

A poodle bites back?

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Thoughts on the Rutnam Affair and the politicisation of the Civil Service since the 1980s.

Sir Philip Rutnam's resignation as Permanent Secretary of the Home Office, and his legal action for constructive unfair dismissal is unprecedented. That is not to say it is unexpected. It is but the latest symptom of Britain's failing constitutional settlement, and of the uncertain role that permanent civil servants have played within that constitution over the past forty years. It is unlikely to be the last such crisis. Ministers' assumptions about the poodle-like function of their civil servants may have to be reset, or the Civil Service itself formally politicised.

It is certainly true that senior civil servants have been moved within Whitehall before to get them away from a minister with whom personal relations had broken down. But an unwilling, forced and premature resignation of a top civil servant has been very unusual in modern times.

Two earlier premature departures stand out.

In 1992, Sir Peter Kemp, was forced out of his role in the Cabinet Office after a bust up with recently appointed minister William Waldegrave. But the situation is not really

analogous. Kemp, was not as senior as Rutnam, being one grade below the rank of permanent secretary. Kemp had also made many enemies within Whitehall as the man tasked with implementing Mrs Thatcher's Next Steps reforms, whereby around three-quarters of all civil servants were moved out of Whitehall departments into 'executive agencies' – a change which marked the demise of the unified and uniform Service prescribed by the 1854 Northcote-Trevelyan Report. The sheer scale of Kemp's difficult working relationships across Whitehall really explains why he could be forced out by the then Cabinet Secretary, Robin Butler.



Another potential parallel is Michael Howard's dismissal of Derek Lewis in 1995, [as Colin Talbot has argued](#). But Lewis was not the head of a Whitehall department. Rather, he was an external appointment by Kenneth Clarke, Howard's predecessor as Home Secretary, as chief executive of the Prison Service (one of the new Executive Agencies set up under Next Steps). So he was much less senior than Rutnam, and operating not as the head of a Department but of a subordinate arms-length organisation. He was simply a convenient fall-guy for ministerial failings that led to the highly embarrassing escape of several IRA prisoners.

But the Lewis Affair does have something to tell us about the Rutnam Affair.

To consider why, we have to wind back the clock to the late-70s and early-1980s. Those years marked a significant break with the preceding 40 years. During and after the Second World War, ministers and their senior civil servants had governed with relatively few problems arising between them. That this was so was because, for all the party-political disagreement over the ends of policy, there was often a remarkable level of cross-party agreement on the means by which those ends might best be delivered by civil servants.



The most notable exception is [Tony Benn's fractious relationship with Sir Anthony Part](#), permanent secretary at the Department for Trade and Industry – a problem conveniently solved by Benn's demotion by Wilson after the 1975 EEC referendum.

Benn's certainty that Part was manoeuvring against him to derail Labour's "Alternative Economic Strategy", was a signal that the relatively harmonious relationship between ministers and their senior civil servants was beginning to break down. That this was so was a product of a move away from 'consensus' as the two major parties began to shift away from the political centre in search of very different policy solutions to what they perceived to be the decline of the UK as a world economic player. Both policy means and ends had in consequence become politically contested.



The major break came with Margaret Thatcher. She had come to see the Civil Service as engaged merely in the management of national decline not in its reversal, and as inherently less efficient than the private sector. She perceived the Service as self-interestedly pursuing its own agenda and thus a barrier to the realisation of what came

to be called the 'Thatcher revolution'. That vision of obstructionist civil servants thwarting the will of their ministerial overlords was nicely captured by the Yes Minister TV series from 1980.

Civil servants felt profoundly threatened by Mrs Thatcher's negative view of the Civil Service, and by the Thatcherite drive for efficiency, for it involved a radical shrinkage of the Service (a quarter of a million posts were lost between 1979 and 1997) and much institutional upheaval. But she was particularly threatening because the position of the permanent Civil Service within Britain's uncodified constitution was very unclear.

In response, the first attempt to codify the role of the modern Civil Service came with the so-called '[Armstrong memorandum](#)' in 1985. Promulgated by Robert Armstrong (Head of the Civil Service, and Cabinet Secretary), this set out the function of the Civil Service as follow:

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

And it laid out the duties of civil servants to ministers thus:

"The Civil Service serves the Government of the day as a whole, that is to say Her Majesty's Ministers collectively, and the Prime Minister is the Minister for the Civil Service. The duty of the individual civil servant is first and foremost to the Minister of the Crown who is in charge of the Department in which he or she is serving."

The implication was that the function of a civil servant was simply to implement the will of their ministerial master.

Armstrong's memorandum was welcomed by ministers. The precepts it laid down were welcomed too by their successors, not least by Labour when it took power in 1997 – for Labour feared that a Civil Service which had served Conservative ministers for eighteen years would resist change (in reality, after many years of stasis as the Thatcher revolution consumed itself under John Major, civil servants were simply aching for a competent and purposeful government of any political hue).

Both major parties therefore embraced the codified subordination of the Civil Service to their respective political wills in the 1980s and 1990s.

But, while the Armstrong Memorandum marked a significant step towards a new world of formal Ministerial and Civil Service codes of conduct (published in 1992 and 1995 respectively), it over-simplified the function of the Civil Service and the relationship between senior civil servants and their minister.

Armstrong's memorandum noted that the Civil Service was a non-political and professional service, with civil servants "required to serve the duly constituted Government of the day, of whatever political complexion.". Political impartiality (first codified by the Northcote Trevelyan report in 1854) was thus affirmed. So too was the need for civil servants to retain not just the confidence of ministers today but of their successors.

That was all well and good, but what Armstrong skirted around was the fact that future ministers might be of a different party. In other words, it was essential that civil servants diligently implement the decisions of ministers without allowing themselves to become slaves to their underpinning ideology.

That need to maintain long-term trust across the political divide inevitably required civil servants to maintain a certain objective distance. But it was and is all too easy for this natural (and required) reserve to be seen by ministers as politicised obstructionism.

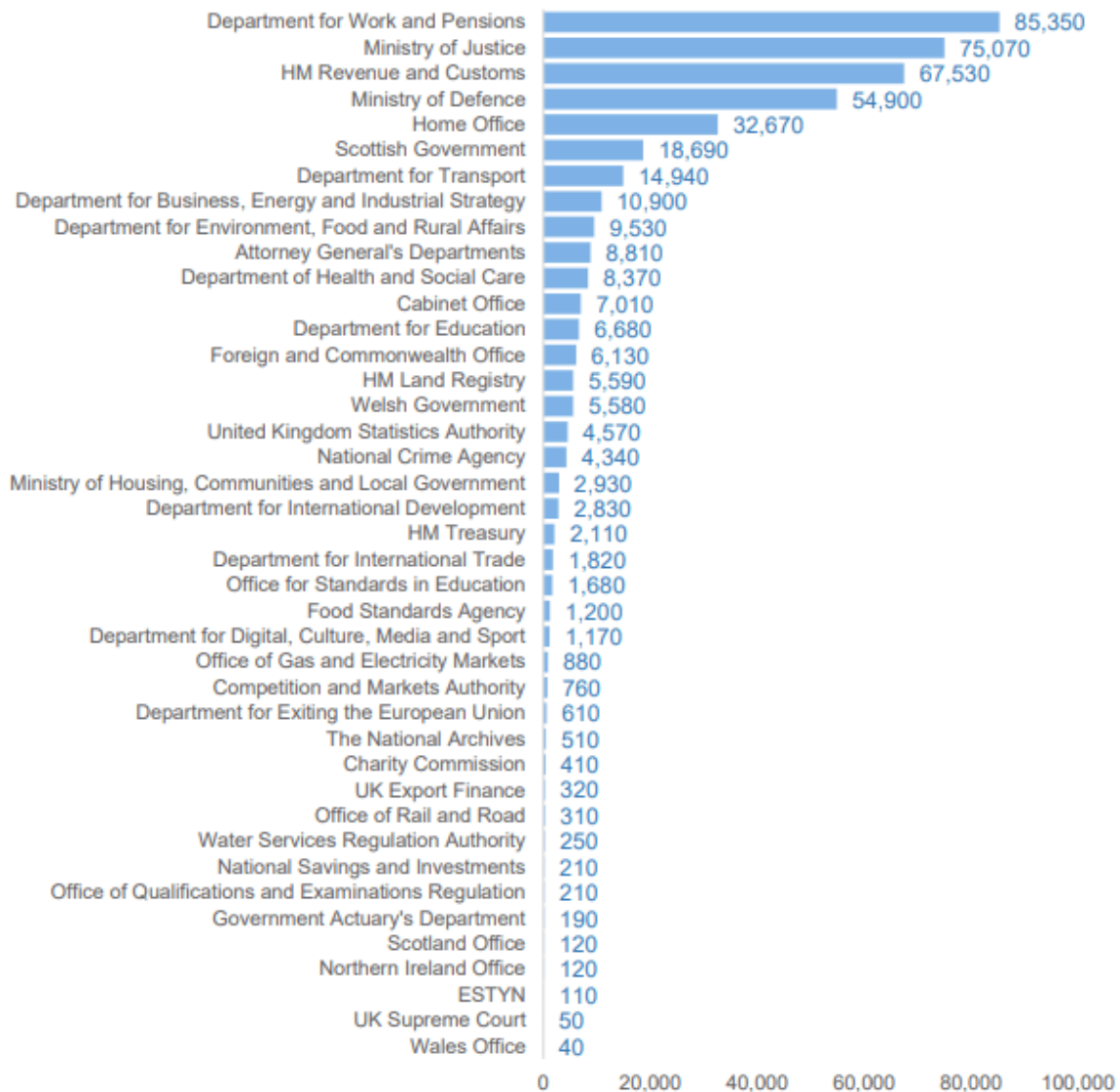
Armstrong also dodged the thorny question of "the national interest" in the context of a breakdown of two-party politics and the increasing chance of large Commons majorities being delivered on relatively small vote shares and declining turnouts (the Conservatives in 1987, for example, had a sweeping majority of 102 with just 42% of the vote).

Moreover, as Armstrong noted, a fundamental function of a Civil Service adviser was/is to provide "honest and impartial advice" to their minister. It is hardly unknown for policy ideas dreamed up by a small number of politicised think tankers or opposition SPADs to disintegrate on contact with reality. So, inevitably, civil servants must sometimes advise that a policy will be too administratively complex, or costly, or politically difficult. "Speaking truth to power" is a fundamental requirement of civil servants, but it is all too easy for ministers to make the mistake of viewing advice contrary to their wishes as actively obstructionist.

In addition, though ministers tend to be supremely confident in their own abilities, the reality is that a minister without experience of running a government department can easily fall prey to overconfidence. This is a particular problem when someone with little prior ministerial experience is appointed to run a major department – as Priti Patel was when she became Home Secretary last December.

The reality is that government departments can be huge. The Home Office, which has nearly 33,000 staff, is far from the largest.

Civil servant headcount by department



Source: *Civil Service Statistics, 2019*

Large organisations are by their very nature slow moving beasts, and it is all too easy for a minister without experience of running one to overestimate the Department's capacity to execute rapid change, and to dismiss cautionary advice as politically inspired.

In short, the resignation of Philip Rutnam comes as no surprise. This government is a highly ideological one – moderate Tory ministers having been winnowed out during the ructions of last year during the government's internal civil war. Moreover, Boris Johnson's government is in a hurry (inevitably, given its commitment to forge a deal with the EU by the end of the year, or leave and trade with it on WTO terms) and thus intolerant of delay.

This is also a government which is highly resistant to naysayers, however expert, and to the idea that the nature of large-scale bureaucratic administration might impose limits to the speed of change.

Couple that with a very inexperienced but highly confident minister and it is no surprise that the relationship between Priti Patel and her most senior permanent civil servant broke down.

This may prove to be a fleeting crisis. But I doubt it. The nature of the new administration and the history of ministers' desire to politicise the Civil Service suggests Rutnam's will not be the last constructive unfair dismissal of a senior civil servant. At some point, we may be forced to revisit the issue of the relationship between ministers and civil servants, and put right some of the inadequacies of the present codification of that relationship. Or we may have to move to a new model of public administration in the UK, one more like the USA with its array of politicised executive appointments in the Federal administration.



This blog post draws on research conducted during the writing of [The Official History of the Civil Service, Vol. 2](#) (R. Lowe and H. Pemberton, to be published by Routledge in May 2020).