

Getting a Grip on the System

Policy
Exchange 

Restoring Ministerial Authority over the Machine

Stephen Webb, Iain Mansfield and Paul Richards

Forewords by Rt Hon Michael Gove
and Rt Hon Jim Murphy



Getting a Grip on the System

Restoring Ministerial Authority over the Machine

Stephen Webb, Iain Mansfield and Paul Richards

Forewords by Rt Hon Michael Gove
and Rt Hon Jim Murphy



Policy Exchange is the UK's leading think tank. We are an independent, non-partisan educational charity whose mission is to develop and promote new policy ideas that will deliver better public services, a stronger society and a more dynamic economy.

Policy Exchange is committed to an evidence-based approach to policy development and retains copyright and full editorial control over all its written research. We work in partnership with academics and other experts and commission major studies involving thorough empirical research of alternative policy outcomes. We believe that the policy experience of other countries offers important lessons for government in the UK. We also believe that government has much to learn from business and the voluntary sector.

Registered charity no: 1096300.

Trustees

Karan Bilimoria, Alexander Downer, Andrew Feldman, David Harding, Patricia Hodgson, Greta Jones, Andrew Law, Charlotte Metcalf, David Ord, Daniel Posen, Andrew Roberts, William Salomon, Simon Wolfson, Nigel Wright.

About the Authors

Stephen Webb joined the civil service in 1991. He started in HM Treasury, joining the Northern Ireland Office in 1995 working on political and security policy around the Good Friday Agreement. In 2002 he moved to the Home Office working on organised crime policy. At director level, he led finance for the crime and policing area, was Director of Corporate Services at the National Crime Agency and headed major projects in the law enforcement and biometrics area. In 2020 he moved to the Cabinet Office to work on borders issues post Brexit. Stephen is now Head of Government Reform and Home Affairs at Policy Exchange.

Iain Mansfield is Director of Research and Head of Education and Science at Policy Exchange. He is a former Special Adviser to three Education Secretaries. Prior to that he held a variety of senior positions in the private and public sector, including as a Senior Civil Servant at the Department for Education, as Director of UK Trade and Investment, The Philippines in the Foreign and Commonwealth Office and as Head of Public Sector at the Association of Chartered and Certified Accountants. He has served as a University Governor and as a Director of a British Chamber of Commerce.

Paul Richards joined Labour in 1986, and has been involved in politics ever since. He was chair of the National Organisation of Labour Students (NOLS), and then a Policy Adviser (PAD) ahead of the 1992 general election. He worked at Labour HQ under John Smith, and then co-founded Progress to support Tony Blair. Paul is the Labour and Co-operative parliamentary candidate for Eastbourne. He was also a Labour parliamentary candidate in 1997 and 2001, and chair of the Fabian Society in 2003-4. He serves on the Fabian executive. From 2005 to 2009 Paul was a Special Adviser at Health, Cabinet Office, and Communities. After 2010, Paul has been an adviser to MPs, speechwriter, and political commentator. He is author of four books. Paul was the Labour & Co-operative candidate for Police and Crime Commissioner (PCC) in Sussex in 2021 and 2024.

With particular thanks to:

Rt Hon Hazel Blears
Rt Hon Sir Vince Cable
Douglas Carswell
Sir John Gieve
Rt Hon Ben Gummer
Rupert Harrison
Rt Hon Ruth Kelly
Chris Leslie
John McTernan
Munira Mirza
Rt Hon Jim Murphy
Sir David Normington
Lord Sedwill
Rt Hon Baroness Stuart
Nick Timothy MP
Rt Hon Lord Willetts

Whilst the insights of the individuals listed above have informed this work, the output is wholly the responsibility of the authors and does not necessarily reflect the views of those individuals or the organisations they represent.

Foreword

Rt Hon Michael Gove
Secretary of State for the Department of Levelling Up, Housing and Communities

The British electorate has decided, and a new government is starting work. Incoming Ministers will, however, face similar challenges to their predecessors getting their priorities delivered by the government machine.

This PX report isn't about the policy choices facing us. Instead, it takes a hard look at the system, its strengths as well as weaknesses and what can be done to improve it. It concludes that Ministerial influence over the administrative machine has declined in recent decades. It recommends that this needs to be reversed if voters are to have confidence they have a real choice and that Ministers actually have the ability to deliver change in the areas they are promising.

In my experience change can be delivered – but the process can be painful and slow, and I recognise many of the issues the report identifies.

The report's recommendations are far ranging, and well worth examining closely. Many are controversial, and all will have different views on their merits.

I particularly welcome the philosophy underlying the report, which reflects the course Policy Exchange has steered over many years now. It represents an unfashionable commitment to politics as a calling, recognising that only through politics can difficult choices and trade offs be made. Most of all, it pushes back hard on the pretensions of those who believe whole areas of public life and decision making impacting the population should be fenced off and left in the hands of technocrats beyond any political accountability.

The report has benefited from interviews with a range of distinguished politicians, advisers and civil servants. I have noticed a certain fellow feeling between politicians of all parties about the challenges they have faced delivering their political priorities once in office. It is interesting to see this insight reflected in the findings of a report co-written by a former civil servant and two former special advisers of both parties. I recommend it to all.

Foreword

Rt Hon Jim Murphy

Former Secretary of State for Scotland. CEO and Founder, Arden Strategies

In his diary, the Duke of Wellington described the culture shock of switching from issuing orders to his officers, to chairing Cabinet as Prime Minister: ‘An extraordinary affair. I gave them their orders and they wanted to stay and discuss them.’

Of course, the command-and-control model of decision-making rightly isn't one we should envy within our democratic system. Yet, I understand a little of Wellington's frustration. As a Minister, there is always a clash between the desire to get things done, and fast, and the due process of deliberation, scrutiny, balancing competing demands, and engaging with opposition. But that process despite sometimes becoming a quagmire is important, and legitimate deliberation which on occasion feels like deliberate obstruction can strengthen decision making.

The best Ministers know how and when to get things done. They know how to shape a narrative, how to build alliances, and how to navigate the accompanying legislation. I am proud to have served in a Labour Government which got things done, from the Scottish Parliament to the national minimum wage. But as Tony Blair described after just two years in the job, he had ‘scars on his back’ from attempting bold reforms, and facing fierce resistance to change.

The authors of this pamphlet come from across the spectrum of politics but share the sound belief that a democratically-elected government, with a clear mandate, has the responsibility to govern. Ministers must be able, in the short time they have, to make a difference. Given the scale of the nation's challenges, we cannot have mere incrementalists in Whitehall, but reformers and radicals.

With the election behind us, our thoughts turn to the challenges facing new Ministers. In office, Ministers must create the space to think everyday, to receive advice from a range of sources, to meet those directly delivering services or directly affected by reforms, and to take decisions which are translated into action. To govern is not only to choose, but also to act. This pamphlet offers a range of ideas for how to make it happen. Some are more helpful than others, but each merits discussion.

When I first became a Minister Tony Blair told a much younger me that the good news was that the British civil service had the engine of a Rolls Royce but the bad news was that it also the brakes of a Rolls Royce. He added with his trademark smile that if you don't drive it, it may find a lay-by to park itself in. So my advice to new Ministers is get behind the wheel and rely on your values and decency to set a sense of direction and momentum.

© Policy Exchange 2024

Published by
Policy Exchange, 1 Old Queen Street, Westminster, London SW1H 9JA

www.policyexchange.org.uk

ISBN: 978-1-917201-09-4

Contents

Introduction	11
A Paean to Politics	11
Executive Summary	15
Summary of Recommendations	25
Part I: Diagnosing the Problem	30
The original Westminster System	30
Growing Complexity of the Landscape	31
Judicial Review	36
Statutory ‘guard rails’	40
Ministers and the Civil Service	41
The decline in independent policy advice for parties	43
Spads – The Exception that Proves the Rule?	44
A Brave New Technocratic World?	46
The promise of technocracy	46
Pressure for more of the same?	48
Does technocracy really clarify responsibilities?	50
Does technocracy improve efficiency?	51
Does Technocracy provide fairer outcomes?	53
Technocracy and legitimacy	54
Why This Matters So Much Now:	
Unprecedented Challenges for the Incoming Government	56
What is to be Done? Ideas	58
Greater clarity of objectives and priorities	58

What is to be done? People	59
Getting the team right	59
Cabinet and Ministers	59
Special Advisers	60
Extended Ministerial Offices	62
Ministerial churn	64
Standards and Behaviour	66
What is to be done: the system	69
Signals to the system	69
‘Bring out your dead’	69
Understanding The Civil Service Culture	71
A statutory Civil service?	73
Who do Ministers want in charge of the system?	74
Is the policy civil service too large?	75
Restoring the National School of Government	77
Getting the Right Civil Servants Into Roles and Influencing	
Performance Assessments	77
Reform of the CS Code	81
Legal advice: understanding and combatting risk aversion	85
Broadening the advice pool	86
Arm’s length bodies	88
Public appointments	90
The Public Sector Equality Duty	94
The government centre – thoughts on change	96
A Strong Centre: Effective or Overbearing?	97
‘Departmentalitis’ and how to tackle it	98
Endpiece	103

Introduction

A Paean to Politics

In 2007, in his valedictory words from the Despatch Box, Tony Blair said:

“Some may belittle politics but we know it is where people stand tall. And although I know it has its many harsh contentions, it is still the arena which sets the heart beating fast. It may sometimes be a place of low skullduggery but it is more often a place for more noble causes”¹

The years since have seen no shortage of low skullduggery, yet also some noble causes. Government Ministers from the Labour, Conservative, and Liberal Democrat parties have strived to make the country better, to serve their nation in the ways they saw most fitting.

Each Minister sought to deliver the policies they judged most important and pressing, to improve lives, to enact a manifesto pledge or address a lifelong concern, and to have some kind of legacy to show for the endless, thankless, exhausting hours in committees, in meetings, on trains, or up to their elbows in their Red Boxes.

So many former Ministers, from the lowliest parliamentary-under-secretary of state, to the “first amongst equals”, often say the same thing: their time in office was frustrating, the system was sclerotic and glacial, the connection between the will of the people and the willingness of the machinery of government to enact it was at times tenuous.

On the left, they complain about the ‘establishment’; on the right, ‘the blob’. The point is identical: democratically-elected Governments, with clear majorities and mandates, and willing, energetic Ministers, meet mighty but subtle forces of resistance. This resistance stems not from bodies of armed men, nor powerful financiers, nor shadowy cabals in St James’s clubs. We can leave that to the writers of political fiction and satirists. It stems from systems, cultures, attitudes, assumptions, group-think, and at times inertia: the desire not only to assess risk, but ideally to avoid it altogether; to do what has always been done.

Yet the United Kingdom is a democracy. Our democratic culture, institutions, and political system are supposed to serve the will of the people, expressed through the vote, mediated through political parties, and served by elected representatives. The administrative system should serve the will of the people, not any other elite group or vested interest. No matter how imperfect, how annoying, how dog-eared our democracy, it remains, to misquote Winston Churchill, the least-worst option.

1. Hansard June 27 2007 Column 328.

It is fairer than rule by aristocrats, more pluralist than oligarchy, more rational than theocracy, and certainly more humane than dictatorship. It has proved more resilient than fascism or communism, in each and all their horrific manifestations. Millions in dictatorships and cruel theocracies of the world, look enviously at the repertoires and rituals of our democracies, and wish they could speak, vote, and live as freely as us.

Ours is a competitive and combative system. It rests on the clash of ideas, the scrutiny and testing of policies. It is animated by wildly disparate traditions and sources, and the big issues that divide us, from Brexit, to the break-up of the United Kingdom, to climate change, to the fundamentals of economics. Underneath these big divides, though, are common instincts and assumptions which unite pretty much everyone engaged in the process of democracy. We agree that democracy is better than the alternatives. We like to complain about the council, but like being able to vote for our councillors. We would rather live in the United Kingdom, despite the late trains, poor service in restaurants, and wet weather, than Lukashenko's Belarus or Erdogan's Türkiye. We know our system is flawed, but will defend it to the death.

Our democracy is united on the fundamentals, whilst simultaneously divided on the details. So when an elected Government is thwarted or stymied by the invisible hands of inertia or intransigence, it should offend us all, whether we voted for them or not. In other words, it is in all our interests that the system works, whether we like the flavour of party in office at any given moment. This should be a given for all democrats.

At the 4 July election, the people made a clear choice. New Ministers have now been appointed, and are starting work. We can predict they will embark on their all too brief careers in Whitehall, and encounter all of the frustrations and clash of cultures that have beset Ministers since the days of Walpole.

They will find, like generations of Ministers, that their wishes seem to be ignored, that the advice they receive seems remarkably narrow, that the options they are offered appear unfeasibly loaded towards a single course, that their days are filled with pointless meetings and their evenings and weekends are filled with a forest of papers. They may find that their power to make a difference is illusive, seemingly outsourced to arms-length-bodies, unelected regulators, and quangos. The tumult of the election campaign, and the pledges made on doorsteps and the hustings, will seem like a distant echo. The grim, exhausting treadmill of Ministerial life will consume them, from early dawn to late into the night. One day, their career will end in failure, as all political careers do.

As democrats, we believe this is not merely ineffective but dangerous. As Harold Laski said, "democracy requires the drama of positive achievement to retain its faith". Democracy is too precious to squander. No-one ever loses their democratic freedoms and rights without regret. Our argument is that the system must work, because the alternative is too horrible to contemplate.

This paper is anchored in this credo – that democracy matters, and democratic politics is vital, that Governments must govern, that the will of the people is paramount, and that anything that stands in the way of this must be challenged and overcome. The three authors may come from different traditions and party allegiances, but we are united in this conviction: that an incoming government must be able to enact its mandate and turn its promises into legislation, having gone through the mincer of parliamentary scrutiny and public debate.

Democracy – rule by the people – must win through.

Executive Summary

In 1780 a famous resolution in the House of Commons declared that “the power of the Crown has increased, is increasing, and ought to be diminished”. This paper argues the last 40 years has seen the opposite happening to Ministerial power. This is having an adverse impact on the quality and legitimacy of government, and public confidence in it. But the trend is not inevitable – it can and should be reversed. The changes required would not be hugely complicated and would in themselves cost nothing – they would however require clarity of vision, patience and Ministerial determination to see them through.

Until relatively recently, the UK was the classic example of the ‘Westminster system’, with a strong government based on Parliament, able to run the system through legislation and administration, working with a subordinate but strongly independent civil service. A government with the confidence of Parliament can pass and repeal laws at will, as no Parliament can bind its successors. This is the ultimate constraint on government power.

Over the last few decades, however, the balance of this system has become disturbed. Ministers’ authority and room for manoeuvre has been gradually eroded.

Within departments, Ministers and Special Advisers (Spads) are ever more outnumbered, with their numbers flat while the Senior Civil Service and the ‘policy profession’ within the central civil service have both expanded by 67% and 94% since 2012 and 2016 respectively. The hollowed out nature of political parties means Ministers have less dedicated policy resource supporting them, making them dependent on an official machine which prizes conformity and consensus in its policy thinking, and extreme risk aversion with regard to the law.

The civil service itself meanwhile seems increasingly to chafe against the traditional statement of its role set out in the Armstrong Memorandum of 1985².

“Civil servants are servants of the Crown. For all practical purposes the Crown in this context means and is represented by the government of the day. The civil service as such has no constitutional personality or responsibility separate from the duly constituted government of the day.”

Think tanks and a series of reports supported by ranks of eminent former civil servants have helped contribute to a growing pressure for codification, with calls for a new fully statutory basis for the civil service.

2. Armstrong Memorandum: The Duties of Civil Servants Respective to Ministers: HC Deb 26 February 1985 vol 74 cc128-30W

The wider operating landscape has also become progressively more complicated. Arm's length bodies (ALBs), watchdogs and regulators have been given ever deeper and more independent statutory roles and responsibilities.

For all the theoretical divide between policy and operations, this has never been an easy distinction to make in practice, and most ALBs have gradually built up their own policy function, most strikingly NHS England which has in house policy function pretty much mirroring that in the parent department.

The independence of ALBs has been entrenched in legislation in many core areas, with the now typical structure of a chair and a board standing between Ministers and the operational management of the agency.

Another novelty has been the trend for Ministers to set out policy targets in legislation, and to introduce additional bodies to oversee, supervise, regulate or even take over the formulation and implementation of policy, ranging from interest rates, commenting on public finances and the economy or making recommendations on Net Zero. It is as if politicians do not trust themselves to make the right decisions when times get hard, but choose to lash themselves to the mast like Odysseus facing the Sirens.

Underlying everything has been an enormous expansion of the role of the courts, in particular the rise of judicial review and most of all since the incorporation of the European Convention of Human Rights into domestic law through the Human Rights Act.

All of this does not necessarily mean some kind of conspiracy against Ministers by a 'deep state'. Some Ministers may even have welcomed and promoted the changes, seeing them as reducing the unrealistic demands for personal Ministerial accountability for all the operational decisions of their departments.

In general though there tends to be an inverse relationship between how enthusiastic parties are for constraining executive power and the amount of such power they are currently enjoying – as the late Italian PM Giulio Andreotti used to say “power wears out those that do not have it”³.

In the 1960s and 1970s it was the conservative Quintin Hogg who criticised the 'elective dictatorship'. Frustrated by the Labour government's ability to pass radical provisions with a very small majority, Hogg called for a constitutional convention, chaired by “some elder statesman of universally respected character”, to restrict these unlimited legislative powers of Parliament. Hogg proposed the establishment of regional parliaments, a British Bill of Rights that limited parliamentary action, the ability of the judiciary to override Acts of Parliament it deemed to be 'unconstitutional' or passed without 'adequate debate', and fixed-term parliaments.⁴

In the run up to 1997, ironically many of these themes were taken up by the Labour Opposition. Radical changes were made, particularly the Human Rights Act and devolution. Some of the new government's provisions like the Freedom of Information Act were bitterly regretted by Tony Blair after a few years in government. In his memoirs, he famously

3. [Wikiquotes: Link](#)

4. Johnson R, In defence of elective dictatorship, Policy Exchange Blog: [Link](#)

berated himself for the policy “You idiot. You naive, foolish, irresponsible nincompoop. There is really no description of stupidity, no matter how vivid, that is adequate. I quake at the imbecility of it”⁵.

Similarly in the run up to the 2010 election, the conservative party made a series of commitments including restricting the number of special advisers and then legislating during the coalition government for Fixed Term Parliaments; both provisions the party ultimately regretted.

Ministers can give away power, but they cannot avoid accountability for decisions they are now less able to influence than before. This paper argues that it is in politicians’ collective interest to reverse the trend towards Ministerial impotence, whichever party they belong to, and whether they are currently in power or not. The first step here is not to make things worse - resisting the siren calls to give yet more power away by codifying this or establishing a new quango there.

Reversing the trends of the past decades will meet resistance. Over the past 20 years or so there has been a positive shift towards valuing a more technocratic approach for its own sake – one in which Ministerial discretion is consciously dialled back in favour of what is seen as objective, evidence-based decision making led by experts. This is often described as moving away from a ‘good chaps’ system in which reliance was placed on judgement and conventions.

Codification does not remove the need for human judgement, however, whether by ‘chaps’ or otherwise. Little that is done in politics and administration is so mechanical that it can be driven by a code or an algorithm. Perhaps those calling for an end to the ‘good chaps’ system really feel that those leading independent watchdogs or the judges who will ultimately rule on contested cases are more likely to be ‘good chaps’ than politicians or their friends, for all that politicians are accountable to the voters and these others are not.

This paper notes, moreover, there is little evidence that this ‘technocratic’ approach to government has delivered the increased efficiency, quality of decision-making and clarity promised by its proponents.

The argument for transferring responsibilities to experts is that the improved quality of decision making will be better for everyone. Ministers can use their democratic mandate to set the strategic and policy framework which can then be implemented objectively by subject matter experts.

There are however few decisions that don’t include an element of balancing rights or interests. Only Ministers have the democratic legitimacy to make these sort of calls. Absent the need to take into account democratic views and pressures, it is only natural that experts still have interests and presumptions of their own, that they are more preoccupied with factors in their own area of expertise than those outside, and they are influenced by the culture and interests of their own peer groups and the stakeholders they engage with.

It is no coincidence, moreover, that the rise of technocracy has coincided with growing disillusion among voters about politics and government. Nearly 7 in 10 Britons consider “the experts in this country

5. Blair, T A Journey, Hutchison, 2010

do not understand people like me”⁶. 63% of voters believe that British governance is rigged to the advantage of the “rich and powerful”⁷.

If the growing technocratic state has made decisions more opaque, favouring the more sharp elbowed members of the electorate who can navigate the more complex landscape, this would help explain why the disillusion is particularly concentrated among working class voters. The turnout gap between working classes and middle-class voters was just 5% in the early postwar era, but rose to 19% by 2010⁸.

This erosion of Ministerial influence and growing public disillusion comes at a bad time as new Ministers face some of the most daunting problems for decades. Whether the fiscal situation, the scale of small boats and immigration, economic stagnation or the challenges of delivering Net Zero, the Government is going to face hugely difficult choices involving painful trade-offs – the sort of calls that are quintessentially political but which politicians will find are now increasingly difficult to impose.

This paper does not make policy recommendations – the three authors come from very different places; the main point is that Ministers deserve the ability to put their elected mandate into force.

For this, Ministers need to have a clear strategy spanning Ideas – People – Machinery (in that order.)⁹

A policy appearing in a manifesto has a much greater chance of appearing in a King’s Speech, and under the Salisbury convention the legislation cannot be blocked in the House of Lords. This makes it harder, but not impossible, for vested interests to delay or sabotage them.

Second is the selection of the team: both the Prime Minister’s selection of their Cabinet and Ministers, and Ministers’ selection of the team of advisers who will support them in delivering their priorities.

All our interviews stressed the benefits of continuity from opposition spokesman to Minister and within Ministerial roles. Data in this report¹⁰ suggests the UK has a relatively high level of Ministerial churn compared to G7 and other commonwealth countries. Combined with the much stronger independence and unusual devolved management of the UK civil service, this helps explain why so many Minister’s struggle to impose themselves on their departments.

Other striking data suggests that the average period in the cabinet has declined steadily over the past 50 years, as has the average ‘apprenticeship’ period that cabinet ministers have spent at junior Minister level¹¹.

This suggests there would be benefits indicating a commitment to keep Ministers in post for longer – recognising that Prime Ministers also need the flexibility to respond to unforeseen circumstances so a hard and fast rule would not make sense.

We strongly believe that the essential role of Spads should be recognised and artificial constraints on numbers and their role should go, with Ministers resisting the temptation to win short term plaudits by tightening the numbers further as recommended, for example, by the recent Commission on Governance¹². The number of Spads is tiny compared to the overall civil service paybill. Their role in supporting Ministers on their

6. IPSOS. Populist and Nativist Sentiments in 2018: a 27 country survey. 2018

7. Hansard Society Audit of Political Engagement 2019: [Link](#)

8. British Election Survey: [Link](#)

9. Dominic Cummings, quoting Col Boyd, says the approach should be ‘People, Ideas, Machines, in that order’. There can never have been a cabinet with more impressive individuals than Harold Wilson’s in 1974, however, but this wasn’t reflected in the success of the government. In contrast, Sir Robert Armstrong commented on Mrs Thatcher ‘She thought that it was policy that mattered and then the people, and that the policy could be delivered whatever the machinery’

10. See table 6 on page 63

11. See table 5 on page 59

12. Grieve, D. Commission on Governance 2024

priorities, communications and media is well understood. Our interviews also stressed how important they were also in helping Ministers formulate and deliver their priorities. On top of this, we are recommending a significantly enhanced role in areas like public appointments, driving the delivery of key Ministerial priorities and advising Ministers on the management of their departments.

As a result, we propose lifting the cap on numbers completely or substituting a much higher number of 200-300. At the same time, we recommend creating a second category of Spads – those attached to individual Ministers, and a new category of subject matter experts based in revived ‘Extended Ministerial Offices’ within departments, employed on fixed term contracts to support successive Ministers from that administration.

Inevitably any Prime Minister will face complaints about the behaviour of their new team – ranging from justified criticism to media pile-ons and politically motivated attacks. We strongly recommend resisting pressure to codify the behavioural provisions in the Ministerial code or giving existing watchdogs the power to recommend sanctions (still less enforce them). Ultimately, it should remain for the Prime Minister to decide what the consequences for lapses in conduct should be – and for the electorate to draw their own conclusions on this when deciding whether the government should remain in office.

As a recent Policy Exchange paper argued; “The Nolan Principles are just that – principles. They comprise broad concepts and are not, and were never intended or designed to be, literal rules – not least because much political discourse is contested (this is the nature of political debate), and decisions are often balanced by competing public interest considerations. This would be lost if the Nolan principles became legalistic rules, with courts able to second-guess both the making of the code and its application in practice” - The combination of the Parliamentary Standards Committee and recall petition rules have proven effective at holding to account MPs from various parties.”¹³

As for the structure of the machine, Ministers have a range of options. We review the various options for change at the centre of government, where there is certainly a case for a restructuring, though noting that all such Machinery of Government changes take up time, attention and political capital.

Even if a new government has minimal appetite for ‘machinery of government’ issues, we believe there are a series of discrete, targeted measures which could make a dramatic impact on Ministers’ ability to influence the system if they are implemented and followed through.

First, we recommend putting to rest the whole debate about a statutory role for the civil service. Incoming Ministers should send an early signal that they expect to enjoy strong control over the machine.

Given the difficult economic and fiscal climate, incoming Ministers need to send a clear signal to the machine that productivity and efficiency are the top priority, shifting the balance of engagement with the civil

13. Zhu, Yian Yi, Standards; Unsettling Conventions; The Constitution and the Regulation of Political Standards, Policy Exchange Jan 2024; [Link](#)

service from fine tuning policy ideas to setting out the facts and figures Ministers will expect to have on their desks on day one.

The world of targets and Management Information risks generating perverse incentives throughout – the phenomenon of ‘hitting the target and missing the point’. We also recommend Ministers exercise extreme caution making any promises on the basis of existing management information in areas like waiting lists. They should first have a chance to review the methodology and satisfy themselves there are no perverse incentives and the performance claimed fairly reflects the underlying facts.

The first weeks in Government should also see across Whitehall a ‘bring out your dead’ exercise, with departments told to brief Ministers of operational, legal or programme risks in a timely manner, lest Ministers find themselves imperceptibly taking responsibility for issues like the Post Office’s Horizon systems, an issue which two different administrations inherited from their predecessors.

The civil service has huge strengths and commitment to public service. Officials have, however, a strong bias towards the status quo, or at least highly incremental reform. Performance and promotion are strongly linked to developing good relations with ‘stakeholders’, who are even encouraged to feed back into performance appraisals. While designed to encourage cooperative relations, this arguably gives undue weight to large players like industry bodies, lobbying organisations, unions or professional bodies, whose interests will not necessarily align with those of the public. Given that civil servants are the ones who will ultimately have to implement radical change, and that they are constantly encountering contradictory ideas for such change, it is not surprising that they tend to take a sceptical view. It does, however, mean that Ministers cannot expect to get many radical ideas from the system. As Tony Blair noted

“The reality is not they [the civil service] were posed to strike, sabotage or act. The problem with them..was inertia. They tended to surrender, whether to vested interests, to the status quo or to the safest way to manage things, which all meant to do nothing. Wholly contrary to the myth, they were not the least in thrall to the right-wing establishment. They were every bit as much in thrall to the left-wing establishment”¹⁴

We strongly recommend that Ministers reform independent advice to let the sunshine in and help stir up the system with access to different perspectives. Ministers should insist that external advisory bodies genuinely reflect the full range of views on the subject matter, recognising this might mean divided counsels and minority reports on occasion. And we recommend that all Ministers are given the right to set up a personally selected external group of advisors to act as a sounding board, on policy or operational issues. The Cabinet Secretary should take responsibility to ensure cross government arrangements are in place on vetting and Non-Disclosure Arrangements to enable these groups to be established immediately.

14. Blair, T A Journey, Hutchison, 2010

Different parties may have different views on the required size of the civil service, depending on the fiscal position and the new government's policy priorities. Whatever the new Government's views on this might be, there is a strong case for scaling back the size of certain parts of the central civil service, in particular the senior civil service and the policy core and reviewing the overall pay package.

Take home pay for the civil service and the senior civil service in particular has fallen since 2010¹⁵. The Senior Salary Review Board has consistently drawn attention to this, and to the growing gap with comparable private sector roles (and indeed other parts of the public sector like local government and the NHS). Government policies on pay and progression have led logically to the phenomenon of grade drift and churn which successive reports have criticised.

The public will not get a Singapore-like civil service with relentlessly falling wages. Nor, however, can the public continue to afford the expansion and grade drift which this paper describes in the higher echelons of the civil service even at current pay rates, let alone on more generous terms. A considerably smaller but much better paid senior civil service would provide a better service for Ministers and the public.

The process of reducing and reshaping the civil service must be accompanied by the underpinning training to ensure that the civil service is of the highest calibre. The abolition of the National School for Government by the Coalition government was a mistake, and we recommend reinstating something similar to provide the necessary training – both generalist and specialist – to the civil service at all levels.

The current regulations on senior civil service appointments give Ministers considerable theoretical influence, while excluding Spads from any role in the process ensuring that Ministers in practice have very little bandwidth to do anything. The reasoning for excluding Spads is in our view spurious, and we believe incoming Ministers should make it clear to the Civil Service Commission they expect to see the regulations amended to remove this block, or Ministers should take power to draft the regulations back into their own hands.

Our interviews suggest that in practice Ministers are usually able to move officials in critical roles on if they believe they are not suitable for taking forward their priorities. This is often an unnecessarily bruising process, however. We think there is something to be said for a formal power to ask for moves in key roles, noting this need not be a performance issue – chemistry matters between officials and Ministers and the relationship not working doesn't necessarily imply a performance issue.

In day-to-day performance management too, there seems to be a feeling in the official system that Ministerial input is faintly improper – despite the fact it is explicitly envisaged in the official senior civil service performance guidance.

Given the degree of confusion which seems to reign here, Ministers should reaffirm the existing position that Ministers will be consulted in the SCS performance regime for their comments on candidates both

15. Partially offset by the improved value of pension entitlements

for year-on-year performance marking and the talent grid (which sets out the corporate view of the department on the candidate's long term promotability). Line management responsibilities remain, of course, with civil service managers, and they are not obliged to take on board Ministers' views – but any such divergence is an appropriate matter for discussion between permanent secretaries and Ministers.

Officials' conservatism about legal risk is a frequent source of tensions with Ministers. The Civil Service Code is increasingly cited by officials and unions arguing they should not be expected to work on policies which officials believe are unlawful. The First Division Association recently sought judicial review of the Safety of Rwanda Act for this very reason. We are recommending two changes to the civil service code. The first is to build on the Code's current warning to officials not to "frustrate the implementation of decisions once taken" by adding an additional duty covering the policy development process.

"While civil servants should advise Ministers frankly and honestly about the risks and problems with policies, Ministers also have the right to expect civil servants will at all times seek to identify ways of achieving Ministers' underlying policy objectives"

Secondly, we recommend a simple but powerful amendment to the section of the Code which currently states civil servants' duty to "comply with the law and uphold the administration of justice". We recommend amending this to "comply with UK law and uphold the administration of justice". From Brexit to Rwanda and Gaza, there have been a whole series of cases where officials have claimed the Code constrains their ability to implement Ministers' decisions where they believe these may not comply with international law. As Policy Exchange has frequently argued, and the Courts recently confirmed international law is only binding in the UK if Parliament has decided to enact this. Absent that, the duty to comply with our international obligations rests with Ministers alone.

We have noted the challenge that arm's length bodies can pose to Ministers. They employ around 300,000 staff, making weighty decisions that bear on the public's life, and yet Ministerial control and accountability is highly inconsistent. The classification of bodies is hard to understand at times, while Ministers' ability to set strategic direction and influence over recruitment and dismissal also varies.

We recommend introducing consistent provisions enabling ministers to set strategic direction for arm's length bodies. This does not mean the ability to interfere in operational or regulatory decisions. We also believe that regulatory bodies should be required in law to act proportionately (i.e. with a statutory duty to ensure the costs of their measures are proportionate to the benefits), and that Ministers should have a power in extreme circumstances to dismiss with cause CEOs, as they can generally do now with chairs.

We recommend that Ministers focus on those bodies most material to their priorities and use the new central Spad team on appointments

to ensure that job specifications and appointment criteria are designed to attract the sort of candidates ministers are looking for. The role of the civil service in assuring that successful candidates are ‘appointable’ is an important check against nepotism, cronyism and corruption. It is absurd, however, that prominent public figures are initially sifted on the basis of an application form and required to subject themselves to a time-consuming, month-long bureaucratic process even to get to interview – rather than being assessed against their public record and capabilities. Ministers should be allowed to advance candidates straight to interview, and the whole recruitment process needs to be shaken up, as it currently entrenches a bias towards candidates with public sector or similar backgrounds.

Over recent years we have seen a growing volume of litigation around the Equality Act and how it applies when rights appear to conflict – most dramatically on the disputes between ‘gender critical’ groups and those promoting trans rights.

Settling disagreements between conflicting rights is quintessentially a political matter. Up to now, training and HR have been seen as purely civil service matters to be handled internally by the civil service or by other public sector bodies. In fact, the issues at stake are matters of keen public policy, and the ideology being propounded in many of the cases has a direct read through to policy advice on other sensitive issues (eg transgender inmates in prison). Whatever position Ministers might choose to take on these matters, these are not issues which should be decided initially by unelected public officials and then litigated in the courts, particularly given the risk that different public sector bodies might come up with inconsistent local interpretations of the law.

There is a strong case for flexibility in the way equality initiatives are designed by organisations reflecting their own responsibilities, needs and the context in which they operate. But we recommend much clearer guidance on how the underlying rights are expected to interact. Our proposal is to require public bodies in the exercise of the Public Sector Equality Duty to follow guidance set from time to time by Ministers

These recommendations require some legislation, both primary and secondary. Most of them have little cost, or have a cost neutral effect. The biggest challenge is the culture change required for Ministers to focus on bending the machine to carry out their will. This will take a greater focus on the nuts and bolts of performance and selection than previous Ministers have had the bandwidth to deal with – hence our recommendations around additional Spad support. But it is important that these Spads too really speak with Ministers’ voice, and reflect a common view of what Ministers are trying to achieve.

The fundamental purpose of all of this is twofold. First, to restore to Ministers the ability to make decisions and see them implemented. This in turn should restore to the electorate a confidence that Ministers really can make a difference; and clarity on who has made what decisions, enabling them to judge the effects and decide at future elections whether Ministers deserve to stay in office.

Summary of Recommendations

	Lead	Recommendation
1	PM	Incoming Ministers to agree a clear and limited set of priorities for the government; specific manifesto cover will make challenging policies more easy to deliver.
2		Set a higher limit on the number of special advisers of 200-300, and align their grades and salaries with equivalents in the civil service.
3		Create within this a new category of special adviser (Spad). This should be a policy adviser, a policy specialist directly appointed by Ministers for a Parliamentary term, and who will remain based in departments to advise successive Ministers and implement manifesto priorities rather than follow individual Ministers around. These policy spads should not engage in party political activity.
4		Rapidly create a central list for key public appointments.
5		Set out a clear position on the code of Ministerial conduct, rejecting any proposal that it should be put on a statutory footing.
6		Avoid making commitments to government reform proposals which might generate positive short term headlines but could constrain Ministers once in office.
7		Reject the idea of putting the civil service on a statutory basis.
8		Our impression is there is no real demand for radically different sorts of candidates for permanent secretary roles. We recommend incoming Ministers confirm this, or alternatively come up with a clear steer to the First Civil Service Commissioner and the Cabinet Secretary on what they are actually looking for.

Lead	Recommendation
9	Government to agree a reduction in the size of the Senior Civil Service of up to 40% and a similar reduction in the policy function, while asking the Senior Salary Review Body for advice on how to restore remuneration levels to those of the early 2010s, possibly a 30% increase.
10	Reestablish the National School of Government, with a remit to provide high calibre training in both generalist and specialist subjects, at cost, across the civil service.
11	Make clear to the Cabinet Secretary and First Civil Service Commissioner that revised regulations need to be prepared removing the ban on Spad involvement in senior appointments or Government will legislate.
12	Enhance the central Spad team in number 10 working on public appointments. All prospective campaigns will need to be agreed with this team. The team should have the responsibility for creating a template for job specifications and advertisements from which departments will need to justify any divergences.
13	Announce all Ministers will expect to be consulted on senior civil servant performance assessments.
14	Ministers should have the right to ask for officials to be moved into or out of roles critical to their strategic priorities – moves out should not necessarily be seen as a performance issue for the individual concerned.
15	Consult on changes to the Civil Service Code to clarify officials' duty not only to draw Ministers' attention to problems in suggested policies, but a positive responsibility to do their best to identify alternative ways of delivering Ministers' policy objectives.
16	Consult on changes to the Civil Service Code to make it clear officials are bound to comply with UK law, meaning it is entirely for Ministers to agree the Government's risk appetite on international law.
17	Reform the process of assessing legal risk, giving commissioning officials a stronger input into assessing the likelihood of legal challenge, not leaving this entirely to Government Legal Service (GLS).
18	GLS should track its forecasts of legal risk to compare them with outcomes and review how accurate forecasts have been.

	Lead	Recommendation
19		GLS to conduct a series of external reviews to address concerns about excessive risk aversion. In the event that legal advice goes against Ministerial wishes, GLS lawyers should be expected to seek to identify alternative ways of achieving the same policy end.
20		All Ministers should be given the right to establish personal advisory panels to act as a sounding board for policy proposals being developed in the departments. These should be paid, directly appointed positions capable of seeing departmental papers. The Cabinet Secretary should ensure these are ready to be established across Whitehall in all departments where incoming Ministers have indicated they want them.
21		Pass a Bill to enhance and make consistent Arms Length Bodies' accountability to Ministers. A single Bill should ensure that all statutory Bodies are subject to Ministerial strategic direction, and that the Chair, executives and board are expected to follow these and potentially can be removed if they do not. All Bodies with regulatory/executive functions should be required to take account of costs and benefits in the exercise of their functions.
22		Reforms of the Public Appointment Regulations to clarify diversity does not override the merit principle; to strengthen the role of Independent Assessors and to enable Ministers to accelerate preferred candidates direct to interview, the remaining process continuing according to merit.
23		Amend section 149 of the Equality Act (the public sector equality duty) to make it clear that all public bodies should follow policies agreed with Ministers in interpreting their responsibilities under this section.
24		Prioritisation letters to be sent personally, from the Prime Minister, to each Secretary of State, setting out the Prime Minister's genuine priorities – and these to form the focus of regular, follow-up meetings between the Prime Minister and each Secretary of State.

Lead	Recommendation
25	Strengthen the role of the Prime Minister's Delivery Unit. As in Tony Blair's day, the PMDU should be led by a senior individual who has the personal trust of the Prime Minister and coordinate regular delivery meetings to hold departments to account for performance.
26	Reform the workings of Cabinet Committees as recommended by Lord Maude of Horsham. This would include the routine listing of action points and decisions taken, delivery plans to accompany these action points.
28	The Treasury to provide greater delegated authority to departments to switch funding between budget lines in an area, provided this remains within the department's overall spending remit.
30	Incoming Ministers Require permanent secretaries to have ready comprehensive data on the productivity of their departments and agencies in their area over the past 5 years and plans for the next 3.
31	Demand from permanent secretaries data on vacancies and when all terms of appointment for public appointees in their area fall due, to identify priority areas for working on appointments.
33	'Bring out Your Dead' exercise in departments – Ministers require officials to disclose material areas of operational/programme/legal risks they are inheriting. Review of all management information to ensure they and targets are not causing perverse incentives or disguising the real state of public services
34	Message to departments to cease all work on policy areas not specifically prioritised by new Ministers, pending decisions on moving resources around.
35	Review and reform all advisory bodies. All official advisory boards should be restructured if necessary to ensure they represent the full range of views in their area, and chairs should be advised that consensus reports are not necessary and minority reports will be welcomed if agreement cannot be reached except at the expense of dilution.

	Lead	Recommendation
36		Ministers and Spads should take the opportunity to get closely involved in departmental restructuring plans to ensure the department is optimised for delivering their priorities

Part I: Diagnosing the Problem

The original Westminster System

The 'Westminster system' was traditionally one of the United Kingdom's proudest achievements. The Prime Minister relies on the confidence of Parliament, and forms a government made up of members of the legislature who remain in office for as long as that confidence remains. These Ministers are bound by collective Cabinet responsibility. They are supported by an independent civil service which is merit based and which has continuity while governments change. The courts interpret the law, addressing areas of silence or ambiguity with common law rulings which supplement statute law.

This system combines, therefore, a strong executive with a strong, independent and permanent civil service. A government with the confidence of Parliament can pass and repeal laws at will, as no Parliament can bind its successors.

This is the cornerstone of the British constitution. The power of the Crown was already nominal by the mid nineteenth century. The balance of power between the houses of Commons and Lords has changed over the years, but this debate was settled in favour of the House of Commons a century ago. The system as we have understood it until recently has stood the test of time and the huge challenges of the past century.

The Westminster system has enabled the UK to pull together to cope with national crises, wars and depressions. Abroad, it took root in different soils considerably more readily than its US counterpart. The US constitution prescribes a radical separation of powers between the executive, legislature and judiciary, which has often led to unhappy results when attempted in other countries.

Westminster Governments have been able to implement radical reforms quickly, like those of the Attlee government after the war, and those of Mrs Thatcher in the 1980s. Ministers in Parliament are given wide latitude, but everything they do there is subject to the will of the voters at an election, who may put in a government that reverses all the work of its predecessor.

Within this system, the civil service has a role that is both strongly independent, but also clearly subordinate.

The 'Haldane Convention' in 1918 first set out how Ministers and officials have an indivisible relationship. Under this convention, civil servants have no separate personality and can't therefore praise or criticise policy¹⁶

The then Cabinet Secretary Sir Robert Armstrong noted in 1985:

16. Ministry of Reconstruction; Report of the Machinery of Government Committee, HMSO, 1918

“Civil servants are servants of the Crown. For all practical purposes the Crown in this context means and is represented by the government of the day. The civil service as such has no constitutional personality or responsibility separate from the duly constituted government of the day.”¹⁷

Equally, however, Ministers do not have the right to make political appointments to roles in the permanent civil service. It is the Permanent Secretary who is accountable for the efficiency and propriety of spend in his or her function as ‘accounting officer’.

The Westminster system is a relative outlier internationally. It is very different from the US idea of separation of powers, or the constitution-based systems of other countries. Indeed, as the late Lord Judge said, “let us not fool ourselves. In our constitutional arrangements, we do not have separation of powers, at any rate in the sense that it is understood elsewhere”¹⁸. Increasingly this settlement is under threat, however. A series of developments over the last 40 years have upset the balance between Ministers and the permanent machine. Some of this has been happenstance, but some reflects a conscious unease in many quarters about the power the system gives Ministers, amplified in recent years as suspicion of “populism” is on the rise.

Growing Complexity of the Landscape

The system relies on a relatively small number of Ministers who are also legislators being able to direct a machinery of government which has grown steadily over the past century as the ambitions of the State have expanded.

The state has seen its role expand from the nineteenth century ‘nightwatchman’ focusing on defence and order. It grew to providing a growing financial safety net before and after WW1. As the twentieth century progressed the state’s role in the economy expanded, from the foundation of the NHS to an ambition in some quarters to dominate the ‘commanding heights of the economy’. Even as the state withdrew from directly running large parts of the economy, it maintained huge influence through regulation and an increasingly complex tax system aiming to fine tune investment and consumption. Finally the state has moved into perhaps the most ambitious space of all, seeking to influence citizens’ behaviour ranging from public health measures, seeking to turn round ‘troubled families’ to altering consumer choices in quest of net zero targets.

To manage this, we have a Cabinet about the same size as it was in the early twentieth century, while the total number of Ministers has just over doubled¹⁹. The size of the civil service, meanwhile, has increased over ten fold²⁰. The machine is not only bigger but has grown progressively more complex, with increasingly autonomous departments and arm’s length bodies.

There have always been a significant number of Arm’s Length BVodies, previously called ‘Quangos’ (Quasi Autonomous Non Government Organisations), ranging from advisory committees to bodies with significant operational responsibilities. Over the post war period ever

17. Armstrong Memorandum: The Duties of Civil Servants Respective to Ministers: HC Deb 26 February 1985 vol 74 cc128-30W

18. Judge, L. Constitutional Change: Unfinished Business, UCL, Dec 2013

19. Current limit of 109 paid Ministers compared to 40 Ministers in the Campbell-Bannerman Ministry of 1905 and 65 in the initial Attlee Ministry (Butler and Butler, British Political Facts)

20. National Archives suggest around 40,000 civil servants at the turn of the 19th/20th century [Link](#)

more local government functions (eg water and many environmental responsibilities) were regionalised and then handled nationally and administered by these sort of bodies.

Meanwhile the 1980s also saw growing concerns about the difficulty of securing efficiency and ensuring proper accountability for decisions and performance in the huge operational areas of departments for which Ministers were directly accountable.

This era of New Public Management saw a growing number of independent NHS organisations, while the Next Steps Initiative from the 1980s took an increasing proportion of the civil service into new Executive Agencies.

The 1987 report on Next Steps agencies concluded that:

- Senior management is dominated by policy staff with little experience of service delivery
- Senior civil servants are ruled by ministerial and parliamentary pressures
- Ministers are overloaded and inexperienced in management
- Departments still focus upon activities and not on results
- There are insufficient pressures to improve performance
- The Civil Service is too big and diverse to manage as a single entity²¹

The report recommended: “agencies should be established to carry out the executive functions of government within a policy and resources framework set by a Department”

The radicalism of this original vision was striking:

“The aim should be within five years to establish a quite different way of conducting the business of government. The central Civil Service should consist of a relatively small core of about 20,000 people engaged in the functions of servicing ministers and managing Departments who will be the ‘sponsors’ of particular government policies and services. Responding to these Departments will be a range of agencies employing their own staff who may or may not have the status of crown servants”²².

Sir Robert Armstrong, Cabinet Secretary at the time commented “It came out of a view that we had to recognise that the attempts to make managers out of Ministers had not worked. With the exception of Michael Heseltine, most Ministers had no experience as managers and not much interest in it. They wanted to leave that to their civil servants. The Next Steps was an attempt to tackle the problem from a different point of view”²³

There was some anxiety about the scale of Next Steps’ ambitions. Armstrong himself felt the initiative should pilot highly operational agencies like DVLA, and felt some uncertainty whether the principle would fit with more sensitive areas like the Prison Service. One of the striking features of Next Steps agencies commented on by some of our interviewees was the almost contractual basis of the relationship between the agency and the

21. Jenkins K, C. K. Improving Management in Government, The Next Steps: Report to the Prime Minister (1988)

22. *ibid*

23. Kandiah (2007) and Centre for Contemporary British History, The Civil Service Reforms of the 1980s, 2007: [Link](#)

sponsor departments, which was thought to clarify responsibilities while maintaining considerable flexibility and ability to adapt.

The original vision of the report was never quite realised. Next Steps agencies themselves have come and gone – from peaking at some 80% of the civil service, some functions have been brought back in house or the statutory basis changed, so now only around 25% of civil servants are employed in such agencies.

In parallel, however, there has been a continued growth in the reach and deepening of the autonomy of other arms length bodies. The NHS's independence was ultimately enshrined in the creation of NHS England under the 2012 Health and Social Care Act. The Labour government from 1997 created a number of the most independent bodies of all, 'Non Ministerial Departments' like the economic regulators or the Food Standards Agency. These have ambiguous relations with Ministers – some seeing themselves as reporting to a Minister, others stressing their independence and accountability to their own board, and all stressing the lack of day to day Ministerial control²⁴. The argument is that this is a status appropriate for agencies making sensitive decisions and requiring the highest degree of political independence.

The rise of judicial review has strengthened agencies' consciousness of their autonomy from departments. For all the theoretical divide between policy and operations, this has never been an easy distinction to make in practice, and most ALBs have gradually built up their own policy function, most strikingly NHS England which has in-house policy function pretty much mirroring that in the parent department.

On balance, a greater codification of the relationship between the centre and these bodies, particularly around appointments, has probably reduced the level of influence Ministers have. While the principle of a clear system of public appointments isn't controversial, it clearly (by design) imposes constraints on Ministers' influence over appointments. Meanwhile the growth of judicial review discussed above, including more recently challenge under the Human Rights Act, has also emphasised the autonomous nature of decisions these bodies make.

It is possible that the growing trend towards full codification has also weakened Ministerial influence over ALBs' direction. Certainly many of the agencies and subsequent Non-Departmental Public Bodies lack a clear statutory basis for Ministerial control, with a complex governance system including independent chairs and boards. Ministers' relationship is supposed to be primarily with the Chair, who then appoints and directs the chief executive - though typically these too are appointed with the consent of the Minister.

24. Institute for Government: The Strange Case of Non Ministerial Department, Feb 2013: [Link](#)

Nutrient Neutrality

The arm's-length body Natural England has issued advice to over 70 local authorities that they should only approve new housing developments that are 'nutrient neutral'. This is estimated to be holding up the building of 100,000 new homes, costing the UK economy between £400m – £2.2bn a year.

This guidance is a prime example of how a regulator can issue rules or guidance that have a very large impact on the UK, without any parliament oversight or check. To reverse this guidance, the government of the day would need to bring in primary legislation – creating a clear imbalance in how easy such rules are to create as opposed to repeal.

It is not suggested that Natural England has acted unlawfully or inappropriately. However, its statutory purpose duties require it to pursue environmental goals, and do not take into account other goals of legitimate public interest, such as the need to provide available and affordable housing, or to promote economic growth. Parliament, and elected Ministers, are more able to balance these competing interests – and can be held more accountable for their decisions – than any individual arm's-length body.

Tensions have often been exacerbated by the founding legislation. Regulatory bodies in particular have been criticised for an unbalanced interpretation of their remit, focusing on the narrow issue rather than the wider public good. To be fair, this is often driven by founding legislation which directs the organisation to focus on a particular good without requiring wider considerations to be taken into account, for example proportionality.

This leaves Ministers potentially in the invidious position of having to endorse measures that don't on balance support the public good, or face the accusation of 'ignoring the experts' (and often with little practical option to change the decisions anyway short of primary legislation).

It is striking that one of the most significant and powerful new ALBs of the last two decades, the Office for Budget Responsibility (OBR), has a deliberately tight remit. We spoke to one of the principal architects of the OBR, Rupert Harrison (Chief of Staff to George Osborne), who attributed its success to precisely that focus:

“The success of the OBR lay in its very precise, very clearly defined remit. We avoided mission creep. That's a lesson that should be borne in mind when setting up new bodies.”

The way ALBs have been designed and established demonstrates a lot of inconsistency. The table below sets out the relationship between 10 key ALBs and their government sponsor across a range of issues.

Table 1: Ministerial Powers Over ALBs

Agency	Ministers' ability to set a mandate?	Secretary of State appoints Chair?	Secretary of State appoints chief executive?	Ability to remove chair for non-delivery?	(If regulator) required to act proportionately in exercise of functions?	Ability to remove CEO?
NHS England	Yes	Yes	Consents	No – 'inability, misbehaviour or failure to carry out his or her duties'	n/a	No
Environment Agency	No	Yes	Consents	No – bankruptcy/ 'otherwise unable or unfit'	Only in respect of limited functions	No
Health and Safety Executive	Yes	Yes	Consents	No - 'incapacitated... otherwise unfit or unable'	Not in statute	No
Financial Conduct Authority	No	Yes	Yes – direct appointment	No – 'incapacity or serious misconduct'	Yes	Only for incapacity/ serious misconduct
OFCOM	Only for telecoms, spectrum and post	Yes	No	No – 'misbehaviour' 'incapable of carrying out or unfit to carry out functions'	Yes	No
Natural England	Yes – both guidance and directions	Yes	Consents	No – 'bankrupt – 'otherwise unable or unfit'	No	No
Food Standards Agency	Limited- produces statement of objectives	Jointly with devolved govts	Consents jointly with DGs	No – bankrupt or 'failure to carry out the duties of his office or is otherwise unable or unfit'	Limited duty to 'take into account among other things' costs and benefits	No
Arts Council	No	Yes	Consents	Yes – dismissal for 'reasonable cause'	n/a	No
Office of the Nuclear Regulator	Yes	Yes	Consents	No – financial, misbehaviour, otherwise incapable of carrying out or unfit to carry out the functions of his office	No	No
Electoral Commission	Ministers through Parliament	Yes	Consents	No – 'incapacity, misbehaviour , failure to carry out his or her duties'	n/a	No

In theory, all regulatory bodies named in the 2014 Regulators' Code are required to take costs and benefits into account in the exercise of their functions over the provisions of the Legislative and Regulatory Reform Act 2006. This is however a fairly weak duty, merely to "have regard to the principle...[that] regulatory activities should be carried out in a way which is transparent, proportionate and consistent".

The number of ‘Quangos’ was a source of concern as long ago as the 1970s and there have been successive initiatives to reduce them, often grandly named ‘bonfires’. In practice, these purges have delivered large headline reductions mainly by slashing the number of small advisory bodies. Sir Leo Pliatsky’s review led to a 1980 White Paper which announced the abolition of 246 quangos. This only led to a staff reduction of 2300, and savings of £11m pa, less than £50m even in today’s money²⁵.

The coalition government made renewed efforts to get the numbers down. The coalition claimed that the number of ALBs has more than halved from 800 in 2010 to just 295 in 2020²⁶. According to ONS, however, the number of “central government organisations”, excluding ministerial departments and bodies accountable to devolved administrations, fell by 22% in the last decade, from 656 bodies in 2011 to 511 in 2021²⁷.

According to National Audit Office analysis, of the bodies that were removed from the Cabinet Office database between 2016 and 2019, 143 were recategorised, 35 were closed and replaced or merged, and just seven were closed without being replaced.²⁸ Little has changed in the scale of public money flowing through ALBs, which spent £206b in 2019, and employed over 299,000 staff²⁹.

Some have argued that the sum total of all these developments has been that “the delegation and deregulation of New Public Management reforms has in effect reduced the control of politicians over bureaucrats”³⁰

Others have more cynically suggested this was a conscious strategy “throughout the 1980s and 1990s the state was reconfigured so as to create a defensive barrier of regulatory bodies that stood between policy makers and popular expectations”³¹.

Judicial Review

Ministers’ ability to set a framework for executive decision making has also been constrained by the major expansion of the scope of judicial review over recent decades.

There has been a long-term trend on the part of courts to hold that decisions of public authorities should be subject to some sort of judicial control, including types of executive decision making – like the various prerogative powers – that were once considered non-justiciable, and subject only to political checks.

Since the House of Lords decision in *GCHQ* that some prerogative powers were, in principle, subject to judicial review, the courts have “nibbled away at the prerogative powers in subsequent cases, declaring them one by one subject to judicial review”.³² A striking example of this came in *Miller/Cherry* [2019] UKSC 41, where the Supreme Court held the Crown’s power to prorogue Parliament – long considered a quintessentially non-justiciable prerogative power – was subject to judicial review.

The courts have also, since *Anisminic*,³³ held that all errors of law are jurisdictional and thus in effect presume that Parliament never intends a decision-maker, whether the executive or an inferior judicial body, to

25. Report on Non-Departmental Public Bodies (the Pliatsky report), Cmnd 7797, HMSO, January 1980
26. Public Bodies Reform: Proposals for Change: Oct 2010 [Link](#)
27. National Statistics; Public sector classification guide and forward work plan, 29 November 2021, retrieved 9 December; [Link](#)
28. Comptroller and Auditor General, Central Oversight of Arms-length Bodies, National Audit Office, Session 2021/22, HC 297, 23 June 2021; [Link](#),
29. Cabinet Office: The ALB Landscape at a Glance: [Link](#)
30. Hood, B. G. The Middle Aging of New Public Management: Into the Age of Paradox. *Journal of Public Administration Research and Theory*, 267-282. 2004
31. Moran, M. . The British Regulatory State: High Modernism and Hyper-Innovation. Oxford, 2003
32. Carol Harlow, ‘Judicial Encroachment on the Political Constitution?’ in (eds.) Richard Johnson & Yuan Yi Zhu, *Sceptical Perspectives on the Changing Constitution of the United Kingdom* (Hart, 2023) 37, 42.
33. *Anisminic v Foreign Compensation Commission* [1969] 2 AC 147 (HL).

have the capacity to make an error of law. It follows that any error of law is open to challenge on judicial review and will invalidate the decision, for courts do not defer on questions of law. In *Privacy International*, several members of the Supreme Court went so far as to assert that in a future case, it might not give effect to a statutory provision that explicitly ousted judicial review, and that “regardless of the words used, it would be for the courts to decide whether to uphold a clause excluding judicial review.”³⁴

In addition to increasing the scope of judicial review, courts have also intensified its own capacity to engage in substantive review. In other words, judges are more willing in many cases to second-guess the public body’s exercise of discretion, applying a “standard of review that is at times close to correctness and/or which requires the court to reconsider and challenge each step in the public body’s reasoning.”³⁵

The expansion of judicial power and ambit of judicial review in our constitution has been, in part, a function of Parliament’s legislative choices, mostly notably in its enactment of the Human Rights Act 1998. The HRA 1998 has been a significant driver in widening the scope, and deepening the intensity of, judicial review of administrative decision making. The central provision in this regard is section 6 of the HRA 1998, which makes it unlawful for public authorities – Government departments, public bodies, local authorities – to act incompatibly with the Convention and its rights provisions.

An immensely significant change brought about by section 6 is that, if a decision of a public authority engages with a Convention right, the courts will generally subject it to a proportionality review, a legal test which is a good deal more intensive than the standard and “very undemanding”³⁶ *Wednesbury*³⁷ reasonableness test.

The proportionality test is a “much more exacting test” than a reasonableness test, that “more obviously” involves “an examination of the merits” of an executive decision by a judge. On a typical formulation,³⁸ the proportionality test requires a judge to consider:

- i. Whether the objective of a policy or decision is sufficiently important to justify the limitation of a fundamental right;
- ii. Whether the policy or decision rationally connected to this objective;
- iii. Whether a less intrusive measure or decision could have been used; and
- iv. Whether, having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community.

As Harlow points out, these questions clearly invite a “court deep into political territory”.³⁹ They undoubtedly greatly inflate judicial power while conversely narrowing the scope of executive policy making discretion. This has led many commentators to ask whether such developments risk enmeshing the courts too closely in policymaking.

34. Richard Ekins, ‘Legislative Freedom and its Consequences’, in (eds.) Richard Johnson & Yuan Yi Zhu, *Sceptical Perspectives on the Changing Constitution of the United Kingdom* (Hart, 2023) 55, 72-74.

35. Richard Ekins, ‘The Case for Reforming Judicial Review’ (Policy Exchange, 2020) 12.

36. Lord Sumption, ‘Anxious Scrutiny’ (ALBA Annual Lecture 4 November 2014) 7-8.

37. [1948] 1 KB 223.

38. This formulation is adapted from that outlined by Lord Sumption in *Bank Mellat v Her Majesty’s Treasury* [2013] UKSC 38 para 20.

39. Harlow, *supra* n Since the House of Lords decision in *GCHQ* that some prerogative powers were, in principle, subject to judicial review, the courts have “nibbled away at the prerogative powers in subsequent cases, declaring them one by one subject to judicial review”.³² A striking example of this came in *Miller/Cherry* [2019] UKSC 41, where the Supreme Court held the Crown’s power to prorogue Parliament – long considered a quintessentially non-justiciable prerogative power – was subject to judicial review. 46.

After all, questions like whether a decision strikes a fair balance between the individual and public interest or if a differently designed measure could achieve a similar objective, effectively invite judges to retake the decision and substitute their own assessment for that of the original decision maker. They are also arguably not the types of questions that can be answered by what we would typically consider legal learning or lawyerly skills. They instead involve exercise of the kind of open-ended and technical, social and economic reasoning and moral evaluation about what is to be done for the public good, and how to go about it, that judges and lawyers are neither responsible, nor institutionally equipped for. The courts have an expertise in determining provable facts about the past and applying rules to them. They lack the political judgement or authority to make subjective judgements on the consequences of different courses of action, to assess the risks and to determine how those risks are most satisfactorily prioritised or balanced.

More generally, the whole structure of the HRA risks creating policy distortion, a term used by constitutional scholars to refer to a process where a legal instrument like a bill of rights strongly incentivises political decision makers to choose policies that are less effective or politically sound, but more easily defensible before a court. Policy distortion happens where political actors are “forced to not act in ways that they would, absent this...fetter, think best.”⁴⁰ The HRA encourages policy distortion by encouraging public authorities to focus on ensuring compliance with ECtHR and HRA case law – and attempting to avoid judicial invalidation – rather than directly engaging with the merits and soundness of a policy or decision-making process.

This highly legalised approach to policymaking can obviously discourage valuable actions that might otherwise have been taken and distort government policymaking that does proceed. It can encourage an attitude amongst public authorities that one of the main priorities when designing or implementing a new policy is to minimise legal risk and the possibility of litigation. This in turn can promote political risk-avoidance in the design or introduction of policy measures, whether through dialling down a policy’s ambition or scope, piling on procedures, or requiring elevated burdens of proof as to a policy’s necessity and efficacy before it can be green-lit. One overall and highly undesirable consequence of a more legalised approach to policymaking is that it may cow the possibility of dynamic and robust political action for the public good.

This is one way in which developments in relation to judicial review has had an impact not only on executive decision but also on the legislative choices made by government, and so by Parliament. There has also been the more direct effect that has resulted from the analysis that equates the making of subordinate legislation, even after the direct involvement of Parliament, with executive decision-making in individual cases, and applies the same, expanded standards of review and, in many instances applies them retrospectively to invalidate rules that have operated in cases not before the court. Furthermore, the remedies provided by sections 3

40. Conor Casey & David Kenny, ‘The gatekeepers: Executive lawyers and the executive power in comparative constitutional law’ (2022) 20 *International Journal of Constitutional Law* 664, 689.

and 4 of the Human Rights Act 1998 (to “read down” statutory provisions to make them compatible with Convention rights or to declare them incompatible) have had a corresponding “policy distortion” effect on legislative choices.

The courts’ increasing range of power to intervene in executive decision making, and the influence of that on the making of legislative choices, has been accompanied by a parallel liberality in granting standing to lobby and pressure groups to initiate or support legal reviews. This has been described by Professor Harlow as a “partial colonisation of the legal by the political process”.⁴¹ In a previous paper Policy Exchange has outlined that the

“development of the pressure group as litigator has been facilitated by the senior judiciary in conjunction with pressure groups. Their appearance in the courtroom is attributable to two procedural changes: (a) a more relaxed attitude by judges to whether an applicant has “standing” to apply for judicial review; and (b) the readiness of judges to allow such groups to present submissions as an intervener.”⁴²

This paper further argued that this shift in the treatment of standing for pressure groups is in effect creating a second front outside Parliament for those who dislike legislation to lobby for changes. This approach not only risks adding to the time and cost of proceedings but fosters the illusion that a court is the appropriate forum for decisions for which only a legislature or accountable public authority is equipped.⁴³

The Human Rights Act 1998 was followed by the Equality Act 2010 and the establishment of the Equality and Human Rights Commission. The Act created a range of rights that those claiming ‘protected characteristics’ could claim, as well as duties through Section 149 on all public authorities positively to promote equality, with the EHRC enjoying a regulatory responsibility to oversee, review and in some circumstances enforce compliance.

The impact of this change to the legal framework on Ministers and officials and on the relationship between them has been profound. An indication of how all-consuming a preoccupation legal challenge has become to officials is the name of the standard civil service training course on JR: “The Judge Over Your Shoulder” guidance,⁴⁴ which is now on its sixth edition.

All these developments present a challenge for any government with a radical or reforming agenda when it comes to managing that process. Every radical and reforming programme implemented by legislation is likely to produce losers. It is in the nature of the law to have a partiality for the status quo and so to intervene on behalf of likely losers seeking the courts’ protection for what they already have, at the expense of the possible winners (the benefits for whom have not yet accrued and are relatively less certain). Moreover, radical or reforming change seldom produces real benefits until it has been accepted as settled and is no longer provisional. Delay is a powerful weapon for any opponent of change. To

41. Carol Harlow, ‘Public Law and Popular Justice’ (2002) 65 *The Modern Law Review* 1, 2.

42. Anthony Speaight KC, ‘How and Why to Constrain Interveners and Depoliticise our Courts’ (Policy Exchange, 2022) 7.

43. *Ibid.*, 8.

44. [Link](#)

add a stage to legislative change that requires it, before it can be regarded as no longer provisional, not only to complete its stages in Parliament but also to survive any subsequent challenge in time-consuming litigation can very often be fatal to its chances of success.

Statutory 'guard rails'

Some of the constraints Ministers face have been imposed by themselves or their predecessors. A novel feature of recent politics has been the trend for Ministers to set out policy targets in legislation, introducing additional bodies to oversee, supervise regulate or even take over the formulation and implementation of policy. The most important example of this was the independent Bank of England taking over all responsibility for setting interest rates, which had been a Ministerial prerogative since the 1940s. The Brown government went further and legislated for the first time to set out fiscal rules in the Fiscal Responsibility act 2010.⁴⁵

After the 2010 election came the establishment of an Office for Budget Responsibility. The Conservative Party 2010 manifesto declared that “to ensure that no Labour government can ever attempt to bankrupt our public finances again, we will set up an independent Office of Budget Responsibility to restore trust in the government’s ability to manage the public finances”. The legislation establishing the OBR also bound the Government to produce a Charter for Budget Responsibility setting out its fiscal framework.

The Climate Change Act similarly saw policy targets established in law, but adding the new feature of an independent Climate Change Committee given a statutory role as both consultee and referee.

While the OBR has a narrow remit, producing reports but which do not lead to JRs, the Climate Change Committee has a far wider range of responsibilities. It provides advice on setting carbon budgets, and reports regularly to Parliament both on the progress made in reducing greenhouse gas emissions and on the UK’s progress on climate change adaptation. The legislation is carefully drawn to mean that changes both to the end target and to the trajectory are likely to require primary legislation.

None of these ‘guard rails’ strictly bind Ministers’ successors (which is impossible in the UK constitution, as Parliament can always change the law). They are, however, designed to make it harder for political pressures to change policy in these core areas, putting increased influence in the hands of technocratic groups. They give additional powers to judicially review a huge range of government actions and policies if these can be argued as incompatible with the statutory target. The very fact of embedding policy in primary legislation typically puts a delay of at least 2-3 years before any significant policy change can take effect. It is as if politicians do not trust themselves to make the right decisions when times get hard, but choose to lash themselves to the mast like Odysseus facing the Sirens.

45. <https://www.legislation.gov.uk/ukpga/2010/3/contents/enacted>

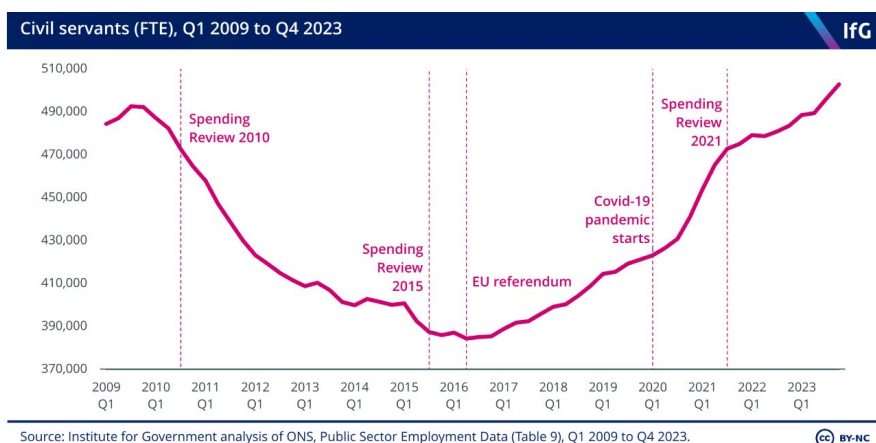
Ministers and the Civil Service

Within Whitehall too the traditional relationship between Ministers and civil servants is increasingly questioned.

First, the sheer size of the central civil service makes it harder for Ministers to oversee. Overall numbers are at a historically high level, with all the reductions during austerity more than reversed.

Table 2: Civil Service Numbers

Civil Servants (FTE), Q1 2009 to Q4 2023. Source: Institute for Government



Source: Institute for Government analysis of ONS, Public Sector Employment Data (Table 9), Q1 2009 to Q4 2023.

CC BY-NC

But the most relevant part of the civil service for these purposes are those in the policy centre. Since March 2016, just before the EU referendum, the policy profession has grown by 15,565 staff – an increase of 94%.⁴⁶

The number of staff in the senior civil service has also increased by 67% since its low point in 2012⁴⁷ at a time when the number of Ministers has remained constant.

The role of the Permanent Secretary has also evolved. Permanent Secretaries’ role as accounting officers have been well established since the First World War. Recent years has seen a greater focus on the permanent secretary’s responsibilities as an employer, however.

While the Fulton report⁴⁸ strongly advocated a unified civil service with standard terms and conditions, this was abandoned in the 1990s as departments were granted devolved terms and conditions. The idea was that this would allow more efficient allocation of resources with departments able to tailor their offer to the market in particular regions or professional specialities.

This left Ministers and the Cabinet Office in an uncomfortable position, however. Ministers want to give directions in certain areas, and fairly tight pay remits are imposed by the Treasury. Going too far risks the civil service being deemed once again as a single employer, which could then lead to pressure to level up terms and conditions to those of the most generous department. Some have suggested this process could add as much as 10% to the paybill. With rapid turnover of departmental Ministers and limited central oversight, departmental permanent secretaries now have a

46. Institute for Government: Civil Service Staff Numbers IfG [Link](#)

47. Forty Fifth Annual Report on Senior Salaries 2023: [Link](#).

48. The Report of the Committee on the Civil Service: Cmnd 3638 1968

historically unprecedented level of influence over the terms and conditions of their staff and the general management of their departments.

This increasing influence of the Permanent Secretary has been reinforced through the public sector equality duties (section 149 of the Equality Act 2010). With management of the civil service devolved to permanent secretaries, the Equality Act effectively gives permanent secretaries and other public sector leaders for the first time an autonomous statutory responsibility to ‘promote equality’, a duty on which their interpretations may differ from those of Ministers.

The tensions that can arise from this were demonstrated when Matthew Rycroft, the Home Office permanent secretary, was criticised for responding to a question about diversity at an internal staff meeting, reportedly commenting that on some issues “it’s for us actually within the civil service to be stewards and to think about our own role in terms of the leadership of the organisation of the civil service⁴⁹”.

This may explain why Government has found it so hard to get departments to leave schemes like Stonewall of which they disapproved (though the official machine sensing varying commitment to that policy on the part of Ministers will also have played a part).

There may also be some signs of chafing within the civil service at the traditional, self-effacing interpretation of the role. Certainly some experienced civil servants we interviewed felt there had been a change of tone in recent years, with younger staff in particular more ready to express views on politically controversial issues (the Brexit referendum being cited as a point of departure). Some former Permanent Secretaries have also been far more outspoken on social media and hence more visible than their predecessors would ever have been, increasing some Ministers’ suspicions about the likely views of their colleagues still in post.

Some civil servants seem to be increasingly unhappy implementing Ministerial instructions with which they are uncomfortable, particularly when they claim doubts about the lawfulness of the actions proposed. While civil servants have always accepted their prime duty to advise Ministers and implement their decisions, there has always also been a recognition that they cannot be asked to do something illegal or improper.

With the growing reach of the courts the room for questioning orders has correspondingly increased, and phrases like ‘speaking truth to power’ have become increasingly popular among civil servants. Successive Ministers of all colours have noted the civil service’s adherence to the strictest possible interpretation of the law and the tensions this can lead to with Ministers wanting to push their administrative discretion to the limit⁵⁰. There is further confusion in the sphere of international law, which some civil servants appear to see as having an even higher status than domestic law although it does not constitute UK law at all unless separately enacted.

49. Daily Telegraph 4 June 2021: [Link](#)

50. Cameron, D. For the Record. William Collins 2019

The decline in independent policy advice for parties

Ministers are increasingly outnumbered by the policy leads in departments. On top of this, they now have much less access to independent policy thinking within their own parties.

To be successful, a Minister must engage with advice from a plurality of sources before arriving at a conclusion. No Minister is short of advice, most of it is unsolicited, simplistic, and conducted through a megaphone. There is a demonstration outside Parliament every day of the week offering advice on various domestic and geo-political issues, which Ministers routinely screen out of their consciousness.

Once inside their department, the range of advice to ministers narrows markedly. The classic ‘submission’ to a Minister for a decision, drafted by officials, usually contains three options and points the reader towards the least-worst option.

This narrowness, often reflecting the civil service’s own world-view, means that the clever, the unorthodox, the radical, and possibly most effective, policies are never even contemplated. Even the Institute for Government (IfG) accepts that there is short-termism, lack of knowledge, poor cross-government working, and parochialism in the Whitehall policy-making process.

An effective special adviser may use their political nous to avoid obvious traps or offer a wider range of options through their ‘cover notes’ on submissions, and through their own political notes in the Minister’s red box. But these interventions are not necessarily systemic or routine, are unlikely to involve much subject matter expertise and may face open or passive resistance within the department. There may be round-tables to allow the Minister to hear external views, but these are usually curated and corralled by the officials, with the same faces around the table from ‘client’ organisations.

Ideally, the answer to this lies in the Minister’s ability and capacity to tap into views and research beyond the civil service and the usual suspects. In the post war period, the Conservative Research Department was hugely influential in reshaping Conservative thinking, never large, but supplying a steady stream of future MPs and Ministers. Swinton College, the third and last of a series of Conservative Party Colleges, between 1948 and 1977 provided residential courses and conferences to upskill party workers, putting on, according to the Conservative Party Archives, “over 50 courses and conferences each year in conjunction with the Area and national sections of the Party.”⁵¹ The Labour Party Research Department had a similar influence into the 1960s, alongside research teams in several of the larger unions.

From the 1970s and 1980s, internal advice was supplemented with the ‘think tanks’ which fuelled the political parties with ideas beyond the confines of the post-war consensus. Historians can trace clear links between the output of the economically-liberal think tanks such as the Adam Smith Institute and Institute for Economic Affairs and the social and economic policies of the Thatcher Government, or between Policy

51. Conservative Party Archive [Link](#)

Exchange and the major programme of public service reform introduced by the Coalition Government. The Blair Government was similarly guided by the Commission for Social Justice led by the Institute for Public Policy Research (IPPR), the Fabian Society (which floated the idea of independence from Ministers for the Bank of England to set interest rates, for example), and others.

Compared to other developed democracies, the ecology of UK think tanks is puny. They tend to punch above their (feather) weight, with income and staffing levels ebbing and flowing with the political tides. The US Brookings Institution has assets worth over \$500 million, and nearly a thousand staff. The German Friedrich Ebert Foundation has 'several hundred' staff and 20 offices in Germany and many more bureaux across the world. In the UK, the Fabian Society has recently increased its staffing to just under 20.

Political parties pay lip service to political education and the need for nourishment from new ideas. The reality is that party members often feel like their ideas are less valued than their shoe-leather. Both main parties have policy-making forums, but the party leadership tends to manage the process to avoid embarrassments. Labour's National Policy Forum (NPF), for example, was created by Neil Kinnock to move away from gladiatorial policy disputes conducted at the party conference in the full gaze of the media. The first one took place in Hammersmith in 1993, but since then the idea has hardly set the political system aflame. Labour's NPF has become as stage-managed as its conference, and impervious to radical thinking.

Spads – The Exception that Proves the Rule?

The suggestion that Ministers have less actual influence over the system might seem surprising given the high profile that special advisers have enjoyed. Viewers of the best-selling TV series *The Thick of It*, might assume from the plot and tone that the world of government has changed fundamentally since *Yes Minister*, 20 years earlier, with politicians and special advisers holding centre stage and civil servants relegated to a supporting role.

This impression is arguably misleading. Tony Blair put a huge amount of effort and political capital in changing the law enabling up to 3 of his advisers directly to manage civil servants. In the event, this power was only given to Alistair Campbell and Jonathan Powell, and nobody else since. Indeed the Order In Council enabling this was revoked under Gordon Brown in 2007⁵².

It is true that the number of Spads increased during the Blair and Brown governments. The coalition initially made considerable play of a commitment to reduce their numbers, even including a limit in the Ministerial code which has been generally ignored. The numbers now are at a record high of around 113. This compares however to over 500,000 civil servants, with over 7000 in the Senior Civil Service.

52. Political Special Advisers, House of Commons 2012, [Link](#)

There is no doubt that the rise of Spads has fundamentally changed the nature of communication between Ministers and the media, which is possibly why their role is highlighted so much by journalists. Government press offices are a shadow of their former selves and it is hard to imagine today a figure like Bernard Ingham, the influential Press Secretary to Margaret Thatcher while being a serving civil servant.

Interviewees varied in their views of the influence of Spads. Most felt the position had fundamentally changed, and Spads had far more influence on policy than had been the case before the Blair government. Those with experience as Spads emphasised the extraordinary challenges they found making a lasting impact on the system. Several felt the permanent civil service had made determined efforts to reduce their impact.

Inevitably Ministers and Prime Ministers will have influential advisers outside both Parliament and the civil service, and this has always been the case. It is possible there are fewer civil servants today who enjoy the same trust and influence as figures like Sir William Armstrong did under Ted Heath – not even remarkable figures like Jeremy Heywood reached quite that degree of influence.

It is clearly the case that Spads have played a bigger role in many departments over the past 25 years or so, both on communications and seeking to drive forward their Ministers' agenda. The figures of Alistair Campbell and Dominic Cummings as well as Nick Timothy and Fiona Hill are often cited and condemned as examples of a new trend towards powerful and unelected special advisers. But while the form their role took might be different, it is not clear that their role or level of influence differed fundamentally from Harold Wilson's 'kitchen cabinet' led by the formidable Marcia Williams or even, at times, figures like Alan Walters under Margaret Thatcher. What has perhaps changed most significantly is the ability of Spads in the centre to influence departmental Ministers – not necessarily to drive new policies forward against their will, but certainly to vet and potentially block initiatives coming from them.

A Brave New Technocratic World?

The promise of technocracy

The effect of these changes has been to make it harder for Ministers to get things done, certainly quickly. These developments could all be seen as independent, and the cumulative effect therefore co-incidental. But there is more to it than that. Over the past 20 years or so there has been a positive shift towards valuing a more technocratic approach for its own sake – one in which Ministerial discretion is consciously dialled back in favour of what is seen as objective, evidence based decision making led by experts. It is worth testing what the results have been, and whether this shift could be considered to be a success in its own terms.

Many have felt the sheer size of the state has meant Ministerial accountability for its whole operation is simply not practical, for all Bevan's supposed aspiration that "a dropped bedpan in Tredegar should reverberate around the Palace of Westminster".

Technocracy held out the promise of greater efficiency and improved public services. The 1988 Next Steps report and the subsequent work on the initiative was based on the assumption that "Real improvements depended on individuals being held personally accountable for results. A sense of ownership and clear personal identification with the 'product' is essential to getting better performance. And this 'ownership' is more likely to be found in organisations which have a clear identity and a sense of identity"⁵³.

Robin Ibbs, Mrs Thatcher's efficiency adviser described the hoped for outcome in a personal note "A fundamental and much needed reform that is decades overdue [and will] cause management to become hungry to achieve better value for money"⁵⁴.

The 'New Public Management' approach to agencies was thought by some to save Ministers from being expected to take personal responsibility for a huge swathe of operational areas of which they had no knowledge and which they could not reasonably be expected to have overseen. A number of Ministerial resignations over the years have been triggered by Ministers being informed at some stage of an operational problem but not intervening in a timely manner – paradoxically knowing less operational detail while retaining the ability to set direction might seem preferable. John Reid's support for creating a Border Agency following a series of scandals seems to have been motivated by this sort of consideration.

53. Jenkins K, C. K. Improving Management in Government, The Next Steps: Report to the Prime Minister (1988)

54. Sir Robin Ibbs note to Margaret Thatcher: 20 October 1987

Similar thinking lay behind the broad independence granted to the utility regulators in the 1990s. For some industries, notably water, there seems to have been a feeling that a regulator could authorise spending (and price rises to match) to fund much needed infrastructure which Ministers had not historically been prepared to authorise. There was a 50% real increase in water prices in the 10 years after privatisation to 1999-2000. Subsequently, Ministers put pressure on the water bodies to keep prices down only for the sewage leakage to become a problem and Ministerial preferences rapidly to reverse. Similarly, one of the arguments for £9000 university tuition fees was that HMT would never provide this level of funding directly, and this was therefore a way of protecting universities from austerity.

In some areas, Ministers themselves have argued that independent organisations with a clear political mandate are more able to make the right long-term decisions if they are not influenced by shorter term political pressures. Most famously this applies to the independence of the Bank of England, on announcing which the then chancellor Gordon Brown said:

“build a fully credible framework for monetary policy if the long-term needs of the economy, not short-term political considerations, guide monetary decision-making. We must remove the suspicion that short-term party-political considerations are influencing the setting of interest rates”⁵⁵.

Gordon Brown’s take here directly contradicted the views of his predecessor as Shadow Chancellor John Smith who had commented in 1989

“A wide range of powers is available to the Chancellor of the Exchequer and no Chancellor should willingly give them up. He should certainly not contemplate handing over power over key economic [and] monetary issues to bankers who are not accountable to the British people”⁵⁶.

The apparent success of Bank of England independence led to ambitions to extend the approach rapidly into other areas often more complex and where there is a less clear direct mandate like the various independent regulators. Janan Ganesh is a good example of this thinking, suggesting “democracy works better when there is less of it” adding “More power for technocrats would depoliticise, as far as possible, areas of policy.”

The idea is that technocratic leadership enables public sector leaders to build and invest to a necessary balance between conflicting interests. This assumes that policymaking can be distilled to an impartial process of fact finding that can be performed by anyone with the will to see the truth.

Behind a lot of technocratic thinking is a call for codification, based perhaps on a suspicion of informal custom based approaches, and the fear that these are vulnerable to sudden and potentially extreme political moves. The recent ‘Commission on Governance’ chaired by Dominic Grieve expresses this approach clearly

55. Treasury, Statement by the Chancellor on the central economic objectives of the new government., May 1997

56. HC Deb 2 November 1989, vol 159 col 502

“To an extent the concerns reflect the fluid nature of the UK constitution, the lack of hard-edged controls on the exercise of power, and the reliance on “conventions” or practices (of varying degrees of formality, clarity and enforceability, the “good chap” theory) which have increasingly proved to be inadequate”⁵⁷.

Many take it further, and call for a fully fledged move towards a written constitution. Supporters of this feel that the uncodified Westminster constitution is too flexible, too vulnerable to populist trends and would better be safeguarded by a system that made change harder.

“Democracy, like all institutions of governance, needs a framework set by an authority outside itself if it is not to undermine itself by using its own powers to change the rules that are supposed to govern it. This is a major reason why the great majority of democratic states (apart from the United Kingdom) have constitutions that can be amended only through very special and difficult procedures rather than simple parliamentary majorities”⁵⁸.

There is sometimes in this a discomfort with British historical exceptionalism and a ‘cultural cringe’ towards the USA with its written constitution and separation of powers, illustrated perhaps by the renaming of the Judicial Committee of the Privy Council as the ‘Supreme Court’ in 2009.

Pressure for more of the same?

Few in the UK have gone as far as some US figures in actively promoting the idea of technocracy as a way of curbing democracy. Alan Greenspan commented in 2007 “we are fortunate that, thanks to globalization, policy decisions in the US have been largely replaced by global market forces. National security aside, it hardly makes any difference who will be the next president. The world is governed by market forces”⁵⁹. Jason Brennan’s 2016 book “Against Democracy” – explicitly calls for ‘epistocracy’ – a system in which the votes of more knowledgeable people count for more.

Recent years have, however, seen continuing pressure to push the codification and foster the idea of ‘checks and balances’ in the UK administrative system.

The IfG,⁶⁰ for example, has challenged the traditional relationship between Ministers and the civil service. Their report argues that the civil service is too unwieldy in the current system to be managed either by Ministers or the head of the civil service. It recommends instead a new statutory role for the civil service with a much stronger role for the Head of the Civil Service and specific responsibilities for departmental permanent secretaries.

IfG claims this would “act as a statement of the civil service’s permanence, its values, its objectives and how – at the highest level – it should be run and held to account. It would define the civil service’s position in government and its operation and set out a governance structure that improves accountability **while at the same time reinforcing and strengthening its legitimacy**” [our emphasis]. In the traditional account

57. Grieve, D. Commission on Governance 2024

58. Crouch, C. The March Towards Post Democracy - 10 years on. Political Quarterly, 2015

59. Cited by Tooze, A. Crashed. London: Allen Lane, 2018, p 574

60. Institute for Government. A New Statutory Role for the Civil Service. 2022

of the civil service's role, of course, the civil service has no 'legitimacy' separate from Ministers.

The IfG also argues there is a fundamental difference between delivering the government's short term programme and the need to build 'capability' for longer term challenges.

"A statute, including a much strengthened Civil Service Board, would clarify the civil service's responsibilities to maintain state capability and resilience, manage risk and to consider long-term planning. It would build on the existing implicit constitutional duty of the civil service to future governments and reinforce it in important ways, like bolstering the authority of officials to plan for big or potentially destabilising events – something that was largely prevented during the Brexit and Scottish referendum campaigns".

The recent IFG report on the centre clarifies this stewardship responsibility by making it clear the statute would operate

"By placing a stewardship accountability directly on to the head of the civil service and permanent secretaries, making them responsible for ensuring the civil service is able to effectively serve the government of the day while retaining the ability to serve future governments".

This longer term 'capability' task would be overseen by a much more powerful Civil Service Board, which would be Ministerially chaired but include other 'great and the good' as well.

This distinction between shorter term 'policy' and longer term 'capability' functions with different lines of accountability is echoed in Lord Maude's recent report. This report also sees a significant new role for the Civil Service Board which in this case will include political representation from both the Government and the Opposition overseeing a longer term programme which particularly concentrates on civil service reform, seen as a long term programme which rises above party constraints.

Lord Maude's report also includes a much enhanced role for the Civil Service Commission, including a quasi-regulatory role on the quality of civil service advice and an oversight role on the civil service reform programme. The Commission would hold the Head of the Civil service to account for implementation of this programme. On top of this, the First Civil Service Commissioner will take part in permanent secretary performance appraisals and commission audits of the quality and accuracy of civil service advice, reporting on this to Parliament.

The recent report by the 'Commission on Governance' hints at similar thinking about the structure of the civil service. The report recommends a Royal Commission on the civil service to look at, amongst other things, whether the service should be put on a statutory footing. It makes similar recommendations to strengthen the personal accountability of departmental permanent secretaries, including to Parliament.

The drive towards increasing codification and away from Ministerial discretion continues in the sphere of public appointments.

The Institute for Government is keen to roll back Ministerial involvement here even further. A recent report made a number of recommendations for change.

- Regulate all ministerial appointments and publicly explain any exceptions, such as short-term, unpaid roles
- Limit ministerial decision making to the start and end of an appointments process
- Exclude politically connected candidates from constitutional watchdog roles and give select committees a veto over these appointments
- Remove ministers' ability to appoint a candidate judged unappointable by a panel
- Make any changes to the governance code subject to consultation with a parliamentary committee
- Collect and publish data on the causes of appointment delays, to enable those responsible to be held to account and helped to improve⁶¹

So what is the evidence that the technocratic path we have been on for the last thirty years really provides better outcomes for the public, and that going further down that route would be beneficial?

Does technocracy really clarify responsibilities?

One of the main arguments for a more codified system, including embedding it in statute, is the belief that this will create more clarity and consistency.

The traditional conventions governing areas like Ministerial conduct and indeed the management of the civil service left a lot of discretion with Ministers, with general guidelines which are often not fully enforceable but reflect flexibility and the need for arrangements to adapt over time. Ministers' wide room for interpretation is mediated by public disapproval and the ultimate risk of electoral defeat.

This approach is criticised as a reliance on 'good chaps', with claims that confidence in politicians' conduct is at record lows, meaning a greater need for more detailed, codified, rules.

No matter how specific regulations are, however, they will not apply mechanically in every case. Interpretation will be needed – either once again by the politicians themselves, or by those set up as watchdogs over the system, regulators or judges. The 'good chaps' argument boils down perhaps to an assumption that the sort of people appointed to watchdogs and the judiciary are more likely to be 'good chaps' than politicians or those loyal to them.

Because even absent new 'watchdogs', codifying political behaviour provides by definition a new actor in addition to politicians and the voters – the courts. Codes give opportunity for parties to assert their claims in court. This guarantees additional cost and complexity in itself, and there is

61. Institute for Government. Reforming Public Appointments 2022

no guarantee that the ultimate outcome will match the public's assessment of the seriousness of the conduct, introducing an added tension into the situation.

In general, the more the codification applied, the harder it might be to make rapid and random change, and some see that as a benefit in itself – the point that Crouch makes above about written constitutions slowing down the ability to make significant changes without “special and difficult procedures”. But achieving this while at the same time allowing some necessary flexibility to cope with changing circumstances is tricky.

The fundamental problem with the technocratic approach is the assumption there is always going to be a correct answer that an unbiased expert can deduce from the text, and that the courts or watchdogs will always be a neutral arbiter without a particular interest or standpoint of their own which could differ from the view of the majority.

In practice, however, many of the proposals that have been put forward for the civil service, like those of the IfG or the Maude report actually add more complexity to the system, including creating a novel distinction between day to day work subject to Ministers and longer term ‘capability’ work (like taking forward the civil service reform plan). Given that Ministers are all the time making decisions on long term plans for the country, from infrastructure to nuclear weapons, it is not clear why civil service reform requires separate treatment, or whether some could claim that other far reaching areas of policy should also fall within the civil service's wider duty of ‘custodianship’ rather than to the day to day direction of Ministers.

Adding to this novel distinction, as the Maude report does, a new regulatory role for the Civil Service Commission, including the responsibility to carry out reviews on the quality of civil service advice, is hard to reconcile with Ministers' need for control and confidentiality in official advice. It also gives a novel role to Parliament in the ordinary business of government.

These proposals are claimed to increase the transparency and accountability of civil service leaders, including direct accountability to Parliament, the civil service board and their Secretary of State. But the larger number of political players to whom a public leader is in theoretically accountable, the more scope there is to play these off against each other. The Maude report quotes one a permanent secretary as saying that “permanent secretaries are probably the most non-compliant people in the country but they are very clever in the way that they are non-compliant”. A permanent secretary like that might see significant opportunities to play the various interests off against each other, enhancing their own influence in the process

Does technocracy improve efficiency?

Major claims were made during the period of New Public Management that the new bodies would provide an opportunity to liberate their managers and deliver better service and more efficiency for the public.

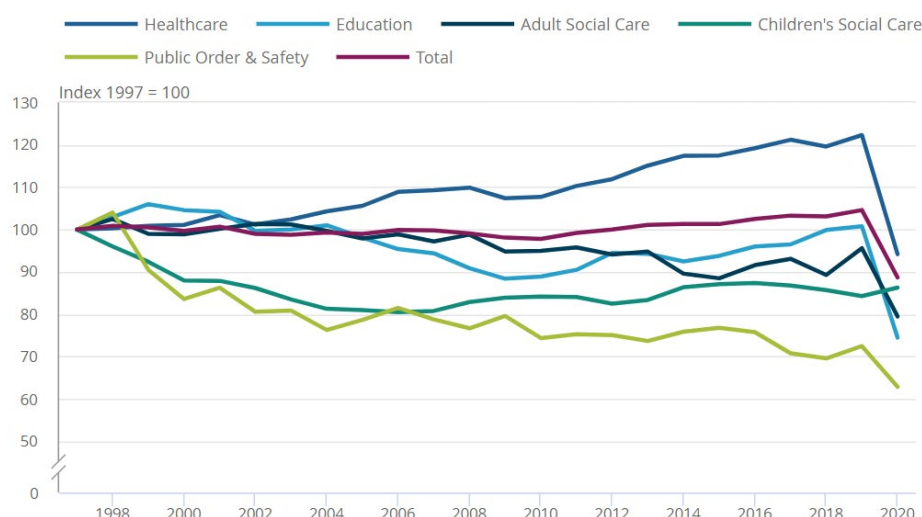
There has not been any serious attempt to evaluate whether this has happened. Our interviewees were highly sceptical from their experience that there was any correlation between the independence of a body and its efficiency.

Indeed the UK seems to be experiencing a crisis of productivity, particularly in the public sector, which is going to be one of the biggest challenges for the new government.

The government is going to be faced with public services under pressure but the public finances even more so. Productivity in the public services has been going backward for years, including in agencies enjoying substantial operational independence from Ministers. The former Chancellor Jeremy Hunt noted that “Public sector output is 5.7% lower than pre-pandemic compared to private sector output which is 1.3% higher”⁶². This is based on ONS productivity estimates⁶³

Table 3: Public Sector Productivity Growth

Total public service productivity, quality adjusted, by service area, Index
1997=100, 1997 to 2020, UK



Most recently;

- NHS activity is barely at pre pandemic level, despite major increases in the number of staff (34% over 10 years)
- For example, there has been a 16% increase in the number of midwives since 2012, with a 14% reduction in births over the same period⁶⁴
- Police clear up rates have fallen by over half from 13% to 5.7% since 2015-16, at a time when officer numbers have increased by 13%⁶⁵ and according to the Crime Survey crime has fallen by over 30%, implying productivity might have been expected to increase
- HO asylum case workers are resolving a fraction of the number of cases per week than they did a decade ago – falling from 13.7 per month in 2011-12 to 4 in 2022⁶⁶

62. Treasury: Speech given by the Chancellor Rt Hon Jeremy Hunt (June 12 2023), [Link](#)

63. Office of National Statistics: UK Public Services Productivity 1997-2022; [Link](#)

64. NHS Staff in Post Data; [Link](#); Office of National Statistics: Vital Statistics in the UK, deaths, births and marriages. [Link](#)

65. Police clear up rates: Home Office: 2015-16 [Link](#) 2022-23 [Link](#) Police numbers: Statista [Link](#). Crime Survey: ONS [Link](#)

66. Source: IfG: [Link](#)

Not only is there little evidence of better efficiency in more independent organisations, the New Public Management's favoured approach for monitoring devolved agencies' performance through a formalised system of Service Level performance agreements has problems of its own. The stronger the emphasis on these targets, the more incentivised managers are to deliver those narrow targets, whether or not this made sense in the wider context – popularly described as 'hitting the target but missing the point'. Some argued this proliferation of perverse incentives has contributed to a growing lack of trust in the state and indeed the professions⁶⁷.

Does Technocracy provide fairer outcomes?

The argument for transferring responsibilities to experts is that the improved quality of decision making will be better for everyone. Ministers can use their democratic mandate to set the strategic and policy framework which can then be implemented objectively by subject matter experts.

There are however few decisions that don't include an element of balancing rights or interests. Only Ministers have the democratic legitimacy to make these sort of calls. Absent the need to take into account democratic views and pressures, it is only natural that experts still have interests and presumptions of their own, that they are more preoccupied with factors in their own area of expertise than those outside, and they are influenced by the culture and interests of their own peer groups and the stakeholders they engage with.

This is not an inevitable outcome. There are technical bodies with tightly drawn remits who have demonstrated an ability to marshal evidence and come up with clear recommendations and for these to prevail even in the face of significant lobbying. The Joint Committee on Vaccination and Immunisation was influential in delivering a timetable for Covid vaccination which focused overwhelmingly on age in the face of significant lobbying to prioritise various key groups, presenting compelling evidence that ultimately won the day.

There is however always a risk that decisions will not take full account of their wider impact. And it may well be the most vulnerable whose interests are least likely to be given proper weight. It is possible to support the independence of the Bank of England, the need for measures to contain Covid and the Government commitment to Net Zero while still recognising issues about the way these policies have been implemented over recent years.

15 years of Zero Interest Rate Policy and QE pursued by the statutorily independent Bank of England and similar central banks throughout the world were hugely impactful and yet divorced from the political debate in a way that made even former central bankers like Paul Tucker uneasy⁶⁸. Ultra-low interest rates led to a bull run in the bond and equity markets. Those with good credit could borrow at unprecedented low rates and fortunes were made through leveraged buyouts. Typically the benefits accrued to those already wealthy in the City, whose anxiety about the risks of unwinding low interest rates and Quantitative Easing seem to have

67. O'Neill, O A Question of Trust. BBC Reith Lectures. 2003

68. Tucker, P: Unelected Power: The Quest for Legitimacy in Central Banking, Princeton 2018

had significant influence on the decision makers in delaying increases in interest rates. In the meantime, for the ordinary citizen, lower mortgage rates were welcome, but near zero interest rates were accompanied by increases in house prices pushing them to unprecedentedly unaffordable levels, while interest rates for savers almost disappeared.⁶⁹

The Covid enquiry is now teasing out how the detailed policies of lockdown such as school closures have had disproportionately damaging effects on the most vulnerable groups. Some MPs have reflected on the degree to which the lockdown process failed to get much Parliamentary scrutiny with a huge weight placed on expert advice. In the USA Francis Collins, former head of the NIH and Anthony Fauci's boss reflected on the decision-making process in remarkably frank terms:

“If you’re a public health person and you’re trying to make a decision, you have this very narrow view of what the right decision is, and that is something that will save a life. Doesn’t matter what else happens. . . . You attach zero value to whether this actually totally disrupts people’s lives, ruins the economy, and has many kids kept out of school in a way that they never quite recover from.”⁷⁰

Decision making in the UK too seems to have been opaque but highly influenced by experts and stakeholders with interests of their own (eg industry lobbying, some public sector unions). The outcome of this was Covid lockdowns which were a much more comfortable experience for those who could work from home, enjoying reduced commuting costs or protected by furlough payments. The experience was radically different for those on more precarious gig jobs or running small businesses who lost out to larger supermarkets or giant online rivals, and perhaps most of all children from more deprived backgrounds whose learning gap increased significantly and perhaps irretrievably.

The implementation of climate change policies culminating in the current cross-party support for Net Zero has achieved significant emissions reductions over the last 15 years, implemented through a complex series of legislation and advisory bodies. The Government's own review by a distinguished energy economist noted the risk of producer capture⁷¹, a debate which flared up again later with criticism of the presence of a senior manager from the controversial Drax biomass plant on the Climate Change Committee. Large businesses have been able to benefit from significant green subsidies, and even some wealthy individuals who invested in domestic renewable equipment profited from generous feed in tariffs. Electric cars, bought mainly by the wealthy, have been subsidised. The main costs have fallen on energy bills, which disproportionately impact the poor, who are also likely to find the transition to electric vehicles the most difficult.

Technocracy and legitimacy

The whole point of a shift to technocracy has been a suspicion of politics – in some cases perhaps of the voters themselves. The outcomes are thought to be better and thus benefiting all voters, but the process is designed to

69. Chancellor, E, *The Price of Time: The Real Story of Interest* Allen Lane 2022

70. Speaking at Braver Angels event. [Link](#)

71. *The Cost of Energy: Independent Review* by Dieter Helm 2017 [Link](#)

be more removed from the day-to-day political process. Some like Crouch have suggested that democracy “needs a framework set by an authority outside itself” – though it is hard to see what such an authority could possibly be in a democratic society that does not recognise religious or other supernatural sources of authority.

Works like Moore’s Public Value⁷² provide an intellectual framework for public officials to argue they have an autonomous role creating public value themselves, and a right or even responsibility to exercise (small p) political power to influence their wider ‘operating environment’, including politicians. Moore is a staple of leadership classes throughout the public sector, even though his ideas are hard to reconcile with the traditional view of officials’ responsibilities in the Westminster system, and his model of public leaders has been lambasted as ‘Platonic Guardians’ lacking any legitimacy⁷³.

It is no coincidence, perhaps, that a shift towards technocracy has coincided with growing disillusion among the voters about politics and government. Almost half of Britons felt a strong allegiance to a party in the 1960s, falling to 15% now. The sense that politicians no longer really control things is likely to have played a part. Nearly 7 in 10 Britons consider “the experts in this country do not understand people like me”⁷⁴. 63% of voters believe that British governance is rigged to the advantage of the “rich and powerful”⁷⁵.

Among Labour voters, while only 36% of Labour ‘liberals’ felt that “politicians don’t care what people like me think”, this rose to 71% among Labour ‘authoritarians’ (more traditional voters)⁷⁶. If it is true that the growing technocratic state has made decisions more opaque and in practice favouring the more sharp elbowed members of the electorate who can navigate the more complex landscape, this would help explain why the disillusion is particularly concentrated among working class voters. The turnout gap between working classes and middle-class voters was just 5% in the early postwar era, but rose to 20% by 2010⁷⁷.

Because one thing that is clear is that Ministers can give power away, but the political risk remains very much with them, even in cases where the independence of the body involved couldn’t be clearer. During 2023 inflation exceeded the Bank of England’s 2% target more than fourfold. Polling during the peak of inflation in 2023 suggested that 50% of voters blamed the government and only 32% the Bank of England) for this⁷⁸. This despite the Bank of England having full responsibility for meeting the target and, through control of the interest rate, exclusive control of the means to achieve it. There does not appear to be any real accountability for central bankers even when targets are spectacularly missed. Similarly, although NHS England is theoretically independent and responsible for the operation of the service, nobody really thinks that accountability for the service rests with the NHS England chief executive rather than the Secretary of State – who is the one facing the PQs and the media scrutiny.

72. Moore, M. H.. *Creating Public Value: Strategic Management in Government*. Harvard 1995

73. Rhodes, R. A. *The Limits to Public Value, or Rescuing Responsible Government from the Platonic Guardians*. *Australian Journal of Public Administration*. 2007

74. IPSOS. *Populist and Nativist Sentiments in 2018: a 27 country survey*. 2018

75. *Hansard Society Audit of Political Engagement 2019*: [Link](#)

76. SurrIDGE, P. *The fragmentation of the electoral left since 2010*. *Renewal: A Journal of Social Democracy*, 26(4), 69-78.2018

77. Goodwin, M: *Values, Voice and Virtue* Penguin 2023

78. *UK Polling Report 23 June 2023*: [Link](#)

Why This Matters So Much Now: Unprecedented Challenges for the Incoming Government

Ministers' increasing difficulty getting things done would be a problem in the most benign scenario. But the new government will face challenges requiring difficult political choices which only those with a political mandate can legitimately take.

First, the fiscal environment is going to be very tough. The inherited financial plans involve substantial real term reductions for non protected areas. Even protected areas like the NHS will face a squeeze given demand pressures. The tax take is already at historic highs, meaning further increases to finance greater spend are likely to be very difficult to achieve even if politically acceptable. The public has broad but very shallow support for higher taxes to support more. This is borne out, perhaps, by the fact that the Localism Act already allows local authorities to make the case for higher council taxes subject to a local referendum, but this has only once been attempted, and the proposition to increase precept payments for Bedfordshire Police in 2015 was roundly defeated⁷⁹.

The public are growing concerned about declining public services, particular the very large waiting lists in the NHS, and reduced confidence in the police and justice system, to give just two examples. Politicians of both parties are well aware that productivity in many areas has dropped off badly in the last few years, despite major increases in spending and employment. There is a growing narrative that nothing gets done in Britain, with major infrastructure projects in crisis and issues like the RAAC concrete problems in schools.

Public concern remains high for both legal and illegal immigration, with the small boats problem and net migration figures at around 700,000 in both the past two years. Both parties have indicated a desire to bring numbers down, but with little indication of concrete plans. The new government has scrapped the Rwanda scheme, but the challenge of how to remove failed asylum seekers will remain.

Extremely high levels of migration, with a net increase of 6m in the UK population forecast by ONS to be driven by migration, exacerbate the already serious housing crisis. Houses are already as unaffordable as they have been at any point in the last 150 years. Successive government have failed to meet house building targets which would themselves be completely inadequate for recent levels of population increase. Other

79. BBC 11 May 2015 [link](#)

infrastructure is massively bogged down too, with famously over 359,000 pages required just for the planning application for the Lower Thames Crossing⁸⁰.

Table 4: House Prices as a multiple of average earnings



The government’s own adviser, the CCC, believes the UK is not on track to meet its targets for Net Zero. At the same time, the cost to citizens of transition measures both directly and in jobs are growing in prominence and salience, for example with the closure of the blast furnaces at the Port Talbot steelworks and the debate about phasing out gas boilers.

These are problems which are going to require tough, political choices. These are not the sort of decisions that should be taken by unelected bureaucracies or thrashed out through the courts. Indeed many of these bodies have their own vested interests which could complicate the decision making process. An incoming government needs to develop clear plans, and enjoy the confidence that it will be able to get things done.

80. The Times Jan 15 2024: [Link](#)

What is to be Done? Ideas

Greater clarity of objectives and priorities

The most critical thing is for an incoming government to agree a limited group of priority policies and demand departments focus on these above all else. A number of interviewees noticed the extraordinary diversity of views in the recent Conservative governments across a whole range of cultural, economic, environmental and constitutional issues. Clearly this risks paralysing the system if officials cannot be sure if their Minister's view represents settled government policy. Even if this can be resolved, it is a cliché but seeking to prioritise everything is the best way to ensure nothing gets done.

Several of our interviewees stressed the challenge they had faced seeking to bring the number of priorities under control, and the need for greater realism in what can be achieved in a single term. Even prime ministers with a reputation for being highly radical, like Mrs Thatcher, in practice focused on relatively confined areas with, for example, health, education and welfare left largely untouched by radical reform throughout her three terms.

Even if Ministers have priorities, it is easy to find the pressure of 'business as usual' crowding out what they actually want to do. An instruction that inherited policy work should stop until Ministers give a clear steer it is still wanted would make it much easier in turn to move civil service policy staff from lower to higher priority areas- something Ministers often find frustratingly hard to do. Jim Murphy summarised this well;

"Have an agenda and make sure you drive it. Don't just accept whatever is already on the conveyor belt, or 'this is the piece of legislation that was coming my way so I'll just implement it'. And above, all make decisions. The civil service will soon work out if you can't and will rightly go and find someone who can"⁸¹ John McTernan commented "You can't prevent yourself being blown off course. You can have a course".

We would argue that the best Ministers can and do get heavily involved in driving the areas that they care about. As former Business Secretary Sir Vince Cable told us:

"It's important to get very hands-on in areas that are your priorities – which for me included industrial strategy, trade promotion and banking reform. I was also closely involved in the areas where we had to make savings; I met staff and unions and tried to keep up morale."

81. Interview with authors

What is to be done? People

Getting the team right

Restoring Ministers' power to act and build the team to deliver their policies seems to be a necessary condition both for restoring the electorate's confidence that their votes matter, and giving Ministers the ability to influence key parts of the economy and society for which they are in any event held responsible.

A fundamental part of this is the selection of the team: both the Prime Minister's selection of their Cabinet and Ministers, and Ministers selection of the team of advisers who will support them in delivering their priorities. Former Cabinet Minister Rt Hon Sir Vince Cable told us:

"You need to get right the absolutely top appointments that you need to be able to function. A good Principal Private Secretary, your SpAds, someone from the Press Office who can handle your personal relationships with the media. You also have to be sure the heads of your main arm's length bodies are capable and operationally effective – the 'Great and the Good' can have a tendency to appoint from their own. This doesn't mean throwing everyone out when you come in – but you have to be confident the people in these roles are effective."

Cabinet and Ministers

A party entering Government from Opposition – especially after a lengthy period in Opposition – has a major disadvantage, in that very few of its front-bench will have served as Ministers before. But it also has a major advantage: the fact that its Ministers have had a number of years to study, form relationships and develop policy, free of the weighty and time-consuming responsibilities of the day-to-day operation of the system. As Rupert Harrison, who worked as Chief Economy Adviser to then Shadow Chancellor George Osborne for the four years prior to 2010 before becoming his Chief of Staff as Chancellor, told us: "There is a huge advantage to being able to develop a clear programme in Opposition."

Just as importantly, they will have had that period to work together as a team, with the Leader of the Opposition, Shadow Chancellor and other key figures, to develop a shared vision and purpose of what they wish to achieve. Should they secure power, that shared purpose will have been validated and reinforced by the mandate of having won a general election.

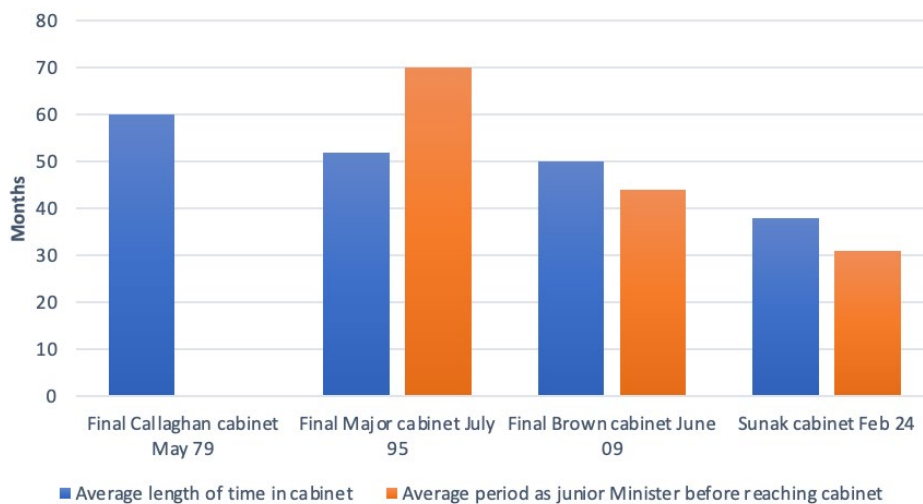
Our interviews repeatedly confirmed the benefits of having an established Ministerial team, with a clear understanding – shared with the centre – of their brief, policy and vision for reform. This is particularly

important if a Government wishes to not lose time on the delivery of its manifesto proposals, or implementing new legislation. The benefits of this can be seen in the speed and clarity with which critical reforms were implemented under the 1997 New Labour Government or the 2010 Coalition Government⁸² - and can be contrasted with the challenges faced by some of the governments formed by a Prime Minister taking office between general elections, where new Ministers were placed in roles they had less familiarity with, as part of a Cabinet team that had not previously worked closely together, and where there was often less consensus over the Government's direction.

There is a difference between campaigning and governing: some politicians are stronger at one than at the other. Nevertheless, there are benefits in continuity both between opposition and government and in government itself.

A striking trend in recent years in Britain has been the declining level of experience in Ministers. On average, cabinet Ministers have progressively less cabinet experience, and have had a progressively shorter 'apprenticeship' as a junior Minister.

Table 5: Ministerial Experience



Source: <https://members.parliament.uk>

Special Advisers

Almost as important as the Ministerial team is the array of advisers, top officials and confidants that will support those Ministers in delivering their commitments – both in No. 10, Treasury and in departments. Special Advisers play a particularly large role in resolving interdepartmental disputes or negotiating affairs between line departments and the centre.⁸³

As such, it is essential that they are not only competent and capable, but that they are fully bought into and aligned with the vision and objectives set out from the top, by the Prime Minister, and committed to delivering this.

82. The Bank of England Independence Act, National Minimum Wage Act and Human Rights Act, to name just a few, were all introduced in 1997 and passed in 1998; similarly, the Academies Act was passed in 2010, with the first Free Schools opening the following year.

83. Principally No. 10 and Treasury, and to a lesser degree Cabinet Office.

Special Advisers should not be pushing their own agenda; one senior adviser who had served in No. 10 told us how they had seen, during one period, No. 10 united around a common goal, and at other times different factions, each clustered around particular senior advisers, who were seeking to persuade the Prime Minister to adopt a particular stance. Such a situation is deleterious not only to the operation of No. 10, but can paralyse the work of line departments as Ministers and officials can never be sure whether the part of No. 10 they are speaking to genuinely speaks for the Prime Minister.

There can be an ongoing tension as to the extent to which advisers are expected to be loyal to their Secretary of State, as opposed to the exclusion of loyalty to the Government as a whole. This becomes particularly acute when the Cabinet as a whole is divided. One attempt at resolving this took place following the accession of Boris Johnson to the Premiership.

The May era had seen a high level of open division between Cabinet Ministers. Johnson's Chief of Staff, Dominic Cummings, made a deliberate effort to overcome this by emphasising that Special Advisers were working equally for both the Prime Minister and their Secretary of State and could be instructed or dismissed by either, with this written into contracts and emphasised at weekly meetings in No. 10. Opinions on this were divided. Some Special Advisers from this era we spoke to suggest that this was effective, particularly in the run-up to the 2019 election, though others criticised it as an over-centralising attempt to build a personal powerbase, pointing to the disputes with then-Chancellor Sajid Javid's Spad team, which ultimately led to the resignation of the Chancellor, in protest at being asked to fire his entire Spad team. This level of centralisation was weakened by the inability to hold in-person meetings after the onset of Covid-19, and was then largely abandoned by his successor.

In addition to commitment to the common vision, Special Advisers also have to be capable, competent and skilled at a wide range of skills, from interpersonal negotiation, parliamentary understanding, policy knowledge, political savvy and more – as is described, by former Special Advisers such as Peter Cardwell⁸⁴ and Nick Hillman⁸⁵. Hillman is noted for the comment that special advisers are like poisoners – either famous or good at their job. Such individuals are not always easy to find – particularly given the lack of job security and comparatively low salary.

Given the controversies around Spads, the Coalition Government thought curbing the numbers would be a popular move and committed to this in the manifesto and later enshrined a limit in the Ministerial code (widely ignored). Dominic Grieve's Commission recommends that this be reinstated and "A rigorous limit should be applied to the number of Spads in Government as a whole"⁸⁶.

This recommendation is not justified in any depth. It reflects the reflex response of the permanent establishment which have always seen special advisers as dangerous interlopers of dubious legitimacy ever since Harold Wilson invented the role in the 1960s. The arguments against employing special advisers sometimes focus on implied propriety issues (political

84. Cardwell, P The Secret Life of Special Advisers, 2022 [Link](#)

85. Hillman, N: In Defence of Special Advisers 2014 [Link](#)

86. Grive, D: Governance Project Final Report: 2024 [Link](#)

appointees on the public payroll), and sometimes on fiscal grounds. The case for the latter is feeble, however. The previous government had 117 special advisers, a negligible number compared to over 500,000 civil servants. But the propriety arguments are weak too. The Constitution Reform and Governance Act 2010 has put the special adviser role on a clear footing, making it clear in the process that they may not exercise Ministerial functions. But we have already seen how important and needed their advice is to Ministers who are massively outnumbered by the official machine. We also set out below some new and enhanced roles we see for special advisers at the centre of government in the area of appointments.

We recommend removing the limit on special advisers altogether, or substituting a higher limit say 200-300. Spads level of responsibility needs to be clarified as against the civil service. A clear alignment of the four levels of Spad grades to the civil service grades 6, SCS1, SCS2 and SCS3 would be logical. This needs to be accompanied by greater clarity about the various roles Spads are to carry out and a proper system of line management (or at least supervision and mentoring for those who work directly to Ministers). It may be that the policy adviser role should be split off and included within the extended Ministerial offices (see below).

Extended Ministerial Offices

In Policy Exchange's 2021 report, *Government Reimagined*⁸⁷, we recommended the revival of Extended Ministerial Offices, a means whereby Ministers are able to bring in, via direct appointment, additional specialists, civil servants and advisers into the department, to provide them with the expertise and delivery capacity to implement their key proposals. This recommendation has been echoed by others, including by Rt Hon Lord Maude of Horsham in his recent *Independent Review of Governance and Accountability in the Civil Service*⁸⁸.

Extended Ministerial Offices were first introduced in 2013 under the Civil Service Reform Plan – One Year On Report⁸⁹, before being formally abolished in 2016 – though various departments have informally continued to maintain structures which strongly resemble an Extended Ministerial Office.

Extended Ministerial Offices allow a Minister to rapidly bring in specialist expertise – whether that is in policy making, delivery or project management – to support the development and delivery of their highest priority projects. The fact that members of the Extended Ministerial Office are not Special Advisers, but normal civil servants – subject to the usual requirements of impartiality and typically appointed on a fixed-term basis, often for two or three years, offered several potential advantages:

- Ability to bring in specialists who do not share, or do not wish to be identified or actively work to promote, the party political affiliation of the Government of the Day – but who do share the

87. Policy Exchange: *Government Reimagined* (2021) [Link](#)

88. *Independent Review of Governance and Accountability in the Civil Service*, Rt Hon Lord Maude of Horsham, 2023 [Link](#)

89. *Civil Service Reform Plan – One Year On Report* [Link](#)

Minister's commitment to a specific policy objective, whether that is prison reform, primary care or planning⁹⁰.

- Extended Ministerial Office staff can focus entirely upon delivery of the Government's priorities, unlike Spads who have a range of explicitly political duties.
- Ability to appoint people on to the regular civil service pay scales, offering both higher salaries (reflecting specialist expertise) and greater job security than Spads receive, allowing the ability to recruit people with greater levels of experience and professional expertise.
- A clear appointment duration: it is usually understood on all sides that most members of Extended Ministerial Offices are not seeking a permanent civil service (or political) career, but have been brought in to deliver a specific project or programme.

For Extended Ministerial Offices to work effectively, there must be effort on both sides to ensure that the culture and ways of working with the rest of the department are well understood. When Extended Ministerial Offices are functioning at their best they can be a major boon to the rest of the Department, by providing individuals with specialist expertise, who understand a Minister's wishes (or has the access to rapidly ascertain them) and are empowered to drive a project forward. Equally, the core Department will have the capacity, broad-based capabilities and resources to actually deliver the policy.

One criticism of the Extended Ministerial Office regime was that these were supposedly civil servants appointed under the normal merit criteria, but that Ministers understandably expected to be able to appoint specific individuals. This could be seen as undermining the normal civil service recruitment process and the independence of the civil service, particularly if appointees might also be expected to line manage regular civil servants.

There is some merit in this concern. It might be better to maintain the basic job description for policy specialists as set out above, but accept that these appointees are technically Spads. They would not be expected to line manage civil service teams, but to help Ministers develop and drive policy delivery forward.

Given these are to be subject matter experts to be placed in the relevant departments, we strongly recommend that they are appointed to work at that department with whatever Ministers are appointed, rather than be linked to and move with individual Ministers as tends to happen with Spads at present. Some might argue that Ministers need advisers they can trust, and will want to be able to appoint their own people. But we believe more senior subject matter experts will only be attracted to roles like this if they can be sure they will be working on their area of expertise for a reasonable period, which means continuity in departments.

Several of our interviewees were enthusiastic about the concept. John McTernan said "I thought Francis Maude's idea of extended Ministerial offices was a good idea, and the simplest thing to do would be to reintroduce

90. One of the authors, as a Conservative Spad, worked alongside policy advisers in what was an informal Extended Ministerial Office, in which a number of those advisers would not have wanted a political role supporting the Conservative Party - however, they very much shared the Government of the day's commitment to specific policy agendas, such as on the knowledge-rich curriculum and on skills.

it”. We reiterate our recommendation of 2021, that Extended Ministerial Offices be re-established, that it be made simpler and easier to staff them and that, to quote Lord Maude, “There should be a clear and transparent right for each Secretary of State to make direct appointments of a small number of expert advisers outside of ordinary Civil Service recruitment processes to work in the EMO.”⁹¹ We recommend, however, clarity that these are defined as a type of Spad rather than normal civil servant, even though they would not expect to be working on political issues.

Ministerial churn

“Sir Arnold: Power goes with permanence.

Sir Humphrey: Impermanence is impotence.

Sir Arnold: And rotation is castration.”⁹²

A significant challenge to delivering in Government is the high degree of Ministerial churn, which is high at the best of times but that – under the last government reached exceptional levels. In the last three years of the previous government alone we have had four Chancellors and six Education Secretaries. Since 2010 we have had 16 Housing Ministers, 12 Children’s Ministers and 12 Science Ministers⁹³. While there are exceptions - Rt Hon Nick Gibb MP was Schools Minister for over a decade of the last 14 years - churn has been the rule rather than the exception.

How does this level of churn compared to other countries? The table below sets out the number of lead ministers (i.e. Home Secretary, Secretary of State for Education) in five key ministries for each of the G7 nations and selected Commonwealth countries.

Table 6: Ministerial Churn in the G7 and selected commonwealth countries since 2000-2024

Country	Finance	Interior	Health	Transport	Education
Australia	7	9 (plus 1 acting)	9 (plus 2 acting)	10	11 (plus 2 acting)
Canada	7	9	12	11	12 (Province of Ontario)
France	12	17	16	8	14
Germany	5	7	7	8 (plus 1 acting)	5
Italy	15	11	13	12	15
Japan	15	24	20	18	25
New Zealand	5	12	10	12	9
UK	9	14	13	14	16
USA	8 (plus 6 acting)	8 (plus 5 acting)	8 (plus 5 acting)	7 (plus 5 acting)	7 (plus 3 acting)

91. Independent Review of Governance and Accountability in the Civil Service, Rt Hon Lord Maude of Horsham, 2023 [Link](#)

92. From Yes Minister, by Antony Jay and Jonathan Lynn

93. One can arrive at slightly different figures depending on whether one counts a Minister reappointed to a role after a period not in that role; for example, Lee Rowley is both the 13th (in 2022) and the 16th (from November 2023) Housing Minister.

It can be seen that the UK is one of the highest, with an average tenure at these top roles of barely 18 months. There is an argument, moreover, that churn has a higher impact in the UK system, which has a weaker centre and a more independent civil service than most of the systems in G7 countries, meaning the imbalance of power between a new Minister turning up in a large and autonomous department is probably starker.

One of the most frequent refrains from both Ministers and senior civil servants who we spoke to was the importance of Ministerial continuity in delivering good policy. Frequent changes of Minister – at both Secretary of State and other Ministerial ranks – has a number of serious deleterious consequences.

1. Firstly, and most obviously, it weakens Ministerial knowledge. The new Minister coming into the role will frequently know very little about the area as a whole – and even less about the most current priorities. Ministers are not meant to be subject specialists – but nevertheless, no matter how high quality the advice they receive, a Minister with much less subject knowledge will be at a disadvantage in taking decisions.
2. Secondly, it weakens relationships. A Minister's relationships – with their Permanent Secretary, with their Ministerial colleagues, with business or union leaders, and with other influential figures – can be pivotal to their ability to navigate challenging reforms through successfully. Relationships breed trust, which can turn outright Opposition into constructive feedback and support.
3. Thirdly, it slows things down and wastes time and effort. When a Minister changes, every policy must be rechecked with them, reconsidered and potentially adjusted. Some policies may be scrapped, or significantly retooled, and other initiatives started from scratch. Significant time – Ministerial and official – is spent on introductory briefings and stakeholder meetings. A new Minister will typically – understandably – take longer to make decisions about matters than one who has been handling them in depth for years.
4. Fourthly, it strengthens the hand of the technocracy. Typically, after a change of Secretary of State, policies that officials support will be submitted for approval early and with recommendations to continue, while those that officials consider less important, or oppose⁹⁴, will be submitted for approval later, and with recommendations that ministers might wish to reconsider or deprioritise them⁹⁵. It should be noted that this does not apply to manifesto commitments, which the civil service will usually prioritise and recognise as important to deliver – a further example of the benefits of manifestos being clear about what a government wishes to achieve. This also applies to Arm's Length Bodies, where a lack of consistent leadership and direction from the

94. Often those considered 'ideological' - whether that is to left or right.

95. Each of the authors saw this at first hand. For example, in the Department for Education, policies such as the 'register for children not in school', the drive to move to a fully trust-led system with a single regulatory approach, or the review and defunding of technical qualifications were sustained over multiple Secretaries of State due to strong official support, whereas other policies – such as on banning phones in school or on impartiality guidance - were presented much more luke-warmly. There is no suggestion that civil servants were not following the Ministerial Code in advising honestly and objectively according to the best of their beliefs – but the fact remains that frequent ministerial changes offer more opportunities for technocratic prevailing opinion to reassert itself.

sponsor department will result in ALBs using their own judgement to fulfil their statutory duties as they see best.

5. Fifthly, it reduces civil service enthusiasm for new policies. With the best will in the world, if ministers are remaining post for a year or less, civil servants will struggle to be inspired to go the extra mile for a policy that they suspect have a good chance of being deprioritised or scrapped before it achieves anything. Again, this does not apply to policies that are contained within the manifesto, or that have strong Prime Ministerial backing, and that officials know are likely to continue even if the Minister changes.
6. Sixthly, it lowers Ministerial ambition. If a Minister believes they are only likely to be in post for 9 – 18 months, they are less likely to wish to commence long-term projects – such as major reform or legislative changes – and will instead be inclined to focus on things that will deliver results while they are still in post.

One Cabinet Minister we spoke to, who had held the position for a number of years, said that they were very pleased with what they had managed to achieve – but that a major reason was because they had been given that time. Had there been multiple Secretaries of State during that period, much less would have been achieved.

It is always tempting for a Prime Minister to conduct a reshuffle – doing so immediately commands the attention of the media and permits a ‘reset’ narrative, with the suggestion that the new Ministers will be swift to grip the problems facing any given department. The long-term costs, however, are high. Unless there is a serious question of competence or misalignment of views – which can be dealt with on an ad hoc basis – stability is best. We recommend that Keir Starmer express an intention if possible to make no major reshuffle for at least the first three years, to give everyone – officials, stakeholders and ministers themselves – that they will be given the time to deliver their objectives.

Standards and Behaviour

Within Westminster and Whitehall, standards and behaviour are governed by a number of documents, including the Nolan Principles in Public Life, the Ministerial Code and the Civil Service Code. In recent years, and following a number of political scandals, some have suggested that these are not functioning sufficiently well, and that the Codes should be put on a statutory footing, and that independent regulators or investigators should be given stronger powers to enforce standards.

For example, the UK Governance Project has argued that⁹⁶: “The Ministerial Code should be clarified and the integrity and ethics parts put on a statutory footing....There should be an independent Commissioner (Code Commissioner) with statutory powers to investigate possible

96. Grieve, D: Governance Project, 2024, [Link](#)

breaches of the Code, including on their own initiative, and publish their findings.”

The Committee for Standards in Public Life has called for a statutory role for the Independent Adviser on Ministers’ Interests and for the Ministerial Code to be put on a legal footing, with the Independent Adviser having the power to initiate and determine breaches of the Ministerial Code⁹⁷.

The Institute for Government has recommended that the requirement to have a Code should be put on a statutory footing (though in their formulation, the Prime Minister would remain able to determine the content) and that the Independent Adviser should have the ability to investigate all allegations of ministerial misconduct⁹⁸.

Meanwhile, in 2021 the Labour Party announced a proposal to create an Integrity and Ethics Commission to “clean up politics”, with powers to investigate alleged breaches of the Ministerial Code without the approval of the Prime Minister and to issue sanctions against ministers⁹⁹.

Most recently, the UCL Constitution Unit reviewed the entire landscape of watchdogs and came up with a series of recommendations for how their powers could be enhanced¹⁰⁰.

We have already discussed above the popularity of calls to increase codification, and the argument that this neither makes the system more predictable, nor more democratic, as a watchdog effectively interposes itself between politicians and the electorate.

Maintaining standards in public life is of the utmost importance. We would urge the government to reflect carefully before proposing greater codification and legalism to the process, which currently relies on the democratic process. As Lord Faulks KC wrote in the foreword to a recent report for Policy Exchange, “The political salience of recent departures from appropriate standards does not entail that the political constitution is not working. Indeed, there is much to be said for the contrary conclusion. It was after all a form of political accountability that proved to be decisive in bringing about the downfall of a Prime Minister and a deputy Prime Minister.”¹⁰¹

Compare this, for example, to the situation when Ken Livingstone, then Mayor of London, was reported to the Standards Board for England for comparing a Jewish journalist to a Nazi concentration camp guard. The investigation and court cases cost the taxpayer £200,000, with Livingstone’s suspension ultimately being quashed by the High Court. It would have been far better to simply allow Livingstone to be held democratically accountable for his remarks at the ballot box.¹⁰²

As Policy Exchange argued in its recent report, “There are particular risks around the extent to which [greater codification would] provide for judicial intervention in relation to the highly political matter of the appointment and dismissal of Ministers (including even the Prime Minister). There are other risks relating to the expansion of the functions of appointed regulators in ways that may not actually enhance their independence, and instead expose those who are given a statutory role as political regulators to a greater risk of legal challenge.”¹⁰³

97. The recommendations were made in the Committee’s Standards Matter 2 Review, November 2021, [link](#), which also called for the Business Appointments Rules and the Advisory Committee on Business Appointments to be overhauled and for transparency around lobbying to be improved.

98. Institute for Government Restoring Trust in Public Life, (2024), [Link](#)

99. Institute for Government, “Keynote speech: Angela Rayner MP, Labour’s Deputy Leader”, 13 July 2023, [Link](#).

100. UCL Constitution Unit: Trust in public life: restoring the role of constitutional watchdogs March 2024 [Link](#)

101. Policy Exchange: Upholding Standards; Unsettling Conventions, 2024, [Link](#)

102. Livingstone v Adjudication Panel for England [2006] EWHC 2533 (Admin); [2006] H.R.L.R. 45. [Link](#)

103. Policy Exchange: Upholding Standards; Unsettling Conventions, 2024, [Link](#)

It goes on to argue that, "The Nolan Principles are just that – principles. They comprise broad concepts and are not, and were never intended or designed to be, literal rules – not least because much political discourse is contested (this is the nature of political debate), and decisions are often balanced by competing public interest considerations. This would be lost if the Nolan principles became legalistic rules, with courts able to second-guess both the making of the code and its application in practice"- and that the combination of the Parliamentary Standards Committee and recall petition rules have proven effective at holding to account MPs from various parties.

Although it may be tempting for a new Government to pledge to introduce statutory codes, or regulators, such a move would weaken accountability and undermine confidence in our democratic system. It would be far better for any incoming Government to trust to the proven power of the existing constitutional settlement – and for the Prime Minister to demonstrate his or her commitment to standards in public life by showing a zero tolerance approach to Ministers or MPs who fall short of the high standards expected.

What is to be done: the system

Signals to the system

Ministers are now responsible for systems they have not previously been running, whose management have enjoyed significant autonomy. Ministers need from day one the best data about the performance of these systems and the leaders in charge of them.

Ministers should challenge Permanent Secretaries to have ready comprehensive data on the productivity improvements they and their agencies have actually delivered over the past three years, as well as plans to increase these in the years ahead.

Past performance is hugely relevant for Ministers in assessing the credibility of new plans and the people who they will be relying on to deliver them. There will always be arguments about special circumstances in past years meaning past performance on productivity need not always be a sign that current plans will not be delivered either. But as Hugh E Keough used to say “The race is not always to the swift, nor the battle to the strong; but that is the way to bet”. This data will not only enable Ministers to make a decisive start, but will send a powerful message to the machine that performance in operational delivery for the public is valued as highly as policy.

‘Bring out your dead’

Policy obsesses Ministers and officials, but it is delivery that matters to the public. Improving public services that will be new Ministers’ most urgent task, made all the harder given the state of the public finances.

It is also typically where Ministers are most personally vulnerable. Few Ministers have to resign because of poor policies, many do because of operational failings, and in particular inaccurate or misleading information they have given publicly about operational matters. As former Cabinet Minister Rt Hon Ruth Kelly told us:

“The biggest media issues were often the ones that weren’t in areas we’d identified as priorities for reform: e.g. school uniforms and sex offenders. It often turned out they were in areas of the department that had much less senior oversight and attention.”

Government business continues, elections or no elections. Officials are keen to get early steers, and are protective of initiatives and programmes that are currently in flight. This can mean, however, that new Ministers incrementally become responsible for inherited issues of performance

or for operational scandals without ever having had the full extent of the problem explained to them. The inherited problems with the Post Office's Horizon system are perhaps a good example of this, having been inherited initially by the Labour government in 1997 and then again by the Coalition in 2010.

The world of 'Service Level Agreements', targets and a complex landscape of arm's length bodies is rich with perverse incentives, and so potential snares for incoming Ministers. The past decades have seen multiple target regimes struggling to evolve to come up with something useful and meaningful and proof against gaming. Reports on scandals like those in Stafford Hospital vividly portray "a culture focused on doing the system's business – not that of the patients"¹⁰⁴.

Some areas have gradually implemented a performance regime with real value. In education, for example, early targets based on absolute exam results attained were criticised as encouraging grade inflation. Focussing on the numbers of pupils obtaining 5 good GCSEs A star to C then encouraged schools to concentrate on pupils scoring just below this level, potentially neglecting higher or lower achieving pupils. Over time, a combination of rigorous SATs introduced by the labour government and a 'value added' approach culminating in the progress 8 score has given a robust measure of relative performance between schools, with initiatives like PISA giving similar insight into England's relative performance internationally and striking data on the relative performance of nations within the UK. As Lord Willetts said to us, "Don't assume everything you inherit is bad."

But incoming Ministers should be wary in many areas of existing targets and management information. It can be argued that the NHS waiting list target (the right for patients to start consultant-led treatment within 18 weeks) places insufficient emphasis on ensuring a diagnosis or a decision regarding a patient's treatment rather than just seeing someone.

There are similar criticisms of targets like operating theatre utilisation levels, with claims that sessions with low utilisation rates are sometimes cancelled altogether because, if cancelled, they do not then contribute to the hospital's overall utilisation statistics, despite the obvious adverse consequences of this for the patients involved.

What new Ministers urgently need is the opportunity to review performance from the bottom up, not carrying into a new government problems inherited from the previous parliament or relying on inherited performance measures which might have significant perverse incentives built in, leading to a sort of 'technical debt' with headline performance against the targets diverging ever more from the underlying reality.

In addition, Ministers should implement a 'bring out your dead' policy (as John Reid did when arriving in the Home Office). They should demand full briefing on operational and legal risks they are inheriting, for example, before agreeing to continue approaches which may be storing up problems for the future. Ministers should make it clear to Permanent Secretaries that any failure to disclose these issues will be fatal to their confidence in the department's management and in the officials concerned.

104. Covering note from Francis to Secretary of State: [Link](#)

Understanding The Civil Service Culture

Incoming governments typically have relatively few Ministers who have been in office before. More than this, however, politicians as a group do not often have much experience of the civil service, or wider management in the public sector. In our interviews, past Ministers have frequently emphasised how steep the learning curve is.

Ministers need to understand it is the nature of the official machine for which they are responsible; what its incentives are and how it can be led to deliver their objectives.

The ‘Yes Minister’ caricature is of officials outwardly deferential, but in practice determined to protect their own interests and avoid change.

Civil Servants push back strongly against these accusations. And independent observers and researchers are struck by how central to civil servants’ self-identity providing a good service to Ministers is¹⁰⁵. One recent report saw analogies with the, often strained, relationships between private sector chairs and CEOs, suggesting that, if anything, the relationship within government functioned better. Professor Kakabadse went on to note “the intensity of devotion to the secretary of state can more closely resemble the characteristics of a one-sided love affair”¹⁰⁶. Even less flatteringly, a serving permanent secretary Sir Richard Mottram commented to the House of Commons Select Committee on Public Administration in 2002 “what the Civil Service wants, and I always compare it to a rather stupid dog, it wants to do what its master wants and it wants to be loyal to its master and above all it wants to be loved for doing that”.

It is also true that many of the aspects of the civil service that are most criticised arguably represent a logical response to the incentives that Ministers themselves have put in place. Successive reports since Fulton, most recently that of Lord Maude, have criticised churn and the dominance of generalists in the upper reaches of the civil service. Unflattering comparisons are made between the UK Civil Service and that of Singapore.

Since the mid 2000s, senior civil service pay has fallen significantly – different numbers are quoted depending on whether pensions are taken into account, but the Senior Salaries Review Body SSRB estimates a real reduction of 8-20% in take home pay¹⁰⁷. Specialists can increasingly get a better deal working on the same issues from the other side of the table. The reduction in pay has inevitably meant through a process of self-selection that those remaining are less financially motivated than their predecessors. As well as being motivated by public service generally, an ever higher proportion of civil servants will also be motivated primarily by intellectual interest – which correlates with an appetite to move around and explore new areas.

In addition, since 2010 the government has removed automatic pay progression from the civil service. This was justified on the grounds of moving more towards performance pay and addressing gender pay gaps. But in practical terms, this was a considerable disincentive to staying in one area and acquiring subject matter expertise, even for those who

105. Rhodes, R. A.. *Everyday Life in British Government*. Oxford. 2011

106. Kakabadse, P. A.. *Public Administration and Constitutional Affairs Committee: report into civil service effectiveness*. 2018

107. *Forty Fifth Annual Report on Senior Salaries 2023*: [Link](#)

wanted to. Performance related pay was frequently concentrated on a small proportion of staff, was not pensionable and long serving in one job was not generally valued highly. Anyone engaged in negotiations in Brussels was familiar with the stark difference in subject matter experience between UK civil servants and their EU counterparts, many of whom served under much more traditional terms and conditions.

Ministers at times even went further and under Blair, the idea of fixed 4 year terms for the senior civil service was put forward (though never strictly enforced). It is an idea supported again in Lord Maude's recent report. While never formally implemented, it also fed into a culture of frequent moves which were in any event seen as the best way to get promotion, which has increasingly been the only way of financially bettering themselves. The Senior Salary Review Body reports a median stay in post across the SCS of less than 2 years.

The SSRB notes the other logical response to pay constraint has been a consistent pattern of grade inflation. "It appears that the falling real and relative value of SCS pay has been accompanied by assigning SCS grading to roles that would previously have been part of the delegated grades – grade inflation".

Few join the policy heart of the civil service because they are primarily motivated by personal accountability or making decisions. The role is about advising Ministers who take the ultimate responsibility. Psychologically high in agreeability, there is a strong desire for consensus. There is a very strong adherence to 'high status' views, which are typically metropolitan, technocratic, internationalist, rules and process based, socially liberal with a tendency to defer to experts from similar social and intellectual backgrounds. Anthony Sampson described the senior cadre "they still have the same introverted faces, ironic glances and sceptical grunts that I noticed forty years ago; they still look suitably burdened by affairs of state"¹⁰⁸. There is significant intellectual flexibility and curiosity while the psychometric tests supporting senior appointments actually raise concerns when candidates have strong views on right and wrong, suggesting this be probed as a possible area for concern about an individual's 'openness'.

As noted, they have a strong commitment to the rule of law, a more expansive interpretation of this particularly around international law, and a more risk averse approach than Ministers of successive parties have sometimes been comfortable with. The Committee for Standards in Public Life noted:

*"In recent times the government's willingness to test the boundaries of legality in challenging policy areas has been difficult for some civil servants who have struggled to reconcile their work with their own personal values. It was suggested to us that in some instances officials have mistaken a feeling of dislike or discomfort with policy choices for ethical considerations that could be a breach of the Civil Service Code."*¹⁰⁹

Like all public sectors, and many bureaucracies even in the private sector, there is little incentive for efficiency or fostering growth – indeed

108. Sampson, A. Who Runs This Place? The Anatomy of Britain in the 21st Century. John Murray. 2004

109. Committee for Standards on Public Life: Submission to Public Administration and Constitutional Affairs Committee July 2023 [Link](#)

the size of regulatory reach, budgets or numbers of staff are all measures of status and are protected accordingly.

For all the attention that has been paid to diversity, and the changes in the SCS composition on race (less successful) and gender (more so), one thing that has moved in the opposite direction has been diversity of background. The civil service is even more privileged than before, with 72% coming from a privileged background, up from 67% in 1967¹¹⁰. This leads to dangers from group think. Some would say major policy failures like tax credits and universal credit stem from a policy world motivated by the best of intentions but with little understanding of how the most deprived live and organise their finances. Former Ministers like Hazel Blears noted how officials ‘have not always spent time on the frontline’, and Ministers need to get out there to hear alternative views as much as possible.

Officials have a strong bias towards the status quo, or at least highly incremental reform. Performance and promotion are strongly linked to developing good relations with ‘stakeholders’, who are encouraged to feed back into performance appraisals. While designed to encourage cooperative relations, this arguably gives undue weight to large players like industry bodies, lobbying organisations, unions or professional bodies, whose interests will not necessarily align with those of the public.

Given that civil servants are the ones who will ultimately have to implement radical change, and that they are constantly encountering contradictory ideas for such change, it is not surprising that they tend to take a sceptical view. It does, however, mean that Ministers cannot expect to get many radical ideas from them – it is hard to think of many radical proposals originating within the civil service machine over recent decades. The one time Whitehall was undoubtedly world beating was during WW2, when the permanent cadre was transformed by a large inflow of technical and business experts from outside government, only for these to be moved out at the peace. This experience confirms the sense that the official machine is at its best critiquing and refining and then implementing ideas from outside than generating proposals of its own.

Tony Blair had an interesting perspective on how his views of the machine changed over time.

“The reality is not they [the civil service] were posed to strike, sabotage or act. The problem with them..was inertia. They tended to surrender, whether to vested interests, to the status quo or to the safest way to manage things, which all meant to do nothing. Wholly contrary to the myth, they were not the least in thrall to the right-wing establishment. They were every bit as much in thrall to the left-wing establishment”¹¹¹.

A statutory Civil service?

For the reasons discussed above (Does technocracy really clarify responsibilities? – p42), we recommend putting to rest the whole debate about a statutory role for the civil service. New Ministers should send an

110. Social Mobility Commission. Negotiating the Labyrinth: Socio-economic Background and Career Progression within the Civil Service. 2021

111. Blair, T. (2010). A Journey. Random House.

early signal that they expect to enjoy strong control over the machine. This might mean an early speech or Green paper. This should:

- Note Ministers' personal accountability for the entire government system, and their need accordingly to have public sector leaders in whom they have confidence, appointed through the traditional merit system.
- Make it clear Ministers reject any ideas of a constitutionally independent civil service as an innovation lacking democratic legitimacy and risking a wider gap between the governors and the governed. The performance and performance management of the civil service should continue to be led through Ministers, not shared with regulators or Parliament.

Who do Ministers want in charge of the system?

It will be important for new Ministers to be clear what sort of people they want to appoint to the top roles, particularly Permanent Secretaries. Ever since Fulton in the late 60s, there has been a criticism of the 'cult of the amateur' or 'generalist'. Most recently Lord Maude's report expressed frustration at the way that repeated restatements of this criticism had not led to fundamental change in the sort of people appointed to the top jobs.

Several of our interviewees were sceptical of this whole line of criticism. One commented "Ministers have enormous influence over the selection of permanent secretaries. If they wanted a different sort of people, they could get this". Some of our interviewees questioned the extent to which it is meaningful to describe the skills of senior management in the civil service as 'generalist'. Even more strikingly, most (both from a civil service and political background) agreed that, given a choice, Ministers have consistently chosen the very sort of 'policy generalist' candidates whose dominance is being challenged.

Our interviewees felt Ministers' revealed preference was very much for those with deep experience handling the government machine. "The civil servants Ministers like most are their private offices, and they look for permanent secretaries who are as like them as possible" was one remark. It is not a coincidence that the sort of civil servants currently promoted reach the top. They have strong political skills with typically a broad network of influence over Whitehall, essential for getting agreements across departments. They have a high tolerance for ambiguity and changes in policy and a self-effacing approach to developing policy and not wanting to seek the credit for it.

The very top civil servants pride themselves above all on their ability to get on with a wide range of Ministers and understand what Ministers are looking to achieve in their term in office. Civil service leaders value their 'political antenna' – the ability to recognise where particular issues of policy or delivery have the potential to rebound against Ministers later. Those that Ministers value are often those who make it their main focus

to deliver what Ministers want, even if this makes them unpopular within the department or among peers.

Ministers need to decide if they really do want a different style of senior civil servant manager. – recognising that the sort of technocratic experts Fulton and others proposed will have strong qualities but are also likely to be less diplomatic and more challenging. One former Cabinet Minister shrewdly observed to us that “Ministers get the Permanent Secretaries that they want, but that may not be the Permanent Secretaries who are most fit for the job. Ministers see very little of procurement or management unless something goes wrong.”

One criticism which was shared by many of our interviewees was the sense that permanent secretaries often did not seem to have a grip on their department and the ability to make things happen – sluggish progress against poor performance and the inability to get staff to return to office in the face of clear Ministerial directions were two examples cited. One interviewee commented that permanent secretaries did not focus on these sort of areas of business because it was not how they themselves were judged.

We feel this debate is generating more heat than light, and are highly sceptical there is really any underlying demand for fundamental change. It is important to clarify this issue for once and for all, as there is currently a gaping void between the repeated recommendations of various Civil Service reform plans and the actual practice on the ground. If in fact politicians are broadly satisfied with the sort of candidates who are being appointed as permanent secretary, the civil service reform programme will need to look elsewhere to address the undoubted challenges government has with productivity and programme delivery, for example, and identify alternative ways of strengthening the management grip on civil service departments.

Is the policy civil service too large?

There has been debate for many years about the overall size of the civil service. Total numbers have fluctuated, reaching a post war low in 2014 but then increasing significantly at the time of Brexit and then the pandemic. In 2021, Jacob Rees Mogg announced the Government target to reduce numbers by 90000. The Sunak Government scrapped this target, with the Chancellor instead announcing a freeze on headcount numbers by the end of the spending review period, and vaguer long term plans to return the size of the civil service to “pre pandemic levels”¹¹².

Different parties are likely to have different views on the required size of the civil service, depending on the fiscal position and the new government’s policy priorities. Whatever the new Government’s views on this might be, there is a strong case for scaling back the size of certain parts of the central civil service, in particular the senior civil service and the policy core and reviewing the overall pay package.

Since March 2016, just before the EU referendum, the policy profession has grown by 15,565 staff – an increase of 94%.¹¹³

112. HMT 2 October 2023 [Link](#)

113. Institute for Government: Civil Service Numbers: [Link](#)

The SCS has also expanded very significantly in recent years. Government statistics show numbers in the senior civil service have increased by 67% since 2012. There is now one member of the SCS for every 78 civil servants in the delegated grades. This ratio has fallen from 1:126 in 2012 and continues a trend going back to at least 2002 (when it was 1:150). The proportion in the next most senior grades, G6 and G7 has increased from 7.8% in 2013 to 15.2% in 2023. The civil service Grade 6 used to be reserved for specialists running teams not large enough to be deemed full SCS units, but often reported direct to a Director. In the past 20 years, it has now become an additional management layer in almost all departments, further extending the length of chains of command.

This grade drift can easily be demonstrated by a job which has remained unchanged for a hundred years, the private secretary. Over the past 20 years, nearly half (11 out of 23) of the principal private secretaries' posts have increased by 1 or 2 grades. SCS1 is now the base grade, with FCO at Director level and Number 10 now at Director General.

The pattern of grade drift is even more striking at more junior private secretary levels. In 1994, even the Cabinet Secretary and the Permanent Secretary of the Treasury had private secretaries at grade 7, the vast majority of permanent secretaries were satisfied with HEO or HEODs.

The Civil Service Yearbook, which used to set out in great detail the staffing of departments and agencies has shrunk in detail and become increasingly hard (and expensive) to access. Private office grade details are no longer available, and extraordinarily most departments refuse to release the grade of private secretary posts below SCS in response to FOI requests, arguing this is personal information. But we do know that the cabinet secretary and several other permanent secretaries now have private secretaries at SCS level, and the information we have been able to collect suggests a typical increase of at least 2 grades for these roles.

We have already noted the declining pay of the senior civil service in particular. The public will not get a Singapore like civil service with relentlessly falling wages. Nor, however, can the public continue to afford the expansion and grade drift the higher echelons of the civil service is currently seeing even at current pay rates, let alone on more generous terms. A considerably smaller but considerably better paid senior civil service would provide a better service for Ministers and the public.

All this suggests a major reduction in the policy centre and the SCS more generally is required. There is an argument that the very size of the policy core is actually counterproductive for Ministers. The larger teams get, the more additional 'strategy', 'transformation' and 'coordination' roles have to be created to keep policies aligned. This slows down the policy creation process, and causes further confusion externally. Ironically, the better the people in the policy centre are and the more committed, the more policies they produce which threaten to overwhelm Ministers' and Spads' bandwidth to cope.

The process of reducing and reshaping Government departments can be an opportunity for Ministers to influence the direction of the department

and ensure it aligns with their priorities. Some of our interviewees felt they were closely involved in the last restructuring exercise, other evidence suggests this was by no means common¹¹⁴. Given the level of inertia in the system, a major restructuring is a significant opportunity for Ministers.

Restoring the National School of Government

The process of reducing and reshaping the civil service must be accompanied by the underpinning training to ensure that the civil service is of the highest calibre. As discussed above, higher pay and better performance management will be a core part of improving performance, but it is also necessary to provide the necessary training – both generalist and specialist – to the civil service at all levels.

Until a decade ago, the National School of Government fulfilled this function, until it was closed in 2012. While it is true that, in its latter years, valid concerns had been raised about the cost-effectiveness of the National School of Government – in particular the PFI deal related to its Sunningdale campus – it is also the case that many of the functions it provided have not been fulfilled by the move to the more flexible, online, departmentally based provision. In the words of the Parliamentary Public Administration and Constitutional Affairs Committee, “It is clear that key aspects of professional development of civil servants which used to be provided by the NSG are missing.”¹¹⁵ Concerns over the closure of the National School of Government – and the lack of an adequate replacement – were echoed by many respondents who gave evidence to that inquiry. As with the closure of the Foreign and Commonwealth Office language school – closed in 2007 and reopened in 2013 by William Hague - this appears to be a case where legitimate concerns about the performance of an organisation should have resulted in reform, rather than closure.

Given the widespread admiration expressed for the Singapore civil service, the contrast between training provision in the UK and in Singapore could not be starker, with the latter having a high powered Civil Service College engaged not just in training but original research¹¹⁶.

We recommend that the National School of Government be reestablished, with a remit to provide high calibre training, provided at cost, across the civil service. This would include core technical information about the workings of Government, Parliament and the Civil Service, specialist subjects such as economics, as well as more technical courses in matters such as Government procurement or the Government digital service.

Getting the Right Civil Servants Into Roles and Influencing Performance Assessments

Ensuring the right people are appointed to roles that are delivering Ministers’ main priorities is essential. At the moment, Ministers rely on good relations with their permanent secretary to get this done, and at the most senior levels the Cabinet Secretary also plays a role.

114. Institute for Government: Transforming Whitehall One Year On: 2014

115. PACAC: The Minister and the Official: The Fulcrum of Whitehall Effectiveness, 2018, [Link](#).

116. Singapore Civil Service College website [Link](#)

Ministers' room for manoeuvre is constrained in some areas by regulations, but in many cases they have not taken full advantage of the powers they already have. Opinions varied among our interviewees. Some ex Ministers were broadly happy with the degree of involvement that they had, with most speaking highly of their Permanent Secretaries and their capabilities. Others felt that Ministers' influence in the processes was patchy, while some felt Ministers were highly constrained in their ability to get trusted people in to deliver the delivery areas of highest priority. The general impression we got was that Ministers felt people could ultimately be moved on, but it was often a bruising process.

The management of the Civil Service is governed by the Constitutional Reform and Governance Act 2010. The Act reaffirms Ministers' powers to manage the civil service, (which is then in turn delegated to Permanent Secretaries through a rather opaque scheme). The Act also requires Ministers to publish a code of conduct (the Civil service Code). The Act confirms the principle of selection for appointment having to be on merit on the basis of fair and open competition, though there are provisions in section 12 allowing Ministers to waive this in exceptional circumstances.

Section 11 requires the Civil Service Commission to produce 'principles' governing appointments, which are to be issued after 'consultation' with the Minister for the Cabinet Office. The most recent version of the Civil Service Commission Recruitment Principles were published in 2018.

In general, it is striking how much room there is for Ministerial involvement in the recruitment process. Paragraph 39, for example, notes that "where the relevant Minister has an interest in an appointment, the chair of the panel must ensure that the Minister is consulted on and agrees the final role and person spec, and the terms of advertisement. The Minister should also agree the composition of the selection panel, in particular to ensure there is sufficient external challenge from outside the civil service"

Paragraph 40 states that "any views the Minister may have about the expertise, experience and skills of the candidates must be conveyed to the selection panel", while paragraph 41 allows Ministers to meet shortlisted candidates (accompanied by a CS commission rep).

We have not come across many opportunities where Ministers actually got involved to the degree permitted under the principles. This is probably an issue of bandwidth. Paragraph 58 declares that "under the 2010 Act, Spads may not exercise any power in relation to the management of any part of the civil service. They may not therefore be involved in the recruitment of civil servants".

This is an unjustified interpretation of section 8 of the Act. It is one thing to say that Spads cannot exercise Ministerial powers, but advising Ministers and being involved in the process is not in itself exercising a power in relation to the management of the civil service. It is surprising that this part of the Regulation was not objected to (the Commission is obliged to consult the Minister for the Cabinet Office on the Regulations before they issue). Given that Ministerial submissions and the attached materials like recruitment packs can easily exceed 50 pages and Ministers

have very limited time, it means that Ministers rarely have the time or bandwidth to engage in recruitment process, particularly influencing the all important job specifications or the process, and risk being confronted with a *fait accompli* instead.

Ministers should make it clear to the Cabinet Secretary and the Civil Service Commissioner that they expect para 58 of the Principles excluding Spads from the process to be removed immediately. Otherwise, they will commit to legislate to remove the power to issue the Principles from the Commissioner and restore it to Ministers in the same way as applies to the Principles for Public Appointments. This would be a single clause Bill so capable of being passed very quickly if desired (or more likely as part of a wider reform package).

Immediately after the Principles have been changed, Ministers should establish a central Spad team on appointments, ideally based on the team which did the work identifying suitable candidates in the run up to the election. Ministers should make it clear that the job specifications for all top civil service roles (PB3 and above and other roles identified by Ministers) and all Ministerial public appointments need to be run past this team, with a clear justification in any case diverging from the standard person specification. This team will also advise Ministers (working with departmental Spads) on the general exercise of their functions (eg agreeing recruitment processes). A team of 5-6 should be sufficient to handle say 700 public appointments and 200 civil service appointments a year.

Some interviewees argued for going further on political appointees (or at least direct appointments). An important OECD report in 2007¹¹⁷ compared the degree of political involvement in the civil service across a range of jurisdictions. Overall it suggested there was a correlation between the complexity of the governing landscape and the degree of political influence on appointments. Westminster systems tended to have the strongest executive and the most independent civil service, while complex systems like the US had a much greater degree of political influence including up to 7000 Presidential appointments and the ability to make such appointments to any role within the Senior Executive Service (broadly equivalent to the SCS).

In addition to the points of principle, any move to political appointments would be highly complex to deliver. It would need to be decided, for example, if appointments were wholly for the Prime Minister, or whether departmental Ministers would also have a right to make such appointments. The process would also involve significant additional cost. In the US model, professional civil servants displaced by political appointees are entitled to generous severance terms. In the German system too, senior officials identifying with a non-government party are moved to less sensitive roles, which presumably requires a level of redundancy in senior roles to accommodate senior figures from across the political spectrum.

We agree with successive reviews that reject this degree of politicisation of the UK civil service. To the extent the UK constitution has evolved away from strong Ministerial control over the machine, the case for some

117. Matheson, Weber, Arnould and Manning: Study on the Political Involvement in Senior Staffing and on the Delineation of Responsibilities Between Ministers and Senior Civil Servants OECD Working Papers on Public Governance 2007/6

greater political influence is there. We believe, however, that there is already more scope than actually exercised to influence appointments, providing Ministers are allowed appropriate Spad support. The proposals to beef up Extended Ministerial Offices would give Ministers eyes and ears over their key priority areas. But there is a case for keeping a watching brief on how the system responds and whether more direct Ministerial influence might be needed in future.

As for performance, opinions varied among our interviewees about the role Ministers had feeding back on officials' performance.

One felt "I didn't feel empowered to say someone wasn't up to the job". Dominic Cummings argues "politicians are pushed away from discussion of the quality of people which is treated as a black box for the CS to handle themselves, with only the occasional discreet chat with the PM"¹¹⁸. But we are aware of departments where Ministers have been consulted on officials' performance routinely, and all the authors are aware of cases where in practice officials have been moved on when the relationship with the Minister was not working.

It is not clear how many Ministers have sought to get involved in the day-to-day performance process for senior officials and been rebuffed – we did not find much evidence of this in our interviews. Cummings might be right however in suggesting that Ministerial or Spad involvement is not welcomed. The recent report into bullying allegations against Dominic Raab gives some weight to the claim. The report has the interesting remark (para 110) "there is an unresolved policy issue... as to the extent to which it is appropriate for a Minister to provide comments to civil servants in the nature of performance feedback"¹¹⁹. Given that Tolley, the KC conducting the report, had frequent access to current and permanent secretaries, one can only assume that they shared this perception of an ambiguity.

The claim is extraordinary, however. The whole purpose of the civil service is to support the Ministers of the day. The current SCS performance regime includes a formalised process of 360 degree feedback, with comments on the postholder's performance sought from staff, from the manager, from peers elsewhere in the department and in wider government and beyond; feedback which is taken into account in the appraisal and the ultimate marking. The current civil service guidance makes it clear Ministers should be involved in this, "360 degree feedback should cover a variety of relevant stakeholders, including staff, peers, customers, and Ministers, where staff frequently work with them [our emphasis]"¹²⁰.

Given the degree of confusion which seems to reign here, Ministers should agree with the Cabinet Office a formal statement that Ministers will be consulted in the SCS performance regime for their comments on candidates both for year on year performance marking and the talent grid (which sets out the corporate view of the department on the candidate's long term promotability). Line management responsibilities remain, of course, with civil service managers, and they are not obliged to take on board Ministers' views – but any such divergence is an appropriate matter for discussion between permanent secretaries and Ministers.

118. Cummings, D. Substack Regime Change #3. 2022

119. Tolley, A. (2023). Formal Complaints About The Conduct Of The Rt Hon Dominic Raab MP: Report To The Prime Minister. [Link](#)

120. Cabinet Office, Senior Civil Service Performance Management Framework, 2023: [Link](#)

It should also be clear that Ministers have the right to ask for moves in posts they identify as critical to their priorities. This need not be a performance issue – chemistry matters between officials and Ministers and the relationship not working may not imply fault or a competence issue. Equally it should not be seen as novel or contentious if Ministers ask for particularly officials to be moved into or out of particular roles – it will remain ultimately a matter for the Permanent Secretary to decide on.

Reform of the CS Code

Civil servants are conscious that there are limits to how far they can be asked to go by Ministers. It isn't controversial that civil servants can't be required to carry out actions that are illegal under UK law, for example.

The Civil Service Code represents an attempt to set out the responsibilities of and protections for civil servants. The code sets out the behaviours expected by civil servants and is part of their terms and conditions of service. Given the code is relatively new, being produced under the 2010 Constitutional Reform and Governance Act, it is remarkable how quickly it has been absorbed and plays an important role in civil servants' self-image. It is often called upon by civil servants as a yardstick to measure their own behaviours and those of others. Amongst other things, the code sets out in particular civil servants' responsibilities and rights in cases where they are asked to do policy that they may not agree with.

The civil service code has been a hotly contested area. Recent reports like that of the Grieve Commission and IfG have argued the code needs to be strengthened to enable civil servants to protect themselves against inappropriate commissions from Ministers. Conversely, some Ministers in the previous government have suggested the civil servants should be reminded of their responsibilities under the code in the face of what they see as civil service reluctance to give Ministers what they are looking for.

We have already noted the perception reported by the Committee on Standards in Public Life among some Ministers that “in some instances officials have mistaken a feeling of dislike or discomfort with policy choices for ethical considerations that could be a breach of the Civil Service Code”.¹²¹

During the last administration, there were reports of staff in the Home Office suggesting industrial action to oppose Government policy in areas of immigration policy¹²³, while more recently the PCS union has demanded talks with management in the Department of Business and Trade on behalf of staff working on export licences for weapons to Israel about alleged concerns they would be personally vulnerable to legal action for war crimes if they continue issuing these. Several of our interviewees felt that leaking had become a greater problem, with much of it clearly originating among civil servants unhappy with policies, and that these leaks were not taken seriously enough by Permanent Secretaries.

Some former senior civil servants we interviewed felt the mood in the service had changed relatively recently, with a greater preparedness to

121. Committee for Standards in Public Life: Submission to Public Administration and Constitutional Affairs Committee Civil Service Leadership and Reform inquiry July 2023: [Link](#)

122. Independent. 30 May 2023 [Link](#)

point to the code to justify officials' reluctance to work on policies they were uncomfortable with on ethical grounds.

It is in everybody's interests for civil servants relations with Ministers to be on a clear footing. This suggests there is a case for clarifying the Code.

Extracts from Civil Service Code¹²³

Integrity

You must

- Comply with the law and uphold the administration of justice

Objectivity

You must not:

- ignore inconvenient facts or relevant considerations when providing advice or making decisions
- frustrate the implementation of policies once decisions are taken by declining to take, or abstaining from, action which flows from those decisions

Impartiality

You must:

- serve the government, whatever its political persuasion, to the best of your ability in a way which maintains political impartiality and is in line with the requirements of this code, no matter what your own political beliefs are
- act in a way which deserves and retains the confidence of ministers, while at the same time ensuring that you will be able to establish the same relationship with those whom you may be required to serve in some future government
- comply with any restrictions that have been laid down on your political activities

You must not:

- act in a way that is determined by party political considerations, or use official resources for party political purposes
- allow your personal political views to determine any advice you give or your actions.

The Code is balanced, setting out expected behaviours from civil servants, and including specific provisions applying on occasions when they may dislike the policies they are being asked to implement. It is striking that during the Dominic Raab investigation, he was accused of bullying staff by the very act of mentioning the civil service code's warnings against frustrating the implementation of Ministerial policies.

If new Ministers are likely to be presenting policies that civil servants are going to be uncomfortable with, it might make sense strengthening the code to address this situation setting out the rights and responsibilities

123. [Policy Exchange: Government Lawyers, the Civil Service Code and the Rule of Law \(2023\): Link](#)

on both sides even more clearly. The wording in the current code about ‘frustrating policy’ only applies to decisions that “are taken”. In practice, Ministers’ biggest frustrations have been with controversial policy areas where policy officials and legal advice are seen as consistently identifying problems rather than solutions. A new paragraph might run as follows:

- While civil servants should advise Ministers frankly and honestly about the risks and problems with policies, Ministers also have the right to expect civil servants will at all times seek to identify ways of achieving Ministers’ underlying policy objectives

This would send an important signal to the civil service. A statement of this sort significantly widens the current wording of the code, as it applies during the policy making process as well as after decisions have been taken, and is more specific than the general reference to “serving the government to the best of your ability” or “retaining the confidence of Ministers”. It leaves open the option for officials to come up with alternative ways of reaching the underlying policy aim, recognising officials should have a good sense of whether specific proposals put forward might not work. This should actually make it easier to ensure that officials working on controversial policy areas are at least ready to make it work. It would make it harder for any official who might be tempted to stay in the area to influence or dilute a policy in development by pointing to every problem with a policy they do not like with little attempt to find ways to resolve them.

It would also be helpful if the civil service code finally put to rest the confusion about international law which seems to be growing in some civil servants’ minds. Under the previous administration, the First Division Association (FDA) announced an intention to bring a judicial review against the Safety of Rwanda (Immigration and Asylum) Act 2024, arguing there is a tension between its provisions on ECHR interim injunctions and the Civil Service Code’s requirement on civil servants to ‘comply with the law’, which FDA argues encompasses international law too.

Policy Exchange issued a research paper in December specifically addressing the problem of government Government Lawyers, the Civil Service Code and the Rule of Law¹²⁴.

This report noted that newspaper reports, apparently based on leaks from civil servants, have suggested significant concern on the part of some working on controversial legislation like the Rwanda Bill.

“The Times has been told. They are said to be “very, very reluctant” because it would breach the civil service code, which dictates that officials must not back an approach that does not comply with international law... Government source said: “They [government lawyers in the Home Office and the Attorney General’s Office] are very very reluctant. They’re saying this is against the civil service code, that you have to abide by international law

124. Policy Exchange: Government Lawyers, the Civil Service Code and the Rule of Law (2023): [Link](#)

They were always quite worried about that. They're part of the wider legal community — they're not going to push their future careers under the bus. There's a lot of pushback from the government legal department....”

Apart from the irony of civil servants worrying about being asked to breach the civil service code while doing just that by leaking stories to the press, the PX report points out the flaws in the underlying argument:

“The constitutional and legal position in the United Kingdom, so far as international law is concerned, is quite clear. It has been repeatedly reaffirmed by the highest court in the UK (previously the Appellate Committee of the House of Lords and more recently the Supreme Court), and indeed is also reinforced by things said in the Supreme Court judgment in the Rwanda case itself. The UK is a dualist state. That means that international law has effect in the UK only so far as it is expressly incorporated into domestic law by or under an Act of Parliament; and, once incorporated, it is just as capable of being modified as any other domestic law and in the same way.

The obligations in the codes to “comply with the law and uphold the administration of justice” refer to the only law that has effect as such in the UK, UK domestic law, and to the administration of the justice which that law delivers.

Of course, it is relevant to any proposal for domestic legislation that it would, or might, put the UK in breach of its international obligations. It is the duty of civil servants to point out any risk that that might be the case; and it is the duty of Ministers to weigh that advice seriously. But it is false to suggest that there is any rule that the UK government or Parliament must never act in breach of international law, or to suggest that the risks to the United Kingdom inherent in such breach or potential breach must never be run.”

It is fair to note the FDA's point that earlier non statutory versions of the Civil Service Code did include specific mentions of international law not included in the 2010 statutory version. The Code's wording mentioning international law seems to have been dropped in 2006, but some assurances may have been given in consultation that the simple reference to 'law' was still intended to encompass international as well as national law.

As the PX report makes clear, there is nothing in a statutory code like the Civil Service Code that could make international law have direct effect contrary to the clear rulings of the most senior UK courts. Moreover much international law is ambiguous and declaratory, and it would not be helpful for individual civil servants to feel they need to speculate about its potential effect in deciding whether it may conflict with Ministerial instructions. This has been borne out by the recent Court decision on the FDA case.

The new government has announced the scrapping of the Rwanda scheme. But it is likely there will continue to be issues where there is a tension between the policy Ministers are looking to implement

domestically and interpretations of our international legal obligations. Given the confusion that seems to exist in the civil service on civil servants' responsibilities in these circumstances, there is a strong case for inserting clarification in the Civil Service Code, to say **“comply with UK law and uphold the administration of justice”**.

Legal advice: understanding and combatting risk aversion

The authors' personal experience, the literature and our interviews illustrated just how much concern there is about legal advice and in particular risk aversion in the civil service. Prime Ministers and Ministers of both parties have frequently noted the conservatism of internal legal advice, and then official risk aversion in response. Lord Willetts, former Minister of State for Universities and Science told us, “The legal advice I was given was always very cautious. It's important to give a clear steer to the civil service as to what risks you are willing to take.”

Interviews suggested there is a clear appetite among Ministers for more external legal advice to triangulate against that produced by the official machine and examples where getting such legal advice privately had been helpful in pushing back. As former Cabinet Minister Ruth Kelly told us, “It's vital to get external legal advice – it is often sensible to get an alternative view to departmental legal advice.”

To be fair to Government lawyers, legal advice to Ministers is never going to be quite the same as in the private sector. In the latter, it might be a valid approach to ask simply what are the chances of being successfully sued and by whom and does the risk of losing outweigh the benefits we will secure from the proposed conduct. In the case of Government, proceeding in the knowledge the conduct is likely to be found unlawful in the highest courts is always going to be more questionable.

The problem with this is that the developments in judicial review discussed above make assessing legal risk ever more challenging. Modern JR and the ECHR build on broad, imprecise and ultimately unknowable principles that qualify even unequivocal intentions set out in legislation and that postpone legal certainty until those principles are crystallised into specific norms applied in individual cases, and even then they leave doubt about their operation in other cases. As a result, Government can never know for certain what the law requires and has to accept, these days, that there is always a significant risk of losing on the law.

Even accepting these constraints, however, there seems a general consensus that Government is too cautious, and in house legal advice is a big part of the problem here.

The Government Legal Service approach to scoring legal advice seeks to assess legal risks looking both at the likelihood of challenge and the likelihood of a challenge being successful. It uses a RAG (Red/Amber/Green) rating, based on percentage likelihood of the various outcomes. This keeps the whole risk assessment under the control of the lawyers.

There may be cases where the lawyers are in the best position to judge both sides of this – for example in high volume areas like immigration. In other cases, however, like procurement challenge, the risk of challenge will involve a whole series of political, commercial and relationship judgements on the part of potential opponents which the policy or operational lead or Ministers may actually be in a better position to assess than lawyers who are unlikely to have dealt with the potential challengers, and who some interviewees felt tended to overstate the likelihood of legal challenge. At a minimum in these cases, the assessment of the likelihood of challenge should be joint or officials should be able to express an alternative view.

While it is possible to get this advice tested externally, this is generally restricted to an agreed list of Counsel, or getting approval for KC through the AG's office, a process which might itself introduce some group think into the process.

We believe Ministers need to put in place a review of risk aversion, including input from the First Treasury Counsel and other senior lawyers with a good understanding of the particular challenges of public law and wider law applying to Government. This might involve seconding some senior KCs to help review the legal advice process within GLS. We would also recommend changing the commissioning process for internal advice, asking government lawyers not simply to give an opinion on the specific question, but requiring them, in the event they feel the course of conduct is likely to be too risky, to suggest alternative ways of achieving the same policy ends.

We believe it is essential to preserve the combined legal and political role of the Law Officers, and to be clear at all times that the Attorney General has no duty to follow advice whether from the GLS or other external advisors if he or she believes there is a justifiable legal case and a political or policy requirement to proceed differently.

Finally, there is also a cultural challenge in the civil service's response to legal advice. Civil servants frequently assume that any risk of over 50% puts them in a position of acting knowingly unlawfully. This is a misunderstanding of what the risk advice means. First, it is only intended to be an assessment and should not be taken as given. Secondly, the law will not be determined unless and until a judge decides. There is no legal reason why Ministers and officials should not proceed on a course even if the legal risks are high, if they believe the public interest requires it. In many cases the response to an adverse legal ruling would be to seek to change the law anyway, but officials should seek to test their existing powers rather than constantly seeking to change the law if they have doubts about the extent of their current powers.

Broadening the advice pool

We have discussed above the importance of identifying a broader range of advice. At present, Ministers and their Spads will typically be outnumbered at least 100-1 by civil servants in the department's policy centre. Civil servants tend to like to keep Ministers to themselves as much as possible.

Kaufman famously described the experience “You enter a world that, unless you are determined to break free of it, seals you in as securely and hermetically as if you were in a space capsule hurtling in orbit miles up in the sky.¹²⁵”

Our interviewees recognised the feeling. Several suggested that whenever Ministers wanted to forge relations with external experts, the civil service would support this in principle but put such barriers of process or raise propriety questions or issues about clearance etc that the relationship became unworkable. One at least could point to a specific example of this from their own experience.

The policy core of government departments has many strengths, but it is unlikely to generate radical thinking on its own. With politics and lobbying constantly demanding change in contradictory directions, the machine understandably has a bias towards stability and scepticism even in the absence of strong ideological views one way or the other, and the same applies to many other stakeholders.

While this can be frustrating and it is easy to assume obstructiveness, it should be remembered that officials are very good at identifying practical weaknesses in policy proposals – Ministers should suppress frustration and recognise the value of this in making policies more robust.

The risk is, given the much weaker policy infrastructure these days in the political parties, Ministers face being absorbed into the department’s existing policy thinking or becoming dependent on policy ideas from external think tanks or pressure groups.

The coalition government had some radical ideas for addressing this. The 2012 Civil Service Reform Plan promised to “Pilot contestable policy making by establishing a centrally-held match fund which can be used by Ministers to commission external policy development (for example, by academics and think tanks)”. Little came of this in practice, however, with the specialist skills of the policy centre being hard to replace in practice, certainly without a much bigger commitment than Ministers apparently had an appetite for. A better answer is not to seek to supplant the current policy machine completely, but to supplement it, injecting outside perspectives and new ideas.

Incoming Ministers should be given the option, if they want, of setting up an external group of advisers to help act as a sounding board for the key policy challenges they will face. Selection of these needs to be in the personal gift of the Minister, with members compensated at reasonable rates for their time. The Cabinet Secretary should be asked to come with a common process across all departments to facilitate these groups and ensure members have access to the required papers, subject to usual Non-Disclosure Agreements.

Most departments also have a large number of expert panels on specific issues, which are supposed to be staffed by the leading experts in the fields. There is, however, a strong preference among the official machine for these panels to report consensus views, with dissenting members quietly dropped or not chosen in the first place. Some of our interviewees noted

125. Kaufman, G *How to be a Minister*
Faber and Faber 1980

the frustration that advice they received was ‘massaged’ and represented ‘consensus’ views. There is a horror among officials of maverick panel chairs or members who are seen as posing obvious risks of media attack or ridicule. The sacking of Roger Scruton from the Building Better, Building Beautiful Commission or Professor Nutt from the Advisory Council on the Misuse of Drugs in 2009 were two examples of this – whatever one thinks of the individuals’ attitudes, they were both highly eminent in their fields and it is hard to see that Ministers get better advice with these sort of voices removed.

There are real risks here, there is always the fear that advisers attacking Ministerial policy will be an embarrassment. But ultimately advisory panels are just that, and a strong Minister should be able to shrug off advice they think is left field or areas of disagreement. After all, there are few areas where there is genuinely a consensus among experts – and if there were, there would be little need for an advisory panel in the first place. Ministers should make a clear statement that they want advisory groups to reflect the full range of opinion, and that majority and minority reports on particular issues will not be seen as a problem. Conflicting perspectives will keep both sides alert and improve the quality of the thinking. Boards like this will be able to indicate areas of genuine consensus, and will come up with articulate alternative views. This will help ensure Ministers remain the flexibility to use scientific advice alongside the many other legitimate factors rather than feel bounced by an alleged expert consensus.

Arm’s length bodies

We have already looked at the various much heralded ‘culls’ or ‘bonfires’ of Arms Length Bodies since the 1970s. The problem with ALBs is not fundamentally the number of them, but the difficulties Ministers have exerting control. There is definitely a case to continue to bear down on the numbers, looking for opportunities to bring their services in house into government departments, merge ALBs or on occasion abolish them. There are circumstances where a body carries out sensitive functions for which being distant from Ministers is an important confidence builder – HMRC is an example. It is not clear that this test is met for all the ALBs. But changes of this sort requires scarce Parliamentary time. And legislating without addressing ALBs’ underlying functions or governance is mainly rearranging the deckchairs, and changes nothing in the risks from ALBs making decisions for which Ministers will be held accountable without having any practical influence over them. As former Cabinet Minister Rt Hon Ruth Kelly told us:

“Arm’s length bodies are effectively independent: Ministerial guidance powers are so high level there is very little real democratic oversight, particularly if a Minister isn’t there for long enough. It makes sense for operational agencies, such as the DVLA or Passport Office, but I’m less convinced of the benefits of outsourcing policy or regulatory actions to them.”

Most important, therefore, is the need to ensure ALBs are under clearer Ministerial control. The three priority areas are:

- The ability to set the strategic direction for the body and a requirement to report annually to Parliament against this
- Clear and consistent procedures for the appointment and, if necessary, removal of the office holders
- For bodies with regulatory functions, a statutory requirement for them to act proportionately in their decision making.

As we have seen, currently only a relatively small number of ALBs have explicit powers for Ministers to set their strategic direction. When they do (as with the Electoral Commission since the 2022 Act), there is sometimes criticism from those like the Grieve Commission who believe this compromises the body's independence and argue to have these powers removed.

In our view these criticisms are unfounded. Nobody is suggesting that individual investigations should be subject to Ministerial direction, or that Ministers should be entitled to know about individuals' tax affairs. But the broad policy direction of any public body is a matter of public interest and can only be set by Ministers who are accountable to Parliament and to the electorate for this. Indeed, some of the most senior figures at the time Next Steps Agencies were first mooted had reservations about whether any policy functions should properly sit in them, while today many ALBs have far reaching influence on policy.

We have already noted the inconsistent provisions on the appointment and removal of public office holders. Chairs and Chief Executives of ALBs should hold their offices on similar terms to any other employee, with removal for cause an option not just on bad behaviour, but also for incompetence or refusal to implement the strategies that Ministers have set for them.

Regulators should also be required to carry out their functions proportionately, i.e. with due regard to costs and benefits. This is already the case for some bodies, for example there are some similar provisions for the Financial Conduct Authority. There is no reason why other bodies like the Environment Agency, Natural England, the Food Standards Authority and the Office of the Nuclear Regulator should not have a similar duty, a statutory duty which could allow court challenges when those regulated believe the duty has not been followed, in which at a minimum agencies will need to be able to show their data and their rationale for believing the measures they introduced are proportionate

It should be possible to implement these recommendations through a single bill inserting the power to set strategic directions in the founding legislation of all ALBs, directions which might possibly need to be approved by Parliament. The Bill would also set common conditions for the appointment and removal of executives and chairs. This would emphasise the correct relationship – ALBs would be working to Ministerial direction

but continue to imposing a duty of proportionality on a subset of ALBs with regulatory responsibilities. This Bill would be a major undertaking – we might expect significant attempts to remove or mitigate its impact on particular bodies. But taking this on in a single Bill is far more efficient than seeking to make the changes body by body.

A number of interviewees commented that Ministers rarely had time fully to scrutinise all the bodies within their department, while officials were often not able to do so given the bodies' jealous protection of their independence. Departmental select committees will sometimes review the work of arm's length bodies, but usually concentrating on policy or questions of implementation.

We believe there is a case for a subcommittee specifically to scrutinise the operation of ALBs, reviewing their efficiency and the proportionality with which they exercise their powers. Most of the pressures on ALBs and indeed Ministers are to regulate and intervene more. It would be helpful and in the interests of the taxpayer and the wider economy to have a committee with counterbalancing scrutiny process. One option would be a new subcommittee of the Public Accounts Committee. An alternative would be the sort of **bespoke joint committee proposed by the conservative Regulatory Reform Group**¹²⁶.

Public appointments

Appointments to ALBs are obviously critical in influencing bodies which spend over £200b and had just under 300,000 staff in 2019¹²⁷. Conversations with interviewees confirmed the very patchy way in which these appointments are treated.

Appointments are handled under the Public Appointments Order in Council 2017. This states that

- 3.— (1) The Minister for the Cabinet Office must prepare, publish and keep under review a Governance Code which sets out—
- (a) the principles of public appointments, and
 - (b) guidance on the practices to be followed in relation to making public appointments.
- (2) Before publishing the Governance Code, including the principles of public appointments, and any amendments to them, the Minister for the Cabinet Office must consult the Commissioner and the First Minister for Wales.

The Governance Code for Public Appointments under the Order gives quite significant powers to Ministers to influence appointments – possibly a much more significant role in principle than appears to be exercised in practice. The Minister must be consulted on the job description. A list of 'significant appointments' should be published – these then require a senior independent panel member involved. Ministers agree the Senior Independent Panel Member, consulting Commissioner of Public Appointments.

126. Regulatory Reform Group: The Principles of Regulation. March 2024 [Link](#)

127. National Audit Office: Central Oversight of Arms Length Bodies: June 2021 [Link](#)

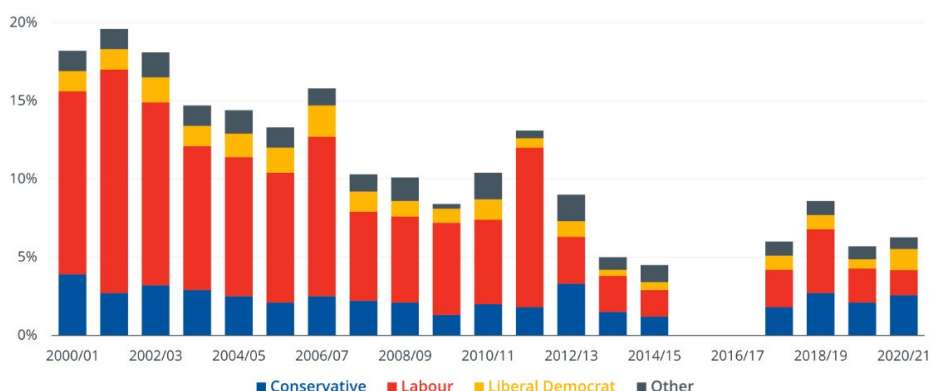
The guidelines state “the advisory assessment panel should agree with the Minister its assessment strategy for determining merit against the selection criteria that the Minister has agreed”. The departmental official on the panel is responsible for making other members aware of Ministers’ views on candidates. Ministers should be given “a choice of appointable candidates” not ranked. They can even ignore the panel and appoint someone not deemed appointable but must give public reasons and consult CPA.

Sir Peter Riddell, the former Commissioner for Public Appointments, said in a ‘pre valedictory’ address “Ministers are in a strong, even dominant, position in public appointments, but some are now seeking to tilt the process even further to their advantage”¹²⁸.

Perceptions varied about the degree of political influence on recruitment in practice. Some noted that by the end of the Blair/Brown government most ALB appointees were closely aligned with the outgoing Labour government, and felt the Coalition put some effort into countering this.

Data from the Commission for Public Appointments suggests however that of the minority of appointees with an identifiable party political allegiance, there continued to be more Labour aligned than conservative for most of the following 10 years.

Table 7: Political Allegiances of Public Appointees



Proportion of public appointees and reappointees declaring political activity. 2000/01-2020/21. Source: Institute for Government

In practice, however, only a small subset of public officials have a party political background. More important is to get candidates with the skills Ministers want and the preparedness to implement strategic directions that Ministers have set. But given the very large number of recruitment campaigns (1200 appointments and reappointments in 2022-23)¹²⁹ and Ministers’ general lack of interest or bandwidth, it is not surprising that in practice senior departmental officials drive the recruitment processes. They set the job specifications, organise the competitions and recommend the panel members, with recommendations (generally accompanied by copious paperwork) almost always going through Ministers unchallenged.

128. Riddell, P. (2021). Pre valedictory speech to UCL Constitution Unit. [Link](#)

129. Commissioner for Public Appointments: Annual Report 2022-23. [Link](#)

This official influence undoubtedly has an impact on the sort of people ultimately recruited.

The job specification for these senior roles tend to place a very strong emphasis on consensual behaviour and small p political skills. Officials with the policy responsibility for the areas covered by agencies tend to run the processes and are acutely aware of the political risks to Ministers that agencies can pose, whether through performance, through tough management approaches (risk of strikes) but most of all through the handling of issues with political sensitivity.

The original idea for ‘Next Steps’ agencies was to free the existing managers. Over the years Ministers have sought to import private sector expertise. Such managers can have a great impact. Frequently, however, Ministers and officials discover that managers from these backgrounds are not attracted by the pay on offer, and are in any event used to higher levels of autonomy and less attuned to the political implications of the decisions they take.

A good example of how the way jobs are set up influences the likely candidates can be shown by the recent adverts for the Chief Executive of the Equalities and Human Rights Commission and the Chair of the Nuclear Decommissioning Authority. The former is an impactful organisation operating in a highly politically sensitive area. The latter is an organisation with a very large budget and staff, and a huge, long term remit.

The ECHR CEO advert is a striking example of the independence of ALBs and the sense that the vision even of an organisation so politically significant as EHRC is seen as generated by the Board rather than Ministers.

“Our new CEO will be responsible for the success of the EHRC, with delegated responsibility from the Board for leadership, management, and day-to-day operations. They will embrace the Board’s vision for challenge and change and be a more effective regulator. They will lead and develop the Senior Leadership team and act as the primary advisor to the Chair and Board to ensure that it delivers its statutory duties.”

The advert for the Chair of NDA¹³⁰ suggests that experience in a relevant industry is a essential criterion, though drawn very widely. Four of the six essential criteria are essentially internal and governance focused. The reference to ‘organisational and cultural improvements’ may suggest efficiency improvements, but is vague and is at least as likely to mean Equality, Diversity and Inclusion issues. Three separate requirements cover chairing skills, relationship building and working with government. This is not the sort of advert designed to appeal to someone with a strong drive and a commitment to efficiency.

A further problem is the length and bureaucracy of the process, likely to be highly off-putting to high-calibre individuals from outside Government. The appointment process typically takes 6 – 9 months, and while the Minister will make the final choice, a high reliance is placed upon application form and ‘competency based’ interviews, assessed by civil servants. The authors of this report saw repeated examples in which

130. Advert on Gov.uk: [Link](#)

C-Level individuals from private companies, heads of major educational bodies such as university vice-chancellors, or other senior individuals, with track records of successfully running major organisations with hundreds of staff and budgets in the tens or hundreds of millions, were ruled ‘unappointable’ for roles on the basis of what they had written on their application form and cover letter.

The role of the civil service in assuring that public appointments are ‘appointable’ is an important check against nepotism, cronyism and corruption. It is absurd, however, that prominent public figures are initially sifted on the basis of an application form and required to subject themselves to a time-consuming, month-long bureaucratic process even to get to interview – rather than being assessed against their public record and capabilities. We recommend a change to the Public Appointments process to allow Secretaries of State to fast-track senior individuals with a public record to the final interview stage of a public appointments process. To ensure probity, the Permanent Secretary would be able to make a formal objection to this – similar to the process of seeking a Ministerial Direction – if they felt that the individual was not appointable, in which case the person would be required to undergo the normal process.

This would need amendments to the Guidelines on Public Appointments, which can be done by the Minister for the Cabinet Office having consulted the Commissioner for Public Appointments.

The process for appointments also has a subtle impact on the sort of candidates ultimately selected. Not only does it deter many candidates, it also severely restricts the sort of people who will help staff the panels. The requirement for a significant time commitment in practice restricts the field of panel members to those already in the public sector (whose employers will probably be sympathetic to time off for these panels), the retired, those in a portfolio career or possibly some categories of the self-employed. This risks entrenching further the tendency to recommend candidates from similar backgrounds.

The current guidelines stress repeatedly the importance of diversity in running public appointments. The definition, however, hints at equality of outcome rather than opportunity “public appointments should reflect the diversity of the society in which we live, and appointments should be made taking account of the need to appoint boards which include a balance of skills and backgrounds”. Section 7.4 suggests that public appointments and diversity should ensure “emphasising ability over previous experience in job specification and selection processes”.

It seems curious that for such senior roles we should be contemplating a distinction between some kind of raw ‘ability’ over the proven ability to do the job. While the Commissioner should continue to press for the broadest possible field of candidates and diversity in all its aspects, including diversity of outlook, we do not believe the public appointments process should elevate diversity above the strict principle of merit, and recommend that, at the least, clause 7.4 be deleted.

On a process point, the Senior Independent Panel Members established in the Guidelines could be important figures in driving the quality of appointments, but this is undermined by the extremely low pay (less than £300 a day) and the burdensome processes. We recommend a significant increase in order to attract top quality candidates for the roles.

Incoming Ministers should ask from departments a comprehensive list of their public bodies setting out when incumbents' terms are due to come to an end, but also vacancies or boards with potential to bring in additional members. Realistically Ministers are going to want to focus on those bodies whose remits are closest to the priorities of the incoming administration. They should communicate with the bodies as soon as possible Ministers priorities for their work to enable amicable turnover of appointees should they not be comfortable with proposed changes of direction.

The new and enhanced central Spad team should focus on producing a common template for public appointments and review specific roles both to identify candidates and to ensure the job descriptions will reward the sort of qualities Ministers believe these postholders should demonstrate.

The Public Sector Equality Duty

Section 149 of the Equality Act 2010 set out for the first time a Public Sector Equality Duty binding on all leaders of public sector organisations detailed in schedule 19 of the Act. As we have seen, this had a profound impact on the relationship between Ministers on the one hand and permanent secretaries and leaders of public bodies on the other. This is because the duty is binding on the heads of the agencies rather than Ministers. In the case of Permanent Secretaries, the fact that the responsibility to manage the civil service has been delegated by Ministers suggests that this duty has been too, and this is certainly the way it is treated within departments.

The purpose of the duty as set out in the Government Equality strategy in 2010 and Lynne Featherstone's speech at commencement of the provisions was to devolve power, giving bodies the duty to publicise information (allowing them to be held to account) and devise policies rather than face top down targets.

“It is a powerful means of embedding equality considerations into all the policies and practices of the public sector. The Equality Duty brings to an end the era of Government-inspired bureaucratic targets and shifts power to local people. The community, not Whitehall, will be in the front line for holding public bodies to account. It will remain the responsibility of the Equality and Human Rights Commission to enforce the duty”¹³¹.

Nobody seems to have envisaged that different organisations would interpret the very concept of equality so differently. In recent years, Government departments, arm's length bodies, NHS trusts and professional regulatory bodies have increasingly faced challenges in the courts about the way they have interpreted this duty. The most heated debates have

131. Hansard. 12 Jan 2011 Col 521

been about the conflicting views of ‘gender critical’ feminists and trans rights activists.

Case Study: Relationship Education in Schools

The Children and Social Work Act 2017 required all schools in England to teach ‘age appropriate’ relationship education. Unlike sex education, parents had no right to remove their children from these lessons.

In advance of this requirement coming into force in September 2020 there was considerable controversy over whether, and at what age, schools would be required to teach about LGBT relationships. Some LGBT charities considered this to be ‘age appropriate’ at all ages, whereas some faith groups desired that faith schools could omit this from their teaching.

After extensive consultation the DfE reached the position that teaching about LGBT relationships was mandatory in secondary schools but that primary schools were ‘strongly encouraged’, but not required, to teach it. This ensured that all children would be taught about LGBT relationships - but that faith-based primary schools, if they wished to, would not have to, meaning parents who wished to could introduce this material to their children before they encountered it at secondary school. Whilst not satisfying everyone, most stakeholders considered this compromise to be acceptable.

However, Ofsted’s legal advice differed from that of the department. They concluded that the Public Sector Equality Duty required them to ensure all schools, including primary schools, included LGBT content in their relationship education - despite this explicitly being not required by the DfE guidance - and that schools that failed to do so would be judged to be not meeting requirements, even if they were high performing in all other areas. This resulted in a number of schools failing their Ofsted inspections. The stand-off continued for several years until Ofsted took further legal advice and adjusted its stance to that set out in ‘Inspecting teaching of the protected characteristics in schools’ (August 2023), which aligns with the DfE’s position: that teaching about LGBT relationships is mandatory in secondary schools, but is not required in primary schools, provided that the school has followed DfE’s statutory guidance, including appropriately consulting parents.

But there have also been cases about wider equality issues, fo There is a wider disagreement about the difference between equality of outcome and equality of opportunity across a whole range of areas. The Act has also led to an increase in bureaucracy, with lengthy Equality Impact Assessments increasingly becoming the norm to avoid a Judicial Review on the grounds that a Minister had not sufficiently considered equality. Tentative attempts to push back on this like the Hayward review in 2012 appear to have made little difference¹³²

132. Independent Steering Group: Report on the Public Sector Equality Duty: [Link](#)

Settling disagreements between conflicting rights is quintessentially a political matter. Up to now it has been treated as if training and HR were purely civil service matters to be handled internally. In fact, the issues at stake are matters of keen public policy, and the ideology being propounded in many of the cases has a direct read through to policy advice on other sensitive issues (eg transgender inmates in prison). Whatever position Ministers might choose to take on them, these are not issues which should be decided initially by unelected public officials and then litigated in the courts, particularly when there is a risk that different bodies may adopt wildly different interpretations of the same legislation. There is a strong case for flexibility in the way equality initiatives are designed by organisations reflecting their own responsibilities, needs and the context in which they operate. But there needs to be much clearer guidance on how the underlying rights are expected to interact.

To do this, one option would be to require all organisations subject to the Public Sector Equality Duty to be required to follow central government guidelines and specific approval from the relevant Minister (possibly the Equalities Minister in the case of Non Ministerial Departments). This would remove the potentially unintentional shift in the balance of power between Ministers and unelected public officials which the Equality Act has given rise to, give Ministers the power to provide consistent and definitive guidance on contentious issues like the use of sex or gender based language, while allowing leaders of public bodies to continue to tailor their plans to their circumstances. Public bodies with local political leadership would be required to follow any central guidance but would have their detailed policies agreed by local political leadership

The government centre – thoughts on change

The UK is unusual internationally in having such a strong traditional role for Ministers but a weak centre. The role of the PM has only become formalised over time and there has never quite been a duty of civil servants to serve the PM. The 1985 Armstrong memorandum noted ‘the duty of the individual civil servant is first and foremost to the Minister of the Crown who is in charge of the department in which he or she is serving’, with this assumed to knit together into a coherent duty to the wider government through the policy of Ministerial collective responsibility.

A further complexity has been added, slightly by accident, as part of the New Public Management reforms in the 90s which put in place devolved departmental pay responsibilities (opposed by Fulton). These have resulted in a slightly uncomfortable position in which the Government both wants to direct the civil service while arguing the Civil Service is not a unified employer, but each department is a separate employer.

At the same time, the Prime Minister’s power of patronage is (at least in theory) absolute – even if in practice it is fettered by electoral considerations and the need to maintain good relations with his or her Parliamentary party. The Chancellor is normally the second most powerful figure in Government, with the relationship between the Prime

Minister and Chancellor all-important in determining the effectiveness of Government. Depending on the strength of the Chancellor, the Treasury’s power can wax and wane; from its core duties of tax, spending and economic policy, to being a major player in almost every domestic policy decision. The Cabinet Office can, in some circumstances, be a third pole of power, either through the individual strength of a Deputy Prime Minister or Chancellor of the Duchy of Lancaster, or via the Cabinet Committee secretariats that it manages.

A Strong Centre: Effective or Overbearing?

The Government centre must be effective enough to set direction and resolve the inevitable differences between departments – while being sufficiently trusting of Cabinet Ministers to allow them to effectively drive the agenda and deliver within their departments. A strong centre is one that effectively walks this fine line while, ironically, a weak centre can be worse across the board, snarling departments up by requiring approval of trivialities¹³³ while failing to take the big judgement calls that would unblock major policy decisions.

	Strong Departments	Weak Departments
Strong Centre	<ul style="list-style-type: none"> - Clear vision and direction - Cabinet Ministers empowered to take forward agenda - Departmental differences resolved swiftly and effectively 	<ul style="list-style-type: none"> - Agenda dominated by Prime Minister and centre. - Cabinet Ministers chosen for loyalty over effectiveness. - Progress may be made on core priorities, but wider business of Gov’t suffers
Weak Centre	<ul style="list-style-type: none"> - Paralysis and deadlock between departments - Cabinet differences and in-fighting predominate - Some capable Cabinet Ministers may be able to deliver effectively 	<ul style="list-style-type: none"> - No sense of purpose; departmental drift. - Cabinet differences and in-fighting predominate - Only lowest common denominator policies can proceed.

The character and style of the Prime Minister – and, to a lesser extent, other senior Cabinet Ministers – is fundamental to this. As one former Cabinet Minister told us, “It all comes down to the willingness of the Prime Minister to make decisions, stick to them and drive them through.” The centre cannot work against the temperament and inclinations of the Prime Minister; nor can effective civil service mechanisms overcome the challenge of a divided Cabinet. The rivalry between Tony Blair and Gordon Brown in the latter part of the former’s Premiership; the deep rifts between Leavers and Remainers in Theresa May’s Cabinet, or the ‘court’

133. One former special adviser, who served in No. 10 in the 2010s and again in the 2020s, observed how astonished they were, during their second stint, that departmental responses to routine new stories required approval from No. 10, rather than simply being cleared by departmental special advisers and ministers.

style politics of Boris Johnson's No. 10¹³⁴ create challenges that cannot be overcome by structures and processes alone.

Nevertheless, structures and processes can help. Through our interviews we consistently heard mention of three periods in which the centre had put in place structures that supported strong and effective decision-making, follow-through and delivery:

- a. The 'Quad' under the Coalition Government 2010 – 2015. The Quad consisted of the Prime Minister and Chancellor (Conservative) and Deputy Prime Minister and Chief Secretary to the Treasury (Liberal Democrats) and acted as a final 'clearing house', able to rapidly take decisions and trade off priorities against each other. The effectiveness of the Quad was praised by both Conservative and Liberal Democrat Ministers we spoke to.
- b. The second term of New Labour. The role of the Deputy Prime Minister John Prescott – trusted by the Prime Minister and empowered to resolve disagreements between Cabinet Ministers, and the strength of the Prime Minister's Delivery Unit with Michael Barber and the Strategy Unit, initially headed by Geoff Mulgan – with direct access to the Prime Minister – were both cited.
- c. The Brexit 'XO' Committee, established in July 2019 by Boris Johnson in the drive towards EU exit. Chaired by Michael Gove, the Committee was composed of the right Cabinet Members and, crucially, was empowered by the Prime Minister to make decisions and, "moving rapidly on issues that had been stuck for months in May's clogged up central co-ordination machine."¹³⁵ Some of those we interviewed suggested that the 'COVID-O' and 'COVID-S' committees had performed a similarly helpful function during the COVID-19 Pandemic – though others questioned as to whether they made the correct decisions, or whether the real decision-making power actually rested elsewhere, amongst a smaller circle of decision-makers.

'Departmentalitis' and how to tackle it

"Each department is controlled by the people who it's supposed to be controlling. . .

You see, every department acts for the powerful sectional interest with whom they have a permanent relationship. The Department of Employment lobbies for the TUC, whereas the Department of Industry lobbies for the employers. It's rather a nice balance. Energy lobbies for the oil companies, defence lobbies for the armed forces, the Home Office lobbies for the police, and so on."¹³⁶

While there is, as always, a degree of exaggeration in the quote above, it is certainly the case that in many cases individual departments will take stances that match the interests of their 'stakeholders'. In the debates over the introduction of the Ban on Smoking in Enclosed Public Places, on which one of this report's authors worked, the Department for Health

134. As amply described, for example, [here](#).

135. Institute for Government, 2020. [Link](#)

136. Yes Minister, Series Three, Episode Five, The Bed of Nails

focused on the health benefits, the Department of Trade and Industry on the impact on hospitality, while the Home Office was concerned about the challenges of enforcement. Similarly, in the regular debates over immigrations, one routinely sees the Home Office and (at times) No. 10 lined up against the Business Department, Treasury and (for international students) the Department for Education¹³⁷. What is striking is that ‘departmentalitis’ does not only apply to civil servants, but also to Ministers, who will frequently champion their Department’s position and change their views as they change their roles – “tell me where I sit, and I will tell you where I stand!”

To an extent, this is both reasonable and helpful. A department which oversees a sector or industry will be particularly acutely aware of the challenges it faces, or the impact of a new policy. Yet it can be problematic where this becomes entrenched or leads to departments battling for their own narrow interests rather than the greater good. Where departmental disagreements lead to deadlock, the business of government can grind to a halt¹³⁸.

The fact that civil servant advice routinely reaches different conclusions depending on which department is writing it should serve as a salutary caution as to how the principle of ‘objectivity’ – a foundational civil service principle – is applied in practice, not through malice or political bias, but due to the pressures of group think and regulatory capture. We heard from senior Ministers of all parties about the challenges of established departmental thinking and a predilection for the status quo, which they considered both real and – in most cases – a greater challenge than any sometimes alleged systematic bias to the political ‘right’ or ‘left’. For example, the Rt Hon Sir Vince Cable, the Business Secretary during the Coalition, told us that:

“The civil service is good, with a lot of expertise. But departments do have a ‘view’ on certain matters. When I first came in, a large grid of projects was put in front of me, in the expectation that I would want to carry on with them – and the attitudes towards big banks were far too positive, despite my clearly set out desire for radical reform.

There have been frequent debates about how to strengthen the government centre and address what Kaufman called ‘departmentalitis’. If departmental officials sometimes struggle to come up with policies that properly balance their sectoral interests with those of the wider public/economy, this could be balanced by other departments or a stronger centre. But departments don’t tend to push back on proposals unless their own direct interests are affected - for fear of having their own proposals challenged in future, perhaps. In theory the Treasury or the Business and Trade department ought to be representing the wider interests of business/the economy, but this does not always happen in practice.

A number of reports have made recommendations as to how to strengthen the centre. Some of these are relatively modest: Lord Maude of Horsham recently made a wide range of sensible suggestions regarding the

137. As reported in many places, at various times, for example [here](#), [here](#) and [here](#).

138. The Government took 1000 days – almost three years – to respond to Sir Philip Augar’s review of Post-18 Education.

more effective workings of Cabinet Committees¹³⁹. Others have proposed major, structural, changes, including the creation of a new Department of the Prime Minister¹⁴⁰, or splitting the Treasury to create a finance ministry and an economics ministry¹⁴¹.

The Institute for Government recent report, *Power with Purpose*, argued that, ‘The centre of Government has failed successive Prime Ministers’ and called for, ‘the appointment of a new first secretary of state to drive the government’s priorities, the creation of an executive cabinet committee made of a small number of key ministers, for splitting up of the cabinet secretary’s role and responsibilities, and reiterates the IfG’s call for a new civil service statute.’¹⁴²

A number of these recommendations have some merit. As we discuss below, a case can be made of an Executive Cabinet Committee or a new First Secretary of State role – albeit each also brings potential risks and drawbacks. There is certainly a case for clear priorities which are shared and driven across Government. However, others risk making the problem that the IfG has rightly identified worse. We have already discussed and rejected the arguments for a statutory basis for the civil service.

There is no single ‘correct’ way to strengthen the centre. The Labour government has already sketched out ideas for how it will implement a ‘mission led government’. In addition there are certain methods that would be worth adopting. In particular, we recommend:

- **Prioritisation letters to be sent personally, from the Prime Minister, to each Secretary of State, on appointment.** To be effective these should be short and focused upon the Prime Minister’s genuine priorities, not a laundry-list of departmental business.
- **Strengthening the workings of Cabinet Committees as recommended by Lord Maude of Horsham.** This would include the routine listing of action points and decisions taken, delivery plans to accompany these action points and the Committees attended by senior civil servants and special advisers where appropriate¹⁴³.
- **Greater delegated authority to departments to switch funding between budget lines in an area, provided this remains within its overall spending remit.** The Treasury functions at its best during Spending Reviews, where it takes difficult strategic decisions in consultation with the Prime Minister and Cabinet. Yet between Spending Reviews, micro-management of small budget lines – often overseen by relatively junior officials – is highly resource intensive and reduces departmental effectiveness. Provided it is within their spending envelope, Secretaries of State should have much higher degrees of autonomy to switch spending between budget lines in the same broad area without requiring Treasury

139. Independent Review of Governance and Accountability in the Civil Service, The Rt Hon Lord Maude of Horsham, 2023, [Link](#)

140. For example, GovernUp, 2015, [Link](#)

141. For example, *The End of the Treasury*, Stian Westlake, 2014 [Link](#)

142. Institute for Government: *Power with Purpose*, (2024), [Link](#)

143. Independent Review of Governance and Accountability in the Civil Service, The Rt Hon Lord Maude of Horsham, 2023, [Link](#)

permission (for example, between two Skills budget lines, or two Rail budget lines, or two Business Support budget lines).

- **Strengthen the role of the Prime Minister’s Delivery Unit.** As in Tony Blair’s day, the PMDU should be led by a senior individual who has the personal trust of the Prime Minister and be empowered to hold departments to account for performance on the most pressing issues of the day. The PMDU should coordinate and provide the secretariat to regular (at least bi-monthly) meetings between the Prime Minister and relevant Cabinet Minister to oversee progress on the Government’s top deliverables.

Keir Starmer has indicated he will set up a new “Mission Board”, a cabinet sub-committee which he will chair and which will drive progress on the core government mission. In addition, there are a couple of models that could serve as guides, depending on the preferred style and characteristics of the Prime Minister, their Chancellor and their Cabinet. In this report we do not propose a single, ‘correct’, model, recognising that what would work best is highly contingent upon the personalities involved. However, we consider that adopting one of them would be beneficial to overcome ‘departmentalitis’ and maximise the effectiveness of Government.

Model A: An Inner Cabinet

This model would attempt to draw from the experience of the Quad, creating a small group of Ministers able to act as a clearing house for policies, rapidly resolving disagreements and determining priorities. Another possible model is the European Commission, which under the Von der Leyen Presidency created an inner circle of six Vice-Presidents, each one who chaired a ‘Commissioner Group’ comprising other Commissioners¹⁴⁴. The relationship between the Inner Cabinet and the Cabinet would be similar to that between the Quad and the Cabinet in the Coalition years, with the Cabinet still meeting weekly, being represented on Cabinet Committees and being bound by Cabinet Solidarity.

Almost all management research considers that a top tier of over 20 people is too large for effective decision-making (there are currently 23 members of Cabinet, with a further 8 eligible to attend). The Inner Cabinet would be comprised of the Prime Minister, the Chancellor and between two and four other senior Cabinet Members – perhaps the Deputy Prime Minister, Chancellor of the Duchy of Lancaster and one or two others. For effective working, it would need to comprise the individuals with the greatest ‘weight’ within the Cabinet, such that if the Inner Cabinet reached a decision, any further ‘Cabinet splits’ would be unlikely. It would also be likely to function most effectively in a circumstance where there was a strong relationship between the Prime Minister and Chancellor, and the Chancellor was a heavy-weight figure who was highly respected in the party, to prevent the Prime Minister fully dominating the group.

144. Decision on Commissioners’ Groups, European Commission, 2019 [Link](#)

Model B: A Prime Minister's Department

This model requires the greatest structural changes and therefore carries both the greatest risks and the greatest potential gains. It would involve the No. 10 Downing Street operation being significantly enhanced, with teams of 4-5 individuals (including top officials and individuals seconded from outside) shadowing each department (replacing the current 1-2 in the Policy Unit) and a significantly strengthened Delivery Unit. In addition, the secretariats from the Cabinet Office would be brought into No. 10, centralising policy and strategy under the Prime Minister.

An even more ambitious variant would be to transfer the spending teams out from the Treasury into the Cabinet Office, creating a department focused on monitoring Government spending, and leaving the Treasury to focus on the economy, tax and the macroeconomic conditions, creating a more genuine tri-polar centre¹⁴⁵.

The major risks to this model are that the structural changes could consume a great deal of time and energy during the first year of a Government, which is exactly the time in which a new Government needs to make progress. One former senior member of Government we spoke to also opined that a larger No. 10 could, counter-intuitively, weaken the Prime Minister, by creating a larger layer of people between them and the departments and Cabinet. If done effectively, however, it could significantly strengthen the ability of the Government to deliver a clear and coherent agenda.

145. Independent Review of Governance and Accountability in the Civil Service, The Rt Hon Lord Maude of Horsham, 2023, [Link](#)

Endpiece

All recommendations of the sort in this report will need to be filtered through what is politically possible as well as the Government's party's main priorities. There is only so much political capital and bandwidth, and not everything can probably be undertaken. But collectively the recommendations would hold out the prospect of considerably more influence over the system than Ministers have enjoyed of late. Ministers may bring in good policies or bad – but whatever happens they will have a democratic mandate. Technocracy holds out only the orderly management of decline; only through politics can fundamental change ultimately be delivered.

Table 1: Ministerial Powers Over ALBs	36
Table 2: Civil Service Numbers	42
Table 3: Public Sector Productivity Growth	53
Table 4: House Prices as a multiple of average earnings	58
Table 5: Ministerial Experience	65
Table 6: Ministerial Churn in the G7 and selected commonwealth countries since 2020	70
Table 7: Political Allegiances of Public Appointees	97



£10.00
ISBN: 978-1-917201-09-4
Policy Exchange
1 Old Queen Street
Westminster
London SW1H 9JA
www.policyexchange.org.uk