



THE CIVIL SERVICE

Taking Forward Continuity and Change





THE CIVIL SERVICE

Taking Forward Continuity and Change

A Command Paper taking forward the proposals in
The Civil Service: Continuity and Change (Cm 2627) in the light of
consultation and incorporating the Government's response to the Fifth Report
from the Treasury and Civil Service Committee,
The Role of the Civil Service, House of Commons (Session 1993–94).

PRESENTED TO PARLIAMENT BY THE PRIME MINISTER,
THE CHANCELLOR OF THE EXCHEQUER,
AND THE CHANCELLOR OF THE DUCHY OF LANCASTER
BY COMMAND OF HER MAJESTY, JANUARY 1995

CONTENTS

	Page
CHAPTER 1 : INTRODUCTION AND SUMMARY	1
CHAPTER 2 : MAINTAINING CIVIL SERVICE VALUES	3
CHAPTER 3 : IMPROVING CIVIL SERVICE PERFORMANCE	9
CHAPTER 4 : THE SENIOR CIVIL SERVICE	15
CHAPTER 5 : CONCLUSION	20
RESPONSE TO TCSC RECOMMENDATIONS	21
ANNEX : PROPOSED NEW CIVIL SERVICE CODE	43
APPENDIX : LIST OF RESPONDENTS TO THE WHITE PAPER	54

CHAPTER ONE: **INTRODUCTION**

1.1 Last July, the Government published a White Paper *The Civil Service: Continuity and Change*¹ setting out its policies on the future of the Civil Service. The White Paper recognised that the House of Commons Treasury and Civil Service Committee was itself preparing a report on the Civil Service, which the Government would wish to consider, and invited comments from others, particularly on the proposals in Chapter 4 of the White Paper.

1.2. The Select Committee published its report *The Role of the Civil Service*² in November. The Government welcomes the Committee's report as a comprehensive, thoughtful and positive contribution to the debate about the future of the Civil Service. It welcomes in particular the cross-party support for the key principles underpinning the role of the Civil Service, which had also been emphasised in *Continuity and Change*, and for the programme of change in the organisation of the Civil Service.

1.3. Comments on the White Paper were received from 50 other individuals and organisations. Those respondents who did not request that their comments remain confidential are listed in the Appendix. Copies of these responses have already been placed in the Library of the House of Commons and of the House of Lords.

1.4. This Command Paper sets out how the proposals in *Continuity and Change* will now be taken forward, taking account of the Select Committee's report and the comments received on the White Paper. It includes a response to the individual conclusions and recommendations in the Select Committee's report.

1.5 The Command Paper:

- indicates the Government's acceptance of the proposal, recommended by the Select Committee, for a new Civil Service Code, to apply to all civil servants, summarising the constitutional framework within which they work and the values they are expected to hold and incorporating a new, independent line of appeal to the Civil Service Commissioners in cases of alleged breaches of the Code or issues of conscience which cannot be resolved through internal procedures. A draft Code, suggesting the changes which the Government thinks necessary to the text proposed by the Select Committee, with an

¹ Cm 2627

² *Fifth Report from the Treasury and Civil Service Committee, The Role of the Civil Service, HC(1993-94).*

associated commentary, is annexed to the Government's response to the Select Committee as a basis for further consultation;

- announces the Government's intention to enhance the role of the Civil Service Commissioners as guardians of the principle of selection on merit, and its decision that the next First Civil Service Commissioner will have a new role in monitoring internal appointments and consequently should not hold the post as a serving civil servant;
- re-emphasises the Government's commitment to maintaining the Civil Service as a good employer, ensuring equality of opportunity, maintaining a predominantly career Civil Service, and to the training and development of all staff. It confirms the Government's intention to proceed with the other approaches set out in *Continuity and Change* to improve the efficiency and effectiveness of the Civil Service, including delegation of pay and grading below senior levels to departments, and the introduction of Efficiency Plans in place of the centrally-driven Competing for Quality programme; and
- confirms the Government's intention to establish the proposed new Senior Civil Service; to carry out senior management reviews in all departments; to introduce new pay arrangements for the Senior Civil Service, including Permanent Secretaries; and to introduce contracts for all senior civil servants.

CHAPTER TWO: **MAINTAINING CIVIL SERVICE VALUES**

2.1. At the heart of its proposals for the future of the Civil Service, as set out in *Continuity and Change*, is the Government's commitment to the maintenance of a permanent Civil Service, based on the values of integrity, political impartiality, objectivity, selection and promotion on merit and accountability through Ministers to Parliament.

2.2 The re-statement and re-affirmation of these values in the White Paper has been widely welcomed—by members of all political parties, by outside commentators and by civil servants themselves, including the civil service trade unions. The Government's conclusion that these values "are as important to good government in the future as they have been in the past" was equally emphasised by the Select Committee:

"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."

2.3 The Government believes that the existing framework of rules and safeguards which underpins these values has stood the test of time well and continues to be rigorously applied. It welcomes, for example, the Select Committee's conclusion that it has "little doubt that civil servants would be able to demonstrate the same level of commitment to any incoming Government" and its belief that "the commitment of the overwhelming majority of civil servants to the principle and practice of a politically impartial Civil Service is undiminished".

2.4 The Government has also consistently resisted the view—reflected in some of the comments received on the White Paper and in evidence given to the Select Committee—that a decline in standards has resulted from the devolution of authority within the Civil Service. It rejects firmly, for example, the inference that has been

drawn by some from the Eighth Report of the Public Accounts Committee¹ that the failings identified in that report are in some way the result of changes in the way that public bodies and departments carry out their work. Again, therefore, the Government very much welcomes the conclusion of the Select Committee that “the Next Steps reforms are in principle compatible with the maintenance of the traditional values of the Civil Service”.

2.5 The Government has always recognised that, with greater delegation and more movement in and out of the Civil Service, there is a need for even greater vigilance about standards throughout the Civil Service. To maintain the values on which the Civil Service is based, it is essential that they are clearly expressed, effectively communicated within the Civil Service and upheld in practice by civil servants at all levels and by Ministers in their dealings with them. To that end:

- one of the key aims in establishing a new, wider, cohesive Senior Civil Service is to provide clear leadership in sustaining core values; and, more specifically,
- a new handbook is to be issued to all Agency Chief Executives which will, inter alia, ensure that Service-wide rules on conduct and financial propriety are always available to them in a readily accessible form, as they are already in the case of Permanent Secretaries.

2.6 The Government also accepts that it is important, in the interests of maintaining public confidence in the impartiality and integrity of the Civil Service, that there should be:

- the widest possible agreement outside the Civil Service as well as inside on the rules governing the role and conduct of civil servants; and
- confidence in the safeguards which exist to ensure that civil servants are recruited on the basis of fair and open competition and that they are not asked to act improperly.

2.7 It is against this background that the Government, therefore, proposes:

- to accept the Select Committee recommendation, supported by others who have commented on the White Paper, including the Council of Civil Service Unions and its constituent members, for a new Civil Service Code;
- to accept the Select Committee’s recommendation for a new, independent line of appeal to the Civil Service Commissioners in cases of alleged breaches of the Code or issues of conscience which cannot be resolved through internal procedures; and

¹ *Eighth Report from the Committee of Public Accounts, The Proper Conduct of Public Business, HC(1993-94)154*

- further to strengthen the role of the Civil Service Commissioners as guardians of the principle of selection on merit, alongside other measures to clarify and reinforce responsibilities within the Civil Service for selection on merit through open competition.

A New Civil Service Code 2.8 The aim of this new Civil Service Code will be, as the Select Committee recommended, to set out with greater clarity and brevity than existing documents the constitutional framework within which all civil servants work and the values which they are expected to uphold. If it is to govern the conduct of all civil servants as a condition of employment, as the Government accepts it should, it must be applicable to the situation of each civil servant. It must also reflect the existing constitutional position rather than seek to change it, and provide a clear and more accessible expression of duties and responsibilities which are already a condition of employment in the Civil Service. It will continue to be backed by the more detailed provisions of the Civil Service Management Code, and by separate departmental and agency guidelines.

2.9 The Select Committee included such a draft Code in its report. The Government congratulates the Committee on this draft, which brings together clearly and concisely the key principles in *Questions of Procedure for Ministers* and the Civil Service Management Code. The Government has a number of detailed observations on the draft text suggested by the Committee, designed further to clarify the obligations of civil servants and to avoid ambiguity in the text. The intention in each case is to clarify without departing from the existing constitutional framework. A revised draft text, together with a commentary on the principal changes proposed to the Committee's draft, is annexed to the Government's response to the Select Committee as a basis for further consultation with the Committee, civil servants, the civil service unions and others. It is also being made available to the Committee on Standards in Public Life (the "Nolan" Committee).

Appeals Procedures 2.10 The arrangements for an independent line of appeal to the Civil Service Commissioners proposed by the Select Committee would effectively replace the present right of appeal to the Head of the Home Civil Service on conscience issues, as set out in the Armstrong Memorandum. Whether because the issues that trigger appeals rarely arise, or are satisfactorily resolved by departmental procedures, or whether, as some have suggested—unconvincingly in the Government's view—more individuals would have used the procedures if they had found them less intimidating, the existing appeal procedure remains almost wholly unused and untested. Only one case has been formally referred to the Head of the Home Civil Service in nine years.

2.11 The Government agrees with the Select Committee's observation that it should continue to be possible to resolve the majority of doubts about conduct, legality and propriety within departments. It is important to avoid any steps which weaken confidence between staff and their line managers or the confidential relationship and trust between civil servants and Ministers. But the Government has always recognised the need for a final avenue of appeal where internal procedures have failed; and it accepts that the appeal procedure should command the confidence of all concerned. The Select Committee's proposals would meet some of the difficulties previously identified in relation to an independent appeals procedure. In particular the Government agrees that:

- the function of such an appellate authority should remain separate from the work of the Civil Service Appeals Board and of the Parliamentary Commissioner for Administration and that the Civil Service Commissioners would be the most appropriate independent body for this purpose;
- any new arrangements should require internal resolution procedures to be tried first (and should not be prescriptive about the nature of internal procedures). Under the draft Code proposed, only when all internal review procedures have been exhausted and an individual civil servant feels that he or she has not had a reasonable response to the grounds of reporting a matter would it be possible to resort to the Commissioners;
- although under such an arrangement the Commissioners should have powers of investigation, powers of enforcement would not be appropriate. Both consideration of cases and recommendations should be confidential, with a power to report to Parliament which could be used in the event of the Government refusing to act on the Commissioners' recommendations. This should help to ensure not only that Ministerial accountability is enhanced, but that the confidential relationship between Ministers and officials is not undermined.

2.12 The Government therefore proposes to consult further on the basis of the proposed new appeal arrangements set out in the draft Code. Two qualifications need to be entered:

- the draft Code addresses matters of legality. No appeals procedure of this kind can be expected to determine what the law is, and matters of legal interpretation cannot easily be brought within its scope or expertise. The Commissioners' role in determining appeals on such grounds would be to seek assurance that appropriate legal advice had been taken, or issues of concern had been drawn to the attention of the appropriate investigatory or enforcement authorities;
- the Government does not envisage that the Commissioners' role should be extended to take on the specialised work of the Staff Counsellor for the Security and Intelligence Agencies.

**Reinforcing the
Principle of
Selection on Merit**

2.13 The Government has also decided to enhance the role of the Civil Service Commissioners in the following ways:

- the First Civil Service Commissioner will, in future, attend the Senior Appointments Selection Committee (SASC). SASC considers the basis on which senior appointments in the Civil Service are to be filled (whether the post is necessary or whether it should go to competition against the criteria set out in paragraph 4.25 of *Continuity and Change*) and, for those posts not filled by open competition, advises the Head of the Home Civil Service on candidates to be recommended to the Prime Minister. The First Civil Service Commissioner will be able, if he or she so wishes, to comment directly to the Minister concerned or to the Prime Minister on the choice between open competition and internal appointment. In the Commissioners' Annual Report he or she will be able to set out the balance between open competition and internal appointment in filling senior civil service vacancies, comment as necessary on the development of senior selection processes, and draw attention to any Ministerial decision which, should it ever arise, appeared to him or her to depart from the principle of selection on merit;
- the Civil Service Commissioners will in future be responsible for the interpretation of the principles of fair and open competition on merit for all Civil Service recruitment—not, as now, only for senior appointments. The Commissioners will issue a simple (but binding) recruitment code setting out for departments and agencies a rationale of the principles and the exceptions that may be made to them. It will be for the head of each department or agency to ensure that the principles are followed in practice. They will be required to publish information about their recruitment systems; and those systems will be audited by the Commissioners. The Commissioners will also be responsible for approving all appointments from outside the Civil Service to the new Senior Civil Service. These were among the recommendations of the Review of Recruitment Responsibilities¹, published at the same time as *Continuity and Change*, which were welcomed by respondents to the White Paper and endorsed by the Select Committee. The Government proposes to implement the changes with effect from this summer.

2.14 In the light of these changes, and the proposed new role for the Commissioners in appeal procedures under the Civil Service Code, the Government has decided that the next First Civil Service Commissioner should not hold the post as a serving civil servant. The post is currently being advertised.

¹ Responsibilities for Recruitment to the Civil Service, *OPSS July 1994*.

**Legislation on
the Civil Service**

2.15 It is possible for the Government to consult on and introduce a new Civil Service Code without legislation, and to confer new functions on the Civil Service Commissioners as proposed in this Command Paper without legislation, by Prerogative action and Order in Council. The independence of the Commissioners has been sustained on this basis for more than 100 years. The Royal Prerogative denotes the constitutional authority which rests with the Crown, as opposed to the Courts or Parliament. The management of the Civil Service is one of the aspects of the Prerogative which is exercised by Ministers on behalf of the Crown. It follows that it is for Ministers alone to issue instructions concerning the management of the Civil Service, and that they do not require Parliamentary authority to do so. The Prerogative in this context resembles the power of other employers to employ without special legislative authority. Special legislation relating to terms and conditions of employment in the Civil Service might obscure the fact that the basis of employment of civil servants is contractual. A new Code could also be promulgated as soon as it had been agreed, without waiting for a legislative opportunity.

2.16 Nevertheless, the Government retains an open mind about the case, advanced by the Select Committee and others, for giving statutory backing to the rules in connection with the terms and conditions of employment of civil servants, including the new Code. It acknowledges the view that additional authority would be conferred on the proposed Civil Service Code, including the new role envisaged for the Commissioners, by a statutory approach and that such legislation if based on cross-party consensus could be an effective means of expressing and entrenching general agreement on the non-political nature of the Civil Service; and it recognises that the Select Committee recommended narrowly-based legislation on these lines on the basis that it could command wide support. The Government would welcome further discussion of such an approach.

2.17 The Government is, however, cautious about the prospect of opening up the possibility of change in the constitutional position of the Civil Service, and thereby risking its politicisation. It would not introduce or support legislation which ran such risks or specified in detail the employment rights of the civil servants, conferring on them privileges or disadvantages relative to other employees, or inhibiting effective and efficient management. Before introducing a Civil Service Bill the Government would, therefore, need to be satisfied that there was a broad measure of agreement on legislation which sustained rather than altered the existing constitutional position of the Civil Service, retained the flexibility of the existing arrangements for regulating the terms and conditions of civil servants, and did not change the position of civil servants under general employment law.

CHAPTER THREE: **IMPROVING CIVIL SERVICE PERFORMANCE**

3.1 The second main theme of *Continuity and Change* was the need, building on what has already been achieved, to sustain a continued improvement in the performance of the Civil Service within the framework of two key disciplines:

- the commitment under the Citizen's Charter to clear standards of service for users and to a clearer definition of output targets; and
- continued tight control of the costs of running the Civil Service.

Outputs and the Charter

3.2 The Government welcomes the Select Committee's endorsement of the value of the Citizen's Charter "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 task of implementing the Charter within the Civil Service rests mainly with executive agencies; and, as the *Next Steps Review 1994*¹ demonstrated, they are delivering consistent improvements for the benefits of customers and taxpayers. Thirty Charter Marks have now been awarded to agencies in the first three years of the competition.

Control of Running Costs

3.3 Tight control of running costs has been maintained in the plans announced in the recent Budget. Total cash spending on running civil departments will be held at the same level in 1997–98 as in 1993–94—implying a cut of 10% in real terms. Within the total, extra resources have been provided to some departments—for example, to help intensify the drive against social security fraud and, subject to the necessary legislation, to implement the new Jobseeker's Allowance. The approach to containing civil service costs, as in other parts of the public sector, is based on the assumption that pay and price increases should be offset, or more than offset, by efficiencies and other economies with adjustments as necessary for workload. Savings are expected to accrue from the programme of fundamental expenditure reviews of Government departments and by other efficiency-related programmes—as described in departments' annual Efficiency Plans. These plans are expected to include privatisation, strategic contracting out, market testing and the application of Next Steps principles, together with techniques such as bench-marking and business process re-engineering. Together these initiatives will maintain the momentum for improved performance and better value for money in Government.

¹ Cm 2750

The Management and Development of Staff

3.4 Improved performance depends above all on effective management and the adaptability of staff throughout the Civil Service. The Government set out in *Continuity and Change* a number of detailed proposals to enhance the effectiveness of the Senior Civil Service, partly in response to the detailed recommendations of the Efficiency Unit's *Career Management and Succession Planning Study*¹. These are dealt with in Chapter 4. Management development below the Senior Civil Service is a key priority for the future and *Continuity and Change* emphasised that, in order to improve policy making, management and service delivery, the Civil Service needed to increase its focus on the contributions of **all** its staff.

3.5 This is not an area for central prescription. Departments and agencies have responsibility for performance management and for developing skills of staff; and they are carrying forward their own plans, examples of which were given in *Continuity and Change*. But in view of some of the comments received on the White Paper, particularly from the civil service unions, the Government wishes to re-iterate its commitment to:

- maintaining the reputation of the Civil Service as a good employer, providing terms and conditions in line with the most responsible large employers and good enough to recruit, retain and motivate a committed and efficient Service with the highest standards of probity;
- ensuring equality of opportunity for all members of staff, irrespective of background, gender, race and disability. The Civil Service has, in general, a good record in this area. But there is no room for complacency; and the Government will continue to monitor and report on progress;
- maintaining a predominantly career Civil Service, providing the opportunity for a full career for those whose performance continues throughout to meet requirements. The Government expects to see greater movement into and out of the Civil Service as in other areas of the employment market. But across the Civil Service, key functions will continue to depend on the commitment of experienced, well-trained civil servants, bringing their own professionalism to the task of supporting the Government of the day in policy work and the management and delivery of services; and
- the training and development of staff. The Government is in no doubt that effort invested in developing the skills of staff—in the Civil Service as in any area of employment—is fully repaid, in terms of the immediate effectiveness of staff, their motivation and their longer-term value to the employer. Training and development—including career development for staff—will also be key to ensuring that the Civil Service continues to provide internal candidates of the highest quality for senior posts across the Service. All Government departments are carrying forward

¹ HMSO November 1993 ISBN 0 11 4300925

their plans to become Investors in People. Some parts of departments and some agencies have already been recognised as meeting the standard. The OPSS has an essential role to play in promoting and encouraging good practice across all departments and agencies in this area; and the Government can confirm, in response to a point made by the civil service unions in commenting on the White Paper, that it is willing to discuss developments across the Civil Service in this area with them at national level.

3.6 The Government also proposes to revise the fast stream entry scheme along the lines proposed in the Review¹ of the arrangements for the Fast Stream entry into the Civil Service, which was published in July 1994 at the same time as *Continuity and Change*. The Government agrees that a Service-wide scheme aimed at the very best graduates remains essential to attract the talents departments need. But it accepts that the scheme should be made more responsive to departments' needs and that changes should be made to strengthen and broaden its appeal—proposals which were also broadly endorsed by the Select Committee and by the Association of First Division Civil Servants (FDA) and the Institution of Professionals, Managers and Specialists (IPMS) in commenting on the review.

The Review of Government Activities

3.7 The Government intends to continue the review of all of its activities against the series of "prior options" tests described in Chapter 2 of *Continuity and Change*.

Privatisation

3.8 Since December 1992, eight Civil Service organisations have been privatised, leading to a reduction of 5,000 Civil Service posts. Departments have announced their intention to transfer to the private sector a further six organisations: the Transport Research Laboratory, the National Engineering Laboratory, the Laboratory of the Government Chemist, ADAS (in part), the Natural Resources Institute and the Accreditation Services. Other candidates are under consideration; and prior options reviews and Efficiency Plans should reveal further cases where it would be appropriate to transfer the organisation to private sector ownership.

Competing for Quality

3.9 Value for money continues to be significantly improved as the result of reviewing activities and exposing them to competition under the Competing for Quality programme. Between April 1992 and September 1994, over £2bn of activities were reviewed under this programme, producing annual cost savings of over £400m (average cost savings of 20%), with a reduction of 27,000 in Civil Service manned posts. The quality of the public services concerned has either been improved (in over a third of cases) or maintained. This is a highly creditable achievement and the Government pays tribute to the efforts both of civil servants and of private-sector contractors. On 19 October 1994, the Government announced that the value of the Competing for Quality programme for October 1994—September 1995 would be £860m.

¹ Review of Fast Stream Recruitment HMSO July 1994 ISBN 0 11 430107 7

3.10 Against this background of impressive progress, the Government intends to carry out a policy evaluation of the first three years of the Competing for Quality initiative. Preparatory work on evaluation is already under way. The evaluation will be broad in scope and will address many of the issues raised by respondents to the *Continuity and Change* White Paper.

3.11 The Deregulation and Contracting Out Act, given Royal Assent on 3 November 1994, will provide further opportunities for contracting out. The Act provides the means to remove legal obstacles to the involvement of the private sector in carrying out certain statutory functions. Functions for which an intention to introduce competition or private sector involvement has been announced include the administration of the Civil Service pension scheme; collection of business statistics; food safety enforcement; and Rent Registration Service in Scotland.

3.12 The Government has also addressed the concerns about confidentiality and accountability with regard to contracting out. Provisions are made in the Act to ensure that the confidentiality of information handled by contractors is safeguarded. It is clear that the accountability and legal liability remain with the Minister, office-holder or local authority concerned for services which might be contracted out by means of the Order-making powers of Part II of the Act.

Next Steps 3.13 The Select Committee suggested that what it described as an “overall transformation in Government” would not have been brought about without Next Steps. The Government agrees, and welcomes the Committee’s conclusions 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”. Since *Continuity and Change* was published, the 100th agency has been launched—on 27 November 1994. There are currently 102 executive agencies; and 62% of the Civil Service now works in agencies and the executive structures of the two Revenue Departments, with another 17% in functions identified as definite or possible agency candidates.

3.14 A key task for the next two years will, therefore, be to continue the programme of agency creation for those functions where agency status is found to be the best approach. As the Select Committee remarked, “the success in establishing agencies is only a means to an end ... the cultural change which lies at the heart of the Next Steps programme must be secured and reinforced.” The Government will be pursuing this in the following ways:

- arrangements for the strategic monitoring of agencies by departments are being strengthened. This includes the arrangements for ensuring that the Ministers can have advice— independent of the agency—on the level of performance they can expect from their agencies. Later this year the OPSS and

Treasury will issue further guidance on target setting for agencies, taking account of examples of best practice in the development of unit costs and productivity measures.

- an increasing emphasis will be placed on extending, throughout the Civil Service, many of the principles of Next Steps, including maximum clarity about objectives and targets, delegation of management responsibility and a clear focus on outputs and outcomes. The Government believes that these principles can and should be extended to executive functions within departments where agency status has, for various reasons, been ruled out; and it also agrees that they can, as recommended by the Select Committee, be extended to aspects of the policy process in core departments. In carrying out reviews of their senior organisation and staffing, departments will be looking for structures which reflect these principles.

Delegation 3.15 As described in *Continuity and Change* the Government believes that further delegation is a key component in achieving a substantial improvement in performance. Two major initiatives announced in the White Paper will be carried forward:

- departments and agencies are being given greater freedom and flexibility to develop programmes for improving efficiency which best meet their own needs. From this year, they will draw up Efficiency Plans each spring indicating what measures they propose to take to stay within their running costs for the coming three years. These plans can be expected to include the techniques in the Competing for Quality programme, including privatisation, strategic contracting out and market testing, alongside others which departments may choose to use such as process re-engineering, benchmarking and activity-based, cost-management—as described in *Continuity and Change*;
- the delegation of responsibility for pay and grading of staff below senior levels to all departments will be implemented with effect from 1 April 1996. The Government believes that this will lead to enhanced efficiency, by ensuring that pay and personnel systems are aligned with other aspects of management to enable organisations to focus more effectively on achievement of their individual objectives.

**Management
Information Systems
and Resource
Accounting**

3.16 Other levers for change described in *Continuity and Change* are being taken forward as follows:

- the Efficiency Unit scrutiny of management information systems, aimed at determining departmental and agency needs in the light of best practice in the public and private sectors, will be completed at the end of February 1995. The report will be submitted to the Prime Minister's Efficiency Adviser, who will then advise Ministers on the recommendations. It is usual practice for Efficiency Unit reports to be published;

- the consultation period on the Green Paper *Resource Accounting and Budgeting in Government*¹ ends on 31 January 1995. The Government will be publishing the outcome of the consultation process, and in particular its detailed proposals on resource budgeting, in the summer of 1995;
- OPSS/Treasury will be working with departments to share examples of best practice in management techniques—for example, benchmarking, and business process re-engineering—with applications in Government departments, agencies and public bodies.

Impact on the Civil Service

3.17 The size of the Civil Service has fallen by over 40,000 (7%) since January 1993, from 565,000 then to 524,000 now. As explained in *Continuity and Change* the Government would expect Civil Service manpower to fall significantly below 500,000 over the next four years. The comparable figure in 1979 was 732,000. A supplementary estimate was sought in November 1994 to allow up to £50 million central funding of further retirement, redundancy and severance costs in 1994–95 under the scheme announced in *Continuity and Change* under which the Civil Superannuation Vote is financing 80% of these costs. It is not yet clear how much of this will be spent. The Government will, wherever possible, deal with the reductions on a voluntary basis, but the scale of the changes in prospect in some areas means that some compulsory redundancies may be unavoidable.

3.18 Additional flexibilities have been introduced to civil service exit arrangements. These include opportunity for departments to offer changes in the mix of compensation packages (within the same overall value) so that benefits are available in a form which may better meet the needs and circumstances of staff on departure, and so facilitate voluntary departures. The measures are also designed to assist departments develop early release arrangements which better suit their particular requirements or circumstances, without increasing overall costs.

3.19 The Government does not underestimate the unsettling effect on civil servants of the changes being introduced in working methods and pay and grading arrangements, and of the continued reduction in staff numbers. But the Civil Service, like other areas of the economy, has to adapt if the country is to improve its competitiveness. The Government retains confidence in the commitment and abilities of civil servants at all levels and of civil service managers. It recognises the importance of effective communications in maintaining morale. It agrees with the Select Committee on the importance of engendering pride in working for the State, which Ministers repeatedly emphasise—in the context, for example, of the Citizen's Charter. The Government remains confident, in the words of *Continuity and Change*, that “civil servants, at all levels, have the ability to respond to the challenge of the changing world”.

¹ Better Accounting for the Taxpayer's Money: Resource Accounting and Budgeting in Government, Cm 2626

CHAPTER FOUR: **THE SENIOR CIVIL SERVICE**

4.1 In *Continuity and Change*, the Government also highlighted the importance of effective leadership by a highly-professional group of senior advisers and managers in preserving the core values of the Civil Service and in securing a sustained improvement in performance. They would work closely in support of Ministers in the development and implementation of Government policy and be responsible for the management of a wide range of services. It proposed the creation of a new Senior Civil Service, broader than the existing Senior Open Structure, to provide such a cohesive group.

4.2 This concept attracted limited comment in the consultation period, but was generally welcomed. Some comments emphasised the need to avoid the impression of a two-tier Civil Service, with a more privileged world for those at the top. A few drew attention to the need to reflect carefully on the experience of other administrations in Australia, New Zealand and Canada. Most commentators supported the idea of a group of senior managers with responsibility for giving a clear lead and sense of direction, sustaining key civil service values and whose focus and loyalty was wider than simply one agency or one department.

4.3 In particular, the Treasury and Civil Service Committee referred to some of the evidence it had received 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. They indicated that they saw the creation of the Senior Civil Service as a “potentially valuable advance”, though they also commented that they looked forward to seeing the good intentions in the White Paper turned into concrete proposals and the implementation of change in practice.

4.4 Accordingly, the Government intends to proceed with the creation of the Senior Civil Service on the basis of the proposals already outlined. As the Select Committee indicated, it will be important to do so in a way which is practical, and provides effective means to bring about the desired degree of change, while preserving those aspects of the existing Civil Service that are widely respected and valued. The key issues to be addressed over the next few months include:

- **coverage**—*Continuity and Change* proposed that this new group should cover those broadly at the existing grade 5 and above and all Agency Chief Executives. Departments and agencies will be free to propose exceptions to this boundary,

particularly as it might affect some highly-specialised staff. They will do this in the light of the aims set out for the Senior Civil Service and the outcome of their Senior Management Reviews;

- **equal opportunities**—sustained attention will also be required to ensure that senior management commitment to equal opportunities is reflected in personnel policies and selection decisions and that progress is regularly and effectively monitored;
- **appraisal system**—the newly-revised performance-review system for the Senior Open Structure offers a valuable model for a common approach for the Senior Civil Service. A system will be developed on these lines in conjunction with departments and agencies, in the light of further work on the relevance to the wider group of the existing competence framework;
- **mobility**—further work will be carried forward in the context of succession planning and selection arrangements to find ways of striking an effective and appropriate balance between the need for people to stay rather longer in their jobs and develop “career anchors”, and the need for senior staff to broaden their experience through a relevant series of moves across departmental boundaries and indeed beyond to other sectors; and
- **training and development**—the Cabinet Office is developing proposals to build on the success of the existing Top Management Programme, the portfolio of courses already provided by the Civil Service College, the current programmes for interchange with the private sector, and a variety of departmental programmes including such mechanisms as “development centres” in order to develop a coherent approach to the training and development of the Senior Civil Service.

4.5 The Government intends to implement the arrangements for **career management, succession planning and filling senior posts** as set out in Chapter 4 of *Continuity and Change*, and paragraph 2.13 above. Departments and agencies will always consider advertising openly posts at these levels when a vacancy occurs, and then will use open competition wherever it is necessary and justifiable in the interests of providing a strong field or of introducing new blood. The Government expects that most of the top Civil Service posts will continue to be filled by those with substantial previous experience within the Service. In 1993 nearly 25% of vacancies in the Senior Open Structure were open to outside competition, a figure which rose to over 30% in 1994. In 1995 the Permanent Secretary posts in the Central Statistical Office and Department of Employment will be filled following open competition.

4.6 The Government also proposed that, in establishing the new Senior Civil Service, priority should be given to:

- **leaner, flatter management structures** with less emphasis on working through hierarchies and more scope for talented individuals to make their mark;
- **explicit, written employment contracts** for senior civil servants; and
- **better, more flexible pay arrangements** which recognise increased levels of personal responsibility, reward successful performance and assist in retaining high performing staff with the greatest potential.

The Government proposes to take forward its proposals for achieving these objectives, as outlined below.

Senior Management Reviews

4.7 All departments with 12 or more senior staff (ie those who will be in the new Senior Civil Service) are to carry out reviews of their senior management structures by April 1996. In many cases, reviews are already under way. The reviews, which will sometimes be combined with wider reviews of departments' organisational and pay and grading arrangements, will be designed:

- to ensure that departments are organised to deliver the services they provide—whether policy advice to Ministers or services to others—as efficiently and effectively as possible; and
- to match the management structure to the needs of the work, with clear lines of responsibility and accountability; and to reduce layers of management, and increase management spans where appropriate, based on a clear understanding of the added value of each level of management.

Contracts

4.8 The Government intends to proceed with the introduction of written contracts of employment for members of the new Senior Civil Service for the reasons set out in the White Paper, *Continuity and Change*. The Government welcomes the view of the Select Committee that the introduction of explicit contracts of employment together with that of the new Senior Civil Service is potentially a valuable advance. And it also agrees with the Select Committee's view that fixed-term contracts should not be generally used.

4.9 The Government circulated a draft model contract for informal consultation with staff in October. The draft reflected its preference that, for the great majority of staff, employment should remain on an indefinite-term basis with specified periods of notice. It has received comments from individual civil servants, the civil service unions and others, and discussions have been held in a number of departments. The Government is now considering these comments and intends to take account of them in a further draft which it will circulate for consultation in the spring. It remains of the view that it is right in principle for terms and conditions to be set out clearly and publicly. It believes that individual members of staff should welcome an arrangement which offers clarity about their terms and conditions set out in an individual, signed document. It does not accept the view

that the contract will in any way expose individual civil servants to political or other pressures. As now, decisions on performance will be a matter for departmental management and not Ministers; and the contract does not change existing terms of employment.

4.10 The Government will be glad to receive and take account of comments made in the second round of consultation, with the aim of seeking to introduce contracts with the full support of staff. It intends to introduce them in conjunction with the establishment of the new Senior Civil Service in April 1996.

Senior Pay 4.11 The Government proposed in *Continuity and Change* that a pay range should be introduced for all Permanent Secretaries and that the level and extent of the range should be based on the advice of the Senior Salaries Review Body (SSRB.) It also proposed that the position of individual Permanent Secretaries within this range should be set by a Remuneration Committee composed of three members of the SSRB and the heads of the Home Civil Service and the Treasury. The Civil Service members of the Remuneration Committee would play no part in determining their own pay. The Government intends to give effect to this proposal from 1 April 1995. It will make a more detailed announcement about the arrangements, including the terms of reference and membership of the Remuneration Committee, in conjunction with its response to the forthcoming report of the SSRB.

4.12 Below the level of Permanent Secretary, the Government proposed the abolition of central grades and a new pay system for the Senior Civil Service based on a number of overlapping pay ranges broadly linked to levels of responsibility. It welcomes the Select Committee's endorsement of this approach.

4.13 The Government has developed these ideas further. It has six main objectives:

- to end the traditional grading systems at these levels and to have a pay system which does not impose an organisational pattern but encourages senior structures tailored to departmental requirements, with the minimum necessary management layers;
- to provide better rewards within a smaller Civil Service, for those who contribute most to policy formation and management objectives in departments and their agencies;
- to give flexibility to Heads of Department to reflect levels of responsibility and of individual performance;
- to ensure that the pay system supports cohesion across the Senior Civil Service and helps encourage free movement between departments;
- to establish a system that is fair and transparent in operation; and

- to maintain the role of the SSRB, to whose advice the Government attaches continuing importance.

4.14 To give flexibility while ensuring that the pay system supports cohesion across the Senior Civil Service, the Government's intention is that for the new Senior Civil Service there should be a number of overlapping pay bands, broadly linked to different levels of responsibility. Subject to further consultation, nine bands are envisaged. Existing grades would be abolished and Heads of Department would place posts and people at the appropriate levels of responsibility, as the needs of the department from time to time required. Heads of Department would be responsible for evolving arrangements for determining pay for their staff, taking account of performance, the level of responsibility and the marketability of their skills and experience, and subject to the constraint of overall departmental running costs. The SSRB would advise on necessary adjustments to the pay bands structure as it saw appropriate. It would monitor the operation of the system and report periodically accordingly. It would continue to make such other recommendations as it saw fit in order to achieve the objectives set out in the SSRB's terms of reference.

4.15 The introduction of these arrangements will be linked to the outcome of the senior management reviews described in paragraph 4.7. Only a few bands would be used in any one management chain. The removal of centrally-imposed grades will allow the rewards for each post to be more finely-tuned to departmental needs, but flexibly within a framework common to the Senior Civil Service as a whole. With the flexibility goes a responsibility to ensure that the system operates fairly and openly for all members of the Senior Civil Service, and that full regard is paid to the maintenance of equal opportunities. The Government is determined that this should be the case. It believes that the continuing involvement of the SSRB is a central element in ensuring that the confidence of staff and others is maintained. The Government will be developing this pay system and consulting about it in the coming months.

4.16 The Select Committee expressed concern about differentials between pay levels for those appointed to senior posts from outside and those available to internal appointees. The Government shares this concern. Its decision, announced in the White Paper, to raise the maxima of the ranges for existing Grades 2 and 3 to the levels recommended last year by the SSRB will provide more flexibility to accommodate high performing external and internal appointees in the same structure. It also believes that the enhanced flexibility for the senior Civil Service as a whole referred to above, and the new arrangements for Permanent Secretaries (see paragraph 4.11), should help to ensure that the salary structure at these levels, as elsewhere, can over a period, accommodate open competition for posts in a way which, in general, handles internal and external candidates coherently.

CHAPTER FIVE: **CONCLUSION**

5.1 The *Continuity and Change* White Paper set out the Government's proposed approach towards the Civil Service, stretching to the end of the century and beyond, building in an evolutionary way on what has already been achieved. It recognised that the Civil Service is not the property of a single Administration and must serve effectively and efficiently Governments of whatever party. The Government believes that the framework for change set out in this Command Paper, which takes account of the views of the Select Committee and others, will strengthen the Civil Service in ways which are wholly compatible with that underlying purpose.

5.2 The future of the Civil Service can now be clearly charted, and the Government intends to proceed on the bases set out above (following, where indicated, further consultation). The Government believes that Parliament, the public and particularly the Civil Service itself should be encouraged by the degree of agreement on the way forward, reflected in the very considerable sharing of views on key issues between the Government and the Select Committee, as well as by those who have given evidence to the Select Committee and have commented on the White Paper. There is wide recognition of the work of the Civil Service, the values it upholds and the progress it has made in improving the effectiveness and efficiency of the services it provides. This offers an excellent foundation on which to move ahead.

**THE GOVERNMENT'S RESPONSE TO
THE FIFTH REPORT FROM THE
TREASURY AND CIVIL SERVICE COMMITTEE
THE ROLE OF THE CIVIL SERVICE
HOUSE OF COMMONS (SESSION 1993-94)**

RESPONSE TO TCSC 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 underlie 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.

The Government agrees.

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.

The Government welcomes the Committee's report as a comprehensive, thoughtful and positive contribution to the development of the Civil Service.

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).

The Government's reasons for disagreeing with the Committee's proposed attitude survey were set out in the Committee's Fourth Special Report, *Proposed Attitude Survey of the Civil Service*, HC(1993–94) 460.

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).

The Government agrees that there should be no conflict between traditional standards of probity and integrity, and the drive for

economy and efficiency. The need to uphold probity and integrity will continue to be an essential aspect of efforts to ensure better services at least cost. The Government's response to the Eighth Report of the Public Accounts Committee, *The Proper Conduct of Public Business*, rejected any inference that failings in integrity and probity had resulted from public service reforms:

"The Government rejects the inference that has been drawn from the report that the failings identified are in some way the result of changes in the way in which departments and public bodies carry out their work. The cases listed are diverse. Some have arisen in areas which have been undergoing change; some where there has been little change. Some represent further examples of long standing problems common to public and private sectors, such as failure to manage construction or computer projects properly. The cases which have been identified have to be looked at against a background of progressive improvement in the efficiency with which public services are being delivered."

The fundamental purpose of the Government's programme of reform is to strengthen the management of the public sector so that waste is reduced and those who manage public services are more accountable for their actions. The Government fully agrees with the Committee's view that effective programmes for economy and efficiency must be combined with a proper concern for the sensible conduct of public business and care for the honest handling of public money. The Government also agrees that the drive to provide improved services at reduced cost should not be stifled by unnecessary bureaucracy¹."

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).

The Government agrees.

¹ Treasury Minute on the Third to Tenth Reports from the Committee of Public Accounts 1993-94, Cm2492, paragraphs 90 and 91.

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).

The Government welcomes the Committee's conclusion that the Next Steps reforms are compatible with the maintenance of the traditional values of the Civil Service. It has always recognised that greater delegation and more movement in and out of the Civil Service have created a need for even greater vigilance about standards throughout the Civil Service. One of the key aims in establishing a new, wider, cohesive Senior Civil Service is to provide clear leadership in sustaining core values; and, more specifically, a new handbook is to be issued to all Agency Chief Executives which will, inter alia, ensure that Service-wide rules on conduct and financial propriety are always available to them in a readily accessible form.

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).

The Government welcomes this conclusion.

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).

The Government remains of the view that the standards and ethics essential to the operation of the Civil Service are well grounded and that they are clearly set out in the Civil Service Management Code issued in 1993 (which incorporates the “Armstrong Memorandum”).

The Committee is not specific in its criticisms of the Armstrong Memorandum and *Questions of Procedure for Ministers*. The Government does not accept that they are unsound or inadequate in their account of constitutional relationships. The proposals which follow in the Committee’s report address the need for a concise summary of the ethics and values of the Civil Service, in a way which addresses the position of all civil servants.

The Government congratulates the Committee on the draft Code published as Annex 1 to its Report which brings together clearly and concisely the key principles in *Questions of Procedure for Ministers* and the Civil Service Management Code.

As described in paragraphs 2.8 and 2.9 above, the Government accepts the Committee’s proposal for a new Civil Service Code, to apply to all civil servants, summarising the constitutional framework within which they work and the values they are expected to uphold. A revised draft Code, suggesting a number of changes to the text proposed by the Committee with an associated commentary, is annexed, as a basis for further consultation.

It will continue to be backed by the more detailed provisions of the Civil Service Management Code and by separate departmental and agency guidelines. The relevant documents will need to be amended

in the light of the new Code, in particular to reflect substantive changes in procedures.

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).

The Government accepts these recommendations as a basis for further consultation in the context of the proposed new Civil Service Code. The Government's detailed comments on this proposal are set out in paragraphs 2.10 and 2.12 above.

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).

The Government's response to these recommendations and its position on the possibility of legislation on the Civil Service are set out in paragraphs 2.15 to 2.17 above.

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).

There is much in the Committee's analysis of accountability with which the Government can agree. The accountability of the Civil Service through Ministers to Parliament and the constant pressure for improvement arising from Parliamentary scrutiny of the executive are important facts of life for all civil servants.

It may be that some of the difficulty the Committee finds with the Government's analysis is that the words "accountability" and "responsibility" have been used ambiguously and interchangeably in many authoritative constitutional texts, as earlier evidence pointed out. In the Government's view, a Minister is "accountable" to Parliament for everything which goes on within his Department, in the sense that Parliament can call the Minister to account for it. The Minister is responsible for the policies of the Department, for the framework through which those policies are delivered, for the resources allocated, for such implementation decisions as the

Framework Document may require to be referred or agreed with him, and for his response to major failures or expressions of Parliamentary or public concern. But a Minister cannot sensibly be held responsible for everything which goes on in his Department in the sense of having personal knowledge and control of every action taken and being personally blameworthy when delegated tasks are carried out incompetently, or when mistakes or errors of judgement are made at operational level. It is not possible for Ministers to handle everything personally, and if Ministers were to be held personally responsible for every action of the Department, delegation and efficiency would be much inhibited. It was for this reason that evidence suggested the use of the word “accountable” for the first of these two meanings of the word responsible, to distinguish it from the second.

This is not a new doctrine. As the Committee notes, Sir David Maxwell-Fyfe said in the Crichton Down debate in 1954 that “a Minister is not bound to defend action of which he did not know, or of which he disapproves.” In the Government’s view this remains the position. The Minister’s accountability in such situations is to investigate and give an account of what has occurred, to see that disciplinary action is taken as appropriate, and to take action to avoid a recurrence. (It is not clear that Sir Thomas Dugdale’s resignation was in fact on account of action taken by officials without his knowledge or outside a policy framework set by Ministers, and the analyses of commentators who have studied the documents of the time bring into question whether this resignation was indeed “an exception that proved the rule” or bears the construction put on it in paragraph 3.13 of the Committee’s 1985–86 report, quoted in paragraph 122.)

The Government’s view remains that Ministers are accountable to Parliament for the policy, administration and resources of their departments, including operational action, successes and mishaps, whatever the extent of delegation and whether they were personally involved or not. This is not incompatible with the extensive role of civil servants in giving evidence to Select Committees—but such evidence giving does not and should not exclude Ministers from ultimate accountability to Parliament for the whole range of a department’s business. Nor does it entail that Ministers must be expected to be personally responsible, in the sense of being creditworthy or blameworthy, for every action of their department.

While it is open to MPs and Committees to establish the facts, to find credit or fault and to criticise, it is not in the end for them to give instructions to officials as to how policies should be determined or departments should be run, or to discipline officials. The line of accountability of officials runs through Ministers to Parliament. If Parliament is not satisfied with the account given, the ultimate sanctions are the motion of no-confidence or the withholding of supply.

The Government has issued a new edition of the “Osmotherly Rules”, now entitled “Departmental Evidence and Response to Select Committees.” The Government notes the analysis of the Committee in paragraph 128–131 of its report. Parliamentary endorsement of these

rules is not claimed or expected. The Government hopes nevertheless that the relationship between departments and the Select Committees will continue to be a generally constructive one, and is determined for its part to contribute to the success of the Select Committee system.

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

As the Prime Minister made clear in his letter to the Chairman of the Sub-Committee of 5 April 1994:

“It is clearly of paramount importance that Ministers give accurate and truthful information to the House. If they knowingly fail to do this, then they should relinquish their positions except in the quite exceptional circumstances of which a devaluation or time of war or other danger to national security have been quoted as examples.”

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).

The Government notes the Committee’s intention.

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).

The Government agrees.

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).

The Government very much welcomes the Committee’s endorsement of the Citizen’s Charter, which is a key initiative in its programme of public service reforms. It shares the Committee’s view that the Charter’s emphasis on the requirements of individuals should not lead to neglect of the need to serve a wider public interest. Both the wider public interest and the needs of individual users are clearly served when public services are provided quickly, efficiently and to a high standard; and the Charter’s key principles specifically include commitments to openness and value for money, which themselves help to serve the wider public interest, whether in terms of public service customers as a whole, or of the taxpayer.

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).

The Government has welcomed the interest of the Treasury and Civil Service Committee in the Next Steps project from its inception—and warmly welcomes the Committee’s support in its latest report. The dialogue with the Committee has helped to shape a programme of reform that, as the Committee implies, goes further than the simple establishment of executive agencies. The Committee’s recent report reiterated the conclusion of its predecessors that the benchmark for the success of Next Steps would be improvements in effectiveness and the quality of service. The evidence of the five Next Steps Reviews that have been published so far is that Next Steps agencies are indeed delivering services to improved standards with increased efficiency. The White Paper, *The Civil Service: Continuity and Change*, described the measures the Government is taking to encourage further improvement.

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

The Government considers that many of the characteristics in the relationship between Ministers and agencies sought by the Committee are to be found in the existing arrangements. The respective responsibilities of the Minister and department and of the Agency Chief Executive are laid down in the Framework Document.

The key targets for an executive agency announced to Parliament by Ministers each year represent the annual performance agreement between the Minister and the relevant Chief Executive. While only the key targets are announced to Parliament, they are normally agreed in the context of the Business Plan for the financial year, which provides a more complete statement of what the agency has been asked and has agreed to do. Where circumstances change significantly during the course of the year, the Minister and Chief Executive may agree amendments to the Business Plan and key targets; and announce the changes in the same way as the original targets. It would also be normal to refer to such changes in the agency’s annual report. The key targets include one, or more, financial targets.

All targets are subject to evaluation at the end of the year. Financial performance is audited externally, by the Comptroller and Auditor General, and external validation is used in other cases where it is appropriate. Financial controls, which are unlikely to change year-on-year, are set out in the Framework Document of the agency.

The Government will consider further the case for setting out more clearly and accessibly the nature of the annual targets and their direct link to the functions described in the Framework Document in the form of an Annual Performance Agreement of the kind already introduced by the Employment Service and the Inland Revenue.

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).

The Government welcomes the Committee's endorsement of the arrangements by which Agency Chief Executives respond, on behalf of the Minister, to Parliamentary questions on matters which have been delegated to them. These arrangements help clarify responsibility and aid the preparation of a helpful and quick response at least cost.

Equally, as the Government has made clear previously, it is the case that the Minister would want to respond personally in any case where a Member of Parliament remained unsatisfied with the response from the Chief Executive, since this reflects the actual accountability of the Minister for the activities for which he has delegated responsibility to the Chief Executive in the terms of the Framework Document. The Government fully agrees with the Committee on this.

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).

The Government does not accept this recommendation, which is inconsistent with the Committee's approach to the role of Ministers in relation to Parliamentary questions in its recommendation 23.

The Minister is accountable to Parliament for the arrangements he or she puts in place for the discharge of his or her responsibilities. This includes the Framework Document of the agency, which expresses the administrative arrangements by which the Minister has chosen to delegate managerial responsibilities to the Chief Executive, and the announced targets and resource allocation. The Chief Executive accounts to the Minister, from whom his or her authority is derived; and the Minister accounts to Parliament. Within the framework of Ministerial accountability, Chief Executives regularly appear before Select Committees and, on behalf of the Minister, answer enquiries about the discharge of their duties.

As in the case of Parliamentary questions answered by Chief Executives, the Government believes that Next Steps arrangements have enhanced openness. A Select Committee has available the

Framework Document; the targets or Annual Performance Agreement, together with details of any changes announced by the Minister during the course of the year; the Business Plan; the agency's annual report and accounts; and access to the Chief Executive, whom the Minister has identified as responsible to him for the activities.

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).

As the Government has assured the Committee previously, where there is an intention that an agency should in due course move out of the public sector, this is made clear at the outset, whether in relation to the whole or parts of the functions of the agency.

At the review point, "prior options" addressed before the decision to create an agency will again be addressed on their merits, ie the options of abolition, privatisation and contracting out the whole or part of the agency's function.

The key tests are whether the function or activity is appropriate to Government and which approach is assessed to provide best value for money. While privatisation is an important element of Government policy, it would be a misperception for agency status to be seen necessarily as a staging post to privatisation. Of the 30 prior options reviews of functions performed by agencies completed thus far, the conclusion in 23 has been that the function should largely or in part continue to be carried out by an agency for a further period, while in seven, the work is to be fully contracted out with the agency being transferred to the private sector or merged with another organisation.

The Government welcomes the Committee's endorsement of the move to five-year intervals between agency reviews.

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).

The results now available demonstrate that the Competing for Quality programme has achieved its objectives of increasing the efficiency and effectiveness of public services by producing over £400m of annual cost savings while in a number of cases improving the quality of services. In making this progress, departments and agencies have implemented programmes of large-scale change. This has produced positive opportunities for many civil servants to improve the quality and efficiency of their work, but inevitably there have been concerns because of the perceived risks to job security.

The private sector has been an enthusiastic partner in delivering public services, and has won £1.2bn of work. There have been some concerns about aspects of the market testing process. Government will continue to consult and consider constructive suggestions from the private sector (both collectively and with individual companies) with a view to improving processes to achieve better value for money. The Government maintains arrangements for a regular dialogue with the civil service unions and will continue to consult them about these issues.

The 1991 Competing for Quality White Paper¹ made clear there would be occasions when no in-house bids for services would be considered. In 25% of cases (up to September 1994), the Competing for Quality programme was implemented in this way by contracting-out activities without considering in-house bids. This can occur for example, when a department judges that the private sector is clearly better-equipped to deliver a specific service, has a better understanding of market needs or has a capacity to invest in new technology. This has been true, for example, in some cases of information technology support. Where an activity may be relatively small and peripheral to a department's functions, a strategic decision to contract out could also be taken.

The majority of the information requested by the Committee regarding contracts and service level agreements is published in the Government's monthly *Market Testing Bulletin* which is placed in the House of Commons Library. When a contract notice (advertising a potential tender) is published, the nature of the job, service or goods to be supplied and the criteria for the award are specified. The identity of successful tenderers and the total number of bidders are also announced in the *Bulletin*.

¹ Cm 1730

Performance standards are not included in the *Bulletin*, but the public is entitled to request this information direct from departments under the Code of Practice on Access to Government Information. The Government will explore whether it would be practicable to list all key performance standards information in the *Bulletin*.

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).

The Government agrees with the Committee that the policy tasks of an agency should be specified. The agency's Framework Document setting out the aim of the agency and its objectives will, where appropriate, include specific policy responsibilities; and individual policy tasks which the Minister wants the agency to achieve during the course of a year or years may be included either as actual targets or set out in the agency's business plan. The case for annual performance agreements is addressed in the response to recommendation 22 above. The Government remains to be convinced of the case for evaluation of policy performance other than by the departmental Minister or arrangements established to advise him or her.

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).

The Government remains positive about the application of Next Steps principles to aspects of the policy process. There are many examples of project teams being used in the policy area to tackle issues such as the handling of a Bill or the development and implementation of specific policy initiatives. These teams operate in accordance with established principles for project-management in defining their tasks and functions, the resources they require and their lines of communication. Efficiency scrutinies operating to the same project-management philosophy are also used to examine the efficiency and effectiveness of processes throughout departments, including the policy areas. The Office of Public Service and Science will examine whether it would be helpful to prepare guidance setting out examples of best practice in this area.

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).

Departments are already required to evaluate the effectiveness of policies and their implementation. The methods used to do so will vary with departmental circumstances. The Government noted with interest suggestions made to the Committee about how to improve the audit of policy and will keep existing arrangements under review.

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).

Several Efficiency Unit studies have addressed how support for Ministers might be improved. The original Next Steps Report¹ was concerned with reducing Ministerial overload as well as with the better delivery of services. An efficiency scrutiny was conducted in 1990 of the methods and costs of handling ministerial correspondence. The current scrutiny of departmental planning systems is intended to help departments and agencies to develop management information systems matched to the needs of Ministers and departmental top management.

The Government does not propose to task the Efficiency Unit to conduct a scrutiny of the effectiveness and efficiency of the work of Ministers.

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).

The pre-election briefings provide an opportunity for senior officials and opposition leaders to talk in confidence about the implications of opposition proposals for departmental and government organisation. Members of Parliament of any party, including opposition leaders, may request briefing at other times on the organisation of departments (and indeed other matters) but these would not normally be offered on confidential terms, and it would be for the Minister in charge of a department to decide what assistance should be given and whether to be present at meetings. Ministers would normally expect to be present when sensitive matters of Government policy were to be discussed.

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

¹ Improving Management in Government: The Next Steps, HMSO 1988

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).

The Government welcomes the Committee's endorsement of the benefits to be gained from the extension of the principles of Next Steps to core departments.

The Government notes the Committee's remarks on performance agreements in core departments.

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).

The Government notes the Committee's views on the publication of statistics on civil service manpower. It has already provided a breakdown between broad functions within the Civil Service in the *Next Steps Review 1994*¹. It will consider whether it is practicable to provide further information centrally.

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).

The Government welcomes the Committee's endorsement of the establishment, within the Cabinet Office, of the Office of Public Service and Science under the direction of the Chancellor of the Duchy of Lancaster.

The Prime Minister announced on 16 December 1994 in a written Reply, a transfer of functions from the Treasury to the Office of Public Service and Science:

"The Government plans, in the light of the review of the Treasury's activities, that those central Civil Service management functions that remain after delegation to departments should be transferred to the Minister for the Civil Service with effect

¹ Cm 2750

from 1 April 1995. The functions which it proposes to transfer include responsibility for senior civil service pay; policy on Civil Service recruitment, retirement and redundancy and the central management of the Principal Civil Service Pension Scheme; and residual central responsibilities for Civil Service personnel management, industrial relations, conditions of service and allowances and the collection of Civil Service manpower statistics. It is envisaged, however, that the Treasury will undertake a last round of national pay negotiations in 1995 and carry through the remaining delegations to departments up to 1 April 1996. The Treasury's pension benefit calculation work at Basingstoke will be taken over by the Paymaster Agency.

These changes, and the delegation of most Civil Service management functions to departments, will not affect the Treasury's role in relation to public expenditure, including that on public sector pay. The Government proposes to lay before Parliament the necessary Transfer of Functions Order under the Ministers of the Crown Act 1975¹.

In line with the Government's rolling programme of such reviews the OPSS will undertake a Fundamental Expenditure Review in the next year which will be combined with a review of its senior management structure in accordance with the *Continuity and Change* White Paper. The review team will address the organisation of OPSS as a whole. The team is scheduled to report to the Chancellor of the Duchy of Lancaster by the end of June 1995, and the Committee will be informed of its recommendations.

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).

The Government agrees with the Committee about the importance of the motivation and morale of civil servants. It has also noted the comments and concerns expressed by some respondents to the *Continuity and Change* White Paper.

The Government's programme of change is intended to provide a framework within which civil servants can give of their best in policy making and the provision of high quality services to the public. The importance of staff development and job satisfaction is reflected in the commitment across the Civil Service to seeking recognition under Investors in People.

¹ Official Record, Volume 251, no 23, Cols 825-826, 16 December 1994

The Government accepts that the process of change is unsettling; but the Civil Service, like other areas of the economy, has to adapt if the country is to improve its competitiveness.

The Government retains confidence in the commitment and abilities of civil servants at all levels—and in Civil Service managers. It recognises the importance of effective communications in maintaining morale. It agrees with the Committee on the importance of engendering pride in working for the state which Ministers repeatedly emphasise, in the context, for example, of the Citizen's Charter. The Government believes that civil servants will take heart from the Committee's own Report and its positive conclusions about the work, values and recent progress of the Civil Service; and from the very considerable sharing of views between the Government and the Committee.

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).

The Government welcomes the Committee's endorsement and comments.

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

The Government welcomes the conclusion of the Select Committee that the balance of advantage lies with the delegation of authority for pay and personnel management. As it said in the White Paper, the Government firmly believes that substantial benefits can accrue from individual parts of the Civil Service being able to tailor pay and personnel management systems to their circumstances, which can differ significantly. It believes that the intention announced in the *Continuity and Change* White Paper to introduce delegation comprehensively by 1 April 1996 will lead to enhanced efficiency, by ensuring that pay and personnel systems are aligned with other aspects of management to enable organisations to focus more effectively on the achievement of their individual objectives. It intends to adhere to this proposal.

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).

The Government continues to believe that public sector pay systems should support the emphasis on achievement of objectives and the delivery of high standards, and that they should therefore be performance orientated. But it expects systems in individual parts of the Civil Service to develop in different ways, and has no intention of imposing a single pattern of performance-related pay.

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).

Continuity and Change made clear that equality of opportunity is a key and enduring principle for the recruitment and management of staff throughout the Civil Service. The Programmes for Action on women, race and disability drawn up by OPSS in consultation with departments, agencies and the trade unions provide a practical framework to which departments and agencies must have regard (under the Civil Service Management Code) in drawing up action plans appropriate to their own organisations. Each department and agency is responsible for implementing Civil Service equal opportunities policy, but central monitoring and publication of progress will continue, underlining the importance attached to action on this issue. Departments and agencies will also be publishing their individual actions and progress in their annual reports from 1995/96 onwards. OPSS will continue to take the lead in promoting best employment practice on equality of opportunity for all within the Civil Service, emphasising the need for commitment from top management levels and providing networking facilities, information and guidance for those responsible for implementing policy.

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).

The Government agrees with the Committee that the senior ranks of the Civil Service should continue to be filled predominantly from within the Civil Service. It also agrees that this is not incompatible with increased use of competition. It does not believe, however, that the evidence supports the view that the Civil Service is too insular or that there are reasonable grounds for scepticism about the effectiveness of current procedures for examining the case for open

competition. In 1993 nearly 25% of vacancies in the Senior Open Structure were open to outside competition, a figure which rose to over 30% in 1994. In 1995 the Permanent Secretary posts in the Central Statistical Office and Department of Employment will be filled following open competition.

Noting the observations of the *Career Management and Succession Planning Study*¹ that Civil Service procedures are similar to those used by large private sector employers, the Government believes it right to retain a high-level committee concerned with selection, career management and succession planning: it would be wrong for the Civil Service effectively to put all its most senior appointments into commission with an independent body not closely involved with operational needs and planning for the future.

The Government also believes, however, that procedures for making senior Civil Service appointments need to carry conviction with both staff and the public. Accordingly, it proposes to enhance the role and further to emphasise the independence of the First Civil Service Commissioner, as described above in paragraph 2.13.

The First Commissioner will in future not hold the post as a serving civil servant. The post is currently being filled by open competition.

The Government believes that these changes will ensure a proper balance between planning for the future needs of the Civil Service and independent oversight of procedures and will provide reassurance to staff, Parliament and the public alike.

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).

The arrangements proposed for determining Permanent Secretaries' pay will involve a system of formal annual appraisal and will therefore meet the Committee's concern on this point. The Head of the Home Civil Service will be involved in this assessment and the relevant Cabinet Minister will have an opportunity to express a view. However, the Government believes that it would be more effective and fairer to set up a remuneration committee specifically to address pay issues, and to draw its membership from an existing body—the SSRB—with expertise in this area, rather than rely on reference to a Civil Service Commission with more general interests.

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).

The Government agrees that any changes to the rules on outside appointments should be open to debate. The Committee on

¹ HMSO November 1993 ISBN 0 11 4300925

Standards in Public Life has identified employment of Ministers and civil servants on leaving office as a key area which it will examine in its first period of work. The Government has been asked to give evidence to Lord Nolan's Committee on this topic, which will be made public. It is the intention that the Committee's report will in turn be published in due course and the Prime Minister intends to lay it before Parliament.

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).

The usual practice where there is open competition is to quote a range or, more usually for the more senior posts, a spot rate. Setting the figure requires a balance between the need not to pay more than necessary, but at the same time to attract candidates of the right quality. To avoid setting too high a figure initially, the advertisement may indicate that more may be available for a well-qualified candidate. This gives some freedom of negotiation, since the position of individual candidates may vary. But the final outcome must be reasonable in terms of the original advertisement: the Civil Service Commissioners have made it plain in their published guidance that they would not normally approve an appointment where the final outcome was more than 20% above the specified rate; this would include the performance-related element. Each employing department is expected to determine its approach to assessing performance in the context of the post being advertised.

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).

The Civil Service Commissioners are already the custodians of the principles of selection on merit through fair and open competition, which task they have discharged in a way which has commanded the confidence of all concerned.

The Government's proposals for enhancing the role of the Civil Service Commissioners as guardians of the principle of selection on merit through fair and open competition are set out in the main section of the Command Paper, which also deals with the Government's views on legislating in this area.

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).

The Government believes that it is important to maintain very high and consistent standards for those in "fast stream" schemes and this is likely to be normally achieved by using a common assessment centre for internal and external candidates. Departmental assessment is not ruled out (indeed the Inland Revenue already runs its own scheme). Once on the scheme everyone, regardless of the source of entry, will receive the same opportunities for development and training. The training provided for Fast Stream entry staff at the Civil Service College is also already made more widely available to staff on other management development programmes.

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).

The Government agrees that the creation of the new Senior Civil Service is likely to have significant implications for training and development, and that the Civil Service College should respond accordingly. Work has commenced with departments and agencies to identify the likely requirements, and the Civil Service College plans to build on its present substantial programmes for senior civil servants to offer training and development opportunities focused on the specific needs of the new Senior Civil Service. Detailed proposals on content and timing will be developed over the next few months.

The Review published last July¹ considered the Fast Stream entry in the context of current developments in the Civil Service. Its recommendations will lead to a thorough revision of the scheme, between now and the start of the 1996 competition, matched to the changing Civil Service. The Government sees no need for yet another examination of the rationale for "fast stream" recruitment which is clear, but the Government agrees that the new arrangements will need to be kept under review.

ANNEX : **PROPOSED 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 in administering public services for which the Government is responsible.
- 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 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:
 - accountability to Parliament;
 - 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 knowingly 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 decisions; and
 - the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice;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.
- 4 Civil servants should serve the duly constituted Government in accordance with the principles set out in this Code and recognising:
 - the accountability of civil servants to Ministers;
 - the duty of all public officers to discharge public functions reasonably and according to the law;
 - the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; and
 - ethical standards governing particular professions.
- 5 Civil servants should conduct themselves with integrity, impartiality and honesty in their dealings with Ministers, Parliament and the public. They should give honest and impartial advice to Ministers,

without fear or favour, and make all information relevant to a decision available to Ministers. They should not deceive or knowingly mislead Ministers, Parliament or the public.

- 6 Civil servants should endeavour to deal with the affairs of the public sympathetically, efficiently, promptly and without bias or 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 their private interests or those of others. They should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgment 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. They should comply with restrictions on their political activities. The conduct of civil servants should be such that Ministers and potential future Ministers can be sure 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 without authority disclose official information which has been communicated in confidence within Government, or received in confidence from others. They must not seek to frustrate the policies, decisions or actions of Government by the unauthorised, improper or premature disclosure outside the Government of any 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 a way which is illegal, improper, unethical, or in breach of constitutional convention, which may involve possible maladministration, or which is otherwise inconsistent with this Code or raises a fundamental issue of conscience, he or she should first report the matter in accordance with procedures laid down in departmental guidance or rules of conduct.
- 12 Where a civil servant has reported a matter covered in paragraph 11 in accordance with procedures laid down in departmental guidance or rules of conduct and believes that the response does not represent a reasonable response to the grounds of his or her concern, 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, action which flows from 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 the ministerial instructions or resign from the Civil Service. Civil servants must continue to observe their duties of confidentiality after they have left Crown employment.

COMMENTARY ON GOVERNMENT AMENDMENTS TO SELECT COMMITTEE DRAFT

PARAGRAPH 1 Comments

This paragraph is largely drawn from the second half of paragraph 3 of the Memorandum on the Duties and Responsibilities of Civil Servants in relation to Ministers (the Armstrong Memorandum). “Objectivity” is not mentioned in the Memorandum, but is noted as a key principle on which the Civil Service is based in the White Paper *The Civil Service: Continuity and Change*. The words “in the interests of the public” do not appear in any source document.

The deletion by the Government of “in the interests of the public” and addition of “public” clarifies the text and avoids the suggestion that civil servants have an independent duty to judge whether Ministerial decisions on services are in the interests of the public. Paragraph 6 of the Code, with its reference to maladministration, will catch a wide range of possible failures, and amendments are suggested below to extend its scope.

PARAGRAPH 2 Comments

This paragraph draws on the first half of paragraph 3 of the Armstrong Memorandum. No amendments are proposed to the Committee’s draft.

PARAGRAPH 3 Comments

Note: This paragraph reproduces parts of paragraph 2 of the Armstrong Memorandum and paragraph 55 of *Questions of Procedures for Ministers*, with the exception of the insertion by the Committee of the words, “duty to comply with the law of the land”, which do not appear in either.

*this is paragraph 4
in the Committee’s
draft Code*

The paragraph has been moved because it is more logical to explain the framework of Ministerial duties within which the Code operates before coming on to the duties of civil servants.

The added reference to Ministerial accountability to Parliament complements the suggested reference to civil servants’ accountability to Ministers in the next paragraph.

The addition of “knowingly” to the duty not to mislead is consistent with the Government’s response to recommendation 17 of the Committee’s Report (see above).

The deletion of “policy” in the third turet reflects the fact that it is appropriate for Ministers to take advice on many types of decisions.

The fourth turet has been aligned with the statement of civil servants’ duty (see commentary on paragraph 4 below).

PROPOSED NEW CIVIL SERVICE CODE SHOWING GOVERNMENT AMENDMENTS TO SELECT COMMITTEE DRAFT

Key to amendments: ~~XXXXXX~~ = additions; and ~~strikeout~~ = deletions.

PARAGRAPH 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 ~~in~~ administering ~~public~~ services for which the Government is responsible ~~in the interests of the public.~~”

PARAGRAPH 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.”

PARAGRAPH 3 “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:

- ~~accountability to Parliament;~~
- 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 ~~knowingly~~ 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, ~~including international law and treaty obligations, and to uphold the administration of justice;~~

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.”

PARAGRAPH 4 Comments

Note: This paragraph draws on an account by the Government of the duties which civil servants may have in addition to those they owe to Ministers which was quoted with approval in paragraph 90 of the Committee's report.
this is paragraph 3 in the Committee's draft Code

The additions by the Government have been made to provide consistency with the explanation of Ministers' duties and responsibilities and to ensure that civil servants are clear that they are accountable to Ministers.

The deletion of "their" in the second turet prevents restrictive interpretation—many officers perform functions which are not personal or directly conferred on them. The third turet has been reduced for brevity. No change in the existing position of civil servants in relation to the law is implied. "Uphold" is a broader and more positive formulation than "not to imperil."

The fourth turet avoids subjectivity by referring directly to the ethical standards of particular professions—for example doctors, lawyers and statisticians.

PARAGRAPH 5 Comments

This paragraph is, in part, a summary of points made in paragraphs 5 and 7 of the Armstrong Memorandum. The reference by the committee to a duty for civil servants to act with "fairness" is new and appears to be intended to replace "impartiality" which is used in the Armstrong Memorandum and in earlier paragraphs of this Code. The duty not to deceive or mislead Ministers, Parliament or the public derives from *Questions of Procedure for Ministers*.

The replacement by the Government of "fairness" with "impartiality" ensures consistency both within the draft Code and with past formulations of civil servants' responsibilities. The addition of "honest and impartial advice, without fear or favour" and the consequent deletion of "advice" reflects the Armstrong Memorandum and provides a more comprehensive statement. The addition of "knowingly" is consistent with the corresponding amendment to Ministers' duties at paragraph 3.

PARAGRAPH 4 “Civil servants should serve the duly constituted Government in accordance with the principles set out in this Code and recognising:

- the accountability of civil servants to Ministers;
- the duty of all public officers to discharge their public functions reasonably and according to the law;
- the duty to respect, comply with and obey the law of the land, including international law and the provisions of international treaties to which the United Kingdom is a party treaty obligations, and not to imperil the due uphold the administration of justice;
- ethical standards governing particular professions those duties which may arise as members of professions.”

PARAGRAPH 5 “Civil servants should conduct themselves with integrity, fairness impartiality and honesty in their dealings with Ministers, Parliament and the public. They should give honest and impartial advice to Ministers, without fear or favour, and make all information and advice relevant to a decision available to Ministers. They should not deceive or knowingly mislead Ministers, Parliament or the public.”

PARAGRAPH 6 Comments

The Committee's draft is a reduction of the fuller statement in paragraph 5 of the Armstrong Memorandum that the affairs of the public should be dealt with "sympathetically, efficiently and promptly". It reflects also the statement in paragraph 12 of the Armstrong Memorandum that where a civil servant is asked to act in a way that involves possible maladministration, he or she should report this to a senior officer.

The Government's additions are drawn from the Armstrong Memorandum and provide a fuller account of the standards which Ministers and the public expect.

PARAGRAPH 7 Comments

No amendments are proposed to the Committee's draft.

PARAGRAPH 8 Comments

This paragraph summarises paragraphs 4.1.3 (c) and (d) of the Civil Service Management Code, which prohibit civil servants from furthering their own private interests **and** those of others. The Government's addition reflects this.

PARAGRAPH 9 Comments

This is a compressed version of paragraph 6 of the Armstrong Memorandum.

The addition by the Government of a reference to restrictions on political activities supports an important body of central rules, not otherwise covered in the Code.

PARAGRAPH 10 Comments

This paragraph compresses the final sentence of paragraph 9 of the Armstrong Memorandum and paragraphs 4.1.3, 4.2.2, and 4.2.6 of the Civil Service Management Code. However, the Committee's draft prohibits the disclosure of "confidential" information, rather than information held in confidence.

The Government's suggested revision ensures consistency with both the Civil Service Management Code and the Armstrong Memorandum. "Confidential" has a specialised meaning within Government, relating to security markings, and does not describe all information held "in confidence".

PARAGRAPH 6 “Civil servants should endeavour to deal with the affairs of the public sympathetically, efficiently, promptly and without bias or maladministration.”

PARAGRAPH 7 “Civil servants should endeavour to ensure the proper, effective and efficient use of public money within their control.”

PARAGRAPH 8 “Civil servants should not make use of their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgment or integrity.”

PARAGRAPH 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. They should comply with restrictions on their political activities. The conduct of civil servants should be such that Ministers and potential future Ministers can be sure 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.”

PARAGRAPH 10 “Civil servants should not without authority disclose official information which has been communicated in confidence within Government, or received in confidence from others. They must 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.”

PARAGRAPH 11 Comments

This is drawn in part from paragraphs 11 and 12 of the Armstrong Memorandum, although changes are made to suit the procedures proposed by the Committee and endorsed by the Government in paragraphs 2.10 to 2.12 above.

The Government's proposed changes take into account the fact that all the specific breaches identified are prohibited by the Code, and widen the description of circumstances for appeal to include "conscience cases", as in the Armstrong Memorandum. There may be matters of individual conscience which are not clearly in breach of the Code, and the Government would not wish to provide a mechanism more restrictive than that available at present. The Government's final amendment reflects the requirement placed on departments and agencies by the Civil Service Management Code to define clearly the conditions of service of their staff and make them available, for example in department or agency handbooks.

PARAGRAPH 12 Comments

The addition by the Government of "departmental" is in line with the amendment to the preceding paragraph. The remaining amendments aim to clarify the draft.

PARAGRAPH 13 Comments

This paragraph is based on paragraph 14 of the Armstrong Memorandum, although the Committee's proposed draft does not mention that, even after resignation, a civil servant is still bound to keep confidences.

The deletion of "clearly recorded" reflects the fact that some instructions will not flow from clearly recorded decisions, and documentary evidence of decisions will not always be available to junior staff or those outside the departmental headquarters. The final addition is consistent with paragraph 14 of the Armstrong Memorandum, as mentioned above.

PARAGRAPH 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, ~~unethical,~~ or in breach of constitutional convention, ~~or~~ which may involve possible maladministration, ~~or which is otherwise inconsistent with this Code or raises a fundamental issue of conscience,~~ he or she should first report the matter in accordance with procedures laid down in ~~Government~~ ~~departmental~~ guidance or rules of conduct.”

PARAGRAPH 12 “Where a civil servant has reported a matter ~~covered in paragraph 11~~ in accordance with procedures laid down in ~~departmental~~ ~~Government~~ guidance or rules of conduct and believes that the response does not represent a reasonable response to the grounds of his or her ~~concern~~ ~~reporting of the matter,~~ he or she may report the matter in writing to the Civil Service Commissioners.”

PARAGRAPH 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 the ministerial instructions or resign from the Civil Service. ~~Civil servants must continue to observe their duties of confidentiality after they have left Crown employment.~~”

**THOSE WHO SENT COMMENTS
IN RESPONSE TO THE WHITE PAPER,
*THE CIVIL SERVICE: CONTINUITY AND CHANGE***

APPENDIX :

Anonymous	Civil Servant
G A Holley	Department for Education
G E Malone	Civil Servant
R Sellars	Civil Servant
Anonymous	Civil Servant
D Faulkner	St John's College, Oxford
P Walton	Government Office for the North West
F Smith	Civil Servant
P W Moran	Moran Webb
R D Cramond	Ex-Civil Servant
A R Baker	Civil Servant
I Miller	Civil Servant
Miss S Mason	Department of Transport
B Sawbridge	HM Treasury
P Wood	Department of Transport
Dr D R Langslow	English Nature
D R Fisher	Ministry of Defence
R A Allan	Department of Transport
B Wadsworth	Department of Transport
D Simpson	Public Record Office
D J Goddard	Forestry Commission
R Gray	The Chartered Institute of Management Accountants
B Clayden	Association of Metropolitan Authorities
C W Dymont	Law Commission
Ms R Doveton	The Royal Institution of Chartered Surveyors
Professor C Hood	The University of Manchester
H M G Stevens	Ex-Civil Servant
J N Ellis	Council of Civil Service Unions
Ms E Symons	} The Association of First Division Civil Servants & Institution of { Professionals, Managers and Specialists
Ms J Thurston	
R Hardy	Executive Interim Management
G A Johnson	Lancashire County Council
Dr P Barberis	The Manchester Metropolitan University
J N Caton	Chertsey and Walton Constituency, Conservative Political Centre
J Sheldon	The National Union of Civil and Public Servants
C Darracott	Charter 88
J Stevens	Institute of Personnel and Development
Professor N Lewis	The University of Sheffield

A G Thornton	The Association of First Division Civil Servants, Welsh Office Branch
H Ouseley	Commission for Racial Equality
I B Beesley	{ Price Waterhouse
J M Wynn	
B Reamsbottom	The Civil and Public Services Association
M W Sayers	Law Commission
M Devereau	Government Information Service
D Casey	The Sports Council



HMSO publications are available from:

HMSO Publications Centre

(Mail, fax and telephone orders only)
PO Box 276, London SW8 5DT
Telephone orders 0171 873 9090
General enquires 0171 873 0011
(queuing system in operation on both numbers)
Fax orders 0171 873 8200

HMSO Bookshops

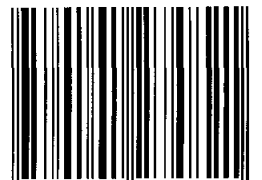
49 High Holborn, London WC1V 6HB
(counter service only)
0171 873 0011 Fax 0171 831 1326
68-69 Bull Street, Birmingham B4 6AD
0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
0117 9264306 Fax 0117 9294515
9-21 Princess Street, Manchester M60 8AS
0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
01232 238451 Fax 01232 235401
71 Lothian Road, Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 229 2734

HMSO's Accredited Agents

(see Yellow Pages)

and through good booksellers

ISBN 0-10-127482-3



9 780101 274821