

Accountability and Responsiveness in the Senior Civil Service: Lessons from Overseas

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Summary

The UK Government is committed to a programme of Civil Service reform, as set out in the *Civil Service Reform Plan*. To help inform the next steps of this programme, the Cabinet Office Minister the Rt. Hon. Francis Maude MP, commissioned the Institute for Public Policy Research (IPPR) to review the accountability arrangements used in a number of overseas Civil Service systems with the aim of identifying best practice, and proposing recommendations for reforming current arrangements in Whitehall. This report presents the findings of this review.

This review has focused on understanding how other Civil Service models work in respect of four specific areas:

1. The appointment process for senior officials;
2. The level of support provided to Ministers to enable them to perform their roles effectively;
3. Internal accountability arrangements for senior officials;
4. External accountability arrangements for senior officials;

At the heart of debates about the relationship between Ministers and civil servants is a question about how best to balance two fundamental values - values that often appear to be pulling in opposite directions. Simultaneously the Civil Service must be sufficiently 'responsive' to the Government of the day, while at the same time it must retain a degree of 'independence' from the political masters it serves if it is to ensure public services are administered and delivered fairly and legally to all citizens, irrespective of their political orientation.

Tip too far towards 'independence' and there is a danger that the Civil Service will become self-serving and immune to political leadership (as depicted by the Sir Humphrey caricature); too far the other way and there is a danger that it will become captured, serving partisan rather than the national interest.

Balancing these two forces is a constant struggle across all major democracies, prompting on-going reform. It is therefore no surprise that today there is a lively debate underway in the UK about how best to manage the relationship between Ministers and officials.

Unfortunately, however, debate here has become intensely polarised, in a deeply unhelpful way. 'Responsiveness' and 'independence' are seen as polar opposites; locked in some zero-sum relationship where more responsiveness can only be gained by eroding independence and vice versa.

The international evidence we have reviewed strongly challenges this position. It shows that it is perfectly possible to have a more responsive and 'personalised'

system, without compromising the independence of the Civil Service. The risk of 'politicisation' in current debate has been overplayed.

We draw on international experience to develop a set of recommendations that are explicitly designed to make the Civil Service more accountable, more effective and more responsive, while at the same time preserving its political neutrality. We believe – as demonstrated by the experience of other countries – that so long as sufficient safeguards are put in place it is perfectly possible to strengthen the degree of political oversight exercised by Ministers without undermining the fundamental commitment to a merit-based, non-partisan Civil Service.

We argue that Ministers need stronger support and a greater degree of control over the Civil Service. At the same time the accountability of civil servants needs to be clarified and strengthened. These two requirements are not mutually exclusive but reinforce each other. Detailed recommendations are set out in part 3 of the report.

In summary we recommend:

1. **Giving the Prime Minister the power to appoint Permanent Secretaries, choosing from a list of appointable candidates.** The Civil Service Commission would continue to oversee the recruitment process to ensure appointments are based on merit, but the final decision would now be made by the Prime Minister, not the First Commissioner. The Commission would be tasked with drawing up a list of appointable candidates, which the Prime Minister would choose from.
2. **Providing Secretaries of State and Ministers who run Departments with an extended office of Ministerial staff** that they personally appoint and who work directly on their behalf in the department. Ministerial staff should comprise a mixture of officials, external experts, and political advisers. We do not recommend a *Cabinet* model made up exclusively of political appointees.
3. **Strengthening the role of the Head of the Civil Service in respect of holding Permanent Secretaries accountable.** The Head of the Civil Service should be a full-time post, taking on all responsibilities for managing Permanent Secretaries, providing a similar role to that performed by the New Zealand State Service Commissioner.
4. **Introducing fixed-term contracts for new Permanent Secretaries.** These would be for four years and would be renewable depending on performance. The Head of the Civil Service would be responsible for appraising Permanent Secretaries but the ultimate decision over whether to renew contracts should rest with the Prime Minister.
5. **Strengthening the external accountability of senior civil servants in key operational roles.** Senior Responsible Owners – the senior Whitehall officials charged with major programmatic and implementation tasks –

should be made directly accountable to Parliament for their performance (in the same way that Permanent Secretaries appear in their own right as accounting officers).

6. **Enabling the Civil Service to better support Opposition parties** by allowing civil servants to be seconded into the offices of opposition parties to help them with policy development.

Combined these measured reforms would strengthen the accountability of senior officials and improve Ministerial confidence in the Civil Service. Crucially they build on - and pose no risk to - the core traditions of the UK Civil Service. They go with the grain of current Whitehall practice, and could be easily implemented.

Introduction

The UK Government is committed to a programme of Civil Service reform, as set out in the *Civil Service Reform Plan*, published in June 2012. To help inform the next steps of this programme the Cabinet Office Minister, the Rt. Hon. Francis Maude MP, commissioned the Institute for Public Policy Research (IPPR) to review the accountability arrangements used in a number of overseas Civil Service systems with the aim of identifying best practice, and proposing recommendations for reforming current arrangements in Whitehall. This report presents the findings of this review.

At the request of the Minister for the Cabinet Office this review has focused on understanding how other countries' Civil Service systems work in respect of four specific areas:

1. The appointment process for senior officials;
2. The level of support provided to Ministers to enable them to perform their roles effectively;
3. Internal accountability and performance management;
4. External accountability, to the legislature, media and public;

It is therefore beyond the scope of this report to look at other important aspects of the Civil Service reform debate, for example improving policymaking and service delivery, the ability to work across departmental boundaries, reforming recruitment practices, and the skills and training for civil servants. It does not claim to be a comprehensive appraisal, and we fully recognise the importance of these wider reform agendas.

The four aspects of Civil Service reform identified above are used to structure the rest of the report. In **part 1**, we look at how accountability arrangements work in the UK, assessing their strengths and weaknesses. In **part 2**, we review the relevant arrangements in a number of overseas systems, highlighting best practice. In **part 3**, we draw on this comparative evidence to propose recommendations for reforming arrangements in the UK.

The Cabinet Office asked IPPR to look at the following countries:

- New Zealand
- Australia
- Singapore
- Sweden
- France
- United States

- We were also asked to look at the European Union and, as we explain below, we also included Canada in the review

Looking at this sample of countries we would make two observations. First, it contains some of the most effective and high performing Civil Services in the world (at least according to the World Bank, see Table 1) which suggests that they may well have things to teach us here in the UK. Second, the sample of countries provides a good deal of variation in terms of their approach to the four aspects of Civil Service reform we are most concerned with. Indeed, they have all enacted important reforms in recent years to the way these arrangements work.

Table 1 World Bank Worldwide 2011 Government Effectiveness Indicator¹

Country	Percentile Rank (0-100)
Finland	100
Denmark	99.5
Singapore	99.1
Sweden	98.6
New Zealand	98.1
Switzerland	97.6
Canada	97.2
Netherlands	96.7
Norway	96.2
Australia	95.3
Luxembourg	94.8
Belgium	93.8
Austria	93.4
Iceland	92.9
United Kingdom	92.4
Germany	91.9
Ireland	89.1
United States	88.6
France	88.2
Japan	87.7

¹ This dimension measures perceptions of the quality of public services; the quality of the Civil Service and the degree of its independence from political pressures; the quality of policy formulation and implementation; and the credibility of the Government's commitment to such policies. For more information see <http://info.worldbank.org/governance/wgi/index.asp>.

There are, of course, limits to what can be learnt from abroad. If specific national contexts and distinct institutional, cultural and behavioural differences are not taken into account then there is a danger that reforms imported from one country to another will become 'lost in translation'. This might mean particular models borrowed from one jurisdiction to another would not provide the same benefits – or they might actually make things worse.

To guard against this we have:

(1) prioritised 'Westminster systems' in our analysis, particularly Australia and New Zealand since these countries share many of the same constitutional traditions as the UK: the Ministerial-Civil Service relationship remains fundamentally similar in nature, as does the relationship between the executive and the legislature. This makes possible meaningful comparison and means there are fewer 'translation' issues associated with borrowing ideas from these countries.² For these reasons we have also looked at the experience of Canada, another important Westminster system, which was not included in the original Cabinet Office proposal.

(2) ensured that, since specific models borrowed from other systems will have to be adapted to work effectively in Whitehall, we drafted our recommendations, as best as possible, to go with the grain of current UK practice (see part 3).

The research for the review involved the following:

- Country-case study surveys: IPPR and KPMG designed a detailed comparative survey which was sent to KPMG teams operating in our case study countries (see Appendix A for a copy of the survey);
- A research trip to our two key country case studies, Australia and New Zealand, in the winter of 2012;
- Extensive desk-based research carried out examining the comparative academic literature on each country case study;
- Follow-up interviews with international practitioners and experts;
- Fact-checking of our accounts for accuracy by international experts;
- Interviews with senior figures in Whitehall to enable us to understand how the current arrangements work and to discuss how our recommendations could be made to work effectively.

The final thing to emphasise with any comparative project is that there is no perfect overseas model. Of the countries we have studied each system has its own strengths and weaknesses (not to mention peculiarities). Many of the

² The other reason for looking at Australia and New Zealand in detail is that both countries have extensively reformed their Civil Services over the past 20 years and offer contrasting models for UK reform.

countries we have looked at could learn valuable lessons from the UK, indeed, in certain respects the UK is a model for others. All of these countries are engaged in a process of on-going reform, itself a reflection that Civil Services everywhere are under constant pressure to change and improve, as is surely how it must be.

Independence vs. Responsiveness

At the heart of debates about the relationship between Ministers and civil servants is a question about how best to balance two fundamental values - values that often appear to be pulling in opposite directions. Simultaneously the Civil Service must be sufficiently 'responsive' to the Government of the day, while at the same time it must retain a degree of 'independence' from the political masters it serves if it is to ensure public services are administered and delivered fairly and legally to all citizens, irrespective of their political orientation. Tip too far towards 'independence' and there is a danger that the bureaucracy will become self-serving and immune to political leadership (as depicted by the Sir Humphrey caricature); too far the other way and there is a danger that the bureaucracy will become captured, serving partisan rather than the national interest.³

Balancing these two forces is a constant struggle across all democracies. The challenge is even more acute in Westminster-systems since the Civil Service is expected constitutionally to both serve Ministers and provide a check on executive power. And the struggle is becoming harder: for a variety of reasons Ministers are under intense pressure to 'deliver', which is forcing them to demand a more responsive Civil Service. A real tension facing Civil Services is that the pace of reform a major bureaucracy can achieve is unlikely to ever meet the growing pressures Ministers are under to show they are making a real difference to the electorate.

There are a number of pressures and drivers that are prompting Ministers to seek more political control over the Civil Service, including:

- A more intrusive 24/7 mass media;
- Rising public expectations of Government;
- A less deferential and trusting citizenry;
- Globalisation and the diffusion of power;
- Policy challenges that require joined-up cross-boundary responses;
- Greater electoral volatility making it harder to achieve public consent.

However two additional factors stand out above the rest, which explain why Ministers in countries around the world have looked to make their Civil Services more responsive. First, the job of governing is harder today: societies are more complex, legitimacy is harder to achieve, and power is more diffuse, weakening

³ A. Matheson, B. Weber and N. Manning (2007), '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*, p. 5.

the capacity of Government to deliver economic and social change. Second, despite the profound shifts to the governing environment, the electorate and media continue to hold Ministers personally accountable for the overall performance of Government.

Opinion is divided about the consequences of pushing too much in favour of responsiveness. 'Politicisation' is a term that gets bandied around, but very rarely defined. Those that worry about the threat of 'politicisation' argue that attempts to make the Civil Service more responsive to Ministers will diminish the ability of officials to 'speak truth unto power', turning bureaucrats into helpless sycophants. On the other side are those who argue that it is a democratic necessity that officials do all that is in their power to prosecute the agenda of an elected Government.

In the UK the debate has become intensely polarized, in a deeply unhelpful way. Here 'responsiveness' and 'independence' are seen as polar opposites; locked in some zero-sum relationship where more responsiveness can only be gained by eroding independence and vice versa.

Perhaps the most useful benefit of a comparative study such as this is that it provides a set of different perspectives with which to view these debates. The most striking thing about the international evidence presented here is that it demonstrates how it is possible to reconcile greater 'responsiveness' with 'independence'. Or at the very least it illustrates how other countries manage to balance the two values differently to the UK, and often do so without lending support to the (over-hyped) claims of either side of the debate here. But in all countries the balancing act is an on-going process and needs to be continually managed and adjusted. For example in Australia, following a big push in recent decades to make the public service more responsive, current reforms are intended to bolster its 'independence', for instance, by strengthening the role of the Australian Public Service Commissioner.

Before we review the international evidence it is worth reflecting on what we mean by 'politicisation'. For the purposes of this report we draw on two definitions identified in the academic literature. The first is that proposed by B. Guy Peters and Jon Pierre, who describe it as 'the substitution of political criteria for merit-based criteria in the selection, retention, promotion, rewards, and disciplining of members of the public service.'⁴ The second is a three-fold typology devised by Richard Mulgan.⁵

⁴ B. G. Peters and J. Pierre (2004), 'Politicisation of the Civil Service: concepts, causes, consequences' in B.G. Peters and J. Pierre (eds.), *Politicisation of the Civil Service in Comparative Perspective: The quest for control* (London: Routledge), p. 2.

⁵ R. Mulgan (1998), 'Politicising the Australian Public Service?' *Research Paper 3 1998-99*, www.apph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp_9899/99rp03.

1. **Partisan politicisation:** appointing people with well-known partisan connections who will be clearly unacceptable to a future alternative Government.
2. **Policy-related politicisation:** appointing people with well-known commitments to particular policy directions that may render them unacceptable to a future alternative Government.
3. **Managerial politicisation:** replacing incumbent public servants, particularly on a change of Government, when there is no good reason to question their competence and loyalty but simply in order to facilitate imposition of the Government's authority (particularly if the incumbents are dismissed rather than retained with similar status and remuneration).

These definitions are only intended to guide our discussion, and should be interpreted flexibly. For instance we find evidence of a form of 'policy-related politicisation' in some countries where officials are known to be personally committed to particular policy directions, but where this has not rendered them unacceptable to other parties. It is also worth stressing that demonstrating 'politicisation' is not easy. As Peters and Pierre note in their major academic cross-national study, the evidence used to support the claims of politicisation tends to be anecdotal, not empirical, which reflects the subtlety of the issue.⁶

Finally, having reviewed the experience of other countries we would make the distinction between 'politicisation' and what might be termed 'personalisation'. While the former emphasises the role of political criteria, the latter refers to a desire on the part of Ministers to appoint individuals on the basis of their ability, personal style and approach (irrespective of their politics). While we have found only limited evidence of 'politicisation', we observe that a number of Civil Services manage to have a more responsive and 'personalised' system without compromising the independence of the Civil Service.

⁶ Peters and Pierre (2004) p.1

1) PART 1: THE RELATIONSHIP BETWEEN MINISTERS AND SENIOR CIVIL SERVANTS IN THE UK

Before considering the evidence from overseas the first part of the report describes and appraises current Whitehall practice in respect of the four key areas under investigation: the appointment of the most senior civil servants; direct support, political and otherwise, for Ministers; the performance management of the Civil Service; and the external accountability of officials to Parliament, the media and the public.

First, however, it is worth looking at how accountability arrangements work in Whitehall. The core convention at the heart of the way Whitehall operates is the doctrine of Ministerial responsibility. As the former Chancellor of the Duchy of Lancaster William Waldegrave has described it, this doctrine holds that:

There is a clear democratic line of accountability which runs from the electorate through MPs to the Government which commands the confidence of a majority of those MPs in Parliament. The duly constituted Government—whatever its political complexion—is assisted by the Civil Service which is permanent and politically impartial. Hence, Ministers are accountable to Parliament; civil servants are accountable to Ministers. That is the system we have in this country.⁷

The accountability of civil servants to Ministers and the accountability of Ministers to Parliament are the twin buckles that hold our system of Government together. However, there is growing evidence that these relationships are under strain.⁸ This is because the convention of Ministerial responsibility, which in theory makes civil servants accountable to Ministers, rubs against a number of other conventions: the recruitment of civil servants on the basis of merit rather than Ministerial selection, the permanence of the service and its self-management, and the political impartiality of officials. These conventions, that have long governed how the Civil Service operates, prevent Ministers from appointing, promoting, sanctioning or dismissing their staff, and seeking independent advice.

A number of reviews of the Civil Service have suggested that these core conventions, which emerged in the nineteenth century, have become plagued with ambiguities and inconsistencies, and are no longer suited to the realities of twenty-first century Government.⁹

⁷ Public Service Committee, First Special Report of Session 1996-97, *Government Response to the Second Report from the Committee (Session 1995-96) on Ministerial Accountability and Responsibility*, HC 67, Appendix, para 4.

⁸ See for instance Margaret Hodge *Accountability in today's public services* speech to Policy Exchange <http://www.policyexchange.org.uk/modevents/item/accountability-in-today-s-public-services>

⁹ See Guy Lodge and Ben Rogers (2006) *Whitehall's Black Box: Accountability and Performance in the Senior Civil Service* London: IPPR <http://www.ippr.org.uk/publication/55/1530/whitehalls->

In particular it is argued that they inhibit effective accountability of the Civil Service.

The doctrine of Ministerial responsibility says that senior civil servants are 'accountable to Ministers' (who are in turn accountable to Parliament) but says nothing about *how* Ministers are supposed to hold top officials to account without being accused of 'politicising' the Civil Service. The traditional position simply assumes top officials will be accountable and adhere to the 'Armstrong Doctrine' of having 'no constitutional personality separate and apart from that of the Government of the day'. In practice a variety of informal methods have traditionally been used, but these are opaque, unreliable and ultimately poor at holding officials to account.

And if Ministers alone are accountable for the performance of their department then this means that civil servants are not held sufficiently *externally* accountable for the work they do, particularly on policy execution. As the Chair of the Public Accounts Committee, Margaret Hodge, argues, while it was reasonable to expect the Minister to be fully responsible for the actions of the Home Office in 1918 when it employed 28 civil servants, it is 'plain daft' to expect Ministers to accept responsibility for the actions of the department today when it employs 34,000 people.¹⁰

Weak accountability is associated with poor performance: if there are no sanctions for delivery failures, what are the incentives for Whitehall to improve? Moreover, since Ministers in practice cannot reasonably be held accountable for everything that happens in these large complex departments, then where is the real accountability? This system allows Ministers and civil servants to 'duck and dive' behind one another, with Ministers passing the buck and blaming officials, while officials hide behind the shield offered by constitutional convention.¹¹

The Civil Service Reform Plan openly acknowledges some of the deficiencies with accountability arrangements in Whitehall and suggests ways of improving them.¹² For instance, it suggests that 'given Ministers' direct accountability to Parliament' Ministers should be given greater control over the appointment of Permanent Secretaries. This acknowledges the problem identified above: effectively it is very difficult for civil servants to be accountable to Ministers if Ministers are precluded from appointing them. Ministerial involvement in Civil Service appointments is one way of strengthening Civil Service accountability, though it raises issues of its own, in respect of the merit principle and the non-

[black-box-accountability-and-performance-in-the-senior-civil-service](#). See also A Haldenby, Tara Majumdar and Greg Rosen (2013) *Whitehall Reform: the view from inside* Reform http://www.reform.co.uk/content/17349/research/Government/whitehall_reform_the_view_from_the_inside

¹⁰ Margaret Hodge *Accountability in today's public services* speech to Policy Exchange <http://www.policyexchange.org.uk/modevents/item/accountability-in-today-s-public-services>

¹¹ Lodge and Rogers 2006.

¹² See Chapter 3 – Implementing policy and sharpening accountability.

partisan character of the service. Another way, also discussed in the Civil Service Reform Plan, would be to introduce a 'contractual model' like that which operates in New Zealand. Here Ministers contract Chief Executives (Permanent Secretary equivalents) to deliver specific commitments demanded by the Minister. We explore these proposals – and more – by looking at how accountability arrangements work in other countries, paying particular attention to Westminster-systems.

1. The appointment of senior civil servants and other senior public officials

It is the hallmark of the British system of public administration that in order to preserve the independence of the Civil Service, Secretaries of State do not formally appoint their senior civil servants - the Permanent Secretaries or heads of department.

Appointments at all levels of the Civil Service are made 'on merit on the basis of fair and open competition.'¹³ The Prime Minister, as Minister for the Civil Service, has the power to make appointments to the Civil Service, though by convention this power is delegated to the Cabinet Secretary and departmental Permanent Secretaries.¹⁴ However, the law requires that all appointments to the Civil Service be made on merit on the basis of fair and open competition.¹⁵ The Civil Service Commission's role is to ensure this is the case, and it undertakes regular audits of departmental recruitment to ensure compliance.¹⁶ The most senior Civil Service appointments¹⁷ require Commission approval, and it can decide how it will be involved in the selection process. Usually one of the twelve Civil Service Commissioners oversees the appointments process and chairs the selection panel, which is made up mostly of people from outside of the Civil Service, including non-executive directors (NEDs) of department boards. NEDs play an important role in Permanent Secretary appointments and their inclusion on a selection panel can help ensure that there is sufficient focus on core skills and competencies.

¹³ Civil Service Commission 2012

¹⁴ There is a long history of Prime Ministers taking advantage of this power: Margaret Thatcher and Tony Blair reportedly were very involved in the appointment of Permanent Secretaries. See P. Aucoin (2012), 'New Political Governance in Westminster Systems: Impartial Public Administration and Management Performance at Risk', *Governance* 25(2), p. 187.

¹⁵ Constitutional Reform and Governance Act 2010, s. 10(2). However, certain members of the diplomatic service are exempt from this requirement. Nor does it apply to special advisers.

¹⁶ To ensure their independence and impartiality, Civil Service Commissioners are recruited on merit following public advertisement and a fair and open selection competition to a single, non-renewable term of up to five years. The appointment of the First Civil Service Commissioner is additionally subject to consultation with the leaders of the main opposition parties. Commissioners are formally appointed by the Queen on recommendation of the Prime Minister.

¹⁷ Commission approval is required for the appointment of all Permanent Secretaries. It is also required for open competitions to SCS Pay Band 3 and SCS Pay Band 2, as well as internal competitions to SCS Pay Band 3 (but not SCS Pay Band 2).

Guidance from the Commission was recently revised clarifying and increasing the role of Ministers' involvement in the recruitment process (See Box 1). It makes clear the level of Ministerial involvement in the different stages of the appointment process. Ministers are permitted to be consulted throughout the recruitment process; to help set the key skills required for the job; to brief the Commissioner chairing the selection panel; and even to meet candidates on the short list and give their views on those candidates to the panel. Ministers are not, however, allowed to sit on the selection panel or to be a part of the final decision in any way. If a Minister is not happy with the final decision, it is up to the panel to decide whether his or her arguments have merit. If the panel decides to re-start the recruitment process, it must first seek approval from the Commission. In practice this gives the Minister a right of veto on the final appointment. However, under these revised guidelines the Minister is not able to make the final selection decision from a shortlist of candidates deemed appointable by the selection panel.

The Commission's revised guidelines were published in response to the Civil Service Reform Plan's call for greater Ministerial involvement in the appointment process. The Government has agreed to test the new procedures before considering the case for further reform.

In addition, a few limited categories of appointment, notably short-term appointments of less than two years where there is an urgent need to recruit into a position someone of particular expertise, are exempt from the principle of recruitment on merit and open competition for positions at Pay Band 2 and below. Commission approval is always required for the appointment of the top two tiers of the Civil Service, Permanent Secretary and Pay Band 3. The Commission has the power in exceptional circumstances, to exempt other appointments if, in its view, it is justified by the needs of the Civil Service.

Box 1. Appointment of Permanent Secretaries

According to the Civil Service Commission the formal process for appointing Permanent Secretaries proceeds as follows:

1. Competitions for Permanent Secretary posts are chaired by the First Civil Service Commissioner or his or her nominee. The First Commissioner will meet with the Secretary of State at every key stage and will be available at any point if the Secretary of State has concerns about the process or the candidates.
2. The Secretary of State should be consulted at the outset on the nature of the job, the skills required and the best way of attracting a strong field; agree the job description; agree the composition of the panel; and, following a recent addition to the process, meet each of the shortlisted candidates and provide feedback to the panel. The Prime Minister must be kept informed of the progress of the selection

process.

3. The panel will then recommend an appointment to the Secretary of State. Where it has not been able to agree a recommended candidate, there will be further discussions with the Secretary of State and the Head of the Civil Service.
4. The panel in its written recommendation must set out how the comments of the Secretary of State have been addressed.
5. If not satisfied the Secretary of State may ask the panel to re-consider. The panel must seek approval from the Board of the Civil Service Commission for any revision.
6. Under the 2010 Constitutional Reform and Governance Act the final appointment decision is made by the Prime Minister. If the Prime Minister decides not to appoint the recommended candidate the process is re-opened once again.

(Civil Service Commission 2012)

In reality, Ministers have always played a stronger informal role than is apparent in the formal procedures set out above. This is because the Civil Service knows that Ministers need to have confidence in their Permanent Secretaries and so while they are not given any formal right of veto there is an effort to involve the Minister and check he or she is broadly content with the process.¹⁸

Notwithstanding this informal influence there are calls – made most recently by the Prime Minister himself – for Ministers to be given a greater and more formal role in the appointment of Permanent Secretaries.¹⁹ The specific debate concerns whether Ministers should be able to personally appoint from a short list of appointable candidates proposed by the Civil Service Commission. The case for change is based on three criticisms of the Whitehall model:

- The first concerns accountability. A number of politicians have expressed frustration that under the doctrine of Ministerial responsibility they are held accountable – by Parliament and the media – for the performance of people they do not appoint. As Margaret Hodge puts it: ‘How can anybody be held accountable for the actions of people they can’t hire or fire?’

¹⁸ Note for instance the churn in Permanent Secretaries following an election. Since 2010, 18 out of 20 Government departments have seen a change of Permanent Secretary. In the first two and half years of the 1997 Labour Government, 7 out of 17 departments witnessed a change at the top.

¹⁹ The Prime Minister signaled his support for giving Ministers a greater say in appointments when he appeared before the House of Commons Liaison Committee, 12 March 2013, Q40

- Second, the inability to appoint (and remove) senior officials is believed by some to impede the responsiveness of the Civil Service by removing from Ministers an essential management tool.²⁰
- The third argument for reform of the appointments system is that as long as Whitehall retains key appointment powers it will tend to appoint people in its own image. This is considered problematic because a number of current and former Ministers believe that the typical Whitehall skill set is outdated,²¹ leading them to question their confidence in the appointments process. Giving Ministers a greater say in the appointments system is clearly not the only way of expanding the range of skills in the senior Civil Service. However it might go some way in breaking down the insular culture of the current system.

The principal argument against going further than the recent Civil Service Commission Guidelines is that it would risk politicising senior appointments, eroding the values underpinning a non-partisan and merit based Civil Service.²²

Different procedures obtain for other senior appointments in public administration, which we discuss below. What these appointments show is that politicians routinely play a role in appointing public officials. In order to guard against any dangers of a ‘spoils system’ of appointments, regulations set out clear criteria for different appointments. No single principle obtains in these different cases; rather, the history and habitual or statutory practices guide the recruitment processes.

The Foreign Secretary has the formal power to make appointments to the *Diplomatic Service*; in practice this is frequently delegated to the Permanent Secretary of the FCO and other senior officials. Like appointments to the Civil Service, these must be made on merit on the basis of fair and open competition. However, the most senior diplomatic appointments – Heads of Missions and Governors of overseas territories – are explicitly exempt from the merit and open competition requirement.²³ Despite this the vast majority of Heads of Mission (Ambassadors, High Commissioners and Consuls-General) come from the career diplomatic service, and only a small number are pure political appointees.²⁴

²⁰ See for instance David Blunkett *Memorandum by Rt Hon David Blunkett MP to the Public Administration Select Committee* Politics and Administration: Ministers and Civil Servants Inquiry, 29 June

²¹ See for instance Tony Blair in *The Times* 14.01.13

²² See Sir David Normington’s speech to the Institute for Government <http://civilservicecommission.independent.gov.uk/news/david-normington-speaks-at-ifg-seminar-on-the-appointment-of-permanent-Secretaries-28-january-2013/>

²³ Constitutional Reform and Governance Act 2010, s. 10(3).

²⁴ Recent examples include the appointments of Paul Boateng as High Commissioner of South Africa in 2005; Helen Liddell as High Commissioner to Australia in 2005; and Valerie Amos as High Commissioner to Australia in 2009. In fact, the previous four High Commissioners to Australia have been purely political appointments. See House of Commons Foreign Affairs

In respect of the *Security and Intelligence Agencies*, the Chief of the Secret Intelligence Service (MI6) is appointed by the Foreign Secretary, to whom he or she directly reports, along with the Prime Minister. The Director of the Government Communications Headquarters (GCHQ) is likewise appointed by the Foreign Secretary and reports to the Foreign Secretary and the Prime Minister. The Director General of the Security Service (MI5) is appointed by the Home Secretary and reports to him or her and the Prime Minister. These positions are not formally subject to the merit and open competition requirement. However, they are always filled by non-partisan career officials and do not change when there is a change in Government.

Local Authority Chief Executives are appointed by councillors but are nevertheless widely regarded as being above party politics. The key difference between Council Chief Executives and Whitehall mandarins is that the former are appointed by the whole Council while the latter serve the executive branch. Effectively however Council Chief Executives have their priorities set by the majority administration on a Council through its leader and Cabinet (see Box 2).

Box 2. The role of a local authority Chief Executive

Local authority Chief Executives have for years combined the two qualities which many in Whitehall claim are incompatible: they are appointed by politicians (generally they are interviewed by a cross party panel which then makes a recommendation for endorsement by the full council) and they are expected to be non-partisan and strictly politically impartial. There is no evidence that political appointment has undermined the neutrality of senior local Government officers.

The text below is taken from the website of the London Borough of Islington and the situation it describes is typical of the role and appointment of a local authority Chief Executive.

The Chief Executive is the Head of the Council who leads and takes responsibility for the work of the 3,500+ paid staff, who run the local authority on a day to day basis, providing over 600 local services. The role of Chief Executive is a full time appointment.

As principal policy adviser, the Chief Executive ensures that central Government legislation is translated and implemented locally through policy planning, reporting arrangements and strong performance management systems.

Although managing the whole council, there are a few service areas where central Government places a requirement on the Chief Executive to personally ensure that the arrangements being put in place by

Committee (2010), 'Foreign and Commonwealth Office Annual report 2008-09', *Fifth Report of Session 2009-10*, pp. 96-98.

directors/departments are sound - these are:

emergency planning

the protection of vulnerable children

ensuring effective partnership working to reduce crime and promote community safety

Post holders are selected on merit, against objective criteria, following public advertisement. They are appointed by the whole Council.

By law, senior Council staff are not allowed to participate in any party political activity and are expected to advise and assist all councillors irrespective of their political affiliation.

As head of the paid service, the Chief Executive works closely with elected members to deliver the following:

- **Leadership:** *working with elected members to ensure strong and visible leadership and direction, encouraging and enabling managers to motivate and inspire their teams*
- **Strategic direction:** *ensuring all staff understand and adhere to the strategic aims of the organisation and follow the direction set by the elected members*
- **Policy advice:** *acting as the principal policy adviser to the elected members of the Council to lead the development of workable strategies which will deliver the political objectives set by the councillors*
- **Partnerships:** *leading and developing strong partnerships across the local community to achieve improved outcomes and better public services for local people*
- **Operational management:** *overseeing financial and performance management, risk management, people management and change management within the Council*

http://www.islington.gov.uk/about/council-who/chiefexec/Pages/ceo_role.aspx

Around 21,000 *public appointments* to a wide variety of agencies, boards and commissions (ABCs) and other bodies must be filled by the Government.²⁵

²⁵ M. Flinders (2009), 'The Politics of Patronage in the United Kingdom: Shrinking Reach and Diluted Permeation', *Governance* 22(4), p. 552-3. However, Ministers have neither the time nor inclination to play a role in more than a small number of the most senior appointments.

Regulation by the Office of the Commissioner for Public Appointments (OCPA)²⁶ and other bodies ensures that these appointments are made on merit and follow a transparent, competitive recruitment process.²⁷

There are currently three main ways in which public appointments are made, with the role of Ministers varying in each from a consultative role to full appointment powers:

1. *The appointment decision is made by an independent appointments commission, with Ministerial involvement reduced to a consultative role.* Examples include appointments to the Civil Service (see above), special health authorities, the House of Lords,²⁸ judicial offices and NDPB tribunals. A number of appointments commissions have been given plenipotentiary (full) powers, including the Civil Service Commission, NHS Appointments Commission, Judicial Appointments Commission and House of Lords Appointments Commission.²⁹ This effectively means that Ministers are constitutionally responsible for the actions of public officials they have not personally appointed.

2. *The appointment decision is made by a Minister, but the process is independently regulated on merit.* Examples include appointments to executive NDPBs, executive agencies, utility regulators, public corporations, and the Bank of England. Most of these appointments (around 10,000) are overseen by OCPA, which requires that all interview panels contain an independent assessor whose role it is to ensure that OCPA's Principles for Public Appointments (merit, fairness and openness) are upheld. Ministerial involvement is regulated by OCPA's Code of Practice (see Appendix B). In practice, Ministerial involvement comes only at the beginning of the process, in setting out the balance of skills required for the post, and at the end, in deciding whether to appoint one of a limited number of candidates proposed by a selection board (which operates under the eye of an independent assessor).³⁰

3. *The appointment decision is made by a Minister, and the process is not subject to any independent scrutiny or regulation.* Examples include appointments of Ambassadors who are drawn from outside the career diplomatic service (see above) and the UK's EU Commissioner. This is sometimes referred to as a 'pure patronage appointment'.³¹

²⁶ OCPA's powers are limited to naming and shaming and it is funded by the Cabinet Office. Government decides the scope of its regulation and to which public bodies it applies.

²⁷ Flinders (2009), p. 548.

²⁸ Non-political appointments only.

²⁹ This House of Lords Appointments Commission also vets all nominations for public honours made by the Prime Minister.

³⁰ House of Commons Public Administration Select Committee (PASC) (2012) *Special Advisers in the Thick Of It* Sixth Report of Session 2012-12.

³¹ Flinders (2009).

In addition, since 2008, parliamentary select committees have conducted non-binding pre-appointment scrutiny hearings for a number of public appointments.³² The Coalition Government recently granted the Treasury Select Committee a veto over appointments to the three most senior positions in the Government's new Office for Budget Responsibility (OBR).

There are also some special hybrid appointments. Since 1983, the Comptroller and Auditor General (C&AG), who is an Officer of Parliament, has been appointed following a vote in the Commons on a motion proposed by the Prime Minister with the agreement of the Chair of the Public Accounts Committee (PAC). The selection process preceding this is run by an unusual partnership between Parliament and Government, with the Chair of PAC sitting on the selection panel with representatives of the executive.

Finally, some public positions are appointed wholly by Parliament, including the board of the Electoral Commission and that of the Independent Parliamentary Standards Authority (IPSA), with little or no executive involvement.

2. Direct support for Ministers

Another characteristic of the British system is the limited degree of direct Ministerial control over the functions that must be performed at close proximity to them, and for which they have direct and immediate concern: political advice and support; press and communications; policy and strategy development; “progress chasing” of decisions; speech drafting; and parliamentary liaison work (handling responses to parliamentary questions etc.).

There are currently two main sources of support for Ministers: their official private offices made up of civil servants whose role is to help them lead their departments effectively, and special advisers whose job is to help them with political tasks that are not suitable for the impartial Civil Service. In addition, many departments now have strategy units, tasked with the strategic development of policy, whose officials tend to work closely with Ministers and their key advisers.

The private office

Ministers receive personal support from their private office: a team of civil servants, described in one report as the Minister's ‘life support machine.’³³ The private office handles Ministerial correspondence, organises the Ministers' diaries, conveys their views to officials, and provides Ministers with information

³² For more information, see House of Commons Liaison Committee (2011), ‘Select Committees and Public Appointments’, *First Report of Session 2010–12*, HC 1230; A. Paun and D. Atkinson (2011), *Balancing Act: The right role for Parliament in Public Appointments* (London: Institute for Government).

³³ Paun (2013) *Supporting Ministers to Lead: Rethinking the Ministerial Private Office* Institute for Government p. 3.

and advice from their departments. They manage the flow of information to and from the Minister, and they manage their time.

There will normally be between 6 and 12 officials in the private office of a Minister (it varies by department). It is headed by the Principal Private Secretary who acts as a Ministerial trouble shooter within the department, as well as ensuring that the relationship between a Secretary of State and the Permanent Secretary and other senior officials, is managed smoothly and effectively. The team also includes Assistant Private Secretaries who will, among other things, prepare submissions for the Minister's 'red box' and a Diary Secretary. The private office is the engine room of day to day Ministerial activity but is firmly part of the permanent Civil Service.

Special Advisers

Special advisers are political appointees, recruited and managed directly by their appointing Ministers. The Public Administration Committee in its recent report *Special Advisers in the Thick of It* summarized the role of Ministerial special advisers in the following terms:

Special advisers have a legitimate and valuable function in Government, protecting the impartiality of the Civil Service by performing tasks which it would be inappropriate for permanent, impartial officials to perform, and helping to ensure that the Government's policy objectives are delivered. In particular, they are better placed than permanent civil servants to liaise with Members and party officials, and to offer advice to their Minister on political handling.³⁴

Contrary to the common view that special advisers are a recent invention, they have in fact been part of the British system for decades, with Ministers going back to Lloyd George appointing such 'temporary civil servants' to help them perform the more political aspects of their role. There are currently 82 special advisers in post, roughly two per cent of the senior Civil Service and two per Cabinet Minister, with the Prime Minister and the Deputy Prime Minister employing a larger number at the centre.

The Code of Conduct for Special Advisers sets out the kind of roles special advisers can legitimately perform:

- Policy advice and development: adding a political dimension to the policy advice a Minister receives; reviewing official documents through a political lens; long term policy development which fits with the ruling party's political ambitions; participating in party policy reviews; seeking external viewpoints outside the Civil Service; and often providing expert advice in a particular area of specialism.

³⁴ PASC 2012

- Handling political relationships: such as briefing the parliamentary party, party officials and party members and providing support for Ministers at party conferences.
- Briefing the media in such a way as to communicate a Minister's political message.

Unspoken in the code but implicit in the way Ministers describe the role, is that special advisers, uniquely in an independent Civil Service, owe their loyalty to the Minister. Their role is to push the Minister's agenda within the department and the Government. As the former Deputy Prime Minister, Harriet Harman MP, puts it:

*Your special adviser is the one person who you personally appoint and with whom there is a closer working relationship than civil servants.*³⁵

Special advisers are appointed under Article 3 of the Civil Service Order in Council 1995. They are exempted from the requirement that civil servants should be impartial and appointed on merit. Appointments are made by Ministers but approved by the Prime Minister. When the Minister resigns or moves the special adviser goes with them. Special advisers cease to be employed by the Civil Service once a general election is called. The performance management of the special adviser rests with the Minister although their behaviour is regulated by the Code of Conduct for Special Advisers and the Civil Service Code. Special advisers are expected to work closely and cooperatively with the permanent Civil Service. They cannot however give instructions to civil servants. When special advisers have attracted controversy it is often in situations where there is a lack of clarity over their role and status.³⁶

The number of special advisers is currently capped at two per Cabinet Minister, in response to criticism that too many such appointments were made under the previous Government. More are allowed at the centre where cross departmental coordination and leadership functions are carried out. For example, currently the Prime Minister employs 19 special advisers and the Deputy Prime Minister employs 14. The fact that there are two parties at the head of Government has required two staffs of special advisers at the centre of Government. Under a previous Government, in addition to the Prime Minister's special advisers, the then Chancellor Gordon Brown employed 11 members of his Council of Economic Advisers.

The role of the Ministerial private office and special advisers is to provide the Minister with the capacity to perform their official and political roles effectively. Yet there are a number of reasons for thinking that the current system does not provide sufficient support for Ministers.

³⁵ PASC 2012

³⁶ PASC 2012

First, Ministers believe the level of support they are provided with is insufficient to perform their roles effectively. Britain – as we shall see – is an international outlier in terms of the limited direct control Ministers have over those people who play critical roles closest to them, including the level of political support Ministers they can call on. Whitehall private offices are significantly smaller than French *Cabinets* and Australian and Canadian Ministerial offices. Special Advisers make up just two per cent of the senior Civil Service in Britain and in other countries that retain an impartial Civil Service such as Canada and Australia there is much greater scope for direct Ministerial appointments into private offices or functions that are within their direct purview.

Working with small private offices means that Ministers have insufficient capacity for providing strategic leadership of their departments. Precious time is taken up with fire fighting and managing departmental processes. Ministerial overload is a common problem. The Institute for Government has recently argued that private offices as currently configured do not provide adequate support to Ministers in respect of monitoring policy development and implementation, and in being able to challenge conventional wisdom coming from the department.³⁷ The limits of private office capacity can contribute to the sense that the Civil Service is not responsive enough to Ministerial demands.

Second, private office staff are relatively inexperienced. They tend to have just one senior civil servant – the Principal Private Secretary, who is usually a Grade 5 (Deputy Director) level, the lowest rung on the senior Civil Service ladder. Assistant Private Secretaries are often ambitious but nonetheless junior Grade 7s, while special advisers in the UK are generally quite young and often lack an understanding about how to get things done in Whitehall. This contrasts starkly with international experience, where senior staff in Ministerial offices tend to be older and considerably more experienced.

Third, Ministers and former Ministers regularly express frustration with the nature of the policy and expert advice they receive from the Civil Service and have argued there is a need to ‘widen the pool’ by recruiting more advisers from outside Government. For example, Nick Herbert the former policing Minister told *The Times* that he felt ‘totally unsupported’ as a Minister after one senior official told him that he could not go outside Whitehall for advice because: ‘We don’t want people marking our work.’ He argued:

The Civil Service is a monopoly. They do the delivery and the policy advice and you’re not allowed to get anybody else to do it. I would like a system where people can move in and out of Government. That would enable us to get the best people in ... Why is impartiality the holy grail? This isn’t party politics, it’s about expertise. (The Times 14th January 2013).

³⁷ Paun (2013) p.13

This desire for greater external input is demonstrated by the myriad ways in which Ministers seek to circumvent the current limits on the numbers of special advisers and directly appointed staff. Three examples serve to illustrate this:

1. *Policy advisers*: These are another form of civil servant appointed outside the usual system of recruitment based on merit, but to whom the political impartiality rules apply. As outlined above, the Civil Service Commission allows for exceptional appointments outside the merit based system so long as they are two year appointments to meet a short term need (which can be made permanent at a later date) or to bring in particular specialist skills not available within the Civil Service itself. There is also an overarching power for the Commission to appoint individuals outside the merit system if that will help 'meet the needs of the service'. Ministers have frequently used this mechanism to appoint policy specialists who might under other circumstances have been appointed as special advisers. These may often come from think tanks or academia, for example.
2. *Policy tsars*: A second innovation is the rise of the so-called 'policy tsars'. These are defined in a recent report by Ruth Levitt and William Solesbury as: "...an individual from outside Government (though not necessarily from outside politics) who is publicly appointed by a Government Minister to advise on policy development or delivery on the basis of their expertise".³⁸ Policy tsars rose to prominence under the previous Labour Government. The first 'tsar' was Keith Hellawell, the former Chief Constable of South Yorkshire police appointed to lead the Government's 'war on drugs'. Other high profile tsars have included Richard Caborn MP (Ambassador for the 2018 world cup bid) and Louise Casey (respectively homelessness, tsar, anti-social behaviour tsar, victims champion and troubled families tsar).

Policy tsars are appointed directly by Ministers from outside the usual system of Civil Service appointments. There are a few statutory tsars covered by the Commissioner for Public Appointments and the Code of Practice for Ministerial Appointments, including the Children's Commissioner for England (under the Children Act 2004), the Schools Commissioner for England (under the Education Inspections Act 2006) and the Victims Commissioner (under the Coroners and Justice Act 2009). For these appointments Ministers nominate a candidate who is then subject to a pre-appointment hearing from the relevant parliamentary select committee. The Minister has the power to go ahead however even if the select committee recommends otherwise.

³⁸ Levitt and Solesbury (2012) *Policy Tsars: here to stay but more transparency needed*
<http://www.kcl.ac.uk/sspp/departments/politiceconomy/research/tsarsreport/Tsars-Final-Report-Nov-2012.pdf>

Levitt and Solesbury set out three motivations behind the appointment of policy tsars: they will bring in an external view direct to the Minister and unmediated by the Civil Service, they will work quickly and they may help to generate political consensus round a difficult issue because of their 'independence'. The first two of these motivations are directly linked to a desire from Ministers to access policy advice from outside the permanent Civil Service.

3. *Outsourcing Policy Advice.* The Government's Civil Service Reform Plan argued that: 'Whitehall has a virtual monopoly on policy development, which means that policy is often drawn up on the basis of too narrow a range of inputs and is not subject to rigorous external challenge prior to announcement. The Freedom of Information Act (FOIA) correctly protects policy advice to Ministers from disclosure. This ensures it is robust, open, honest and constructive. But the need to maintain a safe space for policy advice should not be used to prevent the maximum possible openness to new thinking or in the gathering of evidence and insight from external experts.' The Government has therefore created a Contestable Policy Fund through which departments can bid to open up aspects of policy development to external providers.³⁹
4. *Performance management in Whitehall.* A longstanding criticism of Whitehall is the belief that it has failed to put in place effective systems for performance management. This view was most recently expressed by the Cabinet Secretary, who said:

There are areas where we haven't been rigorous - like performance-management and project-management ... Sir Jeremy Heywood, Cabinet Secretary.⁴⁰

There are a number of features of effective performance management in any organisation. The organisation needs clear goals – for the organisation as a whole, for its different parts and for the individuals who work within it. The organisation must also provide a mix of training, support and incentives that are likely to maximise performance. It will have available accurate information about performance levels and the extent to which different parts of the organisation are achieving their goals. And the organisation will act upon that information by reforming structures and processes and by rewarding good performance and holding poor performance to account.

The creation of Public Service Agreements in 1998, and the requirement that departments draw up five-year strategies, helped to clarify the overall objectives

³⁹ This review was itself funded from the Contestable Policy Fund.

⁴⁰ The Times Wed Jan 16th 2013 'Three wise men intent on a Civil Service shake-up that keeps it up to speed'

of Whitehall departments and the responsibilities of their senior civil servants. These were replaced in 2010 with departmental business plans which set out priorities for each coming year and what actions will be taken to meet Ministerial objectives. These changes have started to improve how Whitehall sets and communicates objectives. In the most recent Civil Service People's Survey, 84 per cent of civil servants said that they had a clear understanding of their organisation's purpose and 79 per cent had a clear understanding of their organisation's objectives.

In 2005 the then Cabinet Secretary Sir Gus O'Donnell introduced Capability Reviews to assess each department's capabilities across a range of leadership, strategic and delivery functions. The reviews were intended to create a step change in the ability of departments to deliver their objectives. The programme was managed and directed by the Cabinet Office (external experts were also included in each review team). In response to a review's findings, departments had to adopt an action plan to deal with any weaknesses.

According to the National Audit Office in two thirds of the first round capability assessments departments were rated less than 'well placed'. A quarter revealed 'urgent development areas' and the Home Office and the Department of Health raised 'serious concerns'. Only the Department for International Development was rated strong or well placed in the majority of areas. Areas of concern across Whitehall included leadership of departmental boards, understanding and use of different delivery models, and a number of issues around staff skills and service delivery. The Civil Service Reform Plan now states that Capability Reviews, which were criticised by the NAO, will be replaced with Departmental Improvement Plans.

For individual performance management the Civil Service Commission has introduced a new competency framework to support the Civil Service Reform Plan. The framework sets out the different competencies all civil servants are expected to possess, with details on the expectations for different levels. The framework will be used to inform decisions about recruitment, performance management and development discussions and decisions about progression. As part of this set of reforms, a new appraisal system has been introduced for members of the Senior Civil Service, which aims to identify the top and bottom performers, with the bottom 10 per cent provided with an improvement plan. The expectation is that if poor performers show no sign of improvement they will be removed from the Civil Service.

Individual Permanent Secretaries are line managed either by Sir Bob Kerlake, the Head of the Civil Service, or Sir Jeremy Heywood, the Cabinet Secretary. They use a variety of information sources to conduct mid-year and end of year appraisals of Permanent Secretaries' performance: financial data, delivery and implementation indicators, 360 degree feedback including input from the Secretary of State, and so on. Permanent Secretaries are eligible for annual

consolidated increases in pay if justified by performance. They are also eligible for non-consolidated bonus payments if they perform well against in-year objectives.

The Government has now published online the personal objectives of the Permanent Secretaries, set by Ministers and against which their performance will be judged. It will not be publishing whether or not officials have met their personal targets.

Many of these reforms are relatively recent and will take time to feed through into higher levels of performance management. There is some distance still to travel. Figures from the Civil Service People Survey 2012 are critical when it comes to performance management. Only 37 per cent of civil servants agree that 'poor performance is dealt with effectively in my team', only 43 per cent agree that 'my organisation as a whole is managed well', and a meagre 29 per cent agree that 'change is managed well in [my organisation]'.

One reason for a weak performance culture is a lack of robust performance information. Another is the fact that officials move post too often to be held accountable for their performance of particular tasks.

More fundamentally, however, Whitehall's weak performance culture reflects weak internal accountability structures. As we have seen Permanent Secretaries are only loosely accountable to their Secretaries of State, given the need to protect the political neutrality of the Civil Service. But historically, they have not been held sufficiently accountable by the Cabinet Secretary and Head of the Civil Service. The constitutional relationship between Permanent Secretaries and the Cabinet Secretary/Head of the Civil Service has always been an ambiguous one, partly because Permanent Secretaries are said to answer to their Minister, and in their role as accounting officers, to parliament. Institutionally the corporate centre of the Civil Service has been relatively weak vis-à-vis the departmental Permanent Secretaries. This perhaps explains why attempts to strengthen the accountability of Permanent Secretaries to the Cabinet Secretary and Head of the Civil Service have had limited impact.

The weak performance culture also reflects the limited external accountability of senior civil servants, which means that in most cases there are few penalties for poor performance. It is to this we now turn.

4. External accountability

Sir Robert Armstrong, the former head of the Civil Service, established some rules of conduct for officials in a now famous 1985 memorandum:

The Civil Service has no constitutional personality separate and apart from the Government of the day ... 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.*⁴¹

This principle that the civil servant has ‘no constitutional personality separate and apart from the Government of the day’ feeds directly into a set of rules around the external accountability of civil servants.

The ‘Carltona principle’ establishes that when a civil servant speaks in public they are simply speaking on behalf of the Minister and not speaking for themselves. The so-called ‘Osmotherly Rules’ are designed to protect officials from public accountability and enable Ministers to decide who represents them before select committees, and to control what officials say on their behalf. Civil servants cannot speak on their own behalf – either to account for their performance or indeed, in self-defence.

The one important exception to this is that Permanent Secretaries have since 1926, had to answer as accounting officers to the Public Accounts Committee. Although the exact standing of Chief Executives of Next Steps agencies is unclear, they are also generally recognised, especially where non-contentious agencies are concerned, as being at least semi-independent civil servants, who are directly answerable to Parliament in some circumstances.⁴²

The advent of the Ombudsman to deal with maladministration also provided a direct source of external scrutiny of Government departments, and is thus regarded by some as an incursion into the doctrine of Ministerial responsibility; although, the senior Civil Service has largely escaped the scrutiny of the Ombudsman. Moves to increase public and parliamentary access to Government information – especially since the introduction of Freedom of Information legislation – have also weakened Ministerial responsibility and diminished Civil Service anonymity: Parliament and the public can now often go behind Ministers’ backs and get information about the Civil Service for themselves. And there have been cases where public inquiries or parliamentary reports have named and blamed Civil Service officials.⁴³

The Government is now going further by publishing the personal performance targets of Permanent Secretaries and requiring accounting officers to sign off implementation plans for major projects. Nevertheless, the principle of Ministerial responsibility remains, in the absence of any convention or statute to replace it, a very powerful one that still shapes relations between Whitehall and Westminster.

The external accountability of civil servants is a matter of increasing contention, however. In a high stakes accountability culture, intensified by a 24 hour media, there is immense pressure on Government to deliver on its stated objectives. In this environment, accountability for poor performance can no longer be brushed

⁴¹ Evidence to the Treasury and Civil Service Select Committee (1985-86)

⁴² Woodhouse D (2003) ‘Ministerial Responsibility’ in Bogdanor V (ed) *The British Constitution in the Twentieth Century* Oxford: OUP p. 285 and 316-321

⁴³ Woodhouse (2003) p. 293

aside or hidden from view. The greater availability of data and transparency about Government activities means that the Civil Service, like other professions, is being opened up to ever more scrutiny. Meanwhile, the complexity of modern Government means it is increasingly difficult to argue that Ministers should be singularly responsible for what happens in their departments, particularly when it is obvious that they have no direct operational control over a service or function.

Select committees – recently empowered by direct election by MPs – are also determined to hold Permanent Secretaries and other senior civil servants to account for their performance and delivery of Government policies. Most notable in this regard is the case of the Public Accounts Committee, which has sought evidence from senior officials even where they are no longer post-holders for the role under scrutiny. There are vocal calls from parliamentarians for the external accountability of civil servants to be extended beyond accounting officers to other senior civil servants who have substantial delivery and operational management jobs. The Armstrong doctrine is therefore under strain.

PART 2: BEST PRACTICE FROM AROUND THE WORLD

Part 2 of the report looks at how other countries manage the relationship between Ministers and officials, and the accountability arrangements that underpin them. The aim is to highlight best practice, and also to draw attention to issues that have most relevance for UK debates. We do not, therefore, cover each country in our discussion of the four core issues:

- Part 2.1: the appointment process for senior officials
- Part 2.2: the degree of direct support provided to Ministers
- Part 2.3: internal accountability and performance management
- Part 2.4: external accountability, to the legislature, media and public

The sample of countries we have reviewed cover a range of different constitutional, administrative and legal models:

- Four are Westminster-systems: Australia, New Zealand, Canada and Singapore;
- One is a parliamentary democracy from Nordic Europe: Sweden;
- France, a semi-Presidential system, has a Napoleonic tradition of public administration;
- The United States is a Presidential system, with a highly politicised senior bureaucracy;
- The EU draws on a range of traditions: originally modelled on the French Civil Service more recent reforms have drawn on Westminster and Nordic influences.

PART 2.1 APPOINTING SENIOR OFFICIALS

As indicated in part 1 there is a currently a lively debate in the UK about whether Ministers should have a greater say in the appointment of senior officials.

The comparative evidence suggests the following:

- It is common for Ministers to be given a say in the appointment of senior officials, and pressure to do so has grown over time.⁴⁴ Significantly, a number of countries that operate merit-based and non-partisan Civil Services, including some major Westminster-based systems, also give Ministers a formal say in the appointments process of senior officials (in particular the most senior, Permanent Secretary equivalents). The degree of political involvement varies, as do the rules and procedures underpinning the appointment process. In Australia the Prime Minister is given a fairly free reign over Secretary appointments, whereas in Singapore the Prime Minister chooses from a list of names produced by an independent Public Service Commission.
- Comparatively speaking the UK is highly restrictive in terms of the limited powers Ministers have to make appointments. It is not unique, however. New Zealand operates a robust independent appointment process. And in both New Zealand and the UK, Ministers can informally exercise influence over key appointments.
- The push for greater political control of appointments has not – in general – resulted in partisan politicisation in which selection is based on political loyalty above all other considerations. Even in the US, which gives the President extensive powers of appointment, candidates are usually selected on the basis of both their ability and their partisan affiliation. In France, politicians regularly appoint officials who are politically aligned, but these officials have entered the Civil Service via a robust merit-based recruitment process.
- The experience from Australia and Canada shows that it is possible in Westminster-systems to combine a commitment to a merit-based non-partisan Civil Service with a degree of direct Ministerial influence over appointments. There is little evidence of partisan politicisation taking place in either of these countries; instead there is a degree of ‘personalisation’.
- Less clear-cut is the extent to which stronger political involvement in appointments dampens the propensity of the Civil Service to ‘speak truth unto power’. Empirically this is difficult to prove, though it can’t be ruled out. Personalisation in Australia and Canada has seen Ministers appoint officials who are personally committed to a particular policy area. They do not, however, tend to appoint individuals who are personally committed, but not up to the job. Since Ministers are ultimately judged on the performance of senior appointments they are strongly motivated to appoint

⁴⁴ See OECD (2007) and Peters and Pierre (2004)

the most capable and competent, and those willing to challenge Ministerial thinking.

- This is not to suggest that the push for greater political control over appointments – and greater political control in general – has been free of controversy. There have been a number of scandals that have been related implicitly or explicitly to the role of political appointments.
- Overall the comparative evidence therefore suggests that the two values identified above a) independence (i.e. a merit-based, non-partisan Civil Service) and b) responsiveness (or Ministerial control) – need not take the form of a zero-sum game. They can be and are often reconciled, particularly when underpinned by institutional safeguards and long-standing conventions that support a commitment to maintaining the non-partisan character of the Civil Service. Indeed it is often the absence of sufficiently robust institutional safeguards – where Ministers can act with excessive discretion – that fuel the *perception* of politicisation (whether real or not).

The table below summarises the main features of our country case studies. It reveals that only 2 out of the 9 countries studied – the UK and New Zealand – prohibit Ministers from appointing Permanent Secretaries. Note that Australia and Canada, both Westminster-systems, allow the Prime Minister to appoint Permanent Secretaries.

Below we explore in more detail how senior Civil Service appointments are made in:

- Presidential and semi-Presidential systems: the US and France;
- Parliamentary systems: Sweden followed by four Westminster case-studies, Australia, Canada, New Zealand and Singapore.

Senior Civil Service Appointments in Comparative Perspective

Table 2: Who appoints senior civil servants?⁴⁵

Country	Level 1 (Permanent Secretary-equivalent)	Level 2	Level 3	Level 4	Level 5
United States	Political	Political	Political	Political-hybrid	Political-hybrid
Sweden	Political	Political	Political	Political	Administrative
France	Political	Hybrid	Hybrid	Hybrid	Administrative
European Commission	Hybrid	Hybrid	Hybrid	Administrative	Administrative
Canada	Hybrid	Hybrid	Administrative	Administrative	Administrative
Australia	Hybrid	Administrative	Administrative	Administrative	Administrative
New Zealand	Administrative	Administrative	Administrative	Administrative	Administrative
Singapore	Hybrid	Administrative	Administrative	Administrative	Administrative
United Kingdom	Administrative	Administrative	Administrative	Administrative	Administrative

Notes

'Political' refers to an appointment made directly by a politician.

'Administrative' refers to an appointment made strictly on merit by an independent body.

'Hybrid' refers to an appointment in which a merit process is used but where the ultimate choice rests with a politician.⁴⁶

'Political-hybrid' refers to a unique situation in the United States in which pure political appointments coexist with administratively determined Senior Executive Service appointments at some levels.

⁴⁵ This table was adapted from a similar table in a 2007 OECD report. See A. Matheson, B. Weber and N. Manning (2007), '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*, p. 15.

⁴⁶ This definition has been adapted from the World Bank. See

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/EXTADMINISTRATIVEANDCIVILSERVICEREFORM/0,,contentMDK:20134008~menuPK:1828910~pagePK:148956~piPK:216618~theSitePK:286367~isCURL:Y,00.html#5>.

PRESIDENTIAL AND SEMI-PRESIDENTIAL SYSTEMS: THE US & FRANCE

THE UNITED STATES

The United States provides the quintessential model of a highly politicised system. A 'spoils system' operates at the upper management levels of the executive branch of Government. It derives from the strong populist tradition in the US which views it as keeping Government responsive and close to the people where Government jobs are widely available to all citizens and not controlled by a closed career elite. Today it is also viewed as a way of keeping Government more closely linked to civil society. The system is widely accepted by almost all participants in Government and there are very few calls for change.⁴⁷ The number of political appointees has steadily increased over time, a phenomenon described as the 'thickening' of Government.⁴⁸ However, it is not a fully politicised system: political appointees sit side-by-side with a large, merit-based career Civil Service. Thus the distinguished scholar of US public administration, B. Guy Peters, describes the US as a 'paradoxical mixture of overt political selection and control and extreme commitment to merit and depoliticisation'.⁴⁹

Almost all the top positions in Government – over 4000⁵⁰ – are appointed by and serve at the pleasure of the President. This includes all Cabinet Secretaries (the US equivalent of Ministers) and several levels in the management of departments and agencies that perform both managerial and policy advice functions (as well as Ambassadors and judges).⁵¹ The positions range from high-level policy-making and administrative jobs to clerical roles. The number of posts that have to be filled through political appointment has increased steadily in recent decades.

These external appointees come primarily from business, academia, state and local Government to form a 'Government of strangers'.⁵² When there is a change in administration, all of these positions change.⁵³

⁴⁷ B.G. Peters (2004), 'Politicisation in the United States', in B.G. Peters and J. Pierre (eds.), *Politicisation of the Civil Service in Comparative Perspective: The quest for control* (London: Routledge), p.136.

⁴⁸ P. C. Light (1995), *Thickening Government: Federal Hierarchy and the Diffusion of Accountability* (Washington, D.C.: Brookings Institution).

⁴⁹ Peters (2004) in Peters and Pierre p. 126.

⁵⁰ Congress designates the number of jobs that can be filled by political appointees every four years in tandem with the Presidential electoral cycle in the 'Plum Book'. This number is currently over 7,000 out of a total of over 2.65 million federal Government employees. However, not all these jobs are or will be filled by political appointees. Most are publicly advertised.

⁵¹ Peters (2004) in Peters and Pierre, p 128.

⁵² H. Hecl (1977), *A Government of Strangers: Executive Politics in Washington* (Washington, D.C., Brookings Institution).

⁵³ With the exception of judges, who have permanent appointments.

The appointment process is tightly controlled by the Office of Presidential Personnel in the White House, with little involvement from the central departments or political parties.⁵⁴ The role of Cabinet Secretaries (Ministers) in the appointment process is entirely at the discretion of the President. Hillary Clinton, as a condition of accepting the position of Secretary of State, demanded full authority to designate all 200 political appointments in the State Department, and President Obama reportedly granted her significant leeway to do so.⁵⁵ In general, however, appointments tend to be tightly managed by the White House.

Just below the most senior political appointees sits the Senior Executive Service (SES), which straddles both the non-partisan career service and the cadre of senior political appointees. Whilst most members of the SES are career civil servants, up to 10 per cent can be external appointees and all are selected by a board made up of Presidential appointees. The President has the power to move individual members of the SES to different parts of the service. The SES is the 'major link' between political appointees and the career Civil Service, and it is subject to more political interference than the latter.⁵⁶

Even with a large number of political appointees it is nevertheless the case that most civil servants in the federal Government are career civil servants appointed on merit. Career civil servants are selected by a rigorously enforced merit system and are subject to numerous restrictions on their political involvement and activities. This is enforced by the Office of Personnel Management (OPM) and the Merit System Protection Board (both of these bodies are run by political appointees.)

The relationship between political appointees and non-political appointees is complex and varies by administration. Historically Republicans have tended to be more distrustful of career officials than Democrats, but both political parties have periodically complained about a perceived lack of responsiveness on the part of the bureaucracy. In general, however, the relationship between political appointees and career officials tends to work reasonably well in practice. Despite their initial suspicion and hostility, political appointees themselves usually develop trust in the career executives who work for them.⁵⁷ Political appointees recognise that they can only achieve their goals through the career workforce and appreciate the extensive institutional knowledge and expertise career

⁵⁴ The only non-political actor involved in the appointment process is the FBI which conducts a background check on candidates but which has no other direct influence in the appointment procedure. In the case of a conflict of interest, the Office of Government Ethics may be involved. See A. Matheson, B. Weber and N. Manning (2007), '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, p. 15.

⁵⁵ Pfiffner (2011), p. 4.

⁵⁶ See www.opm.gov/ses/about_ses/index.asp.

⁵⁷ G.C. Edwards (2001), *Why Not the Best?: The Loyalty–Competence Trade-off in Presidential Appointments*, (Washington, DC: Brookings Institution), <http://www.brookings.edu/research/articles/2001/03/spring-governance-edwards>.

officials bring to the table. Equally career staff accept the fact that several thousand positions at the top of Government will be open to political appointment.⁵⁸

Political appointees reside in the departments and agencies they lead and the fact that they work shoulder to shoulder can help break down barriers and be the foundation for strong relationship. For example, the Secretary of Defense and other senior political appointees in the Pentagon are directly responsible for leading both the military and civilian workforce under the President, who is the Commander in Chief. There is a chain of command and a common mission that drives a strong relationship between political and career civil servants and members of the military.

Selection and background of senior officials

Senior political appointees are usually selected on the basis of both their expertise and their political affiliation. They come from a wide range of backgrounds, including business, academia, state and local Government.⁵⁹ They tend to be well-educated and have substantial prior Government experience.⁶⁰ Indeed a number are elected officials that resign their elected position to serve the President (for example Hillary Clinton resigned her seat in the US Senate to serve as Secretary of State). Critics argue that while they have Government and political experience, political appointees frequently lack managerial experience.⁶¹

The precise balance between competence and loyalty will vary by President. President George W. Bush, for example, was said to favour appointing 'true believers', particularly people who agreed with his social policies. Critics of his administration argued his appointments were made more for ideological, political and religious reasons rather than professional ones.⁶² President Obama, on the other hand, sought a 'team of rivals' in his White House and Cabinet

⁵⁸ Indeed it might be argued that these relationships often work better than those between political appointees in the White House and those who work for cabinet Secretaries. See Pfiffner (2011), p. 2.

⁵⁹ Appointees are increasingly 'in-and-outers', defined as 'an individual, especially a highly qualified one, whose career includes both public and private positions and for whom business or non-profit work holds weight equal to or greater than that of Government in his or her experience, professional orientation and sense of self.' J.D. Donahue (2003), 'In-and-Outers: Up or Down?' in J.D. Donahue and J.S. Nye (eds.), *For the People? Can We Fix Public Service?* (Washington, D.C.: Brookings Institution), p. 57.

⁶⁰ For example, 75 per cent of President George W. Bush's political appointees had PhDs or professional degrees and 55 per cent spent more than half of their careers in Government service. Donahue (2003) in Donahue & Nye, p. 65.

⁶¹ Most appointees are lawyers, legislators, congressional staffers, academics, lobbyists, Presidential campaign workers, and trusted aides to senior appointees. See G.C. Edwards (2001), *Why Not the Best?: The Loyalty-Competence Trade-off in Presidential Appointments* (Washington, DC: Brookings Institution), <http://www.brookings.edu/research/articles/2001/03/spring-governance-edwards>.

⁶² Peters (2004) in Peters and Pierre, p. 135.

appointments, explaining he wanted 'strong personalities and strong opinions' to foster robust debate on important policy issues.⁶³

Since Presidential careers depend on the performance of Government, Presidents will always be motivated to appoint high calibre people to senior jobs. Thus Presidents will often appoint a handful of people from the opposing party if they believe they are the best person for the job (another motivation is to enable bipartisanship). For example, President Obama nominated three Republicans to his first Cabinet.⁶⁴ Senate confirmation hearings – discussed below – provide an additional pressure to appoint competent individuals to posts.

Presidents tend to use lower-level appointments to reward campaign workers and donors, as well as strategically important representatives from interest groups, with jobs following the election. The level of patronage means that sometimes Presidents come under pressure to appoint staff who might not be sufficiently qualified to perform the role. When this situation arises the White House will seek to place people in less strategically important agencies.⁶⁵ For instance, in the past Presidents tended to appoint such people to the Federal Management Emergency Agency (FEMA), considered something of a backwater. This backfired spectacularly for President George W. Bush during Hurricane Katrina.

There is an extensive 'gene pool' from which Presidents can draw on in making their appointments. And when there is a change in Government, political appointees tend to remain involved in their policy area, via networks of external supporting institutional structures comprising think tanks, lobbying groups, universities etc. Some experts will move in and out of Government several times in the course of their career, developing their expertise and political contacts.⁶⁶

Accountability of senior appointments

Another major feature of the US system is that the top 1000-1500 appointments must be approved by the Senate in a lengthy confirmation process. Positions requiring Presidential nomination and Senate confirmation (known as PAS positions) are the most prestigious jobs in the US Government and mostly relate to policymaking. A typical department or agency has around 15 to 30 PAS

⁶³ Pfiffner (2011), p. 7.

⁶⁴ Only two of these nominees, Robert Gates and Ray LaHood, actually made it into the Cabinet. President Obama's second-term Cabinet will have less representation from the opposing party. So far, he has only nominated one Republican, Chuck Hagel, who was recently confirmed in the face of fierce opposition from his fellow Republicans in the Senate.

⁶⁵ G. Horton and D.E. Lewis (2010), 'Turkey Farms and Dead Pools: Competence and Connections in Obama Administration Appointments', Paper prepared for presentation at the 2010 annual meeting of the Midwest Political Science Association, Chicago, IL, April 22-25.

⁶⁶ Peters (2004) in Peters and Pierre, p. 129.

positions, including a Secretary, deputy Secretary, a handful of under- and assistant Secretaries, an inspector general and a chief financial officer.⁶⁷

Senate confirmation is a function of the checks and balances in the US Constitution: the President is handed significant patronage powers, but the exercise of them is constrained by the legislature. In a majority of cases, nominees are confirmed; there have been only nine Cabinet nominees rejected outright in the history of the United States.⁶⁸ However, in recent years the confirmation process, in common with other aspects of political life in the US, has become increasingly politicised. The lengthy Senate confirmation process is highly inefficient: after eight months in office, the Obama administration only had only half of its top PAS positions confirmed.⁶⁹

Another key power that Congress has at its disposal is its power to impeach any member of the executive branch, including civil servants if it suspects they are guilty of treason, bribery, or other high crimes and misdemeanours. If the House of Representatives votes to impeach an executive officer, then a trial in the Senate is held. Only if the Senate convicts will the officer be removed. While the House impeachment vote only requires a simple majority to pass, Senate conviction requires a two-thirds majority. The power to impeach is not used frequently. To date, the Senate has only conducted formal impeachment proceedings 19 times, and these have only resulted in eight convictions.⁷⁰

It is far more common for senior officials to be forced to resign in the wake of controversy than be impeached, and Congress can play a key role in pressuring them to do so. Following Hurricane Katrina, the head of the FEMA – Michael Brown, a political appointee – was publicly singled out by the media and both parties in Congress for the leadership failure and was ultimately forced to resign. The Air Force Secretary was fired by the Secretary of Defense when control over nuclear triggers broke down, and the Secretary of the Army was similarly fired for a breakdown in the care provided to wounded soldiers. In both cases, the person fired was a political appointee, who served at the pleasure of the President. Recently, the Administrator of the General Services Administration and two other political appointees were fired and a member of the SES was first suspended and then resigned following an audit report detailing wasteful spending involving an internal conference.

Summary: some strengths and weaknesses of the US appointment model

⁶⁷ D.E. Lewis (2010), *The Politics of Presidential Appointments: Political Control and Bureaucratic Performance* (Princeton: Princeton University Press), p. 23.

⁶⁸ See <http://www.jcp.senate.gov/artandhistory/history/common/briefing/Nominations.htm>.

However, presidents have withdrawn a further 12 Cabinet nominees in the face of Senate opposition. In addition, nearly a quarter of all Supreme Court nominations have been rejected or withdrawn.

⁶⁹ J.P. Pfiffner (2010), *The Modern Presidency*, p. 121.

⁷⁰ See www.senate.gov/artandhistory/history/common/briefing/Senate_Impeachment_Role.htm#4

There are strengths and weaknesses to the US model of appointments, but any such assessment needs to acknowledge the broader constitutional context in which it operates. The extensive powers of appointment wielded by the President are just one aspect of the intricate checks and balances that define the US's strong separation of powers. Hence the President gets to directly appoint the most senior figures in the executive, but these appointments have to be confirmed by the Senate. It is, in other words, a model that suits the constitutional arrangements of the US. Equally important to the US model are the external supporting institutional structures (the thinktanks etc discussed above) which enable wholesale changes of senior personnel with each change of administration.

On the positive side the following points could be made. The model provides for a regular infusion of fresh talent and new ideas, and many appointees have been noted for their 'exceptional energy and zeal'.⁷¹ Political appointees bring a diverse range of backgrounds and experience to the executive branch. Perhaps most importantly the model is widely believed to help ensure that the Government's policies are faithfully carried out and that the wider bureaucracy is responsive to its will. In comparative terms it is less common to hear complaints from politicians about the bureaucracy dominating or obstructing reform efforts. As Peters puts it, 'the openness about having numerous political appointments depoliticises politicisation.'⁷²

There are four downsides commonly associated with the US appointment system. The first is that the process of Senate confirmation is very slow and inefficient. Many key positions remain unfilled for long periods of time which can inhibit 'good Government'. As the number of posts that have to be filled by political appointment have grown it has also become harder to find suitable candidates to fill some posts. Second, the high turnover in staff that takes place at a change of administration weakens the institutional memory of executive Government. Third, since all the best jobs are taken by political appointees it has been argued that the permanent career Civil Service struggles to attract high-calibre people. Fourthly, some observers believe that the increasing emphasis on ideology and partisan loyalty in American politics since the 1980s has had a negative impact on the quality and competence of political appointments.⁷³ During the George W. Bush presidency in particular, a number of appointees were put into positions for which they had no prior experience, the most notorious being the Director of the FEMA, Michael Brown, who previously worked in a private law practice and for the International Arabian Horse Association.⁷⁴

⁷¹ Donahue (2003) in Donahue and Nye, p. 65.

⁷² Peters (2004) in Peters and Pierre, p. 126.

⁷³ B.G. Peters (2010), 'The United States', in C. Eichbaum and R. Shaw (eds.), *Partisan Appointees and Public Servants: An International Analysis of the Role of the Political Advisor* (Cheltenham: Edward Elgar Publishing Ltd), p. 19.

⁷⁴ For a list of other Bush Administration 'hacks', see *New Republic* (2005), 'Welcome to the Hackocracy', 17 October, pp. 21–5, <http://www.newrepublic.com/article/politics/welcome-the-hackocracy#>. There have also been a number of appointees put into positions that represent a

FRANCE

France has one of the largest and most powerful Civil Services in the world, with its members making up 22 per cent of the working population.⁷⁵ The French Civil Service is a relatively closed, unified career service with a reputation for technical excellence. Civil servants are recruited via highly competitive exams based on merit and political neutrality, usually straight out of university. Most civil servants at the top of the administrative hierarchy hail from the prestigious Ecole Nationale d'Administration (ENA) or a handful of other elite *grandes écoles*⁷⁶ and belong to the *grands corps*.⁷⁷ These elite senior officials enjoy a social prestige comparable to judges in the US and UK.⁷⁸

The French Civil Service provides a half-way house between the pure spoils system of the United States and the non-partisan model operating in Westminster systems. In France, the President and Prime Minister have the power to appoint several hundred of the most senior positions within the Civil Service (additionally the President, Prime Minister, and Cabinet Ministers have their own *Cabinets* of personally appointed advisers, discussed below). But unlike in the US the majority of these political appointees come from the ranks of the permanent Civil Service. In contrast with Westminster systems, however, it is common for permanent officials to be openly 'political' and those who are appointed into senior positions often share the same political affiliation of the politicians who appoint them.⁷⁹ In fact, a career in the Civil Service is often a first step in any national political career in France. Nearly every President and Prime Minister and around half of Government Ministers are recruited from the Civil Service. Around half of MPs also have a Civil Service background.⁸⁰ In contrast to the other countries in our survey, civil servants dominate French political life.⁸¹

conflict of interest with their previous employment, for example a former lobbyist for a pharmaceutical firm was appointed as the counsel for the Food and Drug Administration.

⁷⁵ L. Rouban (2004), 'Politicization of the civil service in France: From structural to strategic Politicization', in B.G. Peters and J. Pierre (eds.), *Politicization of the Civil Service in Comparative Perspective: The quest for control* (London: Routledge).p. 84.

⁷⁶ The *grandes écoles* are the small, highly selective higher education establishments which tend to produce the country's leading civil servants, politicians, business executives and engineers.

⁷⁷ The *grands corps* are specific professional groups of top civil servants made up of the top graduates from the elite *grandes écoles* (Ecole Nationale d'Administration and Ecole Polytechnique). There are administrative and technical *grands corps*. Rouban (2004) in Peters and Pierre, p. 99. Members of the *grands corps* hold many of the key positions in central Government and enjoy high internal and external mobility. They traditionally act as brokers between political and administrative power centres. See M. Meininger (2000), 'The Development and Current Features of the French Civil Service System', in H. Bekke and F. Van Der Meer (eds.), *Civil Service Systems in Western Europe* (Cheltenham: Edward Elgar Publishing), p 191.

⁷⁸ Meininger (2000), p 191.

⁷⁹ For instance officials will often become active members of political parties and political clubs. L. Rouban (2007), 'Public Management and Politics: Senior Bureaucrats in France', *Public Administration*. 85 (2), p. 476.

⁸⁰ Rouban (2004) in Peters and Pierre, p. 84.

⁸¹ Rouban (2004) in Peters and Pierre, p. 91.

Selection and background of senior officials

The Constitution states that appointments to civil posts of state, including division heads in central ministries,⁸² should be made by the President and approved by the Council of Ministers, which is the Cabinet chaired by the President. In practice, however, the President, Prime Minister and relevant Minister jointly sign off on high-level appointments.⁸³

These senior political appointees are chosen using a pool system. They must satisfy merit criteria to enter the pool, but in the final selection it is accepted that Ministers will make appointments based on competence and political criteria. France has a long-standing tradition of employing openly partisan officials, and in recent decades Ministers have placed increasing emphasis on political affiliation when making senior appointments.⁸⁴ Over time therefore the senior ranks of the French Civil Service have become increasingly populated by partisan appointments.

One of the clearest signs of this is that around 500 senior Civil Service positions tend to be forcibly vacated following elections so that key posts can be filled by the incoming Government, particularly in sensitive ministries such as Finance, Interior, Foreign Affairs and Justice.⁸⁵ The 200 Ministerial division heads are particularly vulnerable. In the 1980s, between one half and two-thirds were removed upon a change of Government. More recently, President Sarkozy sought tight political control over top civil servant appointments during his time in office.⁸⁶

The majority of political appointments – about 80 per cent – are filled by career officials. These partisan civil servants have made a conscious (and potentially risky decision)⁸⁷ to be involved in politics in their private lives in the hope that it will pay off in their professional ones. The remaining 20 per cent of appointees

⁸² There is no equivalent of a Permanent Secretary in the French civil service that heads an entire ministry. That job is performed by the Minister, assisted by his *Cabinet*. The most senior civil servants outside of the Ministerial *Cabinets* are the division heads of central ministries.

⁸³ Rouban (2007), p. 489.

⁸⁴ The close ties between officials and the political class make it easy for the politicians to identify the 'politicised civil servants' and appoint accordingly. Rouban (2004). 'Politicisation', in B.G. Peters and J. Pierre (eds.), *Politicisation of the Civil Service in Comparative Perspective: The quest for control* (London: Routledge).

⁸⁵ A. Knapp and V. Wright (2006), *The Government and Politics of France* (Abingdon: Routledge), p. 291.

⁸⁶ P. Bezes and P. Le Lidec (2011), 'Steering from the Centre in France in the 2000s: When Reorganization meets Politicisation', in C. Dahlström, B.G. Peters and J. Pierre (eds.), *Steering from the Centre: Strengthening Political Control in Western Democracies* (Toronto: University of Toronto Press), p. 48.

⁸⁷ The obvious risk is that there is no guarantee that their preferred party will end up in power.

come from outside the Civil Service, from the private or wider public sector, often Parisian local Government.⁸⁸

Civil servants may move in and out of Government depending on which party is in power, moving through what are known as 'old buddy networks'.⁸⁹ When their party is in power, they are appointed to top positions within the *Cabinets* or Civil Service as division heads and managers in key ministries. When their party loses power, they may move to local Government or the private sector. Or, since all (Civil Service) political appointees are guaranteed lifelong employment in the Civil Service, they may return to a less prominent position in a Government ministry or agency.

While only senior management positions are officially 'political' positions, a number of lower-level positions which have traditionally been designated for career civil servants have also become politicised in recent years.⁹⁰ Ministerial Cabinets carefully scrutinize – and influence – appointments to these positions.⁹¹ Nonetheless below the top management tier, the French Civil Service remains largely non-partisan.

There is evidence to suggest that the growing influence of partisan officials has adversely affected the morale and standing of politically neutral career civil servants in France.⁹² They no longer share the same career paths or prospects as their partisan colleagues. Some believe that their position has been marginalized by an increase in senior appointments based on political criteria (as well as the growing power and influence of Ministerial *Cabinets* discussed below). Against this it should be noted that in spite of the increasing politicisation, the Civil Service still has a very strong identity and professional culture.⁹³

Summary: some strengths & weaknesses of the French appointment model

A degree of partisan politicisation has occurred in France as a result of the power delegated in the Constitution to the President and Prime Minister to appoint top posts – and the desire of successive Governments to make use of it. However, the fact that the majority of appointments are made from within the Civil Service means that partisan loyalty on its own is an insufficient guarantee for being recruited to a senior position; it has to be combined with ability. The large number of discretionary appointments at the top of the administrative hierarchy is also believed to make the Civil Service sufficiently responsive to the Government.

⁸⁸ Rouban (2004) in Peters and Pierre, p. 90.

⁸⁹ Rouban (2007), p. 489.

⁹⁰ Rouban (2007), p. 489.

⁹¹ Rouban (2007), p. 489.

⁹² Rouban (2007) notes that this sense of marginalisation has led many to leave the Civil Service to work in the private sector or local Government.

⁹³ Rouban (2004) in Peters and Pierre, p. 98.

One of the key weaknesses of the model is its uncertainty. Rouban has noted that partisan politicisation in France ‘does not follow a clear line’ and can be quite irregular.⁹⁴ In other words, some Governments make much more use of their appointment powers than others. Senior civil servants never really know if their position is safe upon a change in Government. A related downside is the negative impact on the morale of non-politicised civil servants who have increasingly fewer routes to the upper reaches of the administrative hierarchy. A final criticism of the French model is that there are few checks on the exercise of appointment powers, with Ministers given considerable discretion over key appointments. The need for formal Cabinet approval is not robust and amounts to little more than a rubber stamp.

PARLIAMENTARY MODELS

SWEDEN

The Swedish Civil Service is large in proportion to the country’s size and is renowned for its competence.⁹⁵ It is composed of 11 small central policymaking ministries – known collectively as the ‘Government Offices’ – and over 300 independent agencies charged with implementing Government policy.⁹⁶ Public administration in Sweden is officially nonpartisan and it is known for its strong culture of neutral competence and meritocracy.⁹⁷ This is enshrined in the country’s constitution, which states, ‘When making appointments to posts within the State administration, only objective factors, such as merit and competence, shall be taken into account.’⁹⁸

Nonetheless, it has long been accepted in Sweden that Ministers have the right to appoint partisan staff to be the top officials (state Secretaries) in their ministries.⁹⁹ In addition Ministers are also entitled to recruit staff directly into their private offices. Furthermore, and perhaps more significantly, the Government also has the power to appoint the heads of the autonomous agencies responsible for policy delivery. Political criteria are a factor in these appointments, though recent reforms have tried to make the appointment process more open and transparent.

Selection and background of senior officials

⁹⁴ Rouban (2004) in Peters and Pierre, p. 87.

⁹⁵ B.G. Peters (2001), *The Politics of Bureaucracy*, fifth ed. (Abingdon: Routledge), p. 147.

⁹⁶ Central Government in Sweden employs over 200,000 people, of which only 4,350 are from the Government Offices.

⁹⁷ C. Pollitt and G. Bouckaert (2004), *Public Management Reform: A Comparative Analysis* (Oxford: Oxford University Press), p. 287.

⁹⁸ Instrument of Government, accessed at www.riksdagen.se/en/How-the-Riksdag-works/Democracy/The-Constitution/The-Instrument-of-Government.

⁹⁹ Technically Ministers can only propose candidates to be appointed since it is the Cabinet that makes the formal appointment.

Within each central Government ministry, there is a 'political executive' made up of partisan appointees who resign their posts following a change in Government. This group is appointed by the Minister (subject to the approval of the Cabinet) and consists of one or more state Secretary, a role that combines the post of Permanent Secretary with a junior Minister¹⁰⁰ (the number will depend on the size of the ministry). It also includes a handful of partisan media and political advisers.¹⁰¹ The latter are direct appointments of the Minister. The state Secretaries and other political appointees are generally not career civil servants but are recruited from the political parties or associated organisations.

Out of the 300 plus autonomous Government agencies, approximately 200 have heads who are appointed by the Government. They are mainly known as directors-general (DGs). Around 35 agencies also have a deputy DG, also appointed by the Government.¹⁰² Both categories are appointed for, in normal cases, a fixed-term of six years.¹⁰³ These appointments are not considered to be formal political roles (unlike those in the political executive) and therefore DGs do not resign following a change in Government.¹⁰⁴ However, there are few formal restrictions on who can be appointed to the position of DG. Indeed for a long time there was no formal recruitment process. With no formal senior executive service to draw from, Ministers simply 'identified' suitable candidates.¹⁰⁵ However, in the face of public criticism, a number of reforms have been enacted since 2006 that have made the recruitment process more open and transparent. Many – though not all – DG positions are now advertised publicly.

Given the discretion Ministers were given over DG appointments concerns were raised that Governments were increasingly appointing DGs that shared their

¹⁰⁰ The state secretary is second-in-command after the Minister. He or she is responsible for the day-to-day work in the ministry, but also for liaising between the Minister and the Civil Service and the ministry and Parliament, as well as between the different political parties if there is a coalition Government. It has become an increasingly public role, with state Secretaries representing the Minister in public and commenting on issues in the media. C. Dahlström and J. Pierre (2011), 'Steering the Swedish State: Politicization as Coordination Strategy', in C. Dahlström, B.G. Peters and J. Pierre, *Steering from the Centre: Strengthening Political Control in Western Democracies* (Toronto: University of Toronto Press), p. 204.

¹⁰¹ The number of political appointees available to each Minister varies, but the Prime Minister has a substantially larger number than other Ministers, with 30 political advisers. The Ministry of Finance has 10 to 15 political advisers. Most ministries have two to four, including one to two press Secretaries; and two to four political advisers.

¹⁰² More precisely, they are appointed by the Cabinet. In Sweden, all Government decisions must be made collectively by the Government – not by individual Ministers. However, the responsible Minister and the Prime Minister play the primary role in selecting directors-general. J.R. Blöndal (2001), 'Budgeting in Sweden', *OECD Journal on Budgeting* 1(1), p. 44.

¹⁰³ DG contracts can be renewed for another three years, bringing their total tenure to nine years.

¹⁰⁴ Elections are held every four years, so incoming Governments inherit directors-general appointed by previous administrations.

¹⁰⁵ Blöndal (2001), p. 44.

political affiliation, pointing to a certain degree of partisan politicisation.¹⁰⁶ A 2002 study found that roughly one in four DGs appointed during the 1990s had a 'political background', for example as a former state Secretary or even as a politician.¹⁰⁷ Figures obtained by IPPR from the Swedish Embassy suggest that the reforms to the recruitment process for DGs enacted since 2006 has seen the number of partisan appointments decline significantly: just 32 out of the 215 DG appointments, equivalent to 15 per cent, have been given to someone with a clear political background. And only a few of these 32 DGs were recruited directly from political organisations. The precise balance of partisan appointees is, however, contested and depends on the definitions used: for instance a forthcoming academic study found that 46 per cent of newly recruited DGs have a political background.¹⁰⁸ A further consequence of recent reforms is that many more DGs are now recruited from the private sector.

In addition, there is evidence that some heads of sections within ministries, who are career civil servants, are recruited on political grounds as well as on merit, but this is very difficult to prove.¹⁰⁹ As Pierre notes, 'hiring people with the merit requirement but who also are sympathetic to your political project is a way of ensuring responsiveness in the senior Civil Service without increasing the number of political appointees'.¹¹⁰

Relationship between officials

The relationship between political appointees and career civil servants is generally considered to work well. The relationship between officials in the ministries and the agencies can, however, be distant, since they are physically separate and do not share the same premises.

Civil servants and politicians seem to work particularly well with one another in Sweden. Pierre notes that senior politicians and officials frequently have a 'shared vision' or *samsyn*.¹¹¹ Numerous studies have found that they have an 'unusually harmonious' relationship and that they treat each other as equals.¹¹²

¹⁰⁶ J. Pierre (2004) in 'Politicization of the Swedish Civil Service,' in B.G. Peters and J. Pierre (eds.), *Politicization of the Civil Service in Comparative Perspective: The quest for control* (London: Routledge), p. 44.

¹⁰⁷ P. Molander, J. Nilsson and A. Schick (2002), *Does anyone govern? The relationship between the Government Office and the agencies in Sweden* (Stockholm: Centre for Business and Policy Studies).

¹⁰⁸ C. Dahlström and B. Niklasson (forthcoming), 'The Politics of Politicization in Sweden', *Public Administration*, forthcoming.

¹⁰⁹ J. Pierre (1995), *Bureaucracy in the Modern State: An Introduction to Comparative Public Administration* (Cheltenham: Edward Elgar Publishing), p. 157.

¹¹⁰ Pierre (2004) in Peters and Pierre, p. 51.

¹¹¹ Pierre (2004) in Peters and Pierre, p. 47.

¹¹² G. Sundström and R. Premfors (2006), 'The Limits of Loyalty: Civil Servants' Role Perception within the Swedish Government Office', Paper to be presented at IPSA World Congress in Fukuoka, Japan, 9-13 July, p. 9.

However, some commentators have criticised the 'political/administrative elite' in Sweden for being too remote from the wider electorate.¹¹³

Scrutiny and accountability of senior appointments

Parliament's Constitutional Committee has responsibility for reviewing and debating the Government's DG appointments *ex-post*, i.e. after they've already been chosen. In the event of wrongdoing, the committee can publish a critical statement. There have been a few instances in recent times where the Government's choice has been widely considered inappropriate and the candidates unsuitable for the role, and the subsequent public disquiet led to the removal of those DGs.

Summary: some strengths & weaknesses of the Swedish model

Despite explicitly partisan political appointments in the uppermost reaches of Government ministries and agencies, public administration in Sweden is still characterised by a strong commitment to the merit principle, and 'politicisation' is viewed as a dirty word.¹¹⁴ Indeed, few see any inconsistency between the constitutional obligation that appointments must be made 'on objective grounds' with the fact that a number of senior positions are made by politicians. This general commitment to neutral competence exists even though there are few formal restrictions on how these powers are exercised by Ministers. An OECD study argued this was made possible because the convention of political neutrality is firmly 'internalised' in Sweden's political culture.¹¹⁵

The proportion of political appointees in the Government Offices is comparatively small, around four to five per cent of all staff.¹¹⁶ Relations between politicians, political appointees and career civil servants are unusually harmonious, and reflect the consensual (and relatively homogenous) political culture of the country.

Top-level political appointments provide Ministers with support and a certain degree of control over a system in which power is more decentralised than in any other country in our review. Whilst the Government has substantial scope for steering the operations of the agencies, it is largely forbidden by the constitution from intervening in their day-to-day operations. Government instructions to agencies must be in writing, adopted at a formal meeting of Ministers and made public; this transparency is regarded as the prime protection against political misuse of administrative powers.¹¹⁷

¹¹³ Molander et al. (2002), p. 10.

¹¹⁴ Pierre (2004) in Peters and Pierre, p. 41.

¹¹⁵ Matheson et al. (2007) p. 22.

¹¹⁶ Of the 4350 staff currently in the Government Offices, around 200 are political appointees.

See www.Government.se/sb/d/3145

¹¹⁷ Matheson et al. (2007), p. 38.

The prerogative of each Minister to appoint a partisan state Secretary to be second-in-command of the ministry is accepted and attracts little controversy. The same cannot be said of the appointment of partisan DGs to run Government agencies. The credibility of some DG appointments has been questioned precisely because these are supposed to be non-partisan posts even though political factors are clearly a consideration in some cases. Nor has it helped that the recruitment process of DGs has for a long time been unsatisfactorily opaque. The increasing use of open job advertisements for DG positions may help to quell criticism. However, it is notable that the Government has decided not to advertise the position of county governor, which is one of the most politicised types of agency heads. It has defended its decision by arguing that this position requires special political skills.

WESTMINSTER SYSTEMS

Next we look at the experience of four Westminster-based systems: Australia, Canada, New Zealand and Singapore.

AUSTRALIA

The Australian Public Service (APS) is a Westminster-style Civil Service with some distinctive features. Like most Westminster-derived systems, it is an apolitical, impartial professional service and the majority of its 160,000 employees are career public servants. However, it differs from the UK model in two ways: (1) The Prime Minister has the power to appoint and dismiss Departmental Secretaries (Permanent Secretary-equivalents), who are on five-year fixed-term contracts; and (2) Ministerial offices are staffed almost exclusively by political appointees (special adviser equivalents), who are employed under different legislation than civil servants (the role of 'staffers' are discussed below in part 2.2).

These two features of public administration in Australia were gradually institutionalised over the past half century. They stemmed from a long-standing frustration on the part of both main political parties that the public service was not sufficiently responsive to Ministerial demands, particularly following a change in administration. Successive Australian Governments have therefore sought to strengthen the degree of political control over the APS.

These reforms are generally considered to have succeeded in improving the responsiveness of the APS, and to have done so without politicising (in a partisan sense) the senior ranks of the APS. Rather than politicisation it is often said that what has emerged in Australia is a form of 'personalisation' where it is accepted that the Prime Minister will appoint individuals on the basis of their ability as well as their personal style and approach.

Nevertheless the current reform agenda is intended to strengthen the safeguards put in place to check the power of politicians by for instance strengthening the role of the independent Australian Public Service Commissioner in the appointments and dismissal processes. This is sensible: a principal weakness with the Australian system is that the both processes are too informal and opaque. These reforms are an attempt to address this while preserving the fundamentals of the model.

Selection and background of senior officials

The Prime Minister personally appoints the top tier of the Civil Service, Departmental Secretaries. There is no formal interview or assessment process and the Prime Minister does not have to justify his or her decision. Similarly the Prime Minister does not need to give a reason if s/he decides to fire, or as is more commonly the case, reshuffles Secretaries. Parliament has no role in the appointment of Secretaries.

In making the decision, the Prime Minister is advised by the Secretary of the Department of the Prime Minister and Cabinet (PM&C), the most senior civil servant in the country and de facto head of the APS. Usually the Secretary of PM&C will present the Prime Minister with a list of names of appointable candidates from which the Prime Minister chooses the individual believed to be most suited to the job. It is rare for the Prime Minister not to accept one of the recommendations of the Secretary of PM&C (indeed it reflects badly on the Secretary if he fails to propose a name the Prime Minister can work with).

The relevant departmental Minister must also be consulted but the degree to which Ministers are actually involved in the appointment process is at the discretion of the Prime Minister and will depend on factors such as the relative seniority of individual Ministers. Senior Ministers often make what is in effect a de facto joint appointment with the Prime Minister. At times, for example following a change of Government, there is limited opportunity to consult since the appointments of Minister and Secretary are made concurrently.

That the appointment power rests with the Prime Minister and not the departmental Minister is defended on the grounds that it is the Prime Minister who is best placed to make the strategic personnel decisions that are in the interests of the Government as a whole. The Prime Minister, however, will always try to avoid appointing a Secretary who they know the relevant Minister does not get on with. What they will do – and this is considered a strength of the model – is use Secretary appointments to compensate for specific Ministerial weaknesses: for instance ‘knowing a Minister is an effective political strategist but less of a ‘details person’ the Prime Minister will select a Secretary who is particularly good at knowing how to dot the i’s and cross the t’s’.¹¹⁸

¹¹⁸ Interview with Peter Shergold

The extent of Prime Ministerial power in the Australian system was most forcefully demonstrated by John Howard's notorious decision to sack six of his 18 Secretaries without explanation shortly after taking office in 1996. Howard's party had been out of power for 13 years and the cull of Secretaries was intended to send a signal to officials the new Government was in charge and meant business (it is considered the archetypal example of what Mulgan terms managerial politicisation). It was not simply the sacking of Secretaries that attracted controversy, Howard also appointed the first outsider to the pivotal post of Secretary of PM&C – Max Moore-Wilton (1996-2002). Moore-Wilton had a background in the public service but had also acted as an adviser to two Liberal state premiers and was an outspoken critic of the APS.

However, the mass sacking, known as the 'night of the long knives' was atypical.¹¹⁹ All subsequent Prime Ministers have been much more cautious in the way they have used these powers. Indeed on coming to power in 2007 Kevin Rudd explicitly promised that there would be no 'night of the long knives' on his watch. That is not to say that Rudd and his successor Julia Gillard have not taken an active role in the appointments process: both have reshuffled Secretaries at different points in their premierships.¹²⁰ Nonetheless there has been no repeat of the scale of change enacted by Howard.

What is perhaps most striking about the Australian case is that despite the degree of discretionary power it hands the Prime Minister almost all Secretaries are appointed from within the ranks of the APS (very few appointees come from outside). There has been no attempt therefore to fill top posts with partisan figures. As the Institute for Government suggests this reflects 'strongly entrenched expectations of a politically impartial public service.'¹²¹

The Prime Minister and departmental Minister are prohibited by law from making appointments below the level of Secretary. The process for these appointments is more formalised than that for Secretaries: there is a legal obligation that they are made on merit in a process overseen by the independent Public Service Commission.

Recent reforms have tried to make the appointment process for Secretaries more rigorous. The Public Service Amendment Act 2013 has strengthened the appointment process of Secretaries by requiring the independent Public Service Commissioner to be consulted as well, and to submit his or her own report to the

¹¹⁹ Howard is even said to regret the move for all the controversy it aroused and he made a point of accepting all recommendations suggested to him by Peter Shergold when he became his Secretary of PM&C. Shergold's appointment itself challenges the view that Howard politicised the APS: he was a former academic and considered by many to lean to the left.

¹²⁰ Most recently Gillard moved the defence secretary to be Australia's representative in NATO (it is claimed that Gillard moved the defence secretary to NATO because of personal difficulties with the defence Minister).

¹²¹ A Paun and J Harris (2012) *Reforming Civil Service accountability: lessons from New Zealand and Australia* London: IFG p. 5

Prime Minister. If the Secretary of PM&C and the PSC disagree, than this must be made explicit in the former's report to the Prime Minister. The Prime Minister, however, retains the final decision making power (although henceforth the decision will formally be made by the Governor-General).

Summary: personalisation not politicisation

The Australian Public Service has undoubtedly become more responsive to Government – and particularly Prime Ministerial – control. But, it has not done so by sacrificing the merit principle or by eroding the non-partisan character of the APS.¹²² Significantly, Prime Ministers mainly appoint career officials to Secretary positions. A number of public servants believe that one reason why the parties have resisted the temptation to politicise Secretary appointments is because Ministers are able to fill their offices with strong political staff.

Instead there is a strong degree of 'personalisation' – that is the Prime Minister can and does make appointments that s/he is comfortable with. Some critics argue that 'personalisation' has meant Secretaries have become too responsive to Ministers, and that they are less willing to give Ministers 'frank and fearless' advice. No doubt some Secretaries are less prepared to challenge Ministers than others, but it is always difficult to prove that this is a function of the appointment process, and not more readily explained by other factors, such as the character and temperament of the individual.¹²³ It should not – and usually doesn't – follow that just because someone is appointed by a Minister, they will be less willing to challenge the view of the Minister.

What is clear in the Australian case is that since Prime Ministers are ultimately judged on the performance of their Secretaries, they seek to appoint the individuals they consider to be the most able and competent to do the job. They do not always get this right but by all accounts successive Prime Ministers take very seriously their responsibility in respect of Secretary appointments.¹²⁴

As the Institute for Government concludes, 'the Australian experience suggests that direct Ministerial influence over appointments can be increased without moving to a politicised public service'.¹²⁵

CANADA

¹²² Partisan politicisation is however a much bigger problem in Australian states where Governments in Queensland and New South Wales have made a number of high profile partisan appointments, which have undermined the quality of public administration.

¹²³ This question of whether the reforms have dampened the challenge function of senior officials needs to consider the collective impact of hire and fire powers and fixed-term contracts. The latter are discussed below in part 2.3.

¹²⁴ Paun and Harris (2012) p. 18.

¹²⁵ Paun and Harris (2012) p. 16.

Like Australia, the Canadian Civil Service combines a merit-based and non-partisan Civil Service with greater political oversight than the UK. The Prime Minister appoints the two most senior levels of officials known as deputy Ministers (Permanent Secretary equivalents) and associate deputy Ministers. The Prime Minister also has the power to remove (and reshuffle) deputy Ministers (discussed below in part 2.3). The office of Prime Minister in Canada is particularly strong, with one expert survey placing Prime Ministerial influence in Canada ahead of all 22 other parliamentary democracies.¹²⁶ While the Prime Minister has always possessed the power to appoint and remove deputy Ministers (using the statutory authority vested in the Governor in Council) it is clear that in recent decades political power in Canada has become increasingly concentrated in the office of the Prime Minister. The Cabinet has become less influential over the years and power is centred around the Prime Minister and a few key Cabinet Ministers, deputy Ministers and political staff.¹²⁷

The other significant development in Canada is the growth of political advisers, so-called 'exempt staff' which are discussed below in part 2.2.

Selection and background of senior civil servants and political appointees

The Prime Minister appoints the top rank of the public service, deputy Ministers, around 70 positions.¹²⁸ Some of these appointments are considered as important as those of Cabinet Ministers, and the Prime Minister generally gives them 'serious attention'.¹²⁹ The head of the Canadian Public Service, the Clerk of the Privy Council – who is also Deputy Minister to the Prime Minister – is heavily involved in the appointment process. Based on his assessment of the ability of potential candidates, which is informed by consultation with a committee of deputy Ministers¹³⁰, the Clerk proposes a list of names (sometimes just one¹³¹) to

¹²⁶ E. O'Malley (2007), 'The Power of Prime Ministers: Results of an Expert Survey', *International Political Science Review* 28 (1): 7–27. One of the reasons for this is that the parliamentary caucuses of the two major parties do not have the power to dismiss a Prime Minister as party leader. See P. Aucoin (2010), 'Canada', in C. Eichbaum and R. Shaw (eds.), *Partisan Appointees and Public Servants: An International Analysis of the Role of the Political Adviser* (Cheltenham: Edward Elgar Publishing Ltd).

¹²⁷ Aucoin asserts that it 'goes well beyond the executive dominance of the legislative power inherent in the Westminster systems'. Aucoin (2010) in Eichbaum and Shaw, p. 79. Donald Savoie refers to this arrangement as 'court Government'. See D. J. Savoie (1999), 'The Rise of Court Government in Canada', *Canadian Journal of Political Science* 32(4), pp. 635-64.

¹²⁸ There are different categories of deputy Ministers, and in departments with more than one the more junior are referred to as associate deputy Ministers.

¹²⁹ P. Aucoin (2010) in Eichbaum and Shaw, p. 74.

¹³⁰ The Committee of Senior Officials (COSO). It is chaired by the Clerk and is tasked with offering advice to the Clerk on senior appointments; it reviews the performance of senior officials; and performs a talent-spotting function, grooming rising stars of the Canadian public service for future Deputy Minister roles. The advice on appointments is just that: the Clerk can choose to listen to it or ignore it, and COSO does not see the names on the short list that is offered to the Prime Minister.

¹³¹ The precise practice varies according to the post and the specific demands of the Prime Minister

the Prime Minister.¹³² Some discussion and negotiation may then take place between the Prime Minister and the Clerk about the names proposed. The final decision, however, lies with the Prime Minister. Convention suggests that the Prime Minister will normally defer to the Clerk's recommendations but should the Prime Minister be dissatisfied with the names the Clerk produces he can ask the Clerk to 'think again'. The relevant Minister may also be consulted, though this is not a formal requirement and the relevant Minister has no right to challenge the decision of the Prime Minister. As in Australia, the Prime Minister will sometimes use their appointment power to select Deputy Ministers who 'offset the shortcomings' of individual Ministers.¹³³ The Canadian parliament has no say in the appointment process for Deputy Ministers.

In Canada, as in Australia, there is a strong convention that the Prime Minister appoints politically neutral career officials to the top positions in the Civil Service. Since the 1960s, over 95 per cent of deputy Ministers have come from the ranks of associate and assistant Deputy Ministers.¹³⁴ Significantly the highly important role of the Clerk has always gone to a member of the public service. Indeed this commitment to a non-partisan public service explains why the few outsiders who have been appointed to Deputy Minister positions have tended not to be party political figures.¹³⁵ In this respect there has been no partisan politicisation of the Canadian public service.

Critics of the Canadian model instead point to the opaqueness of the appointment process. Unlike other senior appointments in the public service the process for appointing Deputy Ministers is not overseen by the independent Public Service Commission and the Prime Minister is not obliged to say whether official advice was followed or not. Nor are Deputy Minister posts externally advertised. Concerns have been raised that the informality of the appointment process hands too much discretionary power to the Prime Minister and the Clerk contributing to the concentration of power in the office of the Prime Minister. According to some observers one consequence of being appointed by the Prime Minister is that Deputy Ministers may attach greater loyalty to the centre than they do their departmental Ministers.¹³⁶

¹³² P. Aucoin (2012), 'New Political Governance in Westminster Systems: Impartial Public Administration and Management Performance at Risk', *Governance* 25(2), p. 187.

¹³³ J. Bourgault (2011), 'Canada's Senior Public Service and the Typology of Bargains: from the Hierarchy of Senior Civil Servants to A Community of "Controlled" Entrepreneurs', *Public Policy and Administration* 26(2), p. 256.

¹³⁴ J. Bourgault (2006), 'The Deputy Minister's Role in the Government of Canada: His Responsibility and His Accountability', in Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Research Studies*, Vol. 1, (Ottawa: Minister of Public Works and Government Services), p. 256.

¹³⁵ Aucoin (2012), p. 187.

In the mid-2000s, following a major scandal which engulfed the Liberal Party,¹³⁷ an independent Royal Commission (the Gomery Commission) recommended buttressing the appointment process for Deputy Ministers with a stronger degree of independence and transferring appointment powers from the Prime Minister to individual Ministers.¹³⁸ Significantly, it did not recommend taking the right of appointment away from politicians altogether.

Gomery recommended that the Government adopt the appointment process used in the province of Alberta where all deputy Minister vacancies are publicly advertised and where an open competition is managed by an independent commission. Once this process has yielded two or three suitable candidates, the relevant Minister is allowed to choose among them. He or she then goes to Cabinet with the final recommendation. The premier retains a veto power over the appointment.

However, the Commission's recommendation provoked a strong reaction from a number of prominent Canadians who objected to the proposal. A letter to the Prime Minister signed by 61 leaders from business, the voluntary sector, academia and former senior officials and political leaders from all sides, argued that the Prime Minister's power to personally appoint Deputy Ministers was crucial for the effective functioning of Government:

We...believe that the selection of these officials, who will be a key source of support to you and your Cabinet colleagues, is too important a task to entrust to any kind of independent selection system detached from the political process. You, as the head of the Government, need the ability to organize it in ways that best respond to your objectives, and to place in the most senior positions the professionals who, in your judgment, are best able to meet the needs of a particular department and agency. It is difficult to contemplate how any large business organization would survive if vice-Presidents and senior officers were selected by a group independent of the CEO.¹³⁹

The Harper Government agreed and rejected the recommendation. It did however accept that there should be greater oversight over other key public appointments, for example heads of public boards and agencies, and pledged to

¹³⁷ In 2004, a report by the Auditor-General revealed that senior officials from the governing Liberal Party had channelled at least \$100 million from a \$250 million Government program into a network of advertising and communication agencies with ties to the Liberal Party in the so-called 'sponsorship scandal'.

¹³⁸ See Canada (2006), *Commission of Inquiry into the Sponsorship Program and Advertising Activities, Restoring Accountability: Recommendations* (Ottawa: Public Works and Government Services Canada).

¹³⁹ For the full text of the letter, see <http://www.ipac.ca/documents/Gomeryper cent20Pressper cent20Releaseper cent20andper cent20Letter.pdf>.

establish an independent Public Appointments Commission. This body never became operational and was eventually abolished in 2012.¹⁴⁰

Summary

As in Australia, the right of the Prime Minister to appoint and dismiss Deputy Ministers and associate Deputy Ministers in Canada is not seriously questioned,¹⁴¹ though many wish the appointment process was more open, transparent and subject to scrutiny by the Public Service Commission. The opposition to the Gomery proposal demonstrates the widespread support there is for allowing the Prime Minister to appoint (and dismiss) Deputy Ministers. Indeed it is considered to be a 'major instrument of democratic authority'.¹⁴²

Despite exercising considerable powers over appointments it is striking that Prime Ministers of all stripes have chosen to appoint from the ranks of the public service. This reflects a strong commitment to retaining a non-partisan and merit-based public service. There is therefore little evidence of partisan politicisation.

As in Australia there is, however, a degree of 'personalisation', as Prime Ministers use their appointment power to select a cadre of senior officials they believe can best help them execute their agenda. Some critics worry that under pressure to respond to Ministers, and the Prime Minister in particular, deputies have become too subservient and are less prepared to offer robust advice. They point to degree of what Mulgan calls policy-related and/or managerial politicisation.¹⁴³ These more subtle forms of politicisation are notoriously difficult to prove in practice¹⁴⁴ but no doubt concerns of this sort are heightened by the lack of transparency surrounding appointments. Moreover as Aucoin has noted the responsiveness of the public service to the Government of the day is a particularly strong tradition in Canada, so much so that the 'Yes Minister' caricature of a self-serving bureaucracy was significantly less pronounced than in

¹⁴⁰ See J. Press (2012), 'Budget sounds death knell for public appointments commission', *canada.com*, 29 March.

¹⁴¹ One of the reasons for this is that it has been around for over 100 years, stemming from a constitutional convention from 1896. Bourgault (2011), p. 257.

¹⁴² Peter Aucoin (2006), 'The Staffing and Evaluation of Canadian Deputy Ministers in Comparative Westminster Perspective: A Proposal for Reform,' in Canada, Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Research Studies*, vol. 1 (Ottawa: Public Works and Government Services Canada), p. 319.

¹⁴³ Savoie is a strong critic. Although his critique is mainly focused on the centralisation of power in the office of the Prime Minister (and less on the appointments process) which has led to what he calls 'court Government'. D. J. Savoie (1999), 'The Rise of Court Government in Canada', *Canadian Journal of Political Science* 32(4), pp. 635-64. He has warned that the concentration of power combined with an increased expectation of responsiveness means that the 'honest public servant is in danger of being superseded by the courtier.' D. J. Savoie (2004), 'The search for a responsive bureaucracy in Canada', in B.G. Peters and J. Pierre (eds.), *Politicisation of the Civil Service in Comparative Perspective: The quest for control* (London: Routledge), pp. 154-5.¹⁴³

¹⁴⁴ Aucoin (2006), p. 329-330.

other Westminster systems.¹⁴⁵ The Canadian public service has long prided itself on its ability to be both responsive to Ministers and non-partisan and professional.¹⁴⁶

NEW ZEALAND

In contrast to Australia and Canada, appointments of Chief Executives (Permanent Secretary equivalents) in New Zealand are overseen by an independent body, the State Services Commission. The State Service Commissioner appoints and employs Chief Executives who are appointed on fixed-term contracts (discussed below in part 2.3) and appointments are made strictly on a merit basis, using a highly formalised selection process. Parliament has no role in the appointment of Chief Executives.

That New Zealand's Civil Service is viewed as the least politicised of all Westminster systems is due in large part to the fact that the independent non-partisan State Service Commission has retained control of senior appointments.¹⁴⁷ However, Ministers consider the process to be sufficiently 'responsive' to their needs, and there are no calls to give Ministers a greater say in appointments.

Selection and background of senior officials

- When a Chief Executive vacancy arises the State Service Commissioner will sit down with the relevant portfolio Minister and the Minister of state services to discuss the position and get their view on the sort of candidate they are looking for. This consultation is a statutory requirement.
- The job description is approved by Cabinet and then advertised publicly. All Chief Executive posts (and other senior positions) are subject to open competition.
- The Commissioner will select a short list for interview and then convene a panel. The portfolio Minister is allowed to nominate a representative to sit on the panel. Other members include the Deputy State Services Commissioner, and any other people the Commissioner selects for their relevant expertise.
- The panel's role is to advise the Commissioner; it does not have to reach consensus. The ultimate decision belongs to the Commissioner not the panel, who will make a recommendation to the Cabinet as a whole.
- The Cabinet either have to accept the recommendation or veto it, after which they are allowed to make a unilateral appointment. Any veto has to be made publicly (unlike in Australia or Canada where the Prime Minister

¹⁴⁵ Aucoin (2010) in Eichbaum and Shaw, p. 75.

¹⁴⁶ Aucoin (2010) in Eichbaum and Shaw, pp. 66-7.

¹⁴⁷ The State Service Commissioner is formally appointed by the Governor-General on the recommendation of the Prime Minister. The Commissioner can only be removed by Parliament, a stipulation intended to provide extra cover from political pressure.

does not need to disclose if s/he has rejected the advice of the Secretary of PM&C or the Clerk).

- To date the Cabinet has only once rejected a recommendation. Informally the Commissioner will make sure that he does not recommend someone that will be (obviously) unacceptable to the Minister and Government.

Most Chief Executives tend to come from the within the Civil Service, and often from the same department. If outsiders are appointed, they tend to come from the wider public sector. It is rare to appoint people from the private sector, and when this has happened it has not necessarily proved successful. Comparatively New Zealand has a higher number of overseas people working as Chief Executives; most tend to come from similar Westminster systems, such as the UK.

Ministers are prohibited by law from having a say in appointments made below the level of Chief Executive (employment decisions in departments are exercised by the Chief Executive alone). This is about to change as the State Service Commissioner is to be empowered so he can play a more strategic role across the New Zealand public service in respect of career development. Also significant in the New Zealand context is that Ministers have hire and fire powers when it comes to appointments to Crown Entities (equivalent to our agencies) and other public service bodies. These are important delivery bodies.

Summary

The apolitical nature of the appointment process is considered by both Ministers and officials to work effectively. It protects the merit principle but still provides Ministers with sufficient scope to feed-in their views. The degree of *informal* input is particularly important: Ministers are able to make clear if there is someone specific they are not prepared to work with and the Commissioner will usually act on this advice. On rare occasions a Minister may suggest the name of a desired individual, but there is no guarantee that the Commissioner will respond favourably. Such an exchange of views is made possible in New Zealand by virtue of its size: Wellington is a small city with an even smaller political community, where everyone knows everyone.

The principal downside to the New Zealand model is that the appointment process is considered inefficient and overly-bureaucratic. The statutory requirement that all posts be subject to open competition can mean that it regularly takes six months to fill a Chief Executive vacancy. The Commissioner is also therefore prohibited from redeploying staff, even when they have identified the best person for a particular role. Current reforms aim to give the Commissioner more discretion over certain appointments.

SINGAPORE

The Singapore Civil Service is one of the most efficient and least corrupt in the world, with some of the highest paid civil servants. It is also one of the least transparent systems in our review. Each policymaking ministry is headed by a Permanent Secretary.¹⁴⁸ Departments within ministries are headed by a director-general. Statutory boards – the autonomous bodies where policy gets implemented – are headed by Chief Executives.

The independent Public Service Commission (PSC) is responsible for appointing people to all of these top positions. Almost without exception, the appointees are career officials from within the Civil Service, and political interference is kept to a minimum.¹⁴⁹ One exception concerns Permanent Secretary appointments where the Prime Minister has the power to select from a list of candidates proposed by the commission. There is no evidence that allowing the Prime Minister to choose from a list erodes the merit principle; on the contrary, Singapore has a reputation for having one of most non-partisan Civil Services in the world.

The high degree of competency and lack of corruption indicate that the Civil Service works well. The system is however fairly closed; even extremely high salaries cannot tempt many outsiders to join the senior ranks of the Civil Service.

Appointment process for senior civil servants

Senior civil servants are appointed by the independent PSC. The Chair and the members of the PSC are appointed by the President in consultation with the Prime Minister to renewable five-year terms, but they cannot be MPs, members of political associations or trade unions, or civil servants. Since 1995, many of the powers of the PSC have been devolved to personnel boards in ministries made up of civil servants.

The top positions in the Civil Service are drawn from the Administrative Service, the elite pool of civil servants who are appointed to senior positions (assistant directors and upwards) and groomed for leadership positions such as Permanent Secretary, deputy Secretary and CEO of a statutory board. The PSC appoints all officers into the Administrative Service.

The President formally appoints Permanent Secretaries, but he or she is constitutionally bound to accept the choice of the Prime Minister, who must in turn choose from a list of names provided by the PSC. Ministers do not have a formal role in the process. The Prime Minister is responsible for allocating Permanent Secretaries to ministries.

¹⁴⁸ In some cases, there may be a second Permanent Secretary responsible for specific functions or projects.

¹⁴⁹ J. R. Blöndal (2006), 'Budgeting in Singapore', *OECD Journal on Budgeting* 6(1), p. 67.

The President has the power to appoint his or her personal staff. Civil servants can be appointed after consultation with the Prime Minister from a list of names submitted by the PSC.

Background of senior civil servants

All senior civil servants in Singapore come from the prestigious Administrative Service. Many were appointed to the Civil Service before they even went to university; the PSC offers scholarships to top school leavers in exchange for a commitment to serve the Government for a fixed period of time.

The Government has tried to encourage mid-career private sector candidates to join the Administrative Service but has seen very little success, with some high profile entrants quickly leaving the public service to return to the private sector. This is despite the fact that Singapore pays its civil servants more than any country in the world, with salaries pegged to those in the private sector.

Relationship between politicians and civil servants

There is a very close relationship between politicians and civil servants in Singapore. They often have very similar backgrounds. As in France, the governing party regularly draws political candidates from the Administrative Service (who must then resign their post if they get involved in politics).

Singapore has had a single party in power since independence in 1965 and therefore the Civil Service has worked with one dominant political party. A common political and social ideology therefore pervades the Government and the Civil Service.

Scrutiny of appointments

The President has the power to veto the appointment of a number of top officials, including the Chair and members of the PSC, the Attorney-General, the Auditor-General, the Commissioner of Police, senior judges, military chiefs and members of statutory boards. However, Permanent Secretaries and other senior civil servants are not subject to this veto. Parliament can overrule the President's veto with a resolution passed by at least two-thirds of all elected MPs. However, this is only if the President's decision is in conflict with the advice provided by the Council of Presidential Advisers (CPA)¹⁵⁰, which the President is constitutionally bound to seek.

¹⁵⁰ The CPA is made up of six members and two alternate members. Two members are appointed by the President at his or her discretion; two are the Prime Minister's nominees; one is the chief justice's nominee; and one is the nominee of the chair of the PSC. One alternate member is appointed by the President at his discretion while the other is appointed by the President on the advice of the Prime Minister, in consultation with the chief justice and chair of the PSC. Members are appointed on a six-year term on their first appointment. They are eligible

for re-appointment for further terms of four years each. Alternate members are appointed on a four-year term. See www.istana.gov.sg/content/istana/presidentsoffice/cpa.html

PART 2.2 DIRECT SUPPORT FOR MINISTERS

Many countries have a long-standing tradition of providing Ministers with strong private offices – made up of personal appointees of the minister - that are intended to help them carry out their responsibilities. Most obviously there are the *Cabinets* used in a number of continental systems, notably in France and Belgium. More recently, there has been a considerable push in Westminster-based systems to give Ministers a cadre of political staff to supplement Civil Service support. The key reasons for providing Ministers in Westminster systems with stronger political support are:

1. To provide Ministers with sufficient capacity to cope with increasing pressures placed on them: Ministerial workloads have steadily increased, with the growth in and complexity of modern Government, and the relentless pressure of the 24/7 media; and increased expectations of stakeholders and the public.
2. To strengthen the responsiveness of the Government machine to Ministers.
3. To make Government more politically-aware and politically-savvy. Advisers can help by bringing a more explicit political perspective to bear on Government business
4. Importantly it is also believed that providing Ministers with a cadre of political advisers can protect the impartiality of the Civil Service itself. Indeed in Australia and Canada the decision to expand the numbers of political staff was chosen as an alternative to politicising the top ranks of the public service.

Comparative evidence suggests that strong Ministerial offices have delivered many of the benefits outlined above. However, the growing influence of Ministerial offices has also created a number of challenges, particularly in Westminster-systems where political appointees interact with career-based officials, including:

- In some instances the growth of political staff has created a ‘disconnect’ between the Ministerial office and the department creating some strains between the two.
- Sometimes the respective roles and responsibilities of officials and advisers are not sufficiently understood, leading to confusion and misunderstanding.
- Some doubts have been expressed about the relative experience and expertise of some political staff (as they have about Civil Service staff who work in Ministerial offices).
- Accountability: concerns have been raised about the extent to which political staff are sufficiently accountable for the power they wield (concerns about accountability have arisen on the back of controversies and scandals involving advisers).

- **Transparency:** in many countries it is unclear how many advisers the Government is using, who they are, what roles they perform and how much they are paid.

A number of measures and reforms have been put in place to address these concerns. This section looks in detail at the experience of *Cabinets* in France and the European Union, before considering the case of Australia and Canada, the two Westminster systems that have witnessed the most significant expansion of political staff.

Table3: Ministerial Staff in Comparative Perspective

	Australia	Canada	European Union	France
How many are there?	Over 400	Around 600	Each of the 27 Commissioners has a <i>Cabinet</i> of six members plus clerical staff.	500+, though the actual number is significantly higher due to the large number of 'unofficial' <i>Cabinet</i> members
Are there limits on their numbers?	No	No	Yes	Yes – the Prime Minister specifies the numbers of staff that can be hired (though rules are flouted by use of unofficial staff)
Can they direct civil servants?	No	No	Yes	Yes
Is there a Code of Conduct governing their behaviour?	Yes	No	No	No
Background (age, experience, expertise)	Most are in their 30s and early 40s and relatively experienced; around half have previously worked as an adviser to a state or federal Minister; around half are seconded from the APS.	Average age of 30 'invariably younger than the senior public servants with whom they interact most frequently'. ¹⁵¹	Most senior <i>Cabinet</i> members come from the Commission's permanent bureaucracy (seconded to the <i>Cabinet</i> for a five year term). For officials, a passage through a commissioner's <i>Cabinet</i> is key to a successful career. ¹⁵² Many chef de Cabinets have served in successive Cabinets.	The average age is 40 (slightly older for the most senior members and younger for the more junior members). The majority (70-80 per cent) are seconded from the career Civil Service and tend to be members of the elite <i>grands corps</i> .

¹⁵¹ Aucoin (2010) in Eichbaum and Shaw, p. 83.

¹⁵² A. Wille (2009), 'Political and administrative leadership in a reinvented European Commission', in J.A. Raffel, P. Leisink and A. E. Middlebrooks (eds.), *Public Sector Leadership: International Challenges and Perspectives* (Cheltenham: Edward Elgar Publishing), p. 133.

Pay	Graded higher than civil servant equivalent and receive better pay. ¹⁵³	Remuneration is based on 'equivalent' positions in the public service, but generally classified two or three levels below the assistant deputy Minister level.	<i>Cabinet</i> members are classed as 'temporary agents' but have the same salary, benefits, and working conditions as permanent officials. They are usually graded lower than top DG officials.	The average pay of <i>Cabinet</i> members varies widely by ministry. Some senior <i>Cabinet</i> members in key departments make almost as much or more than the Minister.
Directly accountable to Parliament?	No	No	No	No – though <i>Cabinet</i> members can appear before Parliament committees, which are more and more active.
Notable involvement in public scandals	'Pay TV' affair (1993), 'Sport Rorts' affair (1995), 'Travel Rorts' affair (1997), 'Children Overboard' affair (2001), Regional Partnerships grant scheme (2005), AWB 'Oil-for-Wheat scandal' (2006).	Rivard affair (1964), Al-Mashat affair (1992), Sponsorship scandal (2004), Judy Sgro affair (2005).	Santer Commission resignation crisis (1999).	There has been public criticism of the 'revolving door' between the Presidential and ministry of finance Cabinets and business (particularly the banking sector).

¹⁵³ S. King (2003), *Regulating the Behaviour of Ministers, Special Advisers and Civil Servants* (London: Constitution Unit), p. 28.

EUROPEAN CABINETS

FRANCE

France's Civil Service is highly synonymous with the Ministerial *Cabinet*. The President, the Prime Minister and every Government Minister (including junior Ministers) is entitled to appoint a personal *Cabinet* of advisers and assistants on the basis of political and personal considerations. The *Cabinet* is dissolved when the politician leaves office. *Cabinets* grew in size and influence during the Fifth Republic in response to a perception that the Civil Service had grown too powerful vis-à-vis the political leadership of the Government.¹⁵⁴

Today in France there are over 500 staff employed as members of Ministerial *Cabinets*. President Hollande currently has a *Cabinet* of 48 staff. The Government's 38 Ministers have between nine and 45 *Cabinet* members, depending on their rank and portfolio (the Prime Minister specifies the numbers of staff that can be hired). Since the 1980s, the number has increased: there were 224 *Cabinet* members in 1975 and over 700 by the 1990s.¹⁵⁵ However, there are signs that the number is decreasing from this peak.¹⁵⁶ To complicate matters, there are also unofficial *Cabinet* members whose exact numbers are unknown.¹⁵⁷ It is estimated that they add a further 15 to 25 per cent to the total.¹⁵⁸

The traditional role of the *Cabinet* is to help Ministers in their dual role as politician and head of the ministry, bridging politics and administration.¹⁵⁹ In France, Government ministries are not headed by a Permanent Secretary equivalent, so this is particularly useful. *Cabinets* provide Ministers with a devoted, close-knit team to help them implement their policies. However, in recent years, the role of the *Cabinets* has been expanded and strengthened. Policy is increasingly made in the *Cabinets*, with senior civil servants left to more technical and specialised roles.¹⁶⁰

Unlike political advisers in Westminster systems, *Cabinet* members in France can direct and overrule civil servants in the ministry (and there is no code of conduct governing their behaviour).¹⁶¹ The *Cabinet* can issue instructions to the ministry in the Minister's name, and its leading members usually have the right to sign documents on the Minister's behalf; to represent the Minister at external events; and to speak in

¹⁵⁴ Paun (2013) p. 8.

¹⁵⁵ See Rouban (2004) in Peters and Pierre, p. 91; P. Bezes and P. Le Lidec (2011), 'Steering from the Centre in France in the 2000s: When Reorganization meets Politicization', in C. Dahlström, B.G. Peters and J. Pierre (eds.), *Steering from the Centre: Strengthening Political Control in Western Democracies* (Toronto: University of Toronto Press), p. 30.

¹⁵⁶ During the Fillon Government under President Sarkozy, limits were placed on the number of staff allowed in Ministerial cabinets: 20 for Secretaries of state; 12 for junior Ministers; and six for the equivalent of a parliamentary under-secretary of state. The current Ayrault Government has placed the limit at 15 for senior Ministers and 10 for junior Ministers. However, Ministers can apply for an exemption, and the limits are frequently flouted.

¹⁵⁷ Rouban (2004) in Peters and Pierre, p. 92.

¹⁵⁸ Bezes and Le Lidec (2011) in Dahlström et al., p. 30.

¹⁵⁹ A. Dutheillet de Lamothe (1965), 'Ministerial Cabinets in France', *Public Administration* 43(4), p. 365

¹⁶⁰ L. Rouban (2007), 'Public Management and Politics: Senior Bureaucrats in France', *Public Administration* 85(2), p. 473.

¹⁶¹ Rouban (2007), p. 493.

the Minister's name, both within and outside the ministry.¹⁶² Each *Cabinet* is headed by a *directeur du Cabinet*¹⁶³ - usually a high-ranking but openly political civil servant - who performs the role of chief of staff and who manages a number of sector specific advisers (including the *chef de Cabinet* who acts as the Minister's personal Secretary - in Whitehall terms an equivalent of the Principal Private Secretary - dealing with constituency and political matters).¹⁶⁴ Senior members of *Cabinets*, and in particular the *directeur du Cabinet*, are considered important political figures in their own right.

The majority of appointees to the Ministerial *Cabinets* – between 70-80 per cent – are career civil servants.¹⁶⁵ The rest come from outside the Civil Service, often from political parties and other political organisations.¹⁶⁶ The most prestigious positions tend to be held by career officials who are ENA graduates and members of the *grands corps*. These are often paid as much as – or even more than – Ministers.¹⁶⁷ On average *Cabinet* members are in their 40s, with senior figures older, and thus tend to be significantly more experienced than staff – both official and political - in Westminster private offices. *Cabinet* members tend to be highly experienced, with many spending a significant portion of their careers in different Ministerial *Cabinets*. In fact Ministerial *Cabinet* membership is becoming a professional occupation in its own right.¹⁶⁸ For civil servants who are not members of the *grands corps*, a junior position in a *Cabinet* is often a stepping stone to a top job in a ministry or other Government agency.¹⁶⁹

Ministers have free reign in appointing *Cabinet* members, and these appointments are not formally scrutinised by anyone else (though formally the Prime Minister sets an overall cap). That said, the names of *Cabinet* members are made public (and listed on the Government website), and it is not uncommon for the media to comment on them, or for them to appear in the media themselves. In French political culture *Cabinet* members are highly visible, not anonymous as in some countries. And while Parliament can't compel them to appear before its committees, they do regularly give evidence on the work of the ministry.

Ministerial *Cabinets* tend to be viewed positively and in particular are considered essential to help Ministers ensure their business is enacted. It is less common in France to hear Ministers complain that the department has ignored his or her calls for things to happen, than it is in Whitehall. The *Cabinet* and the *directeur du Cabinet* in particular are sufficiently empowered to 'make things happen' for the Minister.

¹⁶² See SIGMA (2007), *Political advisors and civil servants in European countries*, Sigma paper No. 38 (Paris: OECD Publishing).

¹⁶³ Some larger cabinets also have a deputy director (*directeur adjoint du cabinet*).

¹⁶⁴ Rouban (2004), p. 85.

¹⁶⁵ This figure is based on the Jospin Government (1997-2002). See Rouban (2007), p. 488.

¹⁶⁶ Rouban (2007), p. 488.

¹⁶⁷ Civil servants seconded to a Ministerial cabinet retain base pay and benefits, and are awarded bonuses and other perks which can more than double their salary. The average pay of cabinet members varies widely by ministry – from €60,606 in the Ministry of Family to €122,316 in the Ministry of the Interior. See E. Verhaeghe, 'Derrière l'arbre du salaire des ministres, une forêt d'avantages cachés', *Atlantico*, 18 May 2012, www.atlantico.fr/decryptage/derriere-arbre-salaire-ministres-se-cache-foret-avantages-363137.html. And M. Boudet, 'Membres des cabinets ministériels : quel est leur salaire?', Planet.fr, 18 October 2012, www.planet.fr/emploi-retraite-membres-des-cabinets-Ministeriels-quel-est-leur-salaire.258460.1401.html.

¹⁶⁸ Rouban (2007), p. 492.

¹⁶⁹ Rouban (2007), p. 496.

However, the increase in real decision-making power given to Ministerial *Cabinets* in recent decades has not been wholly problem-free. Politically neutral civil servants with no prospect of joining a *Cabinet* have seen their roles change and are disappointed and frustrated as a result.¹⁷⁰ *Cabinets* have also been accused of interfering in the relationship between Ministers and ministries – and between ministries.¹⁷¹ It is now rare for civil servants to have direct contact with Ministers, suggesting that the expansion of *Cabinets* has insulated the Minister from departmental officials.¹⁷² There have been some calls to limit the role of the Ministerial *Cabinets* and encourage more contact between civil servants and politicians. For example, two MPs recently called for a decrease in the size and influence of *Cabinets*, arguing that they constitute a ‘parallel administration’.¹⁷³ However, as the large number of *Cabinet* members recently appointed following the presidential elections in 2012 reveal, the *Cabinet* system is deeply entrenched and shows few signs of receding.

EUROPEAN UNION

Reflecting the strong French influence on its internal political structures the EU also operates a *Cabinet* system for its Commissioners (though they are much smaller than their French equivalents). Each commissioner has a *Cabinet* of loyal advisers who offer policy advice and function as the gatekeepers to the commissioner. Each *Cabinet* consists of up to six members, plus clerical staff. Increasingly *Cabinets* focus on policy-making, which is a source of tension between them and the permanent bureaucrats based in the Directorates-General.

The President of the Commission has the authority to set rules concerning the composition of Commissioners’ *Cabinets*. The *Cabinet* must reflect the diversity of the EU and contain at least three nationalities and the head of *Cabinet* cannot be the same nationality as the Commissioner. These rules were introduced to discourage Commissioners from importing staff from their domestic political scene and to prevent the ‘nationalisation’ of *Cabinets*, which was believed to undermine collaboration across the Commission.¹⁷⁴ Two members must be women. Significantly, at least half of the members of the *Cabinet* must come from the Commission’s career bureaucracy (when the Commissioner leaves office, this half of the *Cabinet* simply returns to the Civil Service).¹⁷⁵

Members of the *Cabinet* are appointed by and directly responsible to their commissioner and retain their post at his or her personal discretion.¹⁷⁶ The core tasks of the senior staff range from senior policy adviser, key political strategist, progress chaser, communications adviser, to manager of the commissioner’s office. The most senior figure is the *chef de Cabinet*. As with the French model, *Cabinet* members are empowered to direct commission bureaucrats and are considered important figures in their own right, acting as the pivotal link between the political office and

¹⁷⁰ Rouban (2007), p. 490.

¹⁷¹ Bezes and Le Lidec (2011) in Dahlström et al., p. 30

¹⁷² Rouban (2007), p. 475.

¹⁷³ A. Lambert and D. Migaud (2005), *La mise en oeuvre de la loi organique relative aux lois de finances. Rapport au gouvernement* (Paris: La Documentation française).

¹⁷⁴ Paun (2013) p.9

¹⁷⁵ Wille (2009) in Raffel et al., p. 133.

¹⁷⁶ Wille (2009), in Raffel et al., p. 132.

bureaucracy. The *chef de Cabinet* can speak for and negotiate directly on behalf of the commissioner, including on all political matters.

Like Director Generals and other senior staff, most *chef du Cabinets* come from the Commission’s administration (seconded to the *Cabinet* for a five year term). Commissioners need staff who have a good understanding of how the Commission works, and for officials, a passage through a commissioner’s *Cabinet* is key to a successful career.¹⁷⁷

As in Australia, commissioners and their *Cabinets* are physically separated from their Director Generals with the former housed in one building (Berlaymont) while the DGs are scattered across Brussels. Like other *Cabinet* models – especially those where there is a degree of physical separation – the increase in the policymaking role of the *Cabinet* has placed some strain on the relations between *Cabinet* heads and top officials. As in France concerns have been raised in respect of the dangers of a ‘parallel bureaucracy’.¹⁷⁸

Recent reforms have attempted to limit the degree of separation by increasing the mobility between the *Cabinets* and the career Civil Service (mandated by the Prodi Commission, which insisted that half of *Cabinet* appointees come from the career service). This is considered to have had a positive effect on the relationship between political appointees and career officials.

WESTMINSTER SYSTEMS

Political advisers have become, to varying degrees, more numerous and influential in the major Westminster systems, in the last thirty or so years. Table 4 provides a snap-shot of the number of political staff in the UK, Australia, Canada and New Zealand. In comparative terms, the UK provides the least support to Ministers (New Zealand has fewer advisers but it has a much smaller Civil Service and a population of around 4 million).

Table 4: political staff in four Westminster jurisdictions¹⁷⁹

<i>Year</i>	<i>United Kingdom</i>	<i>Australia</i>	<i>Canada</i>	<i>New Zealand</i>
2012	82	-	-	-
2011	75	-	-	-
2010	70	403	-	-
2009	74	320	-	-
2008	73	318	600	58
2007	68	428	513	53

Below we look in detail at the experience of Australia and Canada, the two Westminster countries that have seen the biggest influx of political staff.

¹⁷⁷ Wille (2009) in Raffel et al., p. 133.
¹⁷⁸ Wille (2009) in Raffel et al., p. 142.
¹⁷⁹ Constitution Unit evidence to PASC (2012) See <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/134/134we10.htm>

AUSTRALIA

Concerned about the perceived lack of responsiveness of the Australian Public Service (APS) to Ministers, both Labor and Liberal Governments have sought to strengthen the degree of political control over the Government machine.¹⁸⁰ If one important aspect of this agenda related to placing departmental Secretaries on fixed-term contracts and formalising the hire and fire powers of the Prime Minister, the other major development relates to the rise of political appointees (so called 'staffers').

Currently over 400 partisan staff are employed in the federal Government.¹⁸¹ The decision to significantly expand the number of staffers was taken by the Labor Government in the 1980s as an alternative to giving Ministers extensive powers of appointment over the senior ranks of the APS.

Since 1983, Australian Ministerial offices have been composed almost¹⁸² exclusively of political appointees who act as the conduits for Ministers to communicate with their departments, and the outside world.¹⁸³ In Australia Ministerial offices are not located in the department, but in the parliament building ('on the hill'). The link between the department and the office is provided through the Departmental Liaison Officer who is a career civil servant (and therefore politically restricted and tasked with administrative not political functions).

Cabinet Ministers typically employ between 10-15 staff (plus two administrative staff); junior Ministers have 4–6 Ministerial advisers (plus one media adviser and two administrative staff) and Parliamentary Secretaries have 2–3 Ministerial advisers (plus one administrative staff member).¹⁸⁴ The numbers vary and there are no formal limits on the number of staff a Minister can personally appoint, nor are there requirements for appointments to be made through open competition (though a number of positions are publicly advertised). Staffers are not politically restricted and are employed under separate legislation to public servants, the Members of Parliament (Staff) Act 1984, known as 'MOPS'.

The majority of Ministerial advisers are in their mid-30s and early 40s. Around half have previously worked as an adviser to a state or federal Minister (almost always of the same party); and around half are seconded from the career Civil Service.¹⁸⁵ They tend to be graded higher than civil servants and therefore are better paid.¹⁸⁶

¹⁸⁰ For instance the Whitlam Government established a Royal Commission into Australian Government Administration in 1974 to look at how the APS could be made more responsive to Government

¹⁸¹ Australian Government, Department of Finance and Deregulation, *Members of Parliament (Staff) Act 1984: Annual report 2011-12*, November 2012.

¹⁸² The exceptions are the Department Liaison Officers (1-2 per office) who are public servants seconded from the department.

¹⁸³ M. Maley (2011), 'Strategic Links in a Cut-Throat World: Rethinking the Role and Relationships of Australian Ministerial Staff', *Public Administration* 89(4), p. 1470.

¹⁸⁴ Maley (2011), p. 1471.

¹⁸⁵ King (2003), p. 27.

¹⁸⁶ King (2003), p. 28. There is a salary range of AUD 57,557- 239,494 (converted into GBP this is £37,913-£157,796) depending on the role (administrative assistant to principal adviser). The salary range for most common role (adviser) is AUD 121,914-125,571, which in GBR is £80,326 – £82,730. See MOPS Annual report 2011-12.

The office is headed by a chief of staff who is responsible for the overall running of the office, and who is the Minister's principal political adviser. Staffers perform a wide range of functions covering gate-keeping, progress chasing, policy and political advice, and managing the major stakeholder relationships across Government, the party, civil society and the media. Increasingly staffers play an active part in policy development and most contacts with the media are now run through the Minister's office.

Unlike members of Cabinets in France and the European Commission, staffers in Australia are prohibited from directing career officials and have no legal basis for exercising the delegated authority of Ministers.¹⁸⁷ In practice, of course, since Ministers rely on their staff to help them implement their agendas, and staffers invariably seek to influence the work of officials and ensure that Ministerial directives are carried out within the department. These interactions are a grey area in all Westminster systems; and have been a source of some controversy. A particular strain arises when staffers running the media operation in the office seek to influence the official media communications of the department.

An important – and positive – innovation in Australia is that the law permits public servants to temporarily 'disengage' from the APS to go and work as partisan advisers in a Ministerial office. Indeed, the APS encourage officials to do this as exposure to the full pressures of political life is considered to aid career development. About half of Ministerial advisers come from the APS (though the numbers of staffers appointed from the APS are falling, discussed below).

Unlike in the UK it is therefore acceptable in Australia for public servants to work in clearly partisan roles and then return to work in the public service. Officials who take temporary leave from the APS are employed under the separate MOPS legislation, which is considered significant in two respects. Firstly, it means officials are not seconded into a Ministerial office as departmental staff, but are personal appointments made by the Minister to perform political tasks. Ministers like this since it removes any ambiguities there may be about where the loyalty of a staffer lies (a Minister's life is a lonely one and they need to know they can trust their staff unequivocally).

Secondly, MOPS provides officials with some legislative protection to engage in explicit partisan activity before they return to the APS to work in their capacity as a career-based non-partisan public servant. This is important since by choosing to work in the office of say a Labor Minister, the public servant effectively reveals their political preference,¹⁸⁸ and MOPS allows them to do so without becoming politically tainted. Other factors matter too: if a staffer becomes too explicitly associated with political attacks on the opposition, this may be held against them when they return to

¹⁸⁷ The Code of Conduct for Ministerial Staff specifically states: '...Ministerial staff do not have the power to direct APS employees in their own right and APS employees are not subject to their direction.' Another important provision states that '... executive decisions are the preserve of Ministers and public servants and not Ministerial staff acting in their own right'. See http://www.smos.gov.au/media/code_of_conduct.html.

¹⁸⁸ It is rare that a public servant will work for different parties as a staffer. However, public servants are often selecting individual Ministers they would like to work for, rather than parties they personally support. In this sense it is not that dissimilar to the situation in Whitehall where ambitious civil servants will want to work with in the private offices of equally ambitious Ministers.

the APS. It is also advisable not to spend so long on the hill that the other parties think one has gone completely native. In practice staffers from the APS who spend a long time on the hill and who engaged in highly political activities tend not to return to the APS but instead pursue political careers.

In general the model is effective at successfully reintegrating officials back into the APS, even following a change of Government. There might be a 'decontamination' phase, where the Secretary will make sure that a returning official is not put into a role which will involve significant 'face-time' with the new Minister. Moreover, the over-riding concern of most Ministers is not to ask whether a particular official worked for their political opponents but instead to assess whether they are cut out to do the job. Competence and ability outweigh all other factors, as demonstrated by the fact that a number of Secretaries have worked for a particular political party under MOPS without it damaging their public service career prospects.¹⁸⁹ Equally important is that both sides of the political divide have a vested interest in making these arrangements work since the main upside of the model is that it provides Ministers with a pool of senior and expert advisers to draw on. There is therefore a clear incentive for both political parties not to discriminate against public servants who spend time serving Ministers.

Overall the growth of staffers is considered to have delivered some important benefits, including:

- Staffers have strengthened the ability of Ministers to determine the direction of Government and help ensure their agendas are successfully prosecuted.
- Staffers allow Ministers to stay focused on the really important matters that concern them; and protect them against Ministerial overload.
- The MOPS model is considered a particularly effective and important feature of the Australian system, providing Ministers with a cadre of advisers who have strong departmental and policy expertise; but who are also able to engage fully in political work for the Minister.
- Finally the introduction of staffers has helped protect the rest of the APS from politicisation since Ministers have at their disposal a distinct body of personal appointees who can perform political functions for them.

However, the growing influence of staffers has raised some important concerns too. The first is that some believe that the growth in staffers has created a 'wedge' between the Minister and their departmental officials. Some officials complain that Ministers are too eager to listen to the advice of their staffers, rather than take the considered view of the department (equally some staffers complain that the advice coming from the department can be of poor quality). This tension has grown as staffers have become more involved in policy development. Moreover, because Ministers and officials are physically separated from one another, it is difficult for the latter to develop a close relationship with the Minister and maintain control over policy advice.¹⁹⁰

Of course the relationship will vary by Minister and department, and on the whole relationships between staffers and civil servants are considered to be collaborative

¹⁸⁹ The fact that Ken Henry had worked for Labor Ministers did not deter Howard from appointing him to the very important post of Treasury Secretary in 2001.

¹⁹⁰ King (2003), p. 27.

and constructive. Indeed it might be argued that a degree of competition between the Ministerial office and department is no bad thing. In fact the real source of contention for the APS is not that Ministers might take the advice of their staff over the departmental view, but more that they have not been given the same opportunity to present their case to the Minister. It frustrates officials that often they are not in the room when their advice is being contested (a problem exacerbated in Australia by the physical separation of Ministers from their departments).

A second issue concerns the changing composition of Ministerial offices. It is difficult to generalise but Ministers appear less inclined to appoint members of the APS to work in their offices than in the past, preferring instead to appoint outsiders from political parties and associated political organisations.¹⁹¹ Critics say staffers are younger, less experienced and more political than in the past, and that the decline in the number of APS officials working in Ministerial offices has adversely affected the quality of advice going to Ministers.

Third there is some concern about the accountability of advisers. Ministerial advisers are not well-regulated. Their appointment is not scrutinised, and they are largely anonymous and accountable only to their Ministers.¹⁹² A number of controversial episodes¹⁹³ in recent years have thrust Ministerial advisers into the spotlight and raised questions about their role and accountability.¹⁹⁴ In 2008, the Rudd Government introduced a Code of Conduct for Ministerial Staff¹⁹⁵, mandatory induction training and an annual report which publicly documents Ministerial staff positions and salary levels for the first time.¹⁹⁶ However, all sides have resisted calls to make advisers directly accountable to the legislature, arguing that as the personal appointees of Ministers it is Ministers who should account for their actions.

CANADA

All Government Ministers in Canada are empowered under the Public Service Employment Act to hire a number of political advisers, known as 'exempt staff'¹⁹⁷ for their private offices. Ministerial offices are headed by a chief of staff, and also include senior policy advisers, a director of communications, a director of parliamentary affairs, special assistants, support staff and regional staff.¹⁹⁸ Unlike career civil servants, exempt staff are permitted to be explicitly political in their work, but this cannot extend to working on election campaigns or party events.¹⁹⁹

¹⁹¹ Of course for some positions, particularly media positions, it is believed that the APS has insufficient expertise meet Ministers' needs.

¹⁹² Maley (2011), p. 1486.

¹⁹³ For example the Children Overboard affair (2001) and the AWB Oil-for-Wheat scandal (2006).

¹⁹⁴ See A. Tiernan (2007), *Power without Responsibility: Ministerial Staffers in Australian Governments from Whitlam to Howard* (Sydney: UNSW Press). See also Terry Moran 'Political staffers: an accountability black hole', *Financial Review*, 26 September 2012.

¹⁹⁵ See www.smos.gov.au/media/code_of_conduct.html.

¹⁹⁶ Maley (2011), p. 1486.

¹⁹⁷ They're known as exempt staff because they are exempted from the Public Service Employment Act.

¹⁹⁸ A. Smith (2006), *Ministerial Staff: Issues of Accountability and Ethics* (Ottawa: Library of Parliament), p. 2.

¹⁹⁹ They must resign or take a leave of absence if they are taking part in such partisan work. I. Brodie (2012), 'In Defence of Political Staff', *Canadian Parliamentary Review* 35(3), p. 34.

Ministerial offices also contain a small number of public service departmental assistants, civil servants who are 'loaned' to do administrative and departmental (not political) work. As in Australia they are intended to be the link to the department, but they are relatively junior figures and are significantly outnumbered by political appointees in the office.

According to the Privy Council Office, the purpose of political staff is to

provide Ministers and Ministers of State with advisors and assistants who are not departmental public servants, who share their political commitment, and who can complement the professional, expert and non-partisan advice and support of the public service. Consequently, they contribute a particular expertise or point of view that the public service cannot provide.²⁰⁰

As in Australia the decision was taken to expand the number of political staff as an alternative to politicising senior public service appointments (which had been the original intention of the newly-elected Mulroney Progressive Conservative Government in 1984). Consequently the number of political staff has increased significantly in recent years, so much so that they now dominate the Ministerial.²⁰¹ In total there are around 600 political staff employed in the federal Government. The Prime Minister's Office (PMO) has the largest number of political staffers – around 100.²⁰² Ministers have under a dozen advisers on average.²⁰³

There are no limits on the number of exempt staff in each Ministerial office, but Ministers must stick to the budget allocated to them by the Treasury Board, as well as the specified salary ranges.²⁰⁴ There is a maximum of one chief of staff for any Minister's office and one director per function.²⁰⁵ Formally the Prime Minister appoints the chief of staff in each Ministerial office – itself a reflection of the relative strength of the centre over the departments in the Canadian system - but it is unusual for the Prime Minister not to accept the recommendation of the relevant departmental Minister.

With an average age of 30,²⁰⁶ political aides tend to be younger than their Civil Service counterparts.²⁰⁷ Many are recruited straight out of university, the family and friends of politicians or members of the party youth wing.²⁰⁸ Some have worked on

²⁰⁰ Privy Council Office (2011), *Accountable Government: A Guide for Ministers and Ministers of State*, p. 45, http://pm.gc.ca/grfx/docs/guidemin_e.pdf.

²⁰¹ D.J. Savoie (2011), 'Steering from the Centre: The Canadian Way', in C. Dahlström, B.G. Peters and J. Pierre (eds.), *Steering from the Centre: Strengthening Political Control in Western Democracies* (Toronto: University of Toronto Press), p. 161.

²⁰² Aucoin (2010) in Eichbaum and Shaw, p. 73.

²⁰³ Brodie (2012), p. 33.

²⁰⁴ Ministers with larger and/or more complex departments, and those with regional representation and parliamentary Secretaries, may be eligible for larger budgets and/or salary ranges. See Smith (2006) p. 2.

²⁰⁵ OECD (2011), *Ministerial Advisors: Role, Influence and Management* (Paris: OECD Publishing), pp. 87-88.

²⁰⁶ Brodie (2012), p. 34.

²⁰⁷ Aucoin (2010) in Eichbaum and Shaw, p. 83

²⁰⁸ L.E. Benoit (2006), 'Ministerial Staff: The Life and Times of Parliament's Statutory Orphans', in Canada, Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Research Studies*, vol. 1 (Ottawa: Public Works and Government Services Canada), p.. 166.

local campaigns, for political parties or for backbench MPs.²⁰⁹ Senior advisers tend to be campaign managers, (unsuccessful) political candidates and political journalists.²¹⁰ A small number have held the same position in other Ministerial offices. The majority of political staff come from outside the Civil Service, though a few are seconded from the career Civil Service.²¹¹ As in Australia, seconded civil servants are required to take formal leave when they are appointed to the Minister's office – and they are free to re-join the Civil Service when their political position comes to an end.

The pay of Ministerial staff has been increased in recent years to reflect increasing responsibilities and to attract more capable staff.²¹² Pay is based on the remuneration rate of 'equivalent' positions in the public service. Most political staff are classified two or three levels below the assistant deputy Minister level.²¹³ A chief of staff, however, has the same pay as an assistant deputy Minister or senior director general.²¹⁴ This is substantially more than MPs.²¹⁵ They have little job security and their employment ends 30 days after their Minister leaves office.

As in many other countries, political advisers in Canada have come under scrutiny in recent years due to their increasing numbers and influence, as well as their involvement in a few notable public scandals. Some commentators have pointed to a drop in morale within the career service in the face of rising numbers of political staff, with career officials no longer knowing where they stand and whether their advice will be taken.²¹⁶ Some express concern that officials are less likely to challenge Ministers as they seek to win back their trust. Interviews with political staff, on the other hand, have shown that they do not believe themselves to be a threat to senior civil servants and report that the two groups have good working relationships.²¹⁷ And there is no doubt that Ministers believe the growth in exempt staff has had a positive impact on their ability to do their job effectively.

Political staffers were 'prominent' in the previously mentioned sponsorship scandal (as were Ministers and civil servants).²¹⁸ The Gomery Commission found evidence of that the Minister for Public Works and Government Services and his staff, as well as the Prime Minister's chief of staff, had direct input into the selection of activities for

²⁰⁹ Brodie (2012), p. 34.

²¹⁰ Benoit (2006), p. 166.

²¹¹ Between 1990 and 2006, 156 civil servants went to work in a Ministerial office and then returned to the career service. Public Service Commission of Canada (2007), *Audit of the Movement of Public Servants between the Federal Public Service and Ministers' Offices* (Ottawa: Public Service Commission of Canada)

²¹² The Harper Government has increased the pay of senior political staff (especially chiefs of staff), who now get paid substantially more than MPs Benoit (2006), p. 164. The reasons for the pay rise are reportedly to attract more capable staff and reflect an increase in responsibilities. Benoit notes that the 'average age and experience of Hill workers has not increased in lockstep with the enhancements of either salary or the level of public service equivalency being offered'. See Benoit (2006) p. 171. There is a salary range of CAD 76,002-177,000, depending on the role (administrative assistant to chief of staff), the GBP equivalent is £48,647 to £113,350. The salary range for a policy adviser is CAD 92,014 to 108,305 (in GBP this is £58,914 to £69,341).

²¹³ Savoie (2004) in Peters and Pierre, p. 152.

²¹⁴ Brodie (2012), p. 33.

²¹⁵ Benoit (2006), p. 164. However, the 'average age and experience of Hill workers has not increased in lockstep with the enhancements of either salary or the level of public service equivalency being offered'. See Benoit (2006) p. 171.

²¹⁶ Savoie (2004) in Peters and Pierre, p. 154.

²¹⁷ King (2003), p. 41.

²¹⁸ Aucoin (2010) in Eichbaum and Shaw, p. 69.

sponsorship support. Moreover, the deputy Minister was not kept informed about the interactions between the Ministerial staff and civil servants. More recently, a number of political staffers were found to have instructed civil servants on what could and could not be released under freedom of information legislation.²¹⁹

At the heart of both of these affairs is the accountability of political staff and their relationship to civil servants. The appointment of political staff is not well-regulated, nor is their conduct when they are in office. Constitutionally exempt staff do not have executive authority to direct the Civil Service.²²⁰ However, in practice it can be difficult for civil servants to ascertain whether a political staffer is giving advice or instructions, and whether they are simply conveying Ministerial orders or acting on their own initiative.²²¹ In her study of Ministerial staff for the Gomery Commission, Liane Benoit surmised that it is actually very difficult for political staff to do their jobs without directing civil servants:

To the issue of whether political staff give, or attempt to give, direction to departmental officials, one can only conclude that the practice is subtle, reasonably pervasive, and in many instances, a practical necessity.²²²

The Gomery Commission recommended that exempt staff be subject to a code of conduct that explicitly states that they do not have the authority to give direction to civil servants and that Ministers are fully responsible and accountable for the actions of their personal staff. It also recommended compulsory training for all exempt staff on public administration. This recommendation was largely ignored by the Harper Government, though it did strengthen the language around accountability in its guidance to Ministers. It also made political staff subject to a five-year lobbying ban after leaving Government.²²³ In addition, the Government ended the practice of preferential treatment for political staff who wished to enter the Civil Service after at least three years of service, another Gomery recommendation.²²⁴ Political staff must now apply for internal Civil Service vacancies and compete with officials. Some training for political staff is now being provided by the PMO.²²⁵

A former chief of staff for the PMO, Ian Brodie, has argued that while training is helpful, the only way to improve the quality of political staff is to enhance the attractiveness of political staff work as a career path, noting that his biggest staffing challenge was recruiting and retaining 'really deeply experienced staff'.²²⁶ The lack of job security and long hours lead to high turnover rates and a lack of mid- and late-career candidates.

²¹⁹ Brodie (2012), p. 35.

²²⁰ The Ministerial Guide states that exempt staff 'do not have a role in departmental operations and have no legal basis for exercising the delegated authority of Ministers. Nor may exempt staff give direction to departmental officials on the discharge of their responsibilities.' See Privy Council Office (2011), *Accountable Government: A Guide for Ministers and Ministers of State*, p. 68, http://pm.gc.ca/grfx/docs/guidemin_e.pdf.

²²¹ Smith (2006), p. 4.

²²² Benoit (2006), p. 237.

²²³ This ban also applies to former Ministers and civil servants.

²²⁴ This is significant because a few of the key officials implicated in the sponsorship scandal entered the civil service in this way.

²²⁵ Brodie (2012), p. 36.

²²⁶ Brodie (2012), p. 37.

PART 2.3: PERFORMANCE MANAGEMENT & INTERNAL ACCOUNTABILITY

This next section highlights best practice in the area of performance management. It is concerned only with 'internal' performance management, as we look at measures of external scrutiny in 2.4 below.

All Civil Service systems struggle with performance management. It is often hard to judge what comprises good performance in a complex and fluid political environment. Or perhaps more accurately, it is often difficult to isolate and thus assess the role played by individual officials in the delivery of a specific Government programme, particularly when a wide range of other organisations will have some bearing on whether a policy is judged to be a success or failure. Distinguishing between political and administrative performance provides another layer of complexity: in assessing how well a department has performed how should we distinguish between what officials are held accountable for and what politicians are held accountable for? This is a particular challenge for Westminster systems, where Ministers are constitutionally accountable for the actions of their departments.

Nonetheless all Civil Service systems in recent years have tried to strengthen performance management and internal accountability arrangements. The consequences that arise from not addressing poor performance are too severe to ignore.

Below we mainly focus on Westminster systems. In broad terms it is possible to identify the following features of recent attempts to strengthen the accountability of senior officials:

- There has been an attempt to clarify the respective roles and responsibilities of Ministers and officials (often in legislation).
- Senior officials are increasingly held accountable to the 'centre', via appraisal systems and in some cases through the use of fixed-term contracts.
- Strengthening the accountability of individual officials can have unintended consequences: in particular it can entrench a silo-mentality with senior officials incentivised to focus on the performance of their department only, and not the performance of the Government as a whole.
- Partly in response to this a number of countries have introduced performance management-regimes that explicitly focus on improving the capacity of the Civil Service as a whole.

Below we look at:

- New Zealand
- Australia
- Canada
- Singapore
- Sweden

Table 5 and 6 summarise the employment arrangements used in the country case-studies.

Table 5: Employment arrangements for senior civil servants	
Australia	5-year renewable fixed-term contracts for departmental Secretaries which can be terminated at any time for any reason by the Prime Minister
Canada	Tenure for deputy Ministers, however they serve at the pleasure of the Prime Minister and can be terminated at any time
European Commission	Tenure for directors-general ²²⁷
France	Tenure for directors of central Government departments, however many are on secondment and serve at the pleasure of the president
New Zealand	5-year fixed-term contracts for Chief Executives which can be renewed for an additional 3-year term
Singapore	Tenure for Permanent Secretaries, however they can be dismissed if they are underperforming
Sweden	6-year fixed-term contracts for directors-general which can be renewed for an additional 3-year term
United States	Open-ended contracts for the Senior Executive Service; political appointees serve at the pleasure of the president and have no job security

Table 6: Who can dismiss senior civil servants?	
Australia	Prime Minister
Canada	Prime Minister
European Commission	Commissioner
France	President (political appointments only)
New Zealand	State Services Commissioner
Singapore	Public Service Commission
Sweden	Cabinet. It is very difficult to remove a DG in post, however he or she can be transferred to another position usually within the Government Offices
United States	President (political appointments only) ²²⁸

²²⁷ Civil servants are generally on permanent contracts and cannot be easily removed. Commissioners who wish to remove their director-general can encourage them to take 'voluntary' early retirement. See T. Balint, M. W. Bauer & C. Knill (2008): 'Bureaucratic Change in the European Administrative Space: The Case of the European Commission', *West European Politics* 31(4), p. 687.

²²⁸ For career members of the Senior Executive Service, a poor performance assessment could result in a demotion to a non-SES job or a move to another position within the SES. This is at the discretion of the agency head. If performance is persistently unsatisfactory, the civil servant may be removed from the federal service, but only if all the correct procedures have been followed. Suspended or dismissed employees have the right to appeal to the Merit Systems Protection Board (MSPB).

NEW ZEALAND

New Zealand has enacted a number of important reforms to the public service since the 1980s. At the heart of the reforms was a desire to improve the accountability of Chief Executives (Permanent Secretary equivalents), while retaining a merit-based non-partisan public service. In return for strong managerial autonomy over the running of their departments, Chief Executives are held directly accountable for operational performance. The reforms therefore sought to distinguish between the respective roles and responsibilities of Ministers (responsible for policy and resources) and Chief Executives (responsible for operational matters and the effective management of their departments). This distinction is clearly set out in the New Zealand Cabinet Manual.²²⁹

Ministers were empowered by contracting their Chief Executives to deliver a set of designated objectives. Chief Executives were given complete managerial autonomy in respect of their departments (e.g. over employment of departmental staff) and were then tasked with delivering the outputs agreed with the Minister. Chief Executives were also placed on short term contracts (usually for 5 years), with the intention being that poor performers would not have contracts renewed. Because of the need to retain a non-partisan and merit-based system, formal responsibility for the assessment of the performance of Chief Executives rests with the State Service Commissioner, the head of the State Services Commission. Ministers are formally consulted and asked to express their views in respect of how they believe Chief Executives have performed against agreed objectives (the Minister for the state services is also involved). The Commissioner is also the employer of Chief Executives, and as previously discussed it is the Commissioner, not Ministers, who formally appoints Chief Executives (with Cabinet approval).

In addition to being responsible for appointing Chief Executives and reviewing their performance, the State Sector Act 1988 also empowers the Commissioner to review the machinery of Government and promote personnel policies and career development for the career public service (see Box 2).

Box 2: The roles and functions of the State Service Commissioner

The Commissioner's core roles and responsibilities relate primarily to individual Public Service departments and their Chief Executives. The Commissioner:

- appoints and employs Public Service Chief Executive
- reviews the performance of Public Service Chief Executives
- investigates and reports on matters relating to departmental performance.

The Commissioner has other responsibilities, including those to:

- promote and develop policies and standards for personnel administration and equal employment opportunities for the Public Service

²²⁹ See <http://cabinetmanual.cabinetoffice.govt.nz/node/34#3.5>

- promote and develop senior leadership and management capability for the Public Service
- provide advice on management systems, structures and organisations in the Public Service and Crown entities
- set minimum standards of integrity and conduct that are to apply in the Public Service, most Crown entities and some other agencies
- advise the Government on the structure of the State sector, including the allocation of functions between agencies

In discharging these functions the Commissioner is supported by a Deputy State Services Commissioner and a number of (functional) Deputy Commissioners.

Source: <http://www.ssc.govt.nz/>

When looking at New Zealand it is important to consider some of the basic features of its political system which impact on these arrangements:

- *Scale*: New Zealand is a small country and Wellington is a small city. There are things that work there because of its size that would be difficult to replicate in the UK. For example the primacy of Cabinet Government is made possible by New Zealand's size.
- *Transparency*: New Zealand has one of the world's most open freedom of information regimes (e.g. most policy advice to Ministers is published, including naming the senior official responsible for it; Cabinet minutes are also usually published). That policy advice is published means that it is easy to see if a Minister has adopted or rejected official advice.
- *Physical separation*: Ministers do not sit in their departments but are housed together in the 'Beehive'. Such physical separation underpins the widely held view that the heads of departments in New Zealand are Chief Executives, not Ministers. In Australia such physical separation can create problems between the Minister and the APS where neither knows what the other is up to. In New Zealand such problems tend not to arise because of the size of Wellington. Ministers and Chief Executives are in regular contact with one another and the physical separation does not create the 'distance' some see in the Australian system.
- *Cabinet is strong and the primary decision-making body*: Cabinet really matters in New Zealand. One reason that the New Zealand public service is less resistant to Ministers is because if a decision has Cabinet approval then it is generally believed that it must be enacted.
- *Ministers have a number of portfolios*: For instance Dr Jonathan Coleman is the Minister for Defence and also the Minister for the Public Service (additionally he also has Ministerial responsibilities for the Treasury). This means that individual Ministers often have to work with a number of Chief Executives simultaneously.
- *Fragmentation*: A serious downside to the reforms enacted in the 1980s is that in trying to achieve greater accountability by splitting up departments into distinct and accountable bodies they badly fragmented the New Zealand public sector. Current reforms are designed to address this weakness.

- *Public visibility:* One consequence of trying to clarify the roles of Chief Executives and Ministers is that the former are much more visible in New Zealand's political culture than they are at Westminster. They regularly appear in the media. They even occasionally intervene on policy matters (as above their advice is publicly available).

The contractual model in New Zealand

The original thinking behind the contractual model was that Ministers would contract Chief Executives to deliver agreed objectives by 'purchasing' outputs from them. These would be negotiated annually and then Chief Executives would be tasked with delivering them – and held to account for doing so. Performance would be assessed by the Commissioner who would use this information to determine whether a Chief Executive's contract should be renewed or not (and whether and what level of performance-related-pay they were entitled to). In practice, however, the model suffered from a number of deficiencies:

- The contracts became too focused on delivering things that were easy to measure and not on outcomes (the things that matter to Governments and the electorate).
- Intense contracting was considered too rigid and inflexible to work in a political environment (e.g. it was difficult to control for 'events').
- It created a silo-mentality, where Chief Executives only focused on the specific things they were being held to account for and not Government-wide priorities.
- Ministerial interest in the contractual model varied significantly. Some Ministers took it seriously but most were not sufficiently interested in the detail to make the contractual model effective. Here it is worth bearing in mind that Ministers are responsible for a number of different portfolios, which means they are responsible for agreeing contracts with multiple Chief Executives, which makes the process even more burdensome.

Consequently the formal contractual model has evolved significantly. The basics of the model remain in place but the process and documentation behind it has been streamlined (for instance there is more of a focus on outcomes)²³⁰ and the degree to which Ministers and Chief Executives use the formal contractual arrangements in practice varies. Generally Ministers and Chief Executives use the contractual model informally; they provide a way of allowing Ministers at the start of a Chief Executive's term to express their broad priorities that they expect the Chief Executive to deliver. But after this the 'contract' is put to one side as the business of Government takes over.

In reality Chief Executives are assessed against their ability to deliver two-three Ministerial priorities and against their ability not to 'stuff things up' (as one Chief

²³⁰ Formal documentation is still produced, as this is required by law. Ministers and Chief Executives agree 'Statements of Intent' which establish the strategic priorities for the Department, and alongside these sign agree Output plans, which preserve the formal purchasing aspect of the relationship. These documents outline the nature and scope of the agency's functions, and set the strategic direction for a rolling five year period. This includes information on the outcomes being pursued and the means by which progress is assessed. An output agreement is embedded within the SOI, maintaining the spirit of the original reforms.

Executive put it). Ministers tend to like the flexibility of the current arrangements; it allows those (few) Ministers who want to manage departments more closely to do so, with the rest taking a more hands-off approach. It is also a useful back-stop: Ministers may refer back to the original contract if a Chief Executive is performing badly and they need to use it as a lever to change things.

A serious downside to the reforms enacted in the 1980s is that in trying to achieve greater accountability by splitting up departments into distinct and accountable bodies the New Zealand public sector became highly fragmented, creating serious coordination problems (at one point New Zealand with a population of four million was governed by over 300 central agencies and departments).²³¹ Such structural fragmentation was compounded by the contractual model since it created a silo mentality whereby individual Chief Executives and agencies focused only on what they were being asked to account for and little else.

The current *Better Public Services* reform programme is deliberately designed to counter-act this fragmentation by incentivising greater collaboration between departments.²³² For instance the Government will now publish the 10 Better Public Service 'results' which represent the key cross-cutting outcomes it intends to be held accountable for delivering. Each of these priorities is assigned a lead Minister and Chief Executive who are personally responsible for delivering them. They are supported by a board made up of the other relevant agency and departmental heads, and changes are also being made to the budget processes to facilitate a more flexible use of resources across departmental lines.²³³ Legislation introduced in 2012 expands Chief Executives' responsibilities, introducing a responsibility to collaborate with other departments.

Also relevant here are changes to the role of the State Service Commission. Reforms are being enacted to strengthen its role in building the capacity of senior leaders across the public service as a whole. Previously career development and capacity building was left to each individual Chief Executive, which was inefficient and prohibited efforts at developing a coordinated strategy for improving the public service.

Additionally the Commissioner has also launched the *Performance Improvement Framework* (PIF), which assesses the core capabilities of each department, looking in particular at whether they are cut-out to meet their medium term challenges.²³⁴ Agencies conduct self-reviews, ahead of a formal review conducted by independent experts, known as 'lead reviewers'. The reports are published, and a follow-up review is conducted 12-18 months later which reviews progress. Over time it is believed that they will identify the key areas for improvement across the public service as whole.

The State Service Commission and fixed-term contracts

While Ministers agree (delivery) contracts with Chief Executives, it is the State Service Commissioner who reviews the performance of Chief Executives and who

²³¹ Dunleavy P, Margetts H, Bastow S and Tinkler J (2006a) *New Public Management is Dead: Long Live Digital Era Governance*, EDS Innovation Research Programme (London: LSE).

²³² See <http://www.ssc.govt.nz/better-public-services>

²³³ Paun and Harris (2012) p. 10.

²³⁴ PIF is modelled on the UK capability reviews. See <http://www.ssc.govt.nz/pif>

decides whether or not to renew a Chief Executive's employment contract. As with the appointments process Ministers are consulted during the appraisal process and the system is generally considered to respond well to Ministers. It is generally believed that poor performing Chief Executives will be removed from the public service. While it is very rare for a Chief Executive to be sacked, it is common that contracts are not renewed, and for poor performing Chief Executives to resign (after it has been made clear they will not get their contract renewed). A former Commissioner we spoke to suggests that during his time in the role between 20-30 per cent of Chief Executives left due to direct intervention from him. The use of fixed-term contracts is widely considered to have sharpened the accountability of Chief Executives.

Most Chief Executives come from the public sector and are appointed for an initial term of five years followed by a second term of three.²³⁵ Contracts are generally not renewed more than once.²³⁶ Therefore of the 36 Chief Executives holding office in April 1994, only two remained in office nine years later in 2003.²³⁷ As discussed it is much more common for Chief Executives to resign²³⁸ or for contracts not to be renewed, particularly following an election. For example, in the nine months following the victory of the Labour-led Government in 1999, seven Chief Executives resigned or failed to have their contracts renewed.²³⁹ The high turnover of Chief Executives built into the system has ensured a regular injection of fresh talent (critics suggest it weakens institutional memory of the public service).

One high-profile example of a Chief Executive whose contract was not renewed was Christine Rankin, Chief Executive of the Department of Work and Income between 1998 and 2001. Rankin was heavily criticised when it emerged that her department had spent \$140,000 to charter a plane to take managers to a planning retreat at the Wairakei tourist resort. When the Commissioner decided not to renew her contract in 2001, Rankin appealed to the Employment Court citing unfair treatment. She lost, and a court ruling established that limited term fixed contracts can be enforced.²⁴⁰

Formally, Ministers do not have the power to remove a Chief Executive but if it is clear that the relationship isn't working (either on performance grounds or because of a personality clash) it is usually the case that the Chief Executive will go. This happened recently when Leslie Longstone 'resigned' her post as Chief Executive at education because of strained relations with the Minister.²⁴¹ Because Longstone's contract had in effect been terminated early she received an undisclosed payout. In

²³⁵ R. Gregory (2012), 'The challenging quest for Governmental accountability in New Zealand', *Administration* 60(2), p. 113. Ministers have some discretion in respect of contract renewal. The decision is that of the Commissioner but legally the terms and conditions are agreed by cabinet. Consequently Ministers might ask the Commission to place some Chief Executives on shorter contracts.

²³⁶ Norman asserts that New Zealand is the only Westminster-style nation to put its senior executives on limited fixed-term contracts. See R. Norman (2003), *Obedient Servants? Management Freedoms and Accountabilities in the New Zealand Public Sector* (Wellington: Victoria University Press), p. 181. In Australia, the five-year contracts for departmental Secretaries can be renewed indefinitely.

²³⁷ Norman (2003), p. 181.

²³⁸ There have been a number of early resignations, many due to poor working relationships between the Chief Executive and Minister. Norman (2003), p. 182.

²³⁹ S. F. Goldfinch (2009), 'New Zealand: reforming a new public management exemplar?' in S. F. Goldfinch and J. L. Wallis (eds.), *International Handbook of Public Management Reform* (Cheltenham: Edward Elgar Publishing), p. 163.

²⁴⁰ Norman (2003), p. 182.

²⁴¹ See <http://www.stuff.co.nz/national/politics/8099165/Education-Secretary-Lesley-Longstone-quits>

other words contracts are not set in stone, but breaking them can be an expensive business (financially and politically).

One downside to the New Zealand model is that because the appraisal processes is highly formalised and process-heavy the State Service Commission does not have the options available in some other systems: for instance it is not really possible to move a poor performing Chief Executive sideways. Sometimes the formality of the system means change can take longer than in more informal systems: for instance it might be that the Commissioner has to let a contract run out, or will only extend it for short period.²⁴² There are calls to give the Commissioner more discretion to address these points.

Some commentators have argued that the increase in personal, public responsibility for officials combined with fixed-term contracts has made them more risk adverse and has threatened their ability to give ‘full, free and frank advice’.²⁴³ The evidence for this is disputed. Moreover, it is difficult to prove that reluctance to give frank advice is down to fixed-term contracts. If anything in New Zealand has engendered such a disposition among officials it is most likely to be the highly transparent freedom of information regime. Nor is there any evidence from New Zealand that fixed-term contracts have seen Chief Executives distracted from their jobs by looking for alternative careers in the run-up to the renewal process.

Overall the fixed-term contracts provide sharp accountability for Chief Executives, who must account for their performance when their contract comes to an end – with full knowledge that many contracts do not get renewed.²⁴⁴

Underpinning the success of the New Zealand approach to performance management is the State Service Commission.²⁴⁵ It is an institution that is professionally dedicated to line-managing and holding Chief Executives accountable, a unique innovation in Westminster systems. Managing 30 plus Chief Executives on fixed-term contracts is a major responsibility and a specialist discipline in its own right, and the Commissioner is supported by a number of Deputy Commissioners covering a range of corporate functions.²⁴⁶ Commissioners vary in their approach but all spend considerable time working closely with Chief Executives on monitoring and improving their performance, particularly of poor and middling performers. This body underpins the performance culture in New Zealand.

AUSTRALIA

Over the last two decades, Governments of all political hues have sought to increase the responsiveness and accountability of Departmental Secretaries, notably by placing them on fixed-term contracts – contracts which can be terminated at any time

²⁴² See C. Hood (1998), ‘Individualized Contracts For Top Public Servants: Copying Business, Path-Dependent Political Re-Engineering—or Trobriand Cricket?’ *Governance* 11(4), pp. 443-462. See also A. Schick (1996), *The Spirit of Reform: Managing the New Zealand State Sector in a Time of Change* (Wellington: State Services Commission), p. 49.

²⁴³ For example, see R. Norman (2006), ‘New Governance, New Dilemmas: Post-Reform Issues in New Zealand’s Public Sector’, *Policy Quarterly* 2(3), p. 26 and Gregory (2012), p. 113.

²⁴⁴ Paun and Harris (2012), p. 20.

²⁴⁵ Indeed fixed-term contracts were abolished for senior officials below the level of Chief Executive precisely because there was no equivalent to the SSC to make them work effectively.

²⁴⁶ See <http://www.ssc.govt.nz/about-us/organisational-structure-and-senior-managers>.

(even if Secretaries are performing well). The current public service reform programme has pushed back on some of these earlier initiatives, by for instance, dropping performance pay and strengthening the role of the independent Public Service Commissioner in the appointment and termination processes and in the new performance appraisal process. The reforms have also sought to increase the accountability by revising the Public Service Values, establishing a service-wide performance management framework and instigating UK-style capability reviews. There remains a strong commitment to the use of fixed-term contracts, which are believed to have sharpened the personal accountability of Secretaries.

The responsibilities of Departmental Secretaries were originally set out in statute in the Public Service Act 1999, which states that Secretaries are responsible for managing the department and advising their Minister in matters relating to the department. They must also assist the Minister to fulfil his or her accountability obligations to Parliament to provide factual information in relation to the operation and administration of the department. In addition, the Secretary is required to provide an annual report to their Minister on the activities of their department for submission to Parliament. The Public Service Amendment Act 2013 contains a revised and much longer list of roles and responsibilities. It is hoped that this revised list, which contains responsibilities such as engaging with stakeholders and providing leadership and strategic direction for the department, will better define the position of Secretary and clarify what is expected, enhancing accountability.

The performance of Secretaries is assessed annually by the Secretary of the Department of the Prime Minister and Cabinet (PM&C) and now also involves the Public Service Commissioner (PSC)²⁴⁷. The annual performance review is a statutory requirement in the Public Service Amendment Act 2013.²⁴⁸

At the beginning of each year, Secretaries are required to draft a performance agreement which maps deliverables for which they are explicitly personally responsible, as well as areas where accountability is delegated to others. This performance agreement must cover the five key areas of a Secretary's role: policy advice; management; leadership of the department; shared leadership of the APS; and stakeholder management. It is agreed between the Secretary of PM&C and the PSC, and also has to be countersigned by the Minister for the Public Service. In other words the agreement is between the Secretary of PM&C and the Commissioner; not between the Departmental Secretary and the Prime Minister or Minister.

Towards the end of the year, Secretaries complete a self-assessment of their performance against the deliverables in their performance agreement. They are also subject to 270 degree feedback from a range of colleagues and stakeholders.²⁴⁹ In addition, the relevant division within PM&C provides input about each Secretary's achievements against the Government's strategic priorities. The PSC will draw together data it has about employee satisfaction within and agency and major demographic trends (e.g. diversity statistics). The Secretary of PM&C and the PSC

²⁴⁷ The PSC is appointed by the Governor-General (in practice the Prime Minister), but unlike departmental Secretaries, can only be removed if both Houses of Parliament agree.

²⁴⁸ www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r4763.

²⁴⁹ The Secretary of the PM&C and the PSC approve the Secretaries' nominees to participate as feedback providers in this process.

seek an appointment with each Minister to give them an opportunity to provide input into the performance assessment of the relevant Secretary. Finally, the Secretary of PM&C and the PSC meet with the Secretary to discuss his or her performance. The performance review culminates in a report agreed by the Secretary of PM&C and the PSC that goes to the Prime Minister.

The new performance review regime is intended to facilitate the identification of personal development and growth opportunities for Secretaries. All Secretaries along with the PSC will be members of the new APS leadership group, the Secretaries Board, which will take responsibility for the stewardship of the APS and identify strategic priorities. Most APS employees below the level of Secretary are eligible, if assessed as performing to required standards, for a one-off bonus and/or salary advancement.

Secretaries: fixed-term contracts

In Australia it is relatively easy to remove underperforming Departmental Secretaries. Despite the use of fixed-term contracts departmental Secretaries may be removed for arbitrary, rather than performance reasons, as the Prime Minister does not require cause to dismiss a Secretary. However, new safeguards are being put in place to reduce the likelihood of this happening (though they will not eliminate it altogether).

Fixed-term contracts for department Secretaries were introduced by the Keating Government (Labor, 1991-1996) in 1994²⁵⁰ building on an earlier initiative to limit the length of time permanent heads – renamed Departmental Secretaries – could spend in any particular position to five years.²⁵¹ The new contracts were for up to five years and could be terminated by the Prime Minister at any time for any reason.²⁵² They could be renewed, but there was an expectation that a Secretary would move on to a different department. Termination would lead to removal from the public service completely. Secretaries who were on permanent contracts were offered a pay rise of 20 per cent to give up their tenure; all but two did so, and since 1996 all Secretaries have been on fixed-term contracts.²⁵³

When John Howard took office in 1996, six out of 18 Secretaries – one-third – lost their jobs overnight in the so-called ‘night of the long knives’.²⁵⁴ As they were all career public servants who had had successful careers under Labor, it seems that the purpose of the mass sacking was to send a signal to the public service that the

²⁵⁰ See the *Prime Minister and Cabinet (Miscellaneous Provisions) Act 1994*.

²⁵¹ A. Podger (2007), ‘What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service’, *Australian Journal of Public Administration* 66(2), p. 136. Essentially Departmental Secretaries have moved from having permanent tenure, to being on fixed-term appointments, after which they were put on fixed-term contracts. As the Institute for Government observe: ‘Until the 1970s, permanent heads could only be removed from office by abolishing their department. This was changed in 1976, when a subclass of permanent heads was introduced called ‘established heads,’ who could have their appointment terminated early provided that the Prime Minister belonged to a different political party to the Prime Minister who had made the appointment. This laid the foundations for political appointment, which was formalised in the *Public Service Reform Act 1984*. Paun and Harris (2012) p. 10.

²⁵² Dismissed Secretaries were entitled to one-third of the pay for the outstanding contracted term up to a year’s pay. Podger (2007), p. 136

²⁵³ Paun and Harris (2012), p. 11.

²⁵⁴ ‘Top bureaucrats victims of purge’, *Sydney Morning Herald*, 9 March 1996

new Government was in charge and meant business.²⁵⁵ A former Secretary notes that the message sent by incident was ‘clear’: ‘tenure had gone, and the threat not only of non-renewal of a contract but of early termination was real’.²⁵⁶ In addition, in 1999, Paul Barratt was dismissed as Secretary of the Department of Defence because he had lost the confidence of his Minister, John Moore. The loss of his appeal led to a court ruling which upheld the principle that a Prime Minister does not require cause to dismiss a Secretary.²⁵⁷ A reason must be provided for the dismissal, but there is no obligation to prove inadequacy on the Secretary’s part. This still stands today, even if the Public Service Amendment Act 2013 adds a few safeguards to the termination process.²⁵⁸

However, as previously noted, the night of the long knives incident has proved to be atypical of the overall experience of the Australian model. In fact few Secretaries have been terminated before their period of appointment is concluded, and most – but not all – have had their initial terms extended.²⁵⁹ Nonetheless, reshuffles are relatively commonplace, particularly after an election. There is little evidence from Australia which suggests that Secretaries become distracted by looking for other jobs towards the end of their contract.

During the Howard Government it became common for contracts to be for three years instead of five. After 2001, around half of the contracts were for three years. This fuelled suspicions of politicisation since it meant that Secretary contracts overlapped with the three-year electoral cycle.²⁶⁰ Therefore one of the first things the Rudd Government (1997-2010, Labor) did after taking office was announce that all appointments of Departmental Secretaries would henceforth be for five years.²⁶¹ It also made a conscious decision to keep most Secretaries in their roles to reduce unnecessary disruption to Government.²⁶²

Rudd also took the decision to abandon performance pay for Secretaries (introduced in 1999). The case for doing so was partly because the model was considered to be poor at discriminating between different performance levels, and also because performance-related-pay fuelled suspicions of politicization (it was perceived to encourage compliant behaviour on the part of Secretaries²⁶³). In lieu of individual performance bonuses in 2007/08, Rudd gave all Secretaries a 14 per cent across-the-board payment and their continuing remuneration package was also substantially

²⁵⁵ R. Mulgan (1998), ‘Politicising the Australian Public Service?’, Research Paper 3 1998-99, www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp989/9/99rp03

²⁵⁶ Podger (2007), p. 137.

²⁵⁷ *Barratt v Howard [1999] FCA 1183*.

²⁵⁸ The Prime Minister must have received written reports about the proposed termination from the PSC and the Secretary of PM&C. The latter must have been prepared after consultation with the PSC. If the Secretary of PM&C and PSC disagree about the proposed termination, this must be made clear in the report. The termination is actually made by the Governor-General on the recommendation of the Prime Minister.

²⁵⁹ P. Shergold (2007), ‘What Really Happens in the Australian Public Service: An Alternative View’, *Australian Journal of Public Administration* 66(3), p. 368.

²⁶⁰ Podger (2007), p. 137

²⁶¹ This is also enshrined in the Public Service Amendment Act 2013.

²⁶² ‘Rudd unveils key public service jobs’, *Sydney Morning Herald*, 3 December 2007, www.smh.com.au/news/National/Rudd-unveils-key-public-service-jobs/2007/12/03/1196530569234.html.

²⁶³ The informality of the system was also problematic. In the absence of a formal appraisal system decisions over pay were left to the discretion of the Prime Minister.

increased.²⁶⁴ In 2011, the Secretary of PM&C was given responsibility for determining the salary packages of other agency heads in consultation with the PSC and the chair of the Remuneration Tribunal.

There is a continuing debate in Australia whether reforms to the tenure of Secretaries have politicised the public service and made it less likely to give frank and fearless advice, or increased their responsiveness and accountability to their democratically elected masters. One former Secretary, Andrew Podger (Public Service Commissioner, 2002-05), asserts that the fixed-term contracts have changed the way Secretaries operate:

... no doubt, the system of contracts has impacted on Secretary behaviour. They will hedge their bets on occasions, limit the number of issues on which to take a strong stand, be less strident, constrain public comments, limit or craft more carefully public documents and accept a muddying of their role and that of political advisers. To some extent, there has always been an incentive to please; and public servants have a tradition of caution and anonymity, relating to their role to protect the public interest and to defer to politicians particularly in the public arena. But the political messages to Secretaries today are more explicit, and Secretaries are, I believe, more cautious in avoiding disputes with Ministers and in ensuring any public image of themselves is aligned with the Government's position. This is not to suggest a significant lack of courage, but to acknowledge the reality of the incentive framework that has purposely been put into place.²⁶⁵

Clearly recent reforms are intended to address some of these concerns. As noted above, the Public Service Commissioner is to be given a stronger role in appointments and dismissals and the length of appointments is to be fixed at five years. In addition, equivalent employment or fair compensation will be guaranteed for those who are terminated early. The performance management process has also been made more open and transparent and performance pay for Secretaries has been scrapped. Mulgan asserts that these reforms mark the 'reassertion of a more independent public service'.²⁶⁶

However, other former Secretaries, notably Peter Shergold (Secretary of the Department of Prime Minister and Cabinet, 2003-08), see little evidence of Secretaries becoming 'too responsive' or 'too political' following changes to tenure.²⁶⁷ He knows of no evidence of Secretaries deliberately tailoring advice in order to secure contract renewal. Roger Beale (Secretary of the Department of Environment and Heritage, 1998-2004) thinks the politicisation argument has been 'overemphasised' and has been 'impressed not just at the quality of the advice

²⁶⁴ M. Davis, 'Meanwhile, Rudd's fat cats get \$1400 extra a week', *Sydney Morning Herald*, 8 July 2008, www.smh.com.au/articles/2008/07/07/1215282747269.html.

²⁶⁵ Podger (2007), p. 144.

²⁶⁶ R. Mulgan (2010), 'Where Have All the Ministers Gone?' *Australian Journal of Public Administration* 69(3), p. 292.

²⁶⁷ Shergold (2007), p. 370.

provided by Secretaries but also their willingness to provide it even when it would not be welcomed'.²⁶⁸

Moreover as Shergold persuasively argues the ability to give frank and fearless advice is a matter of 'character not your employment contract'.²⁶⁹ No doubt some Secretaries on fixed-term contracts are too subservient to Ministers, just as there were examples of spineless Secretaries operating in Canberra before contracts were introduced (a point Podger acknowledges in the extract above). Mulgan writes that 'the overriding sense of loyalty to Ministers and the Government of the day appears to have been no weaker [when Secretaries had security of tenure] than today'. If anything has weakened the capacity of officials to challenge their political masters it is not, he argues, fixed-term contracts, but the greater transparency and scrutiny today's civil servants are exposed to.²⁷⁰

Departmental accountability

A 2010 review of the public service found that there was limited accountability for how well departments and agencies perform internally and cooperate with others.²⁷¹ It recommended periodic external reviews of agencies' institutional capabilities, covering strategy, leadership, workforce capability, delivery and organisational effectiveness, managed by the APSC (and modelled on the UK capability reviews). The review teams would be led by an external reviewer and also contain senior officials from PM&C, the Department of Finance and Deregulation, the APSC and other agencies as appropriate. Three pilot reviews were completed in 2011 and four agency capability reviews have already taken place.²⁷²

The PSC is required by the Public Service Act 1999 to publish an annual report on the state of the APS for presentation to Parliament.²⁷³ This 'State of the Service' report draws heavily on surveys of agencies and APS employees. The reports been praised by external observers for their 'comprehensive monitoring of developments and issues'.²⁷⁴

CANADA

'Accountability' has become a major buzzword in Canada following the revelation in 2004 in a report by the Auditor-General that senior officials from the governing Liberal Party had channelled at least \$100 million from a \$250 million Government program into a network of advertising and communication agencies with ties to the Liberal Party in the so-called 'sponsorship scandal'. The Royal Commission set up in its wake focused a great deal on accountability in its final report. The incoming liberal

²⁶⁸ R. Beale (2012), 'Yes, Minister —the privileged position of Secretaries', in J. Wanna, S. Vincent & A. Podger, *With the benefit of hindsight: Valedictory reflections from departmental Secretaries, 2004-11* (Canberra: ANU E Press), p. 3.

²⁶⁹ Interview with Peter Shergold

²⁷⁰ Richard Mulgan (2006) *Truth in Government and the politicisation of public service advice* https://digitalcollections.anu.edu.au/bitstream/10440/1150/1/Mulgan_Truth2006.pdf

²⁷¹ Advisory Group on Reform of Australian Government Administration (2010), *Ahead of the Game: Blueprint for the Reform of Australian Government Administration*, p. 63.

²⁷² Further information can be found at: www.apsc.gov.au/aps-reform/capability-reviews.

²⁷³ See www.apsc.gov.au/about-the-apsc/parliamentary/state-of-the-service.

²⁷⁴ See E. Lindquist (2010), 'From Rhetoric to Blueprint: The Moran Review as a Concerted, Comprehensive and Emergent Strategy for Public Service Reform', *Australian Journal of Public Administration* 69(2), p. 128.

Government rejected many of its more radical suggestions, but nonetheless enacted a series of reforms, including making deputy Ministers UK-style accounting officers (discussed in part 2.4 below); creating a Values and Ethics Code for the Public Service and an Office of the Conflict of Interest and Ethics Commissioner; reinstating the Office of the Comptroller General; and increasing the financial reporting requirements for departments and agencies (already among the most rigorous in the world). One former senior public servant worries that the Canadian public service had become overloaded with accountability mechanisms following the sponsorship scandal: ‘people in Ottawa have become too gun-shy. They’re too afraid to take risks for fear of being punished. That is a downside to the recent reforms.’²⁷⁵

Accountability of senior civil servants

The responsibilities and accountabilities of deputy Ministers (Permanent Secretary equivalents) are spelled out clearly in guidance produced by the Privy Council Office.²⁷⁶ Key responsibilities include supporting the Minister's individual and collective responsibilities; managing the department; portfolio management; supporting Ministerial accountability in Parliament; and providing reports to Parliament. Deputy Ministers in Canada have ‘multiple accountabilities’ to the Prime Minister; to the Clerk of the Privy Council and the performance management programme; to their Minister; to the Treasury Board²⁷⁷ and Public Service Commission.²⁷⁸ They are also accountable for addressing errors in administration. This means that deputy Ministers must account to the Minister if something goes wrong and try to find out why it happened and take appropriate corrective action and fix any systemic problems that come to light. If the deputy Minister is asked to appear before Parliament to explain what went wrong, he or she is expected to admit that an error has been made and explain what has been done to fix the problem (though as discussed in 2.4 Canadian officials do not speak in their own name).

All senior executives²⁷⁹ are required to have an individual written performance agreement, signed by themselves and their line manager, which outlines what they will achieve over a specific period of time (usually a year). The agreement includes ongoing and/or key commitments²⁸⁰; performance measures for achieving commitments and leadership competencies; and a written assessment of actual

²⁷⁵ Interview with a former senior official.

²⁷⁶ See Privy Council Office (2003), *Guidance for Deputy Ministers*, www.pco.gc.ca/index.asp?lang=eng&page=information&sub=publications&doc=qdm-gsm/doc-eng.htm.

²⁷⁷ The Treasury Board (TB) is a cabinet committee of the Privy Council which acts as the general manager and employer of the public service and manages Government's financial, personnel and administrative responsibilities. The accountability of deputy Ministers to the TB is to ensure that the resources allocated to departments are well managed and are being used to achieve the results and priorities identified by the Minister, by the Government as a whole, or by legislation, and that these results are in fact being achieved for Canadians.

²⁷⁸ The Public Service Commission (PSC) is an independent agency responsible for staffing the public service and safeguarding its values: competence, non-partisanship and representativeness. Deputy Ministers are accountable to the PSC for certain aspects of human resource management.

²⁷⁹ ‘Senior executives’ refer to the top five tiers of the public service: deputy Minister, assistant deputy Ministers, directors general, directors and deputy directors.

²⁸⁰ Between four and seven ongoing commitments should be established per performance cycle and one or two key commitments. A. Ketelaar, N. Manning and E. Turkisch (2007), ‘Performance-based Arrangements for Senior Civil Servants OECD and other Country Experiences’, *OECD Working Papers on Public Governance, 2007/5* (Paris: OECD Publishing), p. 37.

results and level of leadership competency. All agreements are linked to Government and departmental plans and priorities and the business planning cycle.²⁸¹

In theory there is a review of the progress to date on the performance agreement between the line manager and the executive every six months. Ongoing commitments, corporate contribution and competencies are all evaluated.²⁸² If targets and objectives are not being met, staff will have to justify why not; it is crucial that underperformance is noted and discussed as soon as possible.²⁸³ There is a formal review and assessment once a year after which the executive is awarded a performance rating from one to four.

Deputy Ministers: Accountability to the centre

Deputy Ministers are principally held accountable to the centre, not to individual Ministers. The Clerk of the Privy Council, as head of the public service, administers the performance management programme for deputy Ministers. The performance agreement for deputy Ministers is divided into three parts: 1) policy and program results; 2) management results; and 3) personal results. The performance agreements of all staff below the deputy Minister 'cascade down' from this agreement.²⁸⁴

In addition to a performance agreement, deputy Ministers must complete a self-evaluation assessing achievements against the agreed commitments. They also complete an evaluation of their associate deputy Minister(s) as well as those in the same salary range (peer assessment). Additional information is sought by the Privy Council Office to supplement the self-evaluations including: the input of the responsible Minister; the comments of central agencies including the Treasury Board Secretariat reporting on results in relation to the MAF; and the input of the Committee of Senior Officials.

The performance review culminates in a performance rating and performance award from the Clerk of the Privy Council approved by the Prime Minister and Cabinet. It is not made public.

Although most senior civil servants are appointed on permanent contracts, they can be removed from their positions – or even terminated from the Civil Service – for consistently poor performance. The lengthy and complex appeal procedures for termination mean that demotion is a more likely outcome.

Unlike in Australia and New Zealand, deputy Ministers in Canada enjoy permanent tenure in principle. Appointed by the Prime Minister, deputy Ministers can also be moved or dismissed by the Prime Minister and therefore have little statutory job or

²⁸¹ Through the Management, Resources and Results Structure (MRRS,) resource expenditures and results are managed and planned. The MRRS is also used to present information to Parliament on expenditure and results. For more information on MRRS, see www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=18218§ion=text. Departments use a Program Activity Architecture system (PAA) – essentially an inventory of all the programs and activities it undertakes – to help to outline strategic objectives and link these with activities and costs for their organisations.

²⁸² Ketelaar, Manning et al. (2007), p. 38.

²⁸³ Ketelaar, Manning et al. (2007), p. 38.

²⁸⁴ Ketelaar, Manning et al. (2007), p. 35.

employment security.²⁸⁵ As in Australia, dismissal can happen at any time for any reason. As Bourgault explains, ‘a simple, unexplained decision by the Prime Minister is enough to relieve a deputy Minister of his duties.’²⁸⁶ Unlike Ministers, however, deputy Ministers ‘do not get dumped in the glare of publicity’ and it is rare for a deputy Minister to be dismissed from the public service altogether.²⁸⁷ Usually he or she ‘quietly moves on’ by taking another public sector role (for example in the Privy Council Office, an embassy or a low-profile agency) or a voluntary retirement package.²⁸⁸ As John Edwards, head of the reform initiative PS 2000, explains:

The firing of deputy Ministers happens in the same way as the firing of many vice-presidents in the private sector. It happens reasonably quietly. People get moved into retirement or go off to other challenges in the private sector...²⁸⁹

There is no public record of the number of deputy Ministers dismissed.²⁹⁰ Dismissals cannot normally be appealed, though those due to misconduct or poor performance trigger a formal review process by the Privy Council.²⁹¹ Bourgault asserts that the performance management programme, coupled with the Prime Minister’s dismissal powers mean that deputy Ministers ‘know that if they do not meet with success, they will soon be replaced’.²⁹²

The average tenure of deputy Ministers has decreased from four years on average in the 1990s to 2.7 years more recently.²⁹³ The high ‘churn’ of deputy Ministers led the Gomery Commission to recommend in 2006 that deputy Ministers serve a minimum of three years in any one position, and preferably five years or more.²⁹⁴ A 2008 study on public service reform from the Public Policy Forum (PPF) recommended that deputy Ministers be put on five-year fixed-term contracts for similar reasons.²⁹⁵ The Government has not implemented these recommendations.

All senior executives are eligible for performance-related pay. There is a variable amount (at-risk pay) which must be re-earned each year (up to 11.1 per cent) and a bonus for performance that surpasses expectations (up to an additional five per

²⁸⁵ The Interpretation Act (section 24.1) provides that the power to appoint includes the power to dismiss. See J. Bourgault (2006), ‘The Deputy Minister’s Role in the Government of Canada: His Responsibility and His Accountability’, in Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Research Studies*, Vol. 1, (Ottawa: Minister of Public Works and Government Services), p. 256.

²⁸⁶ Bourgault (2006), p. 256.

²⁸⁷ D. Savoie (2003), *Breaking the Bargain: Public Servants, Ministers, and Parliament* (Toronto: University of Toronto Press), p. 140.

²⁸⁸ Savoie (2003), p. 141.

²⁸⁹ J. Edwards qtd. in Savoie (2003), p. 141.

²⁹⁰ Savoie (2003), p. 141.

²⁹¹ J. Lavelle (2010), Trends & Challenges for HR Management in the Broader Public Sector in the International Arena, paper prepared for the AAPAM Roundtable Conference, Durban, South Africa, 15 November 2010, <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan044115.pdf>.

²⁹² Bourgault (2006), p. 268.

²⁹³ K. Baird and I. Green (2008), *Canada’s Public Service in the 21st Century – Destination: Excellence* (Toronto: Public Policy Forum), p. 20.

²⁹⁴ J. Gomery (2006), *Restoring Accountability? Phase II Report* (Ottawa: Commission of Inquiry into the Sponsorship Program and Advertising Activities), p. 109.

²⁹⁵ Baird and Green (2008), p. 21.

cent).²⁹⁶ As in the private sector, it is expected that most senior staff will receive at-risk pay.

A number of policies and programmes have been developed to promote the upward mobility of senior executives who consistently perform well. These focus on recognising talent and developing leadership skills for executives, potential assistant deputy Ministers and potential deputy Ministers.²⁹⁷

Deputy Ministers must also adhere to the Management Accountability Framework²⁹⁸ (MAF), which sets out the 10 high-level management expectations (a version of the capability reviews).²⁹⁹ These are accompanied by a set of indicators and associated measures which make it easier for deputy Ministers to know what is required of them. Since April 2012, all federal public sector employees are required to adhere to the Values and Ethics Code for the Public Service as a term and condition of employment.³⁰⁰

SINGAPORE

Singapore is not as transparent as many of the other countries in this review when it comes to Government performance, but it has had a rigorous appraisal regime in place for decades modelled on the private sector. This, combined with salaries pegged to the private sector, ensures that it has a high-calibre Civil Service that is highly regarded.

Accountability of senior civil servants

As in many other countries, Permanent Secretaries have been given maximum flexibility in personnel and financial matters (within the agreed budget) in exchange for higher levels of accountability.³⁰¹

Once appointed, all civil servants have to continually prove themselves through performance on the job.³⁰² Since 1983 all staff have had to undergo an annual appraisal by their supervisor using a framework developed by the Shell petroleum company in the 1960s that is overseen by the Public Service Division (PSD) of the Prime Minister's Office.³⁰³ The appraisal is the 'cornerstone' of the performance management process in the Singaporean Civil Service.³⁰⁴

²⁹⁶ Ketelaar, Manning et al. (2007), p. 39.

²⁹⁷ Ketelaar, Manning et al. (2007), p. 40.

²⁹⁸ For a full explanation of MAF, see www.tbs-sct.gc.ca/maf-crg/index-eng.asp.

²⁹⁹ The 10 elements of MAF are: public service values; results and performance; learning, innovation and change management; governance and strategic decisions; policy and programs; people; citizen-focused service; risk management; stewardship; and accountability.

³⁰⁰ For more information on the Values and Ethics Code for the Public Service, see www.tbs-sct.gc.ca/pubs_pol/hrpubs/tb_851/vec-cve-eng.asp.

³⁰¹ N.C. Saxena (2011), *Virtuous Cycles: The Singapore Public Service and National Development* (United Nations Development Programme), p. 87.

³⁰² Saxena (2011), p. 58.

³⁰³ The mandate of PSD includes public service leadership development, capacity and capability development, and the promotion of whole-of-Government coordination in strategy and implementation. Saxena (2011), p. 56. PSD manages the performance appraisal system for Singapore's Administrative Service. S. Vallance (1999), 'Performance Appraisal in Singapore, Thailand and the Philippines: A Cultural Perspective', *Australian Journal of Public Administration*, 58(3), p. 83.

³⁰⁴ Vallance (1999), p. 84.

There are two parts to the performance appraisal: (1) the Work Review, which provides the employee with the opportunity to comment on the supervisor's assessment and discuss training and development needs; and (2) the Development Assessment, a confidential report by the supervisor not shown to the employee which outlines the supervisor's assessment of the employee's performance over the past year. Employees are given an overall performance rating, measured by how far they have met or exceeded the expectations of their substantive grade.³⁰⁵ This is used to determine whether the employee is entitled to a performance bonus.

Within the confidential report, the supervisor additionally assesses the employee's 'Currently Estimated Potential' (CEP), which is an estimate of the highest appointment or level of work the employee can handle competently before retirement. The CEP is determined by rating the employee against the 10 qualities developed by Shell.³⁰⁶ The supervisor, in consultation with the Permanent Secretary, must then make a recommendation for promotion for the employee. The CEP therefore determines the speed and trajectory of an employee's career. As a result of this approach, very high-performing civil servants have the potential to rapidly rise through the ranks to become Permanent Secretaries in their forties.³⁰⁷

All performance and CEP assessments made by the direct supervisors are validated by a 'countersigning officer' before being put through a ministry ranking exercise, and finally deliberated by an overseeing Personnel Board. The different levels of checks aim to moderate differences in assessment standards among different supervisors and impose discipline in the appraisal system. Employees can make an appeal to the Appeals Board if they think they have not been assessed fairly. If this is rejected, a further appeal can be made to the Public Service Commission, whose decision is final.

The most senior officials have a ten-year maximum tenure to ensure that the Civil Service is subject to periodic renewal.³⁰⁸ After their term is up, they may be moved to another position within Government or, more frequently, will join one of the companies linked to the Government.

Sanctions:

- Members of the elite Administrative Service can be 'flowed out' for not meeting the stringent requirements of the Service. Poor performance is not tolerated in the Singapore Civil Service.³⁰⁹
- The PSC has the authority to discipline civil servants, leading to a reduction in rank or dismissal.

³⁰⁵ The ratings range from A (the requirements in all areas of work and have been exceeded) to E (the requirements have not been met). See Saxena (2011), p. 60.

³⁰⁶ Vallance (1999), p. 84. The ten qualities have been revised over the years and for senior civil servants they now include: intellectual qualities (helicopter quality, power of analysis, imagination & innovation, sense of reality); achievement (achievement motivation, socio-political sensibility, decisiveness); and leadership (capacity to motivate, delegation, and communication & consultation). See www.challenge.gov.sg/magazines/archive/2006_10/staff/staff.html.

³⁰⁷ Saxena (2011), p. 60.

³⁰⁸ J. R. Blöndal (2006), 'Budgeting in Singapore', *OECD Journal on Budgeting* 6(1), p. 67.

³⁰⁹ Blöndal (2006), p. 72.

- When very serious mistakes are deemed to have been made by senior civil servants, they are usually asked to resign.

Sweeteners: Civil servants in Singapore are among the best paid officials in the world. Uniquely, salaries are pegged to their private sector equivalents. The Government views high pay as essential in order to attract the most highly qualified candidates, encourage their retention, and deter any tendency towards personal corruption.³¹⁰ About one-fourth of total annual salaries are linked with fluctuations in the economy: if the economy improves, salaries go up; if the economy goes into a recession, salaries go down.³¹¹

Significant public sector reforms in the 1990s resulted in a bonus for all civil servants linked to individual performance, from one-half month to three months' salary; the average bonus is one-half to one month's pay.³¹² Annual seniority-based salary increments (step increases) have also been replaced by merit-based increments for most senior civil servants. The withholding of performance bonuses and salary increments is however rare.³¹³ Non-monetary incentives are also very important and include rapid promotions, more challenging tasks, influential assignments, public recognition, and training opportunities abroad.³¹⁴

Accountability of departments

The Government's budget documentation contains performance information for Government ministries.³¹⁵ Each ministry's desired outcomes are listed together with key performance indicators, which tend to be output-oriented. The indicators often include the standing of Singapore in rankings against other countries in the respective areas. The performance and results information in the budget uses a multi-year horizon: actual results for the previous two years, estimates for the current year, and a projection (target) for the forthcoming year. The emphasis is on performance trends. There is no narrative commentary on this quantitative information.

Ministry report cards were introduced in 2006. They are brief, two page documents completed on a standard template that form the basis for budget dialogues between the Ministry of Finance and ministries.³¹⁶ However, the budgets are not linked to the results in the report cards. The report cards include: a summary of the past year's achievements and operational highlights; up to ten outcome-based key performance indicators and how the ministry performed against them; information on the budget and human resources; key strategies and initiatives for the next five years; and a summary on organisational excellence and innovation.³¹⁷

The Ministry of Finance prepares a whole-of-Government report card for the Cabinet based on individual ministry report cards for internal use only.

³¹⁰ Blöndal (2006), p. 73.

³¹¹ Blöndal (2006), p. 73.

³¹² Blöndal (2006), p. 74.

³¹³ Blöndal (2006), p. 74.

³¹⁴ Saxena (2011), p. 133.

³¹⁵ Blöndal (2006), p. 76.

³¹⁶ Saxena (2011), p. 87.

³¹⁷ Blöndal (2006), p. 77.

The Singapore Public Sector Outcomes Review (SPOR) provides an overview of the strategic challenges that the public sector seeks to address, and how ministries and agencies will work collectively to meet them.³¹⁸ Coordinated by the Ministry of Finance (MOF) with inputs from all ministries, SPOR outlines a number of whole-of-Government outcomes along with indicators to track the Government's progress towards achieving them.

Summary

The performance appraisal regime in Singapore has been around for decades and is sophisticated and objective. Modelled on the private sector, it is particularly good at rewarding high performers. Moreover, poor performers are not permitted to remain in the upper echelons of the service. The Government is increasingly placing reporting requirements on Government departments. However, performance information is not easily accessible to the public.

SWEDEN

Accountability has long been taken very seriously in Sweden. Swedish public administration is characterised by a high degree of openness and an even higher degree of autonomy for civil servants than can be found almost anywhere else.³¹⁹ There is a very clear demarcation between the roles and responsibilities of the small number of central policymaking ministries and the hundreds of independent implementation agencies. The separation between the two is enshrined in the Constitution, which to some extent prohibits the Government from intervening in an agency's day-to-day operations.³²⁰ Sweden was one of the first countries to adopt a rigorous performance management regime linked to the budget. The philosophy behind the arrangements is that decisions should be decentralised and delegated as far as possible to the people affected by them and, at the same time, performance should be monitored and evaluated and reported back to the Government and parliament.³²¹ A powerful parliament, national audit body and ombudsmen gives the accountability regime teeth (discussed this in more detail in part 2.4 below).

Accountability of senior civil servants

The DGs who head agencies are given full autonomy to determine their own human resources policies and staff their organisations.³²² This enables them to use their employment policy as a means of achieving their objectives.³²³ For this reason, there is no uniform staff evaluation system in the Civil Service. Nearly all agencies employ

³¹⁸ For more information, see <http://app.mof.gov.sg/spor.aspx>.

³¹⁹ P.T. Levin (2009), 'The Swedish Model of Public Administration: Separation of Powers - The Swedish Style', *JOAAG* 4(1), p. 38.

³²⁰ Every year, the Standing Committee of the Constitution in Parliament investigates cases of suspected illegitimate meddling in the affairs of the agencies by members of the Government. Levin (2009), p. 42.

³²¹ Ekonomistyrningsverket (2003), 'Performance Management in Central Government', *ESV* 2003:22, p. 3.

³²² However, as we have noted, the Government has retained control over the appointment of directors-general and sometimes other senior officials in the agencies. It also chooses the chair and members of agency advisory boards. G. Bouckaert and J. Halligan (2008), *Managing Performance: International Comparisons* (Abingdon: Routledge), p. 316.

³²³ Ekonomistyrningsverket (2003), p. 6.

an annual performance appraisal, but it is up to them how they conduct it.³²⁴ Since the 1990s, Sweden has been considered to be a frontrunner when it comes to performance related pay in the public sector.³²⁵ However, the type of PRP regime in place depends on the agency.

Career civil servants (excluding DGs) in both the ministries and agencies are on same type of permanent employment contracts as all other employees in the country. They can be removed for misconduct, but not easily.

DGs are appointed for a fixed-term of six years. The Government has a policy of 'actively promoting renewal' at the DG-level, so these contracts are not always renewed.³²⁶ Renewals are limited to three additional years. Although they are appointed by the Government, DGs and deputy DGs in the agencies cannot be easily removed from public service. A Minister that wanted to replace one would have to make an attractive offer – for example by transferring them to another desirable position – or wait for their contract to run out. The current Government has removed a few agency heads from office for poor performance and given them alternative positions within the Government Offices, where they have been given tasks reflecting their competence.

Accountability of departments/agencies

Agencies are given a high degree of autonomy to run their own affairs. In return, they must regularly demonstrate to their sponsoring ministries and Parliament that they are achieving good results and value for money.

Every February, each agency is required to submit an annual report that details whether it achieved the objectives set by the Government the previous year, along with a detailed account of their expenditure.³²⁷ These reports are audited³²⁸ and follow a format prescribed by the Government to allow for easy comparison between agencies and sectors. They are often supplemented by reports about individual projects and meetings with directors-general. A week after submitting the annual reports, the agencies present estimates of the funds they will need for their operations during the coming year to the Government. It is up to the Government to propose to Parliament what the appropriations will be. Six months later, some agencies also submit a half yearly report on their progress.³²⁹

In the spring there is a dialogue between each director-general and management in the sponsoring ministry to discuss the performance of both the agency and the director-general over the past year, as well as future plans.³³⁰ The Ministry of

³²⁴ OECD (2005), *Performance-related Pay Policies for Government Employees* (Paris: OECD Publishing), p. 219.

³²⁵ C. Dahlström and V. Lapuente (2008), 'Do You Believe Me? Public Sector Incentive Systems in Japan, Korea, Spain, and Sweden,' *QoG Working Paper Series 2008:25*, p. 11.

³²⁶ Blöndal (2001), p. 44.

³²⁷ Levin (2009), p. 43.

³²⁸ Agencies are required to send a copy of the annual report to the National Audit Office when they send it to the Government. In the past, the NAO has criticised the agency's annual reports for focusing too much on what was done rather than analysing what was achieved. Bouckaert and Halligan (2008), p. 325.

³²⁹ Bouckaert and Halligan (2008), p. 334.

³³⁰ Bouckaert and Halligan (2008), p. 339.

Finance and Ministry of Health and Social Affairs jointly monitor these dialogues.³³¹ In addition, in mid-April the Government submits to Parliament an annual report for central Government showing the actual levels of income and expenditure in the previous fiscal year.³³²

Parliament has a key role in performance management. The Government is required under the Budget Act to provide relevant information about its progress against agreed objectives. The Government is also required to present special performance reports on various expenditure areas to Parliament each year. Since 2001, Parliament has increasingly focused on evaluation and monitoring in its standing committees.³³³

Summary

Peters asserts that the Swedish bureaucracy is 'held more stringently accountable than almost any other in the world'.³³⁴ This is due in large part to the clear demarcation between the roles of ministries and agencies, with the latter subject to a rigorous performance management regime linked to the budget. However, some observers have asserted that the small central ministries sometimes lack the capability to set a well-informed yet demanding set of performance targets for agencies.³³⁵

Managers in the Swedish Civil Service are given a great deal of autonomy over staffing matters, and have a variety of means at their disposal to reward high-performers and sanction those who are not performing well enough. However, staff turnover at the senior levels is very low. It is difficult – though not impossible – to remove under-performing director-generals and other senior officials.

³³¹ Bouckaert and Halligan (2008), p. 316.

³³² Ekonomistyrningsverket (2003), p. 9.

³³³ Most of the unicameral Parliament's work is carried out in the 16 standing committees.

³³⁴ B.G. Peters (2001), *The Politics of Bureaucracy*, fifth ed. (Abingdon: Routledge), p. 147.

³³⁵ C. Pollitt and G. Bouckaert (2004), *Public Management: A Comparative Analysis*, second ed. (Oxford: Oxford University Press), p. 310.

2.4 EXTERNAL ACCOUNTABILITY

Across the world's major democracies there are growing calls for Civil Services to be subjected to stronger external scrutiny by their national parliaments and the 24/7 media. The degree to which civil servants are held externally accountable varies according to constitutional arrangements. We have seen in part 2.1 that the legislature in the US is powerful: political appointees have to be confirmed by the Senate and can also be removed.

External accountability in Westminster systems raises a number of issues in relation to the Ministerial-Civil Service relationship. Because Ministers are constitutionally responsible for their departments to parliament it has meant that it has historically been difficult to hold civil servants accountable.³³⁶ However, attempts to clarify the respective roles and responsibilities of Ministers and officials discussed above in part 2.3 should, in theory at least, enable greater external scrutiny of Civil Service performance. In practice, as we shall see, the political and media culture still tends to hold elected Ministers accountable, which presents some limits to the degree to which senior officials can be held formally accountable. The most interesting example from the Westminster family is that of New Zealand, which has done most to try and differentiate the respective roles of Ministers and officials. We also consider the example of the Senate Estimates process in Australia, which provides a form of external accountability similar to that provided in the UK by select committees. The most significant innovation in Canada concerns the introduction of the accounting officer model. We also discuss the Swedish Ombudsman, which provides significant external scrutiny of civil servants.

NEW ZEALAND

As a consequence of the reforms introduced in New Zealand Chief Executives are widely considered to be directly accountable for operational matters. There is greater clarity between the respective roles and responsibilities of Ministers and Chief Executives than there is in the UK. It is the Chief Executive and not the Minister who is considered to be the head of the department (made more apparent by the fact that Ministers are not physically present in their departments). Chief Executives have a greater public profile than do UK Permanent Secretaries: it is not uncommon for them to be interviewed in the media about matters arising in relation to their department. Indeed according to those who have worked in both New Zealand and Whitehall it is this level of media scrutiny that most distinguishes the job of a Chief Executive from a senior Whitehall official. For instance the Chief Executive of the Ministry for Social Development was expected to 'front' the media response to a high-profile administrative cock-up in which problems with the ministry's IT system meant that the personal details of welfare recipients were made available on public computers in New Zealand's equivalent of Job Centre Plus offices (known as the 'Kiosk scandal').

However, this distinction between Ministerial and Chief Executive accountability does not always hold. Because Ministers remain accountable to Parliament for the actions of their departments they are often asked to answer questions that relate to operational matters. The opposition will almost always try and blame the Minister when an administrative problem arises (usually arguing that the fault has arisen

³³⁶ See Lodge and Rogers (2006).

because of a failure to adequately fund a programme; or they will say the fault reflects 'systemic' failure, for which the Minister must take responsibility).

A lot will depend on the seriousness of the situation: during the recent Kiosk scandal the responsible Minister took the decision to attend press conferences with the Chief Executive, as she was determined to demonstrate her involvement in trying to address the problem (and the opposition blamed her anyway). Last year also saw the publication of a Royal Commission report into the Pike River mining disaster where 29 people died. The report was heavily critical of the former Ministry of Labour for failing to address problems that it had been made aware about, but because of the scale of the problem, the relevant Minister resigned. It is highly unusual for Ministers to resign but on this occasion given the scale of the controversy the relevant Minister did resign her post. However, she only resigned her portfolio and did not resign from the Cabinet (in New Zealand Ministers have often have multiple departmental portfolios).

In this instance there was no Chief Executive in position to hold accountable since the ministry was absorbed into a newly created economic development ministry and the Chief Executive of the old Ministry of Labour had already left the public service. However, we were told by a number of senior figures in the public service that had that Chief Executive still been employed by public service they would have had to resign. The Chief Executive of the new economic development ministry has indicated that he is investigating whether other senior officials from the old Ministry of Labour implicated in the controversy should be sacked.

In general, however, there is a greater expectation in New Zealand that Chief Executives will be held responsible for the conduct of their departments. Ministers will often say "that's an operational matter, speak to the Chief Executive". But while Chief Executives face more intense media scrutiny of their performance than do UK Permanent Secretaries, parliamentary accountability is weaker.³³⁷ There is no equivalent of the accounting officer principle in New Zealand, which is surprising given the extensive powers exercised by a Chief Executive. Chief Executives are scrutinised less regularly than their counterparts in the UK (most only appear before parliamentary committees twice a year), and the committee process is more politicised than at Westminster. MPs are mainly interested in trying to use chief executive appearances to embarrass the Government and it is generally not a serious forum for holding them to account for their own performance.

Some believe that one consequence of the reforms is that Chief Executives in New Zealand have a greater 'constitutional personality' than Whitehall Permanent Secretaries; in others words that they are able to more forcefully speak their mind as autonomous players in New Zealand politics. Chief Executives are undoubtedly powerful: they run their departments as their own fiefdoms. Some have statutory obligations which give them a personality: for instance the Treasury Chief Executive is responsible for independent economic forecasting, while the health Chief Executive must publish a public health review. Some Chief Executives are more vocal than others (the current Treasury Chief Executive has recently argued for a change in education policy which some considered involved crossing a line). However, while Chief Executives are different beasts to Permanent Secretaries it is

³³⁷ The New Zealand parliament is considered to be a relatively weak legislature.

rare for them to try and involve themselves directly in a policy debate in which they will appear at odds with the Government. Ministers, particularly senior Ministers, are powerful and can exert pressure on Chief Executives if they step too far out of line (one Minister argued that fixed-term contracts are an important counter-weight to Chief Executive power.)

AUSTRALIA – SENATE ESTIMATES

As in the UK senior officials appear before parliamentary committees.³³⁸ However, as is common in other Westminster systems, officials ‘are not required to answer questions which seek their opinions on the merits of Government policy’, and the traditional convention of Ministerial responsibility still operates in Australia.

The main arena in which senior officials are interrogated over their performance in respect of operational matters takes place during the Senate Estimates hearings. These are important *ex-post* mechanisms for holding the executive to account. Individual Senate select committees undertake estimates hearings take place as a part of the annual budget cycle and thoroughly scrutinise Government expenditure, as well as the achievement of outcomes.³³⁹ They take place three times a year: February (for additional estimates), May (the main budget estimates), and October (for supplementary budget estimates). The real strength of the Senate hearings is that they are regular and that the Senate can ask officials about anything to do with the business of their departments. The officials are the main focus for the hearings, but their Minister will always attend the sessions with them and will ‘jump in’ if a political matter arises. The culture and effectiveness varies by committee. Some are more focused on holding officials to account, others are more interested in trying to use officials’ evidence to embarrass the Government of the day. A poor performance before one of the hearings can damage the reputation of an official.

One of the most notable examples is the inquiry following the Children Overboard Affair in 2001, which examined accountability issues arising from the incident, including the adequacy of administrative practices in certain agencies, and the accountability framework for Ministers and their staff. However, this incident also draws attention to a debate in Australia about the accountability of Ministerial staffers. In its final report, the committee explained that it had been ‘considerably hampered in its work by the refusal of the Government to allow certain witnesses to provide evidence to the inquiry.’³⁴⁰ The witnesses were Ministerial advisers, who are not required to appear before parliamentary committees. Terry Moran, a former Secretary of PM&C has written about the need to remove the ‘accountability black hole’ that surrounds Ministerial staff and has called on the Government to subject political advisers ‘to the same accountabilities that apply to public servants, including appearances before select committees.’³⁴¹ However, the call for reform is unlikely to be heeded as the main parties believe that political advisers should remain accountable to the Minister, not parliament.

CANADA – ACCOUNTING OFFICER

³³⁸ http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/Guidelines_for_official_witness

³³⁹ See www.aph.gov.au/Parliamentary_Business/Senate_Estimates

³⁴⁰ Australian Senate (2002), Report of the Select Committee on a Certain Maritime Incident.

³⁴¹ See <http://www.canberratimes.com.au/national/public-service/call-for-Ministerial-advisers-to-be-personally-responsible-20130416-2hx41.html>

As in other Westminster jurisdictions, deputy Ministers and other public servants regularly appear before parliamentary committees on behalf of their Ministers to answer questions or to provide information on departmental performance that Ministers could not be expected to provide.³⁴²

The *Guidance for Deputy Ministers* explains that there is an ‘important distinction’ between the role of Ministers and public servants in Parliament:

‘Ministers are responsible for political, partisan matters and defending public policies before Parliament, while Deputy Ministers and officials support Ministers in providing explanations and detailed information on public policies. Public servants do not have a public voice, or identity, distinct from that of their Minister, nor do they share in their Minister’s political accountability. Non-partisan public servants have no role in defending the policy decisions made by the Government or in debating matters of political controversy. To operate otherwise would risk politicization of the professional, non-partisan public service which must serve the Government of the day, and would shift responsibility and power from Ministers, who are elected democratically, to officials who are appointed.’³⁴³

There is however, one exception to this rule. The 2006 Federal Accountability Act makes deputy Ministers the accounting officers of their department and enshrines in law specific responsibilities in relation to this role. Within the framework of Ministerial responsibility and accountability to Parliament and subject to the Minister’s management and direction, the accounting officer is accountable before the appropriate parliamentary committees for:

- measures taken to organize the resources of the department to deliver programs in compliance with Government policies and procedures;
- measures taken to maintain effective systems of internal control in the department;
- signing the accounts prepared as part of the Public Accounts; and
- the performance of other specific duties assigned to him or her by this or any other Act in relation to the administration of the department.³⁴⁴

The main substantive difference between accounting officers in Canada and the UK (where they have existed since 1866) concerns what happens when there is a disagreement between an accounting officer and a Minister.³⁴⁵ The Canadian system refers such disagreements to a Cabinet committee for a decision, whereas in the UK, the Minister in question decides (and can over-rule the Permanent Secretary through issuing a letter of direction). This is an important difference because a decision by a Cabinet committee is not publicly available. In addition, the UK guidance makes it clear that the responsibilities of the accounting officer are held personally; this is much less clear in Canada and is the subject of disagreement between the

³⁴² The Privy Council Office has prepared guidance for officials appearing before parliamentary committees, see Privy Council Office (1990), *Notes on the Responsibilities of Public Servants in Relation to Parliamentary Committees*, www.pco-bcp.gc.ca/index.asp?lang=eng&page=information&sub=publications&doc=notes/notes-eng.htm.

³⁴³ See Privy Council Office (2003).

³⁴⁴ Amith (2008), pp. 2-3.

³⁴⁵ Smith (2008), p. 4.

Government and House of Commons Standing Committee on Public Accounts, with the latter arguing in favour of personal accountability. It is therefore unclear whether deputy Ministers, acting as accounting officers for their departments, are personally responsible for their actions. In this sense the Canadian accounting office model is not as effective as that in the UK.

Three parliamentary committees are especially important for a deputy Minister's responsibilities: the House of Commons Standing Committee on Public Accounts, the House of Commons Standing Committee on Government Operations and Estimates and the Senate Committee on Finance. The first conducts an ex post facto examination of the public accounts and reviews the findings and recommendations contained in the Auditor General's reports to Parliament, including the department's response to recommendations. The second reports on the effectiveness, management and operation of central departments and agencies, as well as on specific operational and expenditure items across all departments and agencies, and programs delivered by more than one department or agency. Treasury Board Secretariat (TBS) officials appear before the third committee to defend Estimates.

Parliamentary committees in Canada are empowered to examine witnesses on oath. However, it is not customary for public servants to be sworn in when giving evidence to Parliament. This is because they are appearing not as individuals but as representatives of the Minister.

If there has been an error in administration under the deputy Minister's watch, and he or she is called before a parliamentary committee to explain what went wrong, he or she is permitted to admit that an error has been made and explain the problem has been fixed or disciplinary action has been taken, but not to disclose the names of officials involved (even if they have been disclosed by the media or other sources).³⁴⁶

As in many other Westminster systems, civil servants in Canada tend to be largely anonymous and are not usually personally scrutinised by the media. The televised proceedings of the Gomery Commission into the sponsorship scandal went some way in changing this, as the public saw civil servants interrogated in the witness box.³⁴⁷

The Office of the Conflict of Interest and Ethics Commissioner is an Officer of Parliament responsible for helping appointed and elected officials prevent and avoid conflicts between their public duties and private interests. With the support of her Office, the Commissioner administers the *Conflict of Interest Act* for public office holders and the *Conflict of Interest Code for Members of the House of Commons*. She can investigate breaches and report to Parliament.

SWEDEN – OMBUDSMAN

We have already discussed the role of the legislature in relation to DG appointments (part 2.1) and assessing the performing of ministries and agencies (part 2.3). Here we look at the role of the Ombudsman.

³⁴⁶ See Privy Council Office (2003).

³⁴⁷ J. Wanna (2006), 'Insisting on Traditional Ministerial Responsibility and the Constitutional Independence of the Public Service: The Gomery Inquiry and the Canadian Sponsorship Scandal', *Australian Journal of Public Administration* 65(3), p. 16.

Sweden created the institution of the ombudsman in 1809, and its role is enshrined in the Constitution. Although many other countries have followed Sweden's lead and established ombudsmen of their own, Sweden's ombudsmen are uniquely powerful in their ability to act as prosecutors.³⁴⁸ Anyone who feels they have been wronged by a public body or official can make a complaint to the Parliamentary Ombudsmen (JO), which have broad powers to launch investigations into suspected wrongdoings. If the JO find that a civil servant has committed a fault, they can act as a special prosecutor and bring charges against the official; initiate disciplinary action against the official; or draft a written reprimand with recommendations on how to improve matters.³⁴⁹ The JO can also recommend legislative solutions to Parliament and the Government. The four JO are elected and funded by Parliament but are wholly independent and politically neutral.

Individual civil servants can easily find themselves in the media if something goes wrong in Sweden's highly open political culture. One of the reasons for this is that complaints made to the JO are public, and the media continuously search the published collection of complaints for good stories.³⁵⁰ If an individual civil servant is criticised by the JO, it can be highly damaging, as it will most certainly be picked up in the media. Furthermore, public sector employees are free to talk to the media, and employers are prohibited by the Constitution from seeking the sources of media leaks.

³⁴⁸ Finland is the only other country whose ombudsmen have the power to bring prosecutions.

³⁴⁹ Levin (2009), p. 41.

³⁵⁰ Levin (2009), p. 41.

PART 3: OPTIONS FOR REFORM

There is no perfect overseas Civil Service model that can be readily imported to the UK. Of the countries we have studied each system has its own strengths and weaknesses. Moreover, when considering the case for borrowing ideas from other countries it is essential to ensure that they are sufficiently refined to work in a UK setting. So while the recommendations that follow are partly inspired by the best practice we have identified in other countries, careful consideration has been paid to ensuring that they can work in Whitehall. One important way of doing this is to build on existing precedent and practice, which is what we do.

It is also worth re-emphasising that this review has focused on some important but nevertheless narrow aspects of the Civil Service reform debate. It does not claim to be comprehensive, and we fully acknowledge the case for wider reform.

There is one overarching aim of the recommendations that follow: they are explicitly intended to make the Civil Service more accountable, more effective and more responsive, while at the same time preserving its political neutrality. We believe – as demonstrated by the experience of other countries – that so long as sufficient safeguards are put in place it is perfectly possible to strengthen the degree of political oversight exercised by Ministers without undermining the fundamental commitment to a merit-based, non-partisan Civil Service.

Combined these measured reforms would strengthen the accountability of senior officials and improve Ministerial confidence in the Civil Service. Crucially they build on – and pose no risk to – the core traditions of the UK Civil Service. They go with the grain of current Whitehall practice, and could be easily implemented.

RECOMMENDATION 1: STRENGTHEN THE ROLE OF POLITICIANS IN THE APPOINTMENT OF PERMANENT SECRETARIES, WITHOUT POLITICISING THE CIVIL SERVICE

No other aspect of the debate on Civil Service reform has proved as controversial and divisive as that relating to the call for Ministers to have a greater role in the appointment of Permanent Secretaries. Much of the controversy is, however, unnecessary. As the comparative evidence demonstrates it is possible to strengthen the role of politicians in the appointment process without undermining the core values of the Civil Service. But before we discuss these details, it is worth explaining why it may be *desirable* to strengthen political involvement in appointments in principle.

- First, there is a compelling democratic argument for giving elected politicians greater input into Permanent Secretary appointments. As the heads of the major departments of state, Permanent Secretaries play a vital role in helping the Government deliver its manifesto commitments. The comparative evidence suggests that allowing politicians a greater say in senior appointments helps ensure that departmental heads are sufficiently responsive to the priorities of the political leadership. Ultimately this may, in the words of one leading academic study, ‘improve the correspondence between electoral results and policies.’³⁵¹

³⁵¹ Peters and Pierre 2004 p. 4.

- Second, we believe that since Ministers are, in our political and media culture, held largely accountable for the performance of their departments it is only right that they should have a stronger say in the most important recruitment decision in their department. As Margaret Hodge MP puts it: ‘How can anyone be held accountable for the actions of people they can’t hire?’ Strengthening the role of Ministers in the appointment of Permanent Secretaries would thus help tackle a core deficiency with the current model.
- Thirdly, as the *Civil Service Reform Plan* suggests, we believe that giving politicians more of a role in appointments will ‘increase the chances’ of the relationship between Secretaries of State and Permanent Secretaries ‘working successfully’.³⁵² The most important relationship in a department is that between a Secretary of State and the Permanent Secretary and so it is critical that the former has confidence in the latter and that there is good personal chemistry between them. Knowing that the Secretary of State has confidence in the appointment of the Permanent Secretary is also in the interests of the department as a whole. Strengthening the relationship at the top should serve to empower civil servants who work in the department.
- Fourthly, reforming the appointments process could help address a long-standing cultural problem in Whitehall, whereby the Civil Service – like other organisations – tends to appoint people in its own image. Consequently, Whitehall still tends to privilege the generalist over the specialist, the policy adviser over those with delivery expertise, and may still appoint into senior positions those with insufficient management experience. Giving politicians a greater say in the appointments system is clearly not the only way of expanding the range of skills in the senior Civil Service. But it would shake things up and inject a new dynamic into the process. Permanent Secretaries need to be drawn from a wider gene pool and reforming the appointments process is one way of achieving this.

However, while there is a case for strengthening the involvement of Ministers in the appointment process, there are important limits to how far this should go. We reject as unworkable in the British context the model used in the US where the President exercises extensive powers of appointment. The reason for rejecting this model is not because there is something inherently flawed with it, but because introducing the equivalent powers here simply wouldn’t suit our constitutional customs and traditions. As a major OECD study argued, extensive patronage powers suit Presidential systems which have strict divisions of power between the executive and legislative branches of Government, and where the legislature is sufficiently empowered to hold the executive to account.³⁵³ In the absence of similar arrangements in the UK, the introduction of extensive appointments powers would serve to further strengthen the executive branch of Government over a relatively weak legislature.

As we noted in part 1 the Civil Service Commission has recently issued revised guidance on the process of appointment of Permanent Secretaries. This gives Secretaries of State input into the process at key points, from consultation on the

³⁵² Civil Service Plan 2012 p.12.

³⁵³ Matheson et al (2007) p.31.

nature of the job specification to meeting short listed candidates. Secretaries of State may also ask for recruitment panels to reconsider their recommendations if she or he is not satisfied they have chosen the best candidate. The Prime Minister will also now to be kept informed of the progress of the selection process.

Should a decision be taken to strengthen further the role of Ministers in the appointment of Permanent Secretaries, the evidence from both Australia and Canada, leading Westminster systems, suggests that it is possible to do so without politicising the Civil Service. In both these countries it is the Prime Minister who appoints Permanent Secretary equivalents. They do so after taking advice from the Head of the Civil Service (the Secretary of the Department of the Prime Minister and Cabinet in Australia, and the Clerk of the Privy Council in Canada) who will usually present the Prime Minister with a list of names to choose from.

However, as we have seen, a weakness of the Australian and the Canadian model is the lack of transparency surrounding Secretary and Deputy Minister appointments, which leaves considerable discretion in the hands of the Prime Minister (acting on the advice of the Secretary of PM&C in Australia and the Clerk in Canada). Indeed the opaqueness surrounding the appointments process has done much to fuel suspicions of politicisation, prompting recent reforms in Australia to strengthen the role of the Australian Public Service Commissioner.

For these reasons, any further moves to strengthen political oversight of appointments in the UK should be open and transparent, and preferably combined with the independent appointment process run by the Civil Service Commission. This could be achieved by running the appointment process as it currently works but leaving the final choice of candidate to the Prime Minister, rather than the Civil Service Commission. Currently, the Prime Minister appoints Permanent Secretaries but convention dictates that s/he endorses or (very rarely) rejects the single recommendation of the Commission.

This is how it might work in practice:

- When a Permanent Secretary vacancy arises the Head of the Civil Service will sit down with the relevant Secretary of State to agree the job description and person specification, and the terms of the advertisement, as now.
- In line with the Civil Service Commission guidelines, the Secretary of State will then agree with the First Commissioner the composition of the interview panel for the short listed candidates (in particular to ensure that there is sufficient external challenge from outside the Civil Service. Non Executive Directors can play an important role here). There will then be an opportunity for the Secretary of State to meet each of the short listed candidates, to discuss his or her priorities and the candidate's approach to the role; and feedback to the panel any strengths and weaknesses to probe at final interview.
- Since the Prime Minister will make the final appointment s/he should be kept informed of the different stages of the selection process (s/he may, for instance, want to feed in into the job description at the outset)
- It is then the responsibility of the panel to assess the merits of the candidates in the final interview. The First Commissioner would then be tasked with making a recommendation of the top candidates to the Prime Minister. In doing so the First Commissioner must set out how each candidate meets the

person specification, and record how the Secretary of State's views had been taken into account.

- The final list that goes up to the Prime Minister should be endorsed by the Secretary of State but to this extent alone: he or she can ask the recruitment panel to reconsider its candidate recommendations before they are put to the Prime Minister if he or she is unsatisfied with them (this would not amount to a formal veto power).
- It would then be for the Prime Minister to select one of the names recommended by the First Commissioner. In making his/her decision the Prime Minister will consult the Secretary of State, (and will want in particular to be confident that the Secretary of State will be able to get on with the candidate he picks), and seek the advice of the Minister for the Cabinet Office, the Head of the Civil Service and the Cabinet Secretary, but it his or her decision to make.
- The Prime Minister – as is now the case – will also have a veto power and can ask for the appointment process to begin again if s/he is not prepared to appoint one of the recommended candidates put forward by the First Commissioner.

There are a number of reasons why it makes sense to give the Prime Minister the formal power of appointment, and not the Secretary of State:

- The first is that as the head of the Government, the Prime Minister is best placed to make the most important personnel decisions, upon which the successful delivery of the Government's programme depends. As it is the Prime Minister who appoints Cabinet Ministers it makes sense for him to also appoint the Permanent Secretaries. The Prime Minister will have a sense of the strengths and weaknesses of individual Ministers and would be well placed to think about what sort of Permanent Secretary-Minister partnership would be most effective.
- Second, given the relatively high-level of Ministerial turn-over in the UK it makes more sense for the Prime Minister to appoint Permanent Secretaries than it does Secretaries of State. It would not be in the interests of the Department to change the Permanent Secretary with each reshuffle, which would prove disruptive and time-consuming. If this isn't to happen then an incoming Secretary of State is likely to have more confidence in an appointment made by the Prime Minister than one made by his or her predecessor. Indeed over time the Prime Minister will often have a better sense of what type of Civil Service leader a Department needs than a new Minister.
- Thirdly, giving the Prime Minister the appointment power provides a further bulwark against potential politicisation: the Prime Minister will want to select the most able and competent candidate, and will be less likely to be swayed by other considerations.
- Finally, since the Prime Minister is formally the Minister for the Civil Service (and currently exercises formal appointments and veto powers) it is appropriate that s/he is given responsibility for appointing the leaders of the Civil Service. Importantly we believe this reform could be made without the need for legislation.

Even though the formal appointment power would rest with the Prime Minister, the relevant Secretary of State would, as is clear from the description above, be actively involved in key stages of the appointment process. Importantly the list that goes to the Prime Minister to choose from should be endorsed by the Secretary of State. The point of this endorsement is to ensure that the Secretary of State feels confident that s/he can work with those candidates deemed appointable by the Civil Service Commission. The Prime Minister would clearly attach considerable weight to the views of the Secretary of State when making the final decision. And so long as the Secretary of State has endorsed the list of appointable candidates then problems should not arise if the view of the Prime Minister differs from that of the Secretary of State on the preferred candidate. Given the level of Secretary of State involvement in the appointment nor do we think the issue of 'divided loyalties' will arise, the situation some have observed in Canada where by virtue of being appointed to the Prime Minister the Permanent Secretary feels beholden to the centre, not the department. A further bulwark against this is provided by fixed-term contracts (discussed below) which will make clear the responsibilities of the Permanent Secretary to the Department.

On rare occasions a situation may arise when the personal relationship between a Secretary of State and a Permanent Secretary breaks-down; or when an incoming Secretary of State, following a reshuffle, inherits a Permanent Secretary he or she does not get on with. In such circumstances the Prime Minister may choose to move a Permanent Secretary to accommodate the Secretary of State.

Some will argue that giving the Prime Minister the power of appointment will concentrate too much power at the centre of Government. But for reasons stated above we believe that since the Prime Minister is tasked with making the Government cohere as a whole, it makes strategic sense for the final decision to rest with him/her. Nor do we believe that it would be impractical to task the Prime Minister with Permanent Secretary appointments. The number of appointments to be made across the life of a Government would be manageable, especially if combined with fixed-term contracts (which provide for a structured process). To acquaint themselves fully with the shortlisted candidates the Prime Minister will be supported by advice from the relevant Secretary of State, the Head of the Civil Service, the Cabinet Secretary and the Minister for the Cabinet Office.

It might be argued that coalition Government complicates an appointment process in which the Prime Minister has the final choice, and that a role must therefore be found for the Deputy Prime Minister, particularly where a department is run by a Secretary of State from the latter's party. One potential option would be for the formal decision-making power to rest with the Prime Minister, but with a convention that s/he seeks the approval of the Deputy Prime Minister. If a decision is taken to strengthen the role of the Prime Minister in the appointment of Permanent Secretaries consideration will need to be given to how it can be made to work in a coalition setting.

Since appointments will remain based on merit and will not simply be at the discretion of the Prime Minister to pick who they want, we do not see the case for parliamentary confirmation hearings. Of course Permanent Secretaries should be scrutinised by relevant select committees (we discuss this in more detail below) but it would be both unnecessary and undesirable to introduce time-consuming confirmation hearings. The evidence from the US shows the system is highly

inefficient and increasingly prone to partisanship, taking months to install departmental heads after an election.

A reform of this nature would not lead to politicisation. Any candidate deemed ‘above the line’ is by definition appointable on merit. Alongside the international evidence presented here we would also note that is plenty of precedent in other parts of the public sector where politicians formally appoint public service leaders without it resulting in politicisation (see part 1). Local Government provides a particularly powerful example. Local Authority Chief Executives have for years combined the two qualities which many in Whitehall claim are incompatible: they are appointed by politicians (generally by interviewed by a cross party panel which then makes a recommendation for endorsement by full council) and they are expected to be non-partisan and strictly politically impartial. There is little evidence that political appointment has undermined the neutrality of senior local Government officers.

That said, these reforms would allow for an element of ‘personalisation’ whereby the Prime Minister and Secretary of State chose to appoint an individual they felt most comfortable with. Such personalisation is to be welcomed: merit, after all, has many dimensions and it is right we believe that Ministers should be able to reflect on the qualities offered by a range of candidates before choosing the most suitable. Some believe ‘personalisation’ is problematic: Ministers will, it is claimed, be inclined to appoint ‘yes men’, who would be less willing to ‘speak truth unto power’. To accept this is to accept the flawed logic which presumes that personal appointees are by definition inhibited from giving frank advice. This not only defies common sense, it also contradicts the experience of almost every other organisation in which leaders pick their senior managers. Nor could we find much international evidence to substantiate the claim. It is of course possible that a weak leader will appoint spineless staff but in the systems we have studied Prime Ministers recognise that competence and ability are more important qualities than loyalty alone.

RECOMMENDATION 2: STRENGTHEN SUPPORT FOR SECRETARIES OF STATE AND THEIR LEADERSHIP OF DEPARTMENTS³⁵⁴

There is a compelling case for strengthening the level of support given to Secretaries of State (and other Ministers who run departments). This, we argue, should form part of a wider reform of the key functions in Government that need to be performed ‘close’ to Ministers. The objective should be to ensure that Secretaries of State have an extended office of people who work directly on their behalf in the department, in whom they have complete trust.³⁵⁵

The key functions that Ministers tend currently to take a direct interest are: strategy and policy development; implementation management (or ‘progress-chasing’); press and communications; handling parliamentary business; and political liaison and party activity. Other personal functions such as speechwriting and diary management are also very important to the day-to-day life of Ministers.

³⁵⁴ The recommendation for strengthening the support for Secretaries of State also applies to Ministers who run departments.

³⁵⁵ Here we focus only on reforming the support provided to Secretaries of State and do not look at the case for strengthening the support provided to the Prime Minister.

Currently, Ministerial support functions in the UK are provided by private offices staffed by civil servants and managed by a Principal Private Secretary. Secretaries of State can appoint two (and occasionally more) political advisers (“Spads”) and other advisers who have particular expertise and for whom they have an urgent need.³⁵⁶ The latter (sometimes referred to as “Pads”) are not political appointees but are ordinarily recruited for less than two years under an exemption from normal Civil Service recruitment rules, and tend to be appointed from outside the Civil Service.

In all Civil Service systems, and Westminster systems in particular, there has been a drive in recent decades to strengthen the degree of support given to Ministers. The main drivers for change are:

1. To provide Ministers with sufficient capacity to cope with increasing pressures placed on them: Ministerial workloads have steadily increased, with the growth in and complexity of modern Government, and the relentless pressure of the 24/7 media; and increased expectations of stakeholders and the public.
2. To strengthen the responsiveness of the Government machine to Ministers.
3. To make Government more politically-aware and politically-savvy. Advisers can help by bringing a more explicit political perspective to bear on Government business.
4. Importantly it is also believed providing Ministers with a cadre of political advisers can protect the impartiality of the Civil Service itself. Indeed in Australia and Canada it was decided to expand the numbers of political staff as an alternative to politicising the top ranks of the public service.

As discussed, in comparative terms, the UK is highly restrictive in terms of the level of support given to Ministers directly to enable them to carry out their functions effectively. This is especially true when it comes to political staff: in 2012 the total number of political advisers employed by the UK Government was 82. In Australia the total number is circa 400, while in Canada it is circa 600.

The evidence we have reviewed in respect of the *Cabinet* models used in France and the EU, as well as the development of ‘staffers’ in Australia and ‘exempt staff’ in Canada demonstrates that these structures have had a positive impact on the Government business in these countries. However, a particular challenge³⁵⁷ that has arisen in these countries is that the growth of staffers has, in some instances, had the effect of creating a ‘disconnect’ between the Minister and the department, which can leave Ministers too dependent on political advice and too insulated from the views of the department.³⁵⁸ At its best some degree of ‘competition’ between the office and the department can be positive, leading to robust and politically informed advice going to a Minister. Nonetheless, we think it is important to guard against any reforms that might undermine the relationship between the Ministerial office and the department. The best way of achieving this is to ensure that the department and Ministerial private office remain sufficiently integrated, which depends on maintaining a good balance between political staff, other expert outsiders and officials. Advisers –

³⁵⁶ Levels of direct support to Ministers below cabinet rank are even more restrictive: formally they are not allowed special advisers.

³⁵⁷ This is not the only ‘challenge’ associated with the growth of political advisers, we discuss the strengths and weaknesses of them in full in part 2.2 above.

³⁵⁸ This problem is exacerbated when the Minister is physically separate from the department as is the case in Australia and the European Commission.

political and expert – can add political nous and provides sources of expertise that might not otherwise exist in the Civil Service, while the latter provide important knowledge of how the department works.

For these reasons, we do not recommend the introduction of British-style *Cabinets* comprised solely of political appointees. However, we do believe that the number of staff directly appointed to work for Secretaries of State should be significantly increased and we believe that all appointments – both political and official, including expert advisers – should be made by the Minister. There would continue to be a distinction between the status of officials and political staff, with the former politically restricted as now (this would continue to be the case for expert policy advisers too). Political appointees would not be able to formally direct civil servants. However, the office would be integrated and made to cohere by virtue of the fact that all staff would be personal appointments of the Minister. To reflect this staff based in a Ministerial office should be known as ‘Ministerial Staff’, irrespective of whether they are officials, political appointees, or expert advisers appointed from outside the Civil Service.

On this model, the reformed Ministerial office might therefore comprise the following Ministerial Staff, directly appointed by the Minister:

- A Principal Private Secretary, as now, to manage the office and its civil servants, including the private Secretaries, diary managers and so on.
- A team of policy advisers and implementation/delivery staff to cover the main policy areas of the Department and ensure that the priorities of the Secretary of State were being implemented. This team would contain a mix of officials, outside expert advisors, and political appointees
- An adviser(s) and/or a chief press officer to cover communications and press relations
- A political Secretary and political/party liaison staff
- Speechwriters.

We don’t believe it is helpful to set arbitrary limits on the number of personal appointees and have avoided doing so. The size of a Ministerial office will depend on Cabinet rank and portfolio, with senior Ministers needing more support. Policy advisers could be political appointees or officials directly appointed by the Secretary of State. In the latter case, it would make sense to extend the exemption from Civil Service appointment rules currently applied to policy and implementation advisers from two to five years, so that they can serve a full parliamentary term. We would not assume that a Minister would choose to fill the policy adviser posts exclusively with political appointees. Ministers will be motivated to appoint the most able and competent people to their teams, not just ‘yes men’.

Some Secretaries of State might choose to create a political Chief of Staff position, to clarify accountability, performance management and personal career development for special advisers, which are all currently weak. If these proposals were implemented, the number of political appointees in a department might rise to half a dozen, which would still not be considered large by international standards.

The precise composition of the Ministerial office will vary from Minister to Minister. Such flexibility is important – there is a lot of variation in how individual Ministers approach the job, and the skills they bring to it. One of the strengths of giving

Ministers greater control over the shape of their office is that they will be able to use it to ensure they have at their disposal a full range of skills and expertise to do the job. However, as discussed above, we do believe that it is important to maintain a good balance between political appointees and officials (the EU for instance insisted that half of *Cabinet* appointees come from the career service). It is important that Ministerial offices do not become cocoons, cut off from the rest of the department and its Permanent Secretary, in particular.

There is existing precedent for this sort of model to suggest that it could be made to work effectively in Whitehall. As Chancellor, Gordon Brown ran the Treasury using a combination of a private office and his Council of Economic Advisers, with Ed Balls acting as a de facto Chief of Staff. The Deputy Prime Minister's Office also closely resembles the model outlined above: he combines a Chief of Staff with a Principal Private Secretary (who is a Director General), and a number of policy Spads and officials. And, of course, various Prime Ministers have adopted a similar set of arrangements for running No 10. In light of this existing practice we see no reason why such a model could not be rolled out consistently across Whitehall.

Allowing the Minister to personally appoint the officials in the office also builds on precedent. It is usually the case that the Minister appoints his/her Principal Private Secretary, given the centrality of the post to the Ministerial role. It seems sensible to formalise this practice.

Drawing on international experience, it should also be made possible for serving officials to take temporary leave from the Civil Service to work as political appointees. In countries like Australia and Canada it is quite common for members of the Civil Service to spend part of their careers working in a political role in a Minister's office: it is considered a positive thing for officials as it exposes them to the cut and thrust of political life, and good for Ministers because it provides them with a pool of experienced and senior policy advisers. The evidence from Australia suggests that officials who have worked for one party but then return to their department to serve a new Government are not 'tainted' by this experience. The Rudd/Gillard Governments have continued to work with officials who acted as staffers to Howard's Ministers but they, rightly, consider professional competence to be more important than who they used to work for. There are some examples of such 'switching' in recent British experience.

While it is important that the Ministerial office does not become detached from the department it is also important that stronger Ministerial offices maintain an effective relationship with the centre. As is now the case, the Prime Minister should have a veto over political appointees that work in the Ministerial offices.

There are some other important aspects of the model worth noting:

- Junior Ministers currently have no formal powers to appoint Spads. It could be considered disruptive to the political leadership and cohesion of a department to lift that restriction. An alternative approach, building on current practice, would be to allow junior Ministers to draw on the larger pool of Ministerial Staff provided by this model, so that s/he would work with the staff covering their brief. The other upside of this approach is that it should help integrate junior

Ministers into the work of the Secretary of State and help make the department cohere.

- To maximize the opportunity provided by increasing the capacity of support to Ministers it is important that they can attract senior figures to work for them. Pay will therefore need to be competitive e.g. a Chief of Staff figure should be paid at least the equivalent of a Grade 3. Britain has a relatively well developed gene pool upon which Ministers can draw and Ministers should be encouraged to use open recruitment processes to recruit their staff to boost their chances of finding the most able candidates.
- Ministerial staff should not be subject to pre-confirmation hearings. In principle it makes no sense, since they do not exercise executive functions (their role is advisory only); in practice it would be deeply disruptive and time-consuming to conduct confirmation hearings for all advisers. Personal appointees are emphatically the responsibility of the Minister and he or she should ultimately account for their actions. This does not necessarily prohibit advisers appearing before select committees but the expectation should be that Ministers account for the actions of their staff.
- Transparency is very important here: all details of Ministerial staff (political appointees, officials, and outsider expert advisers) should be made publicly available, covering the job descriptions and salary band for each appointee (France is a good model in this respect).
- Training and induction is also important for new advisers to get to grips with how Government works, and in particular the role of political appointees vis-à-vis officials, and to familiarize themselves with the various Codes of Conduct that they are subject to.
- If the number of Ministerial staff is to be boosted then it is important that the all Codes of Conduct are kept under review, including rules governing Business Appointment rules. It is important to guard against a revolving door between Government and the lobbying world. In Canada Ministerial staff are subject to a five-year lobbying ban after leaving Government.

RECOMMENDATION 3: STRENGTHEN THE CAPACITY OF THE CENTRE TO HOLD PERMANENT SECRETARIES TO ACCOUNT

Poor performance is not adequately or systematically dealt with in Whitehall, as we have seen. All Civil Service systems struggle with performance management, however. It is often hard to judge what comprises good performance in a complex and fluid political environment. The country that has done most to overhaul its approach to the performance management of senior officials is New Zealand, which has enacted major reforms to its public administration since the 1980s. We do not think Whitehall should go down the road of adopting a formalised contractual model like that initially introduced in New Zealand. But we see a strong case for giving the Head of the Civil Service similar powers to those exercised by the New Zealand State Service Commissioner and for introducing fixed-term contracts (discussed in recommendation 4).

The State Service Commission is a central agency in the New Zealand system that is tasked with appraising and holding Chief Executives to account and which has responsibility for improving the capability of the Civil Service as a whole. The State Service Commissioner is supported by a number of Deputy Commissioners, who are assigned individual Chief Executives, with whom they meet regularly as part of a

formal appraisal system. The State Service Commissioner reviews the performance of Chief Executives and decides whether or not to renew a Chief Executive's contract. Ministers are formally consulted during the appraisal process. It is generally believed that poor performing Chief Executives will be removed from the public service. It is rare for a Chief Executive to be sacked, but it is common for contracts not to be renewed.

In the UK, Permanent Secretaries are managed by the Cabinet Secretary and the Head of the Civil Service, who divide the individual departments between them. The Head of the Civil Service is also the Permanent Secretary at the Department for Communities and Local Government. The performance management of Permanent Secretaries has recently been strengthened: their objectives are published and they receive performance reviews on a half-year and annual basis. Their appraisals are informed, inter alia, by 360 degree feedback, including from senior Ministers; data on the implementation of departmental objectives; and financial management indicators.

These are important reforms but they still fall short of the kind of rigorous accountability processes found in New Zealand. To rectify this we recommend that:

- The Head of the Civil Service becomes a full-time post, taking on all the responsibilities for the management of Permanent Secretaries currently discharged jointly with the Cabinet Secretary, modeled along the lines of the New Zealand State Service Commissioner.
- The post be given formal responsibility to conduct annual performance appraisals of Permanent Secretaries which would contribute to the decision to renew a contract or not (ultimate responsibility for this decision should rest with the Prime Minister).
- Ministers should be formally consulted with their comments recorded in the appraisal. However, the appraisal should be conducted by the Head of the Civil Service (not only is it better that appraisals are conducted by a non-partisan body but international experience from New Zealand demonstrates that Ministers don't have the time/experience to run formal appraisals). As in New Zealand and Australia the performance appraisal could be counter-signed by the Minister for the Cabinet Office. Non-executive directors could also play a useful role in the appraisal process.
- The Head of the Civil Service should also be responsible for corporate-wide reform and development.

As in New Zealand he or she should be supported by a number of deputies (senior figures in their own right) to help manage the appraisal system. This reform would provide the institutional basis that is currently missing but which is essential for a more effective and dedicated system of performance management of Permanent Secretaries.

RECOMMENDATION 4: INTRODUCE 4-YEAR FIXED-TERM CONTRACTS FOR PERMANENT SECRETARIES

To underpin the institutional change described above we also recommend that fixed-term contracts should be introduced for new Permanent Secretaries. Again the experience from New Zealand is instructive here: the introduction of fixed-term

contracts is widely considered to have sharpened the accountability of Chief Executives.

A great advantage of fixed-term contracts is that it forces Ministers to be clear about their core objectives and their expectations for the department. Good Government depends on such clarity. It also depends on being flexible and responsive to events. For this reason it is important to avoid the rigid and inflexible 'purchasing' model first tried by New Zealand in the 1980s in favour of focusing on some core priorities, and for ensuring Departments have the capabilities in place to deliver them. The Government has recently published for the first time Permanent Secretary objectives and these could very easily form the basis of a fixed-term contract.

In taking forward this proposal, we suggest:

- Four years should be the length of an appointment, so that terms in post don't coincide with the electoral cycle (now fixed every 5 years) to avoid claims of politicisation.
- Appointments would be renewable and performance-related.
- Permanent Secretaries should be given clear performance objectives on their appointment.
- The decision to renew or not renew a Permanent Secretary in post would ultimately rest with the Prime Minister but the decision would be based on the appraisal conducted by the Head of the Civil Service.
- Any reform should apply to new Permanent Secretaries only, given that existing Permanent Secretaries are employed on permanent contracts and it would not be possible to move them onto new contracts.

It has been argued that it would be more practical and flexible to introduce a system of fixed-term *appointments* rather than fixed-term contracts. Under this model Permanent Secretaries would be retained on permanent Civil Service contracts but their tenure in post would be fixed for four year terms, subject to renewal.

Either way, contracts should be designed to prevent perverse incentives. For instance, to avoid encouraging silo working, contracts should specify cross-departmental collaboration (this is now being introduced in New Zealand). It is also important to retain flexibility. Presently it is possible to move Permanent Secretaries either because they are not performing or because they do not get on with their Minister. It is important that such flexibility is not entirely sacrificed in a move to fixed-terms. For instance it must be possible to move a Permanent Secretary mid-contract if the relationship between a Minister and Permanent Secretary breaks down. It should also be possible to remove a poor performing Permanent Secretary mid-contract.

To be effective Permanent Secretaries will need to feel sufficiently empowered to meet the objectives they are being held to account for; this raises issues in relation to Ministerial autonomy, and clarity as to the respective roles and responsibilities of Ministers and Permanent Secretaries.

To underline the shift to fixed-term contracts we also propose that the title of Permanent Secretary should be changed to reflect the change in tenure. One option

would be to adopt the Australian term of 'Departmental Secretary'.³⁵⁹ In New Zealand and Australia pay for Permanent Secretary equivalents was raised to compensate for the loss of tenure, and we can see the case for increasing pay as part of a package of introducing fixed-term contracts.

RECOMMENDATION 5: STRENGTHEN EXTERNAL ACCOUNTABILITY FOR SENIOR CIVIL SERVANTS IN KEY OPERATIONAL ROLES

In recent years, there has been growing pressure for senior civil servants to be held externally accountable for their performance in delivering Government policies, particularly from Members of Parliament serving on Select Committees, whose role in scrutinising the executive has been strengthened. This is part of a wider trend of opening up professions to greater public scrutiny and accountability.

The current Osmotherly rules, outlined in part 1 of this report, restrict how far this process of increasing accountability can go, however. Permanent Secretaries are Accounting Officers for their departments and answer to Parliament in that capacity. Other senior officials may appear before Select Committees and in the wider public realm, but only as representatives of the Secretary of State. External accountability of senior civil servants is therefore highly circumscribed.

Where Governmental functions are discharged by quangos and other bodies external to departments of state, the relevant Chief Executives and senior staff may appear before Parliament and in the wider media to account for how they are discharging their statutory obligations. Their accountability is relatively clear cut. Matters are more complicated for senior officials when delivery functions, in particular, are brought back into departments, as has been the case in a number of areas in the last two years across Whitehall. These officials may perform extensive roles delivering Government policy objectives but cannot be held to account for their performance.

There will inevitably be grey areas between matters that are substantially the responsibility of elected politicians, chiefly the determination of policy and resource allocation, and those that fall to officials in respect of the implementation of those policies. Nonetheless, we propose that the external accountability of senior officials could be significantly improved if Senior Responsible Owners (SROs) – those 200 or so senior Whitehall officials charged with major programmatic and implementation tasks – could be called before Parliament on their own account (in the same way that Permanent Secretaries appear in their own right as accounting officers). This would give parliamentarians on the relevant departmental select committees the opportunity to scrutinise their performance in delivering Ministerial objectives, rather than to expect Ministers to account for them. Conversely, SROs should have the right to appear before Parliament, rather than to do so only as nominated representatives of Ministers.

To strengthen accountability of SROs it is important that there is an expectation that they do not move post mid-way through a project (as is often the case now³⁶⁰). In

³⁵⁹ Previously Australian departmental heads were known as 'permanent heads'.

³⁶⁰ The churn in civil service posts seriously dilutes accountability and undermines good Government. The Laidlaw Report into the failure of the West Coast Mainline franchise was highly critical of the high turnover rates of SROs. See

those circumstances where SROs have moved jobs during the life of a particular programme the relevant select committee should still be able to call them to appear before them.

These changes will throw up challenges for senior civil servants and Ministers that will have to be navigated, particularly where there are tensions between politicians and their officials about how responsibility should be allocated when things go wrong. But it is our judgement that this is not reason enough to oppose further opening up of the senior Civil Service to wider public accountability.

RECOMMENDATION 6: ENABLE THE CIVIL SERVICE TO SUPPORT HER MAJESTY'S OPPOSITION

A final reform option we propose aims to give the Opposition greater use of the Civil Service to help with its development of policy. While this recommendation does not flow naturally from the accountability arrangements we have reviewed in other countries, it is an idea we came across during the research and it something we believe could have a positive impact in Westminster.

Currently opposition parties have access to so-called 'Short Money' which they can use to contribute towards policy development (e.g. by employing researchers and advisers). And near to an election Shadow Cabinet Ministers are ordinarily invited to meet Permanent Secretaries to discuss their manifesto plans. If coalition negotiations become necessary, the Civil Service now supports the political parties in the process of putting together a coalition agreement. It is also common practice in local Government to give support to councilors from all parties.

It would be a logical extension of these developments to give opposition parties support from civil servants. While there is little public appetite to increase the amount of short money going to political parties, voters are likely to view the option of giving opposition parties greater access to the Civil Service with equanimity. It might also be claimed that if opposition parties had greater access to the Civil Service it might help pave the way for better relations if they are returned to Government. Tensions often exist between Ministers and officials because Ministers believe that officials are trying to obstruct them; while officials complain that parties come to power with insufficiently developed policies. One way to ease these tensions would be to second officials into opposition parties to help with policy development. Officials would not be politically partisan during this time and they would remain on their Civil Service terms and conditions. They would be tasked with preparing policy advice, doing detailed costings of policies, supporting speech writing, and so on. Some officials might subsequently be appointed to work in the private offices of newly elected Secretaries of State for whom they have worked in opposition; others would take on new posts without the secondment to the opposition having had prejudice to their careers.

New Zealand has some experience of this working well, (though it is not common practice).³⁶¹ The Treasury 'offers' the Office of the Leader of the Opposition a

https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/29866/report-of-the-laidlaw-inquiry.pdf

³⁶¹ In Sweden there is no precedent for secondments but it is possible for officials from the Ministry for Foreign Affairs to take temporary leave from the civil service to go and work with the opposition parties

secondee (which if accepted the Opposition is required to pay for). This is a long-standing arrangement and as recently as 2008 the Labour Opposition had a Treasury Official seconded to them (in that case – and this appears to be somewhat exceptional) the person eventually resigned from the Treasury and now works for the Labour Party in Parliament. More typically secondees have completed a term and then returned to the Treasury. Where a secondee has been in place in the run-up to an election, the Treasury Official has then ‘followed’ the Party into Government and transferred to the Department of Prime Minister and Cabinet. The ‘offer’ is not always accepted – Labour in Opposition between 1990 and 1999 did not avail itself of this facility (indeed the Finance Minister/Treasurer in the incoming Labour Government in 1999 decided not to have a Treasury Official in his office – that changed in 2002). Significantly, spending time as a secondee does not appear to have had any detrimental or deleterious effect on the subsequent career trajectory of the individuals concerned – in fact one might argue, quite the opposite, since such a secondment is considered an important part of an official’s career development.³⁶²

for a fixed period of time after which they can return to the Ministry. The practice is not common, however. This is similar to arrangements in Germany.

³⁶² We are grateful to Chris Eichbaum for providing information on New Zealand.

APPENDIX 1

KPMG Survey UK Machinery of Government Review

Background

Politicians in the UK are raising questions about the accountability of the civil servants who work for them. There are tensions between politicians and civil servants. Some UK Ministers say they find it difficult to hold their civil servants to account and as a result political promises don't always get delivered.

Francis Maude MP, the Cabinet Minister in charge of the Civil Service has appointed IPPR to conduct a review. KPMG has undertaken to support IPPR by providing information on how the Civil Service is run in a range of countries. We will feedback to you the comparative reports which you may find useful in discussions with Government clients.

In particular they seek to understand not just the structures themselves, but how they are perceived by politicians and civil servants in the countries in which they work. As you will see from the question below, we are particularly interested in the senior Civil Service, and how it is held accountable for its performance.

In order to conduct this research we are seeking your input. The information you provide will form the basis of the researchers' evidence base and will shape the options presented to the UK Government.

Questions about Civil Service Context

1. Is the Civil Service governed by a founding set of legislation or written rules? (If so please attach a copy)
2. What are the main roles and responsibilities of senior civil servants? (e.g. providing policy advice to Ministers; implementing/delivering policy; managing departments/agencies, providing constitutional checks and balances.) How have these roles changed in recent years? (e.g. are senior civil servants now more focused on management and delivery than traditional policy advice?)
3. Who runs the Civil Service? Is there a 'head of the Civil Service?' For instance, in the UK the Civil Service is run by the Cabinet Secretary and the Head of the Civil Service. Is this person/body a civil servant? What role, if any, do Ministers play in managing the Civil Service?
4. Is there an independent Civil Service or public service commission that is responsible for overseeing certain aspects of the Civil Service? If so what are its main responsibilities? What is its relationship with Ministers?
5. How would you describe the relationship between senior civil servants and Ministers? Do they work harmoniously or are there tensions between them?
6. Have these relationships changed over the last few years? Have the changes been positive or negative? Can you illustrate this answer with any relevant examples?
7. What aspects of the Civil Service/politician relationship work well and which do not work well? Have there been any specific attempts recently to reform the

constitutional relationship between civil servants and politicians? Please give recent examples if possible.

8. What have been the recent priorities of recent Civil Service reform? (Please attach any relevant policy documents which discuss the main areas of reform.)
9. All Civil Service systems and the relationship between civil servants and Ministers will to some extent be conditioned by the specific constitutional arrangements/political culture prevalent in each country. For instance, in New Zealand it is often said that the Civil Service-Ministerial relationship is shaped by the fact that Ministers do not reside in departments. Are there specific constitutional/political features of your country that you would highlight as having a significant impact on the Civil Service-Ministerial relationship?

Questions about Civil Service Appointment Process

10. Who appoints and what is the appointment process for senior civil servants? What role – formal and informal – do Ministers play in the appointment process?
11. Are senior civil servants appointed on permanent employment contracts, or on fixed-term employment contracts? (Or are a combination used depending on the type of civil servant?)
12. Are senior civil servants appointed from inside the Civil Service, or are they ever appointed from outside of the Civil Service? (e.g. from business or industry?) Has this position changed recently? For instance, has there been a push to recruit more people from outside the Civil Service?
13. Who appoints non-Civil Service personnel, including a) external experts and b) political appointees? Are Ministers involved in these appointments? What is the balance in major ministries between: a) traditional Civil Service b) political appointees (people engaged in partisan work) and c) other non-civil servants (but not political appointees)?

Questions about the Civil Service Performance Management Process

14. How are senior civil servants managed? Is there an appraisal process?
15. Is the performance of senior civil servants measured – if so how? For instance do senior civil servants have to meet formal measures such as performance targets? How are these assessed – is this done internally-only or is there any external public scrutiny?

Questions about Civil Service Accountability

16. The main focus of our project is on Civil Service accountability. We would like you to describe whether, and if so how, senior civil servants in your country are held accountable by different parts of the state.
17. Are senior civil servants held accountable by Politicians? (e.g. Prime Minister /Presidents/Ministers) If so, how?
18. Are senior civil servants held accountable by legislative committees? If so, how?
19. Are senior civil servants held accountable by the courts? If so, how?
20. Are senior civil servants held accountable by Independent Public or Civil Service Commissions? If so, how?
21. Are senior civil servants held accountable by any audit or inspection bodies? If so, how?

22. Out of the arrangement listed in question 16a to 16e, which are considered to be the most effective at holding civil servants accountable? Have there been any attempts or calls to reform any of them? (Please attach any relevant documents relating to these reform initiatives)
23. Do Ministers have powers to hold senior civil servants to account? If so, what mechanisms and measures do they use?
24. Do Ministers have any power to take action if a senior civil servant does not deliver what they have promised? For instance, can Ministers suspend or dismiss senior civil servants?
25. If a senior civil servant makes a highly public mistake or error, who is ultimately held to account for the mistake and how? For instance, if there is an administrative error that is considered to be the responsibility of senior civil servants (and not Ministers) do the media and opposition parties respect this or they try and blame Ministers?