

TREASURY AND CIVIL SERVICE  
COMMITTEE

**Fifth Report**

**THE ROLE OF THE CIVIL SERVICE**

**VOLUME I**

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1 November 1994*

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The Treasury and Civil Service Committee is appointed under S.O. No. 130 to examine the expenditure, administration and policy of the Treasury and the Office of Public Service and Science (but excluding the Office of Science and Technology and the drafting of bills by the Parliamentary Counsel Office), the Board of Customs and Excise and the Board of the Inland Revenue.

The Committee consists of a maximum of eleven members, of whom the quorum is three. Unless the House otherwise orders, all Members nominated to the Committee continue to be members of the Committee for the remainder of the Parliament.

The Committee has power:

- (a) to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time;
- (b) to appoint specialist advisers either to supply information which is not readily available or elucidate matters of complexity within the Committee's order of reference;
- (c) to communicate to any other such committee and to the Committee of Public Accounts their evidence and any other documents relating to matters of common interest;
- (d) to meet concurrently with any other such committee for the purposes of deliberating, taking evidence or considering draft reports.

The Committee has power to appoint one sub-committee and to report from time to time the minutes of evidence taken before it. The sub-committee has power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, and to adjourn from place to place. It has a quorum of three.

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13 July 1992

The following were nominated as members of the Treasury and Civil Service Committee:

Ms Diane Abbott	Mr John Garrett
Sir Thomas Arnold	Mr Barry Legg
Mr A J Beith	Mr Giles Radice
Mr Nicholas Budgen	Mr Brian Sedgemore
Mrs Judith Chaplin (decd 19.2.93)	Mr John Watts
Mr Quentin Davies	

Mr John Watts was elected Chairman on 15 July 1992.

Sir Thomas Arnold was elected Chairman in the place of Mr John Watts on 19 October 1994.

The following changes in the membership of the Committee have been made:

Monday 29 March 1993:	Mr Nigel Forman appointed.
Monday 13 December 1993:	Mr John Garrett discharged; Mr Mike O'Brien appointed.
Monday 31 October 1994:	Mr John Watts discharged; Mr Matthew Carrington appointed.

## THE ROLE OF THE CIVIL SERVICE

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# FIFTH REPORT

The Treasury and Civil Service Committee has agreed to the following Report:

## I. A CIVIL SERVICE FOR THE TWENTY-FIRST CENTURY:

### SUMMARY AND RECOMMENDATIONS

1. The British Civil Service is a great national asset. Since the 1870s, it has been the permanent and impartial instrument of all administrations. Governments have always seen it as their duty to preserve its efficiency and honesty for their successors. The Civil Service's commitment to the highest standards of performance and conduct is a guarantee of constitutional and financial propriety and good government. Wherever the boundaries are drawn between public and private sectors, there are certain crucial values which must underly public administration. The values of impartiality, integrity, selection and promotion on merit and accountability are as important today as they were in the last century. In this Report, we make recommendations to equip the Civil Service for the demands of the twenty-first century. We believe that our proposals would enhance the Civil Service's common purpose and enable it to perform its tasks more effectively. At a time of change and uncertainty about national institutions, we believe that Parliament has a special role to play in ensuring that the Civil Service maintains its efficiency and probity and retains public confidence.

2. We recommend that the Government co-operates with the commissioning of any attitude survey of civil servants by the Treasury and Civil Service Committee as part of any future inquiry into the Civil Service (paragraph 60).

3. This Committee agrees with the Committee of Public Accounts that traditional standards of probity and integrity should not be relaxed in order to secure economy and efficiency. They are not only compatible with an effective and efficient Civil Service; they are essential to it (paragraph 69).

4. It is our conviction that the values of impartiality, integrity, objectivity, selection and promotion on merit and accountability should act as unifying features of the British Civil Service. They are as important today as in the last century; their importance should not diminish in the next century. We believe that the case for a permanent, politically impartial Civil Service is as compelling now as it has been for well over a century. The principle of selection and promotion on merit must represent the bedrock of such a Civil Service. The importance of the values of integrity, impartiality, objectivity and accountability is rooted in the characteristics of the tasks which the Civil Service is called upon to perform. These values reflect rather than inhibit the jobs to be done. They are relevant to civil servants serving the public as well as to those serving Ministers directly. They can and should act as a unifying force for the whole Civil Service (paragraph 72).

5. We share the Government's view that the Next Steps reforms are in principle compatible with the maintenance of the traditional values of the Civil Service. However, the devolution of authority within the Civil Service and the disappearance of traditional structures of control reinforce the need for greater vigilance about standards throughout the Civil Service. The disappearance of many tangible common features of careers in different parts of the Civil Service reinforce the importance of the less tangible shared values, and emphasises the need to make those shared characteristics better known and understood throughout the service (paragraph 84).

6. We have little doubt that civil servants would be able to demonstrate a high level of commitment to any incoming Government and we believe that the commitment of the overwhelming majority of civil servants to the principle and practice of a politically impartial Civil Service is undiminished (paragraph 85).

7. We believe that the public has a right to expect that the essential values of the Civil Service are being upheld (paragraph 86).

8. We do not agree with the Government that “the standards and ethics essential to the operation of the Civil Service...are well founded and well understood.” No document relating to the ethics of the Civil Service states the essential values with sufficient clarity, and none communicates a clear and simple message to all civil servants and to the wider public about the standards to be upheld. The Armstrong Memorandum appears increasingly dated. We do not believe it can be viewed as an authoritative summary of the constitutional position and role of the Civil Service. We welcome the publication of *Questions of Procedure for Ministers*, but are not convinced of the adequacy of its instructions relating to Ministers’ dealings with civil servants (paragraph 101).

9. We doubt that the existing mechanisms for upholding the ethical standards of the Civil Service are adequate. In the last century Mr William Gladstone remarked that the British Constitution “presumes more boldly than any other the good faith of those who work it”. This remains true today, and it need be no reflection upon the good faith of the current generation of Ministers and senior civil servants to suggest that public trust in such a system is diminishing and is likely to diminish further. The system for upward referral within Government of issues of propriety and illegality is necessary but not sufficient. We believe that there is convincing evidence that the existing procedures do not command the confidence of all civil servants. The preservation of the principles and values of the Civil Service is too important to be left to Ministers and civil servants alone (paragraph 102).

10. We recommend that there should be a new Civil Service Code and that it should be a condition of employment of all civil servants that they read the Code and conduct themselves in accordance with its provisions (paragraph 105).

11. As part of our Report, we have produced a proposal for a new Civil Service Code. We recommend that the Government’s reply to this Report includes a full response to this proposed Code (paragraph 107).

12. We recommend that an independent appeals procedure be established to consider actions in Government in breach of the new Civil Service Code which are not considered capable of resolution within Government (paragraph 110).

13. We believe that the final appeal available to an aggrieved civil servant who has exhausted all the internal procedures should be to an independent and strengthened body of Civil Service Commissioners (paragraph 112).

14. We believe the time has now come to implement the last recommendation of the Northcote-Trevelyan Report and establish a new Civil Service Commission on a statutory basis (paragraph 116).

15. We urge all parties represented in the House of Commons to indicate their support for a Bill placing the rules in connection with the terms and conditions of employment of civil servants on a statutory basis, and specifying the powers of the new Civil Service Commission (paragraph 117).

16. We find the Government’s attempts to draw a sharp distinction between accountability, which cannot be delegated by Ministers, and responsibility, which can, unconvincing (paragraph 132).

17. We consider that any Minister who has been found to have knowingly misled Parliament should resign (paragraph 134).

18. We expect to examine the relative merits of the Government’s Code of Practice on Access to Government Information and of a Freedom of Information Act in a future inquiry (paragraph 140).

19. We consider that the quest for greater effectiveness and efficiency in the Civil Service should be an unending one, and stress that the requirement to maximise the return from finite resources will not go away (paragraph 141).



20. We believe that the Citizen's Charter has value as an expression of a high level political commitment to quality in the provision of public services which should assist further in raising the profile of service delivery within the Civil Service. The orientation towards the requirements of individuals whom the Civil Service serves is particularly welcome, but should not lead to neglect of the need to serve a wider public interest (paragraph 146).

21. We believe that Next Steps Agencies represent a significant improvement in the organisation of Government, and that any future Government will want to maintain them in order to implement its objectives for the delivery of services to the public (paragraph 168).

22. We recommend that the process of target-setting is replaced by annual performance agreements between Ministers and Agency Chief Executives (paragraph 169).

23. We support the arrangements for Parliamentary questions on operational matters within the ambit of an Executive Agency to be referred in the first instance to Agency Chief Executives and we welcome the fact that their answers are now published in the Official Report. We recommend that Ministers should always respond, however, where Members of Parliament consider the response by an Agency Chief Executive to be unsatisfactory (paragraph 170).

24. We recommend that Agency Chief Executives should be directly and personally accountable to Select Committees in relation to their annual performance agreements. Ministers should remain accountable for the framework documents and for their part in negotiating the annual performance agreement, as well as for all instructions given to Agency Chief Executives by them subsequent to the annual performance agreement. To this end, we recommend that all such instructions should be published in Agency Annual Reports, subject only to a requirement to preserve the personal confidentiality or anonymity of individual clients (paragraph 171).

25. We believe that the value of Agency status as an instrument for improving efficiency and quality of service in the Civil Service would be considerably reduced if Agency status came to be seen principally as a staging post to the private sector. We welcome the Government's decision to make reviews of Agency status less frequent, but believe it to be important, where appropriate, for such reviews to result in positive assertions of the value of particular Agencies remaining in the Civil Service (paragraph 179).

26. The market testing programme has not been conducted effectively by the Government so as to enlist the enthusiastic support of either civil servants or potential private sector contractors. The reduction in the level of central oversight and the greater freedom granted to Departments in the White Paper represents a belated but welcome attempt to redress the balance. Market testing is likely to be more effective when it is a management tool available to Civil Service managers. We are particularly surprised at the proportion of the 1992-93 Competing for Quality programme in which in-house bids have not been permitted in view of the Government's own statement that, "for a genuine value for money test to be applied, in-house teams should have the opportunity to put forward a firm bid on the same basis and timescale as the private sector". We recommend that, in future, all Government Departments should inform Parliament at once of any decision to exclude an in-house bid from a competition, together with the reasons for each decision. We welcome the broad thrust of Government guidance on public access to contract information, but public access need not be the same as public availability. We recommend that Parliament should be informed at the earliest available opportunity of all contracts and service levels agreements reached under the Competing for Quality programme, together with the identity of the successful tenderer, the nature of the job, service or goods to be supplied, the performance standards set and the criteria for the award of the contract (paragraph 195).

27. We recommend that the policy tasks of an Agency should be specified in annual performance agreements and should be subject to evaluation other than by the parent Department (paragraph 210).

28. We recommend that the establishment of project teams within Government for policy implementation and policy project work should be both encouraged and monitored by the Office of Public Service and Science to ascertain the extent to which Agency principles can be applied effectively to parts of the policy process (paragraph 210).

29. We recommend that the Government should examine ways in which the process of policy advice and implementation may be better scrutinised and audited (paragraph 211).

30. We recommend that the Efficiency Unit carries out a scrutiny of the effectiveness and efficiency of the work of Ministers and support for Ministers (paragraph 215).

31. We welcome the decision to permit confidential briefings by senior civil servants of Opposition politicians further in advance of a General Election. We believe that there may also be scope for more frequent briefings by civil servants of Opposition politicians at other times. We recommend that the Government issues guidance to Ministers on the circumstances in which it would be appropriate to offer briefings to Opposition politicians on matters which relate to the machinery of Government or which are not of current party political controversy (paragraph 218).

32. We support the idea of extending many of the principles of Next Steps to core Departments. We welcome in principle the devolution of greater financial freedom to Departments, the introduction of resource accounting in Departments and endeavours to improve the quality of management information and target-setting in Departments (paragraph 226).

33. We do not believe, given the current quality of performance measurement in core Departments, that it is practical at present to introduce performance agreements between Ministers and civil servants in core Departments. However, it will be necessary when the proposed improvements have taken clearer shape to consider whether the processes of resource allocation and target-setting in core Departments and the associated processes of financial reporting to Parliament would be assisted by the introduction of a more formal framework for determining the allocation of responsibility for performance against targets in core Departments (paragraph 226).

34. We recommend that the Government collects and publishes, with the same frequency as statistics on Civil Service manpower, information on the number of civil servants in core Departments, by grade or pay band and by Department, distinguishing between those engaged in policy work, central finance and personnel functions and other functions of core Departments (paragraph 227).

35. We believe that the Office of Public Service and Science and, most significantly, the appointment of a Cabinet Minister to lead it represents an improvement upon the previous arrangements for the central management of the Civil Service. We recommend that the Government sets out proposals for the future internal organisation of the Office in its reply to this Report. We see no reason why the role of the Head of the Home Civil Service should not be combined with that of Secretary of the Cabinet (paragraph 243).

36. The morale of the Service does not simply matter because the Government rightly strives to be a good employer; it matters because the morale of civil servants is likely to have a direct effect on the quality of service to customers. Many civil servants accept the need for Civil Service reform, but if civil servants no longer have a sense of a job for life it is hardly surprising if they find it more difficult to offer a lifetime commitment in return. There may not be a general crisis of morale in the Civil Service, but there is certainly a sense of unease in the Service (paragraph 250).

37. We support the Government's decision not to set a target for Civil Service manpower reductions. We consider that such reductions should not be viewed in themselves as a principal indicator of the success or failure of Civil Service reforms (paragraph 261).

38. We believe that the benefits of delegated authority for pay and personnel management could outweigh the drawbacks (paragraph 262).

39. We recommend that the authority over pay delegated to Departments and Agencies includes the freedom for each organisation to decide whether or not performance-related pay is appropriate to its needs and objectives (paragraph 263).

40. It is vital that the reduction in rule-making from the centre does not jeopardise its leadership and authority in relation to equal opportunities (paragraph 264).

41. We believe the criticism of the senior Civil Service for being too insular retains much force (paragraph 304).

42. We believe that the procedures whereby advice upon senior appointments not subject to open competition is tendered by the Head of the Home Civil Service, who in turn is advised by the Senior Appointments Selection Committee, are inappropriate to the requirements of a modern Civil Service. We recommend that these procedures, and the Senior Appointments Selection Committee, be abolished (paragraph 305).

43. We recommend that the new Civil Service Commission, using submissions from within the Civil Service but independent of them, should advise Ministers on all senior appointments, including whether an appointment is necessary, whether open competition is worthwhile and, subsequently, on the best candidate for the job (paragraph 306).

44. We recommend that, where Ministerial decisions relating to senior appointments differ from the advice given by the new Civil Service Commission, this should be published in the Reports to Parliament of the new Civil Service Commission (paragraph 307).

45. We recommend that procedures are introduced for formal annual performance assessment of Permanent Secretaries, involving the Cabinet Minister concerned, the Head of the Home Civil Service, and the new Civil Service Commission (paragraph 308).

46. We believe that it is important that any proposals for change concerning the acceptance by civil servants of outside appointments are open for public and Parliamentary consideration at an early stage (paragraph 309).

47. We recommend that the precise pay range for every post in the Senior Civil Service, together with the scope for performance-related pay and the nature of the factors which determine the award of performance-related pay in each case, should be determined prior to the competition for the post (paragraph 310).

48. We believe that the Civil Service Commissioners should be made the custodians of the principle of selection on merit through fair and open competition, and that they be required to audit the performance of Departments and Agencies in relation to it. This would combine well with the other functions relating to the maintenance of the principles and values of the Service which we have already argued should be assigned to the new Civil Service Commission: this function should also be set down in statute (paragraph 337).

49. We agree with the Government's Fast Stream Review that Departments should be free to designate as Trainees in Policy Management any staff whom they have themselves assessed as being able to benefit from the programme, and recommend that this be implemented at the earliest possible opportunity. We also recommend that the Government should make it clear both to serving civil servants and potential applicants that the benefits of accelerated development are available to civil servants regardless of method of entry and ensure that this is the case in practice (paragraph 338).

50. We believe that the Civil Service College may need to reorient its approach in the light of the creation of the Senior Civil Service (paragraph 339).

51. We believe that there is a strong argument for a new management training course at the Civil Service College, possibly at the time of entry into the new Senior Civil Service and possibly linked to procedures for the selection and career development of entrants into the Senior Civil Service. The creation of the Senior Civil Service and the reform of the Civil Service together would provide an ideal opportunity to re-examine the rationale for fast-stream recruitment (paragraph 339).

## II. THE CONDUCT AND SCOPE OF THE INQUIRY

### (i) *The context of the inquiry*

52. The British Civil Service is currently undergoing a process of change more rapid and more far-reaching than any in its peacetime history. This process is having and will continue to have significant effects on the role of the Civil Service, relations between Ministers and civil servants, the delivery of services to the public and the position of civil servants as employees. It is appropriate that this process should be the subject of a Parliamentary inquiry. The Civil Service spends money or oversees the spending of money voted by Parliament; it administers laws passed by Parliament; it serves a Government composed of members of both Houses of Parliament chosen on the basis of elections to the House of Commons. The Treasury and Civil Service Committee in the last Parliament played an important role in examining the Next Steps initiative and in providing a measure of cross-party support for that programme, as the Government acknowledged.<sup>1</sup>

53. It is also appropriate that we should report on the Civil Service now. The Next Steps programme is nearing completion in terms of the establishment of Executive Agencies, and has recently been the subject of a review within Government.<sup>2</sup> Since our predecessors last reported on Civil Service reform, the Government has launched the Competing for Quality programme to extend the use of market testing and contracting out in central government.<sup>3</sup> In November 1993 the Government issued a study of career management and succession planning for senior civil servants.<sup>4</sup> Finally, in July 1994, the Government published a White Paper containing proposals for extending devolution within the Civil Service and for the management of the senior levels of the service, which was accompanied by studies of recruitment and a Green Paper on resource accounting and budgeting.<sup>5</sup> The Government has indicated that a number of proposals in the White Paper will be the subject of consultation, and has acknowledged the value of our comments on these proposals and on wider matters relating to the Civil Service.<sup>6</sup>

54. Wider developments have made the inquiry particularly relevant. The public hearings of the Public Inquiry into Exports of Defence Equipment and Dual Use Goods to Iraq conducted by Lord Justice Scott provided insights into the inner workings of Government, relations between Ministers, civil servants and Parliament and the constitutional understandings which underly them and we comment on some of the issues raised in this evidence. In early February 1994 the Committee of Public Accounts issued a Report entitled *The Proper Conduct of Public Business* which stimulated consideration of the relationship between the devolution of authority within, and the modernisation of, public services and the traditional values of the British Civil Service.<sup>7</sup> The election of a fourth successive Conservative Government has given rise to concern about whether prolonged rule by one party might call into question the preservation of a politically impartial Civil Service and there has been a wider public debate about both the conduct and the performance of the Civil Service. We welcome this debate. Too often the work of the Civil Service and its wider constitutional position have been seen as arcane matters to be left to a few practitioners and academics. The Civil Service merits and should benefit from greater Parliamentary and public scrutiny.

### (ii) *Evidence and visits*

55. Our investigation of the Civil Service began in January 1993, when we took evidence from Mr William Waldegrave, the then Chancellor of the Duchy of Lancaster and Minister for Public Service and Science, on the responsibilities and work of the Office of Public Service and Science (OPSS) which had recently been established.<sup>8</sup> In March 1993 we examined Sir Robin Butler, Head

<sup>1</sup> Eighth Report from the Committee, *Civil Service Management Reform: The Next Steps*, HC (1987-88) 494-I, para. 1; *The Next Steps Initiative: The Government reply to the Seventh Report from the Treasury and Civil Service Committee, Session 1990-91*, Cm. 1761, p. 1.

<sup>2</sup> *Next Steps: Moving on* (Office of Public Service and Science, March 1994); HC Deb., 1 March 1994, cols. 671-672w. This report was written by Ms Sylvie Trosa, a French civil servant on secondment to the OPSS.

<sup>3</sup> *Competing for Quality: Buying Better Public Services*, November 1991, Cm. 1730.

<sup>4</sup> *Career Management and Succession Planning Study* (Efficiency Unit, November 1993); HC Deb., 22 November 1993, cols. 7-8w.

<sup>5</sup> *The Civil Service: Continuity and Change*, Cm. 2627; HC Deb., 13 July 1994, cols. 987-989; *Review of Fast Stream Recruitment* (OPSS, July 1994); *Responsibilities for Recruitment to the Civil Service* (OPSS, July 1994); *Better Accounting for the Taxpayer's Money: Resource Accounting and Budgeting in Government: A Consultation Paper*, Cm. 2626.

<sup>6</sup> Cm. 2627, para. 1.8; HC Deb., 13 July 1994, col. 993; Q2519 (Mr Waldegrave).

<sup>7</sup> Eighth Report from the Committee of Public Accounts, HC (1993-94) 154.

<sup>8</sup> Our examination did not include the work of the Office of Science and Technology, which is excluded from our order of reference and is subject to scrutiny by the Science and Technology Committee.

of the Home Civil Service. Thereafter, we established a Sub-Committee to inquire into the role of the Civil Service.<sup>1</sup> The Sub-Committee held 30 meetings between March 1993 and October 1994, at 21 of which oral evidence was taken. A total of 41 witnesses were examined by the Sub-Committee. Following his appearance before us, Mr Waldegrave gave evidence to the Sub-Committee on four occasions. Sir Robin Butler appeared before the Sub-Committee three times. Mr Stephen Dorrell, the then Financial Secretary to the Treasury, gave oral evidence in July 1993. The Sub-Committee also took evidence from a range of other Government witnesses,<sup>2</sup> from a former Prime Minister, Lord Callaghan of Cardiff, and other former Ministers,<sup>3</sup> from representatives of the Civil Service trade unions,<sup>4</sup> from former civil servants,<sup>5</sup> from outside observers of the Civil Service,<sup>6</sup> and from a former Finance Minister and former Treasury Secretary of New Zealand.<sup>7</sup> In addition, the Sub-Committee received a wide range of written evidence, much of which has been published and the remainder of which has been reported to the House, and information on civil and public services in other countries.

56. The Sub-Committee undertook several visits as part of the inquiry. In June 1994 the Sub-Committee made a short visit to Paris, focusing on the constitutional position of the French Civil Service and its methods of selection, training and career management, including the work of the Ecole Nationale d'Administration. Visits were also made to the New Zealand High Commission in London, the Recruitment and Assessment Services Agency at Basingstoke and the Civil Service College at Sunningdale.

57. We are most grateful to all those who assisted the Sub-Committee in the course of its inquiry. We particularly wish to thank the Sub-Committee's Specialist Adviser, Professor Sue Richards, Director of the Public Management Foundation, and those who contributed to making the Sub-Committee's visit to Paris so worthwhile, including the Ecole Nationale d'Administration, the Direction Générale de la Fonction Publique and the British Embassy in Paris. The Sub-Committee received a great deal of evidence, both written and oral, from the Government and we welcome the helpful approach which the Government has adopted during the inquiry. The evidence of Mr Waldegrave was thoughtful and often illuminating, displaying a level of candour not always characteristic of Government evidence to Select Committees.

*(iii) The proposed attitude survey*

58. There was one salient exception to the Government's helpful approach, to which we have already drawn the attention of the House in a Special Report.<sup>8</sup> As part of the inquiry the Sub-Committee wished to commission an attitude survey of civil servants to be carried out on a confidential basis by a professional opinion research organisation and it sought the co-operation and agreement of the Government.<sup>9</sup> Following protracted correspondence and exchanges in oral evidence, the Government refused its co-operation for such a survey.<sup>10</sup> Government departments regularly commission staff attitude surveys for management purposes. Mr Waldegrave described such surveys as "an important tool of modern management practice".<sup>11</sup> Mr Michael Richard said that the Benefits Agency conducted surveys of its staff and encouraged local offices to do the same, believing that managers tended to "reassure themselves with anecdotes" when they needed "hard information".<sup>12</sup> The Treasury recently carried

1 The Chairman of the Sub-Committee was Mr Giles Radice; all members of the Committee were appointed to the Sub-Committee; the following members participated in the public hearings of the Sub-Committee: Ms Diane Abbott, Sir Thomas Arnold, Mr Quentin Davies, Mr Nigel Forman, Mr John Garrett (*discharged 13 December 1993*), Mr Barry Legg, Mr Mike O'Brien (*added 13 December 1993*), Mr Giles Radice and Mr Brian Sedgemore.

2 These included Sir Peter Levene, the Prime Minister's Adviser on Efficiency and Effectiveness, Mr Richard Mottram, Permanent Secretary, OPSS, and Next Steps Project Manager, Ms Marianne Neville-Rolfe, the then Chief Executive of the Civil Service College, Mrs Ann Bowtell, the First Civil Service Commissioner, Mr Michael Richard, Chief Executive of the Benefits Agency, and Sir Anthony Battishill, Chairman of the Board of Inland Revenue.

3 Lord Howe of Aberavon, Lord Jenkins of Hillhead and Mr Robert Sheldon.

4 These included Ms Elizabeth Symons, General Secretary of the Association of First Division Civil Servants, Mr John Ellis, Secretary of the Council of Civil Service Unions, Mr Bill Brett, General Secretary of the Institution of Professionals, Managers and Specialists, Mr Barry Reamsbottom, General Secretary of the Civil and Public Servants Association, and Mr John Sheldon, General Secretary of the National Union of Civil and Public Servants.

5 Sir Peter Kemp, Professor Eric Caines and Sir Kenneth Stowe.

6 Mr Graham Mather, Professor Peter Hennessy, Dr William Plowden, Professor Norman Lewis, Mr Charles Cox, Sir John Bourn, Comptroller and Auditor General, and Mr John Garrett.

7 Sir Roger Douglas and Dr Graham Scott.

8 Fourth Special Report from the Committee, *Proposed Attitude Survey of the Civil Service*, HC (1993-94) 460.

9 The reasoning behind the Sub-Committee's decision is set out in the correspondence appended to the Fourth Special Report; see especially HC (1993-94) 460, pp. 1-2.

10 *ibid.*, p. 9.

11 Q2356.

12 Q2207.

out a staff attitude survey, the findings of which we have discussed in evidence from Sir Terence Burns, Permanent Secretary to the Treasury.<sup>1</sup> Other departments or agencies have also commissioned surveys, sometimes on a regular basis.<sup>2</sup> The Efficiency Unit's study of career management and succession planning drew upon a survey of 4,000 civil servants which it had commissioned.<sup>3</sup> A recent evaluation of performance-related pay for the Senior Salaries Review Body included a survey of senior civil servants.<sup>4</sup> However, Mr Waldegrave saw these surveys as being in a different category from the Sub-Committee's proposal.<sup>5</sup> The Government advanced three main reasons for objecting to the Sub-Committee's proposed attitude survey:

- (i) The questions which the Sub-Committee would ask were political, or would be perceived as bearing on political debate given their origin in Parliament, which is "by its nature, an arena of political debate";<sup>6</sup> the questions pertained to Civil Service reform which was a matter of party political controversy, comparable to asking the views of Treasury civil servants on the Exchange Rate Mechanism, Northern Ireland civil servants on the Anglo-Irish agreement or staff of the Child Support Agency on child maintenance.<sup>7</sup>
- (ii) It would be wrong to seek to ascribe, in a measurable way, opinions to civil servants on matters of political debate or controversy, since this would give the Civil Service a "persona" and thus draw it into the party political debate;<sup>8</sup> Sir Robin Butler warned that "if you seek to separate the Civil Service as an independent body of opinion from Ministers then Ministers will want to ensure sooner or later that that body of opinion is amenable to them and that will lead to the politicisation of the Civil Service".<sup>9</sup>
- (iii) Even if the Sub-Committee acted in a responsible manner, as the Government accepted the Sub-Committee was seeking to do,<sup>10</sup> agreeing to the proposal would set a precedent for other, less responsible surveys by outside organisations and would thus be the start of "a dangerous slippery slope".<sup>11</sup>

59. We remain unconvinced by the Government's arguments against the survey. We agree about the paramount importance of the political impartiality of the Civil Service and the need to prevent it becoming a "political football".<sup>12</sup> However, we are not convinced that most of the draft questions which we provided to the Government are as politically controversial as the Government suggests. The proposed questions sought the views of civil servants on their work and role in the light of recent changes.<sup>13</sup> We note that the survey commissioned by the Efficiency Unit invited responses to the controversial proposition that "the public service ethos is being eroded",<sup>14</sup> and that a survey by HM Customs and Excise solicited staff opinions on the Government's Next Steps initiative.<sup>15</sup> We believe that the Government's analogies are misplaced. There is a self-evident difference between asking the views of civil servants on the *merits* of a policy which affects others, such as the Anglo-Irish Agreement or the Child Support Act, and asking their opinions on the *effects* of a policy with a direct effect upon them as *employees*. This emphasis was indicated by the proposed sample which excluded the senior ranks of the Service.<sup>16</sup> Moreover, the proposed questions were not intended to be the last word. The Sub-Committee indicated a willingness to enter into discussions with the

1 *Staff Attitude Survey 1994*, HM Treasury; Minutes of Evidence taken before the Treasury and Civil Service Committee on Tuesday 12 July 1994, *Departmental Report of the Chancellor of the Exchequer's Departments*, HC (1993-94) 593, Q11 (Sir Terence Burns and Mr Paul Gray). Our request for the full results of this survey was refused by the Chancellor of the Exchequer, QQ2400-2401 (Mr Waldegrave); HC (1993-94) 593, QQ1-10, 12 (Sir Terence Burns).

2 HC Deb., 7 July 1994, col. 275w (Department of Employment); HC Deb., 11 July 1994, col. 449w (Scottish Office).

3 *Career Management and Succession Planning Study*, p. 105. The full Report of this Survey by P-E International was provided to the Sub-Committee at its request and was placed in the Library of the House of Commons.

4 HC (1993-94) 27-III, p. 4 (Senior Salaries Review Body); *Review Body on Senior Salaries: Annex to the Sixteenth Report on Senior Salaries*, Evaluation of the Performance Related Pay Scheme for Grade 2 and 3 Civil Servants by Hay Management Consultants, Cm. 2465, pp. 45-60.

5 HC (1993-94) 460, p. 6.

6 *ibid.*, pp. 6, 10; Q2018 (Sir Robin Butler).

7 QQ2006 (Sir Robin Butler), 2356 (Mr Waldegrave); HC (1993-94) 460, p. 6 (Mr Waldegrave); QQ2358, 2394 (Mr Waldegrave).

8 QQ1885, 1889, 1892 (Mr Waldegrave), 2005 (Sir Robin Butler), 2356, 2367, 2394, 2564 (Mr Waldegrave).

9 Q2024.

10 QQ1879 (Mr Waldegrave), 2019 (Sir Robin Butler).

11 QQ1880, 1882 (Mr Waldegrave), 2007, 2012 (Sir Robin Butler).

12 HC (1993-94) 460, pp. 3, 6.

13 *ibid.*, pp. 4-5.

14 *Survey on Career Management and Succession Planning in the Civil Service*, Vol I, p. 56.

15 *Voice II: Views and opinions in Customs and Excise*; the relevant propositions were that "Executive Units have given local managers and staff greater freedom to manage" and that "the introduction of Executive Units has caused inconsistencies".

16 HC (1993-94) 460, p. 5.

Government about the desirability of particular questions. This is one reason why we find the Government's argument relating to precedent unconvincing. We fail to comprehend why a responsible survey by a Select Committee should be seen as setting a precedent for an irresponsible survey by others, particularly while the Government claims a power to prevent civil servants from answering surveys.<sup>1</sup>

60. We regret the position adopted by the Government on the Sub-Committee's proposed attitude survey which marred an otherwise constructive approach to the inquiry. We believe it reflects a lack of appreciation by the Government of the role and position of Select Committees. We believe such a survey would not only have assisted us in preparing our Report, but would have been of longer term benefit to Parliament, the Government and ultimately the Civil Service. We recommend that the Government co-operates with the commissioning of any attitude survey of civil servants by the Treasury and Civil Service Committee as part of any future inquiry into the Civil Service.

*(iv) The scope and structure of the Report*

61. The Civil Service is an immense, and very diverse, organisation. All aspects of its role, tasks and work could not be examined in a single inquiry. The Sub-Committee began its work in an exploratory vein, and did not establish formal terms of reference. This enabled the Sub-Committee to respond to issues which arose in the course of the inquiry and to allow its agenda to be shaped by the evidence it received. However, in July 1993 we agreed an interim Report which set out the main issues which appeared to be important in order to shape and stimulate the conduct of the inquiry and the collection of evidence.<sup>2</sup> As we explained then,<sup>3</sup> the inquiry did not extend to the Diplomatic Service and the Northern Ireland Civil Service, although we believe that many of the conclusions and recommendations of this Report will be applicable to those two services.

62. The remainder of this Report falls into three sections which reflect the main themes and priorities which have emerged during the inquiry. The first explores the values and principles which are said to unify the Civil Service, whether they can and should be maintained and the framework required to maintain them. In the next section we consider the structures and forms of organisation best suited to the fair, effective and efficient performance of the tasks of the Civil Service. Finally, we turn to the men and women of the Civil Service, its human resources—the qualities they need, the motivation and reward they deserve, and the ways in which they should be selected, trained and promoted.

## B. A FRAMEWORK FOR UNDERPINNING THE VALUES OF THE SERVICE

### III. A UNIFIED CIVIL SERVICE?

63. Nearly one hundred and fifty years ago the Northcote-Trevelyan Report produced a blueprint for a modern, unified politically impartial Civil Service. That Report envisaged a Civil Service whose unity would be fostered by uniform methods of recruitment and systems of promotion across departments.<sup>4</sup> This vision was largely achieved in the early part of the present century.<sup>5</sup> The Fulton Report of 1968 sought to reinforce the unity of the Civil Service through shared methods of recruitment and shared structures for pay and grading.<sup>6</sup> In the last six years the theory of an organisationally uniform Civil Service has been replaced by a Government vision of a Civil Service made up of "a federal structure of more autonomous units".<sup>7</sup> Recent developments have led some to suggest that, in consequence, there is no longer a unified Civil Service.<sup>8</sup> Lord Bancroft of Coatham, a former Head of the Civil Service, has warned of the danger of the break up of the Civil Service.<sup>9</sup>

1 QQ1881, 1887 (Mr Waldegrave, Mr Richard Mottram).

2 Sixth Report from the Committee, *The Role of the Civil Service: Interim Report*, HC (1992-93) 390-I

3 *ibid.*, para. 3.

4 *Report on the Organisation of the Permanent Civil Service*. See also, "The Main Reports on the British Civil Service since the Northcote-Trevelyan Report", *The Civil Service: Vol 3(2): Surveys and Investigations* (1968), p. 426.

5 HC (1993-94) 27-III, p. 13 (Dr Peter Barberis).

6 *Report of the Committee on the Civil Service*, Cmnd. 3638, paras. 67, 196.

7 *Developments in the Next Steps Programme: The Government reply to the Fifth Report from the Treasury and Civil Service Committee, Session 1988-89*, Cm. 841, p. 5.

8 HC (1992-93) 390-II, p. 318 (Professor Richard Chapman); QQ1612, 1618 (Mr John Garrett); HC (1993-94) 27-III, p. 35 (Mr Nevil Johnson).

9 HL Deb., 6 June 1994, cols. 969-971.

64. The Government contends that the Civil Service remains unified despite the changes which it has introduced. Sir Robin Butler spoke in 1989 of a Civil Service which should be "unified, but not uniform".<sup>1</sup> Mr Waldegrave restated that approach, speaking of "a much greater variety of structures" within "a common paradigm".<sup>2</sup> Sir Robin Butler suggested that there were five elements to this "common paradigm", five values which applied to all civil servants and unified the Service: impartiality, integrity, objectivity, selection and promotion on merit, and accountability through Ministers to Parliament.<sup>3</sup> These "key principles" outlined by Sir Robin Butler have been restated in the recent Civil Service White Paper.<sup>4</sup> If these values are to form the basis of a unified Civil Service, it is essential that they should accurately reflect the requirements of the tasks of civil servants, that they conform to the needs of the jobs to be done.<sup>5</sup>

65. The Civil Service has a greater diversity of function than any other organisation in the country, performing tasks from weather forecasting to economic forecasting, from the management of conference facilities to the administration of social security benefits.<sup>6</sup> The most simple factor unifying these varied tasks is that they are carried out for and under the political direction of the Government of the day.<sup>7</sup> Civil servants perform these tasks on behalf of the Government while remaining organisationally distinct from the Government. This characteristic is derived in part from the assertion in the Northcote-Trevelyan Report that:

"as matters now stand, the Government of the country could not be carried on without the aid of an efficient body of permanent officers, occupying a position duly subordinate to that of the Ministers who are directly responsible to the Crown and to Parliament, yet possessing sufficient independence, character, ability, and experience to be able to advise, assist, and to some extent, influence, those who are from time to time set over them".<sup>8</sup>

The Government believes that if the Civil Service is effectively to serve different Governments of different political persuasions, it should be overwhelmingly composed of professional civil servants who are politically impartial and thus able to command the confidence of successive administrations.<sup>9</sup> Mr Waldegrave emphasised the importance which the Government attached to this vision and the fact that it was shared by all Cabinet Ministers.<sup>10</sup>

66. It has been questioned whether there is a necessary link between a Civil Service serving successive administrations and a requirement for political impartiality and what precisely it entails. Some other European countries such as France and Germany have long traditions of interchange between careers in politics and public service and permit civil servants to have identifiable political allegiances.<sup>11</sup> However, little evidence received by the Sub-Committee argued for any dramatic move along these lines.<sup>12</sup> Some questioned whether political impartiality in a British context amounted to much more than an avoidance of identifiable political allegiances, given that civil servants owe a loyalty to the Government of the day and have to take account of the political stance of the Government in their actions. It has been contended that "Ministers want, and have always wanted, partiality ... 'Impartiality' ... is simply the assumption that civil servants are prepared to be partial to whichever party forms a government."<sup>13</sup> It has also been suggested that civil servants are required to demonstrate "a chameleon-like behaviour", comparable to "the neutrality of the barrister who serves every cause in turn regardless of the rights or wrongs of the cause".<sup>14</sup> Others emphasised that there was more to impartiality than service to Governments of different political persuasions. Civil servants should strive for objectivity, an objective sense of the national interest, an avoidance of the

<sup>1</sup> Fifth Report from the Committee, *Developments in the Next Steps Programme*, HC (1988-89) 348, para. 55.

<sup>2</sup> Q1809.

<sup>3</sup> QQ101, 1999-2001, 2015-2016.

<sup>4</sup> Cm. 2627, para. 1.3.

<sup>5</sup> QQ357-358 (Sir Peter Kemp); HC (1992-93) 390-II, pp. 278-279 (Professor Sue Richards), 292, 295 (Ms Elizabeth Mellon).

<sup>6</sup> HC (1993-94) 593, QQ31-38; *Next Steps Review 1993*, Cm. 2430, pp. 69, 87, 106.

<sup>7</sup> Cmnd. 3628, para. 13.

<sup>8</sup> *Report on the Organisation of the Permanent Civil Service*.

<sup>9</sup> Cm. 2627, para. 2.2.

<sup>10</sup> QQ2522, 2524.

<sup>11</sup> *Career Management and Succession Planning Study*, pp. 121, 123.

<sup>12</sup> A partial exception was the evidence of Dr William Plowden which is considered on the section on senior personnel.

<sup>13</sup> HC (1993-94) 27-III, pp. 23-24 (Dr Keith Dowding).

<sup>14</sup> Seventh Report from the Treasury and Civil Service Committee, *Civil Servants and Ministers: Duties and Responsibilities*, HC (1985-86) 92-II, QQ525-529 (Professor Fred Ridley).



partisan or doctrinaire.<sup>1</sup> The requirement to retain the confidence of possible future administrations should represent a clear constraint on the nature of the commitment which civil servants give to any one Government. Some evidence advanced the case for a permanent, politically impartial Civil Service persuasively.<sup>2</sup> The Government considers that “the policy of selection on merit as the basis of fair and open competition has endured and remains valid as a means of providing an effective, non-political Civil Service”.<sup>3</sup>

67. There are a number of other characteristics of Civil Service work which mark it out from that of the private sector and help to explain the need for adherence to the values identified by Sir Robin Butler. In 1914 a Royal Commission on the Civil Service observed that “the administration of Government differs, and must necessarily differ, from the activities of the business world, both in the objects to which it is directed, in the criteria of its success, in the necessary conditions under which it is conducted, and in the choice of instruments which it employs”.<sup>4</sup> This observation remains true today. Much of the work of the Civil Service is concerned with the administration of services to the public within a legal framework.<sup>5</sup> This framework is laid down by Parliament and the Government to provide equitable and predictable outcomes for members of the public.<sup>6</sup> The Civil Service very often cannot determine its own customers in the same way as the private sector, being required to serve all people entitled to a service equally.<sup>7</sup> In consequence, the Civil Service usually has to provide services on a *national* basis, available to eligible members of the public wherever they may live.<sup>8</sup> Equally, the Civil Service has to ensure *continuity* of service where it is administering entitlements or obligations laid down by law.<sup>9</sup> The general legal and administrative character of much of the work of the Civil Service is reinforced by the fact that it sometimes involves the use of force or coercion,<sup>10</sup> or the acquisition of confidential personal information.<sup>11</sup>

68. These characteristics of Civil Service work are reflected in the methods of financing its work. The Civil Service is subject to the disciplines of the public expenditure process. It does not have the same direct or principal concern for the generation of profit as the private sector.<sup>12</sup> By and large, Civil Service functions are financed either from Government revenues or borrowing or through charges for services provided to other parts of the public sector or to members of the public obliged to purchase from the Government. While some Civil Service functions might make a profit, they should not do so by abusing a monopoly position.<sup>13</sup>

69. It is these characteristics of Civil Service work which make integrity and impartiality so necessary. Impartiality is as important an administrative concept as it is in a political context. They are in many ways duties imposed by the nature of the work.<sup>14</sup> Impartiality is implicit in the delivery of services within a statutory framework. Integrity and probity are especially important in the administration and use of the public’s money, requiring a clear separation of public and private interests.<sup>15</sup> This Committee agrees with the Committee of Public Accounts that traditional standards of probity and integrity should not be relaxed in order to secure economy and efficiency.<sup>16</sup> They are not only compatible with an effective and efficient Civil Service; they are essential to it.<sup>17</sup>

70. It is possible to regard accountability as the logical concomitant of the other characteristics of the Civil Service which have been identified. Because the Civil Service is largely funded

1 HC (1993-94) 27-III, p. 6 (Sir Brian Hayes).

2 Q300 (Professor Peter Hennessy); HC (1993-94) 27-III, p. 6 (Sir Brian Hayes).

3 HC (1992-93) 390-II, p. 168 (OPSS). See also Cm. 2627, para. 2.8.

4 *Fourth Report of the Royal Commission on the Civil Service*, Cd. 7338, p. 83.

5 Q1670; HC (1993-94) 27-II, p. 131 (Sir Kenneth Stowe).

6 *The Civil Service: Volume 2: Report of a Management Consultancy Group* (1968), para. 309; Eleventh Report from the Expenditure Committee, *The Civil Service*, HC (1976-77) 535-II, Q1825 (Sir John Hunt); Q2278 (Sir Anthony Battishill).

7 Q1739 (Mr Bill Brett).

8 HC (1976-77) 535-II, Q1825 (Sir John Hunt). For a discussion of the importance of a national network in the case of the Vehicle Inspectorate and its linkage to its continuance as a Civil Service function, see Second Report from the Transport Committee, *Privatisation and Deregulation of Department of Transport Agency Work*, HC (1993-94) 137-I, para. 39.

9 HC (1990-91) 496, para. 27; Q332 (Professor Peter Hennessy); HC (1992-93) 390-II, p. 294 (Ms Elizabeth Mellon).

10 Q304 (Professor Peter Hennessy); HC (1993-94) 27-III, p. 42 (Sir Kenneth Couzens).

11 HC (1992-93) 390-II, p. 105 (Council of Civil Service Unions); HC (1993-94) 27-II, p. 247 (Inland Revenue); Q2256 (Sir Anthony Battishill).

12 HC (1990-91) 496, para. 27; Q1524 (Mr Charles Cox).

13 HC (1989-90) 481, para. 54.

14 HC (1993-94) 27-III, pp. 55-56 (Mr Clive Priestley).

15 Q1576 (Mr Robert Sheldon); HC (1993-94) 27-III, pp. 37-38 (Mr Nevil Johnson), 43 (Sir Kenneth Couzens).

16 HC (1993-94) 154, para. 5.

17 QQ1567 (Mr Robert Sheldon), 1976 (Mr Waldegrave).

by the taxpayer and through the public spending process, it has to control and account for the use of money to Parliament on behalf of the taxpayer.<sup>1</sup> Because the Civil Service is responsible for administering laws passed by Parliament equitably and impartially, it should be held to account in Parliament both for general administration and for particular cases. Because the Civil Service serves a Government which is democratically elected and answerable to the electorate, the Civil Service should be accountable to Ministers for developing and implementing the Government's policies.

71. The British Civil Service has a unique constitutional role which derives from the nature of the British polity. The United Kingdom has an uncodified constitution; it has no formal separation of powers; it has no system of federal or regional government; and local authorities dependent for their very existence upon national legislation.<sup>2</sup> In a lapidary comment, Lord Callaghan described the Civil Service as "a bulwark of the constitution".<sup>3</sup> Mr Waldegrave recently echoed this remark, stating that "the Civil Service has a unique role maintaining our unwritten constitution. It does not belong to one Government or party."<sup>4</sup> The British Civil Service has to be the servant of the Government of the day, but should not become its creature. It is expected to remain a source of robust and considered advice to Ministers, avoiding the partisan or the doctrinaire, not only on policy generally, but also on matters of constitutional propriety.<sup>5</sup> This role of the Civil Service emphasises the importance of the principle of "objectivity" pinpointed by Sir Robin Butler. It also reinforces the salience of integrity as a necessary characteristic of the Civil Service. The integrity of the Civil Service matters not only to those who benefit directly from particular services it provides and to the Ministers whom it advises. It matters to Parliament and the electorate who depend upon the good faith of civil servants and Ministers and a set of shared understandings between them to uphold the integrity of our system of government.

72. It is our conviction that the values of impartiality, integrity, objectivity, selection and promotion on merit and accountability should act as unifying features of the British Civil Service. They are as important today as in the last century; their importance should not diminish in the next century. We believe that the case for a permanent, politically impartial Civil Service is as compelling now as it has been for well over a century. The principle of selection and promotion on merit must represent the bedrock of such a Civil Service. The importance of the values of integrity, impartiality, objectivity and accountability is rooted in the characteristics of the tasks which the Civil Service is called upon to perform. These values reflect rather than inhibit the jobs to be done. They are relevant to civil servants serving the public as well as to those serving Ministers directly. They can and should act as a unifying force for the whole Civil Service.

#### IV. VALUES MAINTAINED?

##### *(i) The impact of devolution on the values of the Service*

73. The traditional structures of the Civil Service were, in the view of many, well-suited to the maintenance and transmission of the essential values of the Civil Service. Dissemination of these values depended in some measure on the feeling of a shared culture across the Civil Service, fostered by common systems of recruitment and the regular posting of staff across departments. This has been characterised as "socialization which encourages the highest standards of integrity and public service as the most desirable qualities in public sector management".<sup>6</sup> This facilitated the transmission of standards which "do not come instinctively", but "must be taught, learned and then handed on".<sup>7</sup> This culture reflected and was reinforced by hierarchical structures with "management by command".<sup>8</sup>

1 HC (1993-94) 27-III, pp. 107-108 (Sir Jack Hibbert); HC (1993-94) 27-II, p. 113 (Sir Kenneth Stowe); QQ 1603 (Sir John Bourn), 1778 (Mr Bill Brett).

2 HC (1993-94) 27-III, p. 98 (Professor Gavin Drewry and Dr Philip Giddings); HC (1992-93) 290-II, p. 282 (Professor Norman Lewis); Q1668 (Sir Kenneth Stowe); HC (1993-94) 27-III, p. 66 (Professor John Stewart).

3 Q622.

4 HC Deb., 13 July 1994, col. 989.

5 QQ2092 (Sir Robin Butler), 2525 (Mr Waldegrave); HC (1993-94) 27-II, p. 115 (Sir Kenneth Stowe); HC (1993-94) 27-III, p. 6 (Sir Brian Hayes).

6 HC (1993-94) 27-III, p. 123 (Mr Barry O'Toole, quoting Professor Richard Chapman).

7 Lord Bancroft, HL Deb., 6 June 1994, col. 970.

8 *Progress in the Next Steps Initiative: The Government reply to the Eighth Report from the Treasury and Civil Service Committee, Session 1989-90*, Cm. 1263, p. 15. See also QQ1812 (Mr Waldegrave), 2036 (Sir Robin Butler).

74. In a recent Report the Committee of Public Accounts drew attention to “a number of serious failures in administrative and financial systems and controls within departments and other public bodies” on which it had previously reported which represented “a departure from the standards of public conduct which have mainly been established during the past 140 years”.<sup>1</sup> It drew attention to the need to ensure that proper standards were maintained at a time of change in the public sector, noting a “failure to ensure that delegation of responsibility is accompanied by clear lines of control and accountability”.<sup>2</sup> Mr Robert Sheldon, Chairman of the Committee of Public Accounts, said that the purpose of the Report was to draw attention, at an early stage, to a number of failings which had “a common thread”.<sup>3</sup> He observed that that Committee considered that there was “some correlation between what we saw as failings and what we saw as the changes in governmental administration”.<sup>4</sup> Sir John Bourn, the Comptroller and Auditor General, expanded on this observation. First, he noted that risks were inherent in a major programme of change, particularly one which involved new responsibilities for many more people and organisations in the public sector.<sup>5</sup> Second, both he and Mr Sheldon observed that a common feature of many of the failings detected by the National Audit Office and highlighted by the Committee of Public Accounts was the involvement of senior staff brought in from outside the public service, unaccustomed to the standards required in the public service and the audit procedures associated with them, and not imbued with its ethos.<sup>6</sup>

75. Some evidence saw such failings as symptomatic of a wider conflict between the business-oriented values of modern Civil Service managers and the public service ethos.<sup>7</sup> Mr Barry O’Toole warned of the dangers of increasing corruption in the Civil Service, meaning “the tainting, the debasing, the spoiling and the perverting of expected standards”; as “business methods” spread, there would be fewer and fewer officials or Ministers “who put the interests of society above their personal and political interests”.<sup>8</sup> Lord Callaghan similarly warned of the danger that newer values such as cost-efficiency might be seen as replacements for traditional values of impartiality, integrity and incorruptibility. He observed that “reforms and changes always have their impact not only on the things you are changing but on the things you do not change”.<sup>9</sup> He also emphasised that, in a much less homogeneous Civil Service than in the past, the atmosphere would be less conducive to the transmission of shared values.<sup>10</sup> This view was echoed by others. It was pointed out that the shared, almost intangible values of the Service were linked in the past to more tangible features which civil servants across departments had in common, including common pay and grading systems and methods of recruitment and promotion. These tangible elements reminded civil servants that they served a common employer and had common objectives. Some questioned whether the trend away from common systems of pay, grading, recruitment and promotion might not undermine the sense of being a public servant with all that that should entail.<sup>11</sup> Mr Bill Brett, General Secretary of the IPMS, said that “there is a sense in which our members feel marooned ... in some agencies, that they are no longer going to be part of a Civil Service”; many doubted the reality of a unified Civil Service.<sup>12</sup> Lord Callaghan also suggested one other element of the modern Civil Service which might undermine its shared ethos: that new civil servants were less inclined now to view a job in the Civil Service as a career for life.<sup>13</sup> This trend applies not only to staff in agencies, but also to candidates for the administrative fast-stream.<sup>14</sup>

76. The Government took issue with suggestions that its Civil Service reforms were damaging the fabric of a unified Civil Service. The Government readily acknowledged that the standards expected of civil servants were not as easy to transmit or supervise in more fragmented structures with greater devolution.<sup>15</sup> Mr Waldegrave noted that the ethos of the

1 HC (1993-94) 154, para. 1.

2 *ibid.*, para. 3, p. vii.

3 Q1581.

4 Q1572.

5 QQ1575, 1600.

6 QQ1576, 1588 (Mr Robert Sheldon), 1600, 1602 (Sir John Bourn).

7 HC (1992-93) 390-II, p. 318 (Professor Richard Chapman).

8 HC (1993-94) 27-III, pp. 123-124.

9 Q588.

10 Q621.

11 HC (1993-94) 27-III, pp. 44 (Sir Kenneth Couzens), 64 (Sir Geoffrey Chipperfield).

12 Q1694. See also the finding of Dr Patricia Greer that “Agency staff increasingly regard themselves as employees of their particular arm of the Civil Service ... rather than as ‘civil servants’”, HC (1993-94) 27-III, p. 96.

13 Q621.

14 *Career Management and Succession Planning Study*, para. 4.1; Q740 (Mrs Ann Bowtell).

15 QQ2035, 2554 (Sir Robin Butler).

Civil Service was more easily maintained in its "heartland", a point endorsed by others.<sup>1</sup> The Government did not deny that the devolution of authority involved granting civil servants more opportunities to make decisions, leading to more mistakes,<sup>2</sup> but it contended that the failings highlighted by the Committee of Public Accounts could not be causally linked to the management changes introduced by the present Government and that the benefits from delegation far outweighed the drawbacks.<sup>3</sup> Sir Kenneth Stowe took a similar view, arguing that the Committee of Public Accounts was drawing attention to a danger of standards slipping "rather than asserting that there has been a general decline in standards".<sup>4</sup>

77. The Government also contested the idea that there had been a decline in commitment to the essential values of the Service at an individual level. Sir Robin Butler said that "the huge majority of civil servants believe in them and subscribe to them" and that the values "go very deep in our public service".<sup>5</sup> Mr Michael Richard argued forcefully that it was wrong to associate the introduction of Executive Agencies with a fall in standards. The traditional values of the Civil Service were the bedrock of the values of the Benefits Agency.<sup>6</sup> Certainly, one should not exaggerate the homogeneity of the pre-Next Steps Civil Service in organisational terms.<sup>7</sup> In 1986 the then Head of the Home Civil Service said that "Probably people find it difficult to identify with a thing so large and so various as 'the Civil Service'; I think they identify to a degree with their departments, and probably identify even more closely with particular units within their departments".<sup>8</sup> The original Next Steps Report contended that "the concept of a career in a unified Civil Service has little relevance for most civil servants, whose horizons are bounded by their local office or, at most, by their department".<sup>9</sup> Drawing on New Zealand's experience, Dr Graham Scott suggested that the gap between traditional methods of management for maintaining values and newer methods was greater in theory than in practice when viewed by individual civil servants.<sup>10</sup> The Government fully accepted and indeed emphasised that in a more pluralist and less hierarchical service it was vital to ensure that rules of conduct and messages about standards were communicated, inculcated and audited effectively and that it was "more important to be explicit about what is expected of people".<sup>11</sup>

(ii) *Relations between Ministers and civil servants*

78. So far in this section we have examined the criticism that the ethos of the British Civil Service and its traditional standards are being threatened by its fragmentation. There was also voiced during the inquiry a concern that the standards of the Civil Service were being eroded at their most vital nexus—the relationship between Ministers and civil servants. It has been suggested in evidence to the Sub-Committee and in other fora that there has been a weakening of the moral compass of Ministers and civil servants, a greater willingness to contemplate actions which are improper, an unhealthy closeness between Ministers and civil servants. Some examples have been drawn from matters under investigation by the Scott Inquiry, on which we do not believe it would be appropriate for us to comment. Some drew on other examples. Lord Jenkins described the payment of public money towards the then Chancellor of the Exchequer's legal expenses as "perfectly ludicrous" and said "if you want an example of slight deterioration of standards, I cannot believe that any Permanent Secretary of mine would have done that even if asked".<sup>12</sup> The Chairman of the Committee of Public Accounts which examined this episode admitted to his surprise at it.<sup>13</sup>

79. Some of the other evidence presented to the Sub-Committee related to alleged breaches of the principles of political impartiality. These did not concern "politicisation" in the sense in which it is most commonly understood, namely political appointments to the Civil Service, especially at senior levels—a matter which we examine later. Rather, they related to actions by

1 QQ37 (Mr Waldegrave), 1669 (Sir Kenneth Stowe); HC (1993-94) 27-III, p. 42 (Sir Kenneth Couzens).

2 QQ1990-1991, 2035 (Sir Robin Butler).

3 QQ1991, 2028-2033 (Sir Robin Butler).

4 Q1663.

5 QQ1484, 1998.

6 Q2229.

7 HC (1993-94) 27-III, p. 13 (Dr Peter Barberis).

8 HC (1985-86) 92-II, Q867 (Sir Robert Armstrong).

9 *Improving Management in Government: The Next Steps* (Efficiency Unit, 1988), para. 12.

10 Q2335.

11 QQ1812, 1816 (Mr Waldegrave), 1998, 2034, 2036 (Sir Robin Butler), 2527 (Mr Waldegrave), 2554 (Sir Robin Butler).

12 QQ867-868.

13 Twenty-fifth Report from the Committee of Public Accounts, *Payment of Legal Expenses Incurred by the Chancellor of the Exchequer*, HC (1992-93) 386; Q1593 (Mr Robert Sheldon).

impartial career civil servants which, it was suggested, could amount to political partisanship. The FDA commented that "the line between explaining a Government policy and defending it is a perilously easy one to cross".<sup>1</sup> Some evidence implied that there was a growing trend for civil servants to take on a public representational role which might apparently involve advocating as well as simply explaining the policies of the present Government. Sir Brian Cubbon feared that such activities left little room for impartiality and integrity. Mr Vernon Bogdanor noted a growing trend to attribute certain views on policy to civil servants, a concern which was shared by the FDA.<sup>2</sup> Lord Howe drew attention to the danger of civil servants becoming identified with the interests of the administration as a result of overlong service in one post with a high profile.<sup>3</sup>

80. Several witnesses suggested that the problem of political partiality in the Civil Service had increased in recent years. Lord Callaghan expressed concern, drawing on the cases of Northern Ireland before direct rule and France in the early part of the Fifth Republic, that the Government was beginning to regard the Civil Service as its "private fiefdom". He also argued that "when you have a Government like the Government we had in the 1980s, which emanates a very strong flavour, the Civil Service picks up the scent. Some are repelled by it, some are attracted by it, and I think the Civil Service has become more politicised as a consequence of this."<sup>4</sup> He emphasised the impact on Ministerial attitudes of a lack of experience of opposition, an experience which engendered greater respect for the Parliamentary system.<sup>5</sup> The only solution which he saw to these problems lay in a change of Government.<sup>6</sup> Professor Peter Hennessy noted that many civil servants could have risen to the senior ranks without experience of the changes of modes of discourse and of approach which were required under a Government of a different political complexion.<sup>7</sup> Lord Jenkins also regretted the fact that civil servants were reaching senior positions having served only one Government and thought this would make some civil servants "trim before the wind", although many might welcome a change of Government.<sup>8</sup> A former civil servant expressed the view that there had been "an increase in what has been termed the creep or 'courtier' factor".<sup>9</sup> A former assistant to a Leader of the Opposition suggested that Opposition politicians had "come to fear that the Civil Service is coming too close to serving the political interests of the ruling Party", citing examples of alleged party political interventions by civil servants.<sup>10</sup> The General Secretary of the FDA also referred to an instance where a career civil servant had defended controversial Government policies in direct response to Opposition criticisms and been supported by the Prime Minister for doing so. She also said that she had been told by her members of cases where they had been ordered by senior civil servants to act in a way which they considered inconsistent with the requirements of political impartiality.<sup>11</sup> Mr Michael Meacher, the Shadow Minister for Public Service, argued that it was improper for civil servants to be employed in assisting backbenchers to wreck a Private Members' Bill. On the other hand, Sir Robin Butler maintained that the drafting of amendments to a Private Member's Bill was "not a question of political impartiality"<sup>12</sup> and said that in the past, under Governments of different complexions, civil servants had assisted with the drafting of amendments.<sup>13</sup>

81. The Government argued that there had been no measurable change in relations between Ministers and civil servants and that the Service had not been politicised.<sup>14</sup> Mr Waldegrave has recently asserted that the Civil Service would serve a Government of another party "with exactly the same loyalty with which it has served us. Anybody who doubts that is casting an aspersion against the Civil Service."<sup>15</sup> Sir Robin Butler acknowledged that the length of time one party had been in power might give rise to scepticism about the continuing impartiality of

1 HC (1992-93) 390-II, p. 40.

2 HC (1993-94) 27-III, pp. 109 (Sir Brian Cubbon), 13 (Dr Peter Barberis); HC (1992-93) 390-II, p. 297 (Mr Vernon Bogdanor); Q247 (Ms Elizabeth Symons).

3 Q544.

4 Q586.

5 QQ596-598.

6 Q587.

7 Q305.

8 QQ850, 859, 861.

9 HC (1993-94) 27-III, p. 93 (Mr Timothy Hornsby).

10 HC (1992-93) 290-II, pp. 300-301 (Mr Charles Clarke).

11 QQ226, 231-233 (Ms Elizabeth Symons).

12 Q2543

13 Q2546, HC(1993-4) 27-II, p.328. Correspondence between Sir Robin and Mr. O'Brien on this matter is continuing.

14 QQ56, 64 (Mr Waldegrave).

15 HC Deb., 13 July 1994, col. 992.

the Civil Service, but was convinced that it would serve a Government of another party with equal commitment, emphasising the deep commitment to such impartiality among civil servants.<sup>1</sup> Referred to one particular incident, when a civil servant briefed a minister's political adviser on how local party organisations and MPs could criticize a pressure group, he admitted that civil servants did occasionally overstep the mark, but he claimed such instances were rare.<sup>2</sup> Others endorsed the Government's view. Lord Howe attributed any changes in attitudes in the Civil Service to cultural changes which were not principally attributable to the Conservative Government and did not believe civil servants were committed to the continuance in office of one party.<sup>3</sup> Sir Kenneth Stowe, who was Principal Private Secretary to the Prime Minister at the time of the last change of the party in Government, was confident that his successors would be comfortable in handling the transition and that the most senior figures in the Service could provide the necessary leadership at such a time.<sup>4</sup> Sir Brian Hayes took a similar view, arguing that the change in habits of thought required by a different Government was "the sort of professional challenge that civil servants relish".<sup>5</sup> Several witnesses observed that a closeness between Ministers and civil servants was both natural and necessary and could develop both quickly and to the benefit of administration.<sup>6</sup> Consideration of the case of Sir William Armstrong and the prices and incomes policy of the Heath Government also indicated that an alleged transgression of the bounds of political impartiality by a civil servant need not be related to the length of time one party has been in power.<sup>7</sup>

82. Some witnesses pointed to other developments which were seen as symptoms of a breakdown in relations between Ministers and civil servants and the traditional values and understandings which underpin them. The General Secretary of the FDA referred to cases brought to her attention of civil servants not being allowed to give advice to Ministers because "Ministers do not want to receive the policy advice of civil servants". Some civil servants were excluded from discussions on policy which were not party political in nature.<sup>8</sup> Ms. Symons felt, however, that it would be incompatible with her professional ethic as a trade union official to disclose details of such cases. In a recent study based in part on interviews with serving and recently retired civil servants, Dr William Plowden has contended that there has been "a worrying deterioration, in some cases at least, in the working relationship between Ministers and officials" caused by the reluctance of a growing number of Ministers to entertain unfavourable advice and a consequent reluctance by officials to tender it.<sup>9</sup>

83. Mr Waldegrave and Sir Robin Butler vigorously contested the notion that the various incidents cited could be drawn together to form a coherent and convincing case that the values of the Service were, to any extent, being undermined. Sir Robin Butler said he had not detected any reduced willingness on the part of Ministers to give fair consideration to the advice of civil servants.<sup>10</sup> Any such action by a Minister would be improper and Sir Robin would alert the Prime Minister to any concern he had about such an impropriety.<sup>11</sup> Mr Waldegrave said he was surprised by the comments of the FDA General Secretary on this issue, and no formal complaint about the conduct of a Minister has been put to the Government by the FDA.<sup>12</sup> The Government has stated that the early departures of Sir Geoffrey Holland from the Department for Education and Sir Clive Whitmore from the Home Office were not attributable to breakdowns in their relationships with their respective Secretaries of State.<sup>13</sup> Any sense there was of declining standards in the Civil Service Sir Robin Butler and Mr Waldegrave attributed in very large measure to inaccurate reporting in the media. Sir Robin Butler criticised the generally negative approach to reporting

1 QQ111, 134.

2 QQ2050-2052.

3 Q563.

4 QQ1671-1672.

5 HC (1993-94) 27-III, pp. 7-8.

6 QQ544 (Lord Howe), 587 (Lord Callaghan), 860 (Lord Jenkins); HC (1993-94) 27-III, p. 109 (Sir Brian Cubbon).

7 QQ178-179 (Sir Robin Butler), 630-631 (Lord Callaghan); HC (1993-94) 27-III, p. 27 (Dr Geoffrey K Fry).

8 QQ1782-1790 (Ms Elizabeth Symons).

9 Dr William Plowden, *Ministers and Mandarins* (Institute for Public Policy Research, 1994), pp. 102-109.

10 Q1479.

11 QQ2172, 1480 (Sir Robin Butler).

12 Q1825; HC Deb., 21 July 1994, col. 510w.

13 QQ1361-1362 (Sir Robin Butler), 1831 (Mr William Waldegrave). Sir Clive Whitmore told the Home Affairs Committee in April 1994 that "my relations with the Home Secretary are of the very best and there is absolutely no question of my leaving the Civil Service a few months early because there has in any way been a deterioration in my relationship with the Home Secretary". Minutes of Evidence taken before the Home Affairs Committee, *Home Office Annual Report*, HC (1993-94) 377-i, Q25.

on public service, with "too many brickbats, far too little praise".<sup>1</sup> He argued that much adverse comment on the Civil Service was not well-based, citing examples of press reporting which he considered "disgraceful", "prejudiced", "prejudicial", "selective" and "unfair".<sup>2</sup> He expressed concern about "the eroding, demoralising effect" such reporting had on the Civil Service.<sup>3</sup> He thought some of the criticisms of standards in public life were ill-based and would not last, although he acknowledged a "big task" in seeking to remove any public distrust of standards which did exist.<sup>4</sup>

### *(iii) Conclusions*

84. Concern about standards in the Civil Service is not limited to those outside Government. A survey commissioned by the Efficiency Unit of over 4,000 civil servants found "a belief that the public service ethos is being eroded". According to the independent organisation which conducted the survey, "this negative finding was significantly stronger than any other and must be of concern to those responsible for the management of the Service".<sup>5</sup> Like some of the evidence presented to the Sub-Committee, this finding is worrying but inconclusive. We share the Government's view that the Next Steps reforms are in principle compatible with the maintenance of the traditional values of the Civil Service. However, the devolution of authority within the Civil Service and the disappearance of traditional structures of control reinforces the need for greater vigilance about standards throughout the Civil Service. The disappearance of many tangible common features of careers in different parts of the Civil Service reinforces the importance of the less tangible shared values, and emphasises the need to make those shared characteristics better known and understood throughout the service.

85. Loyal and effective service to a Government of a different political complexion after so many years serving administrations from the same party would require some readjustment for those civil servants engaged in policy advice. We consider that it requires careful preparation and leadership from the most senior ranks of the Service, which should be actively supported by their current political masters, and we propose some practical steps which should be taken later.<sup>6</sup> However, we have little doubt that civil servants would be able to demonstrate the same level of commitment to any incoming Government and we believe that the commitment of the overwhelming majority of civil servants to the principle and practice of a politically impartial Civil Service is undiminished.

86. There is almost universal agreement that the essential values of the Civil Service should be preserved and that it is the duty of every Government to pass on to its successors a Civil Service with these values intact. The present Government has committed itself to carrying out this duty and believes that it is succeeding in maintaining the essential values of the Service. Others have expressed considerable doubt about whether these standards are being upheld in practice. We believe that, on a matter of this importance, the public has a right to expect that the essential values of the Civil Service are being upheld.

## V. CREATING A NEW FRAMEWORK

### *(i) The Armstrong Memorandum*

87. The British system of Government has a considerable range of written guidance and rules; it does not have a single document subject to an authoritative interpretation.<sup>7</sup> The framework for maintaining standards in the Civil Service and the system of Government which it serves is laid down in a series of documents governing the conduct of civil servants.<sup>8</sup> These are supplemented by occasional guidance, such as that issued at the time of General Elections, local elections and European elections.<sup>9</sup> We examine the key documents, their authority, their contents and the methods by which the standards laid down in them are maintained and enforced.

1 QQ1831 (Mr Waldegrave), 1992 (Sir Robin Butler).

2 QQ2010, 2047, 2053.

3 Q2056.

4 Q2083.

5 *Career Management and Succession Planning Study*, p. 108.

6 See paragraphs 226-228.

7 HC (1993-94) 27-III, p. 23 (Dr Keith Dowding).

8 For a full list, see HC (1992-93) 390-II, pp. 36-37 (Sir Robin Butler).

9 HC Deb., 28 April 1994, cols. 254-255w; HC (1993-94) 27-II, pp. 222-225 (Cabinet Office).

88. The most important guide to civil servants on their conduct in relation to Ministers is the Note first issued by the then Head of the Home Civil Service in 1985 entitled "The Duties and Responsibilities of Civil Servants in Relation to Ministers", known after its author as the Armstrong Memorandum.<sup>1</sup> It was prepared by Sir Robert Armstrong with the consent of the Prime Minister in consultation with Permanent Secretaries in charge of Departments and issued with their agreement.<sup>2</sup> It appears to have no authority beyond that of the Cabinet Secretary of the time, a matter which has caused concern to the FDA.<sup>3</sup> It was first issued in the wake of the trial of Mr Clive Ponting. The Government stated that it was not intended to break new ground, instead seeking to restate long-standing principles.<sup>4</sup> The Armstrong Memorandum was the focus of an inquiry by our predecessors in 1985 and 1986. The Report of the then Treasury and Civil Service Committee reflected the widespread view expressed in evidence that the Armstrong Memorandum was a correct statement of the constitutional position as it had been understood throughout this century and even earlier, but the Committee questioned its adequacy as an appreciation of existing political and constitutional realities.<sup>5</sup> The Committee did not endorse the Armstrong Memorandum, nor do we believe it accepted its adequacy to the extent that the Government has subsequently implied.<sup>6</sup>

89. The purpose of the Armstrong Memorandum was to make clear to civil servants who might have dealings with Ministers how they should respond in certain situations they might face. Accordingly, it was intended principally for senior civil servants.<sup>7</sup> Sir Robin Butler thought the Armstrong Memorandum had "stood the test of time very well"; he was not conscious of any inadequacies or defects which might necessitate amendments.<sup>8</sup> Mr Waldegrave also saw it as "a pretty good statement of what the ethical situation is and should be", considering it "a powerful document".<sup>9</sup> This view was shared by others.<sup>10</sup>

90. The Armstrong Memorandum is forthright in describing the nature and position of the British Civil Service:

"Civil servants are servants of the Crown. For all practical purposes the Crown in this context means and is represented by the Government of the day ... The Civil Service as such has no constitutional personality or responsibility separate from the duly constituted Government of the day ... The British Civil Service is a non-political and professional career service subject to a code of rules and disciplines."<sup>11</sup>

It is common ground that the Civil Service defies an easy universally applicable definition and a civil servant has no specific legal status as is the case in France,<sup>12</sup> but the statement that "the Crown in this context means and is represented by the Government of the day" has given rise to some controversy<sup>13</sup>. The FDA expressed a separate concern that the statement that "*For all practical purposes* the Crown in this context means and is represented by the Government of the day" was too sweeping. The FDA contended that civil servants had duties

1 Cm. 2627, para. 2.36. The 1985 version of the Armstrong Memorandum is reproduced in HC (1985-86) 92-II, pp. 7-9. A revised version was issued in 1987, HC Deb., 2 December 1987, cols. 572-575w.

2 HC (1985-86) 92-II, p. 7; HC Deb., 2 December 1987, col. 572w.

3 Fifth Report from the Treasury and Civil Service Committee, *The Civil Service Pay and Conditions of Service Code*, HC (1989-90) 260, Q65 (Ms Elizabeth Symons).

4 HC (1985-86) 92-II, p. 1 (Cabinet Office).

5 HC (1985-86) 92-I, paras. 2.1-3.8.

6 HC (1989-90) 260, para. 16; Q1118 (Mr Waldegrave); HC (1993-94) 27-II, p. 185 (Mr Waldegrave).

7 HC (1985-86) 92-II, p. 1 (Cabinet Office); *ibid.*, QQ4-5 (Sir Robert Armstrong); Q2001 (Sir Robin Butler).

8 Q108. See also Q2026.

9 Q1113.

10 Q2190 (Mr Michael Bichard); HC (1993-94) 27-III, p. 8 (Sir Brian Hayes).

11 HC Deb., 2 December 1987, cols. 572-573w.

12 The Treasury defines a civil servant as "a servant of the Crown working in a civil capacity who is not: the holder of a political (or judicial) office; the holder of certain other offices in respect of whose tenure of office special provision has been made; a servant of the Crown in a personal capacity paid from the Civil List", HC (1992-93) 390-II, p. 261; HC (1993-94) 27-III, p. 72 (Professor Anne Stevens). For previous Parliamentary and Governmental consideration of the definition of a civil servant, see Eleventh Report from the Expenditure Committee, *The Civil Service*, HC (1976-77) 535-I, Appendix, "Definition of a Civil Servant"; *The Civil Service: Government Observations on the Eleventh Report from the Expenditure Committee, Session 1976-77*, Cmnd. 7117, paras. 107-109; Fourth Report from the Treasury and Civil Service Committee, *Civil Service Manpower Reductions* HC (1979-80) 712-II, p. 128-129, 131-133 (Civil Service Department); HC (1985-86) 92-I, para. 3.4; *Civil Servants and Ministers: Duties and Responsibilities: Government Response to the Seventh Report from the Treasury and Civil Service Committee, Session 1985-86*, Cmnd. 9841, para. 8.

13 QQ20, 1114 (Mr Waldegrave), 114-115 (Sir Robin Butler), 330 (Professor Peter Hennessy); HC (1985-86) 92-I, para. 3.2; HC (1989-90) 260, Q27 (Mr Peter Stokes); Eighth Report from the Treasury and Civil Service Committee, *Progress in the Next Steps Initiative* HC (1989-90) 481, para.1; HC (1993-94) 27-III, pp. 86 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King), 112 (Charter 88).



other than their duties to the Government of the day, such as their duty to obey the law, specific duties imposed by law and duties as members of professions, which, by their nature, had to qualify loyalty to the Government.<sup>1</sup> The Government has responded to the FDA's concern in the following terms:

"The Armstrong Memorandum cannot be given the interpretation that a civil servant has no duties *except* to the Government of the day. As well as having the normal obligation of any employee to give honest and faithful service, to obey the lawful orders of his employer and to act in a manner consistent with the bond of trust and confidence between employer and employee, civil servants have a number of duties including, like any other citizen, a general duty to obey the law and to deal honestly. They may also have specific professional duties, for example as doctors or lawyers. Equally they may have dictates of conscience which are individual to them. The Armstrong Memorandum fully recognises that all these exist and is indeed designed to give guidance on what to do if civil servants feel that they are being given instructions which conflict with them. None of this is inconsistent with saying that civil servants are subservient to Ministers as the representatives of the Crown in Parliament ..."<sup>2</sup>

We believe this response by the Government to the FDA's points is very clear. Indeed, in clarity it exceeds the Armstrong Memorandum itself.

(ii) *The Civil Service Management Code*

91. The Armstrong Memorandum is intended to deal principally with the particular issues raised for civil servants by relations with Ministers. The conduct and standards required of the Civil Service more generally have been laid down in a series of codes applying to all civil servants of which the most recent is *The Civil Service Management Code*. Each of these has been issued by the Minister for the Civil Service under powers granted by successive Civil Service Orders in Council.<sup>3</sup> The predecessor of the *Management Code*, *The Civil Service Pay and Conditions of Service Code*, was described in 1990 by the FDA as "the nearest thing to a contract that a civil servant has", a view which was broadly endorsed by Sir Robin Butler.<sup>4</sup> The new *Management Code* was introduced in 1993 as part of the movement towards delegated authority for personnel management within the Civil Service.<sup>5</sup> Its aim was "to provide a concise and accurate statement of the centrally issued terms and conditions which must be applied by management to all civil servants, regardless of the department or agency within which they work". Previous documents contained non-mandatory guidance on good management practice. The new *Management Code* was intended to disentangle the contractual elements and thus remove confusion.<sup>6</sup> Sir Robin Butler considered it a "compact document" which was "handy to use".<sup>7</sup> Mr Mottram noted that the *Management Code* was mandatory, had a clear status and provided clear guidance on how civil servants should conduct themselves.<sup>8</sup> Mr Waldegrave emphasised that the new Code did not differ substantially from *The Civil Service Pay and Conditions Code* in its instructions on conduct.<sup>9</sup> These general rules are elaborated in rules and guidance for civil servants operating in particular fields and for each Department or Agency.<sup>10</sup> The Government stressed the importance of disseminating such rules of conduct and ensuring that they were available to all civil servants in accessible form.<sup>11</sup> Mr Waldegrave believed it was essential that the *Management Code* and the Armstrong Memorandum which it now incorporates "are regarded by every civil servant as carrying very great authority indeed"; he believed these documents were sufficiently authoritative.<sup>12</sup>

1 QQ269, 1713 (Ms Elizabeth Symons); *Discussion Paper on Proposed Code of Ethics* (FDA, February 1994), paras. 1.7-1.16. This issue was raised by the FDA in 1990 when the phrase appeared in *The Civil Service Pay and Conditions of Service Code* without the elaboration of the other duties of civil servants contained in the Armstrong Memorandum. The Committee recommended that the Code should cross-refer to the Armstrong Memorandum, HC (1989-90) 260, paras. 13-18. *The Civil Service Pay and Conditions of Service Code* has now been superseded by *The Civil Service Management Code* which incorporates the Armstrong Memorandum.

2 Cabinet Office Memorandum to the Scott Inquiry in response to the FDA submission. This document was placed in the Library of the House of Commons in response to a request by the Chairman of the Sub-Committee.

3 Civil Service Order in Council 1991, section 6 (a).

4 HC (1989-90) 260, para. 5.

5 HC (1992-93) 390-II, p. 259 (HM Treasury).

6 HC (1992-93) 390-II, p. 36 (Sir Robin Butler).

7 QQ110, 1449.

8 Q1118.

9 HC (1993-94) 27-II, p. 185.

10 Q2015 (Sir Robin Butler).

11 Q2528 (Mr Waldegrave and Sir Robin Butler).

12 Q1846.

*(iii) Questions of Procedure for Ministers*

92. The third important document in this context is *Questions of Procedure for Ministers*, which approaches the vital, symbiotic relationship between Ministers and civil servants from the perspective of Ministers. In 1986 our predecessors noted that “loyalty should not be a one way street” and called upon the Prime Minister to “formulate and publish guidelines for Ministers which would set out their duties to Parliament and responsibilities for the Civil Service”.<sup>1</sup> In its reply the Government rejected the recommendation, arguing that Ministers were “well aware of the principles that should govern their duties and responsibilities in relation to Parliament and in relation to civil servants.” It then set out the relevant duties of Ministers.<sup>2</sup> These duties were then quoted in the revised 1987 Armstrong Memorandum.<sup>3</sup> In May 1992 the Government responded positively to the Committee’s earlier recommendation, publishing *Questions of Procedure for Ministers*, having revised the document prior to publication.<sup>4</sup> This document has been issued to Ministers on a confidential basis by successive Prime Ministers since Mr Clement Attlee. According to Professor Peter Hennessy, it was only issued under the authority of the Prime Minister of the day and did not have the status of a “constitutional convention”,<sup>5</sup> an issue which concerned the FDA.<sup>6</sup> However, the Prime Minister’s decision to publish *Questions of Procedure for Ministers* was welcomed by Professor Hennessy, who thought it would make the future of the guidance more secure and Ministers more likely to take note of it,<sup>7</sup> and by Lord Callaghan, who “could see no reason why it should be private”.<sup>8</sup>

93. In the context of relations with civil servants, the most important part of *Questions of Procedure for Ministers* is paragraph 55, which reads as follows:

“Ministers have a duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching policy decisions; a duty to refrain from asking or instructing civil servants to do things which they should not do; a duty to ensure that influence over appointments is not abused for partisan purposes; and a duty to observe the obligations of a good employer with regard to terms and conditions of those who serve them. Civil servants should not be asked to engage in activities likely to call in question their political impartiality, or to give rise to the criticism that people paid from public funds are being used for Party political purposes.”

Some considered this statement satisfactory. Lord Howe thought that the rules, “provided they are applied by Ministers and civil servants alike with professionalism, courage and integrity, are pretty good”.<sup>9</sup> Professor Gavin Drewry and Dr Philip Giddings thought that this paragraph “states what is required very adequately”.<sup>10</sup> Others were not satisfied. The FDA contended that “there remains a doubt as to how far Ministers owe duties to their civil servants, and in particular whether Ministers have any duty to support civil servants who are carrying out the responsibilities in a proper manner”.<sup>11</sup> Dr William Plowden also considered the current guidance for Ministers inadequate, since it “did not provide much of a standard against which to test Ministerial actions (or inaction)”.<sup>12</sup> Mr Vernon Bogdanor also believed the guidance to be imprecise, suggesting that the statement that Ministers have a “duty to refrain from asking or instructing civil servants to do things which they should not do” was a tautology.<sup>13</sup> Lord Jenkins cast a revealing light on the impact both of the guidance and prolonged Ministerial service when he said of *Questions of Procedure for Ministers*, “I remember reading it very carefully when I first became a Minister, and less carefully on all subsequent occasions. I

1 HC (1985-86) 92-I, paras. 3.9-3.13.

2 Cmnd. 9841, paras. 10-12.

3 HC Deb., 2 December 1987, col. 572w; Minutes of Evidence taken before the Treasury and Civil Service Committee, *Duties and Responsibilities of Civil Servants in Relation to Ministers*, HC (1987-88) 370-i, Q36 (Sir Robin Butler).

4 Q1857 (Mr Waldegrave). The document has been revised on one occasion since initial publication to take account of new rules on Ministers’ membership of Lloyd’s, HC Deb., 21 July 1994, cols. 551-553w.

5 QQ297, 317-321.

6 Q217 (Mr Christopher Dunabin). See also Q1647 (Mr John Garrett).

7 QQ297, 318.

8 Q620.

9 Q543.

10 HC (1993-94) 27-III, p. 100.

11 HC (1992-93) 390-II, p. 40.

12 Q504; Dr William Plowden, *Ministers and Mandarins* (Institute for Public Policy Research, 1994), p. 114.

13 HC (1992-93) 390-II, p. 297.

think from that point of view it is slightly like safety instructions in an aircraft; you do not read them quite so keenly on frequent flights.”<sup>1</sup>

(iv) *Internal resolution*

94. The value of these documents is dependent upon the extent to which the values, principles and standards of conduct which they lay down are disseminated, understood and upheld in practice. At the heart of the current system lies a commitment to and faith in the internal resolution of issues raised in the guidance, usually at departmental level below that of the Permanent Head of the Department.<sup>2</sup> Sir Robin Butler stressed on several occasions that he would expect most problems of an ethical nature faced by civil servants to be resolved by consulting their immediate line managers who were “in the next room” and “easily approachable”.<sup>3</sup> Mr Waldegrave considered it a prime objective “to create an atmosphere in departments where a civil servant would not feel intimidated by going to his line management to say: ‘I am being asked to do something wrong’. It should be deeply part of the management culture of the Civil Service that the line management should take responsibility for this.”<sup>4</sup>

95. These procedures applied in the case of instructions from Ministers which were felt to be in any way improper. Sir Robin Butler said that if it were considered that an instruction was improper, a civil servant would advise the Minister to withdraw the instruction and he or she would do so.<sup>5</sup> He had little doubt that this system operated effectively in practice, even though it relied upon the good faith of the Ministers and civil servants who operated it.<sup>6</sup> In 1988 he suggested that it was “inconceivable” that a Minister would persevere in giving a civil servant an instruction which was not in line with the constitution.<sup>7</sup> He adopted a similar view during this inquiry.<sup>8</sup> He thought that it was “no! likely that Ministers will reject our advice, particularly on matters of propriety or legality, not least because they would put themselves in an extremely vulnerable position if they did so”.<sup>9</sup> From a Ministerial perspective, Mr Waldegrave said that “you have to have a certain nerve to ask the British Civil Service to do something that is wrong and outside its remit. They will tell you very firmly if you ask them and so they should.”<sup>10</sup> On a later occasion he said that “in my experience as a Minister since 1981 it is the one thing that makes Ministers instantly withdraw if there is a statement from a civil servant: ‘You are asking me to do something that is not right’ or ‘Here is a propriety issue’ for the very good reasons of self-preservation.”<sup>11</sup> The Prime Minister made a similar point in his evidence to the Scott Inquiry, in the context of Parliamentary questions:

“In my experience, if a Minister attempted to change a draft answer in any way that was thought to be misleading, then the Civil Service would object. If a junior official felt he was being overridden I think he would go to the Permanent Secretary and the Permanent Secretary would object. The British Civil Service is a pretty rigid instrument in determining that things are honest and truthful and I think it is the better for being so.”<sup>12</sup>

This statement was warmly welcomed both by Sir Kenneth Stowe, who drew it to the Subcommittee’s attention, and by Sir Robin Butler.<sup>13</sup>

96. These procedures generally have no formal status. They are not described in the documents we have discussed above. They are confidential and usually take place orally. They do not depend on any special provision in any of these documents, other than the duty of civil servants to give impartial and objective advice. They depend essentially upon what might be termed the Civil Service’s powers of moral suasion. There are two exceptions to this general informality—the procedures relating to certain advice on the use of public money from

1 Q866.

2 HC (1993-94) 27-II, p. 187 (OPSS).

3 QQ1443, 2061, 2066, 2539.

4 Q1859.

5 Q2061.

6 Q2082.

7 HC (1987-88) 370-i, Q40.

8 Q116.

9 Q2075.

10 Q63.

11 Q1852.

12 HC (1993-94) 27-II, p. 130 (quoted by Sir Kenneth Stowe).

13 *ibid*; Q2061.

Accounting Officers and the appeals procedures laid down in the Armstrong Memorandum. Under the former procedure, an Accounting Officer (usually the Permanent Head of a Department) is required to set out in writing his objection to any contemplated course of action by a Minister "involving a transaction which an Accounting Officer considers would infringe the requirements of propriety or regularity" and, if the Minister chooses to proceed with the proposed course of action, to seek a written instruction. Having received the written instruction, he is expected to comply with it, but inform the Treasury and communicate the papers to the Comptroller and Auditor General. Similar provisions currently exist in relation to actions which raise an issue relating to economy, efficiency and effectiveness, without the same requirement to inform the Comptroller and Auditor General in all cases.<sup>1</sup> Following the operation of the latter procedure by the Accounting Officer of the Overseas Development Administration in the case of the Pergau Hydro-Electric Project, the Government has accepted a recommendation of the Committee of Public Accounts that papers relating to all cases where Ministers have issued directions on matters involving prudent and economical administration, efficiency and effectiveness should be communicated to the Comptroller and Auditor General without delay.<sup>2</sup> These procedures are vitally important, as the Chairman of the Committee of Public Accounts made clear.<sup>3</sup> Professor Peter Hennessy commented that "even the whiff of an Accounting Officer's Note in Whitehall stops a great deal of untoward financial malpractice happening in the first place".<sup>4</sup> Sir Kenneth Stowe reinforced this point, saying that, when he expressed dissatisfaction as an Accounting Officer, Ministers "would tend to listen and ask why I was not very happy and I would explain and the problem would disappear. One was listened to precisely because one was the Accounting Officer."<sup>5</sup>

97. Formal procedures also exist under the Armstrong Memorandum. The original Armstrong Memorandum stated that, if a civil servant felt that certain actions "would raise for him or her a fundamental issue of conscience", he or she should consult a superior officer, "or in the last resort the Permanent Head of the department, who can and should if necessary consult the Head of the Home Civil Service".<sup>6</sup> The then Committee considered these procedures in 1986, finding there might be instances in which they would be "of little use" and recommending that the Head of the Home Civil Service should make it clear that he was "prepared personally to consider appeals from officials who have followed his procedures but whose dilemmas remained unresolved".<sup>7</sup> The Government accepted this recommendation.<sup>8</sup> The revised Armstrong Memorandum contains a two-stage procedure. First, a civil servant who "considers that he or she is being asked to act in a manner which appears to him or her to be improper, unethical or in breach of constitutional conventions, or to involve possible maladministration, or to be otherwise inconsistent with the standards of conduct prescribed in this Memorandum and in the relevant Civil Service codes and guides" should report the matter to a senior officer, "and if appropriate to the Permanent Head of the Department". Second, "a civil servant who feels that to act or to abstain from acting in a particular way, or to acquiesce in a particular decision or course of action, would raise for him or her a fundamental issue of conscience" should consult a senior officer, may take the matter up with the Permanent Head of the Department and "also has a right, in the last resort, to have the matter referred to the Head of the Home Civil Service through the Permanent Head of the Department".<sup>9</sup> The Subcommittee ascertained that the full procedures have been used only once since their introduction. This single case concerned conscientious reservations about a Government Department's approach to theoretical research. It was considered by the Permanent Head of Department and then by the Head of the Home Civil Service. The subject matter did not involve a Minister. Thus, the procedures have not been employed to refer a case to a Permanent Secretary, or thereafter to Sir Robin Butler, on a matter of propriety.<sup>10</sup> Sir Robin Butler considered that this was because such concerns were resolved through the informal procedures described above, rather than because the procedures were inadequate.<sup>11</sup>

<sup>1</sup> *The Responsibilities of an Accounting Officer*, paras. 13-14.

<sup>2</sup> Seventeenth Report from the Committee of Public Accounts, *Pergau Hydro-Electric Project*, HC (1993-94) 155, paras. 46-47, 52; *Treasury Minute on the Seventeenth to Twenty-first Reports from the Committee of Public Accounts 1993-94*, Cm. 2602, para. 13.

<sup>3</sup> Q1582 (Mr Robert Sheldon).

<sup>4</sup> Q324.

<sup>5</sup> QQ1666-1667, 1673.

<sup>6</sup> HC (1985-86) 92-II, p. 9.

<sup>7</sup> HC (1985-86) 92-I, paras. 4.7, 4.16.

<sup>8</sup> Cmnd. 9841, para. 19.

<sup>9</sup> HC Deb., 2 December 1987, col. 575w.

<sup>10</sup> HC (1993-94) 27-II, pp. 187-188 (OPSS); Q117 (Sir Robin Butler).

<sup>11</sup> QQ118, 2061, 2066.

98. Some other witnesses took a somewhat different view of the Armstrong Memorandum procedures. As on a previous occasion,<sup>1</sup> the FDA contended that some civil servants were deeply reluctant to use the procedures and that the failure to use the procedures could not be seen as a sign of their success.<sup>2</sup> The FDA's argument was threefold: first, civil servants feared that any use of the procedures would lead to adverse effects on the view of their performance from more senior civil servants; second, the procedures required civil servants to go up the chain of command down which the original instruction giving rise to concern had come; third, civil servants were concerned that complaints might lead them to be "singled out and pilloried by Ministers".<sup>3</sup> Sir Robin Butler responded to the first two points in 1990, assuring the then Committee that an appeal under the Armstrong Memorandum procedures would not be held against an official or entered on his or her personnel record unless it were proved to be frivolous or vexatious and pointing out that a complaint could be referred to a senior official other than a line manager or reporting officer.<sup>4</sup> The FDA nevertheless believed that there was a marked reluctance to use the procedures, pointing to complaints which appeared to be suitable for the procedures where they had not been invoked and to the importance of the perceptions of civil servants about the possible consequences of using the procedures.<sup>5</sup> Mr Timothy Hornsby, a former civil servant now working in local government, was also sceptical about the absence of complaints under the Armstrong Memorandum procedures compared with the number of comparable issues regularly raised with local government monitoring officers by councillors or staff.<sup>6</sup>

99. A separate but related point was also considered by our predecessors in 1990. The FDA argued that the separate discussion in separate paragraphs in the Armstrong Memorandum of two forms of appeals implied that only appeals on a fundamental matter of conscience could be referred to the Head of the Home Civil Service, and not appeals against instructions which a civil servant considered unlawful or unethical. Sir Robin Butler did not believe that there was a practical distinction, since a matter of propriety or illegality which could not be resolved at departmental level would be a matter of conscience. The Committee welcomed this assurance, but recommended that the Armstrong Memorandum be revised to state clearly that the right of appeal to the Head of the Home Civil Service applied to complaints on the grounds of illegality, impropriety and maladministration.<sup>7</sup> In response, the Government declined to revise the Armstrong Memorandum itself, but proposed to amend the Code in order to clarify the issue.<sup>8</sup> *The Civil Service Management Code* now states that "civil servants with a crisis of conscience, for example in respect of an instruction to do something which appears to be illegal or improper or which may raise questions of maladministration, have a right to appeal to the Permanent Head of the Department and, in the last resort, to the Head of the Home Civil Service".<sup>9</sup> We are not convinced that this is a sufficient remedy for a lack of clarity in the Armstrong Memorandum. We note that Sir Robin Butler himself drew a distinction between situations where civil servants' "consciences are troubled" and occasions where "they are being asked to do something contrary to constitutional conventions".<sup>10</sup> A subsequent exchange with him confirmed the view that questions of propriety and legality are frequently understood as more than a sub-set of fundamental issues of conscience, as the Government's interpretation of the Armstrong Memorandum implies.<sup>11</sup>

100. A final concern about the Armstrong Memorandum procedures related to the suitability of the Head of the Home Civil Service to act as an appellate authority and to his wider position in the British constitutional system. Professor Peter Hennessy argued that, while the posts of Cabinet Secretary and Head of the Home Civil Service were combined, it was inappropriate for the holder to act as the final appeal authority on matters of propriety and legality, since on any matter which was "central to the State" where the procedures might be

1 HC (1989-90) 260, QQ33, 38, 40-41, 52 (Ms Elizabeth Symons, Mr Christopher Dunabin).

2 QQ230-231 (Ms Elizabeth Symons).

3 *ibid.*; Q1785 (Ms Elizabeth Symons).

4 HC (1989-90) 260, para. 35.

5 HC (1989-90) 260, QQ33, 38, 40-41, 52; QQ230-231, 1785 (Ms Elizabeth Symons).

6 HC (1993-94) 27-III, p. 93.

7 HC (1989-90) 260, paras. 37-38.

8 Fifth Special Report from the Treasury and Civil Service Committee, *The Civil Service Pay and Conditions of Service Code: The Government's Observations on the Fifth Report from the Committee in Session 1989-90*, HC (1989-90) 617, para. 19.

9 HC (1993-94) 27-II, p. 188 (OPSS).

10 Q113.

11 QQ2531-2532.

invoked, the Head of the Home Civil Service would himself have been involved as Cabinet Secretary.<sup>1</sup> Sir Robin Butler did not believe such cases would be difficult to handle. Where he had a theoretical conflict of interest, he would ask the case to be handled by a senior colleague not personally involved in the matter.<sup>2</sup> Although this course of action is not referred to in the Armstrong Memorandum, Mr Waldegrave considered it to be “just common sense”.<sup>3</sup> Professor Hennessy also expressed concern about the extent of the influence which the Head of the Home Civil Service and the Cabinet Secretary had arising from his role in relation to the Armstrong Memorandum and more widely, describing him as “the supreme judge of whether or not constitutional conventions are being broken”.<sup>4</sup> Sir Robin Butler rejected this notion, contending that he was simply an adviser to the Prime Minister who decided and who was accountable to Parliament.<sup>5</sup> Lord Callaghan confirmed from his own experience that the Cabinet Secretary would not be expected to reach a final decision on a matter of constitutional significance.<sup>6</sup> Sir Robin stated that he would not expect his advice on a matter of propriety “to be taken lightly and in my own experience it never has been”. He went on to say that he would be prepared to resign to defend what he saw as constitutional propriety.<sup>7</sup> Mr Waldegrave did not believe it was “plausible” that the Prime Minister “would override” the Head of the Home Civil Service on such a matter and averred that the resignation of the latter in such circumstances “would bring the Government down”.<sup>8</sup> When it was put to Sir Robin that the extreme unlikelihood of his advice being refused gave him more power in practice than in theory, he firmly rejected the suggestion that his post had “some constitutional significance”. His role was simply that of an adviser to the Prime Minister, who would be called to account in Parliament for any decision taken in defiance of his advice.<sup>9</sup> A similar issue was raised by guidance issued to civil servants relating to elections, which was usually cleared by Ministers,<sup>10</sup> although we note that the Prime Minister has referred to such rules as having “been laid down by the Cabinet Secretary”.<sup>11</sup>

*(v) The existing framework: conclusions*

101. The Government believes that the documents we have described and the procedures for monitoring and upholding their contents provide a satisfactory framework for maintaining the essential values of the Civil Service: “the Government and its predecessors have consistently taken the view that, within our constitutional arrangements, the standards and ethics essential to the operation of the Civil Service, described in these documents, are well founded and well understood”.<sup>12</sup> We do not agree with this sanguine verdict. None of the documents examined states the essential values of the Civil Service with sufficient clarity. Each document is directed to a particular audience: the Armstrong Memorandum to civil servants dealing with Ministers; The Civil Service Management Code to managers in the Civil Service; Questions of Procedure for Ministers to Ministers. None communicates a clear and simple message to all civil servants and to the wider public about the standards to be upheld. The Armstrong Memorandum appears increasingly dated. We do not believe it can be viewed as an authoritative summary of the constitutional position and role of the Civil Service. We welcome the publication of Questions of Procedure for Ministers, but are not convinced of the adequacy of its instructions relating to Ministers’ dealings with civil servants.

102. We have similar doubts about the existing mechanisms for upholding the standards enunciated in these documents. In the last century Mr William Gladstone remarked that the British Constitution “presumes more boldly than any other the good faith of those who work it”. This remains true today, and it need be no reflection upon the good faith of the current generation of Ministers and senior civil servants to suggest that public trust in such a system is diminishing and is likely to diminish further. The system for upward referral within Government of issues of propriety and illegality is necessary but not sufficient. We believe that there is convincing evidence that the existing procedures do not command the confidence of all civil servants. The preservation

1 Q329.

2 Q1447.

3 Q1851.

4 QQ297, 323.

5 Q1470.

6 Q605.

7 QQ1474-1476.

8 QQ1852-1856.

9 QQ2075-2081.

10 QQ2040-2043 (Sir Robin Butler).

11 HC Deb., 28 April 1994, cols. 378-379.

12 Cm. 2627, para. 2.36.

of the principles and values of the Civil Service is too important to be left to Ministers and civil servants alone.

(vi) *A new Civil Service Code*

103. The Sub-Committee received several proposals for changes to or developments of the existing framework for underpinning the essential values of the Civil Service. One of these was the introduction of a new Code of Ethics or Conduct for the Civil Service. The FDA advanced the case for a Code of Ethics in 1986 and its Annual Delegate Conference endorsed a draft Code in that year.<sup>1</sup> The FDA renewed its call during the present inquiry and prepared a discussion document including a revised draft Code of Ethics.<sup>2</sup> The proposal for a new Code of Ethics has been supported by Lord Callaghan and Lord Bancroft, a former Head of the Home Civil Service.<sup>3</sup> The advantages of the proposed Code were seen by its advocates as fivefold. First, it was envisaged that the Code would have "some clear public status, public endorsement, going beyond that of the Government of the day".<sup>4</sup> Both Lord Callaghan and Sir Kenneth Stowe considered that this additional authority could be secured by means of resolutions within Parliament.<sup>5</sup> Second, it was proposed that such a Code would have far wider currency than existing documents, being available both to all civil servants and to the public, possibly as part of the Citizen's Charter process.<sup>6</sup> Third, it was expected that the process of drawing up and endorsing such a Code would entail a wider public and Parliamentary debate on these matters than had been the case with earlier documents.<sup>7</sup> Fourth, it was argued that such a Code could have greater clarity about the role, duties and responsibilities of civil servants than existing documents, principally because it would be a single document arising from a sustained process of debate.<sup>8</sup> Finally, Lord Callaghan laid great stress on the vital role of such a Code as a unifying force in an increasingly heterogenous Civil Service, a reminder to all civil servants of their shared role and values, providing them with "a fresh mission" in the light of revolutionary change.<sup>9</sup>

104. The Government's arguments against such a Code were based on the view that the current *Civil Service Management Code*, incorporating the Armstrong Memorandum, was satisfactory and could be said to amount to a code of ethics.<sup>10</sup> A worthwhile process of clarification, simplification and consolidation had already taken place in drawing up the Civil Service Management Code. Further consolidation, along the lines of the FDA Discussion Paper, would produce a document both unwieldy and elitist in its concentration on relations with Ministers and Parliament.<sup>11</sup> Others shared the Government's scepticism about such a Code. Some believed it would be superfluous, encouraging disputes over words and their interpretation.<sup>12</sup> A former Permanent Secretary believed such a Code would "diminish the individual's responsibility for taking his own decisions and so lessen the respect which a Minister would have for him".<sup>13</sup>

105. We find the case for a new Civil Service Code convincing. We believe that the preparation, completion and distribution of such a Code would prove a timely statement of the essential values of the British Civil Service. It would enable civil servants themselves and those they serve—both Ministers and the public—to know what was expected of the Civil Service. It would strengthen the hand of those who sought to maintain the essential values in the face of perceived threats to those values. It would make more tangible the values which civil servants hold in common. We believe that its effect could be particularly strong if it were a condition of employment for all civil servants that they read the Code and conduct themselves in

1 HC (1985-86) 92-I, para. 4.8; HC (1992-93) 390-II, pp. 43-45.

2 Q1698 (Ms Elizabeth Symons); *Discussion Paper on Proposed Code of Ethics*.

3 Q616 (Lord Callaghan); HL Deb., 6 June 1994, col. 970: "to my mind - alas - the time is coming when a code of ethics will be essential" (Lord Bancroft).

4 Q217 (Mr Christopher Dunabin).

5 QQ617 (Lord Callaghan), 1683-1685 (Sir Kenneth Stowe). See also HC (1993-94) 27-III, pp. 40 (Sir Peter Lazarus), 99 (Professor Gavin Drewry and Dr Philip Giddings).

6 Q1685 (Sir Kenneth Stowe); *Discussion Paper on Proposed Code of Ethics*, para. 2.4; Q1693 (Ms Elizabeth Symons); HC (1993-94) 27-III, p. 57 (Mr Clive Priestley).

7 QQ616-617 (Lord Callaghan), 1506 (Professor Norman Lewis); HC (1993-94) 27-III, p. 40 (Sir Peter Lazarus).

8 QQ206 (Ms Elizabeth Symons), 453 (Mr Charles Cochrane), 504 (Dr William Plowden); HC (1992-93) 390-II, p. 298 (Mr Vernon Bogdanor).

9 QQ588, 621, 623, 632.

10 QQ118 (Mr Waldegrave and Mr Mottram), 2528 (Sir Robin Butler).

11 QQ110, 112; HC (1992-93) 390-II, p. 36; QQ2001-2002, 2087 (Sir Robin Butler).

12 HC (1993-94) 27-III, pp. 45 (Sir Kenneth Couzens), 93 (Mr Timothy Hornsby).

13 HC (1993-94) 27-III, p. 64 (Sir Geoffrey Chipperfield).

accordance with its provisions. We recommend that there should be a new Civil Service Code and that it should be a condition of employment of all civil servants that they read the Code and conduct themselves in accordance with its provisions. It should be clear that this Code applies to the staff of agencies as well as to those of departments.

106. It may be necessary to consider extending the principles of the Code to those working for "quangoes", especially in cases where such bodies have taken over work from government departments. Relevant principles may also need to be considered in relation to private sector organisations contracting for public work, in the same way that official secrecy requirements are placed on defence contractors.

107. We discuss further below the procedures which we envisage for the preparation of such a Code, but, to assist a wide debate on its contents, we annex a proposed new Code to this Report.<sup>1</sup> As will be evident from this proposed Code, we do not believe it should be an exercise in consolidation. It is not intended to replace *The Civil Service Management Code* or other rules or guidance which the Government considers it appropriate to issue to civil servants as employer. The new Code is intended as a more enduring statement of the role and duties of the Civil Service. We believe that this proposed Code has three distinct advantages over existing Codes: it has greater clarity about the essential values of the Civil Service and the duties and responsibilities of civil servants and of Ministers in relation to civil servants; it applies to all civil servants; and it is both concise and comprehensive. It notes that civil servants owe their loyalty to the duly constituted Government "subject to the provisions of this Code". It reminds civil servants of some of the fundamental duties consequent upon their position, including the paramount importance of obedience to and respect for the law. It contains a new duty upon Ministers "to familiarise themselves with the contents of this Code and not to ask civil servants to act in breach of it". It informs all civil servants of their duties in relation to public administration, including the use of public money within their control. It reminds civil servants of their duties relating to the separation of public and private interests, political impartiality and confidentiality. We recommend that the Government's reply to this Report includes a full response to the proposed new Civil Service Code annexed to this Report.

(vii) *An independent appeals procedure*

108. A second proposal put to the Sub-Committee to reinforce the framework for upholding standards was the establishment of a new appeals procedure for civil servants concerned about matters of propriety or ethical standards. The advocates of such a procedure suggested that it would introduce a vital element of independence into this field, involving a person or persons outside the machinery of Government and thus disinterested.<sup>2</sup> The FDA was particularly insistent on the value of an independent procedure, believing that civil servants reluctant to use the Armstrong Memorandum procedures would be prepared to utilise such "an alternative channel".<sup>3</sup> Others endorsed this view, Lord Callaghan believing such a procedure might give "comfort" to the Civil Service.<sup>4</sup> Another advantage of an independent appeals procedure in the view of the FDA was that it would establish "case law from decisions in previous instances so that such dilemmas were less likely to arise".<sup>5</sup> Finally, supporters of an independent appeals procedure pointed to an apparent precedent in the establishment of an Ombudsman for members of the security services, who were also Crown servants under Ministerial control.<sup>6</sup>

109. The Government has long opposed this proposal. The essential argument of the Government is that it would "greatly complicate the relationship between civil servants and their Ministers".<sup>7</sup> Sir Robin Butler has reiterated this view on several occasions, arguing in 1990 that it would be "very disruptive of the relationship between Ministers and civil servants; it would be destructive of the confidence between them".<sup>8</sup> In April 1994 he said that it "would enshrine distrust between Ministers and officials".<sup>9</sup> The Government deployed other arguments

1 Annex 1, pp cxxvi-cxxvii.

2 Q329 (Professor Peter Hennessy); HC (1993-94) 27-III, pp. 14 (Dr Peter Barberis), 87 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King), 100 (Professor Gavin Drewry and Dr Philip Giddings).

3 QQ231 (Mr Christopher Dunabin), 1716 (Ms Elizabeth Symons).

4 QQ609 (Lord Callaghan), 1651 (Mr John Garrett).

5 Q230 (Mr Christopher Dunabin).

6 QQ329 (Professor Peter Hennessy), 543 (Lord Howe); HC (1993-94) 27-III, p. 100 (Professor Gavin Drewry and Dr Philip Giddings).

7 HC (1985-86) 92-II, Q798 (Sir Robert Armstrong).

8 HC (1989-90) 260, Q109. See also HC (1987-88) 370-i, Q41.

9 Q2083.



against such a procedure. It was suggested that it would be unnecessary to establish a new structure since it was unlikely to be used and failure to use a new system would lead to further pressure for change.<sup>1</sup> Lord Callaghan shared the Government's scepticism about the extent to which a new procedure would be used.<sup>2</sup> The Government argued that the staff counsellor for the security services was not a relevant precedent: he operated in a field where there were no trade unions; members of the security services were special because of the nature of their duties; the procedure was intended to relate not to specific instructions but matters of general anxiety.<sup>3</sup> Finally, it was pointed out that there were no comparable procedures in other countries with Westminster-type Governments.<sup>4</sup> Despite these objections, Mr Waldegrave said he did not have a closed mind on the issue and would genuinely await this Committee's recommendations with an open mind.<sup>5</sup>

110. Our predecessors have considered the case for an independent appeals procedure on matters of propriety, legality and ethics on two occasions. In 1986 the then Committee recommended clarification of the right of appeal to the Head of the Home Civil Service, and went on to say that "if this new arrangement is seen to be unsatisfactory in practice, we note the important arguments for a system of external review and recommend that the question should then be reconsidered".<sup>6</sup> Its successor in 1990 suggested further improvements in the current system; it did not accept that the lack of appeals under it meant that it was "faultless"; neither did it accept the FDA's view "that it proves conclusively the need for an independent appeals body".<sup>7</sup> We have concluded that the current procedures do not command sufficient confidence. We find the Government's arguments against an independent appeals procedure unconvincing. We accept that such a system might complicate relations between Ministers and civil servants, but we do not see simplicity as a primary criterion in assessing the health of such relationships. For example, there seems little doubt that judicial review has complicated the decision-making process in Government, but this does not lead it to be viewed as a negative influence by the Government itself.<sup>8</sup> We see no reason why the existence of such a procedure should engender distrust between Ministers and civil servants, provided that they have a shared understanding of expected standards in Government which is in turn shared by others. We also believe that Parliamentary and public confidence in the system of Government is a more important consideration. We believe that such confidence would be enhanced by the establishment of an independent appeals procedure. We believe that an independent appeals procedure is an essential component of the new Civil Service Code we have already recommended. A source of authoritative interpretation other than the Government of the day is a logical component of a new Code with a greater authority than that of the Government of the day. **We recommend that an independent appeals procedure be established to consider actions or decisions in Government in breach of the new Civil Service Code which are not considered capable of resolution within Government.**

111. We now outline the main features of the new appeals procedure which would be laid down in the proposed new Civil Service Code. First, we accept that the majority of doubts about conduct, propriety and legality should be able to be resolved within Departments. We also appreciate that the effectiveness of any system depends upon the capacity of civil servants to develop an appropriate sense of what might be improper or unconstitutional. We do not believe that it should replace the system of internal resolution described to us by the Government. With an independent appeals mechanism established under the Code, we do not believe that it is necessary to be too prescriptive about the form of internal procedures, although we believe that the new appeals body should be consulted about such procedures. Second, consideration by internal procedures should be a prerequisite for using the independent appeals mechanism, and such appeals should only be permitted when all the internal appeals procedures have been exhausted.

1 QQ1119 (Mr Waldegrave), 2083 (Sir Robin Butler).

2 Q609.

3 HC (1987-88) 370-i, Q42 (Sir Robin Butler); HC (1989-90) 260, Q109 (Sir Robin Butler); QQ1119 (Mr Waldegrave), 2089-2091 (Sir Robin Butler).

4 Q2088 (Sir Robin Butler).

5 QQ1859, 2531, 2534.

6 HC (1985-86) 92-1, para. 4.16.

7 HC (1989-90) 260, para. 43.

8 HC (1993-94) 27-II, pp.196-197.

112. The Sub-Committee received various proposals for the form such an independent procedure might take. The FDA envisaged an Ethics Tribunal composed of Privy Councillors from across the political parties, but viewed an Ombudsman as an alternative.<sup>1</sup> Professor Gavin Drewry and Dr Philip Giddings argued that the final appellate authority for a Civil Service Code could be the Parliamentary Commissioner for Administration. This was linked to their advocacy of the jurisdiction of the Parliamentary Commissioner being extended to cover personnel issues.<sup>2</sup> This last matter has recently been considered by the Select Committee on the Parliamentary Commissioner for Administration, which decided to await the outcome of this inquiry before reaching a final decision.<sup>3</sup> It is a principle set down in the Civil Service Management Code that "Civil servants have a right of appeal against management decisions that affect them adversely" and there exists a Civil Service Appeal Board, including representatives of management and trade unions and an independent element, to consider appeals on personnel matters.<sup>4</sup> Individual civil servants also write to the Head of the Home Civil Service on personnel management issues and it is Sir Robin Butler's policy to deal with all such cases personally.<sup>5</sup> These procedures are separate and distinct from those under the Armstrong Memorandum.<sup>6</sup> We have not examined these procedures and cannot comment on their effectiveness. Nevertheless, we note that, as presently constituted, the powers of the Parliamentary Commissioner for Administration are distinct in character from the other procedures under consideration. He considers complaints from members of the public about maladministration which affects them as citizens. The other procedures under consideration are concerned with examining matters raised by civil servants. On balance, we believe that the new appeals procedure we have proposed under a new Civil Service Code should remain separate both from the work of the Civil Service Appeals Board and that of the Parliamentary Commissioner for Administration. **We therefore believe that the final appeal available to an aggrieved civil servant who has exhausted all the internal procedures should be to the independent and strengthened body of the Civil Service Commissioners.** The proposed new Code annexed to our Report includes references both to the avoidance of maladministration and to the proper, effective and efficient use of public money. It is thus possible that there might be some overlap between the new appeals body and the jurisdiction of the National Audit Office and the Parliamentary Commissioner for Administration. We expect that the new body would be able to pass information to the National Audit Office for possible investigation. If the Parliamentary Commissioner for Administration were empowered to initiate investigations, as the Select Committee on the Parliamentary Commissioner for Administration has proposed, this could also be done in cases of possible maladministration which did not give rise to wider issues of propriety.<sup>7</sup>

(viii) *A Civil Service Act*

113. The third proposal to strengthen the methods for upholding the essential values and standards of the Civil Service was the introduction of a Civil Service Act. The Northcote-Trevelyan Report which recommended the establishment of a central board to ensure the maintenance of a permanent non-political Civil Service recruited on merit concluded with the following paragraph:

"It remains for us to express our conviction that if any change of the importance of those which we have recommended is to be carried into effect, it can only be successfully done through the medium of an Act of Parliament. The existing system is supported by long usage and powerful interests; and were any Government to introduce material alterations into it, in consequence of their own convictions, without taking the precaution to give those alterations the force of law, it is almost certain that they would be imperceptibly, or perhaps avowedly, abandoned by their successors, if they were not even allowed to fall into disuse by the very Government which had originated them. A few clauses would accomplish all that is proposed in this paper, and it is our firm belief that a candid statement of the grounds of the measure would insure its suc-

<sup>1</sup> *Discussion Paper on Proposed Code of Ethics*, paras. 2.63-2.67; QQ218, 1716-1717 (Ms Elizabeth Symons).

<sup>2</sup> HC (1993-94) 27-III, pp. 99-100. See also *ibid.*, p. 130 (Dr Andrew Massey).

<sup>3</sup> First Report from the Select Committee on the Parliamentary Commissioner for Administration, *The Powers, Works and Jurisdiction of the Ombudsman*, HC (1993-94) 33-1, para. 51.

<sup>4</sup> *Civil Service Management Code*, Personnel Management, paras. 7.7.1, 7.7.9-7.7.10: The Board hears appeals against "refusal to allow participation in political activities ... forfeiture of superannuation ... dismissal and early retirement ... non-payment of compensation to civil servants dismissed on inefficiency grounds".

<sup>5</sup> HC (1993-94) 27-II, pp. 187-188 (OPSS).

<sup>6</sup> Q2531 (Sir Robin Butler).

<sup>7</sup> HC (1993-94) 33-1, para. 44.

cess and popularity in the country, and would remove many misconceptions which are now prejudicial to the public service.”<sup>1</sup>

This recommendation was not implemented. Instead, the Civil Service Commission was established in 1855 under an Order in Council.<sup>2</sup> Professor Peter Hennessy regretted this decision, arguing that Orders in Council are “an extremely flimsy protection if there is any reason at all to be worried about the self-righting mechanisms of the system”.<sup>3</sup> Mr John Garrett was highly critical of the use of Orders in Council issued under the Royal Prerogative, which amounted to “primary legislation ... without Parliamentary consent”.<sup>4</sup> Despite the scepticism of the Northcote-Trevelyan Report, the Civil Service Commissioners have endured and the First Civil Service Commissioner did not believe that her independence was any less because of its foundation in an Order in Council rather than an Act of Parliament.<sup>5</sup> The independence of the Civil Service Commissioners is derived from the powers granted by an Order in Council and from the right of access to the Queen.<sup>6</sup> Professor Christopher Hood and Professor George Jones questioned the extent of the Commissioner’s independence given that the Commissioners (other than the part-time Commissioners) were serving career civil servants.<sup>7</sup> Both Professors Hood and Jones and Sir Kenneth Stowe detected a diminution in the role of the Commissioners,<sup>8</sup> although this contention was disputed by the Government.<sup>9</sup>

114. Professor Hennessy suggested that it was now time to complete “the unfinished business of Mr Gladstone in the 1860s” and introduce a Civil Service statute to enshrine the key principles of the Civil Service.<sup>10</sup> Professor Norman Lewis also emphasised the importance of introducing a Civil Service statute at a time of rapid change, arguing that it should be a legislative priority since “nothing is more important in the world of politics than the rules of the game and the rights of the citizen”.<sup>11</sup> Like Professor Hennessy, he believed such an Act would have considerable psychological significance, embedding the values of the Civil Service and reinforcing the interest of the legislature in them.<sup>12</sup> He also pointed to the value of the debate which would be precipitated by a Civil Service Bill.<sup>13</sup>

115. The Government doubted the need for such an Act in a British context. Mr Waldegrave did not believe that a statement of general principles should take a statutory form. He said he was “instinctively against declaratory legislation” and thought that “putting morals into laws nearly always ends in tears”.<sup>14</sup> The Government believed that such an Act would be “incredibly difficult” to draft and might lead to inflexibility affecting the management of the Service,<sup>15</sup> views endorsed by Lord Howe and others.<sup>16</sup> Lord Howe, a former Leader of the House of Commons, was also concerned about such a Bill being exposed to “the random chance of amendment in this place”.<sup>17</sup> The Government believed that existing rules carried sufficient authority and emphasised that decisions made under the Royal Prerogative were not excluded from the scope of judicial review.<sup>18</sup> Others also saw a statute as superfluous.<sup>19</sup> Sir Brian Hayes believed that legislating on the governance of the Civil Service “might foster the notion that the Civil Service constituted a separate estate of the realm, with an authority of its own and responsibilities transcending its duties to Ministers. I believe that would be wrong.”<sup>20</sup>

1 *Report on the Organisation of the Permanent Civil Service.*

2 Cd.7338, pp. 7-8; *The Civil Service: Vol 3(2): Surveys and Investigations*, pp. 427-428.

3 Q297.

4 HC (1993-94) 27-II, p. 103; Q1647. See also HC Deb., 21 April 1993, cols. 487-494.

5 Q719 (Mrs Ann Bowtell).

6 QQ337 (Professor Peter Hennessy), 713 (Mrs Ann Bowtell).

7 HC (1993-94) 27-III, p. 79.

8 HC (1993-94) 27-III, p. 80 (Professor Christopher Hood and Professor George Jones); HC (1993-94) 27-II, p. 114 (Sir Kenneth Stowe).

9 Q1364 (Sir Robin Butler).

10 QQ297, 298, 300, 313.

11 HC (1992-93) 390-II, pp. 283-284; HC (1993-94) 27-II, pp. 70-71.

12 Q1486.

13 Q1488.

14 QQ1821, 1861, 1863.

15 QQ1865, 1117 (Mr Waldegrave), 104, 112 (Sir Robin Butler).

16 QQ559 (Lord Howe), 404 (Sir Peter Kemp); HC (1993-94) 27-III, pp. 45 (Sir Kenneth Couzens), 87 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland and Dr Desmond King).

17 Q559.

18 QQ1847, 1117 (Mr Waldegrave); HC (1993-94) 27-II, p. 193.

19 Q543 (Lord Howe); HC (1993-94) 27-III, pp. 14 (Dr Peter Barberis), 44 (Mr Nevil Johnson).

20 HC (1993-94) 27-III, p. 8. See also *ibid.*, pp. 14-15 (Dr Peter Barberis).

Mr Waldegrave summed up suspicions of an Act by saying "there are countries where everything has to be written down in statutes; they do not always work though".<sup>1</sup>

116. It is clear that advocates of a Civil Service Act have somewhat different ideas of what such an Act would contain, from a brief encapsulation of the essential values of the Service to a measure which would enshrine "the organisation and management of the Civil Service and the rights of civil servants and the rights of Parliament".<sup>2</sup> The Civil Service unions expressed fears about whether such legislation might be employed as a vehicle for reducing the role of the Civil Service.<sup>3</sup> The value of such an Act evidently depends to a large degree upon its contents.<sup>4</sup> We are not convinced of the case for a wide-ranging Civil Service Act as a mechanism for either furthering or delimiting reforms of the Civil Service. However, we do believe there would be considerable value in a much narrower statute, principally designed to provide statutory backing for the new mechanisms for maintaining the essential values of the Civil Service. We agree with Mr Waldegrave that it is better to have a culture with a strong sense of commitment to essential values than to have an Act without such a culture; we believe it is better still to have both. The passage of such an Act would reflect the interest of Parliament, as the representative of the electorate, in the preservation of the values of the Civil Service; it would set the terms of the custodial responsibility of the Government of the day for the Civil Service. Such an Act would require the Government to consult on a new Civil Service Code and lay such a Code before Parliament for approval by a resolution of both Houses. The legislation would set out the powers of the new appellate body we have proposed. Sir Kenneth Stowe has pointed to the important role played by Public Service Commissions in other Commonwealth countries. He has suggested that the Civil Service Commission "with a renewed mandate would be an appropriate custodian of, or at least an authoritative constitutional adviser on, the behavioural criteria for the Civil Service, ie, for its code of conduct". He called the Commission "a bit of machinery which ... we invented and we would do well to exploit in the years ahead".<sup>5</sup> We agree. **We consider that a new Civil Service Commission should provide the independent appeals procedure under the new Civil Service Code. We believe the time has now come to implement the last recommendation of the Northcote-Trevelyan Report and establish a new Civil Service Commission on a statutory basis.**

117. We accept that this would involve a significant change in the character of the Civil Service Commission,<sup>6</sup> but we believe that the tasks of examining the general values of the Service and monitoring the principle of selection on merit are closely related and that combining the two roles would reinforce the authority and independence of the new Commission in carrying out each function. We consider that the new Commissioners should not be serving civil servants and should be appointed from a wide range of backgrounds after consultation with Opposition parties and others. The new Commission should be given sufficient powers of investigation, but specific powers of enforcement would not be appropriate. Consideration of cases under the new Civil Service Code would be confidential and recommendations to the Government arising from some such cases would usually be made on the same basis. We envisage that the new Commission would be given a power to report to Parliament, a power which could be utilised in the event of the Government refusing to act on the new Commission's recommendations. The principle of Ministerial accountability to Parliament would thus be strengthened rather than weakened. The introduction of such legislation should also be used as an opportunity to place the powers of the Minister for the Civil Service and the Treasury to make rules in connection with the terms and conditions of employment of civil servants on a statutory footing and require such rules to be laid before Parliament. It should also specify the powers of the new Civil Service Commission in relation to the principles of selection and promotion on merit, a matter we consider in detail below. **We urge all parties represented in the House of Commons to indicate their support for such a Bill.**

## VI. THE PRINCIPLES OF ACCOUNTABILITY

### *(i) The importance of accountability*

118. Our consideration of the values of the Civil Service has so far concentrated on the maintenance of these values in general and particularly in the context of the private and inter-

<sup>1</sup> Q1867.

<sup>2</sup> QQ297 (Professor Peter Hennessy), 1647 (Mr John Garrett).

<sup>3</sup> QQ470, 472, 493 (Mr John Ellis).

<sup>4</sup> Q1707 (Mr Bill Brett).

<sup>5</sup> HC (1993-94) 27-II, pp. 114, 118 (endnote 11); Q1686.

<sup>6</sup> QQ1860 (Mr Waldegrave), 2084 (Sir Robin Butler).

nal aspects of Government. We now turn to consideration of one principle in particular which relates to the public face of Government—the principle of accountability. It is worthy of separate consideration because its precise meaning and application gave rise to greater uncertainty in the course of the inquiry than any other principle. We seek here to disentangle some of the confusion surrounding this concept and set down what we see as the basic principles of accountability. We consider elsewhere the particular application of these principles in the context of the executive functions of Government, market testing and contracting out, and the policy process.

119. Sir Robin Butler described the principle of “accountability through Ministers to Parliament” as one of the essential characteristics of the Civil Service.<sup>1</sup> It has been suggested that it is in fact the single most distinctive characteristic of the Civil Service.<sup>2</sup> It has long been recognised that the requirements of accountability have a profound effect on the way the Civil Service works. A study commissioned by the Fulton Committee found that “accountability to Parliament and the public is not a constitutional platitude; it is an integral part of the daily life of many civil servants”.<sup>3</sup> The Expenditure Committee observed in 1977 that “responsibility to Ministers and ultimately to Parliament requires much greater record-keeping than usual in organisations outside the Civil Service”.<sup>4</sup> The impact of accountability on management in the Civil Service was also noted by witnesses to the Sub-Committee.<sup>5</sup> It is intimately connected to the functions of the Civil Service, their methods of finance and their administrative character, and the fact that the Civil Service is involved in developing and implementing the policies of a Government accountable to Members of Parliament who are accountable in turn to their constituents. Moreover, as our predecessors observed, Parliamentary accountability is not “a cost which must be weighed in the balance against the benefit of effective management. It is not only important in its own right, it is also an extremely effective pressure for improvement”.<sup>6</sup>

(ii) *Ministerial accountability and responsibility*

120. The Government’s interpretation of the principles of Ministerial accountability and of responsibility has been set out in recent years in the Armstrong Memorandum and in the Memorandum of Guidance for Officials appearing before Select Committees, known after its original author as the Osmotherly Rules.<sup>7</sup> The Government, and Sir Robin Butler in particular, has sought to restate the existing Government position, albeit with greater clarity of terminology than in the past. In recent pronouncements the Government has sought to draw a distinction between accountability and responsibility. According to the Government, Ministerial accountability to Parliament is a Minister’s ultimate duty to account to Parliament for the work of his Department: “the Minister in charge of a Department is the only person who may be said to be ultimately accountable for the work of his department”. In the Government’s view, it means that “in the last resort ... Ministers can be challenged about any action of the Civil Service”. The Government contends that since civil servants act on behalf of Ministers—except in specified cases where statutes confer powers or responsibilities directly upon civil servants—Ministers alone are accountable to Parliament. In the view of the Government, civil servants are accountable to Ministers, and when they give evidence to Select Committees, they do so “on behalf of Ministers”. According to the Armstrong Memorandum, even the appearance of Accounting Officers before the Committee of Public Accounts is “without prejudice to the Minister’s responsibility and accountability to Parliament in respect of the policies, actions and conduct of his Department”.<sup>8</sup> Responsibility, according to the Government, has a separate meaning in this context which “implies direct personal involvement in an action or decision, in a sense which implies personal credit or blame for that action or decision”. In the view of the Government, a Minister is *accountable* for all the actions and activities of his Department, but is not *responsible* for all the actions in the sense of being blameworthy; a civil servant is not

1 Q101.

2 HC (1993-94) 27-III, p. 99 (Professor Gavin Drewry and Dr Philip Giddings).

3 *The Civil Service: Vol. 2: Report of a Management Consultancy Group*, para. 23. See also *ibid.*, paras. 305-306.

4 HC (1976-77) 535-I, para. 126.

5 QQ1524 (Mr Charles Cox), 2444 (Mr Waldegrave).

6 HC (1987-88) 494-I, para. 39.

7 This Memorandum was first issued in September 1976 and printed by the Procedure Committee in 1978, First Report from the Select Committee on Procedure, HC (1977-78) 588-I, Appendix D. At the time of the Sub-Committee’s inquiry, the most recent edition was that of March 1988, which was printed by the Procedure Committee in 1990, Second Report from the Select Committee on Procedure, *The Working of the Select Committee System*, HC (1989-90) 19-II, pp. 206-231.

8 HC (1993-94) 27-II, pp. 188-191 (Cabinet Office); HC (1989-90) 19-II, p. 208 (Osmotherly Rules, para. 8); HC Deb., 2 December 1987, col. 574w; QQ1895-1896 (Mr Waldegrave), 2094-2096 (Sir Robin Butler).

directly accountable to Parliament for his actions, but is responsible for certain actions and can be delegated clearly defined responsibilities.<sup>1</sup>

121. The Government holds that this doctrine of Ministerial accountability and of responsibility is compatible with the practice throughout the present century, including the most extreme expression of Parliamentary accountability—Ministerial resignations. The Government contended that “It has never been the case that Ministers were required or expected to resign in respect of any and every mistake made by their departments, though they are clearly responsible to Parliament for ensuring that action is taken to put matters right and prevent a recurrence”.<sup>2</sup> The resignation of Sir Thomas Dugdale over the Crichel Down affair in 1954 was held to be the exception that proved the rule. The notion of Ministers resigning for the mistakes of others was seen by Mr Waldegrave as “a bad doctrine”.<sup>3</sup> Mr Waldegrave suggested that in cases which might possibly entail resignation, Select Committees might inquire into whether Ministerial accountability was matched by actual Ministerial responsibility for mistakes.<sup>4</sup> The Government’s position was broadly consistent with that outlined by Sir David Maxwell-Fyfe in the Crichel Down debate in July 1954. He listed categories of actions or events for which, in the view of the Government, it would and would not be appropriate to hold a Minister responsible. He contended that “a Minister is not bound to defend action of which he did not know, or of which he disapproves”, but he concluded that a Minister “remains constitutionally responsible to Parliament for the fact that something has gone wrong, and he alone can tell Parliament what has occurred and render an account of his stewardship”.<sup>5</sup> Lord Jenkins and Lord Callaghan endorsed the Government’s view that Ministers should not be expected to resign for administrative failures in which they are not directly involved, the latter remarking that “if we were to apply Thomas Dugdale’s approach today we would not have the same Cabinet for three weeks running”.<sup>6</sup>

122. The Government’s doctrine of Ministerial accountability and responsibility appears to be open to two main objections. The first is that it is more novel than its advocates are prepared to admit, that it does not have sufficient authority and acceptance to be said to represent a “constitutional convention”. It appears never to have been in question that Ministers are fully and clearly accountable for policy; this was described as “axiomatic” in the original Next Steps Report.<sup>7</sup> The Prime Minister in 1966, the then Mr Harold Wilson, stated that “civil servants, however eminent, remain the confidential advisers of Ministers, who alone are answerable to Parliament *for policy*”.<sup>8</sup> The use of policy alone in this context might be held to leave open the possibility that civil servants could be answerable for administrative actions. In 1986 the then Committee reaffirmed the basic proposition that “Ministers and not officials are responsible and accountable for policy”, but questioned the wider position held by the Government:

“The difficulty arises not with regard to Ministerial policy or official advice but with accountability for actions by civil servants. If Crichel Down is dead and Ministers are not accountable to Parliament for some actions of their officials, then who is? Not to put too fine a point on it, who ought to resign or to be penalised if mistakes are made? If it is not Ministers, it can only be officials”.<sup>9</sup>

Our predecessors were not alone in believing that there had been a time when Ministers could be held responsible for all of the actions of their officials, and that there had therefore been a change of doctrine. The Fulton Committee noted that the convention of the anonymity of civil servants “has depended in the past on the assumption that the doctrine of Ministerial responsibility means that a Minister has full detailed knowledge and control of all the activities of his department. This assumption is no longer tenable”<sup>10</sup> In 1977 a predecessor of Sir Robin Butler as Cabinet Secretary described the concept that Ministers should resign for mistakes by

<sup>1</sup> HC (1993-94) 27-II, pp. 188-191 (Cabinet Office); emphasis added.

<sup>2</sup> Cmnd. 9841, para. 15.

<sup>3</sup> QQ1898 (Mr Waldegrave), 2096, 2105 (Sir Robin Butler).

<sup>4</sup> Q1896.

<sup>5</sup> First Report from the Treasury and Civil Service Committee, *Ministers and Civil Servants*, HC (1986-87) 62, para. 19; *Accountability of Ministers and Civil Servants: Government Response to the First Report from the Treasury and Civil Service Committee, Session 1986-87, and to the First Report from the Liaison Committee, Session 1986-87*, Cm. 78, para. 7.

<sup>6</sup> QQ878 (Lord Jenkins), 614 (Lord Callaghan).

<sup>7</sup> *Improving Management in Government: The Next Steps*, Annex A, para. 3.

<sup>8</sup> HC Deb., 8 February 1966, col. 210; emphasis added.

<sup>9</sup> HC (1985-86) 92-I, para. 3.13.

<sup>10</sup> Cmnd. 3638, para. 283.

officials of whom they had never heard as “out of date”; he did not imply that such a concept had never existed.<sup>1</sup> It has been held in the past that the doctrine of Ministerial accountability did not apply to all of the actions of all the officials in a Department. For example, in 1978 the then Minister for the Civil Service said that “There are some defined exceptions to that simple structure of accountability. For instance, accounting officers are *directly accountable* to Parliament for the use made of public funds voted to their departments”.<sup>2</sup>

123. A second objection to the doctrine of Ministerial accountability and of responsibility delineated by the Government is that, even if the Government’s description of the doctrine were correct, it is a fundamentally Victorian conception which is no longer appropriate to modern circumstances.<sup>3</sup> Mr Graham Mather argued that there was in practice a shared responsibility which was not recognised in constitutional doctrine: “Ministers do not feel either constitutionally or morally responsible for decisions which have, in all probability, involved a number of others”.<sup>4</sup> Similarly Lord Callaghan referred to “a diffusion of responsibility to the Civil Service which has created less of a sense of personal responsibility than perhaps existed forty years ago”.<sup>5</sup> Sir Brian Cubbon argued that the distinction between accountability and responsibility was untenable in practice because Ministers could not determine the extent of their own responsibilities; the scope of Ministerial accountability was in large measure determined by external pressures and events.<sup>6</sup> Others believed that the growth of Ministerial responsibilities was placing the doctrine under strain.<sup>7</sup> The epitome of such concerns is perhaps the sentiment, expressed by a Minister who served from 1983 to 1992, that “No one these days resigns for anything”.<sup>8</sup> Lord Jenkins believed there has been an undue reluctance to resign in recent years, which he attributed principally to “an excessive careerisation of politics”.<sup>9</sup> Lord Callaghan attributed any reluctance to resign to the diffusion of responsibility; he did not think that Ministers were less honourable than in the past.<sup>10</sup> Dr Keith Dowding argued that little had changed since 1945 and that resignations reflected political weakness more than “any notion of honourable assessment of culpability”.<sup>11</sup> In the past, Select Committees have argued that one solution to these perceived problems is the extension of the principle of direct accountability of civil servants. In 1977 the Expenditure Committee saw a case for heads of accountable units within the Civil Service to be made publicly accountable for their actions, noting that “the introduction of publicly accountable heads would require some civil servants to be directly answerable in public to such bodies as Select Committees but this would no more infringe Ministerial accountability than the presence of Accounting Officers as respondents before such a Select Committee (the Public Accounts Committee) does now”.<sup>12</sup> In 1988 the then Treasury and Civil Service Committee argued that the Chief Executive of an Executive Agency “should give evidence [to Select Committees] on his own behalf about what he has done as the head of an agency”.<sup>13</sup> We reach conclusions on the doctrine of Ministerial accountability later, but it is clear that any effective application of the doctrine depends to a considerable extent upon two elements: the honesty and integrity of Ministers and civil servants in accounting to Parliament and the public for their decisions and actions; the powers and effectiveness of Parliament, and of the Select Committees of the House of Commons in particular, in holding the Executive to account.

### (iii) *Honesty and integrity*

124. *Questions of Procedure for Ministers* states that Ministers have “a duty to give Parliament, including its Select Committees, and the public as full information as possible about the policies, decisions and actions of the Government, and not to deceive or mislead Parliament and the public”.<sup>14</sup> There has been considerable concern recently about the adequacy of, and adherence to, this guidance. First, evidence by civil servants to the Scott Inquiry has

1 HC (1976-77) 535-II, Q1855 (Sir John Hunt).

2 Twelfth Report from the Expenditure Committee, *Response to the Government’s Observations on the Committee’s Report on the Civil Service*, HC (1977-78) 576, Q3 (Lord Peart); emphasis added.

3 HC (1993-94) 27-III, p. 111 (Charter 88).

4 HC (1992-93) 390-II, p. 70.

5 Q611.

6 HC (1993-94) 27-III, pp. 108-109, 141-142.

7 HC (1993-94) 27-III, p. 68 (Professor John Stewart); Q1740 (Ms Elizabeth Symons).

8 Alan Clark, *Diaries* (1993), p. 105.

9 QQ879-882.

10 Q611.

11 HC (1993-94) 27-III, p. 23.

12 HC (1976-77) 535-I, para. 95.

13 HC (1987-88) 494-I, para. 46.

14 *Questions of Procedure for Ministers*, para. 27.

raised questions about the framing of Ministerial answers to Parliamentary Questions and evidence to Select Committees. Second, a recent Report by the Foreign Affairs Committee on the Pergau Hydro-Electric Project found that "Ministerial replies to certain questions were literally true, though less open and less informative than the House has a right to expect".<sup>1</sup> On 10 May 1994 the then Minister for Disabled People told the House of his "regret that by not giving a fuller explanation" of his knowledge of the extent of his Department's involvement in amendments to the Civil Rights (Disabled Persons) Bill "the effect of my reply was misleading".<sup>2</sup> Finally, Mr Waldegrave's evidence to the Sub-Committee on 8 March 1994 stimulated a wide-ranging public discussion of Ministerial integrity and honesty. We believe this matter is relevant to this inquiry in three ways. First, it is part of the role of the Civil Service, as the Prime Minister has acknowledged, to advise Ministers so that their Parliamentary pronouncements are not misleading.<sup>3</sup> Second, insofar as the Civil Service is accountable to Parliament through Ministers, the effectiveness of such accountability depends upon the integrity of Ministerial answers. Finally, civil servants themselves are required to comply with the same standards as Ministers,<sup>4</sup> and are likely in some measure to take their lead from Ministers. Any deterioration in the standards of honesty and integrity of Ministers in their dealings with Parliament would have a deleterious effect on the standards of the Civil Service.

125. Sir Robin Butler informed the Scott Inquiry that there was a category of Parliamentary answers "where it is necessary to give an incomplete answer, but one should, in these circumstances, seek not to mislead".<sup>5</sup> Mr Waldegrave, in evidence to the Sub-Committee, vividly asserted the need, in certain circumstances, not to disclose all relevant information: "There are plenty of cases over the years, with both Governments, where the Minister ... will not mislead the House and will take care not to mislead the House, but may not display everything he knows about that subject ... Much of Government activity is much more like negotiation, much more like playing poker than it is like playing chess. You do not put all the cards up all the time in the interests of the country".<sup>6</sup> The necessity for non-disclosure has been asserted in the past, even in the case of civil servants appearing before Select Committees. In 1985 the then Head of the Home Civil Service said that, taking "an extreme case", when a decision had been made to devalue the pound, a Minister could instruct a civil servant appearing before a Select Committee not to reveal that devaluation in advance.<sup>7</sup> Sir Robin Butler reaffirmed this in 1990, while emphasising that that "would not extend to the Minister instructing the civil servant to mislead the Committee; that would be improper".<sup>8</sup> There is self-evidently a problem in determining the line between non-disclosure which is not misleading and a misleading answer or statement. This problem is more acute for Ministers than for civil servants, since a civil servant appearing before a Select Committee can refer a Committee to a Minister.<sup>9</sup> Both Mr Waldegrave and Sir Robin Butler gave examples of answers which they held to be incomplete but not misleading.<sup>10</sup> In such cases there was a general duty "to make clear that you have information which you cannot disclose", although there were circumstances when even this would not be appropriate. Even in the latter circumstances, Ministers and civil servants had to "frame their answer in a way which avoids misleading, if they possibly can".<sup>11</sup>

126. Sir Robin stressed that it was wrong for a Minister or a civil servant to lie, to mislead intentionally or to give an answer which was known to be false.<sup>12</sup> The Prime Minister has made it clear in a letter to the Chairman of the Sub-Committee that, in such circumstances, a Minister would usually be expected to relinquish his office.<sup>13</sup> However, Sir Robin Butler and Mr Waldegrave also contended that there were "very rare occasions" when the wrong of lying to the House would be outweighed by the greater wrong consequent upon not lying.<sup>14</sup> Three instances were adduced in support of this contention. First, Sir Stafford Cripps did not mislead

1 Third Report from the Foreign Affairs Committee, *Public Expenditure: The Pergau Hydro-Electric Project, Malaysia, the Aid and Trade Provision and Related Matters*, HC (1993-94) 271-1, para. 44.

2 HC Deb., 10 May 1994, col. 155.

3 HC (1993-94) 27-II, p. 130 (quoted by Sir Kenneth Stowe); Q2061 (Sir Robin Butler).

4 Q2148 (Sir Robin Butler).

5 HC (1993-94) 27-II, p. 152 (Sir Robin Butler).

6 QQ1840-1841.

7 HC (1985-86) 92-II, Q112 (Sir Robert Armstrong).

8 HC (1989-90) 260, QQ121-124. See also Q1445 (Sir Robin Butler).

9 Q2159 (Sir Robin Butler).

10 QQ1907 (Mr Waldegrave), 2131, 2136, 2141-2142, 2145 (Sir Robin Butler).

11 Q2148 (Sir Robin Butler).

12 QQ2112-2113, 2120, 2134.

13 Letter placed in the Library of the House.

14 HC (1993-94) 27-II, p. 152; QQ2113, 2148 (Sir Robin Butler), 1834 (Mr Waldegrave).



Parliament over devaluation but said after the devaluation in 1949 that, if he had been asked just before devaluation whether he was going to devalue he would have told a lie to Parliament. Second, Mr Peter Thomas gave an untrue answer about whether Mr Greville Wynne, who had just been arrested by Soviet authorities, was working for British Intelligence; this was untrue but was considered necessary to save Mr Wynne's life.<sup>1</sup> Finally, both Sir Robin Butler and Mr Waldegrave alleged that, on 16 November 1967, the then Mr James (now Lord) Callaghan gave an answer which was "false".<sup>2</sup> Mr Waldegrave did not dissent from the proposition that Lord Callaghan had lied to the House.<sup>3</sup> Sir Robin Butler, who had worked in the Treasury as Secretary to the Budget Committee at the time, argued that when Lord Callaghan said in answer to a question from Mr Stanley Orme about devaluation "I have nothing to add to or subtract from anything I have said on previous occasions on the subject of devaluation" he was misleading the House since his previous answers had been flat assertions that the Government was not going to devalue the pound and he therefore did have something to subtract from previous statements.<sup>4</sup> He accepted that Lord Callaghan did not have an intention to mislead and was thus not "deliberately lying to the House of Commons", but argued that he had made a "slip", which Sir Robin Butler implied Lord Callaghan had acknowledged.<sup>5</sup> In reply, Lord Callaghan vigorously contested Mr Waldegrave's implication that he had lied to the House, stating that "none of my answers supports Mr Waldegrave's assertion that I lied to the House of Commons". He did not admit to a false answer to Mr Orme, referring to "one possible slip (which was not intended to deceive) in the reply I gave to Mr Orme". He repudiated "the attempt to put a construction on my replies by Sir Robin Butler and Mr Waldegrave, twenty five years after the event, that no one who was present ever did either at the time or later".<sup>6</sup>

127. We set out our wider conclusions on honesty and integrity below, but we feel it is appropriate to make some comment on the controversy which arose in evidence on the particular case of Lord Callaghan in 1967. We take as our reference point the statement by Mr Waldegrave in relation to possibly misleading answers that "Far the best judge of this is surely the House at the time".<sup>7</sup> We agree. We have not been made aware of any evidence to suggest that Members of the House formed the opinion in the aftermath of devaluation in 1967 that Lord Callaghan had misled the House.

*(iv) The Executive, Parliament and its Select Committees*

128. As we have already noted, Mr Waldegrave observed that one of the functions of Select Committees was to determine whether Ministers could reasonably be held responsible for mistakes.<sup>8</sup> We now examine the powers and effectiveness of Select Committees in this and their wider role in scrutinising and holding to account the Executive. In 1919 the Haldane Committee adhered to the view that "any improvement in the organisation of the Departments of State which was so marked as substantially to increase their efficiency should have as its correlative an increase in the power of the Legislature as the check upon the acts and proposals of the Executive".<sup>9</sup> In 1978 the Expenditure Committee concluded "that the power of the Executive, particularly of the Civil Service, has outgrown the power of Parliament and the balance should be redressed".<sup>10</sup> The Procedure Committee took a similar view, and recommended the establishment of a new system of departmentally-related Select Committees.<sup>11</sup> A review of the system in 1990 by the Procedure Committee commented on "the generally healthy state of relations between Departments and Select Committees" and did not consider new or additional powers for Select Committees to be necessary or workable. It concluded that the system of departmentally-related Select Committees was "a success" and had "proved itself a valuable and cost-effective addition to the House's ability to perform its proper function of holding Ministers to account".<sup>12</sup>

<sup>1</sup> Q2113 (Sir Robin Butler).

<sup>2</sup> QQ2114 (Sir Robin Butler), 1834 (Mr Waldegrave).

<sup>3</sup> Q1838.

<sup>4</sup> HC (1993-94) 27-III, p. 142; QQ2114, 2116, 2118-2119 (Sir Robin Butler); HC Deb., 16 November 1967, col. 635.

<sup>5</sup> QQ2119, 2122, 2124-2126.

<sup>6</sup> HC (1993-94) 27-III, pp. 141, 142; emphasis added.

<sup>7</sup> Q1843.

<sup>8</sup> Q1896.

<sup>9</sup> *Report of the Machinery of Government Committee*, Cd. 9230, paras. 48-49.

<sup>10</sup> HC (1977-78) 576, para. 18.

<sup>11</sup> HC (1977-78) 588-I, paras. 1.5-1.6, 5.22.

<sup>12</sup> HC (1989-90) 19-I, paras. 151, 162, 357, 363.

129. There have, however, been disputes between the Government and Select Committees about the powers and conduct of Select Committees in relation to civil servants which have a direct bearing on understanding of the doctrine of Ministerial accountability. The formal power of Select Committees to summon named officials is not in dispute: it has been acknowledged by Sir Robin Butler and was referred to in evidence by Mr Waldegrave.<sup>1</sup> There have, however, been differences of opinion between Select Committees and the Government about the extent to which it is appropriate to invite or summon named civil servants. The Osmotherly Rules state that "Officials appearing before Select Committees do so on behalf of their Ministers. It is customary, therefore, for Ministers to decide which officials ... should appear to give evidence."<sup>2</sup> Our predecessors observed that "the House has never indicated that it is prepared to accept this custom".<sup>3</sup> In 1986 the Defence Committee requested the attendance of named officials. It did not insist on their attendance when it became evident that they would be under instructions not to answer certain questions, but it did not accept the reasons given by the Government for objecting to the attendance of named officials.<sup>4</sup> In response, the Government stated that it did "not believe that a Select Committee is a suitable instrument for inquiring into or passing judgement upon the actions or conduct of an individual civil servant".<sup>5</sup> In subsequent Reports both the then Treasury and Civil Service Committee and the Liaison Committee contested this assertion, and we continue to do so.<sup>6</sup> In a subsequent reply, having reaffirmed what it called "the existing conventions which limit the provision of information on such grounds as national security, confidentiality, and the preservation of collective responsibility", the Government accepted "that Select Committees should not be prevented from seeking to establish facts". The Government also issued further guidance to civil servants appearing before Select Committees where questions appeared to be concerned with allocating individual criticism or blame rather than establishing facts.<sup>7</sup>

130. The Osmotherly Rules which guide civil servants on assistance to Select Committees have been considered by previous Select Committees and were discussed in evidence to the Sub-Committee. A number of Select Committees have emphasised that these notes of guidance are an internal Government document with no Parliamentary status whatever and which has never been endorsed by Select Committees.<sup>8</sup> This was acknowledged by Sir Robin Butler in 1988, who said that it "would not be proper" for a Committee to endorse the guidance.<sup>9</sup> Professor Peter Hennessy was highly critical of the Osmotherly Rules, describing them as an affront to Parliament, providing sixty ways for civil servants to say no to Select Committees.<sup>10</sup> A former civil servant recalled that "when I last had to give evidence to a Commons Select Committee, I re-read the [Osmotherly] Rules and considered then that for any civil servant to follow them would make his or her evidence at best anodyne, or at worst positively misleading".<sup>11</sup> Mr Waldegrave accepted that the guidance contained in the Osmotherly Rules was "very detailed" and indicated that he was prepared to consider some of the apparently unnecessarily restrictive parts of the Rules, but he reaffirmed that the Rules were restrictive precisely because they were designed to maintain "the proper system of accountability through Ministers".<sup>12</sup> Subsequently the Government announced its intention to revise the guidance in the light of the Open Government White Paper and comments made in evidence by Members of the Committee.<sup>13</sup> Professor Hennessy proposed that the Liaison Committee should indicate that it was no longer prepared to put up with the Osmotherly Rules and should seek to negotiate new rules with the Government.<sup>14</sup> This idea was opposed by a former Clerk of Committees of the House of Commons, who argued that such negotiation might compromise the rights of

1 HC (1989-90) 260, para. 22; Q2358 (Mr Waldegrave).

2 HC (1989-90) 19-II, p. 208.

3 HC (1989-90) 260, para. 22 (footnote 49).

4 Fourth Report from the Defence Committee, *Westland plc: The Government's Decision-Making*, HC (1985-86) 519, paras. 225-240.

5 *Westland plc: Government Response to the Third and Fourth Reports from the Defence Committee, Session 1985-86*, Cmnd. 9916, para. 44.

6 HC (1986-87), 62, paras. 8-27; First Report from the Liaison Committee, *Accountability of Ministers and Civil Servants to Select Committees of the House of Commons*, HC (1986-87) 100, passim.

7 *Accountability of Ministers and Civil Servants*, Cm. 78, paras. 6, 8, pp. 4-5.

8 Second Report from the Trade and Industry Committee, *The Tin Crisis*, HC (1985-86) 305-I, para. 11; HC (1985-86) 519, para. 229; HC (1986-87) 100, para. 6; HC (1989-90) 260, para. 8; HC (1989-90) 19-I, para. 155.

9 HC (1987-88) 370-i, Q1.

10 QQ339-340.

11 HC (1993-94) 27-III, p. 93 (Mr Timothy Hornsby).

12 QQ78-82.

13 QQ1471 (Sir Robin Butler), 1893 (Mr Waldegrave).

14 Q341.

Select Committees to ask questions and the rights and privileges of the House of Commons more generally.<sup>1</sup>

131. Professor Hennessy saw the Osmotherly Rules as symptomatic of a wider acquiescence of Parliament in the authority over it of the Executive. He vividly characterised Select Committees as “self-gelding capons” and contrasted the powers of Select Committees unfavourably with those of a court.<sup>2</sup> Others argued that Select Committees could be more assertive and effective in deploying the powers they already possessed and in examining policy, expenditure and administration more generally.<sup>3</sup> Mr John Garrett believed that the machinery of Parliament had lagged far behind the machinery of Government. Select Committees were established to scrutinise unitary departments, but were now required to examine departmental headquarters, Executive Agencies, quangoes and contracts. Parliament received a wider range of information than it could effectively monitor: “Parliament today cannot keep track of what is happening in today’s fragmented Civil Service”. Select Committees required more staff to analyse the information emerging from “today’s dismembered Government”.<sup>4</sup>

*(v) Parliamentary accountability: conclusions*

132. An effective system of Parliamentary accountability of the Executive is an essential component of a Parliamentary democracy. We believe that an effective system depends upon two vital elements: clarity about who can be held to account and held responsible when things go wrong; confidence that Parliament is able to gain the accurate information required to hold the Executive to account and to ascertain where responsibility lies. We are not convinced that the explanation of the doctrine of Ministerial accountability and its implications as presently adumbrated by the Government fully conforms to these requirements. **We find the Government’s attempts to draw a sharp distinction between accountability, which cannot be delegated by Ministers, and responsibility, which can, unconvincing.** The implication of this distinction is that Ministers retain ultimate responsibility for controlling the system through which information about the allocation of responsibility on a particular matter is made available to Parliament. We believe that it is both possible and desirable to move towards a system in which responsibility and accountability are more closely aligned in clearly defined circumstances. We make particular proposals towards this end below.

133. Lord Callaghan attached importance to clarifying the circumstances in which a Minister should resign, although he noted that the influence of the Prime Minister of the day and the feelings of the Minister himself would always be important factors.<sup>5</sup> Mr Waldegrave believed that such circumstances were difficult to categorise and that Ministerial resignations would continue to be decided on a case by case basis.<sup>6</sup> Sir Robin Butler was critical of the “rather foolish game of pursuing resignations”, which was “counter-productive” and debased the currency.<sup>7</sup> Ministerial preparedness to resign when Ministerial responsibility for failure has been established lies at the very heart of an effective system of Parliamentary accountability and, as Mr Waldegrave acknowledged, Select Committees have an important role in determining the allocation of responsibility.<sup>8</sup> In seeking to perform this function and their wider role, Select Committees might well require more information than might readily be made available in accordance with the Executive’s own interpretation of the doctrine of Ministerial accountability. The recent Report by the Foreign Affairs Committee on the Pergau Hydro-Electric Project demonstrates the range of information which can be made available by the Government to a determined Select Committee.<sup>9</sup> It would not be appropriate for Select Committees to seek to negotiate new rules to replace the Osmotherly Rules, because they are only to be regarded as the Government’s opening negotiating position in its dealings with Select Committees. The precise implications of the doctrine of Ministerial accountability for the conduct of civil servants in relation to Select Committees is unlikely to be agreed between the Government and Select Committees. It should be borne in mind that an attempt to determine the precise level of Ministerial responsibility may sometimes involve an assessment of the

<sup>1</sup> HC (1992-93) 390-II, pp. 280-282 (Mr Michael Ryle).

<sup>2</sup> QQ341-342; HC (1993-94) 27-III, pp. 22-23.

<sup>3</sup> HC (1992-93) 390-II, p. 281 (Mr Michael Ryle); HC (1993-94) 27-III, p. 100 (Sir Brian Cubbon).

<sup>4</sup> HC (1993-94) 27-II, pp. 100, 103-104, 105; QQ1618, 1657.

<sup>5</sup> QQ615-616, 619.

<sup>6</sup> QQ1896-1897.

<sup>7</sup> Q2107.

<sup>8</sup> Q1896.

<sup>9</sup> HC (1993-94) 271-I, paras. 9-11.

extent of the responsibility of others. We note that the structure of the Civil Service and of the Executive more generally has changed considerably since the Procedure Committee last conducted a review of the departmental Select Committees. We recommend elsewhere in this Report measures which should be taken by the Government to enhance the accountability of the Executive to Parliament. We believe that it might also be appropriate for the Procedure Committee to undertake an inquiry to consider what commensurate actions should be taken by the House of Commons in response to the changing structure of Government.

134. Effective accountability depends in considerable measure upon adherence by Ministers and civil servants to the duty set out in *Questions of Procedure for Ministers* "to give Parliament, including its Select Committees, and the public as full information as possible about the policies, decisions and actions of the Government, and not to deceive or mislead Parliament and the public". We are aware of considerable public cynicism about the honesty of politicians generally and in this context concern about the honesty and integrity of Ministerial statements to and answers in Parliament might seem misplaced. However, the knowledge that Ministers and civil servants may evade questions and put the best gloss on the facts but will not lie or knowingly mislead the House of Commons is one of the most powerful tools Members of Parliament have in holding the Executive to account. Not only is the requirement laid down clearly in Government guidance to Ministers, it is a requirement which the House of Commons itself expects from all its Members, departure from which standard can be treated as a contempt.<sup>1</sup> We accept that the line between non-disclosure and a misleading answer is often a fine one, not least because the avoidance of misleading answers requires not only strict accuracy but also an awareness of the interpretations which could reasonably be placed upon an answer by others, but Ministers should be strengthened in their determination to remain the right side of that line by certainty about the consequences of a failure to do so. Any Minister who has been found to have knowingly misled Parliament should resign.

(vi) *Non-Parliamentary accountability*

135. The activities of Parliament and elections to the House of Commons are not and never have been the sole means by which the Executive is held to account. Several mechanisms of non-Parliamentary accountability were considered in the course of the Sub-Committee's inquiry. Some advocated the need to strengthen methods of non-Parliamentary accountability in response to perceived weaknesses in existing procedures and conventions. This raised questions about the extent to which the development of new procedures would be compatible with the principles of Parliamentary accountability.<sup>2</sup> Some forms of holding the Executive and the Civil Service in particular to account clearly operate in support of Parliament. One such example is the work of the Comptroller and Auditor General, whose reports are normally considered by the Committee of Public Accounts. Sir Kenneth Stowe believed that together they represented "probably the most valuable instrument anywhere in the world for maintaining ... standards of integrity".<sup>3</sup> The Parliamentary Commissioner for Administration represents a very important check on maladministration in the Civil Service. The Select Committee on the Parliamentary Commissioner for Administration has recently reaffirmed the value of his work while making recommendations so that the potential of that office can be further developed.<sup>4</sup>

136. Aside from Parliament and its associated mechanisms, the most important form of accountability of the Government comes from the judiciary and the courts.<sup>5</sup> Ministers and civil servants are subject to the law of the land in the same way as other subjects. The accountability of the Executive to the courts has been enhanced in recent years by the growth of judicial review.<sup>6</sup> The Government attributed the growth of judicial review principally to changes in court procedure, most notably amendments in 1977 to the Rules of the Supreme Court, a growing propensity of the public to resort to litigation and a growth in legislation.<sup>7</sup> According to the Government, "the existence of judicial review has clearly and substantially increased the work of both lawyers and administrators, in effect to 'judicial review proof' departmental deci-

<sup>1</sup> *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (Twenty-first Edition, 1989), p. 119.

<sup>2</sup> HC (1993-94) 27-III, pp. 16, 17 (Dr Peter Barberis).

<sup>3</sup> Q1663.

<sup>4</sup> HC (1993-94) 33-I, paras. 10-11, and *passim*.

<sup>5</sup> HC (1993-94) 27-II, p. 190 (Sir Robin Butler).

<sup>6</sup> The memorandum submitted by the Government contains a valuable description of the nature of judicial review, HC (1993-94) 27-II, pp. 191-199.

<sup>7</sup> HC (1993-94) 27-II, pp. 194-195.

sions, but it has also improved the quality of decision-making by making it more structured and consistent. Accordingly, judicial review is not to be seen as an irritant, but as a contribution to upholding the values of fairness, reasonableness and objectivity in the conduct of public business."<sup>1</sup> Professor Norman Lewis took a less sanguine view of the growth of judicial review. He considered that part of the explanation lay in "increasingly confrontational politics and the lack of alternative methods for ventilating opposition" and the inadequacy of forms of redress short of resort to judicial review.<sup>2</sup> The Government did not dispute that the use of judicial review depended upon the availability of alternative mechanisms for redress against administrative action, including complaints procedures under the Citizen's Charter.<sup>3</sup> It is to these that we now turn.

137. Under the Citizen's Charter which was launched in July 1991 the Government attaches a high priority to improved procedures for complaints and redress, viewing them as a necessary response to growing devolution in public services.<sup>4</sup> While the Sub-Committee did not consider the operation of these procedures, it received evidence from several quarters criticising the fact that the Citizen's Charter was not justiciable and that standards laid down under it did not amount to enforceable legal rights.<sup>5</sup> In the last Parliament our predecessors drew attention to the need to consider the case for strengthening administrative law in the light of the Next Steps Initiative.<sup>6</sup> The case for developing a wider system of administrative law or other forms of non-Parliamentary redress was advanced in evidence to the Sub-Committee.<sup>7</sup> Professor Eric Caines and others saw advantages in developing forms of accountability at local level or with client groups for central Government services.<sup>8</sup> The National Consumer Council has proposed that "charters should establish a relationship between public services and the consumer which is *as close as possible* to an explicit contractual relationship involving *enforceable* rights".<sup>9</sup> The Government was cautious about introducing legalistic structures into redress systems,<sup>10</sup> and its scepticism was shared by others.<sup>11</sup> It is at least open to doubt whether a civil servant can be expected to be answerable both directly to the public for the provision of a service and to Ministers and Parliament. Lord Bancroft has suggested that at present a civil servant's "responsibilities may be *for* his clients, but they are *to* his Minister".<sup>12</sup> We are sympathetic to the idea that new forms of accountability and their constitutional implications should be the subject of further Parliamentary consideration.<sup>13</sup> This matter is best examined in a Parliamentary context, since any developments in this area are likely to have implications for the role of Parliament and Members of Parliament in particular in calling the Executive to account for its actions. We note the opinion of the Select Committee on the Parliamentary Commissioner for Administration "that it should fall within the Committee's terms of reference to maintain an oversight of the assorted complaint and redress mechanisms in the public sector or established by statute" and we look forward to the Report arising from that Committee's current inquiry into redress.<sup>14</sup>

#### (viii) Open Government

138. Accountability depends to a considerable extent upon the accuracy, fullness and relevance of the information available to those outside the Government on its operation. Accurate information is the bedrock of accountability. Greater openness in Government is not simply an issue of accountability: up to a point, a more open administration is likely to be a more effective and efficient administration. We consider below the extent to which the policy process is

1 HC (1993-94) 27-II, p. 197. See also Q1207 (Mr Robin Mountfield).

2 HC (1993-94) 27-II, p. 71; Q1492.

3 HC (1993-94) 27-II, pp. 195, 196.

4 QQ26-27 (Mr Waldegrave, Mr Brian Hilton, Mr Robert Jackson), 2508 (Mr Waldegrave); *The Citizen's Charter: Raising the Standard*, Cm. 1599, p. 43; *The Citizen's Charter: First Report: 1992*, Cm. 2101, p. 49; *The Citizen's Charter: Second Report: 1994*, Cm. 2540, pp. 76-77.

5 QQ289 (Mr Graham Mather), 324 (Professor Peter Hennessy); HC (1993-94) 27-III, p. 17 (Dr Peter Barberis).

6 HC (1987-88) 494-I, para. 50. See also HC (1987-88) 494-II, pp. 34-35 (Dr William Plowden and Mr Gavin Drewry).

7 Q528 (Dr William Plowden); HC (1992-93) 390-II, p. 296 (Mr Vernon Bogdanor); HC (1993-94) 27-III, pp. 16, 17 (Dr Peter Barberis), 50 (Professor Fred Ridley and Mr Brian Thompson); QQ1492, 1509 (Professor Norman Lewis). See also QQ1687-1688 (Sir Kenneth Stowe).

8 Q804 (Professor Eric Caines); HC (1992-93) 390-II, p. 287 (Professor Norman Lewis); HC (1993-94) 27-III, p. 88 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland and Dr Desmond King).

9 HC (1993-94) 27-III, pp. 60-62; emphasis in original.

10 Q27 (Mr Waldegrave).

11 Q459 (Mr Charles Cochrane, CCSU); HC (1993-94) 27-III, p. 37 (Mr Nevil Johnson).

12 HC (1985-86) 92-II, p. 249; emphasis in original.

13 HC (1993-94) 27-III, p. 102 (Professor Gavin Drewry and Dr Philip Giddings).

14 HC (1993-94) 33-I, para. 130.

an exception to this rule, but we examine here the progress which has been made towards greater openness in Government and its impact on the Civil Service. In 1986 the then Committee noted how often the subject of open government and freedom of information had arisen in the course of its inquiry into relations between Ministers and civil servants. It did not endorse a particular approach to open government, but stated that "the evidence we have received does not suggest that the Government has made a convincing case against some form of Freedom of Information Act".<sup>1</sup> Similar issues have come to the fore during the present inquiry, not least because of a succession of initiatives by the Government since the 1992 General Election. In May 1992 the Government published for the first time a list of Cabinet Committees including their membership.<sup>2</sup> The same month also saw the publication of Questions of Procedure for Ministers which we have already welcomed. Most importantly, in July 1993, the Government published an Open Government White Paper in which the Government proposed to issue a Code of Practice on Access to Government Information, to have effect from 4 April 1994, setting out the information which it would and would not make available to the public upon request. The Government announced that the Code would be independently policed by the Parliamentary Commissioner for Administration, to whom members of the public could complain about a decision under the Code of Practice through a Member of Parliament.<sup>3</sup> Given the central role allocated to the Parliamentary Commissioner for Administration in supervising the Code, its operation will be considered in the first instance by the Select Committee on the Parliamentary Commissioner for Administration,<sup>4</sup> and it would not be appropriate for us to comment in detail on the provisions of the Code before evidence emerges on its practical effects. There were, however, two issues raised which we consider relevant to the present inquiry.

139. First, the Government's Code of Practice states that "there is no commitment that pre-existing documents, as distinct from information, will be made available in response to requests".<sup>5</sup> The Campaign for Freedom of Information regarded this as "an overwhelming flaw" in the Government's proposals, which would grant undue discretion to civil servants to prepare digests of information in a selective manner. It believed that this process would be more laborious than the editing of existing documents and would generate suspicion.<sup>6</sup> Professor Norman Lewis expressed similar concerns.<sup>7</sup> Mr Waldegrave believed that the provision of documents with some information necessarily blacked out would give rise to even greater suspicion. Digests prepared by civil servants were likely to be more succinct and relevant. Above all, the preparation of digests would be subject to independent review by the Parliamentary Commissioner for Administration who would have access to the original files and could thus monitor the integrity of such summaries.<sup>8</sup>

140. Second, it was contended that the new Code was fundamentally inadequate and that the introduction of a Freedom of Information Act was both the best means of securing a truly accountable Government and would have a beneficial impact on the workings of the Civil Service and the Government more generally. Professor Norman Lewis considered such an Act to be "essential for Parliament's traditions to be maintained ... a weapon Parliament ought to have in its dealings with the Executive". He considered it peculiar that the United Kingdom did not have a Freedom of Information Act when so many other democratic countries did.<sup>9</sup> These views were shared by others,<sup>10</sup> most notably the Campaign for Freedom of Information, who argued that a Freedom of Information Act would provide a broadly defined right of access and a more effective means of authoritative interpretation and enforcement than could be provided by the Parliamentary Commissioner for Administration.<sup>11</sup> Mr Waldegrave

1 HC (1985-86) 92-I, paras. 6.1-6.5.

2 HC Deb., 19 May 1992, cols. 110w ff. For subsequent lists, see HC Deb., 1 February 1993, cols. 46-47w, HC Deb., 10 February 1994, cols. 406-413w.

3 *Open Government*, Cm. 2290; HC Deb., 15 July 1993, cols. 1115-1117.

4 HC (1993-94) 33-I, para. 91.

5 *Code of Practice on Access to Government Information*, para. 4. A similar but not identical phrase was used in the draft Code published in the White Paper and available at the time evidence was submitted to the Sub-Committee, Cm. 2290, p. 12.

6 HC (1993-94) 27-III, pp. 120-122.

7 HC (1993-94) 27-II, p. 72.

8 QQ1938-1941.

9 HC (1993-94) 27-II, p. 72; QQ1491, 1505.

10 HC (1993-94) 27-III, pp. 89 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland and Dr Desmond King), 112 (Charter 88).

11 HC (1993-94) 27-III, pp. 114-123.

contended that there was not a great difference of principle between the Government's proposals and a Freedom of Information Act, that the Government's Code would avoid leaving final decisions to a judge and that a system based around the Parliamentary Commissioner for Administration was compatible with the principle of Parliamentary accountability to an extent which was not true of a judge-based Freedom of Information Act.<sup>1</sup> We believe that there is a greater difference between a Freedom of Information Act and a Code of Practice introduced by the Government and not subject to Parliamentary approval than Mr Waldegrave implied. We await the outcome of the review of the operations of the Code of Practice by the Select Committee on the Parliamentary Commissioner for Administration with interest and note that they do not propose "to examine in general the merits of the Government's proposals".<sup>2</sup> We expect to examine the relative merits of the Government's Code of Practice on Access to Government Information and of a Freedom of Information Act in a future inquiry.

## C. ORGANISING FOR EFFECTIVENESS AND EFFICIENCY

### VII. THE PURSUIT OF EFFECTIVENESS AND EFFICIENCY

#### (i) *The case for an effective and efficient Civil Service*

141. We believe that the performance of the Civil Service and the quality, effectiveness and efficiency with which it serves the Government and the public matters just as much as the values and standards which it is required to maintain. The effectiveness and efficiency of the Civil Service affect the performance and competitiveness of the British economy as well as the well-being of the British people.<sup>3</sup> Sir Peter Kemp reminded the Sub-Committee of the enormous expansion of the Civil Service in the twentieth century and the burden it therefore imposed on the taxpayer. It could be seen as "the ultimate overhead on the state" whose tasks had to be rigorously analysed and justified.<sup>4</sup> In the November 1993 Budget the Government adopted what the Chancellor of the Exchequer termed "a rigorous approach to the Government's administrative costs", freezing provision for the running costs of central government departments in the period 1994-95 to 1996-97 at broadly the 1993-94 level of £20.1 billion.<sup>5</sup> The Government's White Paper on the Civil Service notes the challenge for the Civil Service "to deliver public services of the quality citizens deserve at a price taxpayers can afford".<sup>6</sup> The Council of Civil Service Unions emphasised their commitment to "the continuing improvement of efficiency and effectiveness of the delivery of services in the Civil Service".<sup>7</sup> The Government has noted in the past in the context of the Next Steps initiative that "any Government will want a Civil Service which is as effective and efficient as possible in delivering what is wanted of it".<sup>8</sup> Sir Robin Butler emphasised his belief that "under all Governments there will be a conflict between the public's demand for services and the amount the taxpayer is able to afford. There will be a constant pressure for Government to operate as efficiently as it can".<sup>9</sup> We agree. The quest for greater effectiveness and efficiency in the Civil Service is an unending one; the requirement to maximise the return from finite resources will not go away.

142. It is one thing to agree on the need for effectiveness and efficiency. It is quite another to agree on what this means in practice. In 1981 our predecessors employed the following definitions of the two terms:

"By the effectiveness of a programme the Sub-Committee understands such matters as the definition of objectives, the measurement of progress towards achieving those objectives and the consideration of alternative means of achieving objectives. By

1 QQ84-87, 1040, 1042-1043, 1045, 1047, 1049, 1056-1058, 1061, 1911, 1914-1929.

2 HC (1993-94) 33-I, para. 79.

3 *Competitiveness: Helping Business to Win*, Cm. 2563, paras. 14.1-14.3; HC (1992-93) 390-II, pp. 279-280 (Professor Sue Richards); HC (1993-94) 27-II, p. 270; Q2294 (Dr Graham Scott); *Public Service 2000: The Renewal of the Public Service in Canada*, p. 17. See also HC (1993-94) 27-III, p. 45 (Confederation of British Industry).

4 Q357.

5 Second Report from the Treasury and Civil Service Committee, *The November 1993 Budget*, para. 77; *Public Expenditure: Statistical Supplement to the Financial Statement and Budget Report 1994-95*, Table 3.6.

6 Cm. 2627, para. 2.13.

7 QQ425, 429 (Mr John Ellis).

8 Cm. 1263, p. 17.

9 QQ201, 1469.

efficiency the Sub-Committee understands, given the objectives and the means chosen to pursue the objectives, the minimising of inputs to the programme in relation to the outputs from it".<sup>1</sup>

Sir Peter Levene, the Prime Minister's Adviser on Efficiency and Effectiveness, defined efficiency in the context of the objective of the Efficiency Unit which was "to determine to what extent Government Departments can ensure that they are operating to obtain best value for money in the public interest". He considered efficiency and effectiveness to be "virtually synonymous" and said that "one should lead to the other".<sup>2</sup> Several people cautioned against an excessive emphasis on efficiency. Ms Elizabeth Mellon pointed out that efficiency was "policy or context free".<sup>3</sup> Sir Kenneth Stowe and Dr Keith Dowding made similar points.<sup>4</sup> The National Consumer Council suggested that "any judgement about the effectiveness of public services must consider consumer views about service quality".<sup>5</sup> It is clear that the value of efficiency depends in large measure upon the effectiveness of the policy or programme which is being carried out efficiently. Efficiency is essentially a judgement about means; effectiveness is a judgement about ends. It is because we wish to emphasise the primacy of effectiveness that we consider the case for reforming the policy process as well as the executive functions of Government.

143. Some evidence questioned the extent and manner in which the Civil Service could be oriented towards the pursuit of effectiveness and efficiency. In 1977 Sir Derek (now Lord) Rayner told the Expenditure Committee "Efficiency in the Civil Service is dependent, as in business, on motivation, and whereas in business one is judged by overall success, in my experience the civil servant tends to be judged by failure".<sup>6</sup> Professor Eric Caines echoed this criticism in evidence to the Sub-Committee, contending that the levels of service in the public sector were "shabby because we contrive by whatever means to create an environment which makes it difficult for people to accept personal responsibility for improving services ... We manage them poorly; we do not reward performance. There are no incentives."<sup>7</sup> Sir Peter Levene believed that differences in approach between the private sector and the Civil Service were inherent in differences in function: in a business a 60 per cent success rate was acceptable and an 80 per cent success rate brilliant; in the public sector, "if you are right 98 per cent of the time, people are not interested in the 98 per cent; they are interested in the 2 per cent that you are wrong because the 2 per cent will be the ones that people are concerned about".<sup>8</sup> This distinction was welcomed and endorsed by the General Secretary of the CPSA and Sir Kenneth Stowe.<sup>9</sup> The latter emphasised that the administrative character of much of the Civil Service's work and the requirement for rigid adherence to integrity limited the scope for energy, innovation and an "entrepreneurial" approach.<sup>10</sup> There is clearly a balance which needs to be struck in this matter. The original Next Steps Report observed that "the culture of the Civil Service puts a premium on a 'safe pair of hands', not on enterprise. It does not reward the person who says 'I have saved money'. It does not penalise the person who ignores the opportunity to get better value".<sup>11</sup>

*(ii) From the Financial Management Initiative to the Citizen's Charter*

144. One of the most significant attempts to remove unnecessary constraints on Civil Service managers was the Financial Management Initiative (FMI) launched in 1982. It was based on the belief that performance could be improved by delegating responsibility nearer to the point

1 Third Report from the Treasury and Civil Service Committee, *Efficiency and Effectiveness in the Civil Service*, HC (1981-82) 236-I, para. 1. See also the definitions given by the National Audit Office which were noted by our predecessors in 1991: "Efficiency: The relationship between outputs and the resources (inputs) used to produce them. An efficiency activity maximises output for a given input or minimises input for a given output. Efficiency measures take the form of output/input ratios (productivity) and expenditure/output ratios (unit cost)."

"Effectiveness: The extent to which objectives have been achieved and the relationship between the intended and actual effect of outputs in the achievement of objectives"

(Fifth Report from the Treasury and Civil Service Committee, *The New System of Departmental Reports*, HC (1990-91) 290, para. 11).

2 QQ1264, 1266-1267.

3 HC (1992-93) 390-II, p. 294.

4 HC (1993-94) 27-II, pp. 116, 118 (endnote 18) (Sir Kenneth Stowe); HC (1993-94) 27-III, p. 24 (Dr Keith Dowding).

5 HC (1993-94) 27-III, p. 60.

6 HC (1976-77) 535-I, para. 124.

7 Q796.

8 Q1277.

9 QQ1778 (Mr Barry Reamsbottom), 1669 (Sir Kenneth Stowe).

10 QQ1669-1670; HC (1993-94) 27-II, pp. 130-131.

11 *Improving Management in Government: The Next Steps*, Annex B, para. 51.



of delivery, a principle which owed much to the Fulton Report.<sup>1</sup> The aim of the FMI was to promote in each Department an organisation and system in which managers at all levels had:

- a. a clear view of their objectives and means to assess and, wherever possible, measure outputs or performance in relation to those objectives;
- b. well-defined responsibility for making the best use of their resources, including a critical scrutiny of output and value for money; and
- c. the information (particularly about costs), the training and the access to expert advice that they need to exercise their responsibilities effectively.<sup>2</sup>

It was intended that the initiative would apply throughout Government.<sup>3</sup> In its early years, the FMI was not an unmitigated success. In 1987 an external study by the Committee of Public Accounts found that some Government departments had been slow to implement the initiative and that "scepticism and mistrust of FMI seems to be widespread among middle and lower management grades".<sup>4</sup> An internal review found support for the principles of FMI, but concern about the speed and methods of applying them.<sup>5</sup> Our predecessors expressed disappointment at evidence of the FMI's "stunted growth".<sup>6</sup> The FMI did not find expression in any distinct organisational change, which was part of the key to subsequent reforms.<sup>7</sup> Nevertheless, the principles behind the FMI appeared to remain sound. It was a prerequisite for many subsequent reforms.<sup>8</sup>

145. The notion that delegation was the key to improved performance was taken forward in the Next Steps Initiative, which proposed to underpin delegation by the creation of agencies to carry out the executive functions of Government within a policy and resources framework set by a department.<sup>9</sup> The Executive Agencies subsequently created have a clearly designated head—a Chief Executive—and a framework document agreed between the Department, the Agency and the central departments within which a Chief Executive would be provided with greater freedom to manage resources and staff. The initiative was designed to remedy the traditional concern with inputs rather than outputs and thus to improve the effectiveness with which money was used.<sup>10</sup> The touchstone of the success of the Next Steps initiative would be the improvement of the quality of outputs. Our predecessors stated that "we expect the success of the Next Steps programme to be judged in large measure by the extent to which it improves service to customers".<sup>11</sup>

146. The emphasis on quality of service has been reinforced by the launching in July 1991 of the Citizen's Charter which applies to the Civil Service although it is concerned with all public services, including nationalised industries and the privatised utilities. Its aim is to raise the standard of public services and make them more responsive to the needs and wishes of their users.<sup>12</sup> Mr Waldegrave considered the Citizen's Charter, with its focus on establishing clear service standards, measurable outputs and better relationships between services and their users, as central to the Government's programme of public service reform.<sup>13</sup> It signalled a high level political commitment to quality and value for money in public services and reinforced the position of those seeking to promote innovation in public services.<sup>14</sup> In the context of the Civil Service the Citizen's Charter brought together, and ran with the grain of, reforms which were already underway.<sup>15</sup> This assessment was shared by Mr Michael Bichard, who viewed the Citizen's Charter as a "reinforcement" to what the Benefits Agency was trying to

<sup>1</sup> HC (1992-93) 390-II, p. 320 (Dr Ian Colville and Professor Cyril Tomkins); Cmnd. 3638, paras. 188-191.

<sup>2</sup> *Efficiency and Effectiveness in the Civil Service: Government Observations on the Third Report from the Treasury and Civil Service Committee, Session 1981-82*, Cmnd. 8616, para. 13.

<sup>3</sup> *ibid.*, para. 25.

<sup>4</sup> Thirteenth Report from the Committee of Public Accounts, *The Financial Management Initiative*, HC (1986-87) 61, paras. 20, 42.

<sup>5</sup> *Improving Management in Government: The Next Steps*, para. 3, Annex B, paras. 6-8.

<sup>6</sup> HC (1987-88) 494-I, para. 7.

<sup>7</sup> Q365 (Sir Peter Kemp); HC (1993-94) 27-III, p. 51 (Mr Clive Priestley).

<sup>8</sup> HC (1987-88) 494-I, para. 6.

<sup>9</sup> *Improving Management in Government: The Next Steps*, para. 19; Q365 (Sir Peter Kemp).

<sup>10</sup> *The Next Steps*, para. 8.

<sup>11</sup> HC (1988-89), para 54.

<sup>12</sup> HC (1993-94) 27-II, p. 16 (OPSS).

<sup>13</sup> QQ5, 2530.

<sup>14</sup> QQ2505, 2509.

<sup>15</sup> Q2504.

achieve.<sup>1</sup> The Citizen's Charter has also sought to strengthen moves away from anonymity towards a more open approach by civil servants to their clients.<sup>2</sup> The Citizen's Charter was welcomed by several witnesses, particularly for its stress on the needs of individual users of public services.<sup>3</sup> The main qualifications expressed about the Citizen's Charter were that the stress on measurable standards might lead to neglect of vital standards which could not be measured and that the stress on customers might lead to a lack of appreciation of the extent to which public services were concerned with more than service to individual customers.<sup>4</sup> Mr Waldegrave appeared conscious of the latter concern.<sup>5</sup> This inquiry has not involved a detailed evaluation of the impact of the Citizen's Charter on the Civil Service, but we believe that the Citizen's Charter has value as an expression of a high level political commitment to quality in the provision of public services which should assist further in raising the profile of service delivery within the Civil Service. The orientation towards the requirements of individuals whom the Civil Service serves is particularly welcome, but should not lead to neglect of the need to serve a wider public interest.

(iii) *International Perspectives*

147. The Government has claimed it is a "world leader in public service reform", drawing attention to interest around in the world in initiatives such as the Citizen's Charter,<sup>6</sup> although Sir Kenneth Stowe was cautious about the values of such claims in general, observing a tendency to oversell administrative reform.<sup>7</sup> Consideration of public service reforms in other countries draws attention to the extent to which such reform programmes share common objectives and espouse similar approaches.<sup>8</sup> There appear to be four common elements to many of these reform programmes which are shared with British Civil Service reforms:

- (i) *A focus on results*: many reform programmes are seeking to reorient bureaucracies from their traditional concern with inputs and processes towards a greater concern for outputs.<sup>9</sup> The Public Service 2000 initiative launched by the Canadian Government in 1990 sought to "place the emphasis on the delivery of services and the creation of a results-oriented culture" and to judge public servants "on the basis of the results they achieve rather than the processes they follow".<sup>10</sup> A similar notion lies at the heart of Vice-President Gore's National Performance Review in the United States of America, which is subtitled "From Red Tape to Results".<sup>11</sup>
- (ii) *Stress on the needs of the individual customer*: several reform programmes emphasise the need to measure results by reference to the requirements of the customer of a particular service. In May 1991 the Danish Government launched a programme for the modernization of the public sector based on a recognition that "the citizen sees public services with the eyes of the critical consumer entitled to quality and custom-tailored services" but that the citizen is "also the taxpayer who expects politicians to be committed to tight public expenditure control".<sup>12</sup> The Canadian reform programme is posited on similar notions, seeking to encourage public servants to regard Canadians as clients.<sup>13</sup> A study of the best ways to take management reform forward in Australia laid stress on improving client service.<sup>14</sup> The National Performance Review stresses the privacy of the customer and the need to ensure "that all customers have a voice, and that every voice is heard".<sup>15</sup>

1 Q2191.

2 Cm. 2627, para. 2.29; Q2509.

3 HC (1992-93) 390-II, pp. 71 (Mr Graham Mather), 93 (Sir Peter Kemp); Q1509 (Professor Norman Lewis); HC (1993-94) 27-II, p. 102 (Mr John Garrett); HC (1993-94) 27-III, p. 98 (Professor Gavin Drewry and Dr Philip Giddings).

4 HC (1993-94) 27-II, p. 102 (Mr John Garrett); HC (1993-94) 27-III, pp. 68 (Professor John Stewart), 83-84, 88 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King), 108 (Sir Jack Hibbert).

5 Q2507.

6 Cm. 2563, para. 14.13; Q2504 (Mr Waldegrave).

7 HC (1993-94) 27-II, pp. 112, 117 (endnote 2).

8 See also *Performance Management in Government: Performance Measurement; Towards Results-Oriented Management* (OECD Public Management Occasional Paper, Paris, 1994), *Report of the Auditor General of Canada to the House of Commons*, 1993 Chapter 6: Canada's Public Service Reform and Lessons Learned from Selected Jurisdictions.

9 *Performance Management in Government*, p. 53.

10 *Public Service 2000: The Renewal of the Public Service of Canada*, pp. 21, 31.

11 *Creating a Government That Works Better and Costs Less: Report of the National Performance Review* (September 1993).

12 *The Public Sector in the Year 2000: Report on the Danish Modernization Programme 1991*, p. 4; *Choice of Welfare: Competition and the Citizen's Right to Choose*, p. 3.

13 *Public Service 2000*, pp. 4, 51.

14 *The Australian Public Service Reformed: An evaluation of a decade of Management Reform* (Canberra, 1992), pp. 30-31.

15 *Creating a Government that Works Better and Costs Less*, pp. 43-44.

- (iii) *A trend towards delegation and empowerment*: there is a common belief in many countries that the most effective means of establishing a more results-oriented service of high quality is through delegation to more autonomous units and more generally to local managers.<sup>1</sup> The Canadian Government has sought “a reduction of centrally-prescribed controls, provision of more authority to departments, and delegation of authority by departments to the front-line” and has committed itself to extending the agency concept.<sup>2</sup> The Swedish Government has sought to grant greater freedom to existing agencies in the fields of finance and personnel management.<sup>3</sup> The National Performance Review also aims to decentralise decision-making power.<sup>4</sup>
- (iv) *Effective management of resources*: a final common element is the recognition that delegation of authority must be accompanied by effective and more business-like control over resources at lower levels and more effective management monitoring and control methods at the centre. The National Performance Review is founded on the realisation that “nothing is more important than the process of resource allocation” and makes proposals to streamline the budget process.<sup>5</sup> As part of the modernisation of resource management, both Iceland and New Zealand have introduced accrual-based accounting in central or federal Government departments and both Finland and Australia are in the process of similar reforms.<sup>6</sup>

The simple fact that so many Governments are singing from the same hymn sheet is not of itself a guarantee that a particular approach is valid, but it does indicate the extent to which the British approach to Civil Service reform shares common insights with public service reforms in other countries.

(iv) *The New Zealand model of public service reform*

148. In the course of the inquiry one country’s public service reforms were referred to more than any other’s—those of New Zealand.<sup>7</sup> It is therefore appropriate to examine recent reforms there in slightly more detail. As in some other countries, reform of the core public sector in New Zealand was motivated both by a serious economic situation and the apparent success of reforms of the wider public sector.<sup>8</sup> It reflected a perception that traditional methods of core Government administration suffered from the following weaknesses: lack of specificity about objectives; lack of clarity about the respective responsibilities of Ministers and civil servants; inadequate resource management and management information systems; insufficient freedom to manage; excessive emphasis on inputs rather than performance. Departmental managers were frustrated by the level of central control by the State Services Commission.<sup>9</sup> The reform programme took place within the context of a Freedom of Information régime in which policy papers prepared by civil servants were entering the public domain once relevant policy decisions had been reached.<sup>10</sup>

149. The primary vehicle for Civil Service reform in New Zealand was the State Sector Act 1988. This Act created a clear separation of function between a Minister in charge of a department and the officials of that Department, up to and including the senior official—renamed the Chief Executive. It introduced the notion of the purchaser/provider split into the very heart of Government, with the Minister “purchasing” services from the Chief Executive.<sup>11</sup> The Chief Executive in each department became responsible for the management of its resources and personnel. He became the legal employer of staff and made decisions on personnel matters. Most input controls from the Treasury and the State Services Commission were abolished. A formal

1 *Performance Management in Government*, p. 53.

2 *Public Service 2000*, pp. 16, 24.

3 *Public Management Developments: 1994 Update* (OECD, 1994), pp. 75-76.

4 *Creating a Government that Works Better and Costs Less*, p. 69.

5 *ibid.*, p. 14.

6 *Accounting for What? The Value of Accrual Accounting to the Public Sector* (Public Management Occasional Paper, OECD, 1993); *Public Management Developments: 1994 Update*, pp. 14, 31.

7 See, for example, QQ272, 282, 287 (Mr Graham Mather); HC (1992-93) 390-II, pp. 283-284 (Professor Norman Lewis).

8 HC (1993-94) 27-II, pp. 263-265 (Dr Graham Scott); QQ2294 (Dr Graham Scott), 2313 (Sir Roger Douglas); Mr Graham Mather, *Making Good Government Seem Easy: Lessons from New Zealand's Economic and Policy Reforms* (European Policy Forum, October 1993), p. 8.

9 HC (1993-94) 27-II, p. 265; Q2310 (Dr Graham Scott).

10 *New Zealand Public Sector Reform 1993* (State Services Commission), p. 34; J. Boston, “Assessing the performance of departmental chief executives: perspectives from New Zealand”, *Public Administration* (1992), p. 413; QQ2352, 2355 (Dr Graham Scott).

11 HC (1993-94) 27-II, p. 266; QQ2294 (Dr Graham Scott), 2295 (Sir Roger Douglas).

division between politics and management was established, although Chief Executives had to manage in a political context.<sup>1</sup> Chief Executives were placed on five-year contracts, subject to renewal following performance assessment, and their posts were openly advertised.<sup>2</sup> The relationship between the Minister and the Chief Executive was to be mediated through an annual performance agreement (separate from the Chief Executive's contract of employment) under which Chief Executives undertook to perform certain outputs set by the Minister in return for control over inputs. The outputs were determined following policy discussions on desirable outcomes, but the agreement was concerned with outputs rather than outcomes. The specified outputs for which a Chief Executive was responsible included the provision of policy advice as well as service delivery.<sup>3</sup> As an essential complement to these performance agreements, accrual-based accounting was introduced across Government so that the exact costs of particular outputs could be clearly determined. Departmental Chief Executives were responsible for the purchase and sale of assets and for negotiating cash injections with the Treasury through a financial year. Parliamentary procedures for appropriation and financial reporting were changed accordingly.<sup>4</sup>

150. These reforms have not been without their critics. First, the extent to which the management process can usefully be separated from the political process has been questioned: "The effort to determine the 'output' in a measurable non-political way may be as sterile an exercise as attempting to draw the line between 'policy' and 'administration'".<sup>5</sup> Second, doubts have been raised about the extent to which policy making is amenable to explicit agreements.<sup>6</sup> Third, it has been questioned whether Ministers have adequate capacity and independent advice to negotiate effectively with Chief Executives about outputs and to monitor the work of departments.<sup>7</sup> Finally, it has been noted that policy co-ordination has become more complex as a result of reforms which put more stress on vertical relationships between Ministers and Chief Executives than on horizontal relationships across Government.<sup>8</sup> Dr Scott argued that the reforms were more effective in practice than such criticisms implied. He did not deny the difficulties in separating inputs, outputs and outcomes. There was a need for "constant adjustment, reprioritisation and redesign of outputs". The process of readjustment was itself subject to refinement. The distinction between inputs and outputs could never be more than "an intellectual artifice".<sup>9</sup> The essential strength of the system was the requirement for *ex ante* performance specification. The value in terms of accountability of *ex post* performance measurement was considerably less. An output was "something which a civil servant can know they have delivered to a Minister and the Minister can know whether or not it has been received". The requirement for prior performance agreement encouraged strategic planning; the limits on the extent to which Government activity could be foreseen did not negate the need for planning.<sup>10</sup> He readily admitted that much policy advice was not amenable to prior specification, particularly in terms of quality, but considered that the nature and cost of advice could still be the subject of prior agreement, as could be the case with advice from external consultants. He considered such prior agreement "very powerful as a management tool" within a Department.<sup>11</sup> While the reforms had given rise to concern about the capacity of Government to act as a collective, he doubted the full extent of policy co-ordination under the previous arrangements.<sup>12</sup> In conclusion, he stressed that "the systems and structures only set a floor for performance. They ensure at best that what was intended and well-specified is delivered. Reaching performance levels above that requires people to go beyond the plans and act on their own initiative within the broad goals, values and systems of the organisation".<sup>13</sup> The burden of his evidence was that new formal arrangements did not replace traditional relations between civil servants and Ministers and the strengths inherent in such arrangements, but sought to tackle their weaknesses. Performance agreements could be a discipline but need not be a straitjacket.

1 *New Zealand Public Sector Reform 1993*, pp. 7, 29; HC (1993-94) 27-II, p. 266; Q2345 (Dr Graham Scott).

2 *New Zealand Public Sector Reform 1993*, pp. 6, 30; *Career Management and Succession Planning Study*, pp. 124, 136-137; QQ2295 (Sir Roger Douglas), 2340, 2352 (Dr Graham Scott).

3 *New Zealand Public Sector Reform 1993*, p. 7; HC (1993-94) 27-II, p. 266 (Dr Graham Scott).

4 HC (1993-94) 27-II, pp. 266, 267-268; Q2294 (Dr Graham Scott).

5 E. Wistrich, "Restructuring Government New Zealand Style", *Public Administration* (1992), pp. 124-125.

6 *New Zealand Public Sector Reform 1993*, p. 27.

7 *ibid.*, p. 30; P. Greer, *Transforming Central Government: The Next Steps Initiative* (Buckingham, 1994), p. 115.

8 *New Zealand Public Sector Reform 1993*, p. 32.

9 HC (1993-94) 27-II, p. 266; QQ2299-2300, 2345.

10 HC (1993-94) 27-II, p. 267; QQ2345, 2298.

11 HC (1993-94) 27-II, p. 266; QQ2345-2346.

12 HC (1993-94) 27-II, p. 269; Q2353.

13 HC (1993-94) 27-II, p. 270.

151. Very different views were expressed about the applicability of the New Zealand model in a British context. Mr Graham Mather believed that “New Zealand offers a ready made image of successful radicalism from which Britain in the 1990s might usefully learn”.<sup>1</sup> Sir Kenneth Stowe argued that the New Zealand reforms were not for export, citing the views of New Zealand officials in support of this contention.<sup>2</sup> The Government considered the New Zealand arrangements to be “over-formalised” and possibly constraining, while emphasising common elements between the New Zealand reforms and existing arrangements in the United Kingdom.<sup>3</sup> Dr Scott stressed the strengths of the British Civil Service, while noting that the arguments against the application of similar reforms in a British context had also been advanced in New Zealand and that he had never found them persuasive.<sup>4</sup> While it is obviously right to be cautious about the wholesale importation of another country’s reform programme, we believe that there are important lessons to be drawn from New Zealand’s reforms which are applicable in a British context and which we explore below.

## VIII. NEXT STEPS AND THE EXECUTIVE FUNCTIONS OF GOVERNMENT

### (i) *An unfinished revolution*

152. The Next Steps programme was seen by Mr Waldegrave as “a revolution in the whole management of the Civil Service”, albeit a revolution which was not complete.<sup>5</sup> The programme is designed to clarify responsibilities for policy-making, for defining objectives and standards and the setting of targets, and for their delivery by accountable managers. It emphasises delegation, sharper accountability and the freedom and flexibility to manage effectively and efficiently. It gives effect to these principles, in themselves reminiscent of the FMI, through the establishment of Agencies.<sup>6</sup> The Next Steps initiative was described by our predecessors as “the most ambitious attempt at Civil Service reform in the twentieth century”.<sup>7</sup> From its inception of the reform, the Government stressed the importance it attached to the commitment that Next Steps should not go the way of previous attempts at Civil Service reform, which had been only partially successful at best, and had amounted to a history “of changing the labels, not changing the substance”.<sup>8</sup> Our predecessors remarked that it would be “a tragedy” if Next Steps was to join the bones of previous Civil Service reforms which litter the wayside.<sup>9</sup> Mr Waldegrave emphasised his determination to see the Agency programme carried through, to ensure that Next Steps did not become “last year’s story” as the Government embarked upon other Civil Service reforms.<sup>10</sup>

153. From its inception the Next Steps programme was criticised by some. It was argued that the establishment of Agencies would be a threat to the unity and integrity of the Civil Service and the constitutional conventions which underpinned these characteristics. It was suggested that Agencies would subordinate the public interest to the business needs of their particular organisation.<sup>11</sup> A second concern which has been expressed about the Next Steps programme, by both outsiders and by Sir Peter Kemp, the Next Steps Project Manager from 1988 to 1992, was that it might amount to little more than “badge engineering”.<sup>12</sup> In 1990 the then Treasury and Civil Service Committee noted the dangers of widespread but superficial adoption of the Next Steps programme. Agencies would be established but “routinised”, with the effects of the changes not filtering down to lower levels.<sup>13</sup>

154. At the inception of the Next Steps programme in 1988 the then Project Manager estimated that, after about ten years, “at least three quarters” of the non-industrial Civil Service,

1 *Making Good Government Seem Easy*, p. 5.

2 Q1664.

3 QQ2437, 2450-2452 (Mr Waldegrave and Mr Richard Mottram).

4 Q2353.

5 Q30.

6 HC (1992-93) 390-II, p. 2 (OPSS).

7 HC (1989-90) 481 para. 1.

8 HC (1988-89) 348, QQ3-4 (Sir Peter Kemp).

9 HC (1989-90) 481, para. 83.

10 Q38.

11 See the memorandum submitted to the Treasury and Civil Service Sub-Committee in 1988 by Professor Richard Chapman which was not printed but was placed in the Library of the House of Commons, TCS 20, para. 8 and *passim*. See also HC (1993-94) 27-III, pp. 123-124 (Mr Barry O’Toole).

12 HC (1988-89) 348, para. 17.

13 HC (1989-90) 481, paras. 12, 72-74.

which then amounted to about 600,000 staff, would be in Agencies.<sup>1</sup> After only six years, this prediction is well on the way to being fulfilled. By July 1994, there were 97 executive agencies within Government, including 8 in the Northern Ireland Civil Service. More than 340,000 staff in the Home Civil Service were operating along Next Steps lines, amounting to 64 per cent of the total.<sup>2</sup> Even in a Civil Service which has shrunk since the original prediction, and which is expected by the Government to shrink further, the Government now believes the coverage of Agencies or organisations operating along Next Steps lines will exceed original estimates. Agencies and announced Agency candidates represent 78 per cent of the Home Civil Service, with other activities still under consideration for Agency status.<sup>3</sup>

155. We note a tendency in some Government pronouncements on the Next Steps programme to imply that it will be complete when all Agencies have been established. Mr Waldegrave believed the Government was “three quarters” of the way to completing the revolution.<sup>4</sup> The Civil Service White Paper states that “a key task for the mid-1990s is to complete this programme”.<sup>5</sup> Yet the programme of Agency creation was always seen as a means of effecting a wider cultural transformation in the Civil Service.<sup>6</sup> As the Government itself has recognised, establishing Agencies is “only the start”:<sup>7</sup> the creation of Agencies is “a means to an end—to improve management in Government for the benefit of customers, taxpayers, and staff”.<sup>8</sup> Mr Waldegrave suggested that the process of Agency creation needed to be “followed through”, with more devolution to Agencies accompanying a growth in their skills and confidence.<sup>9</sup> There are three elements which have to be addressed if the process of devolution is to be followed through—devolution of authority within Agencies, relations between Agencies and core departments and accountability and responsibility.

156. As we have already noted, our predecessors considered improvements in the quality of service to be the main benchmark by which the success of Next Steps could be measured.<sup>10</sup> Sustained progress in this direction does not simply require delegation *to* Agencies; it requires delegation *within* Agencies. Moreover, formal delegation in itself does not inevitably lead to cultural change. It places new demands on those to whom responsibility is delegated and requires them to respond effectively. Upon the extent to which they respond, depends the extent to which a genuine change of culture takes place.<sup>11</sup> The Benefits Agency described the extent to which devolution within its organisation was leading to a change of culture with a direct impact on the quality of service to customers. Mr Bichard said that the Agency had devolved to front line staff much more power to deliver services, including greater control over finance and personnel, subject to the core requirements which applied nationally. This had led not only to increased efficiency but to innovations such as mobile benefit offices and local customer panels.<sup>12</sup> Increased local power within a national system to enhance efficiency and improve quality of service was also the key to the application of Next Steps principles to the Inland Revenue, which had delegated day-to-day management responsibilities to 29 Executive Offices.<sup>13</sup>

#### *(ii) Relations between Agencies and Departments*

157. The Government saw the relationship between Agencies and their parent Departments as the most important area for development within the Next Steps programme.<sup>14</sup> In its first Report on the Next Steps initiative the then Treasury and Civil Service Committee stressed the importance of precision in this relationship and of Departments having the confidence to delegate to Agencies: “too much freedom can be reined in, too little

<sup>1</sup> HC (1987-88) 494-II, QQ23-25 (Sir Peter Kemp).

<sup>2</sup> Cm. 2627, para. 2.21. These figures include staff in the Inland Revenue and HM Customs and Excise which operate along Next Steps lines, but are not Agencies. See next paragraph.

<sup>3</sup> QQ898, 931 (Mr Richard Mottram); Cm. 2430, p. 10.

<sup>4</sup> Q30.

<sup>5</sup> Cm. 2627, para. 2.23.

<sup>6</sup> HC (1987-88) 494-I, para. 18.

<sup>7</sup> Cm. 841, p. 9, Q931 (Mr Richard Mottram)

<sup>8</sup> Cm. 1761, p. 1.

<sup>9</sup> Q38.

<sup>10</sup> HC (1988-89) 348, para. 54.

<sup>11</sup> HC (1992-93) 390-II, pp. 320-321 (Dr Ian Colville and Professor Cyril Tomkins).

<sup>12</sup> HC (1993-94) 27-II, p. 226 (Benefits Agency); QQ2188-2189, 2206, 2210 (Mr Michael Bichard).

<sup>13</sup> HC (1993-94) 27-II, pp. 245-246 (Inland Revenue); Q2267 (Sir Anthony Battishill).

<sup>14</sup> Q1811 (Mr Waldegrave).

may mean the opportunity is lost".<sup>1</sup> The Government advocated a similar approach, stating that "once the policy and resources framework has been set ... Ministers and Departments advising them should avoid intervening in matters delegated to the Agency ... The onus should be on a Department positively to justify any interference with the agreed arrangements, rather than on the Chief Executive to justify his or her independence."<sup>2</sup> The key to the relationship was seen by the Government as the Framework Document, which was agreed by the Agency, the parent Department, the Next Steps Team in the Cabinet Office and the Treasury, and which was intended to clarify the aims and objectives of the Agency and the division of tasks between the Agency and the Department.<sup>3</sup> In 1990 the Framework Document was likened by one Chief Executive to "a bill of rights" for his Agency.<sup>4</sup>

158. Some evidence questioned the extent to which the clear division of tasks and the withdrawal of Departments from day-to-day management was working in practice. Professor Eric Caines, who served at very senior levels in the Departments of Health and Social Security, suggested that "few Ministers have really taken to heart the need not to interfere with and second guess the decisions of the Chief Executives of Agencies". He believed that there had been "little real delegation of management authority, central management controls having, for the most part, been replaced by oppressive systems of performance monitoring". He thought that this was because "Whitehall, by and large, regards local managers with contempt. The attitude seems to be that the nearer you are to the delivery point of the service, the less you know about it."<sup>5</sup> A former Permanent Secretary was also concerned about "a temptation for Government [Departments] to interfere with the operations of Agencies, even after targets have been agreed and published".<sup>6</sup> The main finding of the recent study of Agencies by a French civil servant, Ms Sylvie Trosa, which was commissioned by the Government, was that "there exists a considerable cultural gap on both sides, with Chief Executives often believing that Departments' management is a bureaucratic obstacle, and Departments viewing Agencies as little fortresses following their own aims regardless". Some Departments and Agencies did not share a common understanding of their respective roles and this confusion could lead to conflict.<sup>7</sup> The Trosa Report found that some Agencies appeared to have greater freedoms than were prescribed in their Framework Documents, but that usually Agencies were "much more constrained" than the Framework Document would imply. The Framework Documents were not perceived as a sufficiently secure guarantee of Agency's flexibilities.<sup>8</sup> These views were echoed in a recent academic study of Next Steps.<sup>9</sup>

159. The Government believed that the confusion and conflict in the relationship between Agencies and their sponsoring Departments could be exaggerated. Mr Michael Bichard characterized relations between the Benefits Agency and the headquarters of the Department of Social Security as "very, very positive", noting that Ministers and the Department had withstood the temptation to interfere when difficulties emerged over the administration of Disability Living Allowance.<sup>10</sup> He believed that it was wrong to generalise, because the experience of different Agencies was bound to be diverse, and argued that any "cultural difference" between Agencies and Departments principally reflected differences in function, rather than representing "an insurmountable problem".<sup>11</sup> Mr Waldegrave praised the Trosa Report and believed that there was a need to improve the clarity of the Department's role and "to stop second guessing in management".<sup>12</sup>

160. It has been argued that, in practice, the annual process of target setting and agreeing business plans, rather than the Framework Document, has become the main focus for the relationship between Agencies and their parent Departments.<sup>13</sup> The establishment of targets follows clarification of objectives and of output and performance measures. The targets published

1 HC (1987-88) 494-I, para. 37.

2 Cm. 1263, p. 5.

3 *Improving Management in Government: The Next Steps*, para. 20; HC (1988-89) 348, paras. 18-21.

4 HC (1989-90) 481, para. 15.

5 HC (1992-93) 390-II, pp. 188-189; QQ800, 802.

6 HC (1993-94) 27-III, p. 40 (Sir Peter Lazarus).

7 *Next Steps: Moving On*, paras. 2.11, 4.1.2, 4.6.1-4.6.4.

8 *ibid.*, paras. 4.2.3, 4.2.4, 4.2.14-4.2.15.

9 P. Greer, *Transforming Central Government: The Next Steps Initiative*, especially p. 66.

10 QQ2336, 2331.

11 QQ2335-2336.

12 QQ2446-2448.

13 P. Greer, *Transforming Central Government: The Next Steps Initiative*, p. 75.

by the Secretary of State are those by which the performance of an Agency and its Chief Executive is measured and they should be distinct from the internal management targets set by Chief Executives.<sup>1</sup> In 1992-93 Agencies overall met around 77 per cent of their key performance targets; over 80 per cent of quality targets and financial targets were met, although the proportions were somewhat lower for efficiency and throughput targets.<sup>2</sup> Despite these apparently impressive figures, there have emerged two concerns about targets: the appropriateness of the targets and the means by which they are set. Our predecessors believed it to be important that target setting should emphasise outputs and, in particular, financial performance, quality of service and efficiency.<sup>3</sup> The Government has acknowledged the difficulties in deciding upon targets for Agencies "which both capture the essence of what they are trying to do and do not distort the way in which they actually operate" and which are within an Agency's control. It believed there was a trend for targets to put greater stress on the quality of outputs.<sup>4</sup> Others were more sceptical, pointing to the dangers of targets which were overly focussed on quantities and financial performance and were liable to be upset by external factors.<sup>5</sup> The Trosa Report noted a general improvement in the target setting process, but still found that "the targets of some Agencies do not adequately reflect the core activity of the Agency and its aims" and that contradictions between targets were not sufficiently analysed. It pointed to the scope for greater recognition of the value of customer perceptions and external evaluation.<sup>6</sup> The Trosa Report also raised concerns about the way in which targets were set, although many Departments had managed the process effectively. At times the process as conveyed in the Trosa Report appears to be a crude bargaining process, with the greater knowledge of the realism of the targets of the Agency weighed against the ultimate authority of a Secretary of State to set or change a target without reference to the Chief Executive.<sup>7</sup> The Government acknowledged the importance of setting targets which were challenging but were considered deliverable and the desirability of encouraging "ownership" of targets by those committed to delivering them.<sup>8</sup>

161. A crucial part of the relationship between Agencies and Departments is the determination of the financial arrangements for the Agency. In the last Parliament our predecessors expressed disappointment that so many Agencies operated within a gross running régime and had no flexibility to respond to changes in demand. The Committee explored the case for an extension of financial arrangements linked to demand, while noting an apparent lack of Treasury enthusiasm for such developments.<sup>9</sup> The Efficiency Unit review in 1991 emphasised that "régimes based on the principle of unit costs for specified levels of service" could promote efficiency and that year the Government suggested that such régimes were likely to become more widespread.<sup>10</sup> By June 1993 about a third of all Agencies were operating under net running cost controls or as Agency trading funds, which enabled some Agencies to meet increased demand for their services from additional receipts.<sup>11</sup> Sir Peter Kemp has recently proposed that "financial arrangements should be improved and simplified so that all Agencies operate within an 'Agency financial limit'—a pre-set sum of money, negative or positive, within which they must deliver the services they are obliged to deliver".<sup>12</sup>

162. The Trosa Report makes proposals to improve the overall quality of relationships between Agencies and their parent Departments by changes to the internal machinery of Departments for managing the relationship. It argues that the recommendation of the 1991 Efficiency Unit report that Departments should "identify a focal point at senior level for their dealings with each Agency" has not been adopted sufficiently widely and to adequate effect. It proposes that there should be a high level figure in each Department as the sole co-ordinating point of contact on major issues between the Department and the Agency.<sup>13</sup> It further recommends that Ministerial Advisory Boards should be established for all Agencies where no com-

1 HC (1990-91) 496, paras. 58-59, 63; Cm. 1761, p. 7.

2 Cm. 2430, pp. 8-9.

3 HC (1989-90) 481, paras. 22-23; HC (1990-91) 496, paras. 64-65.

4 QQ919-920, 925, 948 (Mr Richard Mottram). See also Cm. 2627, para. 3.8.

5 HC (1993-94) 27-III, pp. 107 (Dr Patricia Greer), 36 (Mr Nevil Johnson), 68 (Professor John Stewart).

6 *Next Steps: Moving On*, paras. 5.1.3, 5.2.3, 5.2.12-5.2.13, 5.2.26.

7 *ibid.*, paras. 5.1.5, 5.3.1-5.3.19.

8 Q1433 (Sir Robin Butler); Cm. 2627, para. 3.8.

9 HC (1990-91) 496, paras. 52-55.

10 *Making the Most of Next Steps* (Efficiency Unit, May 1991), para. 2.5; Cm. 1761, p. 7.

11 HC (1992-93) 390-II, p. 206 (OPSS). See also Cm. 2627, para. 3.10.

12 *Beyond Next Steps: a civil service for the 21st century* (Social Market Foundation, 1993), p. 22.

13 *Making the Most of Next Steps*, para. 2.12; *Next Steps: Moving On*, paras. 3.3.1-3.3.10.



parable arrangements exist to advise Ministers on general issues concerning the Agency, with particular emphasis on the setting of Agency targets.<sup>1</sup> The Government responded positively to the Report, and the Civil Service White Paper describes attempts which have already been made to strengthen arrangements for the discussion of targets, including measures to provide independent advice to Ministers on the performance of Agencies.<sup>2</sup>

(iii) *Accountability and responsibility*

163. The second main area of debate about the progress of the Next Steps programme relates to accountability and responsibility, both in terms of the means by which an account of the operations of Agencies was given to Parliament and the public and in terms of the wider allocation of responsibility. In the last Parliament our predecessors expressed concern that the practice of Ministers of asking Chief Executives to reply to Parliamentary questions on operational matters which were not then published would limit Parliamentary and public access to information on the work of Agencies. They also noted inconsistencies between Departments in the division of Parliamentary answers between Ministers and Chief Executives.<sup>3</sup> Since then, the Government has accepted a recommendation from the Procedure Committee which was supported by our predecessors that all replies to Parliamentary questions from Agency Chief Executives should be published in the Official Report (Hansard).<sup>4</sup> The Benefits Agency detailed the arrangements for handling Parliamentary business in its own case. The Chief Executive responded to questions about individual cases, local issues and the day-to-day operation and performance of the Agency. Ministers replied to questions relating to policy, reporting national statistics or with a policy input. They also replied to inform Members that information was not readily available and could only be obtained at disproportionate cost. The Chief Executive replied to nearly two thirds of questions. Mr Bichard believed these arrangements had "worked well", enabling Members to receive quick and effective responses.<sup>5</sup> The Next Steps Project Manager also emphasised the advantages of the new arrangements. He said that the Next Steps Team monitored the division of responsibility for answering questions. He admitted that there was a "grey area" between policy and operations and said that in such cases the Minister should reply. Like Mr Bichard, he emphasised that Members retained the right to call Ministers to account if dissatisfied with a response from an Agency Chief Executive.<sup>6</sup>

164. These arrangements have attracted criticism. Mr Gerald Kaufman has argued that they erode the rights of Members of Parliament to take up constituency cases directly with Ministers. He feared that the new practice would reduce Ministerial awareness of the problems of Members' constituents. He criticised both the quality and efficiency of replies from the Benefits Agency.<sup>7</sup> Mr John Garrett echoed his concerns, stating that "I do not want to have to write to somebody who has been parachuted into an Agency from the retail sector when I have a problem with a constituent who has been badly treated as a result of Government policy or the delivery of Government services".<sup>8</sup> Mr Robert Sheldon detected a recent trend for replies from Executive Agencies not to match the standards of Ministerial replies.<sup>9</sup> Others took a different view. The General Secretary of the FDA believed that in many ways it was "the right solution" for Agency Chief Executives to answer Parliamentary questions on their responsibilities.<sup>10</sup> Two academic observers considered that replies from Agency Chief Executives had "generally been longer and more informative than Ministerial answers".<sup>11</sup>

165. In 1990 Sir Peter Kemp, the then Next Steps Project Manager, said that "it is part of the purpose of Next Steps to try and distinguish just whose fault it is. If, in fact, the shortcoming is such that it was the fault of the lack of resources or legislation which was not within the power of the Chief Executive, the transparency of the system should enable that to be seen. If, on the other hand, it was simple bad management on the part of the Chief Executive then that should be seen too and the man should be held to account

1 *Next Steps: Moving On*, paras. 3.4.1-3.4.37.

2 QQ1810, 2446-2448 (Mr Waldegrave); Cm. 2627, para. 3.9.

3 HC (1989-90) 481, paras. 68, 70; HC (1990-91) 496, paras. 74-83.

4 Third Report from the Select Committee on Procedure, *Parliamentary Questions*, HC (1990-91) 178, para. 125; HC (1990-91) 496, para. 82; HC (1992-93) 390-II, p. 207 (OPSS).

5 HC (1993-94) 27-II, pp. 230-232 (Benefits Agency); Q2254 (Mr Michael Bichard).

6 QQ970 (Mr Richard Mottram), 2255 (Mr Michael Bichard).

7 HC Deb., 28 January 1993, cols. 1287-1288, 1290.

8 Q1624.

9 Q1590.

10 Q1744.

11 HC (1993-94) 27-III, p. 100 (Professor Gavin Drewry and Dr Philip Giddings).

accordingly.”<sup>1</sup> Much evidence questioned whether the Next Steps programme was providing such opportunities in practice. Our predecessors set store by the view that Agency Chief Executives who failed could be more readily dismissed than other civil servants,<sup>2</sup> yet Professor Eric Caines argued that: “Nobody is sacked for making mistakes, the deal being that if Ministers are to protect Chief Executives, they for their part must shield Ministers”. He alleged that “a compact of sorts has been struck between Ministers and Chief Executives which ensures that neither of them assumes the ultimate risk”. A Chief Executive was required to accept limited freedom and the need to keep Ministers out of political trouble in return for job security.<sup>3</sup> Others suggested that the framework documents and other publicly available information on the operation of Agencies did not provide sufficient clarity for outsiders to determine the allocation of responsibility. There was a blurring of responsibilities which made it impossible to distinguish between policy and operations.<sup>4</sup> Ministers might pass the buck for policy failures, and disclaim responsibility for operational activities.<sup>5</sup> There was a “bureaucratic Bermuda Triangle” in which accountability disappeared.<sup>6</sup> The difficulties in drawing a clear line of responsibility between policy and operations noted in the Trosa Report were observed by others.<sup>7</sup> The extent to which Agency Chief Executives were bound by decisions on the level of resources on which they could not comment publicly was seen as typifying the fact that they had “responsibility but no authority”.<sup>8</sup>

166. Several solutions have been proposed to these alleged problems. In 1988 the then Treasury and Civil Service Committee recommended that the framework agreement “should be regarded as a contract” and that a Minister should only be entitled to overrule the Chief Executive by way of a formal note. It further recommended that Chief Executives should give evidence to Select Committees on operational matters on their own behalf rather than under the instructions of Ministers.<sup>9</sup> Following the Government’s rejection of these recommendations,<sup>10</sup> and experience of relatively helpful evidence from Chief Executives, the Committee did not advocate change in subsequent Reports, although it noted “the profound effect” Agencies would have in practice on accountability.<sup>11</sup> In evidence subsequent to his departure from the Civil Service, Sir Peter Kemp argued that the establishment of Agencies was changing the doctrine of Ministerial accountability in practice, “creating a new sort of accountability, not a less stern accountability but in some ways a tougher accountability”.<sup>12</sup> Mr Vernon Bogdanor argued that this change in practice should be mirrored by a change in theory: “the *actual* responsibility of the Chief Executive for the work of his or her Agency should be accompanied by a direct *constitutional* responsibility for his work”. To give effect to this, Ministers should state that the Osmotherly Rules did not apply to Agency Chief Executives.<sup>13</sup> The idea of giving Agency Chief Executives greater authority personally to account for their actions gained wide support, including that of Sir Peter Kemp.<sup>14</sup> The original Next Steps Report envisaged that legislation might be necessary to enable Agencies to operate with sufficient independence and accountability.<sup>15</sup> Several observers felt that the time had now arrived to give statutory backing to Executive Agencies, endowing their agreements with Ministers with legal force. It was suggested that this would strengthen the division of responsibility between Ministers and Chief Executives, facilitate improved public and Parliamentary scrutiny and make it more difficult to “shift the goal posts”.<sup>16</sup>

1 HC (1989-90) 481, Q31.

2 HC (1988-89) 348, para. 32; HC (1989-90) 481, paras. 26, 77.

3 HC (1992-93) 390-II, p. 188; Q800.

4 HC (1993-94) 27-III, pp. 96-97 (Dr Patricia Greer); *idem.*, *Transforming Central Government: The Next Steps Initiative*, pp. 66-67, 87-88.

5 HC (1992-93) 390-II, p. 297 (Mr Vernon Bogdanor).

6 HC (1993-94) 27-III, p. 49 (Professor Fred Ridley and Mr Brian Thompson).

7 *Next Steps: Moving On*, paras. 3.5.2-3.5.3; HC (1993-94) 27-III, pp. 76 (Inland Revenue Staff Federation), 101 (Professor Gavin Drewry and Dr Philip Giddings), 129 (Dr Andrew Massey).

8 HC (1992-93) 390-II, pp. 39-40 (FDA); QQ247 (Mr Michael King), 1708 (Mr Bill Brett); HC (1992-93) 390-II, p. 286 (Professor Norman Lewis).

9 HC (1987-88) 494-I, paras. 38, 46-47.

10 Cm. 524, p. 9.

11 HC (1990-91) 496, paras. 71-72.

12 Q406. See also HC (1993-94) 27-III, p. 127 (Sir David Hancock): “I fully support: the delegation of responsibility to those who can realistically discharge it ... and the distinction between matters for which Ministers should be held accountable and those for which they are entitled to expect others to be accountable”.

13 HC (1992-93) 390-II, p. 296.

14 QQ248 (Mr Christopher Dunabin, FDA), 800 (Professor Eric Caines); HC (1993-94) 27-III, pp. 40 (Sir Peter Lazarus), 46 (Confederation of British Industry), 76 (Inland Revenue Staff Federation); Sir Peter Kemp, *Beyond Next Steps*, p. 22.

15 *Improving Management in Government: The Next Steps*, para. 29.

16 HC (1992-93) 390-II, pp. 283, 286; HC (1993-94) 27-II, p. 74; Q1509 (Professor Norman Lewis); HC (1992-93) 390-II, p. 296 (Mr Vernon Bogdanor); HC (1993-94) 27-III, pp. 49-50 (Professor Fred Ridley and Mr Brian Thompson). See also HC (1993-94) 27-III, pp. 129-130 (Dr Andrew Massey) for a discussion of the advantages and disadvantages of such a development.

167. The Government argued that the establishment of Executive Agencies left the traditional doctrine of Ministerial accountability unimpaired while increasing “the accountability of whole areas of Civil Service work, through greater openness and clearer lines of responsibility”.<sup>1</sup> According to the Government, Agencies did not “undermine the key constitutional principle that it is Ministers who are accountable to Parliament for all that their Departments do”.<sup>2</sup> The Government emphasised the marked growth of information about the internal operations of Government available to Parliament and the public as a result of Next Steps and argued that the creation of Agencies made accountability “more effective” through enhanced transparency in Government.<sup>3</sup> Mr Waldegrave described the previous arrangements for Ministerial replies on operational matters as “a fiction”, a view which has also been expressed by another Minister.<sup>4</sup> The Government saw the new arrangements as an improvement on previous practice, because a Member of Parliament had an opportunity both to receive a reply from the responsible civil servant and to seek a reply from a Minister if he remained dissatisfied.<sup>5</sup> Mr Waldegrave added that it was important that a Minister or his office scanned replies to ensure that issues were not emerging which related to policy.<sup>6</sup> The Government also challenged the notion that responsibility in practice was too diffuse, Mr Waldegrave considering that it was perfectly possible under the present arrangements for an Agency Chief Executive to be dismissed if he made “a pig’s ear of managing the Agency”.<sup>7</sup> With regard to the criticism that Agency Chief Executives were unable to comment on their resource levels, Mr Michael Bichard did not believe that an Agency Chief Executive would be able to retain his credibility if he criticised the resources framework within which he was required to operate.<sup>8</sup> The Government saw no case for giving statutory form to the relationship between Ministers and Chief Executives, believing the general quality of agreements reached between Departments and Agencies was “levelling up”.<sup>9</sup> The Inland Revenue’s Management Plans for 1994-95 to 1996-97 include for the first time a purchaser/provider contract, agreed with the Financial Secretary to the Treasury, setting out the operational targets and objectives which the Department is expected to meet in the year 1994-95 in return for the resources provided to it. The Chairman of the Board of Inland Revenue considered this to be “an important development”; although targets were not new, the contract formalised them in a new way. It would provide a firmer basis for accountability. The Inland Revenue was “pioneering a contract” of this kind within the British Civil Service.<sup>10</sup> Mr Waldegrave commended this endeavour, which he expected other Departments to follow.<sup>11</sup>

#### (iv) Conclusions

168. In its initial study of the Next Steps initiative the then Treasury and Civil Service Committee observed that “it is essential that change on this scale is not only carefully considered and expertly implemented, but also carries with it the enthusiasm both of civil servants themselves, at all levels, and of those outside the Civil Service—the general public and their representatives on both sides of the Commons”.<sup>12</sup> Although the Government’s wider programme of reforms in the Civil Service is a matter of considerable controversy for reasons we explore elsewhere, we are struck by wide level of support for and acceptance of the Next Steps programme and the common view that it has facilitated a genuine improvement in the quality of some public services.<sup>13</sup> It has been argued that, while some particular changes which have taken place might have happened without the establishment of Agencies, the overall transformation in Government would not have been brought about without Next Steps.<sup>14</sup> We agree. **We believe that Next Steps Agencies represent a significant improvement in the organisation of**

1 HC Deb., 4 May 1994, col. 549w.

2 Cm. 2627, para. 2.29.

3 QQ965 (Mr Richard Mottram), 996, 1037-1038, 2435 (Mr Waldegrave), 1365, 2104 (Sir Robin Butler).

4 Q1909 (Mr Waldegrave); Minutes of Evidence taken before the Home Affairs Committee on Monday 19 April 1993, *The Prison Service*, HC (1992-93) 612-i, Q44 (Mr Peter Lloyd).

5 QQ1366 (Sir Robin Butler), 2255 (Mr Michael Bichard), 1909-1910, 2436 (Mr Waldegrave).

6 Q1910.

7 Q42.

8 QQ2233-2234.

9 QQ2438-2441 (Mr Waldegrave).

10 *Inland Revenue Management Plan 1994-95 to 1996-97* (Inland Revenue, 1994); HC (1993-94) 27-II, p. 249 (Inland Revenue); QQ2259-2261 (Sir Anthony Battishill).

11 QQ2438-2441.

12 HC (1987-88) 494-I, para. 1.

13 Q281 (Mr Graham Mather); HC (1992-93) 390-II, p. 286; HC (1993-94) 27-II, p. 74 (Professor Norman Lewis); HC (1993-94) 27-III, pp. 7 (Sir Brian Hayes), 10 (Sir Alan Bailey), 46 (Confederation of British Industry); *Next Steps: Moving On*, paras. 2.3, 7.1.1-7.1.2.

14 QQ360 (Sir Peter Kemp), 2212 (Mr Michael Bichard); Sir Peter Kemp, *Beyond Next Steps*, pp. 20-21.

**Government and that any future Government will want to maintain them in order to implement its objectives for the delivery of services to the public.**

169. However, the success in establishing Agencies is only a means to an end. We believe that the cultural change which lies at the heart of the Next Steps programme must be secured and reinforced. In order to achieve this, changes will be required in the framework within which Agencies are required to operate, although such changes should continue to take account of the immense diversity of Agencies in terms of size and function. Two crucial issues have been raised about Agencies during this inquiry: relations between Departments and Agencies and accountability and responsibility. These two matters are intimately connected. We consider that the delegation of freedom to manage to Executive Agencies has not been as thorough and as complete as is desirable, and that this reflects real uncertainties about the division of responsibilities between Ministers and parent Departments on the one hand and Agencies and their Chief Executives on the other, uncertainties which arise in part from difficulties in identifying and agreeing upon the dividing line between policy and operations. As a solution to these difficulties, it is necessary to base the accountability of Executive Agencies on a distinction which is more tangible: that between decisions made by the Agency and decisions made by the Minister or parent Department. To this end, we recommend that the process of target-setting is replaced by annual performance agreements between Ministers and Agency Chief Executives. The new performance agreements would be different in character from the current target setting process and would have the following characteristics: they would arise from a process of formal negotiation and require the active agreement of the Agency Chief Executive as well as the Minister; they would prescribe a minimum of financial controls, ideally setting a single financial target or laying down unit costs for Agency services; they would be subject to an evaluation at the end of the year to be undertaken by a body outside the Department. Where a Minister or parent Department wished to give an instruction to an Agency on a matter within the terms of the performance agreement, or to request the Agency to carry out work outside the terms of the performance agreement, this should be done in writing and with financial terms specified as appropriate. It would be for the Agency Chief Executive to determine whether such a written instruction was necessary. Although the scope for Ministerial and departmental intervention would not be subject to any enforceable restraint, we believe that this requirement, coupled with proposals below relating to accountability, would represent important restraints on unnecessary interference. We do not think that the introduction of legislation need be necessary for such annual performance agreements. They should be made under the terms of revised framework documents.

170. We support the arrangements for Parliamentary questions on operational matters within the ambit of an Executive Agency to be referred in the first instance to Agency Chief Executives and we welcome the fact that their answers are now published in the Official Report. The extent to which Chief Executives provide answers should, by and large, be seen as a welcome sign of the extent of their devolved responsibilities and need not of itself be a cause for concern. We nevertheless regard it as important that Ministers maintain an engagement with individual cases raised by way of Parliamentary questions. We suspect that the scope for active Ministerial involvement in individual cases raised in this manner under the previous arrangements would not be universally regarded as "a fiction". We believe that Ministerial intervention will sometimes be desirable, particularly in individual cases, and is a necessary part of a Minister's role. Ministers should always respond where Members of Parliament consider the response by an Agency Chief Executive to be unsatisfactory.

171. We do not believe that Ministerial power to intervene in the actions and decisions of Agencies justifies the retention of Ministerial accountability for the actions and decisions of Agencies for which Chief Executives are responsible. The theoretical separation of accountability and responsibility is nowhere more untenable than in the operation of Agencies; continued adherence to the theory behind such a separation might jeopardise the durability of the delegation at the heart of Next Steps. The delegation of responsibility should be accompanied by a commensurate delegation of accountability. We recommend that Agency Chief Executives should be directly and personally accountable to Select Committees in relation to their annual performance agreements. Ministers should remain accountable for the framework documents and for their part in negotiating the annual performance agreement, as well as for all instructions given to Agency Chief Executives by them subsequent to the annual performance agreement. To this end, we recommend that all such instructions should be published in Agency Annual Reports, subject only to a requirement to preserve the personal confidentiality or anonymity of individual clients.

## IX. PRIVATISATION, MARKET TESTING AND CONTRACTING OUT

### (i) *The changing role of Government*

172. At the time of the Fulton Report in 1968, there appeared to be “a wide measure of public agreement about the role of government”.<sup>1</sup> It was possible for the Fulton Committee confidently to describe the continuing expansion of the responsibilities of the State and note a change in the character of the tasks of Government from being “mainly passive and regulatory” to amounting to “a much more active and positive engagement in our affairs”.<sup>2</sup> Any notion of a consensus about the role of Government has subsequently disappeared: the role of the state and the boundaries between the public and private spheres are matters of considerable political and public debate.<sup>3</sup> It was noted that changing views of the role of the State were likely to entail frequent changes in the tasks of the Civil Service and require flexibility in the Civil Service in consequence.<sup>4</sup> The Conservative Government first elected in 1979 has exhibited a particular concern to question the role of State and to examine whether particular tasks, including those performed by the Civil Service, need to be carried out by the public sector. The programme of efficiency scrutinies initiated by Lord Rayner in 1979 examined whether central government functions needed to be carried out by it.<sup>5</sup> A similar approach was to some extent implicit in the Next Steps programme, the Government stating that “before an Agency is established, alternative options, including contracting out the work and privatisation, will be examined”.<sup>6</sup>

173. It is evident, however, that the Government’s determination to examine such questions in relation to the existing work of the Civil Service has taken on a harder edge in the last couple of years.<sup>7</sup> The basis for this approach was set out by Mr Stephen Dorrell, the then Financial Secretary to the Treasury and Minister responsible for the Government’s privatisation programme. He argued that the Government had a duty on behalf of taxpayers to ask whether services were organised so as to provide the best value for money, including whether the State itself needed to provide the service itself, rather than securing the service in an open market. This involved examining whether a task needed to be carried out by the Government—whether it was part of the “inescapable core of Government”—and, if so, “what model of provision will best deliver the objectives of the organisation”. He considered this concern for maximising the long-term efficiency of the State to be “an enduring one”.<sup>8</sup> Mr Waldegrave also emphasised the value of this approach and the fact it was shared with Governments in other countries.<sup>9</sup> The key questions implied by this approach are seen by the Government as being: “Does the job need to be done at all? ... If the activity must be carried out, does the Government have to be responsible for it? ... Where the Government needs to remain responsible for an activity, does the Government have to carry out the task itself? ... Where the job must be carried out within Government is the organisation properly structured and focused on the job to be done?”<sup>10</sup> These questions are raised in various contexts, including the programmes we consider below and the Government’s fundamental expenditure reviews.<sup>11</sup> The validity of the Government’s general approach was endorsed by others. Sir Kenneth Stowe considered that “Government and the Civil Service should do, and has the best chance of doing well, what Government alone can and must do”.<sup>12</sup>

174. The Government’s approach in practice was, however, subject to criticism. The Council of Civil Service Unions believed that the Civil Service as it stood represented “a core of the public service” and did not see any justification for adjusting the current boundaries dramatically “other than as part of an exercise in political dogma”.<sup>13</sup> Others detected an underlying confusion in the Government’s approach, arguing that the aims of reducing public expenditure,

1 *The Civil Service: Vol 5(2): Proposals and opinions: Parts 3 and 4: Organisations and Individuals*, p. 1086 (Mr (now Sir) William Ryrie).

2 Cmnd. 3638, para. 7.

3 HC (1993-94) 27-III, p. 37 (Mr Nevil Johnson); Q332 (Professor Peter Hennessy).

4 HC (1993-94) 27-III, p. 98 (Professor Gavin Drewry and Dr Philip Giddings).

5 HC (1979-80) 712-II, pp. 46, 50, 56 (Sir Derek Rayner).

6 Cm. 524, p. 7.

7 Q935 (Mr Richard Mottram).

8 QQ1148-1152, 1168, 1172, 1175-1176, 1200-1201, 1224.

9 QQ37, 1129.

10 Cm. 2627, para. 2.25.

11 HC (1993-94) 390-II, p. 259 (HM Treasury). On the fundamental reviews, see also HC (1993-94) 87, para. 72.

12 HC (1993-94) 27-II, p. 113 (Sir Kenneth Stowe); HC (1993-94) 27-III, p. 83 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King).

13 QQ453, 456 (Mr Charles Cochrane).

improving quality and reducing the role of the State were not as consistent as the Government appeared to imply.<sup>1</sup> Professor Norman Lewis argued that the fundamental flaw in the Government's approach was that it had not identified the nature or characteristics of "core government". He commended the approach adopted in the United States of America, where the Federal Government had identified "inherently Government functions". He believed that the Government's questions should be accompanied by avowed criteria for deciding upon the answer, to overcome the impression that "there exists no principled clarity in the way the options are being discussed".<sup>2</sup> He considered the provisions of the Deregulation and Contracting Out Bill, which set three categories of Government activity which could not be contracted out, to be inadequate.<sup>3</sup> Charter 88 found the Government's approach to be "alarming" and called upon politicians in all parties to build a new consensus on what the State should provide.<sup>4</sup>

175. The Government was profoundly sceptical about such an approach. While Government witnesses agreed that there was "a certain spinal cord of State which cannot be under the private sector" and pointed to functions of this spinal cord, such as "judicial functions, regulatory functions, the exercise of high level discretion on behalf of Ministers, in support of Ministers, anything that infringes the liberty of the subject ... the direct application of armed force", they emphasised that views on the nature and parameters of such core functions changed over time.<sup>5</sup> Mr Dorrell emphasised that such decisions were ultimately for the Government of the day "as the electorate's representatives".<sup>6</sup> Mr Waldegrave believed it would be "futile" and "a waste of philosophical effort" to attempt to set out an enduring description of "the inalienable core" which had to remain in the public sector. The attempt to do so in the USA he considered "ridiculous".<sup>7</sup> Others supported the contention that any attempt to set out the core tasks of the Civil Service would be impracticable, because the question was fundamentally political and the answers would change with the outlook of the Civil Service's political masters.<sup>8</sup>

*(ii) Privatisation and prior options*

176. In her statement to the House of Commons announcing the launching of the Next Steps initiative in February 1988 the then Prime Minister said that "These agencies will generally be within the Civil Service, and their staff will continue to be civil servants".<sup>9</sup> In this, the Government was distancing itself from the emphasis in the original Next Steps Report, which noted that an agency "may be part of Government and the public service, or it may be more effective outside Government".<sup>10</sup> Our predecessors nevertheless confessed to being slightly confused as to whether the Next Steps programme was distinct from the privatisation programme. The then Committee stressed the need to avoid uncertainty in individual cases: "If an announcement that part of a Department is to become an Agency is greeted by suspicions that it might later be privatised, such uncertainty could well damage efforts to improve efficiency and the quality of service. If the organisation is to be privatised, it should be made clear at the outset that this is so".<sup>11</sup> In reply the Government said that "Next Steps ... is primarily about those activities which are to remain within Government. Although it cannot be ruled out that after a period of years Agencies, like other government activities, may be suitable for privatisation, the Government agrees that uncertainty should be avoided and that where there is a firm intention of privatisation when an Agency is being set up, this should be made clear".<sup>12</sup> In a subsequent Report the then Committee reiterated that "it is vital when establishing an Agency to avoid any uncertainty as to whether its future lies in the public or the private sector".<sup>13</sup> The Government again stressed that Agencies remained subject to the Government's policy on pri-

1 HC (1993-94) 27-III, p. 83 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King).

2 HC (1992-93) 390-II, pp. 286, 289; HC (1993-94) 27-II, pp. 75-76. See also HC (1992-93) 390-II, p. 295 (Ms Elizabeth Mellon).

3 Q1521. See also QQ1529-1530 (Mr Charles Cox).

4 HC (1993-94) 27-III, p. 112.

5 QQ1328-1332 (Sir Peter Levene), 960-964 (Mr Richard Mottram), 1131 (Mr Waldegrave), 1177 (Mr Dorrell), 2193 (Mr Michael Richard), 2257-2258 (Sir Anthony Battishill).

6 QQ1177-1178.

7 QQ2515, 2556, 1867.

8 HC (1993-94) 27-II, pp. 113, 117 (endnote 7) (Sir Kenneth Stowe); HC (1993-94) 27-III, pp. 7 (Sir Brian Hayes), 92 (Mr Timothy Hornsby).

9 HC (1987-88) 494-II, p. 4 (OMCS).

10 *Improving Management in Government: The Next Steps*, paras. 19, 24.

11 HC (1987-88) 494-I, para. 33.

12 Cm 524, p. 7.

13 HC (1988-89) 348, para. 65.

atisation and this option, along with other options, "would be considered before an Agency is established".<sup>1</sup>

177. Since then, the Government's emphasis has changed as the privatisation programme affects more Civil Service functions. In 1993 the then Financial Secretary to the Treasury, Mr Dorrell, undertook a round of bilateral discussions with colleagues on privatisation, examining possibilities for the restructuring of services and for the transfer of existing services to the private sector.<sup>2</sup> This led to the decision to privatise Forward, the Civil Service catering organisation, "because there does not seem to be any good reason for the Treasury to be in the sandwich-making business", and the initial decision to privatise one Executive Agency, the Driver Vehicles and Operators Information Technology Agency.<sup>3</sup> Subsequently, the Government announced its intention to transfer to the private sector organisations such as "the Crown Agents, the Electrical Equipment Certification Service, the Transport Research Laboratory, the Laboratory of the Government Chemist and the National Engineering Laboratory."<sup>4</sup> The Warren Spring Laboratory, which was formerly an Agency, has been merged with part of the Atomic Energy Authority and is being considered for privatisation in that context.<sup>5</sup> The rationale for the Government's privatisation programme remains the same as in 1979: a belief that the activities privatised would benefit from being subject to private sector management disciplines rather than political control.<sup>6</sup>

178. Each Agency is subject to review, normally around three years after establishment, and this review includes reconsideration of prior options, including whether the Agency should be abolished or privatised.<sup>7</sup> The Next Steps Project Manager believed that "prior options" were considered in a stricter and more rigorous manner than had been envisaged in 1988.<sup>8</sup> Mr Waldegrave said that it was worthwhile in such reviews to consider whether there was a case for privatising an Agency or contracting out some of its work. Privatisation could be justified if a service could be provided with better cost effectiveness in the private sector or if an Agency was operating in a competitive market. Under any arrangement it would be necessary "to guarantee that the service you required could be guaranteed".<sup>9</sup> This process has led to decisions that some Agencies should be privatised. In other cases, such as the Queen Elizabeth II Conference Centre, the Government has decided that there would be no immediate change in status, but that the management should be the subject of a market test.<sup>10</sup> The process of prior options has been criticised for its impact on Agencies. According to the Trosa Report, while a minority of Agency Chief Executives actively seek privatisation, for most, the prospect of privatisation is seen as "a constant threat that prevents them from doing their job properly". The Report concluded that "while Agencies should not be able to regard themselves as exempt from wider Government priorities, if they feel constantly under threat of privatisation, their performance will inevitably suffer as they are forced to spend a large part of their time trying to defend their very existence".<sup>11</sup> The Council of Civil Service Unions eloquently condemned the Government's approach as an effective abandonment by the Government of the unspoken agreement about the status of Agencies which was the prerequisite for union support for the Next Steps initiative.<sup>12</sup> The Transport Committee has recently examined the Government's case for privatising the Transport Research Laboratory and remains to be convinced by it.<sup>13</sup>

179. Mr Waldegrave acknowledged that a balance had to be struck between the gains and the losses of keeping Agencies under pressure. He considered that once an Agency had been reviewed a couple of times with its status unaltered, the review would become "increasingly a matter of just ticking the boxes, as it were, and saying, 'Well, we really do not need to go over all that again'".<sup>14</sup> Subsequently, the Government has decided to change the frequency of reviews from three to five years to "provide a more stable framework in which Departments

1 Cm. 841, p. 9.

2 HC (1992-93) 390-II, p. 259 (HM Treasury); Q1148 (Mr Stephen Dorrell).

3 Q1170 (Mr Stephen Dorrell). DVOIT has subsequently been sold to EDS-Scicon, Q2576 (footnote) (Mr Waldegrave).

4 Cm. 2627, para. 2.25.

5 Q2576 (footnote) (Mr Waldegrave).

6 QQ1167, 1169, 1197 (Mr Stephen Dorrell).

7 HC (1992-93) 390-II, p. 206 (OPSS), Q39 (Mr Waldegrave).

8 Q899 (Mr Richard Mottram).

9 QQ2431-2433.

10 HC Deb., 22 March 1994, col. 126w.

11 *Next Steps: Moving On*, paras. 3.2.7, 3.2.11.

12 Q497 (Mr John Ellis). See also HC (1993-94) 27-II, p. 101 (Mr John Garrett).

13 HC (1993-94) 137-I, paras. 17-28, 42-46.

14 Q2434.

and Agencies will be able to plan ahead to improve performance".<sup>1</sup> This reflected a judgement by the Government that there was a danger of "perpetual review" in which circumstances the review process might become "formulaic".<sup>2</sup> In assessing this process, we are not concerned with examining the merits and demerits of privatisation in particular cases, but we are concerned about the wider impact of prior options reviews on the Next Steps initiative. The Transport Committee has recently observed that "the enthusiasm of organisations to obtain Agency status, and the greater administrative and budgetary autonomy which that implies, might be diminished if it were to become clear that Agency status is not permanent but rather a temporary staging post before transfer to the private sector".<sup>3</sup> We believe that similar observations could be made in respect of existing Agencies. It would be ironic if the single most successful Civil Service reform programme of recent decades came to be regarded by the Government which initiated it simply as a transitional phase. We believe that the value of Agency status as an instrument for improving efficiency and quality of service in the Civil Service would be considerably reduced if Agency status came to be seen principally as a staging post to the private sector. We welcome the Government's decision to make reviews of Agency status less frequent, but believe it to be important, where appropriate, for such reviews to result in positive assertions of the value of particular Agencies remaining in the Civil Service.

*(iii) The Competing for Quality programme: the arguments of principle*

180. The Competing for Quality programme was launched by the Government in November 1991 as part of the Citizen's Charter initiative.<sup>4</sup> The programme is based on the proposition that "competition is the best guarantee of quality and value for money ... Competition does not mean invariably choosing the cheapest service: it means finding the best combination of quality and price which reflects the priority of the service".<sup>5</sup> It proceeds principally through a process of market testing "to establish for activities where it is possible for them to be performed either by public servants or by the private sector, which alternative represents the best long-term value for money".<sup>6</sup> Previous experience of market testing central Government activities led the Government to expect savings in the region of 25 per cent, even when an in-house bid was successful.<sup>7</sup> The Government made it clear that Departments which achieved savings would be able to apply them for the benefit of their programmes.<sup>8</sup> But the programme was seen as having other advantages: "focusing on performance outputs will produce clearer standards and improved quality of service; [there will be] an explicit customer/supplier relationship; external and in-house bidders will be given the opportunity to be more innovative in their field; and monitoring of contracts and service level agreements will focus on the outputs, objectives and targets required in improving the efficiency and effectiveness of targets".<sup>9</sup> The principles of the Government's programme were supported by others in evidence. Sir Peter Kemp believed that the original idea was one that nobody could seriously object to: the idea of "shopping around" with the presumption that civil servants do not "have any right to a job if it can be shown that somebody else can do it better or cheaper or whatever".<sup>10</sup> Professor Norman Lewis saw clear advantages in the application of the purchaser/provider split to central Government services, including a better concentration by Government on "the business of governing", a reduction in "political interference" and a resolution of a conflict of interests.<sup>11</sup> The Confederation of British Industry also supported the programme as an endeavour "to sharpen the focus of the Civil Service on its 'core' activities", pointing to parallel developments in business.<sup>12</sup>

181. Other evidence questioned the validity of the assumptions underlying the Government's Competing for Quality programme. The Civil Service unions saw the programme as being "dogma driven", questioning its long-term impact on both quality and

<sup>1</sup> Cm. 2627, para. 3.22.

<sup>2</sup> Q2575 (Mr Waldegrave).

<sup>3</sup> Fifth Report from the Transport Committee, *The Government's Expenditure Plans for Transport 1993-94 to 1995-96*, HC (1992-93) 772, para. 26.

<sup>4</sup> *Competing for Quality: Buying Better Public Services*, Cm. 1730; HC Deb., 18 November 1991, cols. 25-27.

<sup>5</sup> Cm. 1730, p. 1.

<sup>6</sup> Q900 (Mr Richard Mottram).

<sup>7</sup> HC Deb., 18 November 1991, col. 25; Cm. 2101, p. 59.

<sup>8</sup> Cm. 1730, p. 9, HC Deb., 1 July 1994, col. 759w.

<sup>9</sup> *The Government's Guide to Market Testing* (Efficiency Unit, 1993), para. 1.4.

<sup>10</sup> QQ369-370.

<sup>11</sup> HC (1992-93) 390-II, p. 286.

<sup>12</sup> HC (1993-94) 27-III, p. 46.



efficiency.<sup>1</sup> It was argued that the programme did not take sufficient account of the intangible benefits of the Civil Service ethos and the different values and objectives of the private sector. The programme would undermine public service values, including impartiality, integrity and confidentiality, and the wider commitment to public service rather than private gain.<sup>2</sup> Others also expressed concern that competitive measurement of Civil Service work could not capture the cultural advantages inherent in the Civil Service, including its commitment to equity of treatment.<sup>3</sup> Others contended that the purchaser/provider split imposed excessive rigidity on public services not amenable to such a simple division.<sup>4</sup> Concern was raised about the consequent loss of coherence in the Civil Service and the dissipation of skills and expertise required if the Civil Service was to retain its capacity to carry out functions if outside contractors failed. Contracting out was a one-way street: once a particular function and the associated skills and capacity had left the Civil Service, it was probably gone forever.<sup>5</sup> Finally, drawing on experience in local government, the Government's expectations about the long-term levels of savings arising from the programme were questioned.<sup>6</sup>

182. The Government doubted the force of some of these objections. While the Government did not deny that it was "extremely unlikely" that an activity, once contracted out, would return to the Civil Service, subject to the continuance of a competitive market, its guidance states that "in some cases, Departments and Agencies may want to retain a strategic proportion of a particular service in-house" to preserve operational expertise and continuity, although "in most cases, and particularly where support services are involved, it is expected that Departments and Agencies will market test the provision of the whole activity".<sup>7</sup> The Government did not concede that there was any particular difficulty in putting ethical requirements, such as confidentiality and equity of treatment, in contracts with the private sector,<sup>8</sup> a view shared by Sir Peter Kemp.<sup>9</sup> Mr Charles Cox, an Executive Director of Hoskyns plc, which has competed successfully for contracts under the programme, did not see a fundamental difference between a contractual requirement on a company to perform an activity to certain standards, reinforced by the commercial necessity to provide the best service to retain the work, and the requirements placed on civil servants, although he believed that there might be certain work not amenable to contractual requirements in this way.<sup>10</sup>

*(iv) The management of the market testing programme*

183. In addition to discussion of the merits and demerits of the Competing for Quality programme, much evidence focused on the operation of the programme in its first "year", the period 1 March 1992 to 30 September 1993. The Efficiency Unit was responsible for agreeing the overall targets across Government, although primary responsibility for developing programmes rested with individual Departments.<sup>11</sup> Despite this theoretical position, one of the main criticisms of the programme was that pressure on Departments to contribute to the centrally co-ordinated programme had undermined the autonomy of Agency Chief Executives. The Trosa Report noted concern that the implementation of market testing had been "too centralist and has not always taken account of the management coherence of an Agency".<sup>12</sup> A former Permanent Secretary echoed this view.<sup>13</sup> Ms Elizabeth Mellon saw a tension between two different policy strands, the delegation of responsibility and the stress on markets and competition: "We are failing to grasp either policy fully and see it through to its logical conclusion. Hence we are swinging between 'freedom to manage' ... and 'freedom to choose' (complex and administratively constructed markets full of contradictions and driven by

1 QQ1762 (Mr Barry Reamsbottom), 1765 (Mr Bill Brett and Mr John Sheldon).

2 HC (1992-93) 390-II, pp. 105-107 (Council of Civil Service Unions); QQ427 (Mr John Ellis), 1755 (Mr Barry Reamsbottom), 1776 (Mr Bill Brett). See also HC (1993-94) 27-III, pp. 74-75 (Inland Revenue Staff Federation), 123-124 (Mr Barry O'Toole).

3 QQ303, 310 (Professor Peter Hennessy); HC (1992-93) 390-II, p. 295 (Ms Elizabeth Mellon).

4 HC (1993-94) 27-III, pp. 67 (Professor John Stewart), 85 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King).

5 HC (1993-94) 27-III, pp. 29-30 (Dr Geoffrey K Fry), 13 (Dr Peter Barberis); HC (1992-93) 390-II, p. 107 (Council of Civil Service Unions).

6 HC (1992-93) 390-II, p. 107; HC (1993-94) 27-III, p. 66 (Professor John Stewart).

7 QQ1322-1326 (Sir Peter Levene); *The Government's Guide to Market Testing*, paras. 1.9, 3.8.

8 QQ1132-1133 (Mr Waldegrave), 2256 (Sir Anthony Battishill).

9 QQ408-411.

10 QQ1530-1534.

11 Cm. 2101, p. 59; HC (1992-93) 390-II, pp. 307, 306 (Efficiency Unit); QQ1265, 1334 (Sir Peter Levene).

12 *Next Steps: Moving On*, paras. 6.2.5-6.2.7.

13 HC (1993-94) 27-III, p. 40 (Sir Peter Lazarus).

central fiat)".<sup>1</sup> Sir Peter Kemp did not see any logical contradiction between Next Steps principles and market testing, but did warn that if market testing "becomes an ideological affair that is done for its own sake, because it is thought good in itself ... I think it would cut across the Agency concept".<sup>2</sup> The Government denied that there was a conflict either in principle or in practice. Agencies constituted a large part of the Civil Service and could reasonably be expected to participate in central policies and initiatives. It was reasonable to expect Agencies to test the value of their activities; it was likely that Agency Chief Executives would wish to embrace market testing; Agency Chief Executives retained discretion about their market testing programmes, subject to their accountability to departmental Ministers.<sup>3</sup>

184. The market testing programme was based on the principle of "a level playing field", with equal opportunities for the public and private sectors to compete and no presumption about the outcome.<sup>4</sup> The then Chancellor of the Exchequer stated in the original White Paper that the Government had "no dogmatic preference" for either the public or private sector.<sup>5</sup> The extent to which this ideal was reflected in practice was questioned both by private sector participants in the programme and by the Civil Service unions. Mr Charles Cox believed that "a level playing field" was neither possible nor necessary. Both sides had advantages and disadvantages in a competition, just as there were varying competitive advantages within the private sector.<sup>6</sup> He was concerned, however, at a number of aspects of the programme which hindered the private sector and assisted an in-house bidder. Drawing on experience in a number of competitions for Information Technology contracts, he argued that specifications were too rigid to provide the basis for the levels of change required to deliver significant efficiency and cost savings, being excessively reliant on the way a task was currently carried out, overemphasising process rather than output and limiting the scope for innovation over the life of a contract.<sup>7</sup> Another competitor shared this view, believing that the Civil Service managers lacked the relevant commercial expertise which led to "a prescriptive tendering system which fossilises the *status quo*".<sup>8</sup> The advantages of in-house bidders over private sector competitors were highlighted: outside contractors were subject to enforceable legal contracts, which might include penalty clauses, whereas successful in-house bidders were not subject to equivalent legal sanctions;<sup>9</sup> private sector bidders had to include the cost of preparing a bid and of carrying the cost of unsuccessful bids in a contract price while in-house teams were not required to take account of the costs of a bid;<sup>10</sup> in-house bidders would have access to more information about the service required.<sup>11</sup> Mr Cox was also concerned that, in preparing tenders, the Government did not take sufficient account of employment implications, in that an outside contractor would inherit the defeated in-house staff in a field with declining staff levels, creating problems both of morale and likely redundancy costs.<sup>12</sup> In conclusion, he considered that there was a level of "disaffection" and "disenchantment" about the programme in industry which could threaten its success in delivering the expected benefits.<sup>13</sup>

185. The Civil Service unions viewed the problems of the market testing programme from a somewhat different perspective. They argued that prospects for competition were vitiated by the Government's "severe bias in favour of private provision".<sup>14</sup> Staff were not trained properly in how to produce an in-house bid, and were given little assistance in compiling the bid.<sup>15</sup> In-house teams were required to comply with Civil Service guidance on equal opportunities and programmes of action for women, ethnic minorities and disabled people, whereas bidders from outside were not, representing "a distinct disadvantage" for Civil Service bidders.<sup>16</sup> Sir Peter Lazarus also feared that market testing might work against the Civil Service because of

1 HC (1992-93) 390-II, p. 293.

2 QQ369-371, 379.

3 HC (1992-93) 390-II, p. 206 (OPSS); QQ38 (Mr Waldegrave), 40 (Mr Waldegrave, Mr Robert Jackson and Mr Richard Mottram), 905 (Mr Richard Mottram), 1312-1313 (Sir Peter Levene).

4 QQ907, 910 (Mr Richard Mottram), 1126-1127 (Mr Waldegrave).

5 Cm. 1730, p. ii.

6 HC (1992-93) 390-II, p. 324, QQ1541, 1557.

7 HC (1992-93) 390-II, pp. 324, 325; QQ1536-1538, 1562-1563.

8 HC (1993-94) 27-III, pp. 138-139 (Mr John Jack); emphasis in original.

9 HC (1992-93) 390-II, pp. 324-325; QQ1541, 1555 (Mr Charles Cox).

10 HC (1992-93) 390-II, p. 325; QQ1541, 1551-1552 (Mr Charles Cox).

11 HC (1993-94) 27-III, pp. 46-47 (Confederation of British Industry).

12 HC (1992-93) 390-II, pp. 325-326; Q1540.

13 HC (1992-93) 390-II, p. 323; Q1535.

14 HC (1992-93) 390-II, p. 105.

15 *ibid.*, p. 108; Q437 (Mr John Ellis).

16 HC (1992-93) 390-II, p. 108; Q437 (Ms Frances Kilvington).

the presumption in Government that the private sector was necessarily better or more efficient than the public sector.<sup>1</sup>

186. In responding to these criticisms, the Government did not dispute that the Civil Service and private sector bidders each had particular advantages and disadvantages.<sup>2</sup> Sir Peter Levene thought that “the fact we have companies who are complaining that the in-house teams have an unfair advantage and in-house teams complaining that companies have an unfair advantage means maybe the balance is about right”.<sup>3</sup> The Government did not deny there had been problems with over-prescriptive tenders, but believed such problems were being overcome as Departments gained more experience of competitive tendering and specifications became more broadly based.<sup>4</sup> Some of the advantages of the Civil Service teams were inherent in their position in the Civil Service. In-house teams could not be made the subject of binding contracts because of the indivisibility of the Crown which made legal action within or between Departments impossible. Non-performance could lead to a service level agreement with an in-house team being terminated, and Government guidance specified that care should be taken to ensure that external bids were not unduly disadvantaged by the demand for performance bonds not required of the in-house bid.<sup>5</sup> The Government did not believe it appropriate for the costs of preparing an in-house bid to be taken into account in preparing a bid; they were sunk costs, incurred regardless of the success of the bid.<sup>6</sup> The Government rejected the implication that contracting out was being used to “off-load staff” to the private sector in anticipation of their being made redundant.<sup>7</sup> It also rejected the main criticisms of the Civil Service unions. It denied that the requirement to adhere to Civil Service equal opportunities policies put in-house teams at a competitive disadvantage.<sup>8</sup> More generally, it pointed to the success of in-house teams during the 1992-93 programme. In previous years only about a third of competitive tenders in central Government were awarded to in-house teams.<sup>9</sup> In 1992-93, where in-house teams competed, they won about 57 per cent of the work by value. In-house teams were successful in 147 out of 229 competitions with an in-house bid and the Government characterised many of these as innovative and of high quality.<sup>10</sup>

187. In the period up to 30 September 1993 the Government set itself the target of market testing activities valued at £1,449 million and involving over 44,000 civil servants.<sup>11</sup> When asked in July 1993 whether he expected the market testing of 44,000 civil servant jobs to be completed by the end of September, Mr Waldegrave replied “just about”.<sup>12</sup> In fact, by the end of September 1993, tests had only been completed for activities valued at £726 million and involving 16,300 staff,<sup>13</sup> although by the end of the calendar year the Competing for Quality exercise had been completed in respect of activities with a pre-test value of £1,119 million.<sup>14</sup> The Government advanced various reasons why it had fallen short of its original “challenging goals”, including the need for revision of activities for market testing because of statutory obstacles to contracting out and “a rather unnecessary shemozzle” about the application of the Transfer of Undertakings (Protection of Employment) Regulations.<sup>15</sup> Sir Peter Levene referred to the “ambitious” nature of the original target and pointed to the lack of relevant past experience in some Departments.<sup>16</sup> Sir Robin Butler, while not involved in advising on the targets, saw value in setting ambitious targets to encourage staff to even greater effort.<sup>17</sup> While admitting to “optimism” in July 1993, Mr Waldegrave emphasised his dependence upon returns from Departments, whose work did not accelerate thereafter as had been expected. He believed that momentum had been established and argued that “it does not actually matter whether it is done by September or November”. He thought that the Government was in the early part of a

1 HC (1993-94) 27-III, p. 40.

2 QQ907 (Mr Richard Mottram), 1974 (Mr Waldegrave).

3 Q1311.

4 QQ910, 913, 1980 (Mr Richard Mottram), 1310 (Sir Peter Levene); HC (1993-94) 27-II, p. 162 (OPSS).

5 HC (1993-94) 27-II, pp. 161, 162 (OPSS).

6 *ibid.*, pp. 161-162 (OPSS).

7 *ibid.*, p. 162 (OPSS).

8 QQ910, 911 (Mr Richard Mottram); HC (1992-93) 396-II, p. 230 (OPSS).

9 HC (1992-93) 390-II, p. 230 (OPSS).

10 HC Deb., 4 November 1993, col. 527; Cm. 2540, p. 93; QQ1296, 1307 (Sir Peter Levene).

11 Cm. 2101, pp. 59-64.

12 Q1123.

13 HC (1993-94) 27-II, p. 163 (OPSS). These figures are slightly higher than the provisional figures given in the statement to the House in November, HC Deb., 4 November 1993, col. 526.

14 Cm. 2540, p. 101.

15 Cm. 2540, p. 95; Q1942 (Mr Waldegrave).

16 QQ1301, 1310.

17 QQ1426-1433.

learning curve up which it would subsequently rise steeply.<sup>1</sup> Others were more critical of the performance of the 1992-93 programme. The Civil Service unions saw the failure to deliver on the original target as symptomatic of the problems of a programme which was “dogma driven”.<sup>2</sup> Mr Cox attributed it to a lack of relevant expertise in the Civil Service and the linked disenchantment with the programme in industry.<sup>3</sup>

188. Even though the full programme for 1992-93 was not completed by the end of 1993, the Government pointed to substantial savings arising from the programme. By the end of September 1993, it had led to savings of approximately £100 million.<sup>4</sup> By the end of December 1993, the programme was said to have produced savings of at least £135 million, a figure which did not include savings from some contracts which were new or still the subject of negotiation. The overall average saving compared with the previous cost of the activity was over 22 per cent. The Government stated that the overall *annual* cost of supporting the programme amounted to just under £20 million, which it considered implied a good return for the taxpayer on the investment in the programme.<sup>5</sup> The total costs of supporting the programme in the period 1 April 1992 to 31 December 1993 was slightly over £49 million, but the Government had annualised these and anticipated subsequent costs over a ten year period, an approach considered reasonable by the head of the Government Accountancy Service.<sup>6</sup> Mr Waldegrave pointed out that the estimated savings were relatively conservative, because they did not make assumptions about further savings in subsequent market tests.<sup>7</sup> The Civil Service unions were very sceptical about the claimed level of savings, suggesting that the Government had understated the costs associated with the programme.<sup>8</sup> The Government sought to refute these suggestions.<sup>9</sup> Mr John Garrett was also sceptical about the Government’s claims on savings, suggesting that the costs of subsequent tendering exercises might have been underestimated.<sup>10</sup>

189. The Government has established a new programme for 1993-94 to expose to competition activities valued at £830 million and involving 35,000 staff. This is in addition to the outstanding element of the 1992-93 programme which Departments are expected to complete. In staff terms, this 12-month target was seen by the Government as more challenging than the 18-month programme for 1992-93.<sup>11</sup> Mr Waldegrave said that he would “be very disappointed” if the Government did not get “very near” to the £800 million target. The Government was learning from experience and running cost restraint ensured Departments did not lack incentives.<sup>12</sup> In the White Paper on the Civil Service the Government announced that the privatisation and Competing for Quality programmes would in future be subject to “less detailed central oversight”. Departments will now have greater freedom and flexibility to combine policies of competing for quality and privatisation in “a coherent package”.<sup>13</sup> Mr Waldegrave firmly rejected the notion that this change amounted to an acknowledgement of the ineffectiveness of the central direction of these programmes up to that point, believing it to be a logical development as the Competing for Quality programme gathered momentum. While Departments were theoretically free to abandon market testing, he considered it “implausible” to suggest that they would wish to do so.<sup>14</sup>

190. In addition to this new approach, the Government has sought to respond to private sector concerns about the management of the Competing for Quality programme. Mr Cox had proposed that the Government should establish a forum to bring together policy makers, user Departments and external suppliers to promote greater industry involvement beyond the test process itself.<sup>15</sup> In response, the Government acknowledged the need to improve its efforts to involve the private sector and seek their views on how to address difficulties which arose.<sup>16</sup> A Private Sector Forum has now been established to provide a channel of communication on

1 QQ1942-1956, 1981.

2 Q1762 (Mr Barry Reamsbottom).

3 QQ1525-1526, 1535.

4 HC Deb., 4 November 1993, cols. 526-527.

5 Cm. 2540, pp. 93-94, 101; emphasis added.

6 HC (1993-94) 27-II, p. 164 (OPSS); QQ1970-1972 (Mr Waldegrave).

7 Q1873.

8 QQ1756-1760 (Mr Reamsbottom); HC (1993-94) 27-III, p. 134 (CCSU).

9 HC (1993-94) 27-II, pp. 286-287 (OPSS).

10 HC (1993-94) 27-II, p. 101.

11 Cm. 2540, pp. 95, 103-109; HC Deb., 4 November 1993, col. 527.

12 Q1981-1985.

13 Cm. 2627, paras. 1.4, 3.3, 3.20.

14 QQ2563-2565.

15 HC (1992-93) 390-II, pp. 323, 236; QQ1560-1561. See also HC (1993-94) 27-III, p. 140 (Mr John Jack).

16 HC (1993-94) 27-II, p. 162; QQ1979-1980 (Mr Waldegrave); Cm. 2540, p. 93.

Competing for Quality issues between the private sector, central Departments and other Departments and Agencies, at which individual market tests are not discussed.<sup>1</sup> The Council of Civil Service Unions expressed concern about the possible commercial advantages arising from this Forum and called for guidelines on its operation, a call rejected by the Government.<sup>2</sup>

(v) *Strategic contracting out*

191. The Government's market testing programme is based on the general proposition that "for a genuine value for money test to be applied, in-house teams should have the opportunity to put forward a firm bid on the same basis and timescale as the private sector".<sup>3</sup> However, the original White Paper made clear that there would be circumstances where the Government might take a "strategic decision not to continue as a direct provider", for example because in-house provision might detract from a Department's ability to concentrate on core functions or because the private sector would be better equipped to provide a particular activity due to a better understanding of market needs or specialist expertise. It was also stated in 1991 that there should be a general presumption in favour of contracting out new services.<sup>4</sup> Reporting to the House on the 1992-93 programme on 4 November 1993, Mr Waldegrave said that "in some instances, we took a strategic view that, in future, the work in question should be done by the private sector and not the public sector". On the provisional information then available, he did not consider it would have been helpful to break down information by types of outcome.<sup>5</sup> Subsequent information indicated that, for the period up to 31 December 1993, activities previously valued at £768 million out of a total value of £1,119 million were contracted out with no in-house bid. A total of 113 activities were contracted out as a result of a strategic decision to employ an outside supplier, although £525 million was accounted for by two reviews—the Atomic Weapons Establishment and Inland Revenue Information Technology Services.<sup>6</sup>

192. The Council of Civil Service Unions believed that this information confirmed their contention that "political dogma is driving the programme, not value for money or quality of service considerations". They argued that the level of savings from direct contracting out was lower and that it represented "the most expensive option".<sup>7</sup> Mr John Garrett believed that the extent of strategic contracting out demonstrated how far the programme had become "another vehicle for privatisation".<sup>8</sup> The Government disputed the union claim that strategic contracting out was the most expensive option. Excluding the two largest tests where it was not possible to attribute savings, decisions to contract out without an in-house bid resulted in an average saving of 19.6 per cent, "hardly different enough to the in-house win average of 20.8 per cent to draw any conclusions about relative expense".<sup>9</sup> Mr Waldegrave argued that there were areas such as information technology where the Government could not maintain the investment and expertise necessary to compete effectively with the private sector and from which it was best for the Government to withdraw.<sup>10</sup> The proportion of the 1993-94 programme which such activities would represent could not be predicted in advance.<sup>11</sup>

(vi) *The implications of contracting out for accountability*

193. Concerns were also expressed about the impact of the Competing for Quality programme on accountability. The Civil Service unions argued that contracting out would "dramatically reduce the accountability of service provision to the public and Parliament" by severing the direct administrative link between the providers of the service and Ministers.<sup>12</sup> This concern was shared by others.<sup>13</sup> It was suggested that contracts were not published and so the standards laid down in them were not publicly known.<sup>14</sup> One proposed solution was that all contracts should be subject to Parliamentary proceedings, involving scrutiny by a new Joint

1 HC Deb., 5 July 1994, cols. 125-126w; HC Deb., 12 July 1994, col. 503w.

2 HC (1993-94) 27-III, pp. 134-135 (Council of Civil Service Unions); HC (1993-94) 27-II, p. 287 (OPSS).

3 HC (1992-93) 390-II, p. 306 (Efficiency Unit).

4 Cm. 1730, pp. 10-11, 12.

5 HC Deb., 4 November 1993, col. 526; HC (1993-94) 27-II, p. 186 (Mr Waldegrave).

6 HC (1993-94) 27-II, p. 159 (OPSS); QQ1958-1966 (Mr Waldegrave); Cm. 2540, p. 93.

7 HC (1993-94) 27-III, pp. 133-134.

8 Q1627.

9 HC (1993-94) 27-II, pp. 285-286 (OPSS).

10 Q1867.

11 HC (1993-94) 27-II, p. 287 (OPSS).

12 HC (1992-93) 390-II, p. 106 (Council of Civil Service Unions); Q1776 (Mr Bill Brett); HC (1993-94) 27-III, p. 76 (Inland Revenue Staff Federation).

13 HC (1993-94) 27-III, pp. 67 (Professor John Stewart), 97 (Dr Patricia Greer), 101 (Professor Gavin Drewry and Dr Philip Giddings), 124 (Mr Barry O'Toole).

14 Q1776 (Ms Elizabeth Symons).

Committee and a power for either House to annul a contract.<sup>1</sup> It was also suggested that there were problems relating to the audit of services delivered under contract with Government.<sup>2</sup> The Committee of Public Accounts has stated that “we regard as a matter of fundamental importance the Comptroller and Auditor General’s ability to provide Parliament with information on the way in which Departments have discharged their accountability for activities contracted out and the expenditure so incurred. It is therefore essential that the Treasury make it clear to Departments that the Comptroller and Auditor General must have access to any records held by contractors which relate to their performance of market testing activities, just as he would if the Department were holding such records.”<sup>3</sup> The Comptroller and Auditor General noted that some state auditors had a power “to follow public money wherever it goes”.<sup>4</sup> Some submissions also pointed to the exiguous nature of legal controls over contracts, which they believed remained in the field of private rather than public law.<sup>5</sup>

194. The Government believes that “the accountability of Ministers to Parliament following a market test remains unchanged irrespective of whether an activity is carried out by civil servants or by a private contractor”.<sup>6</sup> Mr Waldegrave has pointed out that Ministers have been accountable for state services provided by the private sector for many years.<sup>7</sup> The Government saw no reason why service standards in a contract should not be in the public domain, subject to the requirements of genuine commercial confidentiality, and drew attention to Government guidance issued under the Code of Practice on Access to Government Information in the spring of 1994 to this effect.<sup>8</sup> This guidance emphasises that contracting out should not lead to a “loss of transparency as to the quality and effectiveness of services delivered” and that “commercial sensitivity should not extend to the concealment of the sort of information about performance or service standards which the public would have if a service were delivered directly by a Department”. It lists information which should normally be made public, including “the identity of a successful tenderer, the nature of the job, service or goods to be supplied, the performance standards set ... [and] the criteria for award of contract”.<sup>9</sup> With regard to audit, Government guidance now states that “Departments and Agencies should ensure that the NAO continues to have access to documents to enable it to carry out financial and value for money audits. Departments and Agencies may themselves hold these documents even though the work has been contracted out. However, where such documents are no longer held by the Department or Agency the NAO will need to have a right of access to the relevant papers and records held by the contractor and this should be provided for in the contract”.<sup>10</sup>

*(vii) Market testing and contracting out: conclusions*

195. The market testing programme has not been conducted effectively by the Government so as to enlist the enthusiastic support of either civil servants or potential private sector contractors. The reduction in the level of central oversight and the greater freedom granted to Departments in the White Paper is welcome. Market testing is likely to be more effective when it is a management tool available to Civil Service managers. We are particularly surprised at the proportion of the 1992-93 Competing for Quality programme in which in-house bids have not been permitted in view of the Government’s own statement that, “for a genuine value for money test to be applied, in-house teams should have the opportunity to put forward a firm bid on the same basis and timescale as the private sector”.<sup>11</sup> We recommend that, in future, all Government Departments should inform Parliament at once of any decision to exclude an in-house bid from a competition, together with the reasons for each decision. We welcome the broad thrust of Government guidance on public access to contract information, but public access need not be the same as public availability. We recommend that Parliament should be informed at the earliest available opportunity of all contracts and service levels agreements reached under the Competing for Quality programme,

<sup>1</sup> HC (1993-94) 27-III, pp. 100-101 (Professor Gavin Drewry and Dr Philip Giddings).

<sup>2</sup> HC (1992-93) 390-II, p. 287 (Professor Norman Lewis).

<sup>3</sup> Fortieth Report from the Committee of Public Accounts, *Ministry of Defence: Competition in the Provision of Support Services*, HC (1992-93) 499, para. 39.

<sup>4</sup> Q1584 (Sir John Bourn).

<sup>5</sup> HC (1993-94) 27-III, pp. 87-88, 88-89 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King); HC (1992-93) 390-II, p. 287 (Professor Norman Lewis).

<sup>6</sup> HC (1993-94) 27-II, p. 190 (Cabinet Office); *The Government’s Guide to Market Testing*, para. 9.21.

<sup>7</sup> HC Deb., 4 November 1993, cols. 529-530.

<sup>8</sup> QQ2512-2514 (Mr Waldegrave and Mr Mottram); HC (1993-94) 27-III, p. 308 (OPSS).

<sup>9</sup> *Code of Practice on Access to Government Information: Guidance Notes*, Part IV, paras. 4, 5, 21.

<sup>10</sup> *The Government’s Guide to Market Testing*, para. 10.7.

<sup>11</sup> HC (1992-93) 390-II, p. 306 (Efficiency Unit).

together with the identity of the successful tenderer, the nature of the job, service or goods to be supplied, the performance standards set and the criteria for the award of the contract.

## X. MANAGING THE POLICY PROCESS

### (i) *The nature and characteristics of the policy process*

196. While the Civil Service performs an immense variety of tasks across the country, responding to the requirements of members of the public, its public image remains dominated by "Whitehall" and by one function above all others—that of tendering policy advice to Ministers. The recent reforms we have considered above have had the welcome effect of helping to redress the balance, placing a new stress on the management of service delivery.<sup>1</sup> Yet this new emphasis on management should not exclude consideration of the policy process, which is itself a management task calling for management skills of a high order.<sup>2</sup> From this inquiry a number of characteristics of the policy process became clear which should be borne in mind in considering its management:

- (i) It requires the gathering of complete, accurate, objective and timely information about current policies and their implementation and about other policy options.<sup>3</sup> This is one of several ways in which the policy process and service delivery are interdependent, for it is principally from those directly concerned with implementing a policy that much information on its operation should come.<sup>4</sup>
- (ii) It requires flexibility and responsiveness, not only because priorities change with Ministers and Governments, but also because the policy process is often driven by external pressures or crises.<sup>5</sup>
- (iii) It involves an often almost continuous interaction with Ministers, determining the line between advice and decision which is not self-explanatory and taking account of Ministerial preferences and priorities.<sup>6</sup>
- (iv) In part to reflect this need, it is, to an increasing extent, an oral process, depending as much upon the Ministerial meeting as upon written submissions from officials to Ministers.<sup>7</sup>
- (v) Despite the level of engagement with Ministers in the policy process, civil servants are expected to endeavour to give objective advice, even if it is unpopular advice, drawing on their professional knowledge and expertise, to complement rather than replicate the Ministerial contribution.<sup>8</sup>
- (vi) It involves the effective and committed implementation of policies determined by Ministers as well as the development of sound policies. It thus engages more civil servants than might be associated with policy advice as such.<sup>9</sup>
- (vii) Finally, like other aspects of Civil Service work, it has considerable diversity.<sup>10</sup>

197. Our predecessors emphasised that the creation of Next Steps Agencies should not create unnecessary discontinuity in the policy process and that Agencies and their managers should have an input into policy making.<sup>11</sup> The Government agreed about the importance of this.<sup>12</sup> Mr Michael Bichard said that "the operational input into policy has improved beyond recognition" as a result of the creation of the Benefits Agency, which was treated as a partner

1 Sir Peter Kemp, *Beyond Next Steps*, p. 17; Q1355 (Sir Robin Butler).

2 HC (1993-94) 27-II, p. 116; Q1681 (Sir Kenneth Stowe).

3 HC (1993-94) 27-II, p. 113; QQ1676-1677 (Sir Kenneth Stowe); Cm. 2627, para 2.4.

4 HC (1993-94) 27-II, pp. 100 (Mr John Garrett), 116; QQ1677, 1681 (Sir Kenneth Stowe), 2264 (Sir Anthony Battishill).

5 HC (1993-94) 27-III, pp. 109 (Sir Brian Cubbon), 131 (Dr Andrew Massey); Q1682 (Sir Kenneth Stowe).

6 HC (1993-94) 27-III, pp. 10 (Sir Alan Bailey), 109 (Sir Brian Cubbon); QQ245, 248 (Mr Christopher Dunabin), 544 (Lord Howe).

7 HC (1993-94) 27-III, p. 108 (footnote) (Sir Brian Cubbon); Q886 (Lord Jenkins).

8 HC (1993-94) 27-III, p. 6 (Sir Brian Hayes); Cm. 2627, para. 2.4; QQ543 (Lord Howe), 2092 (Sir Robin Butler).

9 HC (1993-94) 27-III, pp. 6 (Sir Brian Hayes), 85 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King), 105-106 (Sir Jack Hibbert); *Next Steps: Moving On*, para. 4.8.1 (footnote).

10 HC (1992-93) 390-II, p. 93 (Sir Peter Kemp); HC (1993-94) 27-III, p. 34 (Mr Nevil Johnson).

11 HC (1990-91) 496, para. 40. See also *Making the Most of Next Steps*, p. 23; HC (1992-93) 390-II, p. 322 (Dr Ian Colville and Professor Cyril Tomkins).

12 Cm. 1761, p. 5.

in policy development.<sup>1</sup> This clearly applies in the case of some other Agencies.<sup>2</sup> In some cases, such as the Prison Service Agency, an Agency Chief Executive acts as a Minister's principal policy adviser on a particular policy area.<sup>3</sup>

198. The Civil Service does not, of course, represent the sole source of advice to Ministers, who seek advice from a wide range of sources, including political advisers, whose work is considered below, interest groups and representative bodies and external "think tanks".<sup>4</sup> Some evidence stressed the value and importance of such advice, including that from outside consultants.<sup>5</sup> However, the Civil Service unions were concerned about the apparently unfocused use of consultants in Government, which could be costly and could diminish the store of knowledge within the Civil Service.<sup>6</sup> The Efficiency Unit recently published a study which examined the effectiveness with which money was spent on external consultants by Government Departments and which made recommendations to improve the ways in which Government Departments use consultants in future.<sup>7</sup> Even with the development of external policy advice, there remained widespread agreement that the Civil Service should continue to have a central role to play in the policy process.<sup>8</sup>

(ii) *A case for reform?*

199. While the policy process had particular characteristics which make it different in nature to some other Civil Service functions, Lord Rayner emphasised when he was the Prime Minister's Adviser on Efficiency and Effectiveness that "policy must not be sacrosanct because highly intelligent and educated officials in Whitehall understand it and appreciate its intellectual capabilities".<sup>9</sup> The original Next Steps Report was concerned with "the better delivery of services both to the public *and to Ministers*"; its proposals were designed to enhance the delivery of policies as well as services; it held out the prospect of Ministers and senior civil servants being able to "concentrate on their proper strategic role of setting the framework and looking ahead to plan policy development".<sup>10</sup> In implementing the Next Steps programme, the Government adopted a different approach to that envisaged in the original Report: the Efficiency Unit team had had a top down approach, starting with the core around Ministers; the implementation relied upon a bottom up approach, first identifying functions which could most readily be turned into Agencies. This focus on service delivery and gradual implementation was both understandable and integral to the programme's early success.<sup>11</sup> Nevertheless, a marked feature of this inquiry was the criticism that reform programmes had left policy functions virtually unchanged, anachronistically holding out against the changes which had benefited other functions.<sup>12</sup>

200. This was seen as a matter of concern for several reasons. First, the policy process, and the distribution of resources which forms a part of it, matters profoundly, both in political terms for the Government of the day and for the quality of services delivered to the public. In the view of Sir Brian Cubbon, it was the essential prerequisite for good government.<sup>13</sup> Second, it was argued that changes in the structures of the Civil Service not directly concerned with policy advice were nevertheless bound to have a profound effect on traditional policy-making procedures.<sup>14</sup> It was also suggested by Mr Graham Mather that "it would be very unfortunate if modernisation and competition was seen to be deemed applicable largely to the outer reaches

1 Q2245.

2 HC (1993-94) 27-III, p. 131 (Dr Andrew Massey); *Next Steps: Moving On*, para. 4.8.3.

3 HC (1992-93) 390-II, p. 285 (Professor Norman Lewis); Q984 (Mr Richard Mottram); *Next Steps: Moving On*, para. 4.8.3.

4 HC (1993-94) 27-II, p. 30 (Cabinet Office); HC (1993-94) 27-III, p. 89 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King).

5 HC (1993-94) 27-III, p. 47 (Confederation of British Industry); QQ1682 (Sir Kenneth Stowe), 1995-1996 (Sir Robin Butler).

6 HC (1992-93) 390-II, p. 53 (FDA); HC (1993-94) 27-III, p. 134 (Council of Civil Service Unions).

7 *The Government's use of external consultants* (Efficiency Unit, 1994).

8 HC (1993-94) 27-III, pp. 6 (Sir Brian Hayes), 10 (Sir Alan Bailey), 64 (Sir Geoffrey Chipperfield).

9 HC (1981-82) 236-II, Q392.

10 *Improving Management in Government: The Next Steps*, paras. 1, 15, 47.

11 HC (1987-88) 494-II, Q5 (Mr Peter Kemp); HC (1993-94) 27-III, pp. 83 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King), 101 (Professor Gavin Drewry and Dr Philip Giddings).

12 HC (1992-93) 390-II, p. 93; Q360 (Sir Peter Kemp); HC (1992-93) 390-II, p. 285 (Professor Norman Lewis). See also HC (1993-94) 27-II, p. 116 (Sir Kenneth Stowe).

13 HC (1993-94) 27-III, p. 108 (Sir Brian Cubbon); HC (1986-87) 358-i, p. 83 (Professor Fred Ridley); *Improving Management in Government: The Next Steps*, para. 31; Q1681 (Sir Kenneth Stowe); HC (1993-94) 27-III, p. 10 (Sir Alan Bailey); *Next Steps: Moving On*, para. 4.8.1 (footnote).

14 HC (1992-93) 390-II, p. 71 (Mr Graham Mather); HC (1993-94) 27-III, pp. 16 (Dr Peter Barberis), 49 (Mr Andrew Gray and Dr William Jenkins).



and not at the centre". He feared that the senior staff "who operate the core policy machine see themselves as a high priesthood who are somehow exempt from ... mechanical measurement tasks ... They have managed to escape from this sort of measurement and scrutiny which they apply ... to other parts of national life."<sup>1</sup>

201. The case for reforming the policy process was strengthened in the eyes of its advocates by the contribution of civil servants towards policy failure. Mr Graham Mather considered that the Civil Service should share the blame for "decades of systematic policy failure". The Civil Service contributed towards policy incoherence and periods when it played a large part in policy-making had been "very unsatisfactory for Britain".<sup>2</sup> Others expressed concern at recent failures at official level which indicated systemic weakness, a deterioration in the formulation of policy and its implementation.<sup>3</sup> Some were also critical of the overall quality of the policy process. Sir Brian Cubbon felt that "no one could claim, whatever their party political position, that Government decisions in the last 30 years have been of a high standard".<sup>4</sup> Sir Kenneth Stowe, drawing on contacts with former colleagues, believed that "a degree of hesitancy now exists ... between Ministers and officials as to the propriety of officials becoming engaged in evaluating routinely the outcome of policies".<sup>5</sup>

202. Some critics of the current policy process felt that the formal Ministerial responsibility for policy decisions not only did not absolve officials from blame for failure, but also went some way to explain that failure. According to Mr Graham Mather, "the idea that officials are simply there to advise Ministers and implement Ministerial decisions is a constitutional fiction". In practice, he thought, responsibility was shared between Ministers and officials and this should be recognised and the responsibilities of Ministers and officials more clearly separated.<sup>6</sup> This analysis was endorsed by Professor Norman Lewis, who believed that "the constitutional position is seriously out of kilter with reality". The contribution of officials towards that decision-making process should be made more visible, including their advice on policy options which were rejected.<sup>7</sup> Others supported the idea that "the public has the right to know if a civil servant dissents radically in his or her advice on policy or questions the effectiveness of the delivery of public services".<sup>8</sup>

203. Many believe that the traditional notion of Ministerial responsibility for policy remains sound. Upon his departure from the Government, Mr Norman Lamont told the House of Commons that he was "astonished how, when things go wrong, often it is the civil servants who are blamed when it is we politicians who make the decisions and it is we politicians who should carry the blame".<sup>9</sup> His successor as Chancellor of the Exchequer, Mr Kenneth Clarke, also had little doubt that the Government itself was the driving force behind policy so that "the errors (if there are errors) are the errors of Ministers, just as the successes are the successes of Ministers".<sup>10</sup> Lord Howe held a similar view.<sup>11</sup> It was argued that this position was justified not only because civil servants were responsible for advice rather than decisions but also because the frequent interaction of civil servants and Ministers rendered responsibility for advice and decision-making hard to separate in practice as well as in theory. According to Lord Jenkins, "advice in a sensibly-run Department where there are good relations with the Minister and his different civil servants is not a formal matter".<sup>12</sup> The case for civil servants' advice to Ministers remaining confidential was felt by the Government and others to be compelling, to ensure both that civil servants gave frank and fearless advice and that the political neutrality of the Civil Service was safeguarded.<sup>13</sup> The Government accepted that factual infor-

<sup>1</sup> HC (1992-93) 390-II, pp. 71-72; Q287.

<sup>2</sup> HC (1992-93) 309-II, p. 71; QQ278, 282, 286, 287.

<sup>3</sup> HC (1992-93) 309-II, p. 279 (Professor Sue Richards); QQ1645-1646 (Mr John Garrett); Sir Peter Kemp, *Beyond Next Steps*, pp. 8, 30.

<sup>4</sup> HC (1993-94) 27-III, p. 109.

<sup>5</sup> HC (1993-94) 27-III, p. 114; QQ1679-1680.

<sup>6</sup> HC (1992-93) 390-II, pp. 70, 72; QQ275, 282, 290.

<sup>7</sup> HC (1992-93) 390-II, pp. 284, 288; HC (1993-94) 27-II, p. 76; Q1515.

<sup>8</sup> HC (1993-94) 27-III, pp. 111 (Charter 88), 23-24 (Dr Keith Dowding).

<sup>9</sup> HC Deb., 9 June 1993, col. 281.

<sup>10</sup> Minutes of Evidence taken before the Treasury and Civil Service Committee on Wednesday 21 July 1993, *General Economic and Financial Matters*, HC (1992-93) 991-i, Q53.

<sup>11</sup> Q561.

<sup>12</sup> QQ1414-1415 (Sir Robin Butler); HC (1993-94) 27-III, p. 39 (Sir Peter Lazarus); QQ248 (Mr Christopher Dunabin), 886 (Lord Jenkins).

<sup>13</sup> QQ94 (Mr Waldegrave), 194, 196 (Sir Robin Butler), 247, 1782 (Ms Elizabeth Symons), 886 (Lord Jenkins); HC (1993-94) 27-III, pp. 16 (Dr Peter Barberis), 89 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King); Cm. 2627, para. 2.32.

mation provided to Ministers with advice was in a different category and the Government's Code of Practice on Access to Government Information is designed in part to ensure that such information was publicly available.<sup>1</sup> Some evidence cast doubt on the extent to which the current Government approach, including the Code of Practice, would actually make available to Parliament and the public the factual information and objective analysis of it to which it was felt they were entitled, arguing the Code of Practice was too sweeping in its description of policy advice which should remain confidential.<sup>2</sup>

204. A case for reforming the policy process should not be based on assumptions about trends in the quality of policy advice. However, we see no case for complacency about the management of the policy process. Its effectiveness is absolutely vital to the wider effectiveness of Government. There seems no reason to believe that the management of the policy process should be immune from reform, or should not benefit from reform, in the same way as other parts of Government, provided that such reform takes account of the particular characteristics of the policy process.

*(iii) Proposals for reform*

205. Some proposals for reforming the policy process have well-established antecedents. The Haldane Committee of 1918 drew attention to the need to separate more clearly "the systematic application of thought" from "the transaction of business".<sup>3</sup> The Fulton Committee in 1968 felt that, "at present, policy-making, especially long-term policy thinking and planning, is the responsibility of officers over-burdened with more immediate demands arising from the Parliamentary and public responsibilities of Ministers". It recommended the establishment of units within Departments responsible for long-term policy planning, drawing on outsiders on short-term contracts or secondment, and headed by a Senior Policy Adviser, whose responsibilities would be separate from those of the Permanent Secretary who would remain in control of day-to-day operations.<sup>4</sup> These recommendations were not fully implemented. Drawing on these proposals and his experience in the Next Steps programme, Sir Peter Kemp advocated an extension of the Agency principle to suitable policy functions. An individual would be appointed to head a policy project team, to deliver an outcome specified by a Minister and would be personally and openly accountable for the result. The team would include staff from different Departments and Agencies and from outside the Civil Service. Possible subjects for pilot projects included youth homelessness, local authority accountability and the planning and control of public expenditure. Organisational change of this kind would encourage a new frame of mind, a focus on outputs rather than process, in the same way as the Next Steps programme had.<sup>5</sup>

206. Similar proposals were put forward by other witnesses. Mr Graham Mather and Professor Norman Lewis advocated the creation of Departmental Policy Directorates with designated officials with policy responsibilities who would be publicly associated with particular policy proposals to Ministers. Ministers would set desired broad outcomes, and civil servants would be responsible for developing policies in line with these outcomes.<sup>6</sup> In making this proposal, they drew on the experience of New Zealand to demonstrate the extent to which it was feasible to include policy targets within a formal, contractual or quasi-contractual, relationship between officials and Ministers. They believed that the New Zealand reforms demonstrated the extent to which policy outputs could be measurable and quantified along the same lines as other outputs. According to Mr Mather, "it is a truism that effectiveness in policy-making cannot be measured in precisely the same way as commercial performance. Yet it would be absurd to suggest that it cannot be measured at all."<sup>7</sup> It was also suggested by Professor Lewis that the role of existing Agencies in the policy process could be expanded and formalised. He argued that, like agencies in Sweden, they should have a power to report publicly on the effectiveness of the policies which they were being required to implement.<sup>8</sup>

<sup>1</sup> Q2174 (Sir Robin Butler).

<sup>2</sup> HC (1993-94) 27-II, p. 73; QQ1517-1519 (Professor Norman Lewis); HC (1993-94) 27-III, pp. 94 (Mr Timothy Hornsby), 118-120 (Campaign for Freedom of Information); Q1782 (Ms Elizabeth Symons).

<sup>3</sup> Cd. 9230, paras. 12-13.

<sup>4</sup> Cmnd. 3638, paras. 172-173, 175, 182-183.

<sup>5</sup> HC (1992-93) 390-II, pp. 93-94; QQ357, 360-361, 365.

<sup>6</sup> HC (1992-93) 309-II, pp. 72-73; QQ278-280, 284 (Mr Graham Mather); HC (1992-93) 390-II, p. 286; HC (1993-94) 27-II, pp. 73, 74 (Professor Norman Lewis).

<sup>7</sup> HC (1992-93) 309-II, p. 73; QQ 282, 287 (Mr Graham Mather); HC (1992-93) 309-II, p. 285 (Professor Norman Lewis).

<sup>8</sup> HC (1992-93) 390-II, p. 285; HC (1993-94) 27-II, pp. 72, 73-74.

207. A proposal somewhat different in nature was made by Sir Brian Cubbon. He advocated the creation of a system of internal inspection of the quality of policy work in Departments. He argued that there should be a team reporting to the Prime Minister, operating mainly by retrospective audit, with complete access to Ministers, officials and papers, to examine particular policies such as homelessness, local government structure and the Channel Tunnel rail link. The work arising from this system of internal inspection would not be published.<sup>1</sup> The importance of retrospective evaluation of policy was also noted by others, Sir Kenneth Stowe arguing that "one does need to build into the machinery a presumption that evaluation will take place precisely because otherwise everybody from the Secretary of State to the Finance Officer is too damn busy".<sup>2</sup>

208. The Government was cautious in its reaction to these proposals. Mr Waldegrave did not believe that many of the lessons of management reforms of service delivery functions were "quite so relevant to the small policy core".<sup>3</sup> Discussing reforms such as market testing and Agencies, Sir Peter Levene thought that the policy advice function "will remain very much as it is at the moment".<sup>4</sup> The Government believed that the notion of the purchaser/provider split could not readily be applied to the policy process because of the special characteristics of policy work, which depended upon flexibility and personal relationships between Ministers and civil servants.<sup>5</sup> These doubts were shared by others.<sup>6</sup> The Government was also not alone in believing that the problems in formally measuring policy advice were almost insurmountable, since only a Minister was well placed to judge the quality of advice and a Minister's judgement could hardly be formalised.<sup>7</sup> With regard to the role of existing Agencies in policy advice, Professor Eric Caines saw an objection other than the problem of measurability, namely that it would undermine the tension between purchaser and provider.<sup>8</sup> Overall, the Civil Service White Paper states that "the Government does not ... envisage extending the formal establishment of Agencies into areas of the Civil Service primarily concerned with policy ... For day-to-day support for Ministers on policy matters, policy divisions on existing lines will continue to be the preferred model ... As now, for certain areas of policy implementation, project work or particular studies, Departments and Agencies may choose to establish project teams, often including non-civil servants, with clear responsibilities and targets set by Ministers".<sup>9</sup>

209. With regard to Sir Brian Cubbon's proposal, the Government accepted that there was no *systematic* audit of policy advice at present. However, it was frequent for policy decisions and the background to them to be reviewed to see what lessons could be learned, particularly when a mistake might have been made. Mr Waldegrave said that he initiated an internal retrospective review of the work of the Foreign Office in the case of Fazad Bazoft when he was a Minister there. He and Sir Robin Butler considered Sir Brian Cubbon's suggestion interesting, but generally saw advantages in such retrospective audit being conducted by Departments themselves so that they could gain from having carried out a review, rather than by a central unit which might make itself very unpopular within the Civil Service.<sup>10</sup>

210. We have already argued that the policy process should not be seen to be immune from reform, but that any reforms should take account of the characteristics of the policy process. We believe that the nature of policy advice, including the requirement for confidentiality, renders it impractical to apply the complete Agency model to all policy functions. However, we believe there remains greater scope for reform than the Government currently admits. We believe that the role of existing Agencies within the policy process should be developed, although where practical they should not be the sole source of advice on a particular subject. We recommend that the policy tasks of an Agency should be specified in the annual performance agreements we have recommended above and should be subject to evaluation other than by the parent Department. We also believe that project teams established by Ministers with clear responsibilities and targets should be given a more explicit organisational identity. We envisage

1 HC (1993-94) 27-II, pp. 109-110.

2 QQ1680 (Sir Kenneth Stowe), 1515 (Professor Norman Lewis).

3 Q993.

4 Q1293.

5 QQ197 (Sir Robin Butler), 2450 (Mr Waldegrave), 2456-2457 (Mr Mottram and Mr Waldegrave).

6 Q1682 (Sir Kenneth Stowe); HC (1993-94) 27-III, pp. 10 (Sir Alan Bailey), 40 (Sir Peter Lazarus).

7 QQ1409-1414 (Sir Robin Butler), 2456, 2458, 2460 (Mr Waldegrave and Mr Mottram); HC (1993-94) 27-III, p. 11 (Sir Alan Bailey).

8 Q808.

9 Cm. 2627, para. 2.22. See also QQ994, 2449 (Mr Waldegrave).

10 QQ 2168-2171 (Sir Robin Butler), 2476, 2479 (Mr Waldegrave).

this taking place initially on a pilot basis, an approach advocated by Sir Peter Kemp and endorsed by Lord Howe.<sup>1</sup> We recommend that the establishment of project teams within Government for policy implementation and policy project work should be both encouraged and monitored by the Office of Public Service and Science to ascertain the extent to which Agency principles can be applied effectively to parts of the policy process.

211. We have no doubt that some audit of the policy process takes place at present. By its nature we would not expect the outcomes of such audit necessarily to enter the public domain directly. But we believe there would be merit in institutionalising the requirement for such audit. We recommend that the Government should examine ways in which the process of policy advice and implementation may be better scrutinised and audited.

(iv) *Support for Ministers*

212. In the final analysis, the effectiveness of the policy process is likely to depend in considerable measure upon the performance of Ministers rather than civil servants. It is one of the essential tasks of the Civil Service to support Ministers both in their policy role and in their wider Parliamentary and public duties. Consideration has been given in previous inquiries to the extent to which the Civil Service is organised effectively so as to support Ministers and minimise the problem of "Ministerial overload". There is little new in this latter concept. The Northcote-Trevelyan Report characterised Ministers as being "overwhelmed with business".<sup>2</sup> In 1977 the then Head of the Home Civil Service had "not the slightest doubt that Ministers are overworked, and the over-work on Ministers does greatly handicap them in handling all the material that they have to handle".<sup>3</sup> The original Next Steps report aimed in part to ease the problem of Ministerial overload and provide Ministers with more time for strategic thinking.<sup>4</sup> Mr Waldegrave believed that Next Steps had reduced the administrative burden on Ministers, but suggested that pressure arising from other quarters, including Parliament, the media and the public, might possibly have increased over the years.<sup>5</sup> Other evidence supported the impression of a considerable and growing burden upon Ministers.<sup>6</sup>

213. In 1986 the then Treasury and Civil Service Committee proposed what it saw as a possible solution to this problem in the creation of Ministerial Policy Units, combining the traditional functions of a private office with a wider role in increasing a Minister's influence and control over the Department and putting him in a better position to participate in the collective decision-making of Cabinet. It would contain career civil servants who had volunteered as well as political advisers.<sup>7</sup> Despite the Government's rejection of the proposal, the then Committee reiterated its proposal that the concept be pursued on an experimental basis in a subsequent Report.<sup>8</sup> Our predecessors' proposal drew explicitly on the perceived advantages of the *cabinet* system in France,<sup>9</sup> and some evidence advocated changes derived in part from the French model.<sup>10</sup> The Sub-Committee examined the operation of the *cabinet* system in the course of its visit to Paris. The essential role of the *cabinet* was described as being to assist a Minister in achieving his political objectives, both by advising him on the development of policy and ensuring that his policies were implemented, overcoming any resistance from within the administration. All Ministerial *cabinets* were predominantly staffed by career civil servants, but they were expected to be politically sympathetic to a Minister and might assist a Minister in electoral activities. Some advantages in the *cabinet* system are clearly evident: arrangements for providing support for Ministers are institutionalised; Ministers are likely to have more sources of independent advice, including advice on the performance of the administration and on issues which require consideration at Cabinet or Cabinet committee level. However, there are differences between the British and French administrative systems which affect the applicability of this model in a British context. First, it is linked to a system in which career civil servants are permitted to have identified political allegiances. Second, its rationale is based in large measure on a system of administration which generally lacks a figure of comparable power and author-

1 HC (1992-93) 390-II, p. 94 (Sir Peter Kemp); QQ 543, 561 (Lord Howe).

2 *Report on the Organisation of the Permanent Civil Service*.

3 HC (1976-77) 535-II, Q2119 (Sir Douglas Allen).

4 *Improving Management in Government: The Next Steps*, para. 7, Annex B, para. 29.

5 QQ2468-2469, 2472.

6 HC (1992-93) 390-II, pp. 70-71 (Mr Graham Mather); HC (1993-94) 27-II, pp. 108-110 (Sir Brian Cubbon).

7 HC (1985-86) 92-I, paras. 5.23-5.32.

8 Cmnd. 9841, paras. 30-35; HC (1986-87) 62, paras. 40-41.

9 HC (1985-86) 92-I, paras. 5.23-5.28.

10 QQ338 (Professor Peter Hennessy), 363 (Sir Peter Kemp); HC (1993-94) 27-III, p. 50 (Professor Fred Ridley and Mr Brian Thompson).

ity to a Permanent Secretary. The *cabinet* assists a Minister in dealing directly with a number of semi-autonomous directorates within a Department. Third, the *cabinet* system serves Cabinet Ministers in an administrative system which operates largely without junior Ministers. Some have also pointed to perceived disadvantages to the *cabinet* system. It has been observed that there is a danger of a *cabinet* becoming a "Department within a Department", which can take away interesting policy work from elsewhere in the Department and can cut off a Minister from his wider Department. It has also been suggested that the *cabinet* can foster the notion that civil servants within it owe a personal loyalty to their Minister different in character from their wider loyalty to the Government. It can lead to situations where civil servants feel able to take decisions which should be for Ministers.<sup>1</sup>

214. Another issue which was explored during this inquiry was the role of political advisers to Ministers. The Fulton Committee welcomed the appointment of professional experts and advisers by Ministers and considered that the practice should be put on a regular and clearly understood basis.<sup>2</sup> In 1977 the Expenditure Committee argued that the installation of special advisers should become an accepted feature of administration and recommended that their number should no longer be limited to two per Cabinet Minister.<sup>3</sup> The then Government agreed with the former proposition, but said that "the working rule of the present Administration is that Cabinet Ministers should normally appoint no more than two special advisers", although "the rule is not immutable".<sup>4</sup> The value of political advisers, both in enabling Cabinet Ministers to consider policy issues being discussed collectively which did not directly affect their Department and in ensuring that career civil servants were not asked to undertake party political activities, was affirmed by several witnesses.<sup>5</sup> Their value appears also to have been accepted by career civil servants,<sup>6</sup> although the FDA expressed concern about their role and the weight given by Ministers to the advice they offered.<sup>7</sup> A more frequent criticism was of the present Government's approach to the number of political advisers, under which "it is unusual for Cabinet Ministers to be permitted the support of more than one political adviser".<sup>8</sup> Professor Hennessy considered this to be "a false economy", a view shared by Lord Jenkins, Lord Howe and Dr William Plowden.<sup>9</sup> A number of people, including Lord Callaghan and Lord Howe, also believed that the abolition of the Central Policy Review Staff had removed a valuable resource from Ministers, which could beneficially be recreated in some form.<sup>10</sup>

215. In 1986 the Government indicated that it did not propose any central initiative in relation to support for Ministers, but noted that "there may be scope for the further development of existing arrangements by interested Ministers (subject to detailed discussion with their Permanent Secretaries and as necessary with the Prime Minister)".<sup>11</sup> Lord Callaghan's personal initiative in appointing an additional assistant Private Secretary on issues across Government following his move from the Treasury to the Home Office represents one such example.<sup>12</sup> Mr Waldegrave, like one of his predecessors, believed that it was part of a Minister's job to ensure that he had time for strategic thinking despite the pressures of work.<sup>13</sup> We perceive significant advantages in some of the proposals for change which have been advanced, but are also aware of some of the arguments against some particular models, and we may well return to this matter in future. We are struck by the lack of systematic analysis which appears to have been undertaken of the central aspect of this issue: the Ministerial role itself. Sir Roger Douglas, a

1 This assessment is based principally upon the Sub-Committee's observations in Paris, but see also HC (1985-86) 92-II, Q648 (Mr Christopher Tugendhat); Cmnd. 9841, para. 32; HC (1987-88) 370-i, Q50 (Sir Robin Butler); Q856 (Lord Jenkins); HC (1993-94) 27-III, p. 8 (Sir Brian Hayes).

2 Cmnd. 3638, para. 129.

3 HC (1976-77) 535-I, para. 148.

4 Cmnd. 7117, para. 86.

5 QQ63 (Mr Waldegrave), 338 (Professor Peter Hennessy), 543 (Lord Howe), 625-626 (Lord Callaghan), 854-855 (Lord Jenkins).

6 HC (1987-88) 370-i, Q50 (Sir Robin Butler); HC (1993-94) 27-III, p. 8 (Sir Brian Hayes).

7 HC (1992-93) 390-II, pp. 39, 43 (FDA); QQ1787-1790 (Ms Elizabeth Symons).

8 HC (1993-94) 27-II, p. 30 (OPSS).

9 QQ338 (Professor Peter Hennessy), 535-537 (Dr William Plowden), 543, 564, 577-578 (Lord Howe), 857-858 (Lord Jenkins).

10 QQ338 (Professor Peter Hennessy), 534 (Dr William Plowden), 543, 558 (Lord Howe), 626-627 (Lord Callaghan); HC (1993-94) 27-II, p. 103 (Mr John Garrett); HC (1993-94) 27-III, p. 16 (Dr Peter Barberis).

11 Cmnd. 9841, para. 35.

12 Q603 (Lord Callaghan). See also QQ338 (Professor Peter Hennessy), 543 (Lord Howe).

13 QQ2469-2470, 2473-2474 (Mr Waldegrave); HC (1987-88) 494-II, Q324 (Mr Richard Luce)

former New Zealand Finance Minister, described the need for new Ministerial skills which had arisen as a result of public service reforms in that country.<sup>1</sup> At times, the impression appears to be given in this country that Ministers themselves are unaffected by the reforms of the public sector which they have introduced. The number of Ministers has risen since 1979, at a time when the Civil Service has shrunk dramatically and when the Government has been committed to reducing the role of the State.<sup>2</sup> The Prime Minister stated in June 1994 that he had given no consideration to reducing the total number of Government Ministers.<sup>3</sup> We are aware that there are many considerations besides the work arising from the activities of the Civil Service which help to determine the role and workload of Ministers, but we do not believe it would be helpful to the reform of the Civil Service if the impression were to gain currency that Ministerial functions were exempt from the Government's reform agenda. We recommend that the Efficiency Unit carries out a scrutiny of the effectiveness and efficiency of the work of Ministers and support for Ministers.

*(v) The Civil Service and opposition parties*

216. Relations between the Civil Service and opposition parties were considered by our predecessors in 1986, who considered that one measure to boost the resources of Ministers would be to strengthen political support to Opposition parties, through advisers who would not be civil servants, but could join Ministerial Policy Units if the former Opposition entered Government.<sup>4</sup> Opposition parties have a two-fold interest in the Civil Service. First, they have what might be termed a "reversionary interest", in that they hope or expect one day to form the Government which the Civil Service is called upon to serve. Second, it was argued in evidence that any strengthening of political and personal support for Ministers should take account of the need to avoid further tilting the political resources balanced against the Official Opposition.<sup>5</sup> Several witnesses expressed concern about the impact a prolonged period of Government by one party would have on contacts between Opposition politicians and civil servants. The FDA feared it might lead Opposition politicians to become suspicious that the political neutrality of the Civil Service had been compromised.<sup>6</sup> Mr Charles Clarke, a former assistant to a Leader of the Opposition, also expressed concern about the current lack of contacts between Opposition politicians and civil servants, which he considered was in stark contrast to the often frequent contact which senior Opposition politicians had with other public servants.<sup>7</sup>

217. Formal contacts between Opposition politicians and the Civil Service currently take two forms. First, Ministers can give authority for briefings by civil servants for Opposition politicians on departmental organisation or policies, and Ministers may be present if sensitive matters of Government policy are to be discussed. In 1991, Sir Robin Butler gave a factual briefing to the Shadow Cabinet about the Next Steps programme, with the approval of the Prime Minister. He also gave the then Leader of the Opposition a personal briefing about the organisation of the Prime Minister's office and the Cabinet Office. Mr Waldegrave offered a briefing to his Labour shadow following the creation of the Office of Public Service and Science and Sir Robin Butler briefed the then Leader of the Opposition on the recent Civil Service White Paper prior to publication.<sup>8</sup> Second, there is a convention, which dates back several decades, that, shortly before a General Election, the Prime Minister can authorise meetings between Opposition front benches and civil servants which are confidential; Ministers are not present and discussions are not reported to them. Such discussions are not intended to clarify policies but concentrate on matters of organisation. This convention applied in the last six months of a Parliament; such contacts therefore were permitted from January 1992, but did not take place prior to the 1983 and 1987 General Elections.<sup>9</sup> Subsequently, following a request by Mr Neil Kinnock shortly before he ceased to be the Leader of the Opposition, the Prime Minister agreed that such contacts should be permitted from early 1996 in advance of the next

<sup>1</sup> QQ2296, 2307, 2313, 2323-2325.

<sup>2</sup> HC Deb., 24 May 1994, col. 107w.

<sup>3</sup> HC Deb., 28 June 1994, col. 480w.

<sup>4</sup> HC (1985-86) 92-I, paras. 5.33-5.36.

<sup>5</sup> HC (1993-94) 27-III, p. 103 (Mr Charles Clarke).

<sup>6</sup> QQ234-235 (Ms Elizabeth Symons), 305 (Professor Peter Hennessy), 599 (Lord Callaghan).

<sup>7</sup> HC (1992-93) 390-II, p. 300.

<sup>8</sup> HC (1993-94) 27-II, pp. 29, 30 (OPSS); HC (1992-93) 390-II, p. 301 (Mr Charles Clarke); QQ1116 (Mr Waldegrave), 2521 (Sir Robin Butler).

<sup>9</sup> HC (1993-94) 27-II, pp. 29-30 (OPSS); HC (1992-93) 390-II, p. 301 (Mr Charles Clarke); Q1115 (Mr Waldegrave).

General Election.<sup>1</sup> Mr Clarke believed this decision left the timing somewhat ambiguous, and argued that such contacts should be permitted three and a half years after a General Election.<sup>2</sup>

218. Some evidence argued that the level of contacts could be expanded further. Mr Clarke believed that senior civil servants should offer regular, perhaps bi-annual, briefing meetings to senior Opposition politicians and that civil servants should participate in seminars on future policy with them.<sup>3</sup> Mr Timothy Hornsby drew attention to the much more frequent contacts between senior local government officers and councillors from all parties.<sup>4</sup> The FDA called for consideration to be given to the idea of civil servants being seconded to work for Opposition front benchers so that the political neutrality of the Civil Service would become evident.<sup>5</sup> The Home Affairs Committee has recently recommended that "the Government consider the feasibility of offering each of the political parties represented in Parliament one or two able civil servants on temporary attachment for an experimental period".<sup>6</sup> Some evidence expressed scepticism about the propriety and efficacy of such proposals for change. Sir Brian Hayes did not believe briefings on policy by civil servants would be acceptable to Ministers. He acknowledged that there might be a weakness in the information and research capacity of Opposition parties, but felt that any unit created to overcome this weakness should be responsible to Parliament, not the Government.<sup>7</sup> Lord Jenkins believed that the secondment of civil servants to Opposition parties would be incompatible with their loyalty to the Government of the day and that such postings would not be very popular with civil servants.<sup>8</sup> Mr Waldegrave endorsed the idea that this proposal would lead to divided loyalties. Having served in the office of a Leader of the Opposition, he felt that one of the benefits of Opposition was to stop politicians thinking like insiders. He thought there might be scope for briefing Opposition politicians on matters which were not party politically controversial.<sup>9</sup> We share these doubts about the suggestion that civil servants might be seconded to work for Opposition politicians. Assuming that such civil servants were not to jeopardise the confidence of Ministers and would not have access to internal Government documents, it is unclear what benefits they could bring to Opposition politicians which could not be gained from elsewhere. We believe it might lead to civil servants being associated with party politics, a development we would deprecate. We welcome the decision to permit confidential briefings by senior civil servants of Opposition politicians further in advance of a General Election. We believe that there may also be scope for more frequent briefings by civil servants of Opposition politicians at other times. We recommend that the Government issues guidance to Ministers on the circumstances in which it would be appropriate to offer briefings to Opposition politicians on matters which relate to the machinery of Government or which are not of current party political controversy.

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1 HC (1993-94) 27-II, pp. 29 (OPSS), 186 (Mr Waldegrave).

2 HC (1992-93) 390-II, p. 301; HC (1993-94) 27-III, p. 102.

3 HC (1992-93) 390-II, p. 301.

4 HC (1993-94) 27-III, p. 93.

5 HC (1992-93) 390-II, p. 41 (FDA); QQ234-235 (Ms Elizabeth Symons).

6 Second Report from the Home Affairs Committee, *Funding of Political Parties*, HC (1993-94) 301, para. 57.

7 HC (1993-94) 27-III, p. 8.

8 Q864.

9 Q1116.

## XI. CORE DEPARTMENTS AND THE EXTENSION OF DEVOLUTION

219. From its inception, it was evident that the Next Steps programme could and should have a considerable impact not only on those functions brought within the ambit of Executive Agencies, but also on the way in which the functions of core Departments were performed, functions such as support for Ministers, policy-making, the management of relations with Agencies, and the central management of finance and personnel.<sup>1</sup> The original Next Steps Report stated that “the aim should be to establish a quite different way of conducting the business of Government. The central Civil Service should consist of a relatively small core engaged in the function of servicing Ministers and managing Departments, who will be ‘sponsors’ of particular Government policies and services ... Both Departments and their Agencies should have a more open and simplified structure”.<sup>2</sup> Our predecessors attached importance to the change in the character and function of core Departments consequent upon the creation of Agencies, arguing that they were “going to change, perhaps quite radically, as a result of the Next Steps programme”.<sup>3</sup> The Government concurred, asserting that “the implications of the initiative for the centres of Departments are likely to be as radical and beneficial as the greater management freedom and accountability will be for Agencies”.<sup>4</sup> A subsequent Report by the Efficiency Unit emphasised that, for such radical and beneficial change to be effected, Departments had to re-evaluate their own role.<sup>5</sup> Evidence during this inquiry emphasised the profound effect Next Steps was having on core Departments and the need to address the manner in which Departments should respond to and maximise the benefits of such change.<sup>6</sup>

220. A common theme to emerge from recent consideration of the role of core Departments is the suggestion that the principles of Next Steps, and those of the FMI which underpin them, should be applied as far as practicable to core Departments. Sir Angus Fraser, then the Prime Minister’s Adviser on Efficiency, observed that “the impact of Next Steps principles does not end” with the creation of Agencies: “there are already signs of their spreading across from the executive parts of Government to influence the way central Government as a whole conducts its business, with a growing pattern of personal responsibility for discrete and substantial blocks of work, devolved budgeting and explicit agreement over performance targets”.<sup>7</sup> Professor Sue Richards observed that the way forward for the Civil Service was likely to involve the application of the principles of delegation to all its work, rather than simply to operational management.<sup>8</sup> Mr John Garrett noted that the disciplines of performance measurement were not applied as extensively to the centre of Departments as to other Civil Service work.<sup>9</sup> The Trosa Report argued that “it will be difficult to make a success of Next Steps ... without extending the values of Next Steps to the whole Department”. Notions such as target setting and performance measurement should apply to policy advice and regulatory functions as well as to executive work.<sup>10</sup> The Government accepted the force of many of these arguments,<sup>11</sup> and the kernel of the recent White Paper on the Civil Service is the belief that “there are substantial benefits to be gained by extending many of the principles of Next Steps—maximum clarity about objectives and targets, delegation of management responsibility, a clear focus on outputs and outcomes—throughout the Civil Service”.<sup>12</sup>

221. The White Paper proposes to give effect to this statement in the case of core Departments in several ways. First, it announces that greater freedom to manage will be delegated to Departments from the Treasury and the OPSS, subject to the principal discipline of running cost controls.<sup>13</sup> Mr Waldegrave believed that the carrying forward of the model of devolution “into the heart of the departmental Whitehall” was a very important shift, creating “a much more devolved management culture in the Civil Service”.<sup>14</sup> The running cost limits imposed in the November 1993 Budget require Departments to make efficiency savings and

1 QO939, 971-974 (Mr Richard Mottram).

2 *Improving Management in Government: The Next Steps*, para. 44.

3 HC (1988-89) 348, para. 72.

4 Cm. 841, p. 9.

5 *Making the Most of Next Steps*, para. 2.10.

6 HC (1992-93) 390-II, p. 94 (Sir Peter Kemp); HC (1993-94) 27-III, pp. 38 (Mr Nevil Johnson), 49 (Mr Andrew Gray and Dr William Jenkins), 57 (Mr Clive Priestley).

7 *Making the Most of Next Steps*, Foreword.

8 HC (1992-93) 390-II, pp. 278, 280.

9 HC (1993-94) 27-II, p. 104.

10 *Next Steps: Moving On*, paras. 2.15, 7.3.1.

11 QO1215-1216 (Mr Stephen Dorrell), 2449 (Mr Waldegrave).

12 Cm. 2627, para. 2.22.

13 Cm. 2627, paras. 1.4, 3.3-3.4, 3.11.

14 QO2522, 2523, 2578.



Mr Waldegrave indicated that the limits would be further examined as part of future spending rounds.<sup>1</sup> The Government had previously announced at the time of the November 1993 Budget that the so-called annuality rules would be adjusted so that Departments which underspend their running costs in one year could carry forward that money and (subject to Parliament's approval) spend it in future years rather than be tempted to spend it inefficiently by the end of the year, a reform which responds to criticism of the operation of the annuality rules over many years.<sup>2</sup> Following the Civil Service White Paper, Departments will have more freedom to decide exactly how they wish to pursue efficiency savings and the privatisation and Competing for Quality programmes will be subject to less detailed central oversight. Departments, along with Agencies, will be expected to draw up efficiency plans each spring from 1995 onwards indicating what measures they propose to take to stay within their running costs limits for the coming three years. These plans, and performance against them, will be subject to review by the Efficiency Unit and the Treasury.<sup>3</sup> Mr Waldegrave emphasised that the new approach did not imply a reduced commitment to the programmes concerned. While Departments were theoretically free to forego mechanisms such as market testing if they could meet their efficiency targets through other means, a decision to do so might call into question the rigour of the efficiency targets. The central Departments would still need to be convinced that Departmental efficiency plans were realistic.<sup>4</sup>

222. The Government has emphasised that, as with Executive Agencies, greater delegation to Departments takes place "in return for better quality information on their financial planning and management arrangements".<sup>5</sup> The Government has announced steps to enable progress on the second half of this equation. First, at the time of the Civil Service White Paper, the Government gave further information about its plans to introduce resource accounting across Government, which had been announced in principle in the November 1993 Budget.<sup>6</sup> Again, this represents an application to Departments of a requirement to produce accruals-based accounts which already applies to Executive Agencies.<sup>7</sup> As was observed earlier, it is in line with developments which have taken place in other countries, and the introduction of accruals-based accounting in Departments in New Zealand was closely linked to the development of performance agreements between Ministers and Departmental Chief Executives.<sup>8</sup> The essence of resource accounting is the accounting, on an equivalent basis, for all inputs, including capital expenditure and assets as well as current expenditure. It should provide more accurate and relevant management information with which Departments can cost the resources that they use, and match them to outputs they deliver. According to the Government, the changes should "put further emphasis on what Departments produce rather than on what they have available to spend". The Government's Green Paper notes that "there are considerable attractions to taking this process one stage further and including an explicit link between a detailed analysis of input costs according to Departmental objectives and outputs". It notes that such links would be easier to propose in the case of Departments which deliver services to third parties than in the case of those primarily providing policy advice to Ministers, but goes on to state that "even in the latter case, Departments should develop a systematic analysis of their aims and objectives and associated costs".<sup>9</sup>

223. Second, the Government is seeking to improve the quality of management information in Departments. Government witnesses were at pains to stress the extent of the financial and management information which was already available. First, all Departments are already required to publish Departmental Annual Reports setting out their aims and objectives. Second, according to Mr Waldegrave, all Departments should have management information systems, setting out the allocation of resources and priorities in relation to objectives and enabling Departments to monitor the performance of individuals in contributing to Departmental success in meeting those objectives. The OPSS provided a copy of its *Management Plan 1994-95 to 1996-97* which sets out the aims and resources of each division

1 HC (1993-94) 87, para. 77; QQ2579, 2592.

2 HC (1993-94) 87, para. 78; HC (1979-80) 712-II, QQ275, 277 (Sir Derek Rayner); *Improving Management in Government: The Next Steps*, Annex B, paras. 13, 46.

3 Cm. 2627, paras. 1.4, 3.12, 3.19-3.21.

4 QQ2563-2565, 2569.

5 HC (1992-93) 390-II, p. 257 (HM Treasury); Q2563 (Mr Waldegrave).

6 Cm. 2626; HC (1993-94) 87, para. 71.

7 Cm. 2626, para. 1.5.

8 *ibid.*, para. 1.20; see paras 148-151 above. See also HC (1993-94) 27-II, p. 119 (Outline of a Commonwealth portfolio of current good practice in administrative and managerial reform).

9 Cm. 2626, paras. 1.2, 0.2, 1.3, 2.13, Annex A, Schedule E (p. 31).

within the OPSS, together with output and performance measures for each division, and which is underpinned by more detailed objectives and work plans at divisional level.<sup>1</sup> These current arrangements have been subject to criticism. In the case of Departmental Annual Reports, our predecessors were not satisfied with the linkage between performance measures and indicators and overall aims and objectives. The then Committee was “disappointed that the lack of suitable management information systems should still be seen as an impediment to the comprehensive presentation of performance measures after more than a decade of seemingly radical Civil Service management reform”.<sup>2</sup> Mr John Garrett considered the present state of management information in central Government to be “chaotic”. There were many performance indicators, but far too few had a bearing on the effectiveness of Government programmes.<sup>3</sup> The Management Plan of the OPSS demonstrates how far there is to go if Next Steps principles are to be applied across Departments. The Information Division has targets relating to the number of press notices issued, the number of official briefings and the number of interviews with Ministers, but none relating to its actual effectiveness. The aim of the Efficiency Unit is described as being “to improve value for money in Departments through the work of the Unit”, but no targets are set relating directly to its work.<sup>4</sup> The Ministry of Agriculture, Fisheries and Food recently discontinued publication of its Ministerial Information document because it was “of little value in planning ahead” and because some of the apparent accuracy in its presentation of information was “spurious”. The Agriculture Committee expressed concern that “the more generalised account of departmental activities in the Departmental Report cannot provide a substitute for this information”.<sup>5</sup> The Government did not deny that there was room for improvement in this field. Mr Mottram said that “the public expenditure process still needs a stronger focus on how different individual Departments contribute to broader objectives of Government and indeed on how those broad objectives are framed and reflected in more detailed ... targets”.<sup>6</sup> Mr Waldegrave believed improvement was needed in the process of resource allocation within Departments.<sup>7</sup> The Civil Service White Paper admits that “there remains scope for strengthening” the way in which the centres of Departments define their aims, objectives and outputs and measure performance against them, and report the results in Departmental Reports. It commits the Government to improve the target-setting process across Government as a whole, extending it to the centres of Departments as well as to Agencies.<sup>8</sup> The Government has recently asked the Efficiency Unit to review management planning and control systems in Departments, taking account both of the changing structure of central Government and the introduction of resource accounting in Departments.<sup>9</sup>

224. At the heart of Next Steps is the notion of cultural change. If Next Steps principles were to be applied to Departments, this would require not only managerial changes of the kind just described, but also changes in the culture of core Departments. As we have already observed, Departments have to move away from a culture of second-guessing to a genuinely strategic approach. We addressed earlier the contribution which a change in the nature of the formal relationship between Agencies and Departments could make to such a transformation, but it will also require changes in the structures of core Departments.<sup>10</sup> In 1990 the then Committee noted the then Next Steps Project Manager’s expectation of a reduction in the size of core Departments and observed “we will be interested to see whether the ‘classic management dictum that there must not be more than four grades from shop floor to boss’ which the Project Manager recommended as a model for Agencies has any impact on policy divisions”.<sup>11</sup> The Fraser Report published the following year found considerable uncertainty about how the setting up of Agencies had affected or should affect the size of core Departments. It noted the view that “over-detailed monitoring and intervention were best prevented by reducing the numbers of staff in Departments available to monitor or intervene”. It argued that “an aggregate reduction of, say, 25 per cent in the number of staff” in personnel and finance divisions and in

1 QQ2452, 2458, 2462, 2466-2467 (Mr Waldegrave and Mr Mottram); HC (1993-94) 27-II, p. 308 (OPSS); *Office of Public Service and Science Management Plan 1994-95 to 1996-97*.

2 HC (1990-91) 290, paras. 14-17.

3 HC (1993-94) 27-II, pp. 103-104; Q1657.

4 *OPSS Management Plan 1994-95 to 1996-97*, Annex D.

5 Third Report from the Agriculture Committee, *MAFF Intervention Board Departmental Report 1994*, HC (1993-94) 434, paras. 11-12, QQ63-66 (Mr Richard Packer).

6 Q982.

7 Q2464.

8 Cm. 2627, paras. 3.6, 3.10.

9 QQ2452, 2453; HC (1993-94) 27-II, p. 307 (Mr Waldegrave); Cm. 2563, para. 14.14; Cm. 2626, para. 4.4; Cm. 2627, para. 3.15.

10 See paragraphs 157-162; HC (1988-89) 348, paras. 71-72.

11 HC (1989-90) 481, para. 62.

any support services not provided on an untied and full cost basis across Government should be sought. The Report recommended that reviews be undertaken of headquarters functions, including the relevant posts in the Senior Open Structure.<sup>1</sup> Sir Peter Kemp was critical of the response of Departments to the Fraser Report, arguing that "the core of Departments ... still have not shrunk themselves or adapted themselves in the way that the Fraser Report suggested they should".<sup>2</sup> He has advocated "a very tough cull of posts" in Departments, with central staff being reduced by 25 per cent before 31 March 1995.<sup>3</sup> Similarly, Professor Eric Caines called for a dramatic reduction in the central bureaucracy, with entire levels of management being removed, believing a multi-layered bureaucracy encouraged second-guessing.<sup>4</sup>

225. The Government accepted that the Next Steps initiative would change the role of core Departments in ways which meant that "the number of people at the centres of Departments can be reduced".<sup>5</sup> Both Sir Robin Butler and Mr Waldegrave were clear about the likely future structure of the Civil Service: smaller core Departments as part of a "flat pyramid" with a lot of operating units.<sup>6</sup> There was less clarity about the progress so far towards this ideal and the future pace of change. In November 1993 Sir Robin Butler, when asked about Sir Peter Kemp's proposal for a 25 per cent reduction in central staff before 31 March 1995, referred to the fact that there had already been a 25 per cent reduction in staff since 1979 and forecast further reductions in the overall size of the Civil Service.<sup>7</sup> Figures provided at that time demonstrated that there had been a significant reduction in overall numbers at Grades 1 to 5 since the establishment of Agencies, but was not illuminating on the extent to which this implied a shrinking core.<sup>8</sup> Mr Waldegrave subsequently expressed sympathy with Sir Peter Kemp's suggestion that the core of Departments had not shrunk themselves or adapted themselves in the way that the Fraser Report suggested they should, stating that "action is now beginning to be taken on that"; there had been a diminution, but there was "more that needs to be done".<sup>9</sup> The Civil Service White Paper gives Departments responsibility for their own management structures and states that "each Department is to review its senior management structure with a view to reducing layers of management where possible". It notes that the present central grading system may inhibit effective management and presumes the reviews will lead to flatter management structures.<sup>10</sup> Mr Waldegrave said that he expected to see these announcements affect the size and structure of Departmental headquarters "pretty soon" and Sir Robin Butler pointed to changes which were already under way in the Treasury and the Department of Transport.<sup>11</sup>

226. We have not considered the prospective changes to core Departments outlined in this section at the same length as some other reforms of the Civil Service, but this is not because we consider them unimportant. Indeed, it is possible that the proposed developments in this area, including the further financial delegation to Departments, the introduction of resource accounting, improvements to management information and changes in Department structures, could have as profound a long term effect on the British Civil Service as the creation of Next Steps Agencies. We do not examine them in greater detail in the present Report because many of them are only at an embryonic stage, amounting to little more than good intentions in some cases. We support the idea of extending many of the principles of Next Steps to core Departments. We welcome in principle the devolution of greater financial freedom to Departments, the introduction of resource accounting in Departments and endeavours to improve the quality of management information and target-setting in Departments. These latter developments, and the associated introduction of resource budgeting, should present an opportunity to improve the quality of information available to Parliament on the activities of Government and will require both Parliamentary involvement and Parliamentary scrutiny. We do not believe, given the current quality of performance measurement in core Departments, that it is practical at present to introduce performance agreements between Ministers and civil servants in core Departments. However, it will be necessary when the proposed improvements have taken clearer

1 *Making the Most of Next Steps*, paras. 3.16-3.17, 2.14.

2 HC (1992-93) 390-II, p. 94; Q413.

3 Sir Peter Kemp, *Beyond Next Steps*, pp. 26, 30.

4 HC (1992-93) 390-II, p. 189; QQ809-810.

5 Cm. 1761, p. 5.

6 Q1363 (Sir Robin Butler), 2443 (Mr Waldegrave).

7 Q1416.

8 HC (1993-94) 27-II, pp. 32, 34-47, 69 (ODSS).

9 QQ2442, 2445.

10 Cm. 2627, paras. 1.4, 1.5, 3.29-3.30, 4.20.

11 QQ2581-2585 (Mr Waldegrave and Sir Robin Butler).

shape to consider whether the processes of resource allocation and target-setting in core Departments and the associated processes of financial reporting to Parliament would be assisted by the introduction of a more formal framework for determining the allocation of responsibility for performance against targets in core Departments comparable to the changes we have proposed above in the case of Agencies.

227. The Government foresees a significant reduction in the size of core Departments in coming years, as well as changes to their structures. At present, attempts to monitor movements in the size of the core Departments and changes in their grading structure are rendered very difficult by the paucity of reliable information on the size and composition of core Departments.<sup>1</sup> The OPSS has begun to collect information on the number of civil servants involved in non-executive activities in the centres of Departments, but only an overall figure has been published.<sup>2</sup> We recommend that the Government collects and publishes, with the same frequency as statistics on Civil Service manpower, information on the number of civil servants in core Departments, by grade or pay band and by Department, distinguishing between those engaged in policy work, central finance and personnel functions and other functions of core Departments.

## XII. THE ROLE OF THE CENTRE

### (i) *The organisation of the central Departments*

228. The rapid pace of change in the Civil Service is bound to have an impact upon the role of the central Departments—currently the Treasury and the Office of Public Service and Science. In 1991 our predecessors were concerned that the role of the central Departments in the light of the Next Steps programme appeared to have been “less deeply considered” than the relationship between Agencies and core Departments. The then Committee noted that the principle of clarity of function should be applied to the central Departments as well as to Agencies and core Departments and looked forward to the central Departments playing a more strategic role.<sup>3</sup> In its reply later that year the Government agreed that “the role of the Treasury and Cabinet Office ... should be defined and clarified in the light of the development of the Next Steps initiative”. It promised to report to the Committee of the time of its next inquiry on the conclusions then emerging.<sup>4</sup> The role of the central Departments has been given added importance by the proposals in the Civil Service White Paper to delegate greater authority to individual Departments. In the light of this, it is perhaps surprising that the Civil Service White Paper hardly addresses the role of the central Departments in direct terms, although the Treasury is currently the subject of a fundamental expenditure review which is examining the role of the Treasury in relation to the Civil Service, and the Office of Public Service and Science has been created since our predecessors’ Report.<sup>5</sup>

229. The establishment of the Office of Public Service and Science represents the most recent in a long line of changes in the machinery of Government designed to make the central management of the Civil Service more effective. In 1968 the Fulton Committee recommended that the expanded and unified central management of the Civil Service should be made the responsibility of a new Civil Service Department, and this was one of the first recommendations of that Report to be implemented.<sup>6</sup> In 1977 the Expenditure Committee considered that the Civil Service Department had made a valuable contribution to the Civil Service, but had lost its original drive “with the evaporation of Fulton enthusiasm”. The Committee considered the then division of responsibility between the Civil Service Department and the Treasury to be unsatisfactory. It recommended that responsibility for efficiency should be transferred to the Treasury, while the Civil Service Department retained responsibility for Civil Service pay.<sup>7</sup> In 1980 our predecessors, perhaps reflecting the extent to which the Civil Service Department was a victim of changing expectations, noted that the nub of the argument for merging the Civil Service Department and the Treasury was that the former had “failed to exercise a satisfactory control over numbers employed and to promote efficiency in the use of manpower with

<sup>1</sup> *Next Steps: Moving On*, para. 4.2.7 (footnote); Sir Peter Kemp, *Beyond Next Steps*, pp. 26-27.

<sup>2</sup> Cm. 2430, pp. 10-11; HC (1993-94) 27-II, pp. 307-308 (OPSS).

<sup>3</sup> HC (1990-91) 496, paras. 18-20.

<sup>4</sup> Cm. 1761, p. 3.

<sup>5</sup> HC (1993-94) 593, Q16 (Sir Terence Burns).

<sup>6</sup> Cmnd. 3638, paras. 251-254; HC Deb., 26 June 1968, col. 455 (Mr Harold Wilson). See also HC (1993-94) 27-III, p. 27 (Dr Geoffrey K Fry).

<sup>7</sup> HC (1976-77) 535-I, paras. 72-74, 81, 85, 88.

sufficient vigour". The then Committee opposed a merger, believing it to be important that the management of the Civil Service should remain an entity.<sup>1</sup> However, the Government decided that the Civil Service Department "did not have a great deal of clout and, not only did the system work better, but the interests of the Civil Service were better served by responsibilities lying where the power lay, in the Treasury and Cabinet Office".<sup>2</sup> In 1981 the Civil Service Department was abolished. Its responsibilities for pay and manpower were transferred to the Treasury. Other responsibilities passed to a new Management and Personnel Office within the Cabinet Office.<sup>3</sup> In 1986 the then Committee expressed concern that these arrangements meant that "there is no clear focus for the Civil Service at Ministerial level".<sup>4</sup> In reply, the Government said that it did "not believe that there is a uniquely and universally right way to organise the various functions that are carried out at the centre of Government", but argued that "the reasons which led to the creation of the present arrangements in 1981 remain valid".<sup>5</sup> The following year saw the Management and Personnel Office give way to the Office of the Minister for the Civil Service. Our predecessors did not advocate another shift of responsibilities, but found attractive the idea of a Management Board for the Civil Service.<sup>6</sup>

230. The Office of Public Service and Science was established in May 1992. It is part of the Cabinet Office and brings together the responsibilities of the former Office of the Minister for the Civil Service, including the Next Steps programme, with the units responsible for the Citizen's Charter, Efficiency and market testing.<sup>7</sup> Its principle relevant aims are "to raise the standards of public services, including the privatised utilities, and to make them answer better to the wishes of their users" and "to improve the effectiveness and efficiency of central government".<sup>8</sup> Mr Waldegrave believed that the new Department brought together the various strands of recent Civil Service reforms effectively and believed that its public service functions reflected "a real coherence". He believed that it was "a good organisation for the priority of the moment, which is to carry forward what is quite a radical programme of public service reform".<sup>9</sup> In line with an original recommendation of the Fulton Committee, the Ministerial head of the OPSS has Cabinet rank. Mr Waldegrave believed that this reflected the political priority attached to public service reform and this development was supported by others.<sup>10</sup>

231. The establishment of the OPSS has not led directly to a marked diminution in the responsibilities of the Treasury in relation to the Civil Service, although such a process is foreshadowed in the recent Treasury review under the guidance of Sir Colin Southgate. The principal roles of the Treasury which are relevant to the management of the Civil Service are: "the planning and control of public expenditure (of which expenditure on Civil Service pay and allowances makes up a part) in line with Government objectives; providing a framework for accountability, propriety and improving value for money in public spending; and promoting improvements in the efficiency and effectiveness of Civil Service management and its pay and personnel structures". The Treasury has lead responsibility for pay-related personnel issues as well as relocation policy, financial management of the Civil Service and Departments employing civil servants, and also for Civil Service statistics. It shares responsibility with the OPSS for the Next Steps programme, prior options, privatisation, contracting out and market testing. The OPSS is the lead Department on these matters, with the exception of privatisation, on which the Treasury is the lead Department based on its wider responsibility to secure supply-side change and improvement in the functioning of economic activity.<sup>11</sup> Mr Dorrell readily admitted that the division of responsibilities between the Treasury and the

1 First Report from the Treasury and Civil Service Committee, *The Future of the Civil Service Department*, HC (1980-81) 54, paras. 16, 25-28.

2 Q192 (Sir Robin Butler).

3 HC (1981-82) 236-I, paras. 76-78.

4 HC (1985-86) 92-I, para. 5.38.

5 Cmnd. 9841, paras. 37-38.

6 HC (1987-88) 494-I para. 30. This suggestion had been made by Sir Frank Cooper, HC (1987-88) 494-II, p. 98.

7 For a fuller description of its responsibilities, see HC (1992-93) 390-II, pp. 1-5 (OPSS); *The Government's Expenditure Plans 1994-95 to 1996-97: Cabinet Office, Chancellor of the Duchy of Lancaster's Departments, Privy Council Office and Parliament*, Cm. 2518.

8 Cm. 2518, para. 3.3.

9 QQ2-3.

10 Cmnd. 3638, para. 261; Q5 (Mr Waldegrave); HC (1993-94) 27-II, p. 103 (Mr John Garrett); HC (1993-94) 27-III, p. 27 (Dr Geoffrey K Fry).

11 HC (1992-93) 390-II, pp. 256-260 (HM Treasury); Q1147 (Mr Stephen Dorrell).

OPSS was not “self-evident”, but he justified it in two ways. First, the two Departments brought two complementary perspectives to bear on Civil Service management: the approach of the OPSS was primarily based on its concern for the delivery of high quality public services; the approach of the Treasury was primarily based on its concern for public expenditure and thus for pay and financial propriety. Second, the division worked in practice. There was a creative tension between the Departments as they brought different perspectives to bear, but there were not problems in practice in determining which Department should take the lead in particular instances. He saw advantages in retaining these two different perspectives.<sup>1</sup> Mr Waldegrave also did not see any problems arising from the division of responsibilities: “We are all working to the same script ... and it works reasonably well”.<sup>2</sup> Sir Robin Butler believed that the current division represented an improvement upon the Civil Service Department as it had operated in practice, while accepting that any division had disadvantages as well as advantages.<sup>3</sup> Sir Peter Kemp, drawing on experience at very senior levels in both Departments, endorsed the assertion that the two Departments worked well together and considered the present arrangements functioned as effectively as any since the establishment of the Civil Service Department.<sup>4</sup> Lord Howe also defended the current division, warning against “huge upheavals for the sake of them”.<sup>5</sup>

232. The main difference between the OPSS and its immediate predecessors is the number of units with cross-governmental responsibilities which have been brought together within it, including the Citizen’s Charter Unit and the Efficiency Unit as well as the Next Steps Team, which was already in the Office of the Minister for the Civil Service. Mr Waldegrave attached considerable importance to these small “mission-orientated teams”. He thought that it made “very good sense” to bring them all together within the OPSS.<sup>6</sup> The Citizen’s Charter Unit “acts as a catalyst to see that Charter principles are put into practice, and Charter commitments to improve the quality of public services are delivered”. Mr Waldegrave was convinced that a small unit of about 30 staff could have a considerable impact given that it had “central political clout”. He regarded the unit as being “the guerilla warfare element in Whitehall rather than an enormous division of troops”. A small team was less bureaucratic and could function effectively through dialogue with “allies” in Departments. He believed that in this way they could have a considerable effect on the culture of the Civil Service. The then Parliamentary Secretary in the OPSS and the head of the Citizen’s Charter Unit also stressed that it was important that the Charters were not seen as being imposed from outside; it was vital that Departments had a sense of ownership of their own Charters.<sup>7</sup>

233. The Citizen’s Charter Unit drew its inspiration in part from the success of the Next Steps Team. The original Next Steps Report emphasised the importance of an authoritative and “slimline” project team with a high level Project Manager to implement the Next Steps initiative.<sup>8</sup> Mr Waldegrave believed that the Next Steps Team had been highly successful, attributing this to political will and support, to having a small mission-orientated team of “really good people” and to exceptional leadership. Both Mr Waldegrave and Sir Robin Butler paid tribute to Sir Peter Kemp’s “remarkable achievement” as the first Project Manager.<sup>9</sup> In 1990 Sir Peter Kemp indicated that the role of the Next Steps Project Manager should not be seen as permanent: “once the new structures are properly in place, there must be no role for the Project Manager. His job is to bring about the process of change not to engage in some permanent supervisory or other capacity to do with Agencies’ affairs”.<sup>10</sup> In response to this statement, our predecessors emphasised that there would be a continuing need for a unit “which can evaluate the relationships between the Treasury, Departments and Agencies, and draw attention to examples of unwarranted interference in the delegated management of Agencies by central Government”.<sup>11</sup> In response to this observation, the Government acknowledged the need for permanent arrangements to complete the programme of Agency creation

1 QQ1147, 1158, 1179-1190, 1194.

2 Q5.

3 QQ192-193.

4 QQ418-419.

5 Q543.

6 QQ994, 2,8.

7 HC (1992-93) 390-II, p. 1 (OPSS); QQ22, 28-32 (Mr Waldegrave, Mr Robert Jackson, Mr Brian Hilton).

8 *Improving Management in Government: The Next Steps*, paras. 40-41.

9 QQ30, 61, 994, 1027 (Mr Waldegrave), 137, 1482 (Sir Robin Butler).

10 HC (1989-90) 481, p. 3.

11 HC (1989-90) 481, paras. 79-80.

and "to make sure that the changes are consolidated and made durable".<sup>1</sup> There are signs that the roles of the Next Steps Team and of the Project Manager are being redefined. First, a memorandum by the OPSS in June 1993 laid new stress on the role of the Team in the reviews of Agencies and their status as well as their establishment.<sup>2</sup> Second, following the creation of the OPSS, the job of the Next Steps Project Manager has been combined with that of a Departmental Permanent Secretary. Sir Robin Butler said that "the task was no longer one of leading a mission to reform the Civil Service but much more the traditional one of Permanent Secretary", although Mr Mottram reaffirmed the mission to reform the Civil Service and did not see his two roles as incompatible.<sup>3</sup>

234. The third "guerilla" unit in the OPSS, and the oldest, is the Efficiency Unit. In May 1979 Sir Derek (now Lord) Rayner was appointed to advise the then Prime Minister and her colleagues on ways to improve efficiency and eliminate waste in Government. This began with a number of "Rayner projects" focusing on particular topics and which led to the establishment of an annual scrutiny programme.<sup>4</sup> At the suggestion of Lord Rayner and with the support of our predecessors, these arrangements were institutionalised through the creation of the Efficiency Unit and the post of the Prime Minister's Adviser on Efficiency and Effectiveness became permanent, the present holder being Sir Peter Levene.<sup>5</sup> Sir Peter Levene reports directly to the Prime Minister, although since the Efficiency Unit became part of the OPSS he is also responsible to the Chancellor of the Duchy of Lancaster for assisting with the development of the Government's range of public sector reforms designed to raise the standard of public services and to make them answer better to the wishes of their users.<sup>6</sup> The principles and methodology of efficiency scrutinies have remained broadly unchanged since 1979. Scrutinies are conducted within 90 days and are carried out by a team from within the relevant Department, but not from the area to be reviewed. They liaise with a desk officer in the Unit. As was the case in 1979, the role of the Efficiency Unit is an advisory one. The recommendations are the property of the team; reports are made to departmental Ministers and responsibility for implementation rests with the relevant Department.<sup>7</sup> The Government believes that, since 1979, the efficiency scrutiny programme has saved £1.5 billion and is currently generating savings of around £100-200 million per year.<sup>8</sup> Since 1979 there has been a change in emphasis in the selection of subjects for scrutinies. Lord Rayner initially believed that there should be an annual scrutiny for each Department. He expressed a willingness to make suggestions to Departments and withhold his support from unreasonable suggestions. He also emphasised that the final programme would be determined after consultation with the Prime Minister.<sup>9</sup> Sir Peter Levene shared his predecessor's scepticism about some of the proposals put to him, but thought this was in part the result of the fact some Departments thought "they had been virtually scrutinised to death". He did not consider it appropriate for the Unit to make suggestions for possible scrutinies; the initiative should remain with Departments.<sup>10</sup> Departments are no longer expected to undertake a formal scrutiny every year. The 1993 programme included ten scrutinies from eight Departments.<sup>11</sup> Sir Peter Levene has sought to place a greater emphasis on cross-departmental scrutinies, although these are by no means a new dimension to the scrutiny programme.<sup>12</sup> Overall, Sir Peter Levene attached a growing importance to the newer and wider role of the Efficiency Unit in relation to the Competing for Quality programme. Asked whether the Efficiency Unit was succeeding in its original purpose of changing the culture of Whitehall, he replied: "I think the culture of Whitehall is probably changing rather more today through the market testing programme, because the efficiency scrutinies have been running for some years now. Many of the obvious topics have already been scrutinised."<sup>13</sup> The role of the Efficiency Unit has been redefined further by the proposal in the Civil Service White Paper to give the Unit, in cooperation with the Treasury, responsibility for reviewing Departmental

1 Cm. 1263, p. 17.

2 HC (1992-93) 390-II, p. 207.

3 QQ61 (Mr Waldegrave), 138 (Sir Robin Butler), 985-986 (Mr Mottram), 1028-1029 (Mr Waldegrave and Mr Mottram)

4 HC (1979-80) 712-II, pp. 46-60 (Sir Derek Rayner).

5 HC (1979-80) 712-II, Q286; HC (1981-82) 236-II, Q294 (Sir Derek Rayner); HC (1979-80) 712-I, para. 11; HC (1992-93) 390-II, p. 1 (OPSS).

6 HC (1992-93) 390-II, p. 304 (Efficiency Unit).

7 HC (1979-80) 712-II, p. 46, Q275 (Sir Derek Rayner); HC (1992-93) 390-II, pp. 304-305 (Efficiency Unit); Q1265 (Sir Peter Levene).

8 HC (1992-93) 390-II, p. 251 (OPSS).

9 HC (1979-80) 712-II, p. 47; QQ335-337.

10 QQ1265, 1269-1274.

11 HC (1992-93) 390-II, pp. 305, 308 (Efficiency Unit).

12 Q1265 (Sir Peter Levene); HC (1980-81) 236-II, p. 86 (Sir Derek Rayner); HC (1987-88) 494-II, Q77 (Sir Robin Ibbs).

13 Q1280.

efficiency plans and performance against them.<sup>1</sup> Mr Waldegrave believed that Sir Peter Levene and the Unit could bring considerable "management expertise" to this task.<sup>2</sup>

235. The recent changes in the organisation at the centre were subject to various, albeit incompatible, criticisms. Sir Kenneth Couzens was concerned that the OPSS's description of its own role was too narrowly defined, with an emphasis "on procedures and organisation rather than on the spirit which should inform them".<sup>3</sup> Sir Peter Kemp expressed concern at "a lack of leadership" from the OPSS and a failure to treat the various legs of Civil Service reform "as an integrated whole". He argued that the failure to integrate them "has led to the duplication of resources and a trio of different ambitions and conflicting objectives". He also believed that the OPSS should not attempt "to turn itself into a standard Government Department".<sup>4</sup> The Trosa Report also suggests that co-ordination between the different strands of Civil Service reform could be improved at the centre.<sup>5</sup> Mr Waldegrave and Sir Peter Kemp's successor rejected the notion that public service reforms were directed by separate barons; the various units were part of a centrally managed Department.<sup>6</sup> Mr John Garrett argued this development should be taken further and a Civil Service Department "reconstituted to manage the Service, with the added responsibility for cross-departmental analysis of policy and its implementation".<sup>7</sup>

(ii) *The approach to the central Departments*

236. Just as important as the organisation of the central management of the Civil Service is the approach that the centre adopts during the process of reform and towards Departments and Agencies more generally. Our predecessors emphasised the new approach which the Next Step programme would require from the central Departments in setting the overall strategic framework for the Civil Service. The then Committee was concerned that the central Departments were still too concerned with detailed rules on management matters, emphasising that the centre should be concerned "with laying down the basic requirements by which managers had to abide, and monitoring to ensure that those requirements were observed, rather than becoming concerned with the minutiae of Departmental and Agency affairs".<sup>8</sup> Considerable progress has clearly been made in the formal delegation of responsibility from the Treasury and the OPSS to individual Departments in areas such as pay and recruitment, which we consider below, as well as in terms of financial freedoms.<sup>9</sup> As has already been noted, the Civil Service White Paper represents a considerable step forward in terms of increased delegation to Departments. Mr Waldegrave believed that "the strategic role is the right one for central Departments", but the Government has continued to stress the need for the central Departments to play a continuing role in disseminating best practice in the fields of human resource management and financial management.<sup>10</sup> Sir Terence Burns has acknowledged the need for the Treasury to rethink its role and focus on its "core activities" in response to the growing trend towards delegation, putting more resources into the design of policy and less time into working out the application of a policy in particular circumstances.<sup>11</sup> To reflect this, the Treasury has reduced the staff numbers concerned with Civil Service management and reduced the number of staff at the most senior levels.<sup>12</sup> The Government attaches importance to staff loans between the Treasury and other Departments, both to enhance Treasury understanding of and cooperation with organisations with which it works and to increase expertise and experience within the Treasury, and the number of such loans has risen in recent years.<sup>13</sup>

<sup>1</sup> Cm. 2627, para. 3.21.

<sup>2</sup> QQ2569, 2592.

<sup>3</sup> HC (1993-94) 27-III, p. 42. See also *ibid.*, p. 73, where Professor Anne Stevens notes that the French *direction générale de l'Administration et de la Fonction publique* "sees itself both as the guardian of the major principles of the French public service, and as an agent for change".

<sup>4</sup> *Beyond Next Steps*, pp. 39-41.

<sup>5</sup> *Next Steps: Moving On*, para. 6.2.8.

<sup>6</sup> Q1982 (Mr Waldegrave and Mr Mottram).

<sup>7</sup> HC (1993-94) 27-II, p. 103.

<sup>8</sup> HC (1990-91) 496, paras. 20-21.

<sup>9</sup> HC (1992-93) 390-II, pp. 256-259 (HM Treasury).

<sup>10</sup> QQ2592 (Mr Waldegrave), 184 (Sir Robin Butler); Cm. 2627, para. 4.11; HC (1992-93) 390-II, pp. 259-260 (HM Treasury); HC (1993-94) 27-III, pp. 12-13 (OPSS).

<sup>11</sup> "Change and the Treasury", Durham University Business School-Barclays Bank plc 1994 Enterprise Lecture, 27 April 1994, para. 39.

<sup>12</sup> *ibid.*, para. 29; HC (1993-94) 593, QQ16, 24 (Sir Terence Burns); QQ2581-2585 (Sir Robin Butler).

<sup>13</sup> QQ1436-1438 (Sir Robin Butler); HC (1993-94) 27-III, pp. 103-104 (HM Treasury).



237. A number of observers questioned whether the culture and approach of the central Departments was changing to the required extent. Professor Eric Caines expressed concern that delegation had been accompanied by “oppressive systems of performance monitoring”. Distrust, and a preoccupation with how money was spent rather than outputs, remained.<sup>1</sup> The Trosa Report noted that the guidance coming from the central Departments was widely appreciated, but that they continued to produce too many rules on how to manage. It argued that problems partly arose from the fact that staff in the central Departments “tend to be policy makers and not implementation advisers”.<sup>2</sup> Sir Brian Hayes stated that he would “like to see the Treasury staffed to a much greater extent by secondment from other Departments (as the Cabinet Office is now). This would ... improve the performance of the Treasury, which can otherwise develop an ivory tower mentality; and improve understanding on the part of other Departments of the financial and economic imperatives which must govern their actions”.<sup>3</sup>

(iii) *The Southgate review*

238. An early sign of the restructuring of Departments and the reduction in staff numbers appeared in October 1994. Under the guidance of Sir Colin Southgate, a working party set up to examine the future organisation of the Treasury recommended the fundamental restructuring of its senior management structure.<sup>4</sup> Aiming not “to deliver a pre-determined reduction in staff numbers or costs but to improve the quality of service the Treasury provides”,<sup>5</sup> the Review recommended a reduction in the number of directorates from nine to seven. Each of the seven directors, supported by a number of assistant directors, would oversee the work of a number of teams, of between four and fifteen per directorate. The responsibility for achieving the aims of the Treasury would fall very largely on “team leaders”, most of whom would be Grade 5s. The Review considered that this would achieve a considerable degree of delegation of responsibility, and anticipated that the directorate management teams would play “a more managerial and strategic role” than at present.<sup>6</sup> It sought to “strike a much more satisfactory balance than now between the need to resource the Treasury with enough senior managers to ensure that quality is not compromised and that each directorate’s work is fully informed by a wider, more strategic and more experienced view; and the desirability of delegating responsibility as far as possible down the line”.<sup>7</sup>

239. Some activities of the Treasury might, the Review thought, be reduced or cut out altogether; others could be moved outside the Treasury. The resources devoted to economic forecasting might be reduced; less effort should be spent on overseeing the management and running costs of other Government Departments; responsibility for the pay and pensions of individual civil servants should move to the relevant department; and savings of resources were possible in the handling of routine ministerial correspondence. Personnel management and pension entitlements of civil servants in other departments should pass to the OPSS; the Securities and Investments Board could effectively take over the “quasi-executive role” of the Treasury under the Financial Services Act; and several of the support services of the Treasury could be improved if they were provided by the private sector, for instance security, training, routine IT operations and the messenger service.<sup>8</sup> On the other hand, the Review also argued that several activities of the Treasury could be enhanced; a central strategic analysis team should be established to audit the Treasury’s management and policy advice; and training should receive increased emphasis. Taken together, these proposals would eventually reduce the numbers of senior management posts by approximately 30 per cent. The actual number of senior staff would fall by somewhat less, around 25 per cent, since a considerable amount of time would be taken up by training.

240. We do not propose to comment at this stage in detail on the proposals of Sir Colin Southgate’s review. Nevertheless, as a case study—and possibly a blueprint—of the restructuring of a Government department, we regard the review as of the greatest importance. We will need to be convinced that the cutting of staff will not reduce the effectiveness of the Treasury as a whole, that the reconsideration of the Treasury’s activities will not loosen control over

<sup>1</sup> HC (1992-93) 390-II, p. 188; QQ802, 810.

<sup>2</sup> *Next Steps: Moving On*, paras. 2.26, 6.3.8.

<sup>3</sup> HC (1993-94) 27-III, p. 9.

<sup>4</sup> *Fundamental Review of H.M. Treasury’s Running Costs (Her Majesty’s Treasury, October 1994)*

<sup>5</sup> *Ibid.*, p. 7

<sup>6</sup> *Ibid.*, p. 15

<sup>7</sup> *Ibid.*, p. 17

<sup>8</sup> *Ibid.*, pp. 12-13

public expenditure, and that the staff left in place are used to the best advantage. We hope to return to the specific subject of the restructuring of the Treasury.”

*(iv) The role of the Head of the Home Civil Service*

241. The Head of the Home Civil Service has long had a significant role in the central management of the Civil Service. In 1986 the then Treasury and Civil Service Committee argued that the Civil Service was in danger of being without a leadership ethos and that this arose in part from the fact that the post of Head of the Home Civil Service was combined with that of Secretary of the Cabinet. It considered that, “however talented and hardworking the postholder might be, the burden of two such heavy sets of responsibilities, *if properly fulfilled*, must be impossible to bear. There could also be occasional conflicts of interest”. It recommended that the posts should no longer be combined and that a full Permanent Secretary be appointed Head of the Home Civil Service.<sup>1</sup> The Defence Committee subsequently noted that the Westland crisis might have been an example of a conflict of interest between the two posts.<sup>2</sup> The then Treasury and Civil Service Committee reiterated its commitment in principle to the division of the two posts in 1987.<sup>3</sup> More recently Dr William Plowden has argued that, although Sir Robin Butler is more publicly active in his role as Head of the Home Civil Service than any of his predecessors, his role as Cabinet Secretary could inhibit his performance of his duties as Head of the Home Civil Service, and has supported the recommendations of our predecessors.<sup>4</sup> Mr Timothy Hornsby took the argument one step further, suggesting not only that the post of Cabinet Secretary should be a full-time job, but also that the effective delegation of personnel functions would render the role of the Head of the Home Civil Service unnecessary.<sup>5</sup>

242. The Government rejected the recommendation of our predecessors. It did not believe that the Head of the Home Civil Service could adopt a high-profile position advocating the interests of the Civil Service if this appeared to amount to a conflict with the Government of the day.<sup>6</sup> Like his predecessor, Sir Robin Butler believed that the work resulting from the combination of posts was substantial and varied, but not an impossible burden. He had agreed a change in the responsibilities of the Cabinet Secretary which enabled him to spend about half his time on Civil Service matters.<sup>7</sup> He said that he had also utilised a number of opportunities to speak up in public for the standards of the British Civil Service.<sup>8</sup> Like his predecessor, Sir Robin saw considerable advantages in the posts being combined, including the greater opportunity for close working relationships with the Prime Minister, other Ministers and many senior civil servants which came with the post of Cabinet Secretary, and did not see any undue conflict of interest arising.<sup>9</sup> Others endorsed the view that there was no inherent tension between the two posts and saw advantages in the two posts being combined.<sup>10</sup>

*(iv) Conclusions*

243. We believe that the Office of Public Service and Science and, most significantly, the appointment of a Cabinet Minister to lead it represents an improvement upon the previous arrangements for the central management of the Civil Service. The OPSS clearly has an important role to play both in seeking to raise the standards of public services and in asserting the core values of the Civil Service and of public service more generally. Although the re-establishment of the Civil Service Department has been proposed, we are not convinced that, at present, the advantages of further departmental reorganisation would outweigh the disadvantages. However, we believe that further consideration may need to be given to the internal organisation of the OPSS. We consider that the scrutiny programme should continue to be viewed as a high priority and that the Efficiency Unit should play an active role in seeking Departmental agreement to explore areas which may so far have escaped an efficiency scrutiny or merit a further scrutiny. We are not convinced that the wider role which the Efficiency Unit is called upon to play in the context of the Competing for Quality programme and the proposals in the Civil

<sup>1</sup> HC (1985-86) 92-I, paras. 5.39-5.44; emphasis in original.

<sup>2</sup> HC (1985-86) 519, para. 214.

<sup>3</sup> HC (1986-87) 62, paras. 31-36.

<sup>4</sup> *Ministers and Mandarins*, pp. 11-111, 149.

<sup>5</sup> HC (1993-94) 27-III, p. 95.

<sup>6</sup> Cmnd. 9841, para. 40.

<sup>7</sup> HC (1981-82) 236-II, QO1263-1265 (Sir Robert Armstrong); HC (1987-88) 370-i, QQ 55-61; QQ176, 190 (Sir Robin Butler).

<sup>8</sup> Q197.

<sup>9</sup> HC (1981-82) 236-II, Q1263 (Sir Robert Armstrong); HC (1985-86) 92-II, pp. 3-4 (Cabinet Office); HC (1987-88) 370-i, Q59, QQ188-189 (Sir Robin Butler).

<sup>10</sup> HC (1993-94) 27-III, pp. 17 (Dr Peter Barberis), 27 (Dr Geoffrey K Fry).

Service White Paper should necessarily be combined with responsibility for the scrutiny programme. We believe that consideration should be given to combining these wider roles with a more general responsibility for implementation of the Civil Service White Paper in a new project team. The focus of the Next Steps Team is likely to shift from Agency creation to Agency review, and in this context consideration should be given to the Next Steps Team providing or securing the provision of the external evaluation of the performance of Agencies which we recommended above.<sup>1</sup> We recommend that the Government sets out proposals for the future internal organisation of the Office of Public Service and Science in its reply to this Report. In the light of recommendations elsewhere in this Report which will affect the role of the Head of the Home Civil Service,<sup>2</sup> we see no reason why that post should not be combined with that of Secretary of the Cabinet.

## D. THE HUMAN RESOURCES OF THE CIVIL SERVICE

### XIII. THE CIVIL SERVICE AS AN EMPLOYER

#### (i) "A good employer"

244. The principle that the Civil Service should be "a model employer" was noted by the Royal Commission on the Civil Service in 1914.<sup>3</sup> Adherence to this principle was seen as a strength of the Civil Service at the time of the Fulton Report, when a management consultancy study characterised the Civil Service as "a good, if rule-bound, employer".<sup>4</sup> Both Sir Robin Butler and Mr Stephen Dorrell said that the Government attached importance to its role as a "good employer".<sup>5</sup> *Questions of Procedure for Ministers* informs Ministers that they have "a duty to observe the obligations of a good employer with regard to terms and conditions of those who serve them".<sup>6</sup> The Civil Service unions argued that it was particularly important that the Government should treat its employees with fairness since civil servants were required to be fair to others as part of their work.<sup>7</sup> The Commission for Racial Equality believed that the Civil Service was "a key employer, because of its size and visibility, and its role in implementing Government policy".<sup>8</sup>

245. A salient example of the Civil Service's commitment to be a good employer is its policies on equal opportunities. The Government has believed for some time that the Civil Service should give a lead in promoting equal opportunities, for two reasons. First, "it is of wide social importance that the Civil Service, as an employer of the first rank, and as an organisation whose staff and activities are publicly funded, should both see itself and be seen by others as an integral part of the community it serves" and "this will be easier to achieve if it also reflects the diversity of that community". Second, "it is of the utmost importance that the Civil Service makes full use of its staff and the realisation of equal opportunities policy will contribute to the pursuit of this aim".<sup>9</sup> In listing the codes covering the conduct and behaviour of civil servants, the Government included programmes of action for women, for people of ethnic minority origin and for people with disabilities.<sup>10</sup> These policies are based in part on statutes which apply to other employers, but the Government's "intention is to comply as much with the spirit as with the letter of the legislation"<sup>11</sup> The Government has stressed that equal opportunities policies are not only just, but should bring "benefits in terms of good management practice and effective organisation".<sup>12</sup> Both the Government and the FDA believed that an effective equal opportunities policy "makes good business sense", maximising the available talent and ensuring that training is not wasted.<sup>13</sup>

246. The requirements of a good employer go far wider than the enunciation of sound equal opportunities policies. It is a truism, but an important truism, to state that the staff of the Civil

<sup>1</sup> See paragraph 171.

<sup>2</sup> See paragraphs 108-112 and 274-276

<sup>3</sup> Cd. 7338, p. 83.

<sup>4</sup> *The Civil Service: Vol. 2: Report of a Management Consultancy Group*, paras. 13-14.

<sup>5</sup> QQ182-183 (Sir Robin Butler), 1147, 1203 (Mr Stephen Dorrell).

<sup>6</sup> *Questions of Procedure for Ministers*, para. 55.

<sup>7</sup> HC (1992-93) 390-II, p. 105 (Council of Civil Service Unions).

<sup>8</sup> HC (1993-94) 27-III, p. 30.

<sup>9</sup> HC (1986-87) 358-i, p. 40 (Cabinet Office).

<sup>10</sup> HC (1992-93) 390-II, pp. 36-37 (Sir Robin Butler).

<sup>11</sup> *Equal Opportunities for Women in the Civil Service: Programme of Action* (Cabinet Office, February 1984), p. 16.

<sup>12</sup> *Programme of Action to Achieve Equality and Opportunity in the Civil Service For People of Ethnic Minority Origin* (Cabinet Office, 1990). Foreword by the Minister of State.

<sup>13</sup> HC (1992-93) 390-II, pp. 229 (OPSS), 49-50 (FDA).

Service represent its most valuable resource. These resources need to be maximised for there to be a truly effective and efficient Civil Service. In 1982 the then Treasury and Civil Service Committee concluded that "without good industrial relations, efforts to increase efficiency and effectiveness are likely to be stillborn".<sup>1</sup> In reply the Government agreed that "efforts to increase efficiency and effectiveness would be hampered by a failure of morale in the Civil Service".<sup>2</sup> Like other service organisations, the Civil Service is particularly dependent upon its staff for the quality of its work, both in terms of service to Ministers and services to members of the public. It has been noted that "Morale is terribly important in organisations delivering services. In such organisations quite junior staff are their public face and if [junior staff] are disgruntled then the quality of service which customers receive will be adversely affected".<sup>3</sup> The Government has acknowledged in the Civil Service White Paper that it "relies upon the high standards of integrity, fairness and confidentiality of the Civil Service, upon civil servants' commitment to service for every citizen and to economy and efficiency on behalf of the taxpayer, and upon the Civil Service's flexibility and sensitivity to changes in Government policy in handling some of the largest managerial and service delivery tasks in the economy".<sup>4</sup> The reliance of the Government upon the staff of the Civil Service is particularly great in the case of its reform programme, not only because of the requirements arising from the process of change itself, but also because the Government's reforms place particular emphasis both on the quality of service from individual civil servants to individual customers and on the delegation of greater responsibility to a greater number of civil servants. Effective personnel management is likely to be integral to the success of Civil Service reforms, in terms of selecting civil servants with the necessary blend of skills in a changing environment, training and deploying staff to meet the needs of the Service and motivating and rewarding staff. The requirement for effective personnel policies applies particularly in the case of senior civil servants, because of their leadership role in the Service and because they are required to manage the process of change at more junior levels.<sup>5</sup>

(ii) *A crisis of morale?*

247. The Council of Civil Service Unions contended that the Civil Service was "in a state of profound crisis". They argued that "the Civil Service is today in a state of crisis the like of which we have never ever, in our experience, witnessed before".<sup>6</sup> This sense of an erosion of morale was echoed by the FDA, which represents senior civil servants, and by the Trade Union Side of the Joint Coordinating Committee for Government Industrials.<sup>7</sup> Mr John Garrett stated that "in nearly thirty years of working in, working for, and studying the Civil Service I have never known morale in the Service to be so universally damaged by Government action". He argued that "the present attitude of the Government to its employees breaks every rule in the personnel management book".<sup>8</sup> A recent independent survey of Executive Agencies recently found that "morale is generally very low". This picture is not confined to Agencies: in the Treasury's own attitude survey, only seven per cent of respondents thought that morale was generally high in the Treasury as a whole, although preceptions of individual job satisfaction were more positive.<sup>9</sup> Mr John Garrett considered overall pay levels to be an important element in the mismanagement of the Civil Service, pointing to significant falls in Civil Service pay in relation to average earnings. In 1970 the salary of an Executive Officer was 140.6 per cent of average earnings; in 1993 the standard pay of an Executive Officer was 86.8 per cent of average earnings. Salaries for some Administrative Assistants in 1993 were less than 54 per cent of average earnings.<sup>10</sup> As part of the Government's freeze on Department's running costs in the period 1994-95 to 1996-97, pay increases in that period will have to be covered from efficiency savings and other economies.<sup>11</sup> The Council of Civil Service Unions believed that the relatively high retention rates of the Civil Service were explained by the wider economic and employment situation: "as soon as it improves, you will see an exodus ... from the Civil Service on a scale we have never seen before".<sup>12</sup>

1 HC (1981-82) 236-I, para. 98.

2 Cm. 8616, para. 10.

3 HC (1993-94) 27-II, p. 50 (Professor Fred Ridley and Mr Brian Thompson). See also Q351 (Professor Peter Hennessy); HC (1993-94) 27-II, p. 228 (Benefits Agency).

4 Cm. 2627, para. 2.6.

5 HC (1993-94) 27-III, p. 51 (Mr Clive Priestley); Q351 (Professor Peter Hennessy).

6 HC (1992-93) 390-II, p. 105 (Council of Civil Service Unions); Q425 (Mr John Ellis).

7 HC (1992-93) 390-I, p. 42 (FDA); HC (1993-94) 27-III, p. 135 (TUS, JCC).

8 HC (1993-94) 27-II, pp. 99, 102.

9 Price Waterhouse, *Executive Agencies: Fact and Trends: Survey Report 1994*, May 1994, p. 10; HM Treasury, *Staff Attitude Survey: The key results*, p. 2.

10 HC (1993-94) 27-II, p. 102 (Mr John Garrett); HC Deb., 20 January 1993, cols. 254-257w; HC Deb., 11 March 1994, cols. 434-435w.

11 HC (1993-94) 87, paras. 79-81; HC (1992-93) 390-II, p. 258 (HM Treasury); Cm. 2627, para. 3.28.

12 Q430 (Mr John Ellis).

248. The main factor leading to this "crisis" was seen as being the Government's programmes of privatisation, prior options, market testing and contracting out. These reforms were seen as fostering a sense that the Government did not value the Civil Service or the work of civil servants. The Civil Service unions argued that these programmes had challenged civil servants' sense that their work was a necessary public service which should be performed in the public sector and led to "a sense of betrayal".<sup>1</sup> Lord Callaghan thought that the present Government's challenge to a consensus on the tasks of the Civil Service had had "a serious impact on its morale and its belief in itself".<sup>2</sup> In the eyes of some, these problems were compounded by the fact that some Government Ministers appeared to believe that the Civil Service was inherently less effective and efficient than the private sector.<sup>3</sup> The Trosa Report notes the view of some Agency Chief Executives that "it is difficult to ask the staff to increase their efficiency efforts if the ultimate aim is privatisation".<sup>4</sup> Mr John Garrett saw it as incompatible with good management practice for an employer to treat its staff as "expendable".<sup>5</sup> The combined impact of these separate and overlapping reform programmes in such a short period of time was seen by some as creating great uncertainty and upheaval among civil servants, which was both demotivating and a distraction from effective work performance.<sup>6</sup> Sir Jack Hibbert, a former Head of the Government Statistical Service, thought that market testing was unlikely to lead to benefits to the taxpayer and was "all too likely to destroy the morale of those who have worked hard to build up an operation over a long period of time".<sup>7</sup> Lord Howe also admitted to concern about the demoralising effect of such rapid and pervasive change.<sup>8</sup> The Civil Service unions pointed to the loss of a sense of job security among civil servants and the perceived effect of fragmentation on career prospects in the Civil Service.<sup>9</sup> The impact of these programmes on perceptions of job security is borne out by staff surveys in HM Customs and Excise in 1991 and 1994: in reply to the first survey, 76 per cent of staff examined were satisfied with their job security; by 1994, the proportion satisfied had fallen to 36 per cent.<sup>10</sup> Some emphasised the importance of limiting the duration of change and the consequent uncertainty, although it was noted that market testing was likely to be a repeat exercise, making it "extremely disturbing". A Price Waterhouse survey found that Agency staff were "learning to live with the uncertainty".<sup>11</sup>

249. The Government did not deny that market testing, contracting out and the consideration of privatisation had had an adverse effect on Civil Service morale. In evidence to the Senior Salaries Review Body it noted that "For most of the Civil Service there is ... no longer any certainty that the work will remain in the public service in the medium term and no concept of a 'job for life'". Mr Dorrell acknowledged that the process of change engendered uncertainties. Sir Robin Butler described these processes as "very disturbing for the staff concerned". Mr Michael Bichard considered that the introduction of market testing had introduced a new sense of insecurity among staff.<sup>12</sup> However, Mr Bichard also stressed that the picture varied from office to office within the Benefits Agency and in some offices morale was exceedingly high. The Government believed that morale was gradually improving, particularly amongst staff involved in successful in-house bids.<sup>13</sup> Above all, the Government stressed that any reduction in morale had to be weighed against the Government's "absolutely essential duty to see we get value for money". The Government's commitment to deliver good quality services to the taxpayer was seen by Ministers as "our pre-eminent, overwhelming obligation".<sup>14</sup> As we have already noted, the Government is committed to continuing with the prior options process and with market testing and contracting out. The Civil Service White Paper acknowledges that change of the kind described in it "is an uncomfortable, sometimes painful, experience for the

1 QQ427 (Mr John Ellis), 1699 (Mr Bill Brett, Mr Barry Reamsbottom).

2 Q589.

3 HC (1992-93) 390-II, p. 42 (FDA); HC (1993-94) 27-III, p. 40 (Sir Peter Lazarus).

4 *Next Steps: Moving On*, para. 3.2.7.

5 HC (1993-94) 27-II, p. 99.

6 QQ458 (Mr John Ellis), 1763 (Mr Bill Brett); *Next Steps: Moving On*, para. 3.2.8; HC (1993-94) 27-III, pp. 7 (Sir Brian Hayes), 40 (Sir Peter Lazarus).

7 HC (1993-94) 27-III, p. 107.

8 Q550.

9 Q1780 (Mr John Sheldon); HC (1992-93) 390-II, p. 108 (Council of Civil Service Unions).

10 *Voice*, p. 3; *Voice II*, p. 4.

11 Q632 (Lord Callaghan); HC (1993-94) 27-III, p. 7 (Sir Brian Hayes); HC (1993-94) 27-II, p. 101 (Mr John Garrett); *Executive Agencies: Facts and Trends: Survey 1994*, p. 10.

12 QQ1126, 2375 (Mr Waldegrave); *Review Body on Senior Salaries: Sixteenth Report on Senior Salaries*, Cm 2464, para. 33; QQ1147, 1203 (Mr Stephen Dorrell), 1307 (Sir Peter Levene), 1355 (Sir Robin Butler), 2225 (Mr Michael Bichard).

13 QQ2226-2227 (Mr Michael Bichard), 1127, 1937, 1986-1987 (Mr Waldegrave), 1307 (Sir Peter Levene).

14 QQ1126-1127 (Mr Waldegrave), 1147, 1203 (Mr Stephen Dorrell).

individuals and institutions" concerned, but reaffirms the Government's belief in the longer term benefits and rewards of such change.<sup>1</sup>

*(iii) Conclusions*

250. There is nothing new about concerns over morale in the Civil Service. In the late 1960s the Fulton Committee was told that "the morale of the Civil Service ... has suffered sadly since the war".<sup>2</sup> In the early 1980s the then Treasury and Civil Service Committee found the morale of the Service "in a precarious state after last year's industrial dispute over pay and as a result of the heavy cuts in staff at present being implemented and the constant criticisms of the Civil Service".<sup>3</sup> In 1986 its successors felt the need to examine a problem of morale in the Service.<sup>4</sup> In 1987 the Council of Civil Service Unions told the then Committee that it was "aware of a deep-seated malaise, amounting to a crisis of Civil Service morale".<sup>5</sup> There are real difficulties in making an assessment of the overall state of morale in the Civil Service from outside, particularly in the absence of clear indicators such as major problems of recruitment and retention. Our assessment of this matter would have been greatly assisted by the commissioning of an attitude survey. There seems every reason to believe that morale varies from Department to Department, from Agency to Agency, and from local office to local office, depending upon the differing circumstances and the differing qualities of management. This reinforces the importance of the points we made earlier in the context of market testing that the pursuit of effectiveness and efficiency is likely to be most effective when as much freedom as possible is given to Civil Service managers and may be less effective when reforms are perceived as being imposed in a doctrinaire manner from the centre. We do not question the duty of the Government to seek best value for money in public services in the interests of both the taxpayer and the consumer of Government services, but in doing so it should bear in mind the need to strike the right balance between financial savings which are readily apparent and the longer term effects of particular measures on the commitment and morale of civil servants which may not be as immediately or readily measurable. The manner in which the prior options process and the Competing for Quality programme have been conducted and the Government's stated intention to continue with these policies, albeit with less centralised direction, may lead to an institutionalisation of uncertainty throughout the Civil Service. The Government should not lose sight of opportunities to engender pride in working for the State. The morale of the Service does not simply matter because the Government rightly strives to be a good employer; it matters because the morale of civil servants is likely to have a direct effect on the quality of service to customers. Many civil servants accept the need for Civil Service reform, but if civil servants no longer have a sense of a job for life it is hardly surprising if they find it more difficult to offer a lifetime commitment in return. There may not be a general crisis of morale in the Civil Service, but there is certainly a sense of unease in the Service.

#### XIV. MANPOWER, PAY AND DELEGATION

*(i) A shrinking Civil Service*

251. The Fulton Report held it to be "a major public interest that the manpower of the Service should be kept to the absolute minimum required for the efficient and humane discharge of its duties".<sup>6</sup> The size of the Civil Service increased in the years after the Fulton Report, but since the late 1970s there has been a significant decline. Since 1978-79, Civil Service numbers have fallen by 183,000, a reduction of 25 per cent which was described by Sir Robin Butler as "remarkable".<sup>7</sup> The sharpest fall in numbers has been among industrial civil servants; the number of non-industrial civil servants fell from about 566,000 in 1979 to about 503,000 in 1993.<sup>8</sup> A number of factors have contributed to the decline in Civil Service manpower, including increased efficiency and the dropping of certain functions; about 44 per cent of the reduction is attributed to privatisation and contractorisation.<sup>9</sup> Initially, the Government sought to pursue the objective of a smaller Civil Service by way of manpower targets. In May 1980 the then Prime Minister set a target for a reduction in the number of civil servants of

<sup>1</sup> Cm. 2627, para. 51.

<sup>2</sup> *The Civil Service: Vol 5 Part 2*, p. 1092 (Mr (now Sir) William Rytie).

<sup>3</sup> HC (1981-82) 236-I, para. 98.

<sup>4</sup> HC (1985-86) 92-I, paras. 1.1, 3.14.

<sup>5</sup> HC (1986-87) 358-I, p. 14.

<sup>6</sup> Cmnd. 3638, para. 276.

<sup>7</sup> Cm. 2519, pp. 89, 92 (Table 8.2); Q1425.

<sup>8</sup> Cm. 2627, p. 118; Q1195 (Mr Stephen Dorrell).

<sup>9</sup> HC (1986-87) 358-I, p. 121 (HM Treasury), *Career Management and Succession Planning Study*, para. 2.4.

75,000 over four years and saw such targets "as a basis for action".<sup>1</sup> In 1983 plans were announced for a further reduction of 6 per cent by 1988, but in 1985 overall manpower targets were replaced by running cost controls.<sup>2</sup> Government witnesses argued that the new approach was preferable to manpower targets, which were seen as having "paradoxical effects", being too tight in some cases and too lenient in others, and also encouraging more expensive substitutes for Civil Service staff in order to reduce numbers to predetermined limits. The Civil Service White Paper emphasises the Government's wish to avoid returning to "the unwelcome rigidities of manpower targets".<sup>3</sup>

252. Nevertheless, the Government remains determined to minimise Civil Service numbers, principally by way of the tight overall controls on running costs announced in the November 1993 Budget.<sup>4</sup> Formal plans issued shortly after that Budget envisaged a fall of about 27,000 in overall Civil Service numbers between 1994-95 and 1996-97, while noting that outturns tended to be lower than original plans.<sup>5</sup> In March 1994 Mr Waldegrave said in evidence that "we would be very disappointed if we did not see the steady downward trend in numbers continuing ... [to] under 500,000 in the next three or four years I should think".<sup>6</sup> The Civil Service White Paper went slightly further, indicating an expectation that Civil Service numbers would fall "significantly below 500,000 over the next four years". Mr Waldegrave said that "we would be very disappointed if it was less than that", but emphasised that the Government had no formal target.<sup>7</sup> The Government aims to achieve reductions as far as possible without redundancies. It has announced that 80 per cent of the cost of early departures, whether voluntary or compulsory, between 1 October 1994 and 31 March 1997 will be met from the central Civil Superannuation Vote, with only 20 per cent coming from Departmental running costs. Mr Waldegrave considered this to be "a very important step".<sup>8</sup>

253. The Government envisaged this reduction in numbers arising from several developments. First, as Mr Michael Bichard observed of the Benefits Agency, Civil Service operations are moving from clerically-based organisations to information technology-based organisations. He saw this as the main contributory factor in an increase in staff productivity of about 20 per cent in the three years since the establishment of the Agency. Between 1990-91 and 1992-93, the Agency's workload increased by about 26 per cent, but the number of staff employed only increased by 1 per cent. Without improvements in productivity, this would have required 1,500 more staff to maintain the same level of service.<sup>9</sup> The Government considered that there remained scope for further improvements in efficiency and productivity of this kind in the future, resulting in the employment of fewer staff to provide the same level of service, particularly as a consequence of increased use of information technology.<sup>10</sup> Second, the Competing for Quality programme, which we have already considered, is likely to have a continued effect on Civil Service manpower, particularly as the 1993-94 programme involves more staff in relation to total value than the 1992-93 programme. The Government believes that staff numbers involved in certain activities are likely to fall even where in-house bids are successful. Numbers will fall as a result of contracting out and privatisation, although Mr Waldegrave was insistent that the Government wished to see genuine reductions resulting from improved efficiency rather than reductions produced artificially by redefinition.<sup>11</sup> Above all, the Government believed that reductions in Civil Service numbers would be achieved by "the combination ... of ever greater pressure on running costs with a greater capacity for front line managers to actually come up with innovative solutions". The Government believed that more disaggregated and flexible personnel management combined with tight overall financial control would produce pressures for manpower reductions comparable to those seen in the private sector.<sup>12</sup>

1 HC (1979-80) 712-II, pp. 173-174 (Civil Service Department).

2 HC (1986-87) 358-i, pp. 13 (Council of Civil Service Unions), 120 (HM Treasury).

3 QQ925 (Mr Mottram), 1141-1142, 1824 (Mr Waldegrave); Cm. 2627, para. 3.13.

4 QQ1139-1140 (Mr Waldegrave); Cm. 2627, para. 3.33.

5 Cm. 2519, pp. 90, 92 (Table 8.2).

6 Q1824.

7 Cm. 2627, para. 3.3; Q2578.

8 Cm. 2627, paras. 3.35-3.36; Q2580.

9 QQ2200, 2204, 2206-2209 (Mr Michael Bichard); HC (1993-94) 27-II, p. 244 (Benefits Agency).

10 QQ1198-1201 (Mr Stephen Dorrell), 1823 (Mr Waldegrave), 2597 (Sir Robin Butler).

11 QQ2600-2601.

12 QQ1197 (Mr Stephen Dorrell), 2578, 2596-2597 (Mr Waldegrave).

*(ii) The delegation of pay and personnel functions*

254. In 1968 the Fulton Committee recommended that “all civil servants should be organised in a single grading structure in which there are an appropriate number of different pay levels matching different levels of skill and responsibility, and the correct grading for each post is determined by an analysis of the job”. The Fulton Committee did not believe that it was either desirable or practical to allow each Department to employ its own staff and construct its own grading system, because of their common goals, the likelihood of reorganisation of Departments and the need for staff transfers between Departments. Common grading structures were required: “the Service must be a flexible, integrated whole; it must continue to be a unified Service”.<sup>1</sup> In the period up to the mid-1980s, considerable progress was made towards a unified grading system across the Service.<sup>2</sup> In a submission to our predecessors in 1987, the Government set out what it then saw as the advantages of Service-wide pay and personnel management arrangements: “staff can move easily between Departments and do any work for which their qualifications and experience suit them; machinery of government changes can be effected quickly and easily; Departments do not compete against each other for the same scarce skills”.<sup>3</sup> In 1988 the Treasury expressed anxiety about the possible repercussions of increased pay flexibility, including leapfrogging pay claims.<sup>4</sup> More recently, others have expressed concern about the implications of delegated pay and personnel management. It has been argued that it leads to “a proliferation of bureaucracy” as organisations within the Civil Service establish their own pay bargaining arrangements.<sup>5</sup> There was particular concern that the move away from common pay and grading arrangements would jeopardise civil servants’ ability to move from one part of the Service to another, including movement between Agencies and core Departments.<sup>6</sup> In June 1993 the then Chief Executive of the Civil Service College stressed the importance of interchange with Departments to the College’s work and said that “for us to depart too far from the broad framework of Civil Service pay and grading would actually probably cause us more problems than it would give us benefits”.<sup>7</sup>

255. For some time the Government has been moving towards more flexible pay arrangements for the Civil Service. In 1987 it noted that Service-wide systems “make it difficult for Departments and individual managers to respond to particular needs or to particular market conditions”.<sup>8</sup> The original Next Steps Report noted a perception that “the advantages of an all-embracing pay structure are breaking down, that the uniformity of grading frequently inhibits effective management and that the concept of a career in a unified Civil Service has little relevance for most civil servants, whose horizons are bounded by their local office or, at most, by their Department”.<sup>9</sup> In January 1993 the then Parliamentary Secretary in the OPSS argued that uniformity of pay should not be seen as a defining factor in the Civil Service.<sup>10</sup> It has been increasingly questioned whether the advantages of grading outweigh the disadvantages. In 1989 a manager at HMSO observed that “the Civil Service grading system ... tries to do three separate things with the same system: determine pay; determine management hierarchy; determine career progression ... We are trying to take these three things apart so we can address them separately.”<sup>11</sup> Sir Peter Kemp and Professor Eric Caines criticised the grading system on similar grounds.<sup>12</sup> Mr Waldegrave believed that it was more important for jobs to have labels than grades and said “I do not think we need a completely hierarchical grade structure now”.<sup>13</sup> It has been contended that the right and ability to transfer between Departments and within Departments need not be undermined by a move away from cross-Service pay structures, although more active steps will be required to ensure that the right degree of transferability takes place. In terms of inter-Departmental transfers, Mr Waldegrave said that “we are dealing with really relatively small numbers in the central Civil Service and I just

1 Cmnd. 3638, paras. 192, 196.

2 HC (1993-94) 27-III, pp. 27-28 (Dr Geoffrey K Fry).

3 HC (1986-87) 358-i, p. 38 (Cabinet Office and HM Treasury).

4 HC (1987-88) 494-I, para. 28.

5 HC (1993-94) 27-III, p. 137 (TUS, JCC).

6 HC (1988-89) 348, para. 56; HC (1990-91) 496, para. 43; HC (1992-93) 390-II, p. 297 (Mr Vernon Bogdanor); HC (1993-94) 27-III, p. 96 (Dr Patricia Greer).

7 Q680 (Ms Marianne Neville-Rolfe).

8 HC (1986-87) 358-i, p. 38 (Cabinet Office and HM Treasury).

9 *Improving Management in Government: The Next Steps*, para. 12.

10 Q19 (Mr Robert Jackson).

11 HC (1988-89) 348, para. 44.

12 QQ421 (Sir Peter Kemp), 829 (Professor Eric Caines).

13 Q2588.



think that good managers will be able to handle this perfectly well".<sup>1</sup> Mr Waldegrave also believed that common sense management could avoid the development of unhealthy competition between Departments or Agencies for staff.<sup>2</sup> Above all, the Government believed that the determination of pay and grading and personnel management more generally were integral to the management of an organisation and thus essential to genuine freedom to manage. Managers had to have the freedom to organise their structures of pay and grading to suit the particular needs and objectives of their own organisation and to motivate their staff.<sup>3</sup> Both the Government and the CBI pointed out that the Civil Service was following a trend which was already well-advanced in the private sector and other parts of the public sector.<sup>4</sup> It is also part of a trend which is being reflected in the public services in a number of other developed countries.<sup>5</sup>

256. In the late 1980s agreements were reached with the Civil Service unions which allowed for greater pay flexibility.<sup>6</sup> The first Agency to introduce a radical new pay regime was HMSO. Under its new agreement, introduced following consultation with trade union representatives, grades were replaced with overlapping pay bands, with progression dependent upon performance in relation to agreed objectives.<sup>7</sup> In July 1992 the Inland Revenue was given responsibility for determining its own pay and grading structure for all staff below Grade 3. A new pay and grading structure was introduced with five broad pay bands, with progression linked to performance, replacing more than 120 separate grades.<sup>8</sup> From April 1994, all Agencies with over 2,000 staff were given responsibility for their own pay bargaining and smaller Agencies were encouraged to follow suit.<sup>9</sup> Mr Michael Bichard said that the Benefits Agency, which had already developed a personal appraisal system designed specifically to meet the business needs of the Agency, would be seeking a pay structure which moved away from what he viewed as "an unhealthy obsession with grading".<sup>10</sup> This trend to separate pay arrangements in Agencies was seen by some as largely irreversible.<sup>11</sup> The Civil Service White Paper takes these developments one step further, proposing the further delegation of responsibility for pay and grading below senior levels to all Departments and Agencies by 1 April 1996, replacing existing national pay arrangements.<sup>12</sup> Coupled with the proposed changes in the structures of the senior levels of the Civil Service, this is likely to mean that the Civil Service grading system will have virtually disappeared by the end of this century.<sup>13</sup>

257. As part of the trend to devolved pay determination in the Civil Service, the Government gave notice at the end of 1993 of its intention to terminate, with effect from 30 June 1994, the pay agreement covering industrial civil servants across Departments. This decision followed a request from the Ministry of Defence, which then employed about 80 per cent of the industrial Civil Service, for delegated authority to determine the pay and conditions of its industrial employees.<sup>14</sup> The Trade Union Side of the Joint Coordinating Committee for Government Industrials criticised this decision. They questioned the procedure by which the agreement was terminated. They contended that termination was unnecessary to achieve the goal of greater flexibility. They believed that it implied differential treatment of blue collar and white collar staff in the Civil Service. They doubted the capacity of individual Departments to negotiate satisfactory successor arrangements.<sup>15</sup> In reply, the Treasury contested these allegations. The termination of the agreement had been handled properly. Arrangements were in place for pay bargaining by Departments and Agencies employing the vast majority of industrial staff. Other employers would either follow the settlement reached by the Ministry of Defence or reclassify the jobs in question as non-industrial. The principle that greater flexibility

1 HC (1990-91) 496, paras. 45-47; Cm. 1761, p. 7; HC (1993-94) 27-III, p. 7 (Sir Brian Hayes); Q2589 (Mr Waldegrave).

2 Q2606.

3 QQ1156, 1241 (Mr Stephen Dorrell); Cm. 2627, paras. 3.24-3.25; Q2586 (Mr Waldegrave).

4 QQ1155 (Mr Stephen Dorrell), 2586 (Mr Waldegrave); "Pay in the Public Sector", CBI submission to the Treasury, July 1993.

5 *Pay Flexibility in the Public Sector* (Public Management Studies, OECD, 1993), pp. 22 (Table 1), 222-223.

6 HC (1988-89) 348, para. 43.

7 HC (1988-89) 348, para. 44; HC (1989-90) 481, para. 41; QQ19 (Mr Waldegrave), 1628 (Mr John Garrett); Cm. 2627, p. 27.

8 HC (1993-94) 27-II, pp. 247-248, 249 (Inland Revenue); Cm. 2627, p. 27.

9 HC(1992-93) 390-II, p. 258 (HM Treasury).

10 Q2213.

11 Q1628 (Mr John Garrett); Price Waterhouse, *Executive Agencies: Fact and Trends: Survey 1994*, p. 12.

12 Cm. 2627, paras. 1.4, 3.26.

13 QQ2587-2588 (Mr Waldegrave).

14 HC (1993-94) 27-III, p. 143 (HM Treasury).

15 HC (1993-94) 27-III, pp. 135-138.

and value for money could be achieved by tailoring pay and conditions to the requirements of individual organisations applied to industrial and well as to non-industrial civil servants.<sup>1</sup> The Civil Service White Paper argues that delegation should enable Departments and Agencies, "in consultation with staff and trade unions, to re-examine the old-fashioned distinction between 'industrial' and 'non-industrial' staff".<sup>2</sup>

*(iii) Performance-related pay*

258. The delegation of pay determination to organisations within the Civil Service has been accompanied by a central initiative to develop the use of performance-related pay in the Civil Service. In 1977 the Expenditure Committee called for more research to be done on the possibilities of linking pay and promotion in the Civil Service to performance and particularly recommended a move away from automatic incremental progression up pay scales.<sup>3</sup> In the early 1980s the Government argued that "there are special management difficulties about the application of merit pay systems in the public service", although in 1982, and again in 1988, our predecessors supported in principle the development of linkages between performance and pay.<sup>4</sup> It is now the objective of the Government "to use pay to improve the management and performance of the Civil Service at the aggregate and individual level by forging a close link between pay and performance, creating rewards for success and penalties for failure". During 1992-93, new pay agreements were negotiated to end automatic progression through salary bands by seniority; all progression would in future depend upon performance.<sup>5</sup> The Government believed that performance-related pay should apply at all levels of the Civil Service with the single exception of Permanent Secretaries. It considered it to be justified to impose a central requirement for performance-related pay on Agencies "at this early stage" to make sure that the new policy took hold.<sup>6</sup> Performance-related pay is one of the ways in which the Citizen's Charter is being implemented in the Civil Service, the Government believing that such pay schemes will motivate staff to contribute towards the wider objectives of their organisation and sharpen the relationship between manager and managed.<sup>7</sup> As we have already noted, several pay schemes developed by individual Agencies and Departments link individual pay and progression to performance and the Government believed that individual reward would be the main form which the policy took.<sup>8</sup> However, the development of team-based reward was not seen as incompatible with the Government's policy and a number of Agencies, including the Civil Service College, have or are developing a link between the performance of the organisation as a whole - measured in the case of the College principally by customer satisfaction - and pay.<sup>9</sup> Mr Michael Richard looked forward to developing for the Benefits Agency a pay scheme which was more effectively related to performance and which contained both an individual element and discretionary team performance pay.<sup>10</sup>

259. A number of concerns were raised about the growing use of performance-related pay in the Civil Service. It was seen as less appropriate in the Civil Service than in the private sector, because Civil Service work often did not involve easily measurable outputs.<sup>11</sup> It was questioned whether performance-related pay on its current scale in the Civil Service could act as a genuine motivator to staff and whether the focus on individual performance might not be both divisive and demotivating.<sup>12</sup> There is evidence of some antipathy to performance-related pay within the Civil Service. An independent survey recently quoted an unnamed Agency Chief Executive as saying "my colleagues take the view that performance pay is a complete nonsense and that it has no effect one way or another on performance. I am in complete agreement with this opinion."<sup>13</sup> Mr John Garrett considered that performance-related pay was "discredited" in other parts of the British economy.<sup>14</sup> A recent study by the OECD found that performance pay

1 HC (1993-94) 27-III, pp. 143-144 (HM Treasury).

2 Cm. 2627, para. 3.27.

3 HC (1976-77) 535-I, paras. 129-130.

4 HC (1981-82) 236-I, para. 94; HC (1987-88) 494-I, para. 29.

5 HC (1992-93) 390-II, p. 258 (HM Treasury).

6 QQ1239-1240 (Mr Stephen Dorrell), 40 (Mr Robert Jackson and Mr Waldegrave).

7 HC (1993-94) 27-II, pp. 16, 18 (OPSS); Cm. 2627, para. 3.25; QQ1260 (Mr Stephen Dorrell), 1464 (Sir Robin Butler).

8 HC (1993-94) 27-II, p. 21 (OPSS); QQ1241, 1252, 1260 (Mr Stephen Dorrell).

9 Q1241 (Mr Stephen Dorrell); HC (1993-94) 27-II, p. 20 (OPSS); QQ682-683 (Ms Marianne Neville-Rolfe).

10 Q2213.

11 HC (1993-94) 27-II, p. 102; Q1618 (Mr John Garrett); HC (1993-94) 27-III, pp. 44 (Sir Kenneth Couzens), 125 (Mr Barry O'Toole).

12 HC (1993-94) 27-II, p. 102 (Mr John Garrett); HC (1993-94) 27-III, pp. 84-85 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King), 95 (Mr Timothy Hornsby), 107 (Sir Jack Hibbert).

13 *Survey on Career Management and Succession Planning in the Civil Service*, Vol. 1, Appendix 3, pp. 7, 17, 20, 21; Price Waterhouse, *Executive Agencies: Fact and Trends: Survey Report 1994*, p. 12.

14 HC (1993-94) 27-II, p. 102.

schemes in public sectors across the developed world had a mixed record to date, suggesting either that the motivational ideas underlying such schemes were weak or that the schemes had not been implemented so as to establish a clear progression from the identification of performance requirements through the fair measurement of performance to appropriate reward.<sup>1</sup>

*(iv) Equal opportunities*

260. We have already noted the widespread view that equal opportunities policies are an important indicator of the strength of the Civil Service's commitment to being a good employer. Its policies in this field have long been seen as a strength of the Civil Service. At the time of the Fulton Report it was observed that it was "a particularly enlightened employer of women".<sup>2</sup> Sir Robin Butler was proud about recent research which indicated that the Civil Service was the best employer of women in the country.<sup>3</sup> Subject to qualifications relating to recruitment and senior personnel which we consider separately below, the overall approach of the Civil Service towards equal opportunities was supported during the inquiry. The Commission for Racial Equality commended the Civil Service for its *Programme of Action to achieve Equality of Opportunity for People of Ethnic Minority Origin*, while expressing concern at the actual performance of some Departments and Agencies.<sup>4</sup> The Civil Service unions were broadly supportive of the Government's approach to equal opportunities in the Civil Service, although it feared that the pressures of market testing might undermine these policies.<sup>5</sup> A survey of civil servants in 1993 indicated generally positive perceptions of the Civil Service as an equal opportunity employer.<sup>6</sup> The Government has reaffirmed on several occasions the high priority it attaches to equal opportunities policy "both because it is right and also because it makes good business sense".<sup>7</sup> The Government has acknowledged that there will be a continuing need for leadership from the centre on equal opportunities policies even as its rule-making role is reduced and more power is delegated to Departments and Agencies.<sup>8</sup> The Government has recently announced its intention to revise the Civil Service Order in Council 1991 so as to permit Departments to offer guaranteed interviews to all disabled applicants and so bring the Civil Service into line with best practice as described by the Employment Service.<sup>9</sup>

*(v) Conclusions*

261. The size of the Civil Service in the future will be determined by many factors, including the decisions of future Governments on the tasks of the Civil Service and the needs of society as well as changes in technology and improvements in staff efficiency. We support the Government's decision not to set a target for Civil Service manpower reductions. We consider that such reductions should not be viewed in themselves as a principal indicator of the success or failure of Civil Service reforms.

262. In 1988 our predecessors set out what they saw as three provisos to the devolution of responsibility for pay and personnel management to Agencies: that such flexibility should be clearly related to need; that it should not increase pressure on public expenditure; and that the interchange of staff between policy and executive functions should not be made more difficult.<sup>10</sup> The changes which have already taken place to delegate responsibility for pay determination and personnel management to larger Agencies and the further delegation to Departments proposed in the Civil Service White Paper are likely to presage a dramatic change in the pay and grading structures of the Civil Service. Within ten years it is quite possible that there will be no shared systems of pay and grading across the Civil Service. Viewed from the perspective of the individual civil servant, particularly those not currently working in Agencies, this is likely to be one of the most readily and immediately apparent demonstrations of the move away from a uniform Civil Service. This serves to reinforce the case for a new succinct and comprehensive Civil Service Code and a new framework for underpinning the shared values of the Service which we made earlier. Delegation could lead to pay and grading structures

<sup>1</sup> *Pay Flexibility in the Public Sector*, pp. 33-34, 227.

<sup>2</sup> *The Civil Service: Vol. 2: Report of a Management Consultancy Group*, para. 14.

<sup>3</sup> Q183.

<sup>4</sup> HC (1993-94) 27-III, pp. 30-32.

<sup>5</sup> HC (1992-93) 390-II, pp. 49 (FDA), 108 (Council of Civil Service Unions); Q443 (Mr Charles Cochrane). See also HC (1993-94) 27-II, p. 103 (Mr John Garrett).

<sup>6</sup> *Career Management and Succession Planning Study*, p. 108.

<sup>7</sup> QQ954 (Mr Richard Mottram), 2557-2558 (Mr Waldegrave); HC (1992-93) 390-II, p. 229 (OPSS); Cm. 2627, para. 3.34.

<sup>8</sup> QQ184 (Sir Robin Butler), 2529 (Mr Waldegrave).

<sup>9</sup> HC Deb., 15 July 1994, col. 789w; HC (1993-94) 27-III, pp. 145-146.

<sup>10</sup> HC (1987-88) 494-I, para. 28.

better tailored to the needs and objectives of particular organisations within the Civil Service and could facilitate an overall improvement in the standard of personnel management in the Civil Service. We believe that the benefits of delegated authority for pay and personnel management could outweigh the drawbacks.

263. We note that the early stages of devolution in relation to pay have been accompanied by a strong central thrust towards greater use of performance-related pay. We believe that the time is fast approaching when this central policy will no longer be required. We appreciate the advantages which are believed to arise from effective performance-related pay schemes, but also believe that performance-related pay schemes may not necessarily be appropriate to all organisations in the Civil Service. Freedom to adopt different approaches would have the added advantage of providing clearer empirical evidence both on the impact of performance-related pay and on the effects of its absence. We recommend that the authority over pay delegated to Departments and Agencies includes the freedom for each organisation to decide whether or not performance-related pay is appropriate to its needs and objectives.

264. We believe that two important criteria in assessing the success of delegation will be the continuance of opportunities for transfers and interchange between Departments, and between Departments and Agencies, and the widespread and practical commitment of Departments and Agencies to the equal opportunities policies of the Civil Service. It is vital that the reduction in rule-making from the centre does not jeopardise its leadership and authority in relation to equal opportunities.

## XV. SENIOR PERSONNEL

### *(i) Amateurism and a cult of the generalist?*

265. Perhaps the most celebrated—or notorious—aspect of the Fulton Report was its claim that “the Service is still essentially based on the philosophy of the amateur (or ‘generalist’ or ‘all-rounder’)”. The Fulton Committee argued that the Civil Service was dominated by its administrative class and by the belief that the ideal administrator was “the gifted layman who, moving frequently from job to job within the Service, can take a practical view of any problem, irrespective of its subject matter, in the light of his knowledge and experience of the Government machine”. This concept was seen as having “most damaging consequences”; the cult of the generalist was described as “obsolete”.<sup>1</sup> This critique has found echoes in more recent times, not least in the evidence submitted during this inquiry. Professor Eric Caines argued that Civil Service training was “still based on the idea that a gifted amateur ought to be able, with a little preparation, to do any job effectively”. Professionalism was rare and “general management is still regarded as something to be done by generalists who, in any case, are moved on after a relatively short period in any particular job”.<sup>2</sup> Mr Graham Mather argued that the Fulton recommendations “addressed precisely the problems which continue to bedevil today’s top civil servants” including that of “too many generalists expert only in draftsman-ship”.<sup>3</sup> Mr John Garrett believed that “the higher Civil Service has never been shifted from its view that Oxbridge arts generalists, or all-rounders, with the right social background, are the best people to run our country”. The senior levels of the Civil Service suffered from important managerial weaknesses, too often being “remote, arrogant and inept at staff relations and personnel management”.<sup>4</sup>

266. Several witnesses characterised the senior Civil Service as insular and elitist, operating in a relatively closed world, insulated from some of the realities of the country they assisted in governing, at times leading “almost a monastic existence”.<sup>5</sup> It was suggested by some that this insularity arose in part from the fact that the senior ranks of the Civil Service were overwhelmingly white, male and Oxbridge-educated. The first two parts of this characterisation appeared almost beyond dispute. At 1 April 1993 there was one member of the Senior Open Structure (Grades 1 to 3) of non-white ethnic origin.<sup>6</sup> The number of women at the same levels has increased in recent years, but was still under 10 per cent at 1 April 1993. The Inland Revenue

<sup>1</sup> Cmnd. 3638, para. 15.

<sup>2</sup> HC (1992-93) 390-II, p. 185.

<sup>3</sup> HC (1992-93) 390-II, p. 72.

<sup>4</sup> HC (1993-94) 27-II, p. 104; Q1612.

<sup>5</sup> QQ286 (Mr Graham Mather), 500 (Dr William Plowden), 624 (Lord Callaghan).

<sup>6</sup> *Career Management and Succession Planning Study*, p. 100.

had no women at Grades 1 to 3. The FDA considered that “the paucity of numbers must give cause for concern after policies which should have promoted more women have been in place, and allegedly acted upon, for more than 15 years”. Others expressed concern about a continuing “glass ceiling” for women.<sup>1</sup> Mr John Garrett argued that “the present cadre of Permanent Secretaries is more socially and educationally exclusive today than it was in the year 1900”, suggesting that “a higher proportion of Permanent Secretaries come from public school and Oxbridge now than in 1900”. He considered this to be “very damaging”.<sup>2</sup> Professor Eric Caines said that his own departure resulted in part from his view that there were a number of factors which militated against him becoming a Permanent Secretary, including the fact that he did not fit the mould in terms of “social class, background, the way I operated, the way my career was developing”.<sup>3</sup> Others, while not directly concerned with social or educational background, did criticise the uniformity and cohesiveness of the senior ranks of the Service produced by a process of “socialisation”.<sup>4</sup>

267. A particular focus of criticism at the time of the Fulton Report was the stress placed on generalist and administrative skills rather than on specialist and managerial skills.<sup>5</sup> In the early 1980s our predecessors were concerned that most senior civil servants did not give the consistent attention to their managerial role that its importance justified, although they were assured that the situation was changing.<sup>6</sup> In 1988 the then Committee identified a need for a more comprehensive strategy to overcome the continuing underemphasis on management skills and on qualities of leadership which had been highlighted by the original Next Steps Report.<sup>7</sup> More recent evidence might suggest that the commitment to new managerial skills at the highest levels of the Service remains only skin deep. Mr John Garrett contended that “the mandarin cadre at the top of Departments has virtually no experience of, and is quite unsuited for, the analytical tasks and strategic management required at the centre of such heterogeneous organisations”. They continued to rely on technical advice from specialist civil servants “which they find difficult to understand and to translate into policy”.<sup>8</sup> Others criticised the lack of wide appreciation in the Civil Service of the managerial skills, particularly those relating to financial management, its own work necessitated.<sup>9</sup> The Efficiency Unit study of the higher Civil Service found a perception among senior civil servants that “those at the top of Departments place more value on the traditional Whitehall attributes such as drafting and high intellectual ability than on skills which they consider to deserve more emphasis: motivation, oral communication and visibility, managing down and out as much as up and in”. An independent survey conducted for the Government was surprised to find that many civil servants in Grades 2 and 3 and those who aspired to reaching such ranks did not see management as vitally important.<sup>10</sup>

268. Although the original Next Steps Report and our predecessors set great store by ensuring that those reaching the highest levels of the Service had had operational management experience,<sup>11</sup> Agency experience was not regarded by any group of respondents to the survey of the Senior Open Structure and its feeder grades as even “quite important”. One respondent remarked that “the ‘new management’ ethos would be more credible if the top Civil Service posts did not go so often to people with large private office experience. The people who tell us how to manage have no managerial credibility whatsoever.” Another remarked that “although it is claimed that being a specialist and/or gaining experience in an Agency is no bar to progress beyond Grade 3, all the evidence suggests the opposite”. The Efficiency Unit study found that “most Departments lack a formal scheme for ensuring that people with potential to rise to the Senior Open Structure gain front-line operational experience early in their careers”. The Trosa Report noted that staff interchange between core Departments and Agencies was

1 *ibid.*, p. 98; HC (1993-94) 27-II, p. 259 (Inland Revenue); HC (1992-93) 390-II, pp. 49, 53-56 (FDA), 278 (Professor Sue Richards), 103 (Mr John Garrett).

2 QQ1636-1640; HC (1993-94) 27-II, p. 104.

3 QQ812-813.

4 QQ346 (Professor Peter Hennessy), 392 (Sir Peter Kemp).

5 *The Civil Service: Vol 2: Report of a Management Consultancy Group*, para. 324.

6 HC (1981-82) 236-I, para. 88.

7 HC (1987-88) 494-I, para. 20; *Improving Management in Government: The Next Steps*, para. 4, Annex B, paras. 24-25.

8 HC (1993-94) 27-II, pp. 100, 105; Q1640.

9 QQ821 (Professor Eric Caines), 1525 (Mr Charles Cox).

10 *Career Management and Succession Planning Study*, para. 3.4, p. 106; *Survey on Career Management and Succession Planning in the Civil Service*, Vol I, pp. 17, 28.

11 *Improving Management in Government: The Next Steps*, paras. 4, 35; HC (1987-88) 494-I, para. 26; HC (1988-89) 348, para. 69.

“still minimal” and that it was probably not happening in some Departments “because having worked in an Agency is still not considered as advantageous for a successful career”.<sup>1</sup>

269. Some evidence suggested that the higher ranks of the Civil Service retained an aversion to or a tendency to undervalue expertise arising either from experience in a post or from specialist skills. Nearly two thirds of members of the Senior Open Structure at 1 April 1993 were generalists. No profession other than that of lawyer accounted for more than 10 per cent of staff at these Grades. According to Professor Eric Caines, “you try in most Departments to find a skilled financial adviser or a skilled personnel specialist, it is like trying to find a needle in a haystack”. Some thought that specialist skills remained a barrier to promotion to the highest levels of the Service.<sup>2</sup> It was argued that the weaknesses of the senior Civil Service were reflected in its tendency to frustrate and reject those within its ranks concerned with more effective management.<sup>3</sup>

270. These failings in the senior ranks of the Service were seen to be reinforced by its approach to career management. Senior civil servants were portrayed as being largely immune from the pressures for change which had affected other walks of life, being largely self-regulating, having security of tenure and being “impervious to objective assessment of their performance”.<sup>4</sup> Career management was seen as little more than “a facade” in a Service which “plays at career development and succession planning”. Some staff were told little or nothing about their career prospects while some staff rose with apparent ease up “the velvet drainpipe” leading to the top of the Service.<sup>5</sup> The failure to tackle the problem, acknowledged since the time of the Fulton Report, of excessively frequent movement between posts was seen to be symptomatic of this approach. The Fulton Committee noted in 1968 that “civil servants are moved too frequently between unrelated jobs, often with scant regard to personal preference or aptitude”. It was argued then that the lack of continuity in administrative posts had seriously adverse consequences.<sup>6</sup> In the mid-1970s the Expenditure Committee was told that the Government viewed longer postings as “the ideal”, but that Committee noted that the Government did not appear to have addressed how longer postings could be brought about in practice.<sup>7</sup> In the early 1980s our predecessors urged the Government to give fresh consideration to this issue.<sup>8</sup> In response, the Government argued that more effective career planning in Departments should lead to administrative staff spending rather longer in each job.<sup>9</sup> Some evidence suggested that little had changed in reality. Both Professor Eric Caines and Mr John Garrett criticised the tendency to move administrative staff from post to post too frequently, undermining “folk memory” and contributing to “a musical chairs style of managing”.<sup>10</sup> The Efficiency Unit study noted the “turbulence” in the highest levels of the Service and described “a culture which has sometimes confused job rotation for career development”.<sup>11</sup> The Government has not kept figures on how long staff remain in a particular job, although an independent survey for the Government in 1992 took a snapshot of the length of time that senior people had spent in their then posts at the time of the survey. It found that only 20 per cent of respondents at Grades 1 to 3 and less than 30 per cent of respondents at Grades 4 to 7 had spent 4 years or more in their current posts. The majority of respondents had been in their current posts for two years or less.<sup>12</sup>

1 *Survey on Career Management and Succession Planning in the Civil Service*, Vol. 1, p. 18, Annex 3, p. 6; *Career Management and Succession Planning Study*, para. 4.9; *Next Steps: Moving On*, paras. 2.15, 4.10.12.

2 Q347 (Professor Peter Hennessy); HC (1993-94) 27-III, pp. 108-109 (Sir Brian Cubbon); *Career Management and Succession Planning Study*, pp. 94, 107; HC (1992-93) 390-II, p. 185; Q823 (Professor Eric Caines); HC (1993-94) 27-II, p. 105 (Mr John Garrett).

3 QQ384 (Sir Peter Kemp), 824-826 (Professor Eric Caines).

4 HC (1992-93) 390-II, p. 72; QQ286 (Mr Graham Mather), 500 (Dr William Plowden).

5 HC (1992-93) 390-II, pp. 121 (Dr William Plowden), 185; QQ813, 820 (Professor Eric Caines); HC (1993-94) 27-III, p. 18 (Dr Peter Barberis); *Career Management and Succession Planning Study*, p. 107; QQ335-336 (Professor Peter Hennessy), 500 (Dr William Plowden).

6 Cmnd. 3638, para. 20; *The Civil Service: Vol. 2: Report of a Management Consultancy Group*, paras. 65-67, 72-73, 326.

7 HC (1976-77) 535-II, Q32 (Sir Douglas Allen); HC (1976-77) 535-I, para. 40; HC (1977-78) 576, para. 6.

8 HC (1980-81) 54, paras. 36-38.

9 *The Future of the Civil Service Department: Government Observations on the First Report from the Treasury and Civil Service Committee, Session 1980-81*, Cmnd. 8170, paras. 32-33; HC (1981-82) 236-II, pp. 68-69 (Civil Service Department); *Civil Service Management Development in the 1980s* (Management and Personnel Office, 1983), para. 8.

10 HC (1992-93) 390-II, pp. 185, 186, 187 (Professor Eric Caines); HC (1993-94) 27-II, p. 104; Q1632 (Mr John Garrett).

11 *Career Management and Succession Planning Study*, paras. 6.20-6.22.

12 HC (1986-87) 358-I, p. 47 (Cabinet Office and HM Treasury); HC (1993-94) 27-II, p. 308 (OPSS); *Career Management and Succession Planning Study*, p. 49 (Table 4).

*(ii) The current management and selection of senior civil servants**(a) Career development, skills and composition*

271. The accuracy and fairness of this depiction of the senior ranks of the Civil Service was contested by many witnesses. Many of the criticisms were seen to arise from characteristics intimately related to the nature of a career Civil Service organised broadly along traditional lines and such a career Service was seen as possessing many advantages. First, the existence of a relatively secure and cohesive career Service was believed to be closely connected to the preservation of an objective and impartial Civil Service and the senior ranks were seen as having a particularly important role in sustaining key Civil Service values and its "corporate wisdom".<sup>1</sup> Second, it was contended that a cohesive Civil Service, particularly at the higher levels, had an important role to play in fostering a sense of unity and shared purpose in serving the collective interest of Government and responding effectively to changes in the machinery of Government.<sup>2</sup> Third, a career Civil Service with promotion paths to the highest levels was thought to be the most effective and efficient way to attract, retain, motivate and develop staff.<sup>3</sup>

272. Many of the characteristics of the senior Civil Service which were seen by its critics as weaknesses were perceived by others as both necessary and advantageous. Although most civil servants were not members of a "profession" in the narrow, technical sense of the word, the requirement for "generalist" administrative skills professionally applied was felt to be greater than some critics allowed.<sup>4</sup> The quality of administrative "know-how" in the British Civil Service was said to be high and to be widely admired in other countries.<sup>5</sup> Administrative skills, including the provision of policy advice and more general support for the political needs of Ministers, were seen as vitally important to the effective functioning of Government.<sup>6</sup> These skills were most likely to be acquired by those who had spent a considerable part of their careers working in posts characterised by a particular demand for administrative skills so that senior civil servants learnt, in Sir Peter Middleton's felicitous phrase, to be "professionally not surprised by anything that Ministers do".<sup>7</sup> Sir Robin Butler stressed that these traditional skills were not incompatible with a new emphasis on managerial skills. He was concerned about the problem of perceptions about the blend of skills required for promotion at the highest levels, but argued that the problem was principally one of perception rather than reality and that "modern qualities, the qualities that are needed in this day and age, are used as the basis for selection".<sup>8</sup>

273. The Government also presented evidence to suggest that the senior Civil Service was not as socially or educationally elitist as some evidence had implied.<sup>9</sup> Detailed statistics, compiled at the request of the Sub-Committee, relating to staff in the Senior Open Structure (about 625 in number), indicated that 49 per cent went to Oxford or Cambridge Universities and only 35 per cent went to public, private or independent schools. For all staff at Grades 1 and 1A, the equivalent figures were 60 per cent (Oxbridge) and 51 per cent (public, private or independent schools). In the view of Sir Robin Butler, these figures comprehensively refuted the notion that the senior ranks of the Service were more socially or educationally exclusive than in 1900.<sup>10</sup> Sir Robin Butler and Mr Waldegrave also rejected the proposition that promotion to the highest levels in the Service in any way reflected, or took account of, social class.<sup>11</sup> The Government did not deny that there were too few women at the highest levels of the Service,

<sup>1</sup> *Top Jobs in Whitehall: Appointments and Promotions in the Senior Civil Service* (Royal Institute of Public Administration, 1987), para. 2.3; Cm. 2627, para. 4.13.

<sup>2</sup> HC (1993-94) 27-III, p. 87 (Mr David Faulkner, Dr Colin Crouch, Dr Mark Freedland, Dr Desmond King); Cm. 2627, para. 4.16.

<sup>3</sup> *Top Jobs in Whitehall*, paras. 2.5-2.6; Cm. 2627, para. 4.13; HC (1993-94) 27-III, p. 6 (Sir Brian Hayes).

<sup>4</sup> HC (1993-94) 27-II, p. 117 (endnote 4) (Sir Kenneth Stowe); HC (1993-94) 27-III, p. 56 (Mr Clive Priestley).

<sup>5</sup> HC (1993-94) 27-II, p. 112 (Sir Kenneth Stowe); QQ833-834, 836 (Lord Jenkins).

<sup>6</sup> HC (1993-94) 27-III, pp. 10-11 (Sir Alan Bailey), 38-39 (Sir Peter Lazarus), 127 (Sir David Hancock); Q840 (Lord Jenkins).

<sup>7</sup> *Top Jobs in Whitehall*, para. 3.4; HC (1993-94) 27-III, p. 38 (Sir Peter Lazarus); First Report from the Treasury and Civil Service Committee, *The Role of the Bank of England*, HC (1993-94) 98-II, Q476 (Sir Peter Middleton).

<sup>8</sup> QQ1399-1400.

<sup>9</sup> Q1006 (Mr Richard Mottram). See also HC (1992-93) 390-II, pp. 298-299 (FDA).

<sup>10</sup> HC (1993-94) 27-II, pp. 33, 48-50 (OPSS); QQ1371-1387 (Sir Robin Butler). The percentage of Permanent Secretaries "heading Whitehall departments" from public and private schools was 75 per cent for the period 1900-1919, 74 per cent for 1920 to 1944, 69 per cent for 1945-1964 and 70 per cent for 1965-1986. The percentage of Permanent Secretaries attending Oxford or Cambridge Universities was 63 per cent for the period 1900-1919, 69 per cent for 1920-1944, 67 per cent for 1945-1964, 75 per cent for 1965-1986. K. Theakston and G.K. Fry, "Britain's Administrative Elite: Permanent Secretaries 1900-1986", *Public Administration* (1989), pp. 130, 132.

<sup>11</sup> QQ159, 163, 165 (Sir Robin Butler), 1014-1017 (Mr Waldegrave).

but they argued that its record still compared well with that of the private sector, that it had improved and that it was likely to improve further in years to come.<sup>1</sup> The Chairman of the Board of Inland Revenue outlined some of the measures being taken by his Department to improve its record in promoting women to senior positions.<sup>2</sup>

(b) The Senior Appointments Selection Committee and “politicisation”

274. A pivotal role in the selection of senior civil servants and thus in the blend of skills represented at the highest levels is played by the Senior Appointments Selection Committee. The Fulton Committee criticised the extent to which procedures then in place for appointments to the most senior posts in the Service might be thought to depend upon the discretion of the Head of the Home Civil Service. It recommended that he should be advised by a committee drawn from a panel of two or three Permanent Secretaries, an approximately equal number of scientists or other specialists and not more than two eminent people from outside the Civil Service.<sup>3</sup> In July 1968, with the then Prime Minister’s approval, a committee consisting of a number of senior officials, including senior professionals, was set up to assist the Head of the Home Civil Service in making his recommendations to the Prime Minister for the filling of vacancies at Deputy Secretary level and above.<sup>4</sup> Written evidence submitted by the Government in October 1993 gave further information about the operation of this Committee. The Senior Appointments Selection Committee consisted of six or seven members, all departmental Permanent Secretaries; appointments to it were made by the Head of the Home Civil Service and were personal rather than *ex officio*; other Permanent Secretaries and Heads of Profession were invited to contribute to discussions as appropriate. It looked strategically at the senior staffing position across the Service in the light of an annual programme of discussions with Heads of Departments and Principal Establishment Officers. On the basis of succession planning material, annual appraisal reports, an analysis of the requirements of a particular post and the experience of participants, it advised the Head of the Home Civil Service on the candidates to be recommended for particular posts at Grade 2 and above. Sir Robin Butler did not think “that the system has worked badly so far”.<sup>5</sup>

275. The role of the Senior Appointments Selection Committee has been the subject of criticism. In 1987 a study by the Royal Institute of Public Administration considered that “the procedures through which recommendations on appointments, promotions and postings are made to the Prime Minister and Ministers need to be better defined, more open and subject to external (non-political) scrutiny”. It was suggested that the Committee was “too much of an ‘internal’ Civil Service device, reflecting and sustaining the ‘closed’ nature of the Whitehall culture” and it was recommended that two people from outside the Civil Service should participate in the deliberations of the Senior Appointments Selection Committee.<sup>6</sup> Dr William Plowden restated these views in evidence, noting that “it is striking how much more external quality control is built into the initial selection of young mandarins-to-be than at the far more important later stage of promoting them into top jobs”.<sup>7</sup> Professor Sue Richards thought that “the power of patronage” which the system placed in the hands of Permanent Secretaries was “likely to produce compliant behaviour in the next generation which militates against innovation and new thinking”. This critique was echoed by a respondent to the independent survey of senior civil servants who observed “it remains a patronage system at present—open competition to get in, but patronage once in”.<sup>8</sup> The Efficiency Unit study reported a feeling that “there is a danger that the conclusions of closed processes ... might perpetuate a Senior Open Structure where current senior staff might primarily select successors in their own image without taking account of changing needs”. It argued that the membership of the Senior Appointments Selection Committee needed to be broadened to include “an authoritative external member” and “at least one woman”.<sup>9</sup> In November 1993 Sir Robin Butler said that he was “very happy to consider those suggestions” and in April 1994 it was announced that Sir Michael Angus, who had extensive private sector experience, principally with Unilever,

1 QQ1004, 1006 (Mr Richard Mottram), 1373, 1385 (Sir Robin Butler). See also Q1689 (Sir Kenneth Stowe).

2 QQ2287-2290 (Sir Anthony Battishill); HC (1993-94) 27-II, pp. 249, 257-258 (Inland Revenue).

3 Cmnd. 3638, para. 260.

4 HC (1976-77) 535-II, p. 2 (Civil Service Department).

5 HC (1993-94) 27-II, pp. 11-12, 68-69 (OPSS); Q1342 (Sir Robin Butler).

6 *Top Jobs in Whitehall*, paras. 5.1-5.10.

7 QQ507, 514; HC (1992-93) 390-II, p. 121.

8 HC (1992-93) 390-II, p. 278; *Survey on Career Management and Succession Planning in the Civil Service*, Vol. 1, Appendix 3, p. 5.

9 *Career Management and Succession Planning Study*, paras. 6.29, 6.43-6.45.



was to be appointed as the first external member of the Senior Appointments Selection Committee.<sup>1</sup>

276. The role of the Senior Appointments Selection Committee is advisory. In the light of its deliberations, the Head of the Home Civil Service submits a personal Minute to the Prime Minister in respect of appointments at Grade 2 and above. This gives information on the post to be filled, the views of the relevant Minister, and the strengths of particular candidates, usually with a recommendation. The Prime Minister usually approves the recommendation of the Head of the Home Civil Service, particularly when it is supported by the views of the departmental Minister.<sup>2</sup> Sir Robin Butler believed that these procedures enshrined an appropriate balance of powers between a neutral selection process and Ministerial discretion.<sup>3</sup> Both our predecessors in 1986 and the study carried out under the auspices of the Royal Institute of Public Administration shortly thereafter came to the conclusion that there had been an increase in Ministerial and Prime Ministerial interest in senior appointments and in the qualities of particular candidates, but that this did not include Ministerial concern with the political views or commitment of particular civil servants and that there had not been any overt or systematic "politicisation" of the top ranks of the Civil Service.<sup>4</sup> The Government's belief that this verdict remained valid and that the system "has worked well in avoiding politicisation" was supported by others. Lord Callaghan said that "I do not believe for one moment that senior officials were appointed for their political views ... I do not think there is any attempt to politicise the Civil Service".<sup>5</sup> The FDA, as well as a number of outside observers and former civil servants, took a similar view.<sup>6</sup>

#### (c) Open competition and the Civil Service Commissioners

277. In recent years an increasing number of posts in the senior Civil Service have been the subject of open advertisement and competition. Over the years 1990 to 1992 about 14 per cent of the vacancies in the Senior Open Structure were filled through open competition and the number of such posts subject to open competitions has increased steadily in recent years. The largest single component of these posts subject to open competition are those of Agency Chief Executives, although they do not constitute a majority.<sup>7</sup> Our predecessors considered that "open competitions should be held for the appointment of all Agency Chief Executives" and recommended that Ministers "should give an explanation of every case in which it is decided not to hold an open competition for the appointment of a Chief Executive".<sup>8</sup> In reply, the Government stated that "it would be unnecessarily inflexible to make open competition mandatory for Agency Chief Executive appointments, but it accepts that this should increasingly become the conventional route to these posts".<sup>9</sup> Sir Robin Butler referred to "a very strong presumption" in favour of open competitions for such posts.<sup>10</sup> Of the 94 Chief Executive and Chief Executive designate appointments made by June 1993, 63 had been recruited via open competition. Many decisions to appoint internal candidates without open competition were accounted for by a view in Government that an internal candidate was "ideally qualified for the post of Chief Executive".<sup>11</sup> Mr Waldegrave regarded his Department as "the guardian of the doctrine that there should be open competition" for such posts and admitted to engaging in arguments with other Departments about whether open competitions should take place. He said of the other Departments that "sometimes they win the argument and sometimes they do not".<sup>12</sup>

278. Appointments to all senior posts which are openly advertised, including those of Agency Chief Executives, are made following procedures laid down in the Civil Service Order in Council 1991 in which the Civil Service Commissioners play a leading role. Following the preparation of a job description and open advertisement, a selection board is held, usually

1 Q1342; *OPSS News Release 71/94*, 21 April 1994.

2 HC (1993-94) 27-II, pp. 12, 68-69 (OPSS).

3 QQ1348-1349.

4 HC (1985-86) 92-I, paras. 5.7-5.10; *Top Jobs in Whitehall*, paras. 4.11, 4.17-4.19.

5 QQ1342, 1348 (Sir Robin Butler), 586 (Lord Callaghan).

6 Q234 (Ms Elizabeth Symons), 305 (Professor Peter Hennessy); HC (1992-93) 390-II, p. 71 (Mr Graham Mather); HC (1993-94) 27-III, pp. 8 (Sir Brian Hayes), 15 (Dr Peter Barberis), 29 (Dr Geoffrey K Fry), 92 (Mr Timothy Hornsby).

7 HC (1992-93) 390-II, p. 170 (OPSS); QQ989 (Mr Waldegrave), 1341 (Sir Robin Butler); HC (1993-94) 27-II, p. 11 (OPSS); *Career Management and Succession Planning Study*, p. 95; Cm. 2494, para. 24.

8 HC (1989-90) 481, para. 28.

9 Cm. 1263, pp. 7, 9.

10 Q1341.

11 HC (1992-93) 390-II, pp. 207, 211-217; HC (1993-94) 27-II, pp. 157-158 (OPSS).

12 Q2489.

chaired by the First Civil Service Commissioner, with the objective of identifying which of the candidates is, on merit, the most suitable for appointment. While the relevant Minister may decide not to make an appointment at all, he is generally required to accept the person viewed by the selection board as the best candidate. An exceptional procedure exists whereby a Minister can seek to appoint a person who has been assessed in open competition as suitable, but not as the best candidate. If the Minister can convince the Commissioners that this is legitimate, he can make such an appointment. Such instances would be reported by the Commissioners in their annual report. This procedure has not been employed in recent years.<sup>1</sup> The Government attached very great importance to the role of the Civil Service Commissioners in ensuring that merit remained the sole consideration in senior appointments at a time when open competition was becoming more common.<sup>2</sup> The Government believed that the involvement of the Commission helped to ensure that "open competition for senior posts has not ... compromised ... the maintenance of a non-political Civil Service".<sup>3</sup>

279. Civil Service unions were critical of the operation of these procedures in the case of some Agency Chief Executive posts where they believed that inappropriate Ministerial involvement in the appointments process had led to unfair bias against internal candidates. Particular concern was expressed by the FDA about the appointment of the Chief Executive of the HM Prison Service Agency. A letter from that union to the then Home Secretary enquiring about the circumstances of that appointment was met with the reply that "in accordance with the normal practice, the recommendations of the selection panel are confidential".<sup>4</sup> The First Civil Service Commissioner was somewhat more forthcoming about this case in evidence in June 1993. She explained that a board had met and had seen five candidates, three of whom were considered suitable. The board had then adjourned and the then Home Secretary had interviewed the three candidates and had expressed a view to the board. Thereafter, a single candidate was recommended by the board and accepted by the then Home Secretary.<sup>5</sup> In June 1994 the Commissioners published guidance on the procedures required to secure Commissioners' approval for recruitment from outside the Civil Service to senior posts. This guidance described in detail the areas in which Ministerial involvement in such appointments was considered legitimate, including the job and person specification, the criteria for selection and the composition of the selection board. It made no mention of the procedure followed in the case of the Chief Executive of the HM Prison Service Agency because "the Commissioners' view is that this procedure has not commanded confidence and they have therefore decided to revert to a position where Ministers do not interview candidates before the selection board has decided on the order of merit". Mr Waldegrave viewed this development as indicative of the determination to ensure that the procedures remained above suspicion.<sup>6</sup> The Civil Service White Paper also states that "when open competition is used, candidates from within the Civil Service will be considered in the same way as others".<sup>7</sup>

#### (d) Secondments and interchange

280. The Government also argued that the development of secondments in the Civil Service and of interchange between Departments and between Departments and Agencies called into question the image of the senior Civil Service as cloistered and insular. An expansion of cross-fertilisation between the Civil Service and both the private sector and the wider public sector has long been sought. The Fulton Report called for interchange with private industry and commerce, nationalised industry and local government "on a much larger scale than hitherto".<sup>8</sup> In 1986 our predecessors argued that there should be a more structured and flexible approach to movements into and out of the public service.<sup>9</sup> In reply, the Government emphasised its aim of expanding its programme of secondments in both directions between the Civil Service and industry, commerce and other outside bodies, an aim it restated in 1988.<sup>10</sup> There has been a

<sup>1</sup> HC (1989-90) 481, p. 105 (First Civil Service Commissioner); Q785 (Mrs Ann Bowtell); *Guidance on Civil Service Commissioners' Recruitment* (Office of the Civil Service Commissioners, June 1994), para. 50; *Civil Service Commissioners' Report 1992-93* (May 1993), p. 6; *Civil Service Commissioners' Report 1993-94* (June 1994), p. 10.

<sup>2</sup> QQ1364 (Sir Robin Butler), 1860, 2611-2613 (Mr Waldegrave).

<sup>3</sup> Cm. 2627, para. 4.30.

<sup>4</sup> HC (1992-93) 390-II, p. 42 (FDA); QQ237, 1794-1795 (Ms Elizabeth Symons), 1791 (Ms Elizabeth Symons and Mr Bill Brett), letter from Mr Kenneth Clarke to Ms Elizabeth Symons, 19 January 1993.

<sup>5</sup> Q784 (Mrs Ann Bowtell)

<sup>6</sup> HC (1993-94) 27-III, p. 145 (First Civil Service Commissioner); *Guidance on Civil Service Commissioners' Recruitment*, paras. 16-18; QQ2614-2616 (Mr Waldegrave).

<sup>7</sup> Cm. 2627, para. 4.30.

<sup>8</sup> Cmnd. 3638, para. 128.

<sup>9</sup> HC (1985-86) 92-I, paras. 5.17-5.18.

<sup>10</sup> Cmnd. 9841, para. 28; Cm. 524, p. 5.

wide measure of agreement about the value of secondments, both in broadening the knowledge and skills of civil servants gaining experience in other organisations and in exposing the Civil Service more generally to other approaches through inward secondments of personnel from the private sector and other parts of the public sector,<sup>1</sup> although some witnesses evinced a certain scepticism about the benefits of secondments to the City.<sup>2</sup> The number of outward secondments from the Civil Service has increased in recent years. By 1992, about 20 per cent of staff in the Senior Open Structure had undertaken secondments outside the British Civil Service, most commonly in industry and commerce.<sup>3</sup> However, the FDA and the Efficiency Unit study of the senior Civil Service both considered that there was scope for encouraging improvements in both the quantity and quality of secondments.<sup>4</sup>

281. In recommending more structured and flexible arrangements for movement into and out of the Civil Service in 1986, our predecessors referred to the French system.<sup>5</sup> In France there has long been a tradition of senior civil servants moving to take up posts in the public or private industrial sectors, as well as political positions, through a process known as *pantouflage*. The strength of this tradition depends upon several factors, including the training and skills of senior civil servants in France and the size of the State-owned or State-directed industrial and commercial sector there. Above all, the system depends upon the right of members of the *grand corps* who have left to work elsewhere to return to a career in the Civil Service. The movement to private or public industry can thus be more open-ended and flexible than a system of secondment. Consideration is being given in France to further legislation to strengthen regulation of movement from the Civil Service to the private sector.<sup>6</sup> For some time the British Government has doubted the extent to which the benefits of the French system could be achieved in a British context and Mr Waldegrave noted that the extension of privatisation in France might affect the functioning of a system which had hitherto depended upon "a very corporatist State with nationalised industries".<sup>7</sup>

282. Since the inception of the Next Steps programme the Government has recognised the benefits of regular interchanges of staff at all levels between core Departments and Agencies, as well as the need to tap fully the reserves of management ability that already exist in the Civil Service and the desirability of ensuring that key staff can gain experience of both management and policy work.<sup>8</sup> These needs are already reflected to some extent in Departmental personnel policies and in the six month period ending September 1993 just under 2,000 staff of the Benefits Agency moved to another Agency within the Department of Social Security or to Department of Social Security headquarters.<sup>9</sup> Mr Waldegrave emphasised the importance he attached to these issues, and particularly to ensuring that the full range of abilities within the Service were tapped and that Agencies did not hide their best staff from the centre. He nevertheless acknowledged that there remained room for improvement in this area.<sup>10</sup>

(c) Conditions of employment and early departure

283. The Government also sought to dispel some notions about the terms and conditions of employment of senior civil servants which it considered misleading. First, as our predecessors noted, the Next Steps programme has led to a number of senior civil servants, namely those appointed as Agency Chief Executives, being placed on fixed-term contracts, usually for five-years, with continuance in post thereafter being clearly linked to performance.<sup>11</sup> Second, evidence gathered by the Efficiency Unit study was seen by the Government as demonstrating that the notions that most senior civil servants invariably had a "job for life" and that they had no specific terms and conditions of employment forming an employment contract were mistaken.<sup>12</sup>

1 Cmnd. 3638, Appendix G; HC (1986-87) 358-i, p. 10 (Council of Civil Service Unions); HC (1987-88) 494-I, para. 23; QQ543 (Lord Howe), 989, 991 (Mr Waldegrave); HC (1993-94) 27-III, p. 9 (Sir Brian Hayes).

2 QQ335 (Professor Peter Hennessy), 500 (Dr William Plowden).

3 HC (1987-88) 494-II, pp. 126-131 (Office of the Minister for the Civil Service); HC (1993-94) 27-II, pp. 27-28 (OPSS); *Career Management and Succession Planning Study*, pp. 46 (Table 2), 107; *Survey on Career Management and Succession Planning in the Civil Service*, Vol. 1, p. 37.

4 HC (1992-93) 390-II, pp. 51-52 (FDA); Q240 (Ms Elizabeth Symons); *Career Management and Succession Planning Study*, paras. 6.12-6.14.

5 HC (1985-86) 92-I, para. 5.17.

6 This passage is based largely on the observations of the Sub-Committee during its visit to Paris, but see *Career Management and Succession Planning Study*, p. 121.

7 Cmnd. 9841, para. 27; Q2649.

8 Cm. 524, p. 5; Cm. 841, p. 7. See also HC (1993-94) 27-III, p. 57 (Mr Clive Priestley).

9 *Career Management and Succession Planning Study*, para. 4.5; Q2220 (footnote) (Mr Michael Bichard).

10 QQ1098, 2501.

11 HC (1988-89) 348, paras. 31-32; HC (1989-90) 481, para. 26.

12 *Career Management and Succession Planning Study*, para. 7.3; Q1397 (Sir Robin Butler); Cm. 2627, para. 4.31.

Rather, the Government suggested, the terms and conditions of employment for all civil servants were set out in *The Civil Service Management Code* which amounted to "an implied contract".<sup>1</sup> This Code set out a number of schemes under which staff might be invited to retire or be retired early, including on grounds of the structural needs of a Department, limited efficiency or limited postability. These schemes were accompanied by a system of annual performance assessment and review.<sup>2</sup> Partly in consequence of these schemes, only about half of those who left the Senior Open Structure over the period 1987-88 to 1992-93 did so due to reaching the normal age of retirement. Of the remainder, 17 left at the end of a period contract, 65 resigned, 6 died and 129 retired early due to compulsory, voluntary or medical early retirement.<sup>3</sup> Sir Robin Butler characterised these statistics as startling and Mr Waldegrave said that it was "to the credit of the increasingly good management of the Civil Service" that departures from the higher levels of the Service were managed to such an extent.<sup>4</sup>

284. The majority of such departures follow decisions by departmental management at official level, but it is possible for departures from the Service to be the consequence of Ministerial wishes. For many years it was recognised that, "in very rare cases", a Minister was entitled to ask for a change in the senior personnel in his Department.<sup>5</sup> The Fulton Committee considered that it would be "exceptional" for a Minister to wish to change his Permanent Secretary, but that they should not be "stuck with Permanent Secretaries who are too rigid or tired".<sup>6</sup> In 1977 the then Cabinet Secretary asserted that the career system did not mean "that a Minister has got to work with a Permanent Secretary whom he disagrees with, or cannot stand the sight of".<sup>7</sup> The Expenditure Committee argued that there should be a recognised procedure for Ministers to have civil servants removed "which carries no stigma or criticism for the civil servant concerned".<sup>8</sup> In 1982 the then Treasury and Civil Service Committee stated that "a Minister newly appointed as head of a Department should have an opportunity to change the Permanent Secretary if he finds that he cannot work satisfactorily with him". In 1986 their successors restated the case for more formal arrangements for Ministers to recommend the removal of senior civil servants in their Departments.<sup>9</sup> On each occasion the Government rejected the case for instituting formal arrangements to provide for such circumstances, perhaps reflecting the view of the then Cabinet Secretary that "those occasions would arise extremely seldom and that a Permanent Secretary who was worthy of his salt and, if I may say so, a Minister who was worthy of his salt, would find that they could work together".<sup>10</sup> In evidence to the then Treasury and Civil Service Sub-Committee in 1987 Dr Peter Barberis argued that more formal arrangements should be made for early departure, for reasons determined by Ministers as well as by officials, and went on to state that if existing powers of removal were "used only in the most desperate and dramatic circumstances, they become unreal for the most part, yet accompanied by a sometimes misplaced taint of failure or martyrdom when they are activated; or are associated with a vindictiveness that is unbecoming of any responsible Government".<sup>11</sup>

285. In July 1993 Sir Peter Kemp was required to leave his post as Second Permanent Secretary at the Office of Public Service and Science following a request by Mr Waldegrave for a Permanent Secretary with different skills. Sir Robin Butler was unable to find an alternative post for Sir Peter Kemp within the Civil Service, and Sir Peter was therefore required to take early retirement.<sup>12</sup> Mr Waldegrave explained that he came to the conclusion that the establishment of the Office of Public Service and Science required a Permanent Secretary with different skills from Sir Peter Kemp, with a greater emphasis on the traditional administrative skills of a departmental Permanent Secretary as opposed to the project management skills which had

1 HC (1986-87) 358-i, p. 41 (Cabinet Office and HM Treasury); *Career Management and Succession Planning Study*, paras. 7.3-7.4; Q1402 (Sir Robin Butler).

2 HC (1993-94) 27-II, pp. 15-16 (OPSS); *Career Management and Succession Planning Study*, paras. 7.5-7.6; QQ1395-1398 (Sir Robin Butler).

3 *Career Management and Succession Planning Study*, para. 7.8.

4 QQ1397 (Sir Robin Butler), 2629 (Mr Waldegrave).

5 *Top Jobs in Whitehall*, para. 1.15 (quoting Herbert Morrison). See also QQ630 (Lord Callaghan), 850 (Lord Jenkins).

6 Cmnd. 3638, para. 286.

7 HC (1976-77) 535-II, Q1836 (Sir John Hunt).

8 HC (1976-77) 535-I, para. 145.

9 HC (1981-82) 236-I, para. 93; HC (1985-86) 92-I, paras. 5.13-5.14.

10 Cmnd. 8616, para. 48; Cmnd. 9841, paras. 21-23; HC (1981-82) 236-II, Q1211 (Sir Robert Armstrong).

11 HC (1986-87) 358-i, pp. 65-66.

12 HC Deb., 23 October 1992, col. 388w; QQ138 (Sir Robin Butler), 382 (footnote) (Sir Peter Kemp).

been Sir Peter Kemp's great strength. Mr Waldegrave took the view that this was his "right as a Departmental Minister".<sup>1</sup> Sir Robin Butler said that he "would very much have liked to have found another post for Sir Peter at Permanent Secretary level elsewhere in the Civil Service" and that he "sincerely tried", but that he was unable to find a post which matched Sir Peter Kemp's blend of skills. He therefore found it necessary to ask Sir Peter Kemp to retire early on "the terms that go with early retirement". Sir Robin Butler thought that "the terms were fair and in my heart and conscience I did not feel I was doing him an injury". Sir Robin Butler admitted to concern that an impression might have been given that Sir Peter Kemp's departure from the Service might undermine the independence and impartiality of the senior Civil Service, but was confident that such concerns were misplaced. The departure resulted from the job having changed, not from the advice which Sir Peter Kemp had given: "if he had given even the most craven advice, it would have made no difference to the situation".<sup>2</sup> Sir Peter Kemp indicated that he had sought to persuade Mr Waldegrave to continue with their working relationship on the basis that "we should both try again". He was concerned that the different skills which the Minister had sought had not been indicated clearly to him. Following Mr Waldegrave's final decision, he was left with the impression that those concerned did not fall over backwards to find him another post. He disagreed with Sir Robin Butler's contention that the terms of his departure were fair and criticised aspects of the handling of his departure which he felt had been inadequate or insensitive.<sup>3</sup>

(f) Pay for senior civil servants

286. It has long been accepted that there should not be a parity of pay between senior civil servants and those performing apparently analogous jobs in the private sector, not least because work in the senior Civil Service offers attractions to some, including the notion of public service, which are not available in the private sector.<sup>4</sup> Recent research has also suggested that senior civil servants in this country are reasonably well-paid by comparison with senior public servants in some other countries.<sup>5</sup> Nevertheless, in the past the size of the gap between Civil Service pay and private sector pay has been justified in part by reference to the level of job security accorded to senior civil servants, and job security in the Civil Service is perceived by some as both less complete than is usually believed and markedly diminishing.<sup>6</sup> In 1991 the Top Salaries Review Body found that the pay discount at senior levels in the Civil Service had become "excessive" and, the following year, it recommended salary increases for its remit group ranging from 17 to 24 per cent. The general increases recommended then were reduced by around half by the Government and were staged over three years.<sup>7</sup> The Senior Salaries Review Body more recently noted "a widespread perception amongst senior civil servants that they are underpaid, not only in relation to the private sector, but also to other areas of the public sector".<sup>8</sup> In May 1994 Mr Waldegrave acknowledged that "senior civil servants are not overpaid".<sup>9</sup>

287. Not all senior civil servants are paid within the normal ranges for the top three Grades. In the case of posts which are externally advertised, including those of Agency Chief Executives, the Government has been prepared to offer salaries higher than those available under normal Civil Service pay arrangements "if this is necessary to secure the right person".<sup>10</sup> Of the twenty-nine Agency Chief Executives appointed following open competition up to January 1994, the pay of only five was determined in advance. In all other cases the level of pay was subject to negotiation.<sup>11</sup> The salaries (excluding performance bonuses) for all the Grade 1 and 2 posts and most Grade 3 posts filled by external candidates were about 10 to 18 per cent above the top of the equivalent Civil Service range, although many of these were highly specialised posts.<sup>12</sup> Among Agency Chief Executives, in March 1994, at least four were paid more than the scale maximum for Grade 2, excluding performance-related bonuses; all of

1 QQ61, 1027, 1031-1034.

2 QQ137-143, 154, 1369-1370.

3 QQ381-402; HC (1992-93) 390-II, pp. 290-292.

4 HC (1993-94) 27-III, pp. 2 (Senior Salaries Review), 6 (Sir Brian Hayes), 43 (Sir Kenneth Couzens); Cm. 2464, para. 29.

5 Dr William Plowden, *Ministers and Mandarins*, p. 84 (quoting research by Professor C Hood and S Lambert).

6 HC (1986-87) 358-i, p. 84 (Professor Fred Ridley); Cm. 2464, paras. 30-32, 35.

7 HC (1993-94) 27-III, pp. 2-3 (Senior Salaries Review Body).

8 Cm. 2464, para. 29.

9 Q2492.

10 Cm. 1263, p. 7.

11 HC (1993-94) 27-III, p. 154 (OPSS).

12 Cm. 2464, para. 25.

these were recruited from outside the Civil Service.<sup>1</sup> The approach whereby an external candidate for a Civil Service post can be paid in excess of usual pay scales whereas the salary of a serving civil servant successful in an open competition remains within traditional pay parameters has often been criticised.<sup>2</sup> The FDA claimed that this process had “a crushingly deleterious effect on morale”. Dr William Plowden considered the pay disparities between Agency Chief Executives recruited from outside and those who were career civil servants to be “absurd” and Mr Vernon Bogdanor pointed out that discrepancies between pay to Agency managers and to civil servants in Whitehall would prevent the desired movement from Agencies to senior policy posts.<sup>3</sup> A recent independent study of pay for senior civil servants found a “limited, but growing, irritation” over the differences in treatment between internal and external appointees to Next Steps Agencies.<sup>4</sup> Mr Waldegrave considered that, in the long term, this was “a real issue”.<sup>5</sup>

288. Pay for all senior civil servants includes a performance-related element. All pay increases within Grades are now performance-related; each Grade in the Senior Open Structure has a pay range; all movement up the range now depends on performance and is linked with the appraisal system. In addition, there is a performance pay budget—2 per cent of the overall pay bill for staff affected—which is distributed to staff at Grades 2 and 3 at Departmental level. Grade 2 awards must be approved by the Head of the Home Civil Service. Grade 3 awards are monitored centrally but decided by individual Departments. Ministers are not involved in the assessment of staff for these purposes.<sup>6</sup> Somewhat different arrangements operate for those few senior staff, including Agency Chief Executives, on performance contracts: a significant proportion of their pay can be linked to their performance, or, in the case of an Agency Chief Executive, to an Agency’s success in achieving its key targets.<sup>7</sup> This approach has been criticised, both for an excessive orientation towards efficiency measures conceived in terms of “cost cutting” and for the fact that the payment of bonuses can depend upon success in meeting targets when that success may depend upon reasons beyond an Agency’s control.<sup>8</sup> The performance-related pay scheme which applies to other senior civil servants has also been the subject of criticism. Sir Brian Hayes considered the scheme to be “divisive, demotivating and demeaning” and Mr John Garrett expressed incomprehension about how the “paltry” sums involved could be expected “to produce extra effort by top managers”.<sup>9</sup> A recent independent study for the Senior Salaries Review Body confirmed that the scheme was not seen by civil servants as having a motivational effect, but found widespread support for the scheme. This appeared to be based on the majority view that high performing civil servants should receive higher rewards than average performers. Nevertheless, many civil servants felt that the awards currently offered by the scheme were too small.<sup>10</sup> In its 1994 Report the Senior Salaries Review Body recommended that all future pay increases for Grades 2 and 3 should be determined by performance, that the range maxima for Grades 2 and 3 should be increased significantly and that steps should be taken to link salaries within these ranges to individual job evaluation.<sup>11</sup>

### (iii) Proposals for change

#### (a) Extending open competition

289. A number of proposals were advanced to remedy the perceived defects in the current management of the senior Civil Service. Some witnesses argued for a dramatic extension of open competition for senior posts with external candidates being able to apply. Some argued that all posts in the Senior Open Structure should be openly advertised. Its proponents saw this development as offering the most effective means of bringing a much needed injection of new blood into the Civil Service, from business, academic life, the professions and local government. At the same time, it would bring practice for civil servants in Whitehall into line with

1 HC Deb., 14 March 1994, cols. 455, 508-509w; HC Deb., 16 March 1994, cols. 671, 749w.

2 HC (1986-87) 358-i, pp. 66 (Dr Peter Barberis), 92-93 (Mr Nevil Johnson); *Top Jobs in Whitehall*, paras. 4.23, 5.26; HC (1988-89) 348, para. 29; *Making the Most of Next Steps*, para. 2.8.

3 HC (1992-93) 390-II, pp. 51 (FDA), 122 (Dr William Plowden), 297 (Mr Vernon Bogdanor). See also HC (1993-94) 27-III, p. 18 (Dr Peter Barberis).

4 Cm. 2464, para. 28.

5 Q2492.

6 HC (1993-94) 27-III, pp. 3-4 (Senior Salaries Review Body); Cm. 2464, paras. 40-41; Cm. 2627, para. 4.28.

7 Cm. 2465, p. 49; HC (1992-93) 390-II, p. 207 (OPSS).

8 HC (1993-94) 27-II, p. 101 (Mr John Garrett); *Next Steps: Moving On*, paras. 2.21, 5.3.16 (footnote).

9 HC (1993-94) 27-III, p. 9 (Sir Brian Hayes); HC (1993-94) 27-II, p. 102 (Mr John Garrett).

10 Cm. 2464, paras. 51-54. See also HC (1993-94) 87, Q123 (Mr C W Kelly).

11 Cm. 2464, paras. 84-106.

that for Agency Chief Executives.<sup>1</sup> Open competition was seen as the best way to determine the most suitable and meritorious candidate for a post.<sup>2</sup> Open advertisement was thought likely to attract a wider range of candidates not only from outside the Civil Service but also from within the Civil Service. It was seen as the most effective device both for enabling Agency Chief Executives to move to policy posts and for attracting back former civil servants.<sup>3</sup> While it was recognised that this practice was not followed in the private sector, it was felt that openly advertising all senior posts would reflect the particular characteristics of Government and the requirement for those working in it to have the broadest possible knowledge and understanding of all aspects of national life.<sup>4</sup> Proponents of such a measure did not envisage it leading to the end of a career Civil Service; most posts would go to career civil servants, "strengthened in confidence and in public esteem by fact of having had their suitability for a particular post tested in an 'open field'".<sup>5</sup> These last observations were partly borne out by descriptions of New Zealand experience. According to Dr Scott, open advertisement of all senior posts there had not led to dramatic changes in personnel and did not negate effective succession planning within an organisation.<sup>6</sup>

290. Many arguments were advanced against the proposal to extend open competition to all senior posts. It was observed that widespread open competition for senior posts was not a common practice in private business. Sir Brian Hayes especially commended the approach of Unilever, all of whose Executive Directors were Unilever career managers. Sir David Hancock also drew attention to the caution about bringing in outsiders into ICI expressed by Sir John Harvey-Jones.<sup>7</sup> Mr Waldegrave cited private sector practice as one reason for scepticism about open competition for all senior posts.<sup>8</sup> Mr Waldegrave also referred to the likely adverse effects on Civil Service morale of such a development, a concern shared by the FDA.<sup>9</sup> It was contended that open competition for all senior posts would profoundly affect career management in the Service, with knock-on effects on the quality of recruits to the Service and the ideal of a career service.<sup>10</sup> It was suggested that wider use of open competition brought with it dangers of politicisation, because those attracted to senior policy posts from outside the Service might have a proven track record in a policy area linked to a political affiliation.<sup>11</sup> Sir Brian Hayes questioned whether open competition was in fact the best way to select the most meritorious candidate because the qualities of external candidates in a Civil Service context were largely unknown.<sup>12</sup> Finally, Sir Robin Butler pointed to the delay and expense resultant upon openly advertising all senior posts.<sup>13</sup>

#### (b) Revised selection procedures

291. Proposals were also made for revising the procedures by which senior civil servants are selected. If all posts were not to be openly advertised, Dr William Plowden proposed that the First Civil Service Commissioner should be a member of the Senior Appointments Selection Committee and that the case for not openly advertising particular posts should be made to the Civil Service Commission, who would be free to refuse permission to proceed to an internal appointment without open advertisement.<sup>14</sup> In cases which were the subject of competition overseen by the Civil Service Commissioners, the FDA proposed that there should be greater openness about the extent of Ministerial involvement in the decision-making process.<sup>15</sup> Some witnesses advocated a more formal or systematic role for Select Committees of the House of Commons in scrutinising senior appointments and dismissals, focusing particularly on Ministerial involvement, although this would not amount to a requirement for formal Parliamentary approval of senior appointments.<sup>16</sup> Finally, Mr Charles Clarke proposed that

1 HC (1992-93) 390-II, pp. 72, 73 (Mr Graham Mather), 121 (Dr William Plowden).

2 HC (1986-87) 358-i, p. 67 (Dr Peter Barberis); HC (1992-93) 390-II, p. 121 (Dr William Plowden).

3 QQ281 (Mr Graham Mather), 416 (Sir Peter Kemp), 501, 506 (Dr William Plowden).

4 HC (1992-93) 390-II, p. 121; Q500 (Dr William Plowden).

5 Q503 (Dr William Plowden); HC (1993-94) 27-III, p. 18 (Dr Peter Barberis).

6 Q2340.

7 *Career Management and Succession Planning Study*, paras. 5.14-5.15; HC (1993-94) 27-III, pp. 6 (Sir Brian Hayes), 127, 128 (Sir David Hancock).

8 QQ1021, 2636. See also Q1288 (Sir Peter Levene).

9 Q1021 (Mr Waldegrave); HC (1992-93) 390-II, p. 51 (FDA).

10 Q239 (Ms Elizabeth Symons); *Career Management and Succession Planning Study*, para. 6.34; HC (1993-94) 27-III, pp. 7, 8 (Sir Brian Hayes), 125 (Mr Barry O'Toole).

11 *Career Management and Succession Planning Study*, para. 6.39; Q1024 (Mr Richard Mottram).

12 HC (1993-94) 27-III, p. 6.

13 QQ1345-1346. See also *Career Management and Succession Planning Study*, para. 6.34.

14 *Ministers and Mandarins*, pp. 76, 147.

15 HC (1992-93) 390-II, p. 42 (FDA); Q1791 (Ms Elizabeth Symons).

16 HC (1992-93) 390-II, p. 123; QQ538-542 (Dr William Plowden); *idem.*, *Ministers and Mandarins*, pp. 98-99; Sir Peter Kemp, *Beyond Next Steps*, pp. 10, 11, 28-29, 36; HC (1993-94) 27-III, p. 101 (Professor Gavin Drewry and Dr Philip Giddings).

there should be more regular, systematic and meaningful involvement of the Official Opposition in specified senior appointments, building on the consultation which already took place in some instances.<sup>1</sup>

292. The Government has argued that it would be inappropriate for Select Committees to have a formal role in public appointments such as those of Agency Chief Executives. First, it might lead to a politicisation of the appointments procedure. Second, the prospect of Parliamentary scrutiny might deter potential candidates from putting their names forward. Finally, the proposal was seen by the Government as cutting across Ministerial accountability to Parliament.<sup>2</sup> It has also observed in the past that such procedures might "invite strict party discipline" within Select Committees and "tend to undermine [their] investigative function".<sup>3</sup> With regard to the proposal for more systematic involvement of the Official Opposition in some Civil Service appointments, Mr Waldegrave said that there were no set criteria at present, although it was open to the Prime Minister to seek the views of the Leader of the Opposition if he considered that the circumstances warranted it and this had on occasion been done, particularly when a General Election was imminent. Mr Waldegrave agreed that there might be a case for set criteria, but also considered it an area in which "you can trust people to behave sensibly".<sup>4</sup>

(c) Contracts, performance assessment and the management of departures

293. It was also proposed that senior civil servants in policy posts should be placed on fixed-term contracts, a proposal which was seen as logically connected to the extension of open advertisement to all senior posts.<sup>5</sup> It was argued that such a development would bring Whitehall into line with the practice for Agency Chief Executives and for other parts of the public sector, including senior officers in local government and the police.<sup>6</sup> As in other spheres, the essential advantage of contracts of this kind was felt to be the focus on the job to be done and on the responsibilities of a particular post which it would bring about.<sup>7</sup> Once appointed on a fixed-term contract, civil servants could develop a clearer approach to their job with a sense of real protection.<sup>8</sup> Sir Peter Kemp felt that a senior civil servant would be perfectly capable of giving frank and fearless advice: "He might actually be franker, because if you have a contract you have come in and been selected for the job whereas Permanent Secretaries are not selected for the job at all, they are selected as part of the succession".<sup>9</sup> Drawing on practice in local government, Mr Graham Mather questioned whether fixed-term contracts would create difficulties over politicisation.<sup>10</sup> The case for fixed-term contracts was reinforced by Dr Graham Scott's account of their impact in New Zealand. The contracts themselves and a letter from the then Prime Minister at the time the system was introduced reminded civil servants of their continuing obligation to give free and frank advice to Ministers. Such contracts were not an impediment to the tendering of such advice. Rather, they encouraged it, since frank and effective advice was an essential ingredient in the good performance required for contract renewal.<sup>11</sup>

294. Drawing on the experience of New Zealand, some witnesses also suggested that the introduction of fixed-term contracts should be accompanied by the establishment of new forms of performance assessment for senior civil servants linked to prior agreements with Ministers. Mr Graham Mather argued that, where senior civil servants on contract had specific policy responsibilities, the success of their endeavours measured in relation to prior agreements with Ministers "would be one factor to be taken into account in performance review and reappointment decisions".<sup>12</sup> Others supported the idea of performance-related agreements with Ministers for senior civil servants.<sup>13</sup> Advocates of such a system envisaged an independent element in the

<sup>1</sup> HC (1992-93) 390-II, p. 302; HC (1993-94) 27-III, p. 102.

<sup>2</sup> HC Deb., 31 March 1994, cols. 1129-1130.

<sup>3</sup> *Top Jobs in Whitehall*, para. 5.11.

<sup>4</sup> HC (1993-94) 27-II, p. 186; QQ1873-1875.

<sup>5</sup> HC (1992-93) 390-II, pp. 72 (Mr Graham Mather), 122; Q513 (Dr William Plowden).

<sup>6</sup> HC (1992-93) 390-II, p. 73 (Mr Graham Mather); HC (1993-94) 27-III, pp. 59 (Mr Clive Priestley), 93 (Mr Timothy Hornsby).

<sup>7</sup> QQ272-273 (Mr Graham Mather), 513 (Dr William Plowden), 803 (Professor Eric Caines); HC (1992-93) 390-II, p. 285 (Professor Norman Lewis); HC (1993-94) 27-III, p. 59 (Mr Clive Priestley). See also Q2215 (Mr Michael Richard).

<sup>8</sup> Q272 (Mr Graham Mather).

<sup>9</sup> Q403.

<sup>10</sup> Q273.

<sup>11</sup> QQ2336, 2346-2347.

<sup>12</sup> HC (1992-93) 390-II, pp. 72-73; QQ282, 287. See also HC (1992-93) 390-II, p. 285 (Professor Norman Lewis).

<sup>13</sup> HC (1993-94) 27-III, pp. 58, 59 (Mr Clive Priestley), 80 (Professor Christopher Hood and Professor George Jones).



assessment of the performance of individual senior civil servants, possibly from the Civil Service Commission, and it was also suggested that individual contracts could be published.<sup>1</sup> In New Zealand, performance agreements are subject to supervision by the independent State Services Commission and scrutiny and reporting by the Auditor General.<sup>2</sup>

295. A number of arguments were advanced against the introduction of fixed-term contracts for all senior civil servants. It was argued that such contracts would militate against civil servants giving frank, fearless and impartial advice to Ministers. The FDA felt that concern about re-appointment would constrain the advice given by civil servants, particularly towards the end of a contract, and this view was shared by others.<sup>3</sup> Mr Michael Bichard said that, while a fixed-term contract did not inhibit him from giving frank and fearless advice because he was accustomed to operating in a competitive job market, a fixed-term contract might be inhibiting for career civil servants.<sup>4</sup> Sir Robin Butler believed that fixed-term contracts were likely to discourage frank advice and created a risk of politicisation.<sup>5</sup> Mr Waldegrave also believed that fixed-term contracts with "a cliff edge" would change the balance between Ministers and civil servants and might discourage robust arguments.<sup>6</sup> The Efficiency Unit Study noted that fixed-term contracts were not common in the private sector, where "employment contracts are designed to tie the individual to the organisation and give a sense of security, rather than to distance them and make them feel that their employment status is always under review".<sup>7</sup> The fact that fixed-term contracts were not widely used in the private sector was seen by the Government as an important argument against their wider use in the Civil Service.<sup>8</sup> The Efficiency Unit Study suggested that fixed-term contracts might undermine long-term career management and Sir Robin Butler also pointed to the inflexibilities created by fixed-term contracts, for example, the costs incurred if it was necessary to terminate employment early.<sup>9</sup> Finally, the independent survey of senior civil servants carried out for the Efficiency Unit suggested that a further extension of fixed-term contracts was not popular among senior civil servants.<sup>10</sup> With regard to performance contracts, as has already been noted above, the Government was profoundly sceptical about the extent to which performance contracts or performance agreements with prior targets could be applied to civil servants in policy posts or Permanent Secretaries in the same way as Agency Chief Executives, both because of the unpredictability and flexibility inherent in the policy process and because of the dependence of any subsequent assessment on the views of the Minister concerned.<sup>11</sup>

296. Other proposals were made relating to the management of the senior levels of the Service and early departure in particular, most notably by Dr William Plowden. He commended the German approach under which officials in the two most senior grades of the federal bureaucracy were classified as 'political' and could be removed by their Ministers at any time. If they could not be found another post, they would be retired on full pay on a temporary or permanent basis. Introduction of such a system in this country would, in his view, both reduce the likelihood of *ad hoc* politicisation and facilitate departures in future cases like those of Sir Peter Kemp without stigma or acrimony.<sup>12</sup> Sir Peter Kemp was supportive of the concepts of providing less security for senior officials and more freedom for Ministers to change the senior officials in their Departments.<sup>13</sup> Dr Plowden also argued that the Civil Service should adopt a new approach to the management of senior staff more generally, particularly because "a worryingly large 'bulge' of middle-ranking senior officials is stuck with few prospects for promotion". He proposed a more systematic approach to mid-career movement, encouraging officials to leave the Service before retirement. He pointed to various models for this development; first, the civil services of Japan and France where bureaucrats reached the

1 HC (1992-93) 390-II, p. 73 (Mr Graham Mather); HC (1993-94) 27-III, pp. 79, 80 (Professor Christopher Hood and Professor George Jones).

2 *Career Management and Succession Planning Study*, p. 136; Q2352 (Dr Graham Scott).

3 QQ239 (Ms Elizabeth Symons), 1607 (Mr Robert Sheldon); HC (1993-94) 27-III, p. 96 (Dr Patricia Greer).

4 QQ2215-2216.

5 QQ135-136, 1404.

6 QQ2617, 2625, 2643.

7 *Career Management and Succession Planning Study*, paras. 7.13-7.15.

8 QQ1402, 1404 (Sir Robin Butler), 2491, 2622, 2643 (Mr Waldegrave).

9 *Career Management and Succession Planning Study*, para 7.17; Q1402.

10 *Career Management and Succession Planning Study*, p. 108; *Survey on Career Management and Succession Planning in the Civil Service*, Vol. 1, p. 21.

11 See paragraphs 154-159; QQ1409-1411, 1413-1414 (Sir Robin Butler), 2458, 2460 (Mr Waldegrave and Mr Mottram), 12 (Mr Waldegrave).

12 HC (1992-93) 390-II, p. 122; Q511; *Ministers and Mandarins*, pp. 95-98. See also *Careers Management and Succession Planning Study*, p. 123.

13 HC (1992-93) 390-II, p. 290.

most senior posts much younger; second, Unilever, which required all entrants under its management development scheme to leave if they had not reached a certain position by a certain age; third, the armed forces, where, according to Dr Plowden, middle-ranking officers without prospects for promotion to higher levels were encouraged and enabled to leave for other jobs.<sup>1</sup>

297. In response to this last suggestion, the Ministry of Defence provided a detailed account of arrangements for career planning for commissioned officers in the armed forces. This evidence highlighted a number of characteristics of these arrangements which, it was suggested, limited the value of their application to the Civil Service. First, "the military profession is *not* one which, by its nature, employs most of its personnel to the normal national retirement age". Second, it had distinctive pension arrangements geared to this characteristic. Third, the armed services had a long tradition of offering advice and guidance on resettlement. In contrast, civil servants were generally recruited for a full career to a normal retirement age of 60 and its different pension arrangements reflected this.<sup>2</sup> Replying to these points, Dr Plowden accepted the differences in current approach between the Civil Service and the armed forces, but questioned the assumption that there were good reasons why the Civil Service should not wish to change towards the arrangements already used in the armed forces, abandoning the presumption that the Civil Service should normally offer a full career to a normal retirement age of 60.<sup>3</sup>

298. Other proposals were made about the approach of the Civil Service towards early departure. It was argued that involuntary departures from the Service should be subject to additional external scrutiny, possibly by the Civil Service Commission, to ensure against dismissal for political reasons.<sup>4</sup> Sir Peter Kemp, drawing on his own experience, made a number of suggestions for improved arrangements in cases of compulsory early retirement, including a more professional approach to advice and assistance in building a new way of life outside the Service and finding new employment.<sup>5</sup> Mr Waldegrave acknowledged that Sir Peter Kemp's case might offer lessons for the way such cases were handled in future.<sup>6</sup> The Efficiency Unit study argued for greater financial flexibility in cases of early departure and more professional support and advice to those concerned, including outplacement services and these views were endorsed by the Senior Salaries Review Body.<sup>7</sup>

*(iv) The Government's proposals*

299. As this inquiry developed and proposals for reform of the senior Civil Service were advanced in evidence to the Sub-Committee and elsewhere, the Government itself was considering changes in the higher levels of the Civil Service, consideration which reached fruition in the Civil Service White Paper published in July 1994. From the early stages of the inquiry Mr Waldegrave acknowledged the importance of creating a more open senior Civil Service and said that he wished to make further progress in that direction, both in terms of open competition and interchange.<sup>8</sup> However, the Government rejected the case for openly advertising all senior posts. It also considered the arrangements for advising on senior appointments through the Senior Appointments Selection Committee and the Civil Service Commissioners broadly satisfactory, and did not make major proposals for changes in selection procedures.<sup>9</sup> The Government did acknowledge that there was greater scope for open competition for senior posts. Sir Peter Levene thought that every senior post should be considered to see whether it was suitable for open competition, subject to the quality of internal candidates and the skills required.<sup>10</sup> The subsequent Efficiency Unit study endorsed this approach, suggesting other issues which might be considered in reaching a decision on whether to make an appointment following open competition, such as the need to attract back staff who left the organisation earlier and the requirement to double check the assessment of internal candidates against the market.<sup>11</sup> The Government endorsed the idea of more formal arrangements for considering the

1 HC (1992-93) 390-II, pp. 120, 122; QQ508-509, 532; *Ministers and Mandarins*, pp. 76-79. The information on Unilever is drawn from a memorandum to the Sub-Committee which was not printed, HC (1992-93) 390-I, p. xxv.

2 HC (1992-93) 390-II, pp. 308-318; emphasis in original.

3 *Ministers and Mandarins*, pp. 77-78.

4 HC (1986-87) 358-i, p. 66 (Dr Peter Barberis).

5 Q396; HC (1992-93) 390-II, pp. 291-292.

6 Q1035.

7 *Career Management and Succession Planning Study*, paras. 7.29-7.32, p. 82; Cm. 2464, para. 35.

8 QQ989-991.

9 Cm. 2627, paras. 4.21, 4.25, 4.27.

10 QQ1288-1289, 1292.

11 *Career Management and Succession Planning Study*, paras. 6.32, 6.36-6.37.

case for open advertisement and for more posts to be openly advertised in consequence.<sup>1</sup> The White Paper proposed that, before filling a post at senior level, a Government Department would be required to address a number of prior questions, starting with whether it was necessary to fill the vacancy at all and including the question: "is there a sufficient field of candidates already within the Department, or, in order to get a strong field, is it necessary to extend the search to the wider Civil Service or to full open competition?" As recommended by the Efficiency Unit study, the Senior Appointments Selection Committee is to take on the new role of regularly reviewing the Service's record with regard to open competition for senior posts.<sup>2</sup> The Government was not prepared to predict the number of posts which would be filled by open competition as a result of its proposals. Sir Robin Butler considered that "with a lot of policy jobs" the case for open competition would be rejected. Mr Waldegrave said that the proof of the effectiveness of the changes "will be in the pure policy jobs actually".<sup>3</sup>

300. The Government also made proposals to ensure that the skills of staff in the senior levels of the Service were effectively matched with the requirements of particular posts. The Efficiency Unit study recommended more explicit criteria for the selection, appraisal, development and promotion of staff at Grade 3 and above.<sup>4</sup> Work on general criteria for senior posts has subsequently been completed and the qualifications, qualities, skills, experience and achievement record required for each post at senior levels will be formally addressed prior to selection.<sup>5</sup> The Government is also seeking to broaden the skills and experience of those rising to the highest levels of the Service by promoting more vigorously greater interchange with outside organisations and between Departments and between core Departments and Agencies.<sup>6</sup>

301. The Civil Service White Paper also proposes a more professional and systematic approach to the management of the senior levels of the Service. It announces the establishment of a new Senior Civil Service including all civil servants with the range of responsibilities currently at Grade 5 and above. This proposal is designed to strengthen cohesion not only in the senior management of Departments, but also across the wider Civil Service. Mr Waldegrave believed that the establishment of the Senior Civil Service would help to maintain the already strong lateral communications across Whitehall. The inclusion of posts currently at Grade 5 proceeded from a belief that it represented a better marking point than the Senior Open Structure for the commencement of senior managerial tasks. The Government also believed its proposals would facilitate a more effective approach to career development, with staff having greater opportunity to acquire a depth of experience and a record of achievement by spending more time in each job.<sup>7</sup>

302. Although the Government rejected the idea that all senior civil servants should be on fixed-term contracts, it found the arguments in the Efficiency Unit study for more explicit contracts of employment persuasive. That study argued that new contracts would "send a clear message that the risk/reward balance in the Civil Service was being brought up to date".<sup>8</sup> The White Paper proposes that all members of the Senior Civil Service will be placed on explicit written employment contracts, removing any lack of clarity about terms and conditions of employment. One form of contract is expected to cover the great majority of circumstances and contracts will be with the Crown rather than Departments or their Ministers. Mr Waldegrave believed that such contracts would have a psychological effect and would assist in changing the culture of the Senior Civil Service.<sup>9</sup> While some fixed-term contracts will be used, it is possible that they will cease to be the predominant form of employment for Agency Chief Executives.<sup>10</sup> The Government left little doubt that the senior ranks would be affected by the overall shrinkage of the Service we described above, that the trend towards more early departures from the senior ranks of the Service would continue and that the process of structural change would require active management.<sup>11</sup>

1 QQ1341 (Sir Robin Butler), 2488 (Mr Waldegrave).

2 Cm. 2627, paras. 1.5, 4.21, 4.24, 4.29; *Career Management and Succession Planning Study*, para. 6.40, p. 68.

3 QQ2636-2638 (Mr Waldegrave and Sir Robin Butler).

4 *Career Management and Succession Planning Study*, paras. 3.11-3.16.

5 *Core Criteria for the Senior Open Structure* (OPSS, March 1994); Cm. 2627, para. 4.24.

6 Cm. 2627, para. 4.23; QQ2562, 2633-2655 (Mr Waldegrave, Sir Robin Butler).

7 Cm. 2627, paras. 4.16-4.23; QQ2602-2605 (Mr Waldegrave).

8 *Career Management and Succession Planning Study*, paras. 7.18-7.24; Q2491 (Mr Waldegrave).

9 Cm. 2627, paras. 4.32-4.35; QQ2618, 2621, 2627-2628 (Mr Waldegrave).

10 *Career Management and Succession Planning Study*, para 7.25; Cm. 2627, para. 4.35; Q2622 (Mr Waldegrave).

11 Cm. 2627, para. 4.31; QQ2590-2591 (Mr Waldegrave).

303. The White Paper recognises that these trends will be reflected in pay arrangements for the Senior Civil Service. A more flexible pay system will be introduced which takes account of changes in responsibility and job security. Grades will be superseded by overlapping pay ranges, broadly linked to levels of responsibility, with progress within them linked to performance. The Government accepts that the reduction in job security for senior civil servants will reduce the justification for the present discount in senior Civil Service salaries in comparison with other sectors. In the short term, the Government proposes to implement the outstanding recommendation of the Senior Salaries Review Body for extended pay ranges for Grades 2 and 3.<sup>1</sup> With regard to Permanent Secretaries, the concerns expressed by the Senior Salaries Review Body about introducing performance-related pay at that level have been noted. However, a new pay range for Permanent Secretaries will be introduced from 1 April 1995 and the position of individual Permanent Secretaries within this range will be determined by a remuneration committee including outside members from the Senior Salaries Review Body.<sup>2</sup>

*(v) Conclusions and recommendations*

304. The senior levels of the British Civil Service have very great strengths and possess a level and range of skills, knowledge and commitment which are widely admired across the world and which should not be underestimated or devalued. The continuance of a career Civil Service is important both to the maintenance of an impartial Civil Service and to a continuing effective and efficient administration. A reasonable assurance that most senior posts in the Service will be filled from within existing ranks is a vital and integral component of this career Service. Yet as well as its undoubted strengths, the senior ranks of the British Civil Service also have identifiable weaknesses. The requirement for cohesion and career development has led to an unwarranted stress on the interchangeability of posts, an insufficient respect for specialist skills or knowledge and a worrying failure adequately to address the problem of too frequent moves between posts. Despite efforts to increase interchange with other sectors, **we believe the criticism of the senior Civil Service for being too insular retains much force.** Although there have been criticisms of the educational or social composition of the senior Civil Service, we are more concerned about the skills and experience of senior civil servants. We believe that the key to bringing about improvements in the senior Civil Service is to change the way in which senior civil servants are selected. It may well be that the understandable concern to ensure that the selection and management of the Service is immune from politicisation and is based on merit has led to a lack of concentration on the precise qualities required at the top and what precisely is meant by merit.

305. The Northcote-Trevelyan Report found the quality of the Civil Service to be “much better than we have any right to expect from the system under which they are appointed and promoted”.<sup>3</sup> We believe this verdict could be reached today referring to the procedures by which the vast majority of senior civil servants are selected. The procedures by which the Senior Appointments Selection Committee operate are not subject to sufficient independent scrutiny or involvement to ensure that they conform to the principle of promotion on merit. The procedures by which most senior civil servants are selected offer significantly less secure barriers against patronage, albeit not necessarily of a political variety, than the procedures for senior appointments which are subject to open competition. We believe that the Senior Appointments Selection Committee is the wrong body to monitor the extension of open competition for senior posts. We consider that the recently announced change to its membership is an ineffective palliative. It is particularly unfortunate that, at a time when the Government is committed to extending the use of open competition, the new external appointee to the Committee should have spent the vast majority of his professional life in an organisation which selects all its senior management from within its own ranks. **We believe that the procedures whereby advice upon senior appointments not subject to open competition is tendered by the Head of the Home Civil Service, who in turn is advised by the Senior Appointments Selection Committee, are inappropriate to the requirements of a modern Civil Service. We recommend that these procedures, and the Senior Appointments Selection Committee, be abolished.**

306. While we believe that the senior ranks of the Civil Service should continue to be filled predominantly from within the career Civil Service, this should not be seen as incompatible with a significant extension of open competition. A career Civil Service should be able to

<sup>1</sup> Cm. 2627, paras. 1.5, 4.15, 4.36-4.39.

<sup>2</sup> Cm. 2464, para. 109; Cm. 2627, paras. 4.38-4.39.

<sup>3</sup> *Report on the Organisation of the Permanent Civil Service.*

provide the necessary blend of training and experience to ensure that internal candidates from across the Civil Service can compete effectively for posts which are subject to open competition. We are sceptical about whether the current proposals of the Government will lead to a desirable proportion of senior posts being subject to open competition. We believe that the use of open competition should be the subject of independent advice. We have already made proposals which would change the structure of the Civil Service Commission and place it on a statutory basis. These changes should be accompanied by an expansion and clarification of its role in senior appointments. The new Civil Service Commission should be composed so as to retain and strengthen its role as an independent source of advice on senior appointments. We recommend that the new Civil Service Commission, using submissions from within the Civil Service but independent of the service, should advise Ministers on all senior appointments, including whether an appointment is necessary, whether open competition is worthwhile and, subsequently, on the best candidate for the job.

307. We believe that the new, strengthened and more independent Civil Service Commission is the most effective guarantor of senior appointments based on merit and free from other considerations, including political partisanship, although we believe that there may be a role for Select Committees in examining particular appointments.<sup>1</sup> We believe that the extent of Ministerial involvement in senior appointments, from decisions upon the job description and the form of competition onwards, are matters of legitimate public and Parliamentary scrutiny on which Ministers should be held to account. We recommend that, where Ministerial decisions relating to senior appointments differ from the advice given by the new Civil Service Commission, this should be published in the Reports to Parliament of the new Civil Service Commission.

308. We believe that, on balance, the Government is right to reject the case for fixed-term contracts for all senior civil servants. However, we have already noted that the case for introducing a more formal framework for determining the allocation of responsibility for performance against targets in core Departments should be considered as changes to improve performance measurement in core Departments take shape, and we believe that the case against fixed-term contracts does not mean that there is no case for more effective assessment of performance against targets for senior civil servants, even at the highest level. We recommend that procedures are introduced for formal annual performance assessment of Permanent Secretaries, involving the Cabinet Minister concerned, the Head of the Home Civil Service, and the new Civil Service Commission.

309. We believe that the introduction of explicit contracts of employment for senior civil servants and the creation of the Senior Civil Service represent potentially valuable advances. At the moment, however, they amount to little more than good intentions and some of the statements in the White Paper, about length of time in post, for example, have been heard before and had disappointingly little effect. It remains unclear how the Government will approach in practice the management of the Senior Civil Service at a time when it is hoping both to bring in new blood and to reduce the number of posts at senior levels. We see no easy solutions to these issues, but are somewhat disappointed that the Civil Service White Paper did not address in detail either the extent to which a career until 60 remained the norm from which other arrangements were an unusual departure, or the means by which early departures could be more professionally handled. Furthermore, although it has been noted in the past by the Government and others that the development of a more porous Civil Service might necessitate revision of the rules concerning the acceptance of outside appointments—last revised in 1992 partly in response to the then trend to more fixed-term contracts—this issue is also not addressed in the White Paper.<sup>2</sup> We believe that it is important that any proposals for change in these areas are open for public and Parliamentary consideration at an early stage.

310. While we welcome the development of more flexible pay arrangements for senior civil servants, we are concerned that the Government's proposals do not address the problems caused by differentials between pay levels for those appointed to senior posts from outside and salaries for successful internal candidates. We believe that, if not addressed, concern about this issue might have a serious adverse effect on perceptions within the Civil Service of the

<sup>1</sup> See, for example, Minutes of Evidence taken before the Scottish Affairs Committee on Wednesday 1 December 1993, *The Appointment of Mr Laurence Peterken as Special Projects Director of the NHS Management Executive*, HC (1993-94) 65.  
<sup>2</sup> Cmnd. 9841, para. 27; *Top Jobs in Whitehall*, para. 5.23; *Career Management and Succession Planning Study*, para. 7.33; HC (1993-94) 27-II, pp. 21-22.

extension of open competition. We believe that the determination of pay should be linked with the decisions on the skills and experience required for a particular post and the need for open advertisement. We recommend accordingly that the precise pay range for every post in the Senior Civil Service, together with the scope for performance-related pay and the nature of the factors which determine the award of performance-related pay in each case, should be determined prior to the competition for the post.

## XVI. RECRUITMENT AND TRAINING

### (i) *The delegation of recruitment functions*

311. One of the cornerstones of the unified and uniform Civil Service envisaged in the Northcote-Trevelyan Report was the implementation of its recommendations for a central system for recruitment on merit by fair and open competition organised by a central board—the Civil Service Commission.<sup>1</sup> The trend to delegated recruitment for certain clerical posts began in the 1960s, but the Fulton Report did not propose an abandonment of the centralised system, although it did criticise the slowness of the procedures and advocated a Commission more closely integrated in the central management of the Service and systems of recruitment more effectively responding to the needs of individual Departments.<sup>2</sup> However, with effect from 1 January 1983, all Departments were given responsibility and selection of staff at junior levels, subject to instructions by the Minister for the Civil Service about appointment on merit by means of open competition. In consequence, Departments became responsible for about 85 per cent of all Civil Service appointments.<sup>3</sup>

312. More far-reaching changes were announced in 1989 and brought into effect through the Civil Service Order in Council 1991. First, Departments and Agencies assumed responsibility for all recruitment to grades and posts below Grade 7, except for fast stream entrants. They thus had responsibility for 95 per cent of all Civil Service recruitment.<sup>4</sup> There are no longer centrally-prescribed selection methods for Departments and Agencies; they are free to develop and use different methods consistent with the principle of selection on merit by open competition; there has been a trend away from centralised academic examination in consequence.<sup>5</sup> Second, the main recruitment functions of the Civil Service Commission were passed to an Executive Agency now within the OPSS, the Recruitment and Assessment Services Agency. It operates on a full repayment basis and has no tied customers; it is required to compete with in-house Departmental and Agency recruitment divisions and with private sector consultants for all its work.<sup>6</sup> Although the Agency was initially set the primary financial target of recovering its full operating costs from charges for its services, this target has not been achieved. In 1993-94 it met its primary financial target for that year of containing the deficit within £450,000; the actual deficit was about £333,000.<sup>7</sup> Finally, the Civil Service Commissioners were given new responsibilities for advising the Minister for the Civil Service on the rules of selection for Departmental and Agency recruitment and for monitoring Departments' and Agencies' observance of the Minister's selection rules.<sup>8</sup> Monitoring has so far been carried out on behalf of the Commissioners by a small team of permanent civil servants in the Office of the Civil Service Commissioners assisted by 26 part-time, fee-based, regional monitors who are retired civil servants with recruitment experience. This monitoring was intended to be "economical and light-handed" and focuses on systems of recruitment. The First Civil Service Commissioner was satisfied with the operation of these procedures and with the cooperation from Departments, Agencies and private organisations involved.<sup>9</sup> The Government recently announced changes to the Minister's advice on recruitment facilitating a reduction in the direct participation by

<sup>1</sup> *Report on the Organisation of the Permanent Civil Service*; HC (1993-94) 27-III, p. 13 (Dr Peter Barberis).

<sup>2</sup> HC (1992-93) 390-II, p. 168 (OPSS); Cmnd. 3638, paras. 62-68; *The Civil Service: Vol. 2: Report of a Management Consultancy Group*, paras. 221, 224.

<sup>3</sup> HC (1992-93) 390-II, p. 168 (OPSS); HC (1986-87) 358-i, p. 39 (Cabinet Office and HM Treasury).

<sup>4</sup> HC Deb., 13 April 1989, cols. 619-620w; HC (1992-93) 390-II, p. 168 (OPSS); *Responsibilities for Recruitment*, para. 2.5.

<sup>5</sup> HC (1992-93) 390-II, p. 170 (OPSS).

<sup>6</sup> HC (1992-93) 390-II, pp. 168, 169-170 (OPSS); HC Deb., 13 April 1989, col. 619w; *Responsibilities for Recruitment*, paras. 2.7, 3.4; Q724 (Mrs Ann Bowtell).

<sup>7</sup> Q794 (Mr Michael Geddes); *Recruitment and Assessment Services Agency Annual Report and Accounts 1993-94*, pp. 13, 15.

<sup>8</sup> HC (1992-93) 390-II, p. 168 (OPSS); QQ727 (Mrs Ann Bowtell), 1364 (Sir Robin Butler).

<sup>9</sup> HC (1993-94) 27-II, p. 161 (OPSS); Sixth Report from the Treasury and Civil Service Committee, *The Presentation of Information on Public Expenditure*, HC (1988-89) 217, p. 26 (Civil Service Commission); QQ714, 717, 721, 724, 729, 731-732 (Mrs Ann Bowtell).

Departments and Agencies in the early stages of the recruitment process; this reflected the initial experience of monitoring.<sup>1</sup>

313. These changes were part and parcel of the Next Steps reforms and reflected its philosophy. Greater stress has been placed on business or functional expertise than on traditional, generalist skills. The recruitment of staff with qualities reflecting the needs of a particular organisation is seen as integral to its own management.<sup>2</sup> The Government believes that the change has put Departments in a much better position to get the right person for the job, with Departments such as the Inland Revenue developing recruitment procedures based on the identification of relevant competences.<sup>3</sup> The attempt to separate more clearly the executive function from the regulatory function is also in line with the Government's general approach to public service reform.<sup>4</sup> Finally, the Government considers that Departmental recruitment will be quicker than the previous centralised procedures which were widely seen as slow and cumbersome, so that good candidates are not lost.<sup>5</sup>

314. The trend towards delegated recruitment has given rise to some concerns. Most importantly, it has been suggested that the increasing variety of approaches to recruitment within the Civil Service undermines the coherent identity and unity of the Civil Service, reinforcing the idea that civil servants only work for the Department or Agency that recruits them.<sup>6</sup> Concern has also been expressed that devolution might lead to the merit principle not being consistently maintained across the Civil Service.<sup>7</sup> Finally, the Association of Graduate Careers Advisory Services has drawn attention to the complexity of the new approach to recruitment from the perspective of the potential applicant and those who advise them. In particular, the Association has argued that the move towards local advertising has caused resentment among graduates, most of whom seek jobs nationally, and "is in breach of the Civil Service's long and laudable tradition of fair and open competition".<sup>8</sup>

315. The Government has commissioned and subsequently published an internal review of the respective recruitment responsibilities of the Commissioners and Government Departments in the light of experience since the 1991 changes. This study found that, in general, there was "no public pressure for change" to the principles of delegated recruitment, but it did recommend changes designed to clarify responsibilities and to "revitalise the principle of fair and open competition on merit".<sup>9</sup> First, it proposes that the Commissioners "should be the custodians of the principles of openness, fairness and merit for all Civil Service recruitment" and "should be empowered to audit recruitment policies and practices within the Service against the requirements set out in the Commissioners' Guidance". It further recommends that the Commissioners should be required to include in their annual reports an account of their audits of Departments and Agencies.<sup>10</sup> It complements these recommendations by proposing that Departmental Permanent Secretaries or Agency Chief Executives should have responsibility for ensuring that recruitment by their Department or Agency complies with the principles of openness, fairness and merit and recommending that Departments and Agencies should give an account of recruitment in their annual reports.<sup>11</sup> Finally, it advocates a more complete functional and organisational separation between the Commissioners and the Recruitment and Assessment Services Agency.<sup>12</sup>

## (ii) *Fast stream recruitment*

### (a) History and development

316. The current "fast stream" systems of recruitment into the Civil Service have their origin in the Northcote-Trevelyan reforms and the beliefs which underpinned them. First, the

1 HC (1993-94) 27-II, p. 288 (OPSS).

2 HC(1988-89) 348, para.16; QQ711-712 (Mrs Ann Bowtell); *Responsibilities for Recruitment*, para. 3.21.

3 HC (1993-94) 27-III, p. 90 (Civil Service Commissioners); HC (1993-94) 27-II, p. 248 (Inland Revenue).

4 Q711 (Mrs Ann Bowtell).

5 HC (1993-94) 27-III, p. 90 (Civil Service Commissioners); HC (1992-93) 390-II, pp. 48-49 (FDA); HC (1993-94) 27-III, p. 13 (Dr Peter Barberis).

6 HC (1993-94) 27-III, pp. 13 (Dr Peter Barberis), 21 (Association of Graduate Careers Advisory Services), 124-125 (Mr Barry O'Toole). See also *ibid.*, pp. 28 (Dr Geoffrey K Fry), 95-96 (Dr Patricia Greer).

7 HC (1992-93) 390-II, pp. 48-49 (FDA); HC (1993-94) 27-III, p. 32 (Commission for Racial Equality).

8 HC (1993-94) 27-III, p. 21.

9 Cm. 2627, para. 2.9; *Responsibilities for Recruitment*, paras. 3.17, 3.24.

10 *ibid.*, paras. 4.10, 5.11, 5.17.

11 *ibid.*, paras. 4.13-4.14.

12 *ibid.*, para. 6.19.

Northcote-Trevelyan Report argued that “the superior docility of young men” meant that it was best to recruit and train civil servants when young. Second, that Report argued that the best candidates were most fairly and effectively selected through fair and open competition. Finally, that Report emphasised the necessity to establish “a proper distinction between intellectual and mechanical labour” and to recruit on a separate basis accordingly.<sup>1</sup> The approach to Civil Service recruitment has, of course, changed considerably since the late nineteenth century, not least in response to external and internal review and criticism. In 1914 the MacDonnell Royal Commission noted the view that the syllabus for competitive examinations gave an unfair advantage to candidates educated at Oxford and Cambridge Universities.<sup>2</sup> A majority of the Fulton Committee argued that the selection process placed an undue emphasis on generalist skills rather than relevant studies, arguing both for less reliance on written examinations and for promotion to depend more on “post-entry performance rather than pre-entry promise”.<sup>3</sup> Subsequently, all selection was based on an extended interview procedure, but the Expenditure Committee expressed concern about biases in the system relating to University, school and academic subject background and recommended that the Administrative Trainee scheme be abolished.<sup>4</sup> In a subsequent Report the Committee challenged the whole notion of “fast streaming”, arguing that all entrants to the Service should be assessed for potential to rise to the highest levels on the basis of performance in the job.<sup>5</sup> While some changes were made as a result of subsequent reviews, the approach to fast stream recruitment retains many of the characteristics for which it was criticised by the Expenditure Committee.<sup>6</sup>

(b) The current operation and rationale

317. The current system of fast stream selection, and the administrative fast stream in particular, are seen by the Government as an effective and fair way of attracting and selecting able people with skills required in the Service, with potential to rise to Grade 5.<sup>7</sup> Its purpose is “to contribute to the pool of talent from which senior managers are drawn”.<sup>8</sup> It operates through a three-stage assessment process: analysis of application forms and the results of a qualifying test; two days at the Civil Service Selection Board, including written tests, group exercises, cognitive tests and interviews; an interview with the Final Selection Board.<sup>9</sup> The qualities sought during this assessment process have been changed in recent years to place a greater emphasis on management and leadership potential.<sup>10</sup> The Civil Service Commissioners have reported that research carried out for it has shown that the assessment procedures are a good predictor of current performance and future potential within the Service.<sup>11</sup>

318. The fast stream approach to selection and early career development is seen by the Government as a highly effective means of attracting very able graduates to the Service to an extent which a general graduate entry scheme of the kind envisaged by the Expenditure Committee might not be. More than 60 per cent of existing fast stream recruits surveyed for an internal review indicated that they would not have applied without a fast stream entry route.<sup>12</sup> It was seen by both the Government and the FDA as an essential way to attract the best graduates to the Civil Service which could not compete with the private sector in terms of pay. What the Civil Service could offer was an opportunity for a variety of interesting postings at an early stage in a career and relatively rapid advancement to posts with significant responsibility.<sup>13</sup> The First Civil Service Commissioner believed that early challenges were more immediately important to the current generation of applicants than long-term career prospects.<sup>14</sup>

319. The Government stressed that entrants to the fast stream were not guaranteed promotion and that there were no special arrangements for them after promotion to Grade 7. According to Sir Robin Butler, “the fast stream is not a route that runs through Civil Service

<sup>1</sup> *Report on the Organisation of the Permanent Civil Service*.

<sup>2</sup> Cd. 7338, paras. 46-50.

<sup>3</sup> Cmnd. 3638, paras. 71-85.

<sup>4</sup> HC (1976-77) 535-I, paras. 5-15, 20.

<sup>5</sup> HC (1977-78) 576, para. 4.

<sup>6</sup> On developments since the late 1970s, see *Review of Fast Stream Recruitment*, pp. 85-87.

<sup>7</sup> QQ49 (Mr Richard Mottram), 737-738 (Mrs Ann Bowtell).

<sup>8</sup> *Review of Fast Stream Recruitment*, para. 2.16.

<sup>9</sup> For a more detailed description of these procedures and recent changes in the qualifying test, see *Review of Fast Stream Recruitment*, pp. 100-102; *Civil Service Commissioners' Report 1993-1994*, pp. 11-12.

<sup>10</sup> QQ736, 775-776 (Mrs Ann Bowtell); *Review of Fast Stream Recruitment*, para. 3.10, p. 97.

<sup>11</sup> *Civil Service Commissioners' Report 1992-93*, p. 30.

<sup>12</sup> *Review of Fast Stream Recruitment*, para. 2.23.

<sup>13</sup> QQ44 (Mr Waldegrave), 186 (Sir Robin Butler); HC (1992-93) 390-II, p. 48 (FDA); Q252 (Mr Christopher Dunabin).

<sup>14</sup> Q740 (Mrs Ann Bowtell).



careers; it is simply ... a method of appointment and treatment of people during their first three to five years, no more than that".<sup>1</sup> In relation to subsequent advancement, "the way in which you were recruited into the Civil Service is neither here nor there".<sup>2</sup> Only 42 per cent of the Senior Open Structure at October 1993 entered through the administrative fast stream; it was the numerically predominant route to the highest Grades, but by no means the only route.<sup>3</sup> The Council of Civil Service Unions did not believe that the existence of the fast stream significantly disadvantaged those aspiring to the higher levels of the Service who had entered by other means.<sup>4</sup>

320. The Government highlighted the opportunities to rise rapidly in the Service for those not initially recruited to the administrative fast stream. First, it is possible for internal candidates to apply to the fast stream; the requirement for a second class degree is waived and candidates recommended by their Departments by-pass the qualifying test and go straight to the Civil Service Selection Board; in 1992, 29 internal candidates were recruited in this way, a fifth of the total entrants to the administrative fast stream.<sup>5</sup> Second, Departments and Agencies now run management development schemes to which the Government attaches a very high priority. These are designed to provide staff recruited through other routes with all the elements of the fast stream development programme, including planned postings and developmental training.<sup>6</sup> Third, the administrative fast stream is now only one among several fast streams; comparable schemes also exist for economists, statisticians and engineers and scientists. Some of these schemes offer comparable or better prospects than the administrative fast stream, and it is not unusual for specialists to move to administrative posts if they have the necessary skills.<sup>7</sup>

321. The Civil Service fast stream was also seen as justified by the extent to which it had parallels in the private sector. The FDA argued that "fast streams are widely used throughout the public and private sector" and supplied a list of some major employers who operated centrally recruited graduate training schemes which offered "the same sort of 'developmental' progression to young graduates". This list contained 57 employers but was "by no means exhaustive".<sup>8</sup> Government witnesses also compared Civil Service practice with that of large organisations in the private sector, particularly those with central graduate schemes and federal structures with subsidiary companies.<sup>9</sup> The Government's internal review examined the practice of ICL, Natwest and Unilever and found that "for those organisations which do recruit for senior management potential the similarities [to the Civil Service fast stream] ... are more marked than the differences".<sup>10</sup>

### (c) Criticisms

322. Despite changes made to the fast stream process over the years, it remains the focus of considerable criticism. Some evidence contended that the biases in the selection procedure which concerned the Expenditure Committee in the 1970s still persist. Mr John Garrett argued that "broadly two-thirds of successful entrants to the fast stream are white, male, public-school educated, Oxbridge arts graduates".<sup>11</sup> While the proportion of successful candidates from Oxbridge has generally fallen in recent years, 59 per cent of external entrants to the administrative fast stream in 1993 were from Oxford or Cambridge Universities.<sup>12</sup> There have been some indications that the initial qualifying test may have operated in such a way as to discriminate against women and ethnic minorities: concerns about ethnic minorities led the Commission on Racial Equality to initiate a formal investigation<sup>13</sup>. Some have questioned whether the skills sought during the selection process are truly geared towards the needs of the

1 HC (1992-93) 390-II, pp. 170-171 (OPSS); Q1341 (Sir Robin Butler).

2 Q49 (Mr Waldegrave).

3 HC (1993-94) 27-II, p. 48 (OPSS); *Career Management and Succession Planning Study*, p. 101.

4 QQ480-481 (Mr John Ellis and Mr Charles Cochrane).

5 HC (1992-93) 390-II, p.171 (OPSS); QQ739, 767-768 (Mrs Ann Bowtell).

6 QQ49 (Mr Waldegrave), 767 (Mrs Ann Bowtell), 1104 (Mr Richard Mottram); HC (1993-94) 27-II, p. 14 (OPSS); *Review of Fast Stream Recruitment*, para. 9.11; *Career Management and Succession Planning Study*, p. 110; HC (1993-94) 27-II, p. 229 (Benefits Agency); Q2214 (Mr Michael Richard); Cm. 2627, p. 33.

7 HC (1992-93) 390-II, pp. 171, 174 (OPSS), 309 (Ministry of Defence), QQ50-52 (Mr Richard Mottram and Mr Waldegrave), 762-763 (Mrs Ann Bowtell), 1001, 1004 (Mr Waldegrave), 1107 (Mr Richard Mottram); *Review of Fast Stream Recruitment*, para. 10.7.

8 QQ250-252 (Ms Elizabeth Symons); HC (1992-93) 390-II, pp. 68-69 (FDA).

9 QQ43 (Mr Waldegrave), 186 (Sir Robin Butler), 1084-1092 (Mr Waldegrave and Mr David Davis).

10 *Review of Fast Stream Recruitment*, p. 74, paras. 2.9, 3.6.

11 HC (1993-94) 27-II, p. 104.

12 *Review of Fast Stream Recruitment*, p. 8 (Table 2).

13 *Review of Fast Stream Recruitment*, para. 3.13; HC (1993-94) 27-III, p. 31 (Commission for Racial Equality).

Service rather than shaped by the outputs of the British education system. The number of successful applicants with arts degrees has fallen, but remains at nearly 50 per cent. Some evidence suggested that the qualities sought reflected the needs of policy headquarters in Departments, thus reinforcing a perceived bias in favour of policy work and the generalist approach to management.<sup>1</sup> It has been questioned how far the new emphasis on management skills in the selection process is genuine, given the difficulty of detecting management potential when recruiting staff at an early age.<sup>2</sup> The attempt to justify the selection process by reference to subsequent performance and promotion in the Service has been seen as largely circular, since it only demonstrates that selectors and managers are looking for similar qualities.<sup>3</sup>

323. A second criticism of the fast stream was that it created a far greater differential of opportunity within the Civil Service than the description of the scheme suggested. Sir Peter Kemp considered the scheme "disgraceful" and went on to say: "It is not actually fair and open competition. You get 40 or 50 people a year, you select them before they have ever done a hand's turn of work and you give them a gilded path through." All other entrants were thus "de-privileged and kept back".<sup>4</sup> Mr John Garrett also believed that "if you have a few crown princes and princesses in a fast stream, by definition, everybody else is in the slow stream".<sup>5</sup> Some evidence suggested that the careers of fast stream entrants continued to differ from those of other staff even after promotion to Grade 7: the Ministry of Defence stated that most ex-fast stream Grade 7 staff skipped Grade 6 and were promoted directly to Grade 5, unlike those who had progressed through the mainstream.<sup>6</sup> It was argued that fast stream entrants acquired a range of skills and experience at an early stage in their careers which inevitably gave them a head start in subsequent promotion stakes. For example, private office experience is seen by civil servants as having an important influence on careers; about 69 per cent of the fast stream entrants into the Senior Open Structure had private office experience, compared with only 6 per cent of non-fast stream entrants. The independent survey commissioned by the Efficiency Unit noted that "some non-fast stream staff believe that the fast stream entrant is favoured from the day he joins the Service". The recent internal review noted that "however fair the system of promotion, former fast stream recruits do better because they tend to get the most challenging and highest profile jobs and to be given the benefit of any doubt".<sup>7</sup>

324. The prospects for rapid career development and training for non-fast stream entrants were seen as being significantly less than for fast stream entrants, even though many of the former were both very able and well-qualified. While entry at Executive Officer level was earlier associated with school-leavers with A-levels, many entrants at this level are now graduates.<sup>8</sup> In 1990, the Civil Service appointed nearly 3,500 graduates, 1,900 of them to posts where a degree was not an essential qualification.<sup>9</sup> Despite the scale of graduate recruitment by the Civil Service, internal movement into the fast stream remains limited. According to the Government's own internal review, the aim of the current in-Service scheme introduced in 1982 was that it should meet half the demand for administrative fast streamers. This aim has never been achieved or even approached and the number of nominations and successes for internal candidates both fell between 1992 and 1993.<sup>10</sup> Second, the study notes that internal management development schemes remain different from the fast stream: "it did not matter that those recruited from other routes had all the tangible benefits of the fast stream: they still felt 'second class' without the label, reflecting the cultural subtext of what 'fast stream' means".<sup>11</sup> Finally, it was suggested that the specialist fast streams were concerned with development towards senior specialist posts rather than to the Senior Open Structure.<sup>12</sup>

325. Some evidence also cast doubt upon the extent to which the Civil Service fast stream had genuine parallels in the private sector. The Government's own study conceded that "many

1 HC (1987-88) 494-II, p. 97 (Sir Frank Cooper); *Review of Fast Stream Recruitment*, p. 8 (Table 2), para. 4.10; Q1632 (Mr John Garrett); HC (1993-94) 27-III, p. 50 (Professor Fred Ridley and Mr Brian Thompson).

2 HC (1986-87) 358-i, p. 91 (Mr Nevil Johnson); *Review of Fast Stream Recruitment*, para. 6.5.

3 Dr William Plowden, *Ministers and Mandarins*, p. 22.

4 QQ366-367. See also *Beyond Next Steps*, p. 28.

5 Q1632.

6 HC (1992-93) 390-II, p. 309. See also *Career Management and Succession Planning Study*, p. 103 (Graph 23).

7 Q1632 (Mr John Garrett); *Career Management and Succession Planning Study*, p. 107; *Survey on Career Management and Succession Planning in the Civil Service*, Vol. 1, p. 27; *Review of Fast Stream Recruitment*, para. 5.4.

8 Cmnd. 3638, para. 88; HC (1986-87) 358-i, p. 39 (Cabinet Office and HM Treasury).

9 *Review of Fast Stream Recruitment*, para. 2.14.

10 *ibid.*, paras. 9.7-9.9, p. 59 (Table 7).

11 *ibid.*, para. 9.12.

12 HC (1993-94) 27-II, p. 104 (Mr John Garrett); Q1802 (Mr Bill Brett).

employers who recruit graduates have no alternative recruitment track to make the relative term—'fast'—appropriate".<sup>1</sup> The Sub-Committee conducted its own analysis of practice outside the Civil Service based on the list of supposedly comparable schemes provided by the FDA. 41 organisations replied which were currently recruiting graduates. Of these only 14 had more than one recruitment scheme principally designed for graduate recruitment direct from University.<sup>2</sup> The majority of these 14 were clearly not directly comparable with the Civil Service fast stream, in that the graduate entry scheme, unlike the Civil Service fast stream, was the largest source of graduate recruits.<sup>3</sup>

(d) Responses to criticism and proposals for change

326. Some evidence suggested that the criticisms of the fast stream were either exaggerated or invalid. With regard to the selection procedure, the recent internal review "found no evidence of bias in the system favouring Oxbridge". It acknowledged that there was a problem in the *perception* of Oxbridge bias, a problem which was also noted by the First Civil Service Commissioner and the Association of Graduate Careers Advisory Services.<sup>4</sup> Much evidence took the same view that the then Minister for the Civil Service and Head of the Home Civil Service expressed in 1978—that the Civil Service could not be blamed for characteristics inherent in the British education system.<sup>5</sup> The success of Oxbridge applicants was seen as reflecting the enduring appeal of those two universities to the brightest school leavers; the recent increase in successful Oxbridge applicants was said to result from the particular attraction of the Civil Service to good students in a time of recession. The First Civil Service Commissioner pointed out that the high performance of Oxbridge candidates was most marked at the qualifying test stage, which was objectively marked. Sir Kenneth Stowe emphasised the extent to which selectors were in fact prejudiced in favour of applicants who did not conform to the white, male, public school-educated, Oxbridge stereotype. Finally, Mr Waldegrave noted that the broadening social intake of Oxford and Cambridge Universities undermined the notion that Oxbridge domination implied any social bias.<sup>6</sup> The Government drew attention to its efforts to broaden the appeal of the fast stream competitions across all universities, old and new, and to the results of these efforts; in 1993, applications for fast stream schemes were received from all universities.<sup>7</sup> The Civil Service Commissioners have described their efforts to ensure that the selection process, and the qualifying stage in particular, does not unintentionally discriminate against women or ethnic minorities. A structured questionnaire was introduced in 1993 alongside the cognitive tests to counteract any bias in the latter. The success rate of both women and ethnic minorities increased in 1993.<sup>8</sup>

327. Some evidence saw the Civil Service fast stream as beyond redemption. Sir Peter Kemp favoured its abolition or radical change.<sup>9</sup> Professor Eric Caines appeared to take a similar view.<sup>10</sup> Mr John Garrett believed that the fast stream was "at the root of the problem" of the senior levels of the Service being dominated by those with the wrong skills and education and urged its abolition to end the grip of Oxbridge graduates.<sup>11</sup> Other evidence argued a directly contrary position, believing that the Civil Service would be "mad" to abandon its efforts to attract exceptionally talented graduates through the fast stream.<sup>12</sup> Both the Council of Civil Service Unions and Dr William Plowden argued that the abolition of the fast stream would simply lead to the creation of a new system for identifying and nurturing a chosen few which

1 *Review of Fast Stream Recruitment*, para. 2.9.

2 Trafalgar House, BNFL, Citibank, De La Rue, GKN, HCBC Holdings, ICI, Marks & Spencer, Nat West Bank, J Sainsbury, Scottish Equitable, Shell, Unilever.

3 The replies on which this analysis is based have not been published but are publicly available in the House of Lords Record Office, HC (1992-93) 390-I, p. xxv, HC (1993-94) 27-I.

4 *Review of Fast Stream Recruitment*, paras. 8.17, 2.23, 5.7; Q750-751 (Mrs Ann Bowtell); HC(1993-94) 27-III, p. 21 (Association of Graduate Careers Advisory Services).

5 HC (1977-78) 576, Q4 (Lord Peart and Sir Ian Bancroft).

6 Q717 (Sir Robin Butler), 260 (Ms Elizabeth Symons); *Civil Service Commissioners' Report 1993-1994*, p. 14; Q743-744 (Mrs Ann Bowtell); *Review of Fast Stream Recruitment*, para. 3.17; Q1689 (Sir Kenneth Stowe); HC (1993-94) 27-III, pp. 28 (Dr Geoffrey K Fry), 42 (Sir Peter Lazarus); Q48 (Mr Waldegrave).

7 Q717, 172, 1388 (Sir Robin Butler); HC (1992-93) 390-II, p. 171 (OPSS); Q757 (Mrs Ann Bowtell); HC (1993-94) 27-III, p. 90 (Civil Service Commissioners). On the institutions of successful candidates, see *Civil Service Commissioners' Report 1993-1994*, pp. 34-37; *Review of Fast Stream Recruitment*, para. 3.28.

8 Q749, 754 (Mrs Ann Bowtell), 756 (Ms Usha Prashar), 757, 777-778 (Mrs Ann Bowtell); *Civil Service Commissioners' Report 1993-1994*, pp. 11-14; *Review of Fast Stream Recruitment*, para. 3.15.

9 Q736-737; *Beyond Next Steps*, p. 28.

10 Q822.

11 HC (1993-94) 27-II, p. 105; Q1644.

12 HC (1993-94) 27-III, pp. 128 (Sir David Hancock), 28 (Dr Geoffrey K Fry), 40 (Sir Peter Lazarus).

would not be subject to the same level of internal and external scrutiny.<sup>1</sup> Not all who supported the continuance of the fast stream believed it should be immune from major reform: the FDA, supported by other Civil Service unions, proposed that it should be possible for internal candidates to enter the fast stream through job appraisal rather than by appearing before the Civil Service Selection Board and Final Selection Board.<sup>2</sup>

328. Towards the end of the inquiry the Government published an internal review of the fast stream. It noted the broad support for the administrative fast stream in Departments, who viewed it as "an indispensable source of high quality recruits". The review concluded that the fast stream enabled the Civil Service to compete effectively in the highly competitive market for top calibre graduates, and that withdrawal from this market would make no sense.<sup>3</sup> It believed that the solution to the perception of Oxbridge bias "lies in marketing" and recommended an external, expert review of the marketing of the scheme.<sup>4</sup> It emphasised the need to separate the scheme from the "high flier" concept, with a greater emphasis on training and development. It recommended accordingly that the formal title of the administrative fast stream scheme should be changed from the AT/HEO(D) scheme to the Policy Management Programme and that those recruited on to it should be called Trainees in Policy Management.<sup>5</sup> It proposed that these Trainees in Policy Management should have their pay and grading determined by Departments and not have a separate grade across the Service.<sup>6</sup> Finally, it recommended that Departments should be free to designate as Trainees in Policy Management any staff whom they have themselves assessed as being able to benefit from the Programme.<sup>7</sup> In the Civil Service White Paper the Government welcomed the review and indicated that it was considering its recommendations, including the suggestion that the term "fast stream" should be abandoned.<sup>8</sup> Mr Waldegrave indicated that he was keen to dispel any notion that the scheme provided "a golden route right to the top".<sup>9</sup>

### (iii) *The Civil Service College*

329. The Civil Service College is a child of the Fulton Report. It was established in 1970 in response to a weakness in the Civil Service's modern management training identified by the Fulton Committee. That Committee envisaged the College fulfilling three main functions: the provision of major training courses in administration and management; the provision of shorter training courses in general management and vocational subjects designed for all levels of staff and particularly for the more junior; research on problems of administration and policy issues.<sup>10</sup> In its early years the College was not widely seen as a success, certainly when measured against the aspirations for it of the Fulton Committee.<sup>11</sup> In the latter part of the 1980s, the college's role and financing were redefined; as part of this process, the College became an Executive Agency. The College is expected to concentrate particularly on the development of professional and managerial skills and on management training of those at, or aspiring to, relatively senior positions.<sup>12</sup>

330. Since the mid-1980s the Civil Service College has been funded principally through payments for places on particular courses from Departments and other organisations.<sup>13</sup> It has also received a central payment from the OPSS, introduced to enable the College to compete on a fairer basis with its competitors, many of whom are charitable trusts. Taking into account this central payment, its financial target has been to cover its full costs with income, costs being calculated on an accruals basis involving a 6 per cent assumed interest rate on assets owned by the

1 QQ476, 478-479 (Mr John Ellis), 519-521, 523-525 (Dr William Plowden).

2 HC (1992-93) 390-II, p. 48 (FDA); QQ253-254 (Mr Michael King), 261-262 (Ms Elizabeth Symons), 474-475 (Mr John Ellis), 1802 (Mr Bill Brett).

3 *Review of Fast Stream Recruitment*, paras. 4.5, 4.7, 2.19- 2.20, 4.16.

4 *ibid.*, paras. 2.27, 8.49.

5 *ibid.*, paras. 5.9, 6.3, 6.10, 6.11-6.14. The current initials stand for Administrative Trainee/Higher Executive Officer (Development).

6 *ibid.*, paras. 7.17-7.19.

7 *ibid.*, para. 9.14.

8 Cm. 2627, para. 4.23.

9 Q2651.

10 HC (1992-93) 390-II, p.147 (Civil Service College); Cmnd. 3638, paras. 97, 99-103.

11 HC (1976-77) 535-I, para.16; HC (1986-87) 358-i, pp.63 (Dr J Greenaway), 70-71 (Mr A Gray and Dr W Jenkins), 115-116 (Dr Geoffrey K Fry).

12 Q642 (Ms Marianne Neville-Rolfe); Cm.2627, para. 4.5; *Civil Service College: Executive Agency Evaluation* (OPSS, October 1993), Annex A.

13 *Evaluation*, para.5; Q696 (Ms Marianne Neville-Rolfe).

College.<sup>1</sup> These assets do not include the main site at Sunningdale, for which the College is required to pay rent; this has risen significantly in recent years to reflect the level of investment in the site—over £12 million in the years 1990-91 to 1992-93.<sup>2</sup> In its first four years as an Agency the College met its obligation to cover its costs from income each year.<sup>3</sup> Mr John Garrett argued that, when the capital expenditure for assets not owned by the College was taken into account, it remained “exceptionally costly”.<sup>4</sup> It has already been decided that the central payment from OPSS will be phased out so that from 1995-96 the College will be required fully to cover its costs by revenue from its operations.<sup>5</sup>

331. In 1989-90, the College provided only 3 per cent of total Civil Service training and 30 per cent of all management training for Grades 7 and above.<sup>6</sup> The total volume of training at the College has grown substantially in recent years, from 74,400 student days in 1990-91 to 96,400 in 1993-94.<sup>7</sup> None of its courses is mandatory, and its capacity to attract students and thus generate income depends upon shaping courses to meet the needs of its customers within and outside the Civil Service. About £6 million of the College’s turnover in 1992-93 was generated by providing professional training in particular areas, such as project management, personnel management, audit and purchasing.<sup>8</sup> In line with the objectives and targets set for it by the Government, however, a high proportion of its work is devoted to the training of current or prospective senior civil servants. The Civil Service College plays a leading role in the Top Management Programme, a six week management course attended by equal numbers of civil servants and senior managers from industry and commerce, usually attended by civil servants within the first two years after entering the Senior Open Structure, with a focus on strategic management and the management of change.<sup>9</sup> The Young Node Programme is designed to bring about a similar interplay of the Civil Service and the outside world at a lower level, and is attended principally by civil servants recruited to the fast stream.<sup>10</sup> In 1993 the College launched the 123 Programme designed to bring about exchanges of experience at the senior levels of the Civil Service outside the structure of a residential training course.<sup>11</sup> All students attending courses at the College are invited to complete assessments of the courses, indicating the extent to which a course met its aims and objectives. One target for the College in each year since it became an Agency has been for over three-quarters of the overall course evaluations to be in boxes 1 and 2 on a scale of 1 to 6. This performance target has been consistently met or exceeded. In 1992-93, only 3.7 per cent of students assessed their course against its aims in the bottom three boxes.<sup>12</sup>

332. As has already been noted, the Fulton Report envisaged that the Civil Service College would have important research functions. It has been argued that the College currently has “insufficient analytical and research capacity”.<sup>13</sup> Ms Marianne Neville-Rolfe, the then Chief Executive, did not deny that the College was not fulfilling the objectives of the Fulton Report in research terms. She attributed this to the lack of priority given to it in the objectives set by the Government and to the funding mechanism. More fundamentally, she questioned whether it was ever realistic to expect the training and research functions to be combined; she believed that research was likely to be more effective in institutions free from direct Government control and which had an academic career structure. It appears that the problem of combining training linked to a public service career with academic research is not unique to the Civil Service College.<sup>14</sup>

1 Evaluation, paras. 10-11; QQ665, 667 (Ms Marianne Neville-Rolfe and Mr Iain Cameron); HC (1993-94) 27-II, pp. 153-154 (OPSS).

2 QQ659-669 (Mr Cameron and Ms Marianne Neville-Rolfe); HC (1993-94) 27-II, pp. 153-154 (OPSS); HC (1992-93) 390-II, p.166 (Civil Service College).

3 HC (1992-93) 390-II, pp. 154-155 (Civil Service College).

4 HC (1993-94) 27-II, p.103.

5 HC Deb., 24 November 1993, col.45w; Q654 (Mr Iain Cameron).

6 HC (1992-93) 390-II, p.148 (Civil Service College).

7 Cm. 2627, p.32.

8 QQ693-696, 649 (Ms Marianne Neville-Rolfe).

9 *Career Management and Succession Planning Study*, p.113, para. 6.15; HC (1992-93) 390-II, pp.2 (OPSS), 149 (Civil Service College); Cm. 2627, para. 4.23.

10 HC(1992-93) 390-II, pp.149, 166-167 (Civil Service College).

11 HC(1992-93) 390-II, p.149; Q647 (Ms Marianne Neville-Rolfe).

12 QQ670-675 (Ms Marianne Neville-Rolfe); *Evaluation*, p.2; HC (1992-93) 390-II, p.166 (Civil Service College).

13 HC (1993-94) 27-III, p.94 (Mr Timothy Hornsby).

14 QQ642-646; Third Report from the Home Affairs Committee, *Higher Police Training and the Police Staff College*, HC (1988-89) 110-I, paras. 44-49. See also HC (1993-94) 27-III, p.18 (Dr Peter Barberis).

333. The Fulton Report also envisaged the College playing a role in "laying the foundations for a greater understanding between civil servants and the outside world". Its success in this sphere depends in part upon its capacity to attract people from outside the Civil Service to the College as both teachers and students. Ms Neville-Rolfe said that people from higher education, from business and from local government were frequently and increasingly involved in teaching and lecturing at the College.<sup>1</sup> The Government's internal evaluation of the College led them to believe that there was scope for increasing the level of participation of students from the private sector.<sup>2</sup> One submission suggested that links between Civil Service training and that for local government officers could be improved and Ms Neville-Rolfe agreed that it would be helpful to find an effective way to enhance contact with small businesses.<sup>3</sup>

334. Overall, the Government regards the phase in the Civil Service College's history since it became an Agency as a highly successful one. Mr Waldegrave said that the role and quality of the College was "something that we can be proud of and it is getting more powerful".<sup>4</sup> At the time evidence was taken from Ms Neville-Rolfe, the status of the College as an Executive Agency was under review. She explained what she saw as three main advantages of the College remaining within the Civil Service: it assisted responsiveness to developments within the Civil Service and responsiveness to an overwhelmingly Civil Service clientele; it facilitated the exchange of staff between the College and Government Departments; it meant that the College was ready to respond directly to Ministerial initiatives and agendas.<sup>5</sup> In November 1993 Mr Waldegrave announced that the Government had concluded that Agency status within Government remained the best approach for the College for a further period.<sup>6</sup>

335. The principal criticism of the College during the inquiry was not so much for what it did, but for what it was not. In 1977, following a visit to the Ecole Nationale d'Administration (ENA), the Expenditure Committee recommended the establishment of a higher management training course and proposed that it should be the normal practice that no one should be promoted beyond Grade 5 unless he or she had completed it.<sup>7</sup> This proposal was not pursued by the Government, although the proposal was considered by and in evidence to some of our predecessor Committees.<sup>8</sup> Mr John Garrett argued in evidence that much could be learnt from the work of ENA, particularly in terms of the range of its intake and the nature of the training provided there.<sup>9</sup>

336. ENA is concerned with the selection and post-graduate education of future senior civil servants as well as training. Students enter through one of three competitive examinations: an external competition for graduates outside the civil service up to a maximum age of 28; an internal competition for civil servants up to the age of 46; a recently revived third competition for those under 45 with 8 years professional experience in any job in the public or private sectors. The course at ENA lasts for 28 months; students become civil servants as soon as they join. They spend a year in two internships in the civil service or a related organisation. They spend a second year undertaking course work in Paris and Strasbourg. At the end of the course students are ranked in order and choose posts within the Service in rank order.

*(iv) Conclusions and recommendations*

337. The devolution of responsibility for recruitment to Departments is part of the wider development towards integrated personnel management at a Departmental or Agency level rather than across the Service. It may lead to more effective recruitment. However, the danger that this trend might undermine the sense of the unity of the Service cannot simply be ignored. This trend reinforces the case both for the Civil Service Code we have already recommended and for a procedure whereby new civil servants are required to acknowledge that Code, as a reminder that they are joining a common Crown service and not just a Department or Agency. It is also vital that more diverse arrangements for recruitment do not threaten the fundamental principle of selection on merit through fair and open competition. We agree that the Civil Service Commissioners should be made the custodians of this principle and required to audit the

<sup>1</sup> QQ642, 689.

<sup>2</sup> *Evaluation*, para.43.

<sup>3</sup> HC (1993-94) 27-III, pp.69-70 (Professor John Stewart); QQ689-690.

<sup>4</sup> QQ54, 2562.

<sup>5</sup> HC (1992-93) 390-II, p.148 (Civil Service College); Q692.

<sup>6</sup> HC Deb., 24 November 1993, col. 45w.

<sup>7</sup> HC (1976-77) 535-I, para. 21.

<sup>8</sup> Cmnd. 7117, paras. 15-17; HC (1981-82) 236-I, para.90; HC (1986-87) 358-i, pp.103-104 (Dr Anne Stevens).

<sup>9</sup> HC (1993-94) 27-II, p.105; QQ1632-1634.

performance of Departments and Agencies in relation to it. This would combine well with the other functions relating to the maintenance of the principles and values of the Service which we have already argued should be assigned to the new Civil Service Commission; this function should also be set down in statute.

338. The fast stream recruitment programme has bucked the devolutionary trend. It has been noted that it is increasingly incongruent with developments elsewhere in the Service so that entrants into it may "appear to be more elitist by comparison with the rest of the Service even if they constitute a steadily broader social and educational base than their own predecessors".<sup>1</sup> We do not believe it would be right to criticise the Civil Service fast stream for any perceived inadequacies of the British educational system. We also believe it would be mistaken for the Civil Service to forego opportunities to attract and select from all parts of the graduate recruitment market. However, this does not mean that current approaches to graduate recruitment to the Civil Service could not benefit from significant change. We believe that the proposals in the Government's own review of fast stream recruitment provide an opportunity for progress in this area. We believe it is vital that reform in this area does not become an exercise in "badge engineering", with the old fast stream continuing under a new name but otherwise unchanged. In our view, the most significant proposal in the review is that Departments should be free to designate as Trainees in Policy Management any staff whom they have themselves assessed as being able to benefit from the programme. We believe that this recommendation should be implemented at the earliest possible opportunity. We ourselves recommend that the Government should then make it clear both to serving civil servants and potential applicants that the benefits of accelerated development are available to civil servants regardless of method of entry and ensure that this is the case in practice.

339. We welcome the Government's decision to retain the Civil Service College as an Executive Agency. We believe that it has benefitted from its status as an Agency, that its performance has improved markedly in recent years and that it has an integral role to play in the Civil Service for many years to come. However, despite its advances in recent years, we believe that the College should seek to broaden its contacts outside the Civil Service, not least with local government and the small business sector. We also believe that the Civil Service College may need to reorient its approach in the light of the creation of the Senior Civil Service. At present, much of its work on senior management is directed at those at Grade 3 and above. The Senior Civil Service will include a broader range of civil servants. The College could play a valuable role in fostering the coherence of the new Senior Civil Service. The Civil Service White Paper acknowledges the need for "a more systematic approach to the implementation of management development programmes for new entrants to the Senior Civil Service".<sup>2</sup> We believe that there is a strong argument for a new management training course at the Civil Service College, possibly at the time of entry into the new Senior Civil Service and possibly linked to procedures for the selection and career development of entrants into the Senior Civil Service. The creation of the Senior Civil Service and the reform of the Civil Service College together would provide an ideal opportunity to re-examine the rationale for fast-stream recruitment.

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1339 HC (1993-94) 27-III, pp. 18-19 (Dr Peter Barberis).  
1340 Cm.2627, para. 4.23.

## ANNEX 1

## A NEW CIVIL SERVICE CODE

1. The constitutional and practical role of the Civil Service is, with integrity, honesty, impartiality and objectivity, to assist the duly constituted Government, of whatever political complexion, in formulating policies of the Government, carrying out decisions of the Government and administering services for which the Government is responsible in the interests of the public.

2. Civil servants are servants of the Crown. Constitutionally the Crown acts on the advice of Ministers and, subject to the provisions of this Code, civil servants owe their loyalty to the duly constituted Government.

3. Civil servants should serve the duly constituted Government in accordance with the principles set out in this Code and recognising

- the duty of all public officers to discharge their public functions reasonably and according to law;
- the duty to respect, comply with and obey the law of the land, international law and the provisions of international treaties to which the United Kingdom is a party and not to imperil the due administration of justice;
- those duties which may arise as members of professions.

4. This Code should be seen in the context of the duties and responsibilities of Ministers set out in Questions of Procedure for Ministers which include:

- the duty to give Parliament and the public as full information as possible about the policies, decisions and actions of the Government, and not to deceive or mislead Parliament and the public;
- the duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching policy decisions; and
- the duty to comply with the law of the land;

together with the duty to familiarise themselves with the contents of this Code and not to ask civil servants to act in breach of it.

5. Civil servants should conduct themselves with integrity, fairness and honesty in their dealings with Ministers, Parliament and the public. They should make all information and advice relevant to a decision available to Ministers. They should not deceive or mislead Ministers, Parliament or the public.

6. Civil servants should endeavour to deal with the affairs of the public efficiently, and without maladministration.

7. Civil servants should endeavour to ensure the proper, effective and efficient use of public money within their control.

8. Civil servants should not make use of their official position or information acquired in the course of their official duties to further private interests. They should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity.

9. Civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers, and to be able to establish the same relationship with those whom they may be required to serve in some future Administration. The conduct of civil servants should be such that Ministers and potential future Ministers can be sure that that confidence can be freely given, and that the Civil Service will conscientiously fulfil its duties and obligations to, and impartially assist, advise and carry out the policies of the duly constituted Government.



10. Civil servants should not misuse information which they acquire in the course of their duties or seek to frustrate the policies, decisions or actions of Government by the unauthorised, improper or premature disclosure outside the Government of any confidential information to which they have had access as civil servants.

11. Where a civil servant believes he or she is being required to act in breach of this Code or in a way which is illegal, improper, or in breach of constitutional conventions or which may involve possible maladministration, he or she should first report the matter in accordance with procedures laid down in Government guidance or rules of conduct.

12. Where a civil servant has reported a matter in accordance with procedures laid down in Government guidance or rules of conduct and believes that the response does not represent a reasonable response to the grounds of his or her reporting of the matter, he or she may report the matter in writing to the Civil Service Commissioners.

13. Civil servants should not seek to frustrate the policies, decisions or actions of Government by declining to take, or abstaining from taking action which flows from clearly recorded ministerial decisions. Where a matter cannot be resolved by the procedures set out in paragraphs 11 and 12 above on a basis which the civil servant concerned is able to accept, he or she should either carry out ministerial instructions or resign from the Civil Service.

## MINUTES OF PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT

TUESDAY 1 NOVEMBER 1994

Members present:

Sir Thomas Arnold, in the Chair

Ms Diane Abbott	Mr Barry Legg
Mr A J Beith	Mr Mike O'Brien
Mr Quentin Davies	Mr Giles Radice
Mr Nigel Forman	Mr Brian Sedgemore

The Committee deliberated.

Report from the Sub-Committee (The Role of the Civil Service) brought up and read.

*Ordered*, That the Report be read a second time, paragraph by paragraph.

*Ordered*, That the Report be considered in the following order: paragraphs 1-287; Annex 1; paragraphs A-WW.—(*The Chairman.*)

Paragraphs 1 to 45 (now paragraphs 52 to 96) read and agreed to.

Paragraph 46 (now paragraph 97) read, amended and agreed to.

Paragraphs 47 to 53 (now paragraphs 98 to 104) read and agreed to.

Paragraphs 5 and 6 read, amended and agreed to.

Paragraph 54 read.

Amendment proposed, at the end, after the words "in accordance with its provisions", to add the words:

**"It should be clear that this Code applies to the staff of agencies as well as to those of departments. It may be necessary to consider extending the principles of the Code to those working for "quangos", especially in cases where such bodies have taken over work from government departments. Relevant principles may also need to be considered in relation to private sector organisations contracting for public work, in the same way that official secrecy requirements are placed on defence contractors."**—(*Mr A J Beith.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 6	Noes, 1
Mr A J Beith	Mr Barry Legg
Mr Quentin Davies	
Mr Nigel Forman	
Mr Mike O'Brien	
Mr Giles Radice	
Mr Brian Sedgemore	

Paragraph, as amended, agreed to and divided (as paragraphs 105 and 106)

Paragraphs 55 to 58 (now paragraphs 107 to 110) read and agreed to.

Paragraphs 59 and 60 (now paragraphs 111 and 112) read, amended and agreed to.

Paragraph 61 (now paragraph 113) read and agreed to.

Paragraph 62 (now paragraph 114) read, amended and agreed to.

Paragraph 63 (now paragraph 115) read and agreed to.

Paragraph 64 read.

Amendment proposed, in line 8, to leave out from the words "Civil Service" to the words "Sir Kenneth Stowe" in line 18—(*Mr Barry Legg.*)

Question put, That the Amendment be made.

The Committee divided

Ayes, 1

Mr Barry Legg

Noes, 6

Mr A J Beith

Mr Quentin Davies

Mr Nigel Forman

Mr Mike O'Brien

Mr Giles Radice

Mr Brian Sedgemore

Another Amendment proposed, in line 25, to leave out the words "We believe the time has now come to implement the last recommendation of the Northcote-Trevelyan Report and establish a new Civil Service Commission on a statutory basis."—(*Mr Barry Legg.*)

Question. That the Amendment be made, put and negatived.

Paragraph agreed to (as paragraph 116).

Paragraph 65 read.

An Amendment made.

Another Amendment proposed, in line 14, to leave out from the words "rather than weakened" to the end of the paragraph.—(*Mr Barry Legg.*)

Question. That the Amendment be made, put and negatived.

Paragraph, as amended, agreed to (as paragraph 117).

Paragraphs 66 to 76 (now paragraphs 118 to 128) read and agreed to.

Paragraph 77 (now paragraph 129) read, amended and agreed to.

Paragraphs 78 and 79 (now paragraphs 130 and 131) read and agreed to.

Several paragraphs—(*Mr Mike O'Brien*)—brought up, and read, as follows:

"1. There is a need for a contemporary theory and practice of Ministerial Responsibility which recognises the reality of modern government. "Next Steps" was clearly a major change in the administration of government and the doctrine of Ministerial Responsibility has not until today accommodated that change. A new understanding of the doctrine is necessary to ensure that it can never become a protective shield behind which a Minister can escape the rigours of effective Parliamentary scrutiny and challenge. The Government have already attempted to modernise the original doctrine by distinguishing between accountability and responsibility. Their view is that a minister is accountable to Parliament but that incidents may occur for which he was not responsible because he had no knowledge of it and to which he may even be opposed.

2. Sir Robin Butler set out the present governmental view clearly in his evidence to the Scott Inquiry. He said "While ministerial heads of department must always be accountable for the actions of their departments and staff, neither they, nor their senior officials, can justly be criticised for shortcomings of which they are not aware, and which they could not reasonably have expected to discover, or which do not occur as a foreseeable result of their own actions. Ministers and senior officials can only be criticised personally for deficiencies in the organisation if those deficiencies either occur as a foreseeable result of their instructions, or they could reasonably be expected to have known about them, or discovered such deficiencies and taken action to amend them." Sir Robin said that he preferred to accept the principle that ministers were "constitutionally accountable to Parliament" rather than "responsible" to Parliament. He wanted "accountability to be a blame free word." It appears that in his view even Parliamentary criticism following wrongdoing should "only lead to blame and possibly resignation" when "personal responsibility" was involved.

3. We think that this Butler doctrine of Ministerial Accountability without Ministerial Responsibility is inadequate and should not be accepted by Parliament. The consequence of accepting it would be to create a vacuum in Parliamentary control. We must find a way in which both responsibility and accountability to Parliament continue to exist, both in constitutional theory and reality. In our view, in the first instance, in principle, both accountability and responsibility to Parliament should always rest with the Minister. Where the Minister believes others, perhaps civil servants or the Chief Executive of an agency, have in reality been responsible, he should be able to indicate to Parliament who he believes was responsible and the reasons why he takes that view. It will then be a matter for Parliament to determine whether it accepts the Minister's interpretation of events or whether it believes that responsibility should remain with the Minister.

4. This new doctrine of Ministerial Responsibility could have implications for the anonymity of civil servants. They would become personally responsible for decisions that they take on the interpretation

and implementation of policy. To ensure that their position is protected from arbitrary transfer of responsibility by a Minister, we believe that such designation of an individual or group of civil servants should always be a decision of the government as a whole, rather than one Minister. Thus, any designation of a person other than the Minister should have the prior approval of, at least, the Prime Minister and, preferably, the Cabinet. Ministers should only ever be able to pass on responsibility where they can show that, firstly, they were not involved in a policy decision which resulted in the creation of the situation which concerns Parliament; secondly, that they did not know of its existence when any unacceptable behaviour occurred and it was reasonable for the minister not to have been aware of it, and, thirdly, if they had known, they would have stopped it. If Ministers cannot show each of these things, then they should accept responsibility and where appropriate they should resign.

5. If the integrity of the British constitutional process is a voluntary abstinence from the abuse of power, then central to that is the acceptance by Ministers that they will, out of personal integrity, resign where there has been wrongdoing or policy failure within their Departmental control. The resignation of Lord Carrington after the invasion of the Falklands is widely regarded as an example of honourable ministerial practice. The prospect of responsibility being devolved in some cases to civil servants or other employees of agencies makes the requirement of a code of practice more necessary to enable civil servants to have a frame of reference for their behaviour and standards and also to clarify and safeguard their position."

Question proposed, That the paragraphs be read a second time:- Paragraphs, by leave, withdrawn.

Paragraph 80 (now paragraph 132) read and agreed to.

Paragraph 81 (now paragraph 133) read, amended and agreed to.

Paragraphs 82 to 88 (now paragraphs 134 to 140) read and agreed to.

Paragraph 89 (now paragraph 141) read, amended and agreed to.

Paragraphs 90 to 93 (now paragraphs 142 to 145) read and agreed to.

Paragraph 94 read.

Amendment proposed, in line 22, to leave out the words "has considerable value", and insert the words "has value"—(*Mr A J Beith.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 4

Noes, 3

Ms Diane Abbott

Mr Quentin Davies

Mr A J Beith

Mr Nigel Forman

Mr Mike O'Brien

Mr Barry Legg

Mr Brian Sedgemore

Paragraph, as amended, agreed to (as paragraph 146).

Paragraphs 95 to 126 (now paragraphs 147 to 178) read and agreed to.

Paragraph 127 read.

Amendment proposed, in line 9, to leave out from the word "formulaic" to the end of the paragraph.—(*Mr Barry Legg.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 3

Noes, 5

Mr Quentin Davies

Ms Diane Abbott

Mr Nigel Forman

Mr A J Beith

Mr Barry Legg

Mr Mike O'Brien

Mr Giles Radice

Mr Brian Sedgemore

Paragraph agreed to (as paragraph 179).

Paragraphs 128 to 142 (now paragraphs 180 to 194) read and agreed to.

Paragraph 143 read.

Amendment proposed, to leave out from the beginning of the paragraph to the words "We welcome" in line 11.—(*Mr Quentin Davies.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes 2

Noes, 5

Mr Quentin Davies  
Mr Barry Legg

Ms Diane Abbott  
Mr A J Beith  
Mr Mike O'Brien  
Mr Giles Radice  
Mr Brian Sedgemore

Paragraph agreed to (as paragraph 195).

Paragraphs 144 to 152 (now paragraphs 196 to 204) read and agreed to.

Paragraph 153 (now paragraph 205) read, amended and agreed to.

Paragraph 154 to 157 (now paragraphs 206 to 209) read and agreed to.

Paragraph 158 (now paragraph 210) read, amended and agreed to.

Paragraph 159 read, as follows:

"We have no doubt that some audit of the policy process takes place at present. By its nature we would not expect the outcomes of such audit necessarily to enter the public domain directly. But we believe there would be merit in institutionalising the requirement for such audit. It is not sufficient to leave it to the discretion of individual Ministers and civil servants for three reasons. First, they may be too preoccupied to initiate such reviews. Second, it may not be in their personal interest to look too closely at what went wrong and why. Finally, the rapid turnover of both Ministers and officials may mean that they are not in a position to see a policy through to a point at which the case for audit becomes apparent. **We therefore recommend that the Government establishes a Central Policy Audit Unit.** We envisage such a unit operating along similar lines to the Efficiency Unit. It would be within the Office of Public Service and Science, but would have a Head reporting to the Prime Minister. Subjects for examination would be determined by the Head in consultation with departmental Ministers. The Unit would not have a permanent staff of any size: reviews would be conducted by officials from the Department or Departments under scrutiny who had not been directly involved in the matters under examination. Audit would be based on examination of relevant papers and interviews with those concerned with the development of a policy. We would expect the unit to examine policy processes which appeared to have had a successful outcome as well as those of which the opposite was the case in order that lessons for the successful conduct of policy in the future could be learnt."

An Amendment made.

Another Amendment proposed, in line 3, to leave out from the words "such audit" to the end of the paragraph, and add the words "**We recommend that the Government should examine ways in which the process of policy advice and implementation may be better scrutinized and audited.**"—(*Mr Giles Radice.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 4

Noes, 2

Ms Diane Abbott  
Mr Mike O'Brien  
Mr Giles Radice  
Mr Brian Sedgemore

Mr Quentin Davies  
Mr Barry Legg

Paragraph, as amended, agreed to (as paragraph 211).

Paragraphs 160 to 165 (now paragraphs 212 to 217) read and agreed to.

Paragraph 166 read.

Amendment proposed, in line 21, to leave out from the words "politically controversial" to the words "We welcome", in line 26, and insert the words "**We believe that discussions should take place with a view**

to undertaking a pilot scheme of secondment in order to test these conflicting propositions in practice".—  
(*Mr A J Beith.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 3	Noes, 3
Ms Diane Abbott	Mr Quentin Davies
Mr A J Beith	Mr Nigel Forman
Mr Mike O'Brien	Mr Barry Legg

Whereupon the Chairman declared himself with the Noes.

Paragraph agreed to (as paragraph 218).

Paragraphs 167 to 178 (now paragraphs 219 to 230) read and agreed to.

Paragraph 179 (now paragraph 231) read, amended and agreed to.

Paragraphs 180 to 253 (now paragraphs 232 to 305) read and agreed to.

Paragraph 254 (now paragraph 306) read, amended and agreed to.

Paragraph 255 (now paragraph 307) read and agreed to.

Paragraph 256 read.

Amendment proposed, to leave out from the beginning of the paragraph to the words "we have already" in line 2.—(*Mr Barry Legg.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 1	Noes, 6
Mr Barry Legg	Ms Diane Abbott
	Mr A J Beith
	Mr Quentin Davies
	Mr Nigel Forman
	Mr Mike O'Brien
	Mr Giles Radice

Another Amendment proposed, in line 5, to leave out from the words "we believe that" to the words "We recommend" in line 7, and insert the words "there is a case for more effective assessment of performance against targets for senior civil servants, even at the highest level, including in due course the introduction of fixed-term contracts."—(*Mr Barry Legg.*)

Question, That the Amendment be made, put and negatived.

An Amendment made.

Paragraph, as amended, agreed to (as paragraph 308).

Paragraphs 257 to 285 (now paragraphs 309 to 337) read and agreed to.

Paragraph 286 read.

Amendment proposed, in line 8, to leave out from the words "recruitment market" to the words "In our view" in line 13.—(*Mr Quentin Davies.*)

Question, That the Amendment be made, put and negatived.

Another Amendment proposed, in line 9, to leave out from the words "significant change" to the end of the paragraph, and add the words "On balance, we believe that the abolition of the fast stream would be beneficial to the Civil Service as a whole and would not deter able graduates with the appropriate skills from seeking employment within the Civil Service."—(*Mr Barry Legg.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2

Mr Barry Legg  
Mr Mike O'Brien

Noes, 5

Ms Diane Abbott  
Mr A J Beith  
Mr Quentin Davies  
Mr Nigel Forman  
Mr Giles Radice

Paragraph agreed to (as paragraph 338).

Paragraph 287 (now paragraph 339) read and agreed to.

Annex 1 (A New Civil Service Code) brought up, read, amended and agreed to.

Paragraph A (now paragraph 1) read, amended and agreed to.

Paragraphs B to L (now paragraphs 2 to 12) read and agreed to.

Another paragraph—(*Mr Giles Radice*)—brought up, read the first and second time, and inserted (as paragraph 13).

Paragraph M (now paragraph 14) read, amended and agreed to.

Paragraph N (now paragraph 15) read and agreed to.

Another paragraph—(*Mr Giles Radice*)—brought up, read the first and second time, and inserted (as paragraph 16).

Paragraphs O to Q (now paragraphs 17 to 19) read and agreed to.

Paragraph R (now paragraph 20) read, amended and agreed to.

Paragraphs S to Z (now paragraphs 21 to 28) read and agreed to.

Paragraph AA (now paragraph 29) read, amended and agreed to.

Paragraphs BB to FF (now paragraphs 30 to 34) read and agreed to.

Paragraph GG (now paragraph 35) read, amended and agreed to.

Paragraphs HH to PP (now paragraphs 36 to 44) read and agreed to.

Paragraph QQ (now paragraph 45) read, amended and agreed to.

Paragraphs RR to WW (now paragraphs 46 to 51) read and agreed to.

*Resolved*, That the Report, as amended, be the Fifth Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No. 116 (Select Committees (reports)) be applied to the Report.

Several papers were ordered to be appended to the Minutes of Evidence taken before the Sub-Committee..

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Sub-Committee be reported to the House.—(*The Chairman*.)

[The Committee adjourned.]

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**TREASURY AND CIVIL SERVICE  
COMMITTEE**

**Fifth Report**

**THE ROLE OF THE CIVIL SERVICE**

**VOLUME II**

Minutes of Evidence

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*Ordered by The House of Commons to be printed  
1 November 1994*

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The Treasury and Civil Service Committee is appointed under S.O. No. 130 to examine the expenditure, administration and policy of the Treasury and the Office of Public Service and Science (but excluding the Office of Science and Technology and the drafting of bills by the Parliamentary Counsel Office), the Board of Customs and Excise and the Board of the Inland Revenue.

The Committee consists of a maximum of eleven members, of whom the quorum is three. Unless the House otherwise orders, all Members nominated to the Committee continue to be members of the Committee for the remainder of the Parliament.

The Committee has power:

- (a) to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time;
- (b) to appoint specialist advisers either to supply information which is not readily available or elucidate matters of complexity within the Committee's order of reference;
- (c) to communicate to any other such committee and to the Committee of Public Accounts their evidence and any other documents relating to matters of common interest;
- (d) to meet concurrently with any other such committee for the purposes of deliberating, taking evidence or considering draft reports.

The Committee has power to appoint one sub-committee and to report from time to time the minutes of evidence taken before it. The sub-committee has power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, and to adjourn from place to place. It has a quorum of three.

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13 July 1992

The following were nominated as members of the Treasury and Civil Service Committee:

Ms Diane Abbott	Mr John Garrett
Sir Thomas Arnold	Mr Barry Legg
Mr A J Beith	Mr Giles Radice
Mr Nicholas Budgen	Mr Brian Sedgemore
Mrs Judith Chaplin (decd 19.2.93)	Mr John Watts
Mr Quentin Davies	

Mr John Watts was elected Chairman on 15 July 1992.

Sir Thomas Arnold was elected Chairman in the place of Mr John Watts on 19 October 1994.

The following changes in the membership of the Committee have been made:

Monday 29 March 1993:	Mr Nigel Forman appointed.
Monday 13 December 1993:	Mr John Garrett discharged; Mr Mike O'Brien appointed.
Monday 31 October 1994	Mr John Watts discharged; Mr Matthew Carrington appointed.

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