberra are located together in single building separate from their departments. Departmental heads then provide the main link between the administration and the political leadership.

Lessons from New Zealand and Australia

Introduction

In 1988 the then Cabinet Secretary, Sir William Armstrong, set out the traditional understanding of accountability in British government: civil servants are accountable to ministers, and ministers to parliament, for all that they and their departments do. Consequently, it is the minister who should resign for serious departmental failings, as occurred in the canonical Crichton Down affair. As the Armstrong Memorandum put it:

“The Civil Service as such has no constitutional personality or responsibility separate from the duly constituted government of the day.”²

In practice, this vision has rarely been applied to the letter – indeed the current chairman of the Public Administration Select Committee recently described it as “a simplification and distortion of the reality”.³ There is, as this indicates, a lively debate under way in Whitehall and Westminster about how civil service accountability should actually work. In particular, the Government’s civil service reform plan, published in June 2012, makes a number of proposals for changes in the relationship between ministers and officials.

This is not a new debate, but it has been given a new impetus by a number of politically damaging administrative and operational failings – for instance, over scrapping Building Schools for the Future, relaxing border controls at Heathrow, and the handling of the West Coast Main Line franchise decision.⁴ These episodes have led ministers to wonder why they should shoulder the blame for errors made by officials over whom they have limited control.

There is also significant parliamentary interest in reforming civil service accountability arrangements too. Notably, Margaret Hodge, chair of the Public Accounts Committee (PAC), has argued that there should be a direct line of accountability between individual officials and Parliament, going beyond the existing conventions on the accounting officer role.

Other committees involved in the debate include the Public Administration Select Committee, which has recently launched an inquiry into civil service reform,⁵ and the Lords Constitution Committee, due to publish a report on accountability for civil servants in late 2012. Aspects of this debate are also touched on in the Committee on Standards in Public Life inquiry into ethics in public life.⁶

The Institute for Government’s objective is to help improve government effectiveness. The question that concerns us is whether the current, somewhat vague, understandings about accountability in Whitehall are conducive to effective government and what could be done to improve them. We have recently embarked on a project exploring

² ‘The Duties and Responsibilities of Civil Servants in Relation to Ministers, Note by the Head of the Home Civil Service – the “Armstrong Memorandum” 1985, as amended on 17 July 1996’. Available at www.civilservant.org.uk/armstrong.shtml

³ Bernard Jenkin MP, in oral evidence to the House of Lords Select Committee on Constitution, Inquiry on Accountability of Civil Servants Evidence Session No. 1, 23 May 2012, at: www.parliament.uk/documents/lords-committees/constitution/ucCNST230512ev1.pdf

⁴ In 2010, Education Secretary Michael Gove had to apologise to the House of Commons when a list of projects under the Building Schools for the Future programme was published and given to the House of Commons containing 25 errors, which were blamed on civil servants. In 2011, three UK Border Agency officials were suspended over claims that passport controls had been relaxed without ministerial approval, though this was publicly disputed by one of those suspended, Brodie Clark. In 2012, the West Coast Main Line franchise was awarded to First Group, a decision that was challenged by rival bidder Virgin. When the Department for Transport checked the details it transpired that mistakes had been made by the department and the costs of the companies which had bid for the franchise would have to be compensated.

⁵ Public Administration Select Committee, ‘PASC Calls for Evidence on Civil Service Reform’, 17 October 2012. Available at www.parliament.uk/business/committees/committees-a-z/commons-select/public-administration-select-committee/news/call-for-evidence-on-civil-service-reform/

⁶ Committee on Standards in Public Life, ‘Ethics and Best Practice – What Works?’, 29 May 2012. Available at www.public-standards.org.uk/Library/CSPL_REVIEW_PN_290512.doc

aspects of this question, including the appointments process, performance management of civil servants, the accounting officer role of permanent secretaries, the accountability of civil servants to parliament, and the role of non-executive directors. In future work, we will also examine other international models such as the ‘*cabinet*’ system operated in the French government and the European Commission.

In this paper we concentrate on lessons from the Australian and New Zealand experiences of reform, two countries in which the British government has indicated its strong interest.⁷ The choice of these two countries is not accidental. As Westminster-based political systems, Australia and New Zealand retain sufficient similarities with the UK constitutional structure to make valid comparisons. The essential relationships between ministers and civil servants (referred to as public servants in both our comparators) and between government and parliament are similar. Both these countries have also experienced significant innovation and reform in the sphere of civil service accountability arrangements in recent years.

To simplify a complex picture, the two countries offer the two most obvious routes by which to tackle the accountability dilemma. In New Zealand, the approach has been to strengthen the personal managerial accountability of departmental chief executives. This corresponds with the UK government’s desire to “sharpen” accountability at the top of Whitehall and to expand the accounting officer role.

In Australia, the approach has largely been to provide political leaders (and in particular the PM) with the levers to directly control department and agency heads in the public service via hiring and firing powers. This corresponds with UK government plans to increase ministerial involvement in appointment and appraisal decisions. Politically-appointed advisers, who populate ministers’ private offices, also play a role in helping ministers to control the public service.

In the next section, we tell the story of accountability reform in New Zealand and Australia in greater detail, before drawing out the lessons for various specific aspects of the British reform debate, including how senior civil servants should be appointed and managed, what their contractual status should be, and how their relationship with ministers should function.

The New Zealand Story

Civil service reformers in the UK – including the current government – often invoke the “New Zealand model” as offering a simple solution to accountability dilemmas plaguing Whitehall. The core of this model is a contractual relationship between the ministers who set policy objectives and the departmental heads responsible for delivering outputs that contribute to those objectives. Yet in fact there is no static New Zealand model, but rather a work in progress that has undergone significant and almost continuous change since the first major reforms in the late 1980s.

The background to the initial reforms was economic crisis and a public service that was perceived as sluggish and inefficient, and thus incapable of rising to the challenges facing the country. Structurally the public service was highly centralised and process-driven, with little managerial autonomy for heads of departments and agencies. Information was gathered about inputs but there was little focus on the outcomes government was seeking to achieve, providing a weak basis for decision making and efficient administration. Incentives were not aligned with either effective management or ministerial objectives. For example, pay for departmental heads was partly based on the number of staff they employed, providing little incentive to reduce agency staff costs.⁸

Responding to these weaknesses, the Treasury developed a framework for state sector reform in its briefing to the re-elected Labour government in 1987. This focused on clarity, management freedom, performance management based on good information, and strong vertical accountability.⁹ Although major state services reform had not

⁷ For example by commissioning the Institute for Public Policy Research to review international examples including Australia and New Zealand: www.cabinetoffice.gov.uk/news/government-first-use-contestable-policy-fund

⁸ A point made by former Secretary to the Treasury Graham Scott in a World Bank paper available here www1.worldbank.org/publicsector/civilservice/rsNewZealand.pdf

⁹ New Zealand Treasury, Government Management; Advice to the Incoming Government, June 1987, p.55

appeared in the Labour manifesto, the government was persuaded of the need for change. The result was the State Sector Act 1988.

At the heart of the reforms was a three-way relationship. Chief executives gained managerial freedoms in return for clearer accountability to ministers for delivering outputs. The new system was overseen by the state services commissioner – a role dating back to the foundation of the New Zealand public service – who became the employer of chief executives on fixed-term contracts. All management responsibility within departments was delegated to chief executives, who were held accountable for achieving objectives detailed in written “purchase agreements”. Ministers identified the outputs necessary to achieve their desired outcomes, then purchased those outputs from agencies. These agreements were negotiated annually and supervised by the commissioner, providing the ex ante specification necessary for ex post accountability to the minister.

The accountability system drew heavily on new public management thinking and economic theory (notably the principal-agent literature). The idea was for each ‘agent’ to be given a single principal to which they were clearly accountable. Large departments were therefore broken up into smaller separate organisations with narrowly defined functions. In the mid-1990s the Ministry for Cultural Affairs, for instance, employed just twelve officials.¹⁰ Initially this also included a formal split between policy and delivery to avoid ‘producer capture’. For example, the Department of Justice was split into a policy ministry and operational departments, such as Corrections and Courts.¹¹ The policy/operation split was later reversed in many (though not all) cases.

Accountability for achieving policy objectives was accompanied by much clearer financial accountability. The Public Finance Act 1989 introduced accrual accounting with a strong focus on outputs and outcomes rather than inputs and processes. Financial reform was extended by the Fiscal Responsibility Act 1994, which imposed strict reporting requirements by the government on the state of Crown finances. There remains a high degree of financial transparency in New Zealand.

Disquiet emerged in the 1990s over some of the results of the reforms. Allen Schick – then Professor of Public Policy at the University of Maryland – was commissioned by the Treasury and State Services Commission to review the reforms. He concluded, in his 1996 report, that New Zealand’s accountability problem was now not that it had too little but that it came at too high a cost.¹² The inflexibility of contracting and the fragmentation of the public service came in for particular criticism. Schick reflected concern that compliance with specified contracts was resulting in the loss of responsibility for wider government objectives:

“I wonder whether management-by-checklist unduly narrows managerial perspective and responsibility. Some managers seem to take the view that if it is not on the list, it is not their responsibility. Of course, chief executives should comply with the agreement and produce the specified outputs. But the most valuable asset that chief executives bring to their relationship with ministers is not compliance but judgment and leadership. I am concerned that checklist managing is yet another reinforcement of purchase at the expense of ownership.”¹³

Chief executives focused on the objectives that had been specified, and to which their incentives were aligned. The sharp vertical accountability structure also encouraged chief executives to work within silos rather than to collaborate to meet wider responsibilities or to deliver the ultimate outcomes that government was seeking to achieve. Fragmentation appeared symptomatic of a highly vertically aligned system in ways that will be familiar to those at Whitehall who have grappled with the challenge of achieving ‘joined up government’.

In their own assessment, SSC analysts remarked in 1999 on a “tendency to focus on activity measures rather than the achievement of longer-term goals”.¹⁴ The most famous illustration of the limitations of the new system was the

¹⁰ State Services Commission, ‘New Zealand’s State Sector Reform: A Decade of Change’, 1998. Available at www.ssc.govt.nz/decade-of-change.

¹¹ Shaun Goldfinch, ‘Evaluating Public Sector Reform in New Zealand: Have the Benefits Been Oversold?’ *Asian Journal of Public Administration*, Vol 20 No 2, December 1998, p.212

¹² Allen Schick, *The Spirit of Reform: Managing the State Sector in a Time of Change*, June 1996, p.73

¹³ Allen Schick, *The Spirit of Reform: Managing the State Sector in a Time of Change*, June 1996, p.81

¹⁴ State Services Commission, *Improving Accountability: Setting the Scene*, August 1999, p.7

Cave Creek disaster of April 1995, in which 14 people died when a viewing platform built by the Department of Conservation collapsed.¹⁵ The judge-led inquiry in the aftermath of the disaster found that the proximate cause of the collapse was poor construction, but no single individual was held responsible since the specified output targets had been met. Systemic failure was blamed instead.

Robert Gregory, whose analysis of this incident has shaped the debate, argued that under the new accountability regime “ministers and chief executives now have *statutory* grounds for playing the game of passing the buck”.¹⁶ Rather than being clear and transparent, according to Schick, the accountability arrangements were instead still “somewhat fuzzy”.¹⁷ The reforms had not been a silver bullet to the accountability problem.

In 1997, concern over the effect of fragmentation of the health of the whole system led the state services commissioner to write an “expectations letter” to all new chief executives. This reminded them that they had a ‘duty of care’ to the capability of the wider state sector, as well as fulfilling their individual obligations.¹⁸

The *Review of the Centre* report (2001) picked up a number of these themes, recognising the need to focus more on outcomes, despite the greater difficulty of measuring them. This report led to the scrapping of purchase agreements and the introduction of Statements of Intent (SOI). These documents outline the nature and scope of the agency’s functions, and set the strategic direction for a rolling three-year period. This includes information on the outcomes being pursued and the means by which progress is assessed.

Following the *Review of the Centre*, more attention was given to how more complex problems could be tackled. The *Managing for Outcomes* report of 2004 recognised the difficulty in incorporating accountability for complex outcomes into formal structures, given the impact of external uncontrollable factors for which chief executives could not reasonably be held responsible.¹⁹ The approach was therefore to hold chief executives accountable for *managing* for outcomes rather than for the outcomes themselves, which in practice mostly resulted in a continuation of output-based accountability.

Managing for Outcomes also focused on the need for agencies to work better together, since many outcomes are affected by the policies of multiple agencies. Greater collaboration was recognised as important, but insufficient work was done to put the institutional structures and incentives in place to overcome the strong vertical accountability embedded in the post-1988 structure.

The sense that these problems remained unsolved lies behind the current government’s Better Public Services (BPS) reform programme.²⁰ An advisory group – made up of an academic, business people, and the chief executives of the Treasury, State Services Commission, and the Department of Prime Minister and Cabinet (the three ‘central agencies’) – reported in 2011. Its recommended reforms have largely been accepted by government. They include identifying and publishing 10 Better Public Services ‘results’, which are the outcomes for which the government intends to be held accountable for delivering.²¹

For example, there are two results relating to crime: to reduce the rates of total crime, violent crime, and youth crime; and to reduce reoffending.²² Each result has a lead minister and chief executive personally named as responsible for that result, combined with an emphasis on collaboration between departments that is embedded into chief executives’ performance objectives. While the chief executive of the Ministry of Justice, Andrew Bridgman, is lead chief executive for the two results mentioned, substantial effort has been made to coordinate the

¹⁵ R. Gregory, ‘A New Zealand Tragedy: Problems of Political Responsibility’, *Governance*, Vol 11, No 2, April 1998

¹⁶ R. Gregory, ‘A New Zealand Tragedy: Problems of Political Responsibility’, *Governance*, Vol 11, No 2, April 1998, p.239. Emphasis in original

¹⁷ Allen Schick, *The Spirit of Reform: Managing the State Sector in a Time of Change*, June 1996, p.87

¹⁸ State Services Commission, ‘An Ethics Framework for the State Sector’, August 1999. Available at www.ssc.govt.nz/publications-and-resources/2713/all-pages

¹⁹ Anna-Luis Cook, “*Managing for Outcomes*” in the *New Zealand Public Management System*, New Zealand Treasury, September 2004

²⁰ www.ssc.govt.nz/better-public-services

²¹ www.ssc.govt.nz/bps-results-for-nzers

²² State Services Commission, ‘Better Public Services: Reducing Crime’, available at www.ssc.govt.nz/bps-reducing-crime

whole justice system ‘pipeline’ to focus on achieving the outcome.²³ For instance there is a board with the other two leaders to coordinate policy: the police commissioner, and the chief executive of Corrections (prisons). While Bridgman chairs the leadership board, he sees it as a joint responsibility. He says, “There has to be a leader to bring this all together, but I don’t stand on my own.”²⁴ Changes are also being made to budget processes to facilitate more flexible use of resources across departmental lines.

The need for a cultural shift to accompany institutional change is recognised at the heart of Better Public Services. Better leadership, increased capability, and more effective collaboration require work on ‘soft’ as well as ‘hard’ ways of changing behaviour.

The Australian experience

Australia has also been on a long path of public service reform stretching back over three decades. As in New Zealand, a major impetus for reform was a growing perception that the traditional bureaucratic public service had ceased to be fit for purpose. In the Australian case, however, the catalyst for change was less a technocratic case for reform and more a political frustration (shared by both main parties) about a perceived lack of responsiveness to ministerial demands. In 1974, for instance, the Labor government established a Royal Commission into Australian Government Administration, one of whose main themes was the need to increase responsiveness to ministers.²⁵

Following a change of administration, the incoming coalition government also encountered frustrations and in 1976, new prime minister Malcolm Fraser split the Treasury into two departments “because of a year’s experience of the downside of having a department regarding financial advice and management as its preserve, and frustrating the government by its attempt to hang on to control”.²⁶

In Australia, departmental heads are appointed by the prime minister. Until the 1970s, however, departmental secretaries could only be removed from office by abolishing their department. This was changed in 1976, when a sub-class of permanent heads was introduced called ‘established heads’. They could have their appointment terminated early provided that the prime minister belonged to a different political party to the prime minister who had made the appointment.²⁷ This laid an early foundation for political appointment.

In 1984 ‘permanent heads’ became ‘department secretaries’. This provided for fixed-term appointments, but despite the nominal end of ‘permanence’ there was no loss of tenure: secretaries remained employed if their contract was terminated, just not in that particular job. The 1984 Public Service Reform Act also made a small but very significant change to the foundational 1922 legislation. In the section on secretary responsibilities, it inserted the words that they were to work “under the minister”.²⁸ Some years later Paul Keating – Prime Minister from 1991 to 1996 – described this change as “three words which say it all”.²⁹ The emphasis was clear: the traditional dual leadership partnership had given way to a relationship of the minister as client for whom the secretary works. At around the same time, legislation was passed to formalise the position of politically-appointed advisers, which further strengthened the political arm of government while also helping to insulate officials from inappropriate political pressures (initially, indeed, the government had planned to introduce direct party political appointments for some senior public service roles).³⁰ Fixed term appointments for departmental secretaries were fully introduced in 1994. All new secretary appointments would be on a fixed-term basis for a maximum of five years. Contracts could be renewed, though often this has meant serving in a different department rather than staying put. Termination from the office of secretary would lead automatically to removal from the public service completely. Those

²³ Interview with Brenda Pilott; Interview with New Zealand Treasury analyst, August 2012

²⁴ Quoted by Andrea Vance, ‘Justice Boss up for the Challenge’, *The Dominion Post*, 23 April 2012

²⁵ Correspondence with Andrew Podger, November 2012.

²⁶ Malcolm Fraser and Margaret Simons, ‘Malcolm Fraser: The Political Memoirs’, 2010, p.364

²⁷ *Public Service Amendment (First Division Officers) Act 1976*

²⁸ Public Service Reform Act 1984 (section 14) www.austlii.edu.au/au/legis/cth/num_act/psra1984221/s14.html

²⁹ P. Keating, *Performance and Accountability in the Public Service: A Statement by the Prime Minister*, 1 July 1993, Quoted in Patrick Weller, *Australia’s Mandarins*, 2001, p.29

³⁰ Correspondence with Andrew Podger, November 2012

secretaries in 1994 who were on permanent contracts were offered a pay rise of 20% to give up their tenure; all but two did so, and since 1996 all secretaries have been on fixed term contracts.

The prime minister has substantial statutory powers of appointment and dismissal over agency heads in the Australian public service.³¹ These powers are not dormant: John Howard sacked six of 18 secretaries on coming into power in 1996 in Australia's so-called 'night of the long knives'. The Rudd and Gillard governments since 2007 have been more circumspect however, and there has been some move away from such extensive wielding of the axe (though reshuffles of secretaries still take place). Another notable recent change was the abandonment of performance pay for secretaries, which rested largely in the personal gift of the PM.

The current reform agenda is seeking to further curtail the sense of unfettered political power over the public service. As with NZ's Better Public Services, this reform process was led by an advisory committee comprising a number of academics and secretaries, and was chaired by Terry Moran as Secretary to the Prime Minister and Cabinet.³² It published its report, *Ahead of the Game*, in 2010. Among the recommendations, which have been accepted by the government, are:

- strengthening the role of public service commissioner (particularly in the appointment and dismissal processes)
- more effective leadership development throughout the public service
- and a focus on enhancing capability across the public service.³³

Rethinking the minister-civil service relationship

At the heart of the accountability debate is the question of how to structure the relationship between ministers and civil servants, and in particular between secretaries of state and permanent secretaries.

Both Australia and New Zealand have addressed this issue, though in rather different ways. Nonetheless, in both countries the perception of an unresponsive public service seems to have faded somewhat. Indeed in Australia, at least, there are those who today criticise the public service for being too responsive to ministers, at the expense of providing robust challenge to the political masters.

The New Zealand experience highlights the limits of a formal contractual relationship. Allen Schick described the 1988 model as "patterned on the relationship of buyers and sellers in commercial transactions".³⁴ Central to the reforms was the view that individuals act out of rational self-interest. The Treasury brief which provided the intellectual framework for the reforms suggested that public servants inevitably tend "to shirk and to featherbed" as well as "to pay insufficient care" in the use of government resources.³⁵ Heavy use of contracting theoretically ensures that performance could be easily checked against actual outputs on an annual basis, to counteract this perceived self-regarding behaviour.

Yet a relationship based on the negotiating and fulfilling of contracts is ultimately defeated by the problem of contractual incompleteness: the complexity of government business means that contracts have to be updated, expanded, and renegotiated as new events and developments bring up issues not originally contained with the contract.³⁶ Ministerial expectations change in response to events and no-one has time to keep renegotiating contracts. It has to be flexible over time. It also needs to remain comprehensible and straightforward. As one SSC analyst described it, "you end up with something the length of a telephone book if you try to specify everything a chief executive of a government department is going to be obliged to do".³⁷

³¹ Public Service Act 1999, Part 7. Available here www.comlaw.gov.au/Details/C2009C00324/Html/Text#param68

³² Terry Moran speech to the Institute of Public Administration Australia, May 2010, www.dpmc.gov.au/media/speech_2010_05_18.cfm

³³ Overview of reforms to date available at www.apsc.gov.au/aps-reform/overview

³⁴ Allen Schick, *The Spirit of Reform: Managing the State Sector in a Time of Change*, June 1996, p.9

³⁵ New Zealand Treasury, *Government Management; Advice to the Incoming Government*, June 1987, p.32

³⁶ This issue is discussed in a New Zealand Treasury working paper, which considers how economic theory about contracts has changed since the 1987 briefing on which New Zealand state sector reforms were based. Lewis Evans, Graeme Guthrie, and Neil Quigley, *Contemporary Microeconomic Foundations for the Structure and Management of the Public Sector*, New Zealand Treasury, 2012.

³⁷ Interview with State Services Commission analysts, August 2012

Furthermore, there are whole areas of government where an output-based model is only indirectly relevant to what government does. For example, the primary peacetime mission of a defence department is to maintain a capability, rather than produce measurable outputs per se.³⁸

As a result, the New Zealand model has moved away from contractualism (with its explicit hierarchy of principal and agent) towards something more akin to a 'dual leadership' model, with ministers and chief executives working closely together to achieve government's objectives. The documentation which forms the basis of the relationship is still important, but its limits are recognised. If sharp accountability has weakened the focus on outcomes, then allowing a degree of ambiguity may be necessary to focus better on what government is actually trying to achieve. In the judgement of the State Services Commission in 2003, "it is better to be approximately relevant than exactly irrelevant".³⁹ And for ex-State Services Minister, Trevor Mallard, the value of the contractual approach and the production of "bits of paper" such as 'statements of intent' and 'purchasing agreements' was that they provided a focus for discussions about departmental strategy and resource allocation. Their value as a mechanism for retrospective performance management was more limited.⁴⁰

But the New Zealand approach does provide a relatively clear delineation between the roles and responsibilities of ministers and chief executives. There is no doubt, for example, that chief executives are responsible for departmental management. The NZ Cabinet Manual makes explicit that ministers "should not be involved in their departments' day-to-day operations", and that chief executives are in charge of internal departmental matters such as "appointment, promotion, or disciplining of individual employees", and are not responsible to ministers in carrying out these functions. Chief executives also act as the link between the bureaucracy and the political leadership in a clearer way than in Whitehall, and there is an expectation that they are kept informed about any contact between the minister and officials within the department.⁴¹

Along with clearer personal accountability for delivery of government objectives comes a degree of independence and public profile that goes beyond that of UK permanent secretaries. Departmental reports will often appear in the name of the chief executive rather than the minister, and policy advice from departments to ministers is frequently made public under the terms of the Official Information Act. These factors further emphasise the distinction between chief executives and ministers.

It is also part of the role of chief executives to appear in the media to explain government policy and departmental performance. In October 2012, the head of the education ministry was involved in a public debate about school standards, with teaching unions attacking her claim (in the ministry's annual report) that the schools system was "still under-performing for Māori learners and Pasifika learners, and learners from communities with significant social and economic challenges".⁴²

Chief executives may even publicly argue, on the base of departmental analysis, for policies the government of the day does not itself favour – though this is exceptional. For example, the chief executive of the Treasury, Gabriel Makhoul, has publicly advocated a capital gains tax (which the national government does not want) and argued that money might be better spent on better teachers than smaller classes. In both cases, it was clear that Makhoul and the Treasury, rather than the Minister of Finance, was speaking. On teacher quality, Makhoul was candid that "obviously it's up to ministers to decide what they want to do; but we think the evidence is pretty powerful" – an unthinkable sentence from a UK (or Australian) civil servant, especially given in a magazine interview.⁴³ The Treasury is quite unusual, however, and few other departmental heads in Wellington would be permitted to go so

³⁸ Bruce Anderson and Lynne Dovey, *Whither Accountability?*, State Services Commission Working Paper 18, September 2003

³⁹ Bruce Anderson and Lynne Dovey, *Whither Accountability?* State Services Commission Working Paper 18, September 2003, p.10

⁴⁰ Interview with Trevor Mallard, September 2012

⁴¹ New Zealand Government, Cabinet Manual, sections 3.5, 3.16e, 3.26. At: <http://cabinetmanual.cabinetoffice.govt.nz/node/34#3.5>

⁴² Leslie Longstone, Foreword to *Ministry of Education Annual Report 2012*, p.5, published at: www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/AnnualReport/2012/MOEAnnualReport2012FullWeb.pdf; and see Audrey Young, 'Straight talking-education boss shuns the blame game', *New Zealand Herald*, 2 November 2012, at: www.nzherald.co.nz/education/news/article.cfm?c_id=35&objectid=10844483

⁴³ Ruth Laugesen, 'Interview: Gabriel Makhoul', 24 March 2012 (available at www.listener.co.nz/current-affairs/interview-gabriel-makhoul/)

far. Nonetheless, ministers wishing to “sharpen” civil service accountability in the UK should consider whether they are prepared for their permanent secretaries to emerge from the shadows into the public spotlight in such a way.

From the perspective of officials themselves, the greater public role is also seen as a double-edged sword. Brenda Pilott, head of the public sector union the Public Service Association in New Zealand, described her view of what happens.

“We tend to look at the UK and remark that ministers are much more likely to accept responsibility for departmental failures. It's very rare for anyone to resign here. Even when people die as a result of government failures, ministers very seldom stand down. The bad news on anything is always announced by the chief executive, and the good news by the minister.”⁴⁴

This is not a universal rule, however. Shortly after this comment was made to us, a minister did in fact resign as a result of a fatal tragedy – Kate Wilkinson stepping down as Labour Minister after a Royal Commission report blamed regulatory failings for a coalmine disaster that killed 29 miners. Wilkinson nonetheless remained in Cabinet, retaining her other portfolios of food safety and conservation (the holding of multiple and often unconnected portfolios being common in Wellington).

Geographical separation between political and administrative leaders

Geography also shapes the relationship between ministers and public servants, and in both New Zealand and Australia (in contrast to the UK), ministers are not based within their departments.

In New Zealand, ministers are all located in the Beehive, a building next to Parliament which houses the executive wing of government. Their offices are staffed by a mixture of political advisers, secondees from the relevant departments (often from several departments, since most ministers in Wellington hold multiple portfolios) and secondees from external stakeholders. Chief executives are not part of the minister's immediate team as in the UK, but remain physically and institutionally apart. They come to see the minister as and when necessary, but otherwise concentrate on their role as head of department.

This separation is even greater in Canberra, where ministers work from the executive wing of the parliament building and rarely visit their departments which might be located some distance away. Since ministers are located in proximity to their ministerial and backbench colleagues (at least when Parliament is sitting) rather than to their departmental officials, the sense of division between the political and administrative spheres of government is heightened.

Australia is also significantly different to the UK in terms of the extensive reach of direct political appointees. While the UK currently has eighty-three special advisers,⁴⁵ Australia has over four hundred of its equivalent. These political appointees make up by far the bulk of staff in ministerial offices and create a buffer through which the ministerial and public service relationship is mediated. In practice many ministerial advisers have a background in the public service, but this nonetheless remains a controversial issue in Canberra, with ex Secretary of the Department of the Prime Minister and Cabinet (PM&C) Terry Moran arguing that political staffers are an “accountability black hole”.⁴⁶

⁴⁴ Interview with Brenda Pilott, August 2012

⁴⁵ Cabinet Office, ‘Special Advisers in Post on Friday 19 October 2012’, Available at www.cabinetoffice.gov.uk/sites/default/files/resources/Special-Advisers-in-Post-on-Friday-19-October-2012.pdf

⁴⁶ Terry Moran, ‘Political Staffers: an Accountability Black Hole’, *Financial Review*, 26 September 2012. Available at www.afr.com/p/opinion/political_staffers_an_accountability_SU0lgbDWNnbQxRc9fxnnpO; Jennifer Westacott, ‘Restoring a High-Performing Public Service’, Speech to the IPAA 2012 International Congress, 20 September 2012. Available at www.bca.com.au/DisplayFile.aspx?FileID=862; Ewin Hannah and Lauren Wilson, ‘Row over Labor's ‘Bullies’ Escalates’, *The Australian*, 22 September 2012. Available at www.theaustralian.com.au/national-affairs/row-over-labor-bullies-escalates/story-fn59niix-1226479188327; Peter Shergold, ‘Political Staffers Aren't Killing the Public Service’, *The Conversation*, 26 October 2012. <http://theconversation.edu.au/peter-shergold-political-staffers-arent-killing-the-public-service-10287>

Accountability to the corporate centre

As well as answering to ministers, departmental heads have an important accountability relationship with the corporate leadership of the civil service. In the UK the civil service leadership is now split between Sir Jeremy Heywood as Cabinet Secretary and Sir Bob Kerslake as Head of the Home Civil Service. In institutional terms, the corporate centre includes the Cabinet Office, Treasury and – in terms of appointments and ethical oversight – the Civil Service Commission.

New Zealand and Australia offer alternative models for organising the corporate leadership of the public service. Both have also sought to strengthen the centre in recent years in response to concerns about capability.

In New Zealand, the most important figure is the state services commissioner (and the Commission he heads). The State Sector Act 1988 gives the commissioner responsibility to:

- review the machinery of government
- review the performance of departments and their chief executives
- appoint chief executives of departments
- promote personnel policies and career development for the career public service.

Following the post-1988 reforms, departmental chief executives became responsible for organisational and personnel management within their departments, while the state services commissioner became responsible solely for the chief executive cadre itself. The focus at the SSC on chief executive, rather than departmental, performance was perceived to have led to a loss of centralised coordination.⁴⁷ To some extent the Treasury filled this gap through the budgeting process, but there was little non-financial support or control on management issues. The SSC regained a role in corporate leadership during the 2000s – for example by extending the commissioner's jurisdiction over non-departmental agencies in 2004 – but the corporate centre in New Zealand is seen as less effective and coherent than it could be. The BPS advisory group put it this way:

“The current New Zealand public management system has underperformed in driving results across departments, capturing economies of scale across agency boundaries, fostering scarce skill sets and talent for the benefit of the system, developing consistent interfaces for citizens and businesses and prioritising and planning across the whole public sector. For leaders to exercise effective horizontal leadership, the Advisory Group considers that decision rights will have to be rebalanced to provide a clear mandate for leading across agency boundaries.”⁴⁸

The SSC is gaining a more significant institutional role in systemic leadership as part of a drive to create a more effective corporate centre that better joins up the three central agencies. The commissioner's role is being strengthened to become a head of the state services. This will provide a focus for corporate leadership, with a single person responsible for developing a strategy for building senior leadership and management capability across the public service.⁴⁹

A stronger corporate centre should also enable greater coherence in information gathering, which would reduce compliance costs and enable a more effective use of management information to understand the strengths and weaknesses of the whole system. For example, in 2011 the Treasury asked agencies to prepare four-year budgets while the SSC asked separately about departmental workplace requirements. In the view of one Treasury official we spoke to, these two processes should logically have been conducted jointly.⁵⁰ And in response to such criticisms, these two processes are being run jointly in 2012.

The state services commissioner is appointed by the governor-general on the recommendation of the prime minister, but once in place is secure from political pressure and can only be removed by Parliament. A similar protection from ministerial disfavour applies in Canberra: the Australian public service commissioner (APS

⁴⁷ Jeff Chapman and Grant Duncan, 'Is There Now a New 'New Zealand Model'?', *Public Management Review*, Vol 9 Issue 1, 2007, p.8

⁴⁸ *Better Public Services Advisory Group Report*, November 2011, p.21

⁴⁹ *Better Public Services Advisory Group Report*, November 2011, p52

⁵⁰ Interview with New Zealand Treasury analyst, August 2012

commissioner) can only be dismissed with the approval of both chambers of Parliament,⁵¹ although under John Howard, the appointment was twice made for only three years, after which the post-holder was moved.

In Australia, furthermore, the more powerful figure in managing the public service has tended to be the secretary of PM&C, reflecting the more politically driven nature of the system. The APS commissioner plays a leadership role in the APS and possesses a number of investigative powers. The commissioner also safeguards the 'APS Values and the Code of Conduct' rather like the UK's civil service commissioners and publishes an annual 'state of the service' report.⁵² But unlike New Zealand's state service commissioner (or, in terms of appointments, the UK's First Civil Service Commissioner), the APS commissioner has not been the key player in appointing or managing departmental heads. It has also been seen as a less important role than running a big department.⁵³

The *Ahead of the Game* reform process is strengthening the APS commissioner's role however, and the perception of this being a second-tier job may also be changing as a result. The Public Service Bill currently before the Senate gives legislative force to these proposals, and will lead to an increased role in advising on appointments and performance management for the commissioner, although still a secondary one to the secretary of PM&C. The Australian Public Service Commission (APSC – the body headed by the commissioner) will also be responsible for employment terms and conditions for public servants, and for capability reviews of departments (which, by another name, the SSC carries out in New Zealand).⁵⁴

The APSC supports the new Secretaries Board and APS 200 as well. The Secretaries Board (which replaces the similar Management Advisory Board), made up of departmental secretaries and the APS commissioner and chaired by the secretary of PM&C, is now responsible for stewardship of the APS including development of strategic priorities. The APS 200, similar to the Top 200 in the UK, is intended to work with the Secretaries Board on driving APS-wide reforms. Both of these developments are seen as important in establishing a more coherent corporate structure in the APS. The APSC has also established a "Strategic Centre for Leadership, Learning and Development" to support leadership development,⁵⁵ though to some extent this was a case of rebranding what it already did.⁵⁶

These initiatives arose out of concerns in Australia about management capability within the public service. One senior figure involved told us that the problem is that public servants have "got out of the habit of thinking that up-to-date management is a necessary part of being a good civil servant in a department of state, so there's been a decline in management standards".⁵⁷ Andrew Podger, former APS commissioner, suggested to us that *Ahead of the Game* focused in particular on "strategic policy-advising capacity and strategic human resource management" as capability areas in need of strengthening.⁵⁸ What ministers consider a lack of responsiveness to them may sometimes actually reflect such management capability issues. Improving the latter may help address concerns which are otherwise believed to be the former.

Reforming the appointments process

Perhaps the element of the UK reform plan that is stirring the most controversy is the proposal to extend the ministerial role in permanent secretary appointments, as well as to give ministers the right to appoint additional figures for specific tasks. Critics of this change, such as the First Civil Service Commissioner, argue that this would mark an unwelcome step towards a politicised civil service.⁵⁹ New Zealand and Australia both have a more

⁵¹ Public Service Act 1999, section 47.

⁵² www.apsc.gov.au/about-the-apsc/parliamentary/state-of-the-service

⁵³ Andrew Podger, 'What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service', *The Australian Journal of Public Administration*, Vol 66, No 2, 2007

⁵⁴ *Ahead of the Game* p.53

⁵⁵ www.apsc.gov.au/learn/strategic-centre

⁵⁶ Correspondence with Andrew Podger. November 2012.

⁵⁷ Interview, October 2012

⁵⁸ Correspondence with Andrew Podger. November 2012.

⁵⁹ Sir David Normington, Letter to *The Times*, 21 June 2012. Available at <http://civilservicecommission.independent.gov.uk/news/sir-david-normingtons-letter-to-the-times-on-civil-service-reform-21-june-2012/>

formalised process for appointing departmental heads and involving ministers in the process, but the two countries differ in the extent to which appointments are a matter of political control.

The New Zealand system demonstrates that merit-based, apolitical recruitment can be combined with fixed-term contracts and strong accountability frameworks with clear objectives. In Wellington, it is the state services commissioner who appoints and employs chief executives. The process for doing so is prescribed by the State Sector Act 1988.

At the outset of the recruitment process in New Zealand the commissioner consults the minister of state services and the relevant portfolio minister about the position and their view on what sort of candidate is required. This consultation is a statutory requirement, though the level of ministerial involvement is not necessarily greater than in the UK, where the Civil Service Commission actively consults ministers without being formally required to do so. In New Zealand, ministers also contribute to the development of the draft job description.

Chief executive vacancies are advertised publicly and the commissioner selects a shortlist for formal interviews. Membership of the interview panel is determined by statute and comprises: the commissioner, the deputy state services commissioner, one or more individuals chosen in consultation with the relevant minister, and any other people the commissioner selects for their relevant expertise.

The choice of appointment belongs with the commissioner alone.⁶⁰ The panel's role is to advise the commissioner, and consensus among the other members need not be reached. The final responsibility for the recommendation falls to the commissioner, but if there is a difference of views his advice to ministers reflects this.

Chief executive appointments are approved by the whole government collectively. The minister of state services has no discretion; he must pass on the commissioner's recommendation to the governor-general in council (in effect the Cabinet).

If the commissioner's recommendation is declined by the Cabinet, the government may appoint someone else. However, this decision must be published and remains a democratic control of last resort. The only example of this power being exercised was in 1990, when the Labour government blocked Gerald Hensley's appointment as Secretary of Defence.

This process requires a strong centre to manage it, and this has been a core function of the SSC since 1988. Current reforms are strengthening this role, including extending the commissioner's role in appointment below the level of chief executives to develop future leaders across the public service. The plan is to designate a number of key positions where the chief executive in question will need to obtain the commissioner's agreement when making an appointment.

If the New Zealand process is dominated by a strong administrative centre, the Australian system is dominated by a strong political centre, since the prime minister – advised by the secretary of PM&C – has the central role in appointments. The Australian experience suggests that direct ministerial influence over appointments can be increased without moving to a politicised public service, at least in a partisan sense.

As in New Zealand the process is governed by legislation, but the Australian process is far less prescriptive. Under the Public Service Act 1999, the prime minister appoints departmental secretaries having received a report from the secretary of PM&C. This constitutes advice, not a recommendation as given by the state services commissioner in New Zealand, and it can be ignored. In fact, there is not even a requirement for the secretary of PM&C to suggest a named individual: they could recommend one person, a list of ten, or none.⁶¹ The law requires the relevant minister to be consulted but there is no collective decision making on appointments as there is, formally at least, in New Zealand.

Both systems are sensitive to politics and personalities, irrespective of the different formal processes. Even in the strictly merit-driven New Zealand system it is seen as sensible to appoint someone who will work well with the relevant minister, as well as with the government as a whole. While the formal involvement of ministers in the New

⁶⁰ Section 35 (4B) "Following the deliberations of the panel, the Commissioner shall decide upon the person to be recommended to the Minister for appointment."

⁶¹ Patrick Weller, *Australia's Mandarins*, p65

Zealand appointments process is limited, there is also a degree of informal consultation that can steer the state services commissioner away from an unacceptable candidate. Former State Services Minister Trevor Mallard recalled an occasion where the commissioner was heading towards a particular individual but, after a discussion between the two of them and the relevant portfolio minister, a different appointment was made.⁶²

Yet this sensitivity seems to safeguard an otherwise non-political process. Bill Ryan, an academic expert on New Zealand government, described his view of it.

“I think in practice it is a relatively apolitical process. We all know that ministers are never slow to make their feelings known informally. We all know that the state services commissioner, if they’ve got any nous, is not going to put someone into a position of chief executive if they’re not going to be able to work with the minister. No-one is suggesting it all operates in a vacuum. But you don’t hear many complaints of overt ministerial involvement in the process, from which you have to conclude that it operates pretty much as the system says it should.”⁶³

This sensitivity to political preferences is more obvious in Australia, since the final decision rests with the prime minister. The Public Service Act specifies that ministers must be consulted over the appointment of the secretary of ‘their’ department,⁶⁴ but the full extent of ministerial involvement in the process is at the PM’s discretion. One former minister we spoke to recalls being given a shortlist of candidates from which he chose his secretary, who was then formally appointed by the prime minister.⁶⁵ How much other ministers are involved primarily depends on the personality and power of the prime minister.⁶⁶ Sometimes circumstances prevent wider consultation, such as immediately after a change of government, when ministerial and secretary appointments are made concurrently, or when there is a wider reshuffle of secretaries taking place.

The discretion given to Australian prime ministers grants them the ability to use secretary appointments to curb departmental ministers. Secretaries recognise that their future career prospects lie in the PM’s hands, so there are strong incentives to be responsive first and foremost to the PM and the secretary of PM&C, rather than to the minister for whom they are working. Former departmental secretary Andrew Podger candidly recalls that both he and his minister knew that he ultimately worked for the prime minister, and may therefore alter the strength of his policy advice on certain issues accordingly.⁶⁷

Some state governments have taken direct accountability of secretaries to the premier further than at the Commonwealth level: the prime minister and minister of finance in Victoria used to hold a ‘black cabinet’ of secretaries without their ministers every week. Except in unusually unified governments, officials cannot simply be responsive to ‘the government’ as a single personality. As the Australian experience suggests, how the appointments system is structured helps shape to whom exactly in government officials feel responsive. It is usually those who control their future employment prospects.

This has been further complicated by the proliferation of political advisers claiming, sometimes without backing, to speak on behalf of their minister. While secretaries might have the authority to override advisers and speak direct to the minister to clarify a position or request, competing adviser demands can create confusion in the public service.

There are three other notable features of the Australian system. First, in practice most secretaries in Australia are career public servants with a record of serving both Labor and coalition governments. Given the personal discretion of the prime minister over appointments, it is striking that in practice this power is not used to make

⁶² Interview with Trevor Mallard, September 2012

⁶³ Interview with Bill Ryan, September 2012

⁶⁴ Public Service Act 1999, section 58.

⁶⁵ Interview with former Australian minister, September 2012

⁶⁶ Andrew Podger, ‘What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service’, *The Australian Journal of Public Administration*, Vol 66, No 2, 2007, p.132; Interview with former Australian minister, September 2012

⁶⁷ Andrew Podger, ‘What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service’, *The Australian Journal of Public Administration*, Vol 66, No 2, 2007, p144

obviously personal or partisan choices. While still secretary of PM&C, Peter Shergold dismissed the argument “that any of those chosen [under his watch] have not been highly credible and competent, with long experience of and commitment to public policy”.⁶⁸ By all accounts, successive prime ministers have taken seriously their duty of appointment.

Second, the recruitment process is far less formalised in Australia than in New Zealand. Indeed appointments can be entirely unexpected for those involved. Andrew Podger was telephoned while in a restaurant by Dr Michael Keating, the secretary of PM&C at the time, to inform him that he was being moved from Arts to Health. There was no process, no interview, no opportunity to discuss his preferences, and no negotiation of his terms.⁶⁹ Derek Volker, former Secretary of Veteran’s Affairs and subsequently Social Security, put the secretary’s dilemma this way: “I suppose there is an opportunity to say no, but then you would be stupid, wouldn’t you?”⁷⁰ Immediately after an election the process can be bewildering as the prime minister rushes to fill appointments concurrently with ministerial portfolios. In 1982 Rae Taylor was running Employment on Thursday, acting Secretary of Defence Support on Friday, and appointed Secretary of Transport and Construction on Monday.⁷¹ It was suggested to us, however, that the process had become less chaotic in recent years.⁷²

Third, this process is opaque. The prime minister is not obliged to reveal whether he followed the advice of his secretary, or indeed to give any reasons for an appointment. Some believe that this absence of transparency is one of the reasons that a perception of politicisation endures.⁷³ Whereas in New Zealand the government must publicly state when they veto the advice of the commissioner in secretary appointments, there is no such requirement in the event that the Australian prime minister ignores the advice of the secretary of PM&C or the APS commissioner.

To address this perception, the appointments process is being refined. In future, the APS commissioner will be consulted as well as the secretary of PM&C on appointments. The commissioner will not be empowered to submit a separate report to the PM but the secretary of PM&C’s report must explain if there has been a disagreement between the two officials on the appointment. This may not change much in practice, since the advice can still be ignored by the prime minister and remains confidential. But the change seems to signal intent to do things differently. Similarly, the amended act will remove the direct power of appointment from the prime minister. Instead the governor-general will appoint secretaries “on the recommendation on the prime minister”. Again, in practice, this reform may have little immediate impact (since the governor-general would generally act on the PM’s advice) but the signal sent out is of a desire to move away from unfettered political power.

Following this last change, neither the New Zealand nor Australian system leaves an absolute monopoly on appointments to either the administrative or political branches of the government. Both systems contain a ‘pressure release’, even if these would only be used in extremis. In Australia, this will be the constitutional check on political patronage by the governor-general. The inverse applies in New Zealand, where the Cabinet veto provides a political check on the power of the state services commissioner.

In both cases, as in the UK, there is no role for Parliament in the appointments process. It is accountability to ministers, not to Parliament, which has driven the reform process in both countries.

⁶⁸ Peter Shergold, ‘What Really Happens in the Australian Public Service: An Alternative View’, *The Australian Journal of Public Administration*, Vol 66, No 3, 2007 p.368

⁶⁹ Andrew Podger, ‘What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service’, *The Australian Journal of Public Administration*, Vol 66, No 2, 2007, p.133

⁷⁰ Patrick Weller, *Australia’s Mandarins*, p.66

⁷¹ Patrick Weller, *Australia’s Mandarins*, p.68

⁷² Correspondence with government official, November 2012.

⁷³ Lynnelle Briggs, ‘Public Service Secretaries and their Independence from Political Influence: The View of the Public Service Commissioner’, *Australian Journal of Public Administration*, Vol 66 Issue 4, 2007, p.504

The nature of contracts for departmental heads

Once appointed, departmental chief executives in New Zealand are held accountable (to both the state services commissioner and their minister) via a number of contractual mechanisms in which performance expectations are laid down.

Each chief executive has a personal contract of employment with the commissioner which is agreed at the time of appointment. This lasts for the full fixed term, and expresses their broadly defined obligations. There is then also an annual performance agreement between the commissioner and chief executive which emphasises ministerial priorities for the year, medium term goals from various agency performance planning and review processes, and any other matters dealt with periodically. For example, chief executive performance agreements for the next year will likely include obligations to implement Better Public Services.

A letter of expectations is exchanged annually between ministers and chief executives which reflects government priorities. Alongside this, for each department there is a statement of intent (SOI), an annual document produced by the department and co-signed by chief executive and minister, and an output agreement.⁷⁴

New Zealand abandoned attempts to specify everything a chief executive is responsible for, and performance agreements now focus on a smaller number of specific areas instead. An official at the SSC described the approach like this:

“Our approach over the years has been really to try and focus not on comprehensiveness but on a few key deliverables which are of absolute vitality for the government. We do try and get a reasonable amount of specificity around those, and around how the expectations are framed around them which the state services commissioner gives the departmental chief executive.”⁷⁵

This is the thinking behind the Better Public Services ‘results’ approach. Each of 10 specified priority results has a named responsible chief executive and minister, who are expected to cooperate with other relevant departments to make progress. Accountability for performance is embedded within the existing framework through incorporation into the performance expectations of chief executives.

In general, the BPS reforms do not alter the basic relationship between ministers and their officials. One Treasury analyst involved told us that:

“We have not changed fundamentally the relationship between chief executives and their ministers as a result of these reforms.”⁷⁶

Secretaries in Australia have significantly simpler contracts. They simply state that secretaries are appointed by the prime minister for a fixed term, can be dismissed by the prime minister, and what their pay and conditions are. There are no generic or particular performance criteria. Indeed, it can be argued that secretaries do not really have contracts at all, being simply employed at the PM’s pleasure. Andrew Podger makes this point:

“The term ‘contract’ is a misnomer. There is no negotiation involved or tailored provisions. The rights of the secretary are very limited, the government being able to terminate the ‘contract’ (more precisely, the letter of appointment) at any time for any reason.”⁷⁷

The reason for this is straightforward. For a contracting system to work there needs to be a third party who can mediate to ensure the contract is adhered to on both sides. This role is fulfilled in New Zealand by the state services commissioner, but he has no equivalent in this respect in Australia. The relationship is between secretary and prime minister, who is also the one responsible for monitoring and enforcing that relationship. Secretaries

⁷⁴ For example, the Ministry of Education www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/2012SOI/2012StatementOfIntent.pdf#page=26

⁷⁵ Interview with State Services Commission analysts, August 2012

⁷⁶ Interview with New Zealand Treasury analyst, August 2012

⁷⁷ Andrew Podger, ‘What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service’, *The Australian Journal of Public Administration*, Vol 66, No 2, 2007, p.136.

have no recourse elsewhere. Reflecting on the informality of the relationship while he was a secretary, Peter Shergold said:

“I know in my heart of hearts that if I was to write out a detailed performance contract on what I hoped to achieve with my minister, that alone would probably not be how he would judge my performance ... the assessment of my performance is in my view dependent on how much trust and confidence he places in my ability to manage this department and to offer him advice and to implement the decisions of the government, and I don't think they will be neatly captured in formal outcomes, still less specific outputs.”⁷⁸

The implications of fixed-term contracts

Another notable feature of the Antipodean public services is the use of fixed term contracts. In both Wellington and Canberra, department heads are appointed for specified periods of up to five years with the possibility of renewal. Although controversial when introduced (in Australia at least), this reform is today entrenched and unlikely to be reversed.

Fixed-term contracts are considered conducive to good government by providing sharper accountability for secretaries and chief executives, who know that at the end of a fixed period they will have to account for their performance. They also, we were told, give departmental heads a clear timeframe in which to concentrate on securing a “legacy”⁷⁹, though in Australia there does remain the possibility of early termination or transfer if the prime minister decides.

One concern about fixed-term contracts – shared by a number of departmental secretaries in Australia at the time they were introduced – was that the loss of tenure would undermine a head of department's willingness to give free and frank advice that might make them unpopular with the political masters. Research by Patrick Weller found that many secretaries believed that their colleagues had become more restrained in their advice, though none would admit to having changed their own behaviour.⁸⁰ In any case, he points out, secretaries on permanent contracts did not all necessarily challenge their ministers since “tenure doesn't give you a spine”.⁸¹

In both countries, five years has been the normal contractual term, though sometimes a shorter contract is given where this is requested or for specific reasons, such as proximity to retirement. However, during the Howard government in Australia there was a trend towards three-year contracts as the norm. This presented two problems: first, that the prime minister preferred shorter contracts as it gave him increased influence over who his secretaries were and might induce a more compliant attitude if a secretary's job was on the line within just three years; second, three years is the length of the electoral cycle in Australia (and New Zealand). Three-year terms for secretaries therefore risked increasing the perception of politicised appointments by creating an easy mechanism for departmental heads to be replaced in the event of a change of administration.

For these reasons the current Labor government in Australia is amending the legislation to make clear that five-year appointments will be the norm again, except where the individual secretary requests otherwise. In New Zealand, five years has remained the standard contract length. Decoupling fixed-term appointments from the electoral cycle is important for symbolic reasons. For this reason, if the UK were to adopt fixed-term appointments it might be necessary to avoid five-year terms, though employment law makes it difficult to introduce fixed-term contracts in this country in any case. Finally, it's worth noting that shifting even to four-year terms for permanent secretaries would not necessarily reduce average length of tenure – such has been the turnover in Whitehall in recent years.

Performance management

At the centre of the current UK government's concerns with the Civil Service is a belief that poor performance is not adequately dealt with. The Civil Service Reform Plan highlights underperformance in Whitehall as a key

⁷⁸ Quoted in Patrick Weller, *Australia's Mandarins*, 2001, p.164

⁷⁹ Serving chief executive in New Zealand

⁸⁰ Patrick Weller, *Australia's Mandarins*, pp.80-123.

⁸¹ Patrick Weller speaking at the Institute for Government, 11 October 2012.

concern, and proposes that the bottom 10% of senior civil servants should be identified and put into a special performance plan.⁸² Cabinet Office Minister, Francis Maude has also called for a stronger ministerial role in appraisal processes.

The view that poor performance goes untackled is not just held by ministers. Failure to deal with poor performance is in fact consistently recognised as a weakness in staff surveys in Whitehall. In the 2011 Civil Service People Survey, for example, just 37% of those surveyed thought that poor performance was dealt with effectively, although this is higher than the equivalent figure in Australia where just a quarter think poor performance is dealt with.⁸³

As with appointments, in New Zealand the central role in performance management of chief executives is played by the state services commissioner. The fundamental basis on which chief executives are assessed are their statutory responsibilities:

- to carry out functions of the department including government policy
- to tender advice to ministers
- to ensure the department is well managed.

Legislation introduced in 2012 expands chief executives' responsibilities, including introducing a responsibility of collaboration with other departments.

The annual performance agreement between the commissioner and the chief executive then provides the basis of the personal performance management process. There are also review processes that assess departmental performance and provide an indirect way to assess chief executive performance, such as the SSC-led 'performance improvement framework' assessments (based on the UK's capability reviews).

As for ministerial involvement, an analyst at the SSC described it this way:

"Ministers are very much consulted at every stage of that process. They are interviewed for their views on the performance of chief executives at the end of the year. It is also true to say there is a wider involvement of ministers these days, as more senior ministers have the option of expressing their view as well."⁸⁴

Performance review and support for chief executives is an ongoing function of the SSC, but the most important moment comes at the point of reappointment when a chief executive's contract is up for renewal. Outright dismissals rarely happen in New Zealand. Instead, it is more common for a fixed-term contract not to be renewed. Most are reappointed to serve a second term, but not all.

A notable example is the case of Christine Rankin, who was chief executive of Work and Income until the state services commissioner, Michael Wintringham, chose not to renew her contract in 2001. This was widely seen as a de facto dismissal, and she took the Commissioner to court alleging unfair treatment. During the case Wintringham said Rankin had failed to win the confidence of the government and insisted her non-renewal was connected to substandard performance even though Rankin had met the targets in her contract.⁸⁵ The tribunal dismissed her case, but it highlighted that even in New Zealand subjectivity remains in performance management. There was a sense in which Rankin simply didn't fit in: during the trial it emerged that the then secretary of DPMC (and future state services commissioner) Mark Prebble had expressed discomfort about how Ms Rankin dressed.⁸⁶ Good personal relationships remain essential, even if specifying them in a performance agreement is virtually impossible.

⁸² HM Government, *Civil Service Reform Plan*, p.28.

⁸³ *Ahead of the Game: Blueprint for Reform of Australian Government Administration*, March 2010, p.26.

⁸⁴ Interview with State Services Commission analysts, August 2012

⁸⁵ Audrey Young, 'Denials come Thick and Fast from Wintringham', *The New Zealand Herald*, 30 June 2001 (available at www.nzherald.co.nz/rankin-file/news/article.cfm?c_id=758&objectid=197664)

⁸⁶ 'Prebble Tells: Rankin Offended Me', *The New Zealand Herald*, 5 July 2001 (available at www.nzherald.co.nz/rankin-file/news/article.cfm?c_id=758&objectid=198442)

In Australia, the end of the fixed term is also usually the point at which dismissal takes place, although mid-term dismissals do happen. Yet the system in Australia is substantially less formalised than in New Zealand. As with appointments, the system is based on a strong political, rather than corporate, centre.

Section 59 of the Public Service Act 1999 baldly states that the prime minister “may, by notice in writing, terminate an appointment of Secretary at any time”. The only requirement is to have received a report from the secretary of PM&C, but this report is neither binding nor published.

The limits of the PM’s power of dismissal were tested by the Australian courts in a case brought by Paul Barratt, who was dismissed as Secretary to the Department of Defence peremptorily by John Howard in 1999 because his minister had lost confidence in him. The court accepted that Barratt had done nothing to deserve dismissal, but it decided that the prime minister could base his decision to terminate an appointment on any reason, including “policy or political consideration”.⁸⁷

Exercise of the power of dismissal does not appear to have been used for ‘performance management’ reasons in a conventional sense, as the lack of process indicates. In 1996, Howard removed six of 18 secretaries on coming into government. The reasons why those six individuals in particular were chosen to be sacked remain unclear, though one was identified as too closely aligned to the former government.⁸⁸ Nonetheless, the consensus is that the decision was not based on partisanship, and that their replacements were well respected public servants who had served both Labor and Liberal governments. Instead, it may have been a matter of signalling to the public service that a new government was now in charge.⁸⁹ Richard Mulgan has referred to this as ‘managerial politicisation’: the selection and dismissal of public servants not due to party allegiance, but in order to stamp a government’s authority on the public service.⁹⁰

Since the late 1990s, there have been attempts to formalise performance management. Formal assessment for departmental secretaries was introduced in Australia in 1999 alongside performance pay. The year previously, the then secretary of PM&C, Max Moore-Wilton (dubbed ‘Max the Axe’), had embarked on a so-called ‘Lemon Hunt’ to remove secretaries he considered were underperforming. Although it ultimately came to nothing and no contracts were terminated, this indicates how informal and subjective performance management was at the time.

The system introduced in 1999 gave responsibility for performance management (and therefore decisions on performance pay) to the prime minister, advised by the secretary of PM&C and the APS commissioner, with substantial input from the relevant agency minister. The criteria on which secretaries were assessed were not prescriptive. Helen Williams, Australian public service commissioner between 1998 and 2001, offered these criteria as a guide:

1. Contribution to whole-of-government priorities
2. Support for the minister
3. Management of the department
4. Leadership
5. Upholding and promoting the values of the Australian Public Service.⁹¹

In 2005, a sixth criterion was added: implementing government decisions. This was introduced as part of wider government frustration with perceived delays in implementing policy.⁹² Even a loss of tenure and direct prime ministerial appointment could not guarantee ministers a level of ‘responsiveness’ that they would be satisfied with.

⁸⁷ Judgement here, *Barratt v Howard* [1999] FCA 1132, www.austlii.edu.au/au/cases/cth/FCA/1999/1132.html

⁸⁸ Richard Mulgan, *Politicising the Australian Public Service?*, Research Paper 3 1998-99, available at [www.aph.gov.au/About Parliament/Parliamentary Departments/Parliamentary Library/pubs/rp/rp9899/99rp03](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp9899/99rp03)

⁸⁹ Interview with Richard Mulgan, October 2012; Interview with Patrick Weller, October 2012

⁹⁰ Richard Mulgan, *Politicising the Australian Public Service?*, Research Paper 3 1998-99, available at [www.aph.gov.au/About Parliament/Parliamentary Departments/Parliamentary Library/pubs/rp/rp9899/99rp03](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp9899/99rp03)

⁹¹ Andrew Podger, ‘What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service’, *The Australian Journal of Public Administration*, Vol 66, No 2, 2007, p.140

⁹² Andrew Podger, ‘What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service’, *The Australian Journal of Public Administration*, Vol 66, No 2, 2007, 1 p.142

Secretaries would discuss their performance with their minister and provide a self-assessment to the secretary of PM&C, who would discuss it with the public service commissioner and the minister. A recommendation on performance pay would then be made to the prime minister, who had the final decision.

In the absence of a more formalised performance management structure run by a non-political corporate leadership as in New Zealand, it is impossible to rule out political considerations from performance management assessments. Former departmental secretary Allan Hawke strongly makes this point:

“Performance pay can lead to patronage, subordinate sycophancy, playing and paying favourites, oiling the squeaky wheel and other inappropriate practices.”⁹³

For such reasons, the current Labor government has since abolished performance pay in the Commonwealth (i.e. national) government, although it is still used at state level, and the opposition leader has indicated a desire to reintroduce it in Canberra.⁹⁴

It is difficult to tell whether performance assessment and pay improves the quality of government when it is not based on measurable criteria. The problem in Australia has therefore been the opposite of that in New Zealand, where the criticism has often been focusing too heavily on basing assessments on that which can be measured to the detriment of pursuing outcomes that are more important but harder to measure. In Australia, the perception remains that performance pay in particular was used primarily to ‘send a message’ to keep secretaries in line rather than reward objectively ‘good’ performance.

The system is currently being amended. As with the appointment process, the power to dismiss is being given to the governor-general. As noted above, this is in one sense a purely symbolic move, since the unelected governor-general would typically act on the PM’s recommendation. Nevertheless, one senior figure involved in the reform programme believes this change provides a legal route to retaining prime ministerial discretion while preventing peremptory dismissals. The governor-general must take account of the prime minister’s recommendation but is conscious also of what official papers will reveal 20 years later when they are released publicly, and his or her duty to act with constitutional propriety. The governor-general therefore has to be persuaded that there is good reason to dismiss a secretary, and this might, potentially, provide a block to abuse of the dismissal power.

Performance management of secretaries is further changing as part of the *Ahead of the Game* reforms. The Public Service Act 2012 will require an annual performance review in accordance with a framework laid down by PM&C and the APSC. Secretaries will be given a 270 degree review, which involves feedback from direct reports, colleagues and stakeholders. This feedback is then compiled into a report, on which the relevant minister can comment. Both the report and the minister’s comments are then given to the secretary of PM&C and the prime minister. The intention is to increase the emphasis on *supporting* secretary performance rather than just looking to identify underperformers.⁹⁵

This emphasis on supporting performance has also become central in New Zealand, where performance management has moved on from being about compliance with contractual agreements between chief executives and ministers. As its corporate leadership role increases, the SSC is seeking to better support chief executive performance. An analyst at SSC put it like this:

“There is a nirvana we are aiming at where performance management becomes a real-time forward looking process rather than a retrospective process of judging performance at the end of the year. The emphasis for quite a while now has been to make sure our engagement with chief executives is focused on key issues and is regular enough, frequent enough, and well informed enough to actually contribute to performance rather than simply judge it.”⁹⁶

⁹³ Allan Hawke, ‘Performance Management and the Performance Pay Paradox’, in Wanna, Vincent & Podger (eds), *With the Benefit of Hindsight: Valedictory Reflections from Departmental Secretaries, 2004-2011* (ANU epress), at: <http://epress.anu.edu.au/wp-content/uploads/2012/04/whole1111.pdf>, p.19.

⁹⁴ Ross Peake “‘Link pay to performance in public service’: Abbott”, *Sydney Morning Herald*, 2 November 2012, at: www.smh.com.au/national/public-service/link-pay-to-performance-in-public-service-abbott-20121102-28oj2.html

⁹⁵ *Ahead of the Game: Blueprint for Reform of Australian Government Administration*, March 2010, p.47

⁹⁶ Interview with State Services Commission analysts, August 2012

This indicates quite how far from the original NPM-inspired contractual model the central agencies in Wellington have moved since the late 1980s.

Conclusions

What is clear from the discussion above is that both the Australian and New Zealand models are still works in progress, having undergone frequent changes over the past 20 to 30 years. There is a sense in both countries of a pendulum swinging too far (though in different directions) and of current reforms correcting problems associated with this. This does not mean that Westminster systems are converging, but it does mean that looking to any one system as a panacea is to ignore the fact that there are always trade-offs, which complicates any lesson learning process.

In New Zealand, the main change has been the recognition that the attempt in the 1980s to create a clear division between policy and implementation, between politics and administration, is a chimera. Sharper and more transparent accountability for departmental chief executives does appear to have worked and has become embedded in Wellington. But New Zealand has moved away from belief in a simple model whereby ministers purchase outputs from their departments as part of a rigid contractual model. Instead, there is recognition of the importance of relationships in their broader sense. There is also a realisation that modern performance management concerns itself not just with the delivery of pre-agreed objectives, but also on building capability and continuous improvement.

The current reform agenda in New Zealand is also focused much more closely on fragmentation of government, and the inability to gain traction on complex cross-cutting outcomes in a system that creates strong accountability mechanisms within vertical silos. The Better Public Services reforms are designed to address this both by setting clear government-wide priority outcomes, and by enhancing the capacity of the central corporate leadership to help deliver those goals.

Meanwhile in Australia, there seems to be a sense that the relationship between officials and ministers in Canberra had shifted too far towards unfettered political power. The prime minister's power to hire and fire at will (even if this is not always a power that is wielded) was feared by some to have created a subdued culture of challenge to ministerial initiatives. It may also have engendered a more short-term and tactical culture of governance, exacerbated by the three-year electoral cycle and the aggressively competitive nature of Australian politics.

However, at most there has been 'managerial politicisation' of the public service rather than overt partisanship, although the large number of direct political appointees in ministerial private offices does represent a clearer departure from traditional Westminster practice. Current reforms in Canberra are strengthening the civil service leadership and formalising a number of processes to create a bulwark against untrammelled political control.

Yet while structural reform matters, personalities matter too. Structural arrangements can only take a working relationship so far: the quality of personal relations, and the establishment of mutual trust, remains vital. Trevor Mallard, a minister in the last Labour government in New Zealand, put it this way:

"Whether you were getting outcomes rather than outputs depended much more on the minister and the chief executive than on the current model that was being promulgated by government."

Current reformers recognise this, and self-consciously reflect on the need to move beyond legislative changes to also focus on cultural change within organisations as well. One Treasury analyst involved in Better Public Services described it like this:

"The legislative changes and so forth are important, but if you're trying to construct a house they are just the foundations. The behaviour and all that 'soft stuff' really matters. Purely relying on sticks and carrots of a public management sort won't take you very far."⁹⁷

Context matters too. While a number of discrete elements of their systems may be transferable to the UK, there are issues unique to both New Zealand and Australia which should be borne in mind.

⁹⁷ Interview with New Zealand Treasury analyst, August 2012

New Zealand is a much smaller country than the UK. Its population is a little over four million, and its annual core government budget is NZ\$74bn (around £38bn).⁹⁸ This compares to sixty-three million people and £683bn for the UK. Its political culture is small and close-knit. Analysts at the State Services Commission reflected:

“It’s worth considering the scale of the society. We are tiny by international standards, so ideas seem to zip around the place a lot faster than they do in your society.”

Informal accountability acts strongly; if a chief executive is underperforming, everyone knows.

A crucial factor to take into account in Australia is its federal nature. This briefing has focused on the Commonwealth public service in Canberra, but this is only a partial picture. It is notable that many of the issues which cause political embarrassments and implementation difficulties – such as much of the management of hospitals, schools, or indeed rail franchise decisions – are largely the responsibility of the states, rather than the Commonwealth.

Ultimately, the key test for any government is how to design accountability systems that enable government to deliver high-quality public services and to tackle complex social problems. As far as government effectiveness is concerned, Australia and New Zealand both tend to score highly in international rankings.

The purpose of international comparative research such as this paper is therefore not to identify a perfect model that can be imported to the UK, since all governments are engaged in an ongoing process of reform, often looking to learn from countries that have followed alternative paths. Indeed, during our research we repeatedly found examples of where Australia and New Zealand were looking to the UK for lessons (drawing on the now-defunct Capability Reviews and the Top 200 network among other things). This serves as a reminder that each Westminster system has strengths and weaknesses. None offer a perfect model that can be exported in its entirety, but all offer lessons that can inform the reform process elsewhere. It is our hope that this paper will help to facilitate this learning process.

⁹⁸ New Zealand Treasury, Budget 2012 Executive Summary (available at www.treasury.govt.nz/budget/2012/execsumm/06.htm)

Annex: Key features of civil service accountability arrangements in UK, Australia and New Zealand

	United Kingdom	Australia	New Zealand
What is the size of the Civil Service (at national government level)?	In June 2012, there were 424,220 full-time-equivalent civil servants. ⁹⁹	In June 2011, there were 166,495 employees of the Australian Public Service. ¹⁰⁰	In June 2012 there were 43,345 full-time-equivalent public servants in the NZ public service. ¹⁰¹
How is the corporate centre of government organised?	The roles of head of the Civil Service and cabinet secretary were split in 2012. Regulation of the appointments process is the responsibility of the Civil Service Commission.	The most powerful figure at the centre of the Australian Public Service (APS) is the secretary to the Department of Prime Minister and Cabinet (PM&C). The APS commissioner has traditionally played a secondary role in system leadership, though this is growing.	The three central agencies are the State Services Commission, the Treasury and the Department of Prime Minister and Cabinet. Current reforms seek to increase the coordination between the three bodies, with the state services commissioner taking on a greater role as leader of change across the system.
Who appoints permanent secretaries (or their equivalents)?	Permanent secretaries are formally appointed by the PM following a selection process overseen by the Civil Service Commission. Ministers are consulted during the process. The cabinet secretary is also closely involved.	Departmental secretaries are appointed by the prime minister. Other ministers are involved at the PM's discretion. Current reforms are giving the formal appointment power to the governor-general.	Departmental heads (chief executives) are appointed and employed by the state services commissioner, who must consult ministers during the process.
Do ministers have the ability to veto the	Yes. The PM makes the appointment	Yes. The PM makes the appointment decision therefore has a veto power.	Yes and no. Cabinet (or more precisely, the governor-general in council) can

⁹⁹ <http://www.instituteforgovernment.org.uk/sites/default/files/Whitehall%20Monitor%20%2314%20-%20Civil%20Service%20Headcount%20Q2%202012%20revised%20final.pdf>

¹⁰⁰ <http://www.apsc.gov.au/about-the-apsc/parliamentary/state-of-the-service/state-of-the-service-2010/chapter-4-workforce-profile>

¹⁰¹ <http://www.ssc.govt.nz/hrc-survey-2012>

appointment of permanent secretaries?	therefore has a veto power.	Departmental ministers can't necessarily veto the appointment of their own secretaries however.	block an appointment (though this has happened only once in 20 years), but individual ministers cannot.
Who appoints senior officials below the level of departmental secretaries?	Permanent secretaries are responsible for recruitment within their department, with oversight by the Civil Service Commission.	Departmental secretaries are responsible for appointments within their departments.	Chief executives are responsible for appointments within their departments, though current reforms are giving the state services commissioner the ability to designate key positions for which their agreement will be required when appointments are made.
Are appointments to senior civil service positions made on a non-political merit basis?	Yes. This is entrenched in the Constitutional Reform and Governance Act 2010 and the Civil Service Code.	Yes. Despite the central role of the PM in senior appointments, the process is not politicised, and secretaries almost always have a public service background. Officers below secretary level are appointed purely on a merit basis, and not by the prime minister.	Yes. Merit-based recruitment is strongly entrenched. Chief executive vacancies are advertised publicly, and external recruitment is quite common, though never on a partisan basis.
How much scope is there for political appointees outside the normal merit-based recruitment system?	There are currently about 80 politically-appointed special advisers across government, with most cabinet ministers entitled to two such advisers.	There are around 400 direct ministerial appointees, who comprise the vast majority of staff in ministerial private offices. Many, however, have a public service background.	The number of political advisers in Wellington is on a similar scale to Whitehall. In 2008, there were reported to be 57 political advisers. ¹⁰²
Does Parliament play a role in the appointments process for civil servants?	No. But the First Civil Service Commissioner's own appointment is subject to (non-binding) pre-appointment	No. But parliamentary approval (both houses) is required to dismiss the APS commissioner (and a few other roles).	No. But parliamentary approval is required to dismiss the state services commissioner.

¹⁰² www.publications.parliament.uk/pa/cm201213/cmselect/cmpublicadm/writev/psa/m09.htm

	scrutiny by a select committee.		
Are permanent secretaries employed on a fixed-term basis?	No.	Yes, usually for five years (but sometimes less) and this can be terminated early or extended by the PM.	Yes, almost always for five years, which is frequently (though not always) renewed.
What are the formal responsibilities of permanent secretaries?	Permanent secretaries have a statutory accounting officer role but otherwise it is relatively opaque what permanent secretaries are personally responsible for. The Government is planning to publish performance objectives for permanent secretaries.	The current Public Service Act specifies that secretaries are responsible for managing their departments “under the minister”. Current reforms are removing this phrase, and clarifying the roles and responsibilities of secretaries more generally.	Chief executives are explicitly responsible for the “efficient, effective, and economical management” of their departments, and for acting as the interface between the public service and their minister. Ministers are not supposed to involve themselves in internal departmental matters.
How are permanent secretaries appraised?	Permanent secretaries are appraised by the cabinet secretary or the head of the Civil Service. Non-executive directors on departmental boards also provide input. The Government is considering increasing ministers’ role in this.	Performance management has been a responsibility of the PM, advised by the secretary of PM&C and the APS commissioner. The current reforms are introducing a more formalised “270-degree” appraisal system, with ministers feeding in comments after the formal process.	The state services commissioner is responsible for performance management of chief executives. There is a formal appraisal each year based on annually-agreed performance expectations. Ministers are consulted during the process.
What is the typical process for removing departmental secretaries when this is deemed necessary?	Formal dismissals almost never happen. Instead, informal ways are found to move people on, especially when their relationship with the minister has broken down.	By law the PM can dismiss secretaries with little legal hindrance, though current reforms are giving this power to the governor-general instead (who acts by convention on the PM’s advice). More frequently, secretaries are moved on after their contract expires.	Typically, secretaries are only removed after completing a five-year term, which is a good time to decide whether or not to reappoint them.

Is policy advice from departments to their ministers published?	No. Policy advice is exempt from the Freedom of Information (FOI) Act, although this can in theory be overruled on public interest grounds.	Not routinely. Policy advice is “conditionally exempt” from FOI, meaning access should be given unless it is contrary to the public interest.	Yes. Departments proactively publish their advice to ministers.
Are ministers physically located in their departments?	Yes.	No. Ministers are located centrally in Parliament House (or in their constituencies).	No. Ministers are located in the executive wing of the parliament building (the Beehive).
What is the current reform agenda?	The Government published a Civil Service Reform Plan in June 2012 and is now consulting on the proposals.	A high-level advisory group published a report called <i>Ahead of the Game</i> in 2010. All of its proposals were accepted by the Government and are being implemented at present.	A high-level expert advisory group published a report called <i>Better Public Services</i> in 2011. The Government’s reforms have been informed by this report and are being implemented at present.
What are the main changes taking place?	Key changes being considered include increasing the role of ministers in civil service appointments and appraisals, and sharpening the personal accountability of individual officials, for instance by expanding the accounting officer role.	There is a move to reduce ministerial discretion over performance management and appointments of departmental secretaries. As part of this the role of the Australian public service commissioner is being strengthened. There is also a desire to improve management capability and strategic leadership across government.	The reforms are designed to tackle the problem of fragmentation. Government has set out 10 top priority outcomes which departments are required to collaborate to achieve. Budgetary flexibility is being further increased to allow sharing of resources. There is also an attempt to strengthen the corporate leadership of the service by bringing the three central agencies together more coherently.