

# GOVERNANCE PROJECT





### 9

#### The role of the Civil Service and its relationship with Ministers

- R.9.1. The ability of the Civil Service to operate within and uphold standards in governance has been the bedrock of much of the operation of our governance system. We recognise that, in 2024, the Civil Service is under strain as an institution. In private, in conversations with those who have experience as Ministers or senior Civil Servants, it is striking how much consensus there is on the need for a fundamental re-think.
- R.9.2. However important such a re-think might be, it is outside our scope. Exploring the question properly requires detailed knowledge, evidence, study, expert advice and consultation for which we do not have the time, expertise or resources. Further, we believe such a conversation does not belong in the confines of only the Government of the day. Accordingly, we recommend that a Royal Commission be urgently established to examine the changes necessary to reconfigure the Civil Service, to place it on a new footing, with appropriate resources, fit for the roles that it will have to fulfil in the future. That Royal Commission should operate on a cross-party basis, drawing on the wide range of experience of politicians from different parties alongside representatives of the wider communities the Civil Service is also there to serve. It should also take evidence from Civil Servants themselves about improvements they would recommend.
- R.9.3. We have, therefore, restricted ourselves to specific and limited proposals which we believe would have the effect of strengthening the quality of governance in the UK as things stand now. We believe that these proposals could and should be implemented rapidly. A Royal Commission could then assess whether those changes had been valuable, and propose any amendments it thought fit. Of course, it would also be possible for implementation of these recommendations to be deferred to such a Royal Commission. That is not our proposal, as it would, inevitably, involve delay in strengthening governance in a critical area.

#### **We recommend that:**

##### **The Civil Service Code should create legal obligations**

- R.9.4. The Constitutional Reform and Governance Act 2010 (CRA) should be amended to make explicit that Civil Servants have a legal obligation to act in compliance with their responsibilities under the Civil Service Code and Ministers cannot direct them to act in opposition to the Code.

##### **The centrality, and accountability, of Permanent Secretaries should be strengthened**

- R.9.5. The title of Permanent Secretary should be limited to the most senior official who leads each Department. We understand the pressures which have led to the relative proliferation of the title but we think that the resulting dilution has been unhelpful. References in this Recommendation to Permanent Secretaries should be construed therefore as references to Departmental Permanent Secretaries.
- R.9.6. The role of the Permanent Secretary should be strengthened given their importance in ensuring that the systems of accountability and governance are adhered to. In particular:
- each Permanent Secretary should be accountable to Parliament for the health of public administration in the area of, and the operational performance of, their Department and should report annually to Parliament on that health.
  - a statement should be included in that annual report to Parliament for each Department, as to the accuracy of communications issued during the relevant year by the Department.

- c. each Permanent Secretary should be accountable for ensuring compliance by their Department with:
  - i. their obligations under the Public Records Act 1958 (so that there is a clear record of who took what decisions, with what advice and for what reasons);
  - ii. CRAG;
  - iii. the Civil Service Code and Special Advisers' Code;
  - iv. the Freedom of Information Act 2000;
  - v. the requirements of Managing Public Money; and
  - vi. the Public Appointments Code,

and the annual report to Parliament should include a statement on the quality of compliance in these respects.

R.9.7. The previous status of permanent Civil Service appointments should be restored. Permanent Secretaries have been put on 5-year fixed term (essentially temporary) contracts which appears to have a negative effect on their ability to defend appropriate behaviour in the face of Ministerial pressure, for example on public appointments, procurement or communications. To ensure that Permanent Secretaries remain properly accountable, the Cabinet Secretary should specify how they will be held to account both for their own performance and for that of their Departments.

#### **Transparency should be enhanced for certain aspects of Civil Service work**

- R.9.8. The default practice should be that any analytical models used by a Civil Service Department in the course of undertaking analysis for policy development or evaluation are made public promptly, including providing underlying data sources and assumptions in accordance with standards set out by relevant data advisory bodies.
- R.9.9. Ministerial Directions should always be recorded and a copy should always be provided to the Liaison Committee and the relevant Select Committee(s) as well as the NAO.
- R.9.10. The Prime Minister should set clear objectives for Cabinet Ministers and their respective Departments. These should be made public. Permanent Secretaries should be accountable to Parliament in their annual report (as above) in relation to the administrative function of their Department and performance by the Department against agreed objectives. Ministers will remain accountable for the delivery of their own objectives and for policy and their decisions.
- R.9.11. Ministers should be accountable for ensuring that the Civil Service is appropriately resourced for the responsibilities with which it is tasked. The Minister for the Civil Service and the head of the Civil Service should report to Parliament annually on the overall status, resourcing and performance of the Civil Service and on the improvements that could be considered in that respect.
- R.9.12. The Cabinet Secretary should confirm that all Departments are capable of implementing the Government's policy objectives for each Department. This includes confirming that the Department is adequately resourced in terms of capacity and capability to meet the demand from Ministers, comply with their statutory duties, and ensure the safe operation of systems for which they are responsible.

**The role of the Civil Service Commission (CSC) should be enlarged, with a corresponding increase in its resources, by amendment of CRAG where necessary.**

- R.9.13. The CSC should retain its key role of proposing internal and external appointments within the Civil Service. Such appointments should be made on a politically neutral basis and should be guided by the principle that the Civil Service is open (at all levels including at the top) to people with a range of backgrounds, skills and experience. The Senior Leadership Committee (SLC) should publish or provide to the CSC an annual account of the SLC's activities.
- R.9.14. The CSC's position as guardian of the Civil Service Code should be clarified and strengthened. Pending the report of the Royal Commission, it should report annually on the overall state of the Civil Service and any recommendations for its improvement. This would include monitoring the discharge by Permanent Secretaries of their accountability for the health of public administration as described in R9.6 above and working with Permanent Secretaries to assist them in discharging that responsibility.
- R.9.15. The CSC should be responsible for the independent enforcement, and investigation of alleged breaches, of the Civil Service Code, irrespective of whether the issue arises within the scope of section 9 of CRAG. It needs to have the resources to undertake (or supervise, to the extent that work is outsourced) that enforcement and investigation responsibility, and the ability to hear any complaint without having to refer back to the Cabinet Office.
- R.9.16. The CSC should have an effective and confidential ethics hotline to enable concerns, in particular relating to the application of the Civil Service Code, to be surfaced to it effectively and quickly by Civil Servants and for them to receive advice and support or to raise issues that do not lead to a formal complaint under CSC procedures. It also needs the power and duty to initiate investigations and to raise any issues, where necessary with the appropriate responsible individual or regulator if the behaviour concerned involves individuals outside the permanent Civil Service (e.g. Ministers, SPADs, MPs, Peers or members of the public).
- R.9.17. The First Civil Service Commissioner should bring to the role sufficient seniority and experience to ensure they can operate independently, without fear or favour. Whilst a depth of experience in Human Resources within industry or a comparable operational environment is likely to be an advantage this should not be a requirement for appointment.
- R.9.18. Members of the CSC should have sufficient time to undertake their role effectively and sufficient remuneration for them to treat it as an important responsibility. Appointments to fill vacancies should be made promptly.
- R.9.19. The CSC should have sufficient dedicated, independent and suitably skilled resources to support this expanded role.

**A Royal Commission should be established urgently**

- R.9.20. A Royal Commission should consider what would be the best operating model for the Civil Service for the remainder of the 21<sup>st</sup> century. The terms of the Royal Commission should be widely drawn and could include the following:
- a. Examining the model of an impartial anonymous and permanent Civil Service and recommending whether this is the best (or only) model to serve modern Government, with particular regard to the changed context in terms of anonymity, the relationship with accountability, and Ministers' desire to make direct appointments to drive their priorities.
  - b. Whether, in the light of the Royal Commission's analysis, any parts of the Civil Service or its operations or its responsibilities should be put on a statutory basis, or a revised statutory basis.
  - c. The overall size and scale of the administrative Civil Service.
  - d. How to ensure that the Civil Service delivers ongoing value for money for the taxpayer, including:

- i. appropriate pay and reward structures that would incentivise recruiting and retaining the right talent to deliver for Ministers, Governments, and the public over the short, medium and long term.
  - ii. how to ensure that the Civil Service workforce is diverse and open at all levels to people from all backgrounds and with different experiences to meet the challenges of the time; and
  - iii. the appropriate accountability framework and how it should apply at different levels, including where the boundaries between Ministerial and officials' accountability should lie. It may be that different models should be examined for different facets of public administration (for example it might be appropriate to allow for a different kind of accountability, reward and incentive structure for people working on long-term infrastructure projects).
- e. Evaluating where the appropriate boundaries might lie in terms of what should be delivered by Civil Servants as opposed to other agencies or bodies of the State (effectively re-examining some of the questions answered by the "Next Steps" review and subsequent re-organisations to ensure clarity of accountability and expectations).
- f. The extent to which advice from the Civil Service should be made public as regards:
  - i. the principle that greater transparency and openness will lead to higher quality of decision-making; and
  - ii. the Civil Service as a potential check on the inappropriate exercise of power by the Minister (where this might be in direct tension with their imperative to serve the Government of the day and to advise in private); and
  - iii. as a balancing consideration, the potential impact of publicity on the privileged and confidential relationship in which advice is currently given.
- g. Whether the Civil Service should also have the function of acting, in an appropriate and limited way (e.g. by seeking "a second opinion"), as a check or balance on the exercise of power in the UK, to reduce the risk of abuse of that power or of failure to achieve appropriate standards of public administration. We do not endorse such a function and we recognise that this, particularly, is a fundamental and complex question to which there is no simple answer.
- h. How Civil Service appointments are made, and how the most senior Civil Servants are appointed and incentivised.

*Certain additional, background material for this Recommendation is available on the website for the Commission (<https://www.ukgovernanceproject.co.uk>).*