

Open, Meritocratic and Transparent

Policy
Exchange 

Reforming Civil Service Appointments

Benjamin Barnard

Foreword by Lord Macpherson of Earl's Court



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About Policy Exchange's Work on Reform of Government

In the past two years, Policy Exchange has produced a series of proposals to improve the performance and capabilities of the UK Government. These include:

- **Whitehall Reimagined (December 2019):** Published two weeks after the general election, *Whitehall Reimagined* heralded the start of a major rethink about the future of the Civil Service among senior ministers and officials.¹ Endorsed by Lord Sedwill during his lecture at The Blavatnik School of Government, it argued that the Government should use the opportunity of the stability created by the election result to reform the Civil Service to make it more democratically accountable and better able to deliver on the mandate of the government of the day.²
- **Government Reimagined: A Handbook For Reform (May 2020):** Just months after the publication of *Whitehall Reimagined*, the UK was struck by a global pandemic that plunged the UK into the deepest recession in its history and required the biggest Government intervention in British peacetime history. Policy Exchange convened a cross-party Reform of Government Commission, chaired by Dame Patricia Hodgson, to learn the lessons from the Government's response to the pandemic and to determine how the government can be modernised and equipped for this new world. The Commission took both informal and formal evidence from a range of figures from academia, politics, business, arms-length-bodies and the Civil Service to inform its work. The Commission's final report, *Government Reimagined*, was endorsed by a range of figures including Sir Howard Bernstein (former Chief Executive of Manchester City Council), Lord Sedwill (former Cabinet Secretary), Rt Hon Lord Blunkett (former Home Secretary), Dame Sue Owen (former Permanent Secretary at DCMS) and Rt Hon Michael Gove MP (Chancellor of the Duchy of Lancaster).

Part of an ongoing series of work on reform of government, this report intends to build upon the recommendations outlined in *Whitehall Reimagined* and *Government Reimagined*.³

1. Policy Exchange, *Whitehall Reimagined*, December 2019, [link](#)

2. Lord Sedwill, *Cabinet Secretary Lecture at The Blavatnik School of Government*, 27 July 2020, [link](#)

3. Policy Exchange, *Government Reimagined*, May 2020, [link](#)

Endorsement

This paper is a thoughtful and important contribution to the ongoing debate about Civil Service reform, which I will be looking at carefully. We must ensure that all Civil Service appointments are on merit and ensure that we attract the best outside talent into the Senior Civil Service. We must open up the highest echelons of public service if we are to meet the challenges of the modern world, and deliver the public services people rightly expect

The Rt Hon Steve Barclay MP

Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office

About the Author

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Foreword

By Lord Macpherson of Earl's Court,
Permanent Secretary to the Treasury from 2005 to 2016

Trust in government depends on maintaining the highest standards in public life. But all too often in recent times that trust has been tested to the limit. Much of the focus of the current debate has been on the role of politicians, whether in awarding contracts or lobbying their former colleagues when they leave government.

But the role of unelected officials merits as much if not more scrutiny. Their lines of accountability are often obscure, if not weak, and they do not face the sanction of potential removal by the electorate.

A good place to start is the Civil Service.

Gladstone understood this in the 19th century. Appalled by the corruption and ineptitude of the Crimean War, he commissioned and then implemented the Northcote-Trevelyan reforms: replacing a system of appointments based on “preferment, patronage or purchase” with one based on open competition and promotion on merit. Gladstone was clear civil servants could not combine their day jobs with moonlighting for the private sector: quoting scripture, he was clear that “no man can serve two masters”. But even then the path of civil service reform did not run smoothly: between 1854 and 1868 only six departments made use of open competition in relation to just 28 posts. The Treasury was quicker to understand the benefits of open competition: it could attract more able staff. But the Home Office and Foreign Office resisted it for decades arguing that performance depended on character and not intellect.

The age of Gladstone is a reminder that civil service reform requires political leadership. Left to themselves, bureaucracies will always find reasons not to change.

Benjamin Barnard's elegant and well researched paper makes some compelling recommendations. I would highlight two.

First, the importance of opening up all senior posts to external competition: a commitment often made but, as in Gladstone's time, all too often ignored. I write from experience. The Treasury's effectiveness in the 21st century has been much enhanced by opening up senior positions to competition. A tax lawyer recruited from the City went on to be Chairman of Her Majesty's Revenue and Customs; a banking expert from a leading international consultancy went on to become Second Permanent Secretary

of the Treasury, in charge of the growth and financial service agenda. Ventilating the department to greater competition encouraged everyone to raise their performance, discouraging complacency and incentivising Treasury lifers such as myself to raise our game.

Secondly, the Civil Service Commission needs to be strengthened to play a greater regulatory role. More interchange between the private and public sectors will require much greater safeguards around conflicts of interest. Here, the Government can learn from independent institutions, such as the Bank of England, and other countries. If strengthened regulation involves greater statutory powers, so be it. Self regulation has failed. As Gladstone might have asked, and the current Prime Minister would understand, “quis custodiet ipsos custodes”?

This is a high class paper, and I hope it will inform debate both inside and outside government.

Executive Summary

The Importance of Reform

- **Urgent reform of the Senior Civil Service appointments process is required.** In the UK, the rules governing Civil Service appointments are highly opaque and there is, by international standards, limited oversight of the senior appointments process. Furthermore, despite successive ministerial promises to open up all Senior Civil Service vacancies to outsiders, many senior roles are only advertised internally. Indeed, some of the most prestigious Civil Service roles are awarded without either external or internal competition. For example, the official responsible for Civil Service modernisation and reform was appointed without any competition.⁴
- **If the Civil Service is to keep pace with the delivery challenges of the post-COVID world, immediate steps must be taken to reform entry to, and oversight of, the Senior Civil Service.** The Civil Service must attract the most capable individuals into its highest ranks and ensure that they are appointed on the basis of a rigorously meritocratic selection competition in which external applicants can participate. The Civil Service, like other professions, must also be subject to the highest ethical and proprietary standards with independent oversight to ensure that those standards are maintained at all times.

Preventing Patronage and Conflicts of Interest: Responding to the Boardman Review

- **Recent revelations about the appointment of Lex Greensill have raised serious questions about the ability of the UK's most senior Civil Servants to exercise personal patronage.** The independent Boardman Review of the Development and Use of Supply Chain Finance (2021) details how the late Lord Heywood, then Cabinet Secretary, personally intervened to help secure the businessman Lex Greensill direct access to the centre of the British state, whereupon Greensill appeared to use this access to help advance his own private business interests in supply chain finance.⁵ The Boardman Review shows how when Greensill encountered official resistance to his demands, or when official concerns were

4. The Spectator, *Sir Humphrey's spirit survives in Whitehall*, 17 September 2021, [link](#)

5. Boardman, *Review Into The Development And Use Of Supply Chain Finance (And Associated Schemes) In Government*, 22 July 2021, [link](#)

raised about propriety and ethics, Lord Heywood was able to override objections.

- **Boardman’s revelations may be deeply concerning but they are by no means unprecedented.** Whilst a report by the University of Oxford found the UK Civil Service to be the highest performing of a list of 38 developed countries, the UK was only ranked 12th globally for the integrity of its civil servants.⁶
- **The findings of the Boardman Review demonstrate the importance of having robust regulation of Civil Service appointments.** As Boardman argues, “the Civil Service has tended, in governance and compliance developments, to lag behind other institutions that are subject to greater external pressures, and has remained self-regulatory where other organisations have moved towards a more structured regulatory framework.”⁷ The move towards a more structured regulatory framework will be particularly important if the Civil Service is to prevent conflicts of interest if it employs greater numbers of external recruits.

Ensuring that Appointment is by Merit

- **The tradition that civil servants are appointed by merit dates back to the Northcote-Trevelyan Report (1854).** Despite its totemic status within the Civil Service, some of the report’s central recommendations remain ignored to this day. The report specifically recommended that Parliament should legislate to regulate both external recruitment into the Civil Service and internal promotions made from among the ranks of existing civil servants.⁸ This latter recommendation has never been implemented in the United Kingdom. Internal promotions from within the Civil Service are not regulated by statute, placing the UK at odds with equivalent systems in Australia, Canada, New Zealand and even the United States.⁹
- **Save for limited exceptions, there is no independent oversight to assure the probity of the appointments process unless a Senior Civil Service vacancy is advertised to external applicants.** Whilst the UK does have a Civil Service Commission charged with upholding the merit principle, save for very limited exceptions, under the UK’s present legislative arrangements, the Civil Service Commission has no power to investigate internal competitions for vacancies within the Civil Service.¹⁰ Arguably, this creates a powerful incentive for existing civil servants to find reasons not to advertise Senior Civil Service vacancies to external applicants, especially for positions that are highly prestigious. Even when the Civil Service Commission is able to investigate an appointment, it has no power to annul those it finds to have been made improperly.
- **The Government should update the Constitutional Reform and Governance Act (2010) to ensure that internal recruitment**

6. The International Civil Service Effectiveness (InCISE) Index, 2019, [link](#)

7. Boardman, *Review Into The Development And Use Of Supply Chain Finance (And Associated Schemes) In Government Part 2: Recommendations And Suggestions*, 5 August 2021, [link](#)

8. *Report on the Organisation of the Permanent Civil Service, Together with a Letter from the Rev. B. Jowett, 1854*, [link](#)

9. The appointment and advancement of existing Civil Servants is not subject to the statutory requirement to conduct fair or open competitions, or make appointments on merit. A looser form of the merit principle is instead codified within internal Civil Service rules. Cabinet Office, *Civil Service Management Code*, 9 November 2016, [link](#)

10. The Civil Service Commission do chair selection panels for all recruitment competitions at Permanent Secretary and Director General level.

is not excluded from legislative supervision. The Civil Service Commission must also have the authority to investigate and annul internal appointments.

Opening Up Public Service

- **If the Civil Service is to meet the operational and delivery challenges of the post-COVID world, then it will need to draw upon significant levels of external recruitment.** To do so will increase the diversity of skills and experience of public sector leaders, improve the delivery discipline of government and fill the critical skills gaps that have been identified by the House of Commons Public Accounts Committee and others.¹¹ One of the central tenets of the recent Declaration on Government Reform (May 2021) was to make the Civil Service “more open to external talent, with all senior civil service roles advertised externally”.¹² However, successive governments of all political persuasions have also promised - and largely failed - to open up public service to outsiders.
- **At present, all Senior Civil Service are supposed to be advertised ‘externally by default’.** However, the power to deviate from the ‘external by default’ rule has been delegated by the Cabinet Office to Permanent Secretaries within Departments. They, in turn, have been authorised to delegate even further down the chain of authority, should they choose to do so. Given the lack of oversight of internal appointments processes, it is surprising that senior officials, who stand to benefit most from bypassing the ‘externally by default’ rule, have been given the sole authority to decide when that rule should apply. The Government should instead establish a rule that all Senior Civil Service vacancies are advertised externally unless a Minister authorises an internal competition.
- **The Government must ensure that the UK has the most responsive recruitment process in the OECD.** One of the major arguments that could be used against highly regulated, external-facing recruitment is that it might take too long to fill a vacancy. At present, the UK Government does not publish sufficient data about the length of its external or internal appointment processes. This makes it difficult to determine whether such criticisms are accurate or how this process might be expedited. The only partial data set available is from OECD returns. This suggests that the UK Civil Service currently finds itself in the worst of both worlds, having a relatively unregulated and insular appointments system coupled with some of the slowest recruitment timescales in the OECD. It is essential that the Civil Service can complete an external recruitment competition at a pace that is comparable to recruitment in the private sector.

11. House of Commons Public Accounts Committee, *Specialist Skills in the Civil Service*, 7 December 2020, [link](#); NAO, *Capability in the Civil Service*, 2017, [link](#)

12. Cabinet Office, *Declaration on Government Reform*, 15 June 2021, [link](#)

Empowering the Civil Service Commission

- **The Government must empower the Civil Service Commission through legislation and ensure that it is adequately resourced.** The Civil Service Commission regulates recruitment to the Civil Service and hears complaints from civil servants under the Civil Service Code. Despite the importance of its role, the UK's Civil Service Commission is heavily under-resourced. The First Commissioner is a part-time office holder, paid considerably less than a middle-management grade Civil Servant, and is supported by a group of fee-paid Commissioners who are able to devote only limited time to their duties. The Commission has a secretariat of less than 20 full time equivalent staff, all of whom are seconded civil servants. This roughly equals one member of full time Commission staff for every 23,000 civil servants.
- **The Civil Service Commission's shortfalls have been highlighted consistently for the past decade.** For example, the 2014-4 Triennial Review of the Civil Service Commission recommended that the leadership and staff of the Commission should not always be current or former civil servants.¹³ It also recommended that the Commission should exercise its statutory authority to employ its own staff. Neither of these recommendations have been implemented. Every First Civil Service Commissioner appointed since the passage of the Constitutional Reform and Governance Act (2010) has been a former Civil Servant, and the entire Commission Secretariat is still staffed by current civil servants.
- **In light of the Greensill affair, the Government must improve the Civil Service Commission's capacity to investigate breaches of propriety.** At present, civil servants are prohibited from bringing potential Civil Service Code violations directly to the attention of the Civil Service Commission unless they have first raised potential breaches with their employing Department. This rule may deter civil servants from reporting breaches, particularly if a complaint relates to the most senior officials within a Department.

13. Cabinet Office, *Civil Service Commission: triennial review - a better civil service*, 13 February 2015, [link](#)

Recommendations

Responding to the Boardman Review

- **All legal routes into the Government must be clarified.** In light of the Greensill scandal, the government should, as a matter of urgency, set out all lawful routes by which any individual can be engaged, in any capacity, in government work. It should clearly explain the proper authorisations required to make an appointment under each of these routes. These arrangements should be codified, ideally into a legislative instrument, through an enabling power added to the Constitutional Reform and Governance Act. Alternatively, they should be incorporated into the *Civil Service Management Code*.
- **Individual Civil Service Professions and functions must be given much greater independence from the policy branch of the Civil Service.** Professional and functional leads in the Civil Service must be able to speak to policy leads from a position of parity of esteem and status, without fear that doing so might imperil their professional advancement. What is apparent from the Boardman Review's findings is that few within the Civil Service felt sufficiently empowered to point out their misgivings about the appointment of Lex Greensill and his conduct once appointed. The government should elevate key functional and professional leads within the Civil Service to the rank of Permanent Secretary, in line with the recommendations of Lord Maude's recently published *Review of the cross-cutting functions and the operation of spend controls*.¹⁴ Ministerial oversight of functional leads must also be strengthened.

Reforming Recruitment Rules Through Legislation

- **The Government should end the UK's status as an international outlier by ensuring that internal recruitment is not excluded from legislative supervision.** The Constitutional Reform and Governance Act (2010) should be amended to make clear that, save for limited exceptions, the merit principle applies to recruitment for all Civil Service positions, whether advertised internally or externally.

14. Cabinet Office, *Review of the cross-cutting functions and the operation of spend controls: The Rt Hon Lord Maude of Horsham*, 21 July 2021, [link](#)

- **Ministerial approval must be required before a Senior Civil Service vacancy is advertised only to internal applicants.** Successive Governments have sought to introduce a rule that all Senior Civil Service vacancies should be advertised externally by default, however, it is entirely at the discretion of officials at the moment whether to obey that rule in practice. The Government should revoke the present, elaborate system of delegations and establish a rule that all Senior Civil Service vacancies are advertised externally, unless the appropriate Minister agrees that another approach to filling a vacancy should be taken.
- **There must be mandatory reporting requirements detailing when, why, and how exemptions to the ‘external by default’ rule are exercised.** Despite successive Ministers issuing instructions that all Senior Civil Service vacancies should be advertised externally by default, there are no complete datasets as to whether and how often this instruction is adhered to by Departments. The Minister for the Civil Service must, as a minimum, have sufficient data to understand the real-world effects of management initiatives relating to recruitment.
- **The Civil Service Commission should undertake an international benchmarking exercise to ensure that the UK has the most responsive recruitment process in the OECD.** It is essential that the time between a vacancy arising, the publication of an advertisement for that vacancy, and the completion of the recruitment competition is as short as possible. Inefficiency in this process creates strong incentives for officials and Ministers to run an internal recruitment competition, or even bypass competitions altogether, in order to ensure a candidate is appointed quickly, even if that candidate is not particularly well suited to the position.
- **The Government should commission independent research into the issues external hires face when joining the senior levels of the Civil Service.** One of the key recommendations of the Baxendale Report (2014) was that “the Civil Service should return to this topic in 6 to 12 months and conduct a further series of in-depth interviews to check what has changed.” This was not done. This exercise should now be repeated and a skilled outsider should be brought back to explore the progress since the Baxendale report was published.

Reforming the Civil Service Commission

- **The Civil Service Commission must be properly resourced.** The Government must ensure that the Commission is adequately resourced to perform its statutory functions. This should include making the First Civil Service Commissioner a full-time position with pay which is commensurate with the gravity and importance of the role, and which is comparable to equivalent positions elsewhere within the UK and other jurisdictions.

- **The Government should undertake a comprehensive independent international benchmarking exercise to identify the Civil Service Commission's strengths and weaknesses.** This benchmarking exercise should include funding, staffing, expertise, pay, and the adequacy of its supervisory powers.
- **The Civil Service Commission must be made more accessible to individual civil servants.** The Constitutional Reform and Governance Act states that the Commission must consider complaints raised by civil servants regarding potential breaches of the Civil Service Code. However, current rules require a Civil Servant to raise potential Code breaches with their employing Department as a precondition of the Commission being prepared to consider a complaint. This precondition should be removed where a complaint relates to the conduct of the most senior civil servants within a Department.
- **The Government should update the list of 'prescribed persons' under the Public Interest Disclosure Act (1998).** The Civil Service Commission is not listed as a 'prescribed person' for the purposes of the Act. A Civil Servant who attempted to whistleblow to the Commission would thus not have any assurance that doing so would bring them within the protections of whistleblowing laws. The Act should be updated to ensure that it includes the Civil Service Commission with respect to potential breaches of the Civil Service Code.
- **The Civil Service Commission must have genuine independence from the wider Civil Service leadership.** Every First Civil Service Commissioner appointed since the Constitutional Reform and Governance Act became law has been a former Civil Servant, and the entire Commission Secretariat is staffed by current civil servants. The Government should carefully consider the desirability of a Commission that has only ever been led by former civil servants, and a Commission Secretariat that has only ever been staffed by existing civil servants. The Government should consider how best to enable the Commission to choose to employ its own staff, directly.
- **The First Civil Service Commissioner should not participate in the management of the Civil Service.** The First Civil Service Commissioner is a member of the Senior Leadership Committee of the Civil Service, and participates in decisions about talent management and hiring approaches for senior vacancies. This blurs the boundaries between the regulator and the regulated and gives rise to the possibility of the Commissioner being required to consider the ethics of management decisions in which he or she may have actively participated.

Introduction

“It ought. . . to be a leading object with the Government so to regulate promotion by merit as to provide every possible security against its abuse”

Stafford H. Northcote and C.E. Trevelyan, 1854¹⁵

Maintaining the UK Civil Service’s world-leading status

The purpose of the Civil Service is primarily to implement government policy and to deliver services to citizens efficiently. The Civil Service’s capacity to fulfill this role is dependent upon its ability to attract the most capable public servants into its highest ranks and to ensure that they are appointed on the basis of a rigorously meritocratic selection process. The Civil Service, like other professions, must also be subject to the highest ethical and proprietary standards.

As Policy Exchange has frequently highlighted, the United Kingdom has a worldwide reputation for its high standards of public administration. Public servants of the highest calibre can be found at every level in central, devolved, local and other strata of government across the UK. They regularly design and implement ground-breaking legislation, deliver multi-billion pound programmes and projects and develop complex policy and regulation. This is achieved without the incentives familiar to the private sector, such as a bonus culture, share incentives or high levels of executive pay.

Appointment by Merit: Opening Up Public Service

Appointment on merit following a fair and open competition is a fundamental value of the UK’s politically impartial Civil Service. The origins of this principle stem from the 1854 Northcote-Trevelyan Report. In the eyes of Northcote-Trevelyan, the main cause of chronic bureaucratic underperformance was that appointments to the Civil Service were made on the basis of “preferment, patronage or purchase”, rather than on merit following open competition for posts. This report argues that the Civil Service must strengthen this tradition. It argues that immediate steps must be taken to reform entry to, advancement within and oversight of the Senior Civil Service.

This report is divided into four sections:

15. *Report on the Organisation of the Permanent Civil Service, Together with a Letter from the Rev. B. Jowett, 1854*, [link](#)

- **Chapter One:** A Brief History of Initiatives to Open Up Public Service
- **Chapter Two:** Responding to the Boardman Review
- **Chapter Three:** Reforming Recruitment Rules for Senior Officials
- **Chapter Four:** Improving the Capability of the Civil Service Commission

Despite the considerable strengths of HM Civil Service, this report argues that if the Senior Civil Service is to meet the operational and delivery challenges of the post-COVID world, then it will need to draw upon significant levels of external recruitment to fill the critical skills gaps that have been identified by the House of Commons Public Accounts Committee and others.¹⁶ Employing those with a range of skills - particularly commercial skills gained in the private sector - at the highest levels of the public sector will help to improve public services and reduce reliance on the internal Civil Service job market. The lessons from previous attempts to open up public service must be learnt and all internal guidance relating to the advertisement of vacancies must facilitate external appointments wherever possible.

The Context: A New Era of Civil Service Reform

Implementing the Declaration on Government Reform

On 15 June 2021, the Government set out the landmark *Declaration on Government Reform*. The Declaration was published following the first ever joint meeting of the Cabinet and departmental Permanent Secretaries.¹⁷ Whereas previous reform initiatives have not always enjoyed unanimous support, the Declaration's joint approval by both Permanent Secretaries and Ministers means that the implementation of its provisions is dependent solely upon the delivery discipline of officials and of ministers.

Opening up public service was a key element of the Declaration on Government Reform. It committed the Government to:

*[Improve] the way we recruit and the way we manage moves into and out of government. Civil servants are appointed on merit on the basis of fair and open competition. That principle, embedded in the Northcote-Trevelyan reforms, is inviolable. [...] Guided by those principles, we will open all senior appointments to public competition by default, advertised in such a way as to ensure the widest possible pool of applicants.*¹⁸

This ambition should be welcomed: the appointment and promotion of effective leaders is integral to the future success of Civil Service reform. However, as Chapter One of this report highlights, this ambition has been shared by successive Governments for the past two decades. Indeed, the principle that senior appointments should be open to public competition “by default” has been codified into internal Civil Service recruitment guidance since at least 2016.¹⁹ A change of approach is needed.

16. House of Commons Public Accounts Committee, *Specialist Skills in the Civil Service*, 7 December 2020, [link](#); NAO, *Capability in the Civil Service*, 2017, [link](#)

17. Cabinet Office, *Declaration on Government Reform*, 15 June 2021, [link](#)

18. Cabinet Office, *Declaration on Government Reform*, 15 June 2021, [link](#)

19. Civil Service, *Civil Service Workforce Plan 2016-2020*, 12 July 2016, [link](#)

Responding to Recent Developments and the Boardman Review

Since the publication of Policy Exchange's *Government Reimagined* (2021), a variety of independent reports have been published. Most recently The Committee on Standards in Public Life published the final report of its Standards Matter 2 review, entitled *Upholding Standards in Public Life*. An important and wide-ranging report, the Committee stated that:

"The UK already has a successful model of statutory ethics regulation through the Constitutional Reform and Governance Act 2010 (CRAG) [...] The Act was cited by many contributors to this review as a model of proportionate and balanced statutory ethics regulation, granting the Commission the right degree of independence to act effectively while not being overly prescriptive on the content of the Civil Service Code or how civil service recruitment should be carried out in practice."²⁰

This report seeks to challenge this assumption, gently, by showing that the Constitutional Reform and Governance Act (2010) leaves the UK as a significant international outlier. Further reforms to civil service recruitment processes and civil service ethics regulation are still required.

A number of other reports have been also published, each of which have identified a number of limitations to the present state of British public administration. It is important to note three other publications in particular:

- **The Social Mobility Commission: Navigating the Labyrinth (May 2021):** This report represented the first ever independent, data-driven investigation into how socio-economic background shapes career progression in the Civil Service. Alarming, it found that "civil servants from disadvantaged backgrounds are significantly under-represented in the Civil Service, and even when they 'get in' they struggle to 'get on'."²¹
- **The Rt Hon Lord Maude of Horsham's Review of the cross-cutting functions and the operation of spend controls (July-August 2021):** In Autumn 2020, Lord Maude was asked "to assess the effectiveness of the functions, in particular those that drive efficiency and effectiveness; arrangements in the Cabinet Office to operate effective real-time spend controls; and progress in delivering key parts of the 2012 civil service reform plan."²² Lord Maude, who was responsible for the 2012 Civil Service Reform Plan, concluded that "there are very substantial further efficiency savings that can be made".²³ One of the key areas the review focuses on is the recruitment of functional leaders. It recommends that the Senior Civil Service should be expanded and that "functional leaders should be appointed at either permanent secretary or director general level."²⁴
- **The Boardman Review into the Development and Use of Supply Chain Finance in Government (July 2021):** In April 2020, the Prime Minister asked Mr Nigel Boardman "to investigate the development and use of supply chain finance in government,

20. Committee on Standards in Public Life, *Upholding Standards in Public Life, Final report of the Standards Matter 2 review*, 1 November 2021, [link](#)

21. Civil Service Commission, *Navigating the Labyrinth*, May 2021, [link](#)

22. Cabinet Office, *Review of the cross-cutting functions and the operation of spend controls: The Rt Hon Lord Maude of Horsham*, 22 July 2021, [link](#)

23. Cabinet Office, *Review of the cross-cutting functions and the operation of spend controls: The Rt Hon Lord Maude of Horsham*, 22 July 2021, [link](#)

24. Cabinet Office, *Review of the cross-cutting functions and the operation of spend controls: The Rt Hon Lord Maude of Horsham*, 22 July 2021, [link](#)

especially the role of Lex Greensill and Greensill Capital (including associated companies or companies in its group) and any related issues that Mr Boardman considers are in scope.”²⁵ The Boardman Review focuses mainly on the suitability of supply chain finance for central government, on the appropriate conditions to place on former public servants and the current rules relating to the ‘lobbying of government’. However, the review also raises a number of questions about the proprietary and ethical oversight of senior civil servants, the ability of the UK’s most Senior civil servants to exercise personal patronage as well as the routes by which those with private sector expertise are brought into Government.²⁶

As these reports demonstrate, a radical departure from the status quo is required. Steps must be taken to ensure that those from all backgrounds can enter the Civil Service and progress to its highest levels. Conflicts of interest must be carefully managed and all non-political appointees must be made on the basis of merit and not, in the case of Lex Greensill, on the basis of patronage.

25. Cabinet Office, *Review into the Development and Use of Supply Chain Finance in Government – Terms of Reference*, 16 April 2021, [link](#)

26. Mr Nigel Boardman, *Review Into The Development And Use Of Supply Chain Finance (And Associated Schemes) In Government, Part 1: Report Of The Facts*, 21 July 2021, [link](#)

1. A Brief History of Initiatives to Reform Recruitment Processes

Introduction

Trust in the Civil Service’s impartiality rests on its capacity to maintain the skills and capabilities required to implement the policies of election-winning governments. Its recruitment processes must be constantly refined to ensure that the Civil Service recruits the best possible public servants and to ensure that appointments are on merit after a fair and open competition. The *Declaration on Government Reform* (2021) rightly sets out an ambition to “open all senior appointments to public competition by default, advertised in such a way as to ensure the widest possible pool of applicants”.²⁷ As this chapter shows, however, this desire has been an essential part of every Civil Service reform initiative for the past two decades. Unless the lessons are learnt from previous efforts to open up senior appointments, it is unlikely that the *Declaration on Government Reform* will achieve its aims any more successfully than did previous initiatives.

1. Northcote-Trevelyan: the ‘Merit’ Principle

Appointment on merit following a fair and open competition is a fundamental value of the UK’s politically impartial Civil Service. The origins of this principle stem from the 1854 Northcote-Trevelyan Report. The purpose of the report was “to obtain full security for the public that none but qualified persons will be appointed [to all the public establishments], and that they will afterwards have every practicable inducement to the discharge of their duties”.²⁸

In the eyes of Northcote-Trevelyan, the main cause of chronic bureaucratic underperformance was that appointments to the Civil Service were made on the basis of “preferment, patronage or purchase”, rather than on merit following open competition for posts. The authors recognised that appointments on merit, too, would be susceptible to bureaucratic capture and abuse without effective oversight, and they cautioned against the risk that:

*[Appointments] by (so called) merit would usually become promotion by favouritism [...] The chief officer may [take] a particular fancy to some young man on his first entrance into the department, and may have thrown in his way special opportunities of advancing himself, which others have not had.*²⁹

27. Cabinet Office, *Declaration On Government*, May 2021, [link](#)

28. *Report on the Organisation of the Permanent Civil Service, Together with a Letter from the Rev. B. Jowett, 1854*, [link](#)

29. *Report on the Organisation of the Permanent Civil Service, Together with a Letter from the Rev. B. Jowett, 1854*, [link](#)

They went on to recommend that:

It ought . . . to be a leading object with the Government so to regulate promotion by merit as to provide every possible security against its abuse.³⁰

The report's authors were clear that it was only possible to protect against abuse if its recommendations were implemented through an Act of Parliament:

It remains for us to express our conviction that if any change of the importance of those which we have recommended is carried into effect, it can only be successfully done through the medium of an Act of Parliament. The existing system is supported by long usage and powerful interests; and were any Government to introduce material alterations into it, in consequence of their own convictions, without taking the precaution to give those alterations the force of law, it is almost certain that they would be imperceptibly, or perhaps avowedly, abandoned by their successors if they were not even allowed to fall into disuse by the very Government which originated.³¹

As Policy Exchange highlighted in *Government Reimagined*, the Northcote-Trevelyan recommendations faced significant contemporary hostility. The first Civil Service Commission had a remit that fell far short of the Board of Examiners envisaged by Northcote and Trevelyan. It took a further 15 years for a new Civil Service Order in Council to introduce open competition and even then both the Foreign Office and the Home Office refused to implement the reforms.³²

Most importantly, its warning that its recommended changes could only be achieved “through the medium of an Act of Parliament” remains ignored to this day.³³ It was only with the passage of the Constitutional Reform and Governance Act in 2010 that the Civil Service was finally placed on a statutory basis. Whilst the legislative provisions of Section 10 of the Constitutional Reform and Governance Act 2010 requires appointment to be on merit on the basis of a fair and open competition, this only applies to external applicants to the Civil Service.³⁴ It does not apply to appointments from within the Civil Service. Whilst the merit principle has been incorporated into internal administrative rules, Northcote-Trevelyan's central recommendation remains unimplemented despite the report's totemic status within the Civil Service.

2. Blair: the inheritance of Northcote-Trevelyan

On the 150th anniversary of the Northcote-Trevelyan report, Tony Blair gave a speech outlining how to sustain the values embodied by that report. This speech, made on Tuesday 24 February 2004, included a series of reforms to improve the senior appointments process and to open up public service to outsiders. As he explained:

The most powerful signal of this growing interchange is the recruitment into senior positions of people from outside the Civil Service. A fifth of Director General posts are now filled by people brought in from outside and the proportion

30. Report on the Organisation of the Permanent Civil Service, Together with a Letter from the Rev. B. Jowett, 1854, [link](#)

31. Report on the Organisation of the Permanent Civil Service, Together with a Letter from the Rev. B. Jowett, 1854, [link](#)

32. <https://policyexchange.org.uk/publication/government-reimagined/>

33. Report on the Organisation of the Permanent Civil Service, Together with a Letter from the Rev. B. Jowett, 1854, [link](#)

34. Constitutional Reform and Governance Act 2010, [link](#)

is rising. There are also many more practitioners, for example from the health or education services, working inside government departments directly involved in shaping policy.

These are important developments, which strengthen the Civil Service's capacity to be in touch and to deliver. We intend to continue to recruit extensively from outside the Civil Service to senior posts, including at the highest levels. We also need to examine the business rules to make it easier for civil servants to move into the private sector and back again.³⁵

This was not the only change that Mr Blair promised to make to the Senior Civil Service. He went further:

We will radically extend one of the central principles of Northcote-Trevelyan - that of merit - by applying it to existing posts as well as new ones. We are establishing a new norm that all senior Civil Service jobs will be four-year placements, with no presumption of permanence in post. Indeed the burden of proof, as it were, will shift with change becoming the norm and continuity requiring justification.³⁶

It was only in 2014, a decade later, that Permanent Secretary contracts were placed on a fixed tenure. It is still not the case that all senior positions are placed on a fixed tenure.

Constitutional Reform and Governance Act (2010)

The final days of Gordon Brown's premiership saw the passing of the Constitutional Reform and Governance Act 2010. This Act established the Civil Service in primary legislation for the first time.³⁷ Whilst theoretically the provisions it made were limited, placing into statute what already existed in prerogative powers, Section 10 of the Constitutional Reform and Governance Act states that "a person's selection [for appointment to the Civil Service] must be on merit on the basis of fair and open competition". However, the Act makes plain that this section applies only "to the selection of persons who are not civil servants for appointment to the civil service".³⁸ This means that the appointment and advancement of existing civil servants is not subject to the statutory requirement to conduct fair or open competitions, or make appointments made on merit.

The 2010 Act also placed the Civil Service Commission on a statutory footing as a body corporate in its own right, and gave the Commission the powers to define the scope of and uphold the application of the requirement for appointments to the Civil Service to be made on the basis of merit following a fair and open competition. These requirements are set out in detail in the *Civil Service Recruitment Principles*.³⁹ It also gave the Commission the powers to consider complaints raised by civil servants about potential violations of the *Civil Service Code*.⁴⁰

35. The Guardian, *Full text: Blair's civil service speech*, 2004, [link](#)

36. The Guardian, *Full text: Blair's civil service speech*, 2004, [link](#)

37. Constitutional Reform and Governance Act 2010, [link](#)

38. Constitutional Reform and Governance Act 2010, [link](#)

39. Civil Service Commission, *Recruitment Principles*, 2018, [link](#)

40. Cabinet Office, *The Civil Service code*, 16 March 2015, [link](#)

3. The Civil Service Reform Plan (2012)

In 2012, the Coalition set out *The Civil Service Reform Plan*.⁴¹ It contained 18 actions aimed at changing the delivery models of public services, establishing a range of shared services across departments and developing the skills of civil servants. It included pledges to:

- Increase dynamism and flexibility by making it easier for staff at all levels to move between the Civil Service and the private sector.
- Establish the expectation that Permanent Secretaries appointed to the main delivery departments will have had at least two years experience in a commercial or operational role.
- Move over time towards a position where there is a more equal balance between those departmental Permanent Secretaries who have had a career primarily in operational management and those whose career has been primarily in policy advice and development.
- In order to reflect Ministers' accountability to Parliament for the performance of their departments, we will strengthen their role in both departmental and Permanent Secretary appointments.

4. The Baxendale Report (2014)

In 2014, Catherine Baxendale was commissioned to research the issues external hires face when joining the senior levels of the Civil Service. Baxendale's report, *How to Best Attract, Induct and Retain Talent recruited into the Senior Civil Service*, demonstrated, historically there have been a number of obstacles to this. Her report highlighted a "resistance to change and a closed mentality" and a "lack of value on operational delivery" amongst senior civil servants. It also found that the Civil Service was "too hierarchical".⁴²

Whilst the appointment of a Chief People Officer following the publication of the Baxendale report has led to some important changes, the report's author later reported that "the breadth and depth of my findings... wasn't necessarily reflected in ... [the Government's] response". The report's author also highlighted how the Civil service 'failed to prioritise' reforms to external recruitment.⁴³

Most importantly, one of the key recommendations of the Baxendale Report was that "the Civil Service should return to this topic in 6 to 12 months and conduct a further series of in-depth interviews to check what has changed."⁴⁴ This did not happen. As Policy Exchange highlighted in *Government Reimagined*, this exercise should now be repeated and a skilled outsider should be brought back to explore the progress since the Baxendale report was published.⁴⁵

41. Cabinet Office, *The Civil Service Reform Plan*, June 2012, [link](#)

42. Cabinet Office, *Baxendale Report: How to best attract, induct and retain talent recruited into the Senior Civil Service*, 27 March 2015, [link](#)

43. CSW, *Civil service 'failed to prioritise' reforms to external recruitment*, 7 November 2017, [link](#)

44. Cabinet Office, *Baxendale Report: How to best attract, induct and retain talent recruited into the Senior Civil Service*, 27 March 2015, [link](#)

45. Policy Exchange, *Government Reimagined*, May 2020, [link](#)

5. Civil Service Workforce Plan (2016-20) and Declaration on Government Reform (2021)

The 2016 *Civil Service Workforce Plan* again included commitments to open up public service to external candidates. The plan revealed that 23% of new entrants to the Senior Civil Service vacancies were external in 2016.⁴⁶ Its principle recommendation was that:

- The Civil Service will do all it can to attract and retain people of talent and experience from a range of sectors and all walks of life. We will do this by opening up recruitment across the Civil Service, advertising roles externally by default by the end of this Parliament. This will give every talented individual the opportunity to apply and compete for roles in the Civil Service and ensure we have the most skilled and capable people delivering national priorities.⁴⁷

This mirrors the language used in the *Declaration on Government Reform (2021)*, which again promised to:

[Improve] the way we recruit and the way we manage moves into and out of government. Civil servants are appointed on merit on the basis of fair and open competition. That principle, embedded in the Northcote-Trevelyan reforms, is inviolable. [...] Guided by those principles, we will open all senior appointments to public competition by default, advertised in such a way as to ensure the widest possible pool of applicants.⁴⁸

The use of the term “external by default” implies that there are occasions in which posts are not advertised externally. As Chapter Three of this report highlights, if the Government is to ensure that appointments are advertised externally to attract a wide pool of applicants, the exemptions to the “external by default” hiring policy must be clearly set out and applied consistently. It is also essential to ensure that the authority to decide when it is not appropriate to seek external candidates rests with ministers.

Conclusion

The desire to open up public service has been a central part of every single Civil Service reform initiative for the past two decades. In *Government Reimagined*, Policy Exchange highlighted how cultural factors and widening disparities between executive pay in the private and public sectors have made it difficult to attract external expertise into the Civil Service.⁴⁹ Whilst this may be true, the fact that so many Ministers have had to make the same statement of government policy toward Civil Service recruitment brings into question the willingness of the Senior Civil Service to open up public service and to implement the consistent missives from ministers on this subject for the past two decades. As Sir John Kingman explained recently in a speech, “the reforms that might encourage more expertise; less manic turnover of officials in jobs; more competence in execution and delivery; stronger commercial, IT and project capability; more interchange with the outside world; better management of underperformance – are wholly in the mandarins’ gift to make happen.”⁵⁰

46. Civil Service, *Civil Service Workforce Plan 2016 - 2020*, [link](#)

47. Civil Service, *Civil Service Workforce Plan 2016 - 2020*, [link](#)

48. Cabinet Office, *Declaration on Government Reform*, 15 June 2021, [link](#)

49. Policy Exchange, *Government Reimagined*, May 2020, [link](#)

50. Policy Exchange, *Government Reimagined*, May 2020, [link](#)

2. Responding to the Boardman Review

Introduction

The collapse of the financial services company Greensill Capital in March 2021 has raised a series of questions about how to manage the appointment of private sector personnel with commercial skills within government and the appropriateness of their engagement. In April 2021, the Government announced *A Review into the Development and Use of Supply Chain Finance (and associated schemes) related to Greensill Capital in Government*.⁵¹ The review details how the late Lord Heywood, then Cabinet Secretary, personally intervened to help secure the businessman Lex Greensill direct access to the centre of the British state, whereupon Greensill appeared to use this access to help advance his own private business interests in supply chain finance.

This Chapter explores the findings and recommendations of the Boardman Review. It is divided into two parts:

1. What the Boardman Review reveals about the appointment of Lex Greensill
2. Strengthening Appointment Processes in light of the Review

The Boardman Review covers a range of issues including the suitability of supply chain finance for Government, the relationship between current and former ministers and officials and external organisations as well as the adequacy of the current rules relating to the ‘lobbying’ of government. This chapter will focus primarily upon the implications of Boardman Review when it comes to the regulation of Civil Service appointments.

51. Cabinet Office, *Review into the Development and Use of Supply Chain Finance in Government – Terms of Reference*, 16 April 2021. [link](#)

1. What the Boardman Review reveals about the appointment of Lex Greensill

The Collapse of Greensill Capital

- Set up by the Australian financier Lex Greensill, Greensill Capital was a specialist lender that filed for insolvency in March 2021. The firm specialised in supply-chain finance.
- The collapse of Greensill capital has raised important questions about the proximity of the company and its founder, Lex Greensill, to key figures in Government. Lex Greensill was first brought into Government as an Adviser on supply chain finance for a three month period in 2012. by Lord Heywood, Cabinet Secretary and Head of the Home Civil Service from 2012 to 2018. The Government's former Chief Commercial Officer, Bill Crothers, also began working as an adviser to Greensill Capital in 2015 - while still employed in the Civil Service.
- Former Prime Minister, David Cameron, served as an adviser to Greensill Capital after leaving office. During the Covid pandemic, representatives for Greensill Capital, including the former Prime Minister, lobbied for various changes to the Covid Corporate Financing Facility (CCFF).

How was Lex Greensill appointed to Government

As the Boardman Report reveals, then Cabinet Secretary Lord Heywood brought Lex Greensill into government on the openly proffered basis that the two had previously worked together on Supply Chain Finance whilst at Morgan Stanley, a fact that Lord Heywood did not attempt to conceal from his colleagues.⁵² Greensill was issued with a three-month letter of appointment on 21st February 2012, which was backdated to 1st January 2012.⁵³ Government lawyers were unable to conclusively explain to Boardman what legal status Greensill held within the Cabinet Office at the time of his initial appointment, other than that “it most closely resembles that of a non-statutory, unpaid, office holder.”⁵⁴ Remarkably, Boardman was unable to find any written record of the appropriate Ministerial and official authorisations for Greensill’s initial appointment.⁵⁵ Lord Maude, then Minister for the Cabinet Office and Paymaster General, has since stated that he had “absolutely no recollection” of appointing Greensill.⁵⁶ However, this is disputed by Lady Heywood, Lord Heywood’s widow.⁵⁷

In April 2012, his appointment having lapsed, Greensill emailed Heywood directly asking both for his appointment to be extended and to be furnished with a government email address and access pass.⁵⁸ As a result of this request, Lord Heywood initially attempted to find an administrative home for Greensill within the Efficiency and Reform Group of the Cabinet Office, and then in the No 10 Policy Unit. On both occasions he was strongly rebuffed by officials, who expressed concerns about working with Greensill.⁵⁹ It was only on his third and final attempt that Heywood was able to find an administrative home for Greensill within the Economic

52. Mr Nigel Boardman, *Review Into The Development And Use Of Supply Chain Finance (And Associated Schemes) In Government, Part 1: Report Of The Facts*, 21 July 2021, [link](#), p. 8

53. *Ibid.*, p. 31

54. *Ibid.*, p. 42

55. *Ibid.*, p. 42

56. Public Administration and Constitutional Affairs Committee, *Oral evidence: Propriety of governance in light of Greensill*, 59, 8 June 2021, [link](#)

57. BBC, *Greensill: Lady Heywood's anger at 'scape-goating' of late husband by inquiry*, 23 July 2021, [link](#)

58. *Ibid.*, p. 33

59. *Ibid.*, pp. 33-34

and Domestic Secretariat ('EDS') of the Cabinet Office. It is noteworthy that EDS officials reported directly to Heywood and might have found it difficult to refuse an instruction from him. Heywood's then Principal Private Secretary, who made the arrangements for Greensill to be given his administrative home within EDS, recalls being instructed by Heywood that Greensill should be "set up for success".⁶⁰

On 31st May 2012, the same day that Greensill was given an administrative home within EDS, he emailed Heywood's private office suggesting that Heywood meet with the heads of the Confederation of British Industry and the British Banking Association to "confirm their support for our [supply chain finance] plan". Greensill also offered to draft a note for the Prime Minister "explaining our plan". He suggested that this should be followed by the Prime Minister writing to the Chief Executive Officers of the government's top 50 suppliers "setting out our supply chain finance plan" and inviting them to a corresponding event promoting that plan. This event, Greensill argued, should be hosted at 10 Downing Street. Greensill finally suggested that he personally should then "act as point person for [Her Majesty's Government] in troubleshooting any CEO questions/feedback."⁶¹

After securing his position within EDS, Greensill emailed officials requesting a Cabinet Office laptop and phone, Cabinet Office branded business cards, and an access pass that would allow him to utilise the link between the Cabinet Office in 70 Whitehall and 10 Downing Street, the two being adjacent buildings.⁶² Despite him not having any extant security clearance, Greensill was provided in June 2012 with a Cabinet Office laptop and official government email address. Once he had this, he emailed Heywood directly from his Cabinet Office email address to announce that he was 'now "officially" part of the team'.⁶³

On 27th June 2012, written advice, which had been largely authored by Greensill, was put to the Prime Minister and was in substance identical to the 'next steps' email that Greensill had sent to Heywood just weeks earlier on 31st May.⁶⁴ Heywood was listed as the lead author, alongside Greensill, Oliver Letwin, and two other officials. This advice was not shared with Treasury or some other key officials for comment before it was submitted to the Prime Minister's Private Office.⁶⁵

On 2nd July 2012, three working days after sending his written submission to the Prime Minister, Greensill incorporated Greensill Capital Ltd in the UK as a supplier of supply chain finance.⁶⁶ He did not report this fact as a potential conflict of interest to the Cabinet Office until 12th September 2012.⁶⁷ Greensill's proposals in his written advice to the Prime Minister appear to have been largely accepted. The Prime Minister appears to have hosted a roundtable with private sector CEOs on 23rd October 2012 to promote the adoption of supply chain finance.⁶⁸

On 18th December 2012, Greensill did finally receive some form of security clearance, which would have allowed him, subject to further administrative permissions, to obtain an access pass to 10 Downing Street.⁶⁹ Upon receipt of his clearance, Greensill emailed Paul Kirby, Head

60. *Ibid.*, p. 34

61. *Ibid.*, p. 35

62. *Ibid.*, p. 44

63. *Ibid.*

64. *Ibid.*, p. 36-38

65. *Ibid.*, p. 38

66. *Ibid.*, p. 39

67. *Ibid.*, p. 49

68. *Ibid.*, p. 68

69. *Ibid.*, p. 45

of the No 10 Policy Unit, claiming to have direct authority from the Prime Minister to further the supply chain finance initiative. In that email, he firmly requested a front door pass to 10 Downing Street, a No 10 email address and branded business cards, and the right to convene meetings in No 10.⁷⁰

Whilst records unearthed by Boardman indicate that Kirby never responded to Greensill's email, later that month, Heywood forwarded a copy of that email to the Prime Minister's Principal Private Secretary, asking 'is there a problem with this? Lex is giving huge amounts of his personal time to HMG and needs occasional use of No 10 to host senior business people.'⁷¹ By the end of December 2012, Greensill had a No 10 building pass.⁷² Greensill was then able to use 10 Downing Street as a platform from which to hold meetings with government and business leaders.

Issues arising from the Boardman Review for Civil Service Appointments

Boardman's report reveals a number of particularly concerning issues surrounding Greensill's appointment. The first is that government lawyers were unable to conclusively say what status Greensill had at time of his initial appointment, other than that it most closely resembled that of a non-statutory, unpaid, office holder. This in theory required Ministerial authorisation, although Boardman was unable to locate any written evidence that this authorisation had been granted.⁷³ The relevant Minister at the time, Lord Maude, has said he does not recollect authorising Greensill's appointment. Greensill's status was eventually regularised to that of a Crown Representative although, incredibly, he was able to at least partially draft his own conflict of interest policy which was then incorporated into his terms of appointment.

The second is that Greensill was given, initially without any security clearance, access to government buildings, a government email address, and branded business cards for the Cabinet Office and 10 Downing Street that identified him as a senior adviser. In any dealings he had with officials, or private individuals outside of Government, it would have been all but impossible for those without prior knowledge of his situation to appreciate that Greensill was neither a Civil Servant nor a Special Adviser. This point was stressed by the Public Administration and Constitutional Affairs Committee. As the Member of Parliament for Brighton Kemptown pointed out:

Surely there is a case to put that, if I am speaking to someone whom I think is in government, it should be clear on the tin what status that person has in government, rather than a business card or a memo that do not make that clear. If someone has a status as an unpaid adviser for a three-month temporary "see it and try it" arrangement, compared with a permanent civil servant or a SpAd that is connected to the Minister, but that is not made clear in cards and in emails, it causes awful confusion and could cause the Government difficulties.

70. Ibid.

71. Ibid., p. 46

72. Ibid., p. 47

73. Ibid., pp. 32

In hindsight, do you think there is something to be said about making that clearer in those roles for outward facing?⁷⁴

The third, and most concerning finding, is that whenever Greensill encountered official resistance to his demands, or whenever official concerns were raised about propriety and ethics, Lord Heywood was able to override objections.⁷⁵ This included securing an administrative home for Greensill in the Economic and Domestic Secretariat after both the Efficiency and Reform Group and the No 10 Policy Unit had refused to provide one, writing directly to the Prime Minister's Principal Private Secretary to secure him a No 10 building pass, and smoothing over conflicts of interest that were identified. It is essential that such a situation does not recur in the future if public trust in the Civil Service is to be maintained.

2. Strengthening Appointment Processes in light of the Review

In September, Part II of the Boardman Review, containing Boardman's recommendations and suggestions, were published. Boardman's recommendations are wide-ranging covering everything from lobbying transparency to the effective operation of the Advisory Committee on Business Appointments (ACOBA). Whilst every one of Boardman's recommendations are worthy of comment, this section will focus on those recommendations with greatest salience to the appointments process.

74. Public Administration and Constitutional Affairs Committee, *Oral evidence: Propriety of governance in light of Greensill*, 59, 8 June 2021, [link](#)

75. A full account of how Lex Greensill came to be appointed can be found in Annex A of this report.

Boardman Review's Recommendations

The Boardman Review made 18 recommendations in total, including:

1. That government should establish an effective method for ensuring compliance with governance processes and the wider regulatory framework.
2. That government should introduce pre-appointment rules which prevent civil servants dealing with or promoting their former employer after joining the civil service for a period of time.
3. That government should strengthen whistleblowing processes in the Civil Service.
4. That direct ministerial appointments, whether or not remunerated, need a clearer and more transparent process, set out in a new Code of Practice which makes clear the expectations on both departments and appointees and reaffirms that express Ministerial approval is required.
5. That government strengthens the oversight of the honours process within departments.
6. That government should restrict the use of supply chain finance in central government to exceptional circumstances only.
7. That the application process for secondary employment for civil servants should be more transparent and clearly regulated.
8. That government makes post employment restrictions on civil servants and ministers legally binding.
9. That government strengthens its transparency reporting.
10. That government publishes an appropriate set of principles to define when an interactive communication should be deemed official business and therefore disclosed
11. That the requirement to register as a consultant lobbyist should be extended.
12. That the rules regarding the transparency of lobbyists be strengthened.

Ensuring that the Civil Service remains open to outsiders

There is a danger that the Greensill fiasco will discourage the appointment within Government of those with private sector expertise. As Lord Blunkett explained in reference to Greensill's appointment in his endorsement of *Government Reimagined*, "it is crucial that proper safeguards are put in place in order to ensure that relevant experience can be drawn in, rather than

taking a step back from recruiting the best people in the most relevant circumstances.”⁷⁶ This concern was shared by Boardman himself who stated that:

“I am aware that one outcome of the events examined in Part 1 of my report might be to discourage the recruitment of external employees into roles in government, but it would be wrong to discourage the recruitment of talent into all levels of the Civil Service.”⁷⁷

Boardman outlines a number of safeguards against conflicts of interest. These include:

- The introduction of pre-appointment rules which prevent civil servants dealing with or promoting their former employer after joining the civil service for a period of time
- Individuals joining the Senior Civil Service from the private sector should not be involved in any procurement activity in which their previous employer has an interest for a period of two years after joining the Civil Service
- A civil servant must declare their previous employment and seek approval from their line manager to participate in any process in relation to decisions relating to policy affecting their previous employer within a two year period

Clarifying Entry Routes

If there are to be a greater number of external appointments to the Senior Civil Service, then there must be clear entry routes by which outsiders might enter the Civil Service. At present, there are a number of different routes by which one might come to work in Government. These are namely:

- **Civil servants:** Civil servants are bound by the Civil Service Code, their terms and conditions are set in accordance with the requirements of the Civil Service Management Code.
- **Special advisers:** Special advisers (or ‘SpAds’) are temporary civil servants whose appointments are set out in statute and to whom a particular set of conditions apply. These are set out in the Special Adviser code of conduct.
- **Agency staff and contractors engaged in the Civil Service:** Agency staff are not subjected to the same framework of obligations imposed on civil servants or given the same rights. Their engagement usually follows procurement procedures and is made in accordance with an approved framework or via a single tender action.
- **Office holders in government:** Some office holders are statutory appointments. This means that the power to appoint them derives from legislation and the appointment process may be regulated by the Commissioner for Public Appointments and governed by

76. Policy Exchange, *Government Reimagined*, May 2020, [link](#)

77. Boardman, *Review Into The Development And Use of Supply Chain Finance (And Associated Schemes) In Government*, Part 2: Recommendations and Suggestions, 5 August 2021, [link](#)

the Public Appointments Order in Council and Governance Code for Public Appointments. Other, less formal roles do not follow a mandated process.

- **Ministerial direct appointments:** Such appointments are usually appropriate for short-term advisory roles, such as leading a government review or to advise on, or champion, a specific subject. They are usually made where some independence is needed but the appointee requires support from a department. It is for ministers to determine whether to make a direct appointment. Cabinet Office practice is that the prior approval of the Prime Minister to appoint a specific individual to a specific role must be sought before any commitment is entered into. An engagement letter, setting out the role and functions they will fulfil, their accountability whilst carrying out that role, and the expected length of appointment must be provided.

One of Boardman's central recommendations was:

“That direct ministerial appointments, whether or not remunerated, need a clearer and more transparent process, set out in a new Code of Practice which makes clear the expectations on both departments and appointees and reaffirms that express Ministerial approval is required.”⁷⁸

However, it is essential that transparency applies not just to direct ministerial appointments. If the government is to benefit from the insights provided by those with commercial skills, then the legal status of **all** individuals working in Government, in any capacity, should be regularised and made transparent. The Government should clearly explain the proper authorisations required to make an appointment under each of the routes outlined above. Furthermore, these arrangements should be codified, ideally into a legislative instrument, through an enabling power added to the Constitutional Reform and Governance Act. Alternatively, they should be incorporated into the Civil Service Management Code.

Enhancing the Authority of Functional Leadership in Government

The Greensill scandal also illustrates why it is essential to provide individual Civil Service professions and functions with greater independence from the policy branch. One of Nigel Boardman's key recommendations, in light of his findings, was that the Government should establish:

a cross-government compliance function, which would operate through a system of embedded compliance professionals within departments, coordinated by a central team in the Cabinet Office. These compliance officers should have a dual reporting line to departmental accounting officers and audit and risk committees, but there should also be increased central oversight via the Cabinet Office to ensure consistency in application of these processes.⁷⁹

78. Boardman, *Review Into The Development And Use of Supply Chain Finance (And Associated Schemes) In Government*, Part 2: Recommendations and Suggestions, 5 August 2021, [link](#)

79. Boardman, *Review Into The Development And Use of Supply Chain Finance (And Associated Schemes) In Government*, Part 2: Recommendations and Suggestions, 5 August 2021, [link](#)

Government Functions

- In 2015 the Government set out a new ‘functional model’ of government. This new model of government sought to address the fact that the UK Civil Service “has had little central leadership of corporate functions and has been significantly behind many well-run private companies and other OECD governments.”⁸⁰ Corporate functions were created in areas that are fundamental to the work of government and common to multiple departments. These corporate functions - which were established horizontally across departments - aimed to “provide the specialist expertise that every organisation requires”.⁸¹
- The 14 Government functions set cross-government strategies, set and assure standards, develop capability, give expert advice, drive continuous improvement, and develop and deliver commonly required services.
- Functions often have a central unit or organisation, for example to set standards and coordinate training across government, but much of the work of functions is carried out by staff working in departments (for example, in finance teams or as commercial practitioners).
- There are functions for Project Delivery; HR; Property; Digital, Data and Technology; Finance; Security; Commercial; Analysis; Communication; Counter Fraud; Debt; Grants.

In order for a compliance function to operate properly, however, its leaders must enjoy parity of esteem, status and authority with existing policy officials. What is apparent from Boardman’s findings is that few within the Civil Service felt sufficiently empowered to point out to Lord Heywood their misgivings about the position Greensill was bequeathed and how he conducted himself once in that position. The same applies to Boardman’s description of the citation process for the award of Lex Greensill’s CBE. Given the considerable influence Heywood was able to exert over appointments, it is understandable that other officials did not feel confident to confront him whilst their career advancement potentially rested on his personal authority.

80. Cabinet Office, *The Functional Model: a Model for more efficient and effective Government*, 2015, [link](#)

81. Cabinet Office, *The Functional Model: a Model for more efficient and effective Government*, 2015, [link](#)

The citation process for the award of Lex Greensill's CBE

- **September 2015:** Rachel Hopcroft, Principal Private Secretary of the Cabinet Secretary, Lord Heywood, contacted Bill Crothers conveying Lord Heywood's desire to nominate Mr Greensill for a CBE, asking if Mr Crothers would prepare a citation for Mr Greensill's application. Ms Hopcroft understood that Mr Greensill was being rewarded for his work for the government on supply chain finance. Mr Crothers agreed to write the citation, but another official copied into the email chain confirmed that the deadline for nominations had passed.
- **December 2015:** The Cabinet Office expressed a desire to include "a more diverse pool of business candidates" in the Honours process. This suggestion was passed onto a small group of people who had worked with the potential candidates, including Bill Crothers, for consideration for the 2016 Birthday Honours list. Mr Crothers was reticent to nominate Mr Greensill in part due to his work for Greensill Capital.
- **April 2016:** Lord Heywood's office contacted the Cabinet Office honours secretary again to ask for an update on Mr Greensill's nomination. Ms Coleen Andrews, who now lead the Crown Representative Programme, refused to draft a citation for Mr Greensill as she did not believe that they had the evidence to substantiate a citation.
- **May 2016:** Lord Heywood's office once more requested Mr Greensill be nominated for the 2017 New Years Honours list. Ms Andrews and her team again refused.
- **16th December 2016:** Lord Heywood raised the issue of Mr Greensill's nomination personally with the Crown Representative Programme, copying in Sir John Manzoni, CEO of the Civil Service.
- **22nd December 2016:** A first draft of a citation for Mr Greensill was provided without any input from the Crown Representative Team.
- **3rd February 2017:** This citation was forwarded as part of a Cabinet Office-sponsored nomination for Mr Greensill to receive an OBE. The email highlighted that this was one of the nominations that had "Jeremy's [Lord Heywood's] strong backing".
- **16th February 2017:** During this period Lord Heywood's office was in ongoing contact with the Honours and Appointments Secretariat over several nominations and enquired whether Mr Greensill's nomination was being considered by the Economy Committee.
- **20th February 2017:** During this ongoing contact, Lord Heywood's office expressed that Lord Heywood's desire that Mr Greensill be nominated for a CBE rather than an OBE.
- **21st February 2017:** Sue Gray, the Director General of Propriety and Ethics at the Cabinet Office, expressed that she had told an official in the Honours and Appointments Secretariat that it would be "outrageous" if Mr Greensill was to receive a CBE.
- **16th June 2017:** Mr Greensill was awarded a CBE in Her Majesty's birthday honours list for services to the economy.

There is no more senior position within the UK Civil Service than that of the Cabinet Secretary, to whom all other Permanent Secretaries report. The Prime Minister depends heavily on the Cabinet Secretary's advice in appointing to a wide range of senior government positions, including

Permanent Secretary vacancies. The Cabinet Secretary also generally chairs the Senior Leadership Committee of the Civil Service, which exercises career management functions for the most senior positions, and he is jointly responsible for upholding and maintaining the integrity and independence of the Civil Service. It is essential that such an individual is held to account by those who are not beneath him in the Civil Service hierarchy. For this reason, it is clear that the Civil Service Commission should be given greater power and resources.⁸²

Enhancing the authority of functional leaders was one of the key recommendations of the Maude Review of the cross-cutting functions and the operation of spend controls. As he pointed out:

“For ... functional leaders to be effective, they need to carry higher status. I recommend [that] functional leaders should be appointed at either permanent secretary or director general level.”⁸³

Those with specialist skills and expertise garnered outside of the public sector are likely to find themselves working with or for a government function. This is another reason to strengthen the government functions and civil service professions. If external recruits are to bring to bear the skills that they have obtained outside of Government, then they will need greater access to ministers and sufficient authority to implement new ways of working.

Policy Recommendations

- **All legal routes into Government must be clarified.** The government should, as a matter of urgency, clearly and openly identify all lawful routes by which any individual can be engaged, in any capacity, in government work. It should clearly explain the proper authorisations required to make an appointment under each of these routes. These arrangements should be codified, ideally into a legislative instrument, through an enabling power added to the Constitutional Reform and Governance Act. Alternatively, they should be incorporated into the *Civil Service Management Code*.
- **Individual Civil Service Professions and functions must be given much greater independence from the policy branch.** It is important that professional and functional leads in the Civil Service are able to speak to policy leads from a position of parity of esteem and status, without fear that doing so might imperil their professional advancement. The government should elevate functional and professional leads within the Civil Service to the rank of Permanent Secretary, in line with the recommendations of Lord Maude’s recently published *Review of the cross-cutting functions and the operation of spend controls*.⁸⁴

82. See Chapter 4

83. Cabinet Office, *Review of the cross-cutting functions and the operation of spend controls: The Rt Hon Lord Maude of Horsham*, 21 July 2021, [link](#)

84. Cabinet Office, *Review of the cross-cutting functions and the operation of spend controls: The Rt Hon Lord Maude of Horsham*, 21 July 2021, [link](#)

3. Reforming Recruitment Rules for Senior Officials

Introduction

If the Civil Service is to maintain its status, it must attract the most capable public servants into its highest ranks and ensure that they are appointed on the basis of a rigorously meritocratic selection competition in which external applicants can participate. However, as Chapter One showed, successive Ministers, both Conservative and Labour, have sought to introduce external competition to vacancies within the Senior Civil Service. This Ministerial direction has eventually crystallised into an internal administrative rule that all Senior Civil Service vacancies should be advertised externally “by default”. That exact wording appears, verbatim, within the current Government’s recently published *Declaration on Government Reform*.⁸⁵

This chapter will explain how to reform internal recruitment rules to make it easier to run an open recruitment competition. It is divided into four sections:

1. How Civil Service vacancies are filled
2. How Senior Civil Servants are appointed
3. How appointments to the ‘top 200 club’ are made
4. How to improve recruitment rules to encourage external applicants

As this chapter will show, if a vacancy is not advertised externally then the recruitment process is exempt both from the statutory duty to run a fair and open competition, and from the statutory requirement for appointment decisions to be made on merit as set out in the Civil Service Recruitment Principles.⁸⁶ Not only does advertising a vacancy internally all but guarantee that a Civil Servant will be appointed to the role, but it also means there is no independent oversight from the Civil Service Commission to assure the probity of the appointments process. Arguably, this creates a powerful incentive for existing civil servants to find reasons to exempt Senior Civil Service vacancies from the default requirement to advertise externally, especially those positions that are prestigious and highly sought after. It is therefore surprising to learn that senior officials, who most stand to benefit from bypassing the ‘externally by default’ rule, have been given the sole authority to decide when that rule should apply.

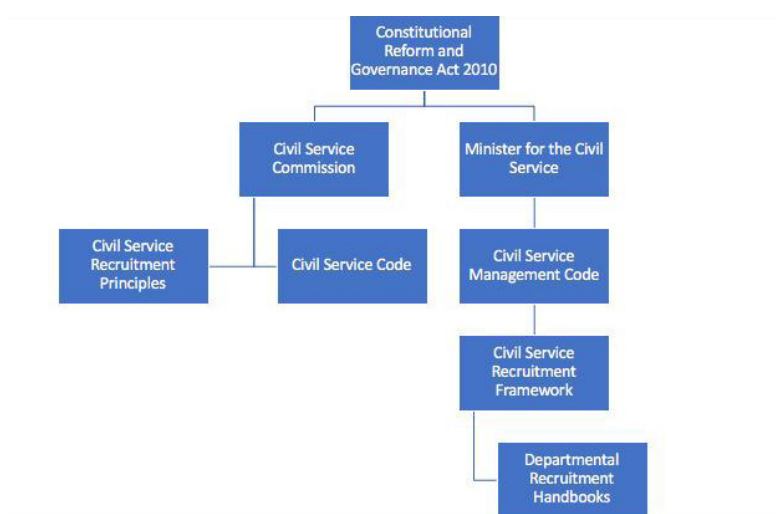
85. Cabinet Office, *Declaration on Government Reform*, 15 June 2021, [link](#)

86. Civil Service Commission, *Recruitment Principles*, 2018, [link](#)

1. How Civil Service vacancies are filled

Appointment on merit

There is a largely uncontested political consensus that civil servants should be recruited and promoted on the basis of merit. The provisions Constitutional Reform and Governance (2010) include the establishment of a Civil Service Commission and a power for the Minister for the Civil Service to manage the Civil Service. In turn, the Civil Service Commission and the Minister for the Civil Service issue a range of different guidance which help to determine how appointments are made. This guidance is summarised in the table below:



However, the Constitutional Reform and Governance Act 2010, which placed the Civil Service on a statutory footing for the first time, specifically excludes internal Civil Service appointments from the statutory obligation to select candidates on the basis of merit. This puts the UK at odds with the equivalent legislation in Canada, Australia, New Zealand, and even the United States. Indeed, section 10 of the Constitutional Reform and Governance Act states:

a person's selection [for appointment to the Civil Service] must be on merit on the basis of fair and open competition.⁸⁷

However, the Act makes plain that this section applies only:

to the selection of persons who are not civil servants for appointment to the civil service.⁸⁸

This means that the appointment and advancement of existing civil servants is not subject to the statutory requirement to conduct fair or open competitions, or make appointments on merit. A looser form of the merit principle is instead codified within internal Civil Service rules.⁸⁹ Whilst the UK does have a Civil Service Commission charged with upholding the merit principle, save for very limited exceptions, the Commission has no power to investigate internal competitions within the Civil Service.

87. Constitutional Reform and Governance Act 2010, [link](#)

88. *Ibid*

89. Cabinet Office, *Civil Service Management Code*, 9 November 2016, [link](#)

Unlike its equivalent bodies in Australia, New Zealand, Canada, and the United States. it has no power to annul appointments that have been made improperly.

Appointment Routes

Recruitment begins with the existence of a vacancy that needs to be filled. There are within the Civil Service multiple routes for an employing Department to take when vacancy filling:

- **External Competition** - any member of the public, or any existing Civil Servant, can apply. The competition for the vacancy must be fair and open, and the best person for the job must be offered the appointment. Unsuccessful applicants are able to raise complaints with the independent Civil Service Commission where an external competition is not run fairly or openly, and where an appointment is made otherwise than on the basis of merit.
- **Cross-Government Competition** - the vacancy is advertised on the internal Civil Service Jobs board, and any existing Civil Servant may apply. There is no statutory requirement for such competitions to be fair or open, or for the appointment to be made on the basis of merit, and there is no right of appeal to the Civil Service Commission.
- **Intra-Departmental Competition** - the vacancy is advertised exclusively within the employing Department. Vacancies advertised in this way cannot result in applicants being substantively promoted from one Civil Service grade to the next.
- **Managed Moves** - the job is awarded without competition.

Benefits and Limitations to External Competition

There is a genuine and widely acknowledged trade-off between expeditiousness and openness when it comes to deciding whether to advertise a Civil Service vacancy externally. Doing so comes with several advantages:

- **Greater Competition:** it opens up the competition to the widest possible pool of candidates;
- **Appointment by Merit:** it means the selection of candidates is subject to the statutory requirements set out in the CRAG 2010 for fair and open competition, with appointment made on merit,
- **Independent Oversight:** it allows unsuccessful candidates who suspect the appointment may have been made unlawfully to have recourse to the independent Civil Service Commission.

It also comes with several disadvantages:

- **Expeditiousness:** External candidates who succeed in securing an appointment will typically not hold the relevant security clearances

needed to access sensitive information and restricted government buildings. These clearances can take several months to be obtained before an appointee can begin work.

- **Strain on Resources:** externally advertised vacancies can greatly increase the number of applicants to a vacancy. This will in turn require more time for an appointing panel to sift through. For Director-level (and above) vacancies, the Civil Service Commission usually participates directly in the recruitment campaign. Given, as this Report highlights below, the severe lack of resources available to the Commission, this can act as a further limitation on the speed with which external candidates can be recruited.

How do civil servants decide which route to take when advertising a vacancy?

Understanding Civil Service Hierarchy

- Whilst previously, there were often uniform structures and titles for civil servants across different departments, many departments have developed their own structures and job titles. Many departments now differentiate between staff using pay bands.
- Despite this change, there are broadly five different levels of seniority in HM Civil Service:
 - Senior Civil Service level (SCS level)
 - Grades 6 and 7 (G6/7)
 - Higher Executive Officers/Senior Executive Officers (HEO/SEO)
 - Executive Officers (EO)
 - Administrative Assistants/Administrative Officers (AA/AO)
- Departments that have more employees directly delivering public services, such as the Department for Work and Pensions, have a higher percentage at junior grades.

The route to take when it comes to filling a vacancy depends on the grade of civil servant. The Civil Service Management Code States that:

6.4.2 Departments and agencies must ensure that: [...] the design and development of their promotion and lateral transfer systems reflect any guidance and principles of good practice issued by the Cabinet Office in consultation with departments and agencies.⁹⁰

Cabinet Office guidance, called the *Civil Service Recruitment Framework*, is issued to all Civil Service Departments and Agencies and instructs them on how to approach vacancy filling. The table below is an extract from that guidance, which is inexplicably unpublished.

90. Cabinet Office, *Civil Service Management Code*, 9 November 2016, [link](#)

Civil Service Grade	Approach to vacancy advertising
AA-G6	<ul style="list-style-type: none"> • Roles may be advertised externally depending on a range of factors such as specialist/niche or professional skills sought, anticipated or previously evidenced lack of supply and shortages in the internal market in certain locations. • Roles will typically be advertised either on level transfer or promotion across government. • Roles may be advertised within a Department to meet particular business need e.g. to deal with an emergency.
SCS - All Pay Bands (except Top 200 roles)	<ul style="list-style-type: none"> • Roles will be advertised externally by default. • They may be advertised on level transfer or promotion across government in exceptional business circumstances.
Top 200 ⁹¹	<ul style="list-style-type: none"> • Governed by separate arrangements

2. How Senior Civil Servants are appointed

For Senior Civil Service vacancies, the *Declaration on Government Reform* states that they will be open to public competition ‘by default’. That is, in fact, the current prevailing rule within the Civil Service and, as the above table outlines, has been codified in guidance since at least 2016.⁹² However, the phrase “external by default” implies that there are occasions when the competition is not external. This raises a number of questions:

- How are exemptions to this rule authorised, and by whom?
- Under what circumstances should the requirement to run an external competition be discarded?

How are exemptions authorised?

Although it is Ministers who have introduced the requirement for, and stressed the importance of, Senior Civil Service vacancies being advertised externally, the authority to deviate from that rule has in fact been entirely delegated to officials. The *Recruitment Framework* states, of decisions not to externally advertise a senior vacancy:

The relevant Permanent Secretaries must be accountable for the exceptions process. Exceptions can only be made if agreed to by the Permanent Secretary. This authority may be delegated.

⁹².

⁹¹. The ‘Top 200’ is a reference to the network of Permanent Secretaries and Directors General across Whitehall, the two most senior grades in the Civil Service, the separate arrangements for which are explained further on in this report.

It is unclear whether, and if so how, individual Permanent Secretaries have further delegated their authority. This is of particular importance because, as noted above, the Civil Service Commission does not have the power to investigate internal competitions or to annul appointments that have not been properly made.

Under what circumstances are exemptions deemed appropriate?

The *Recruitment Framework* also includes substantive guidance on when the ‘external by default’ rule does not need to be followed, and states that exceptions are:

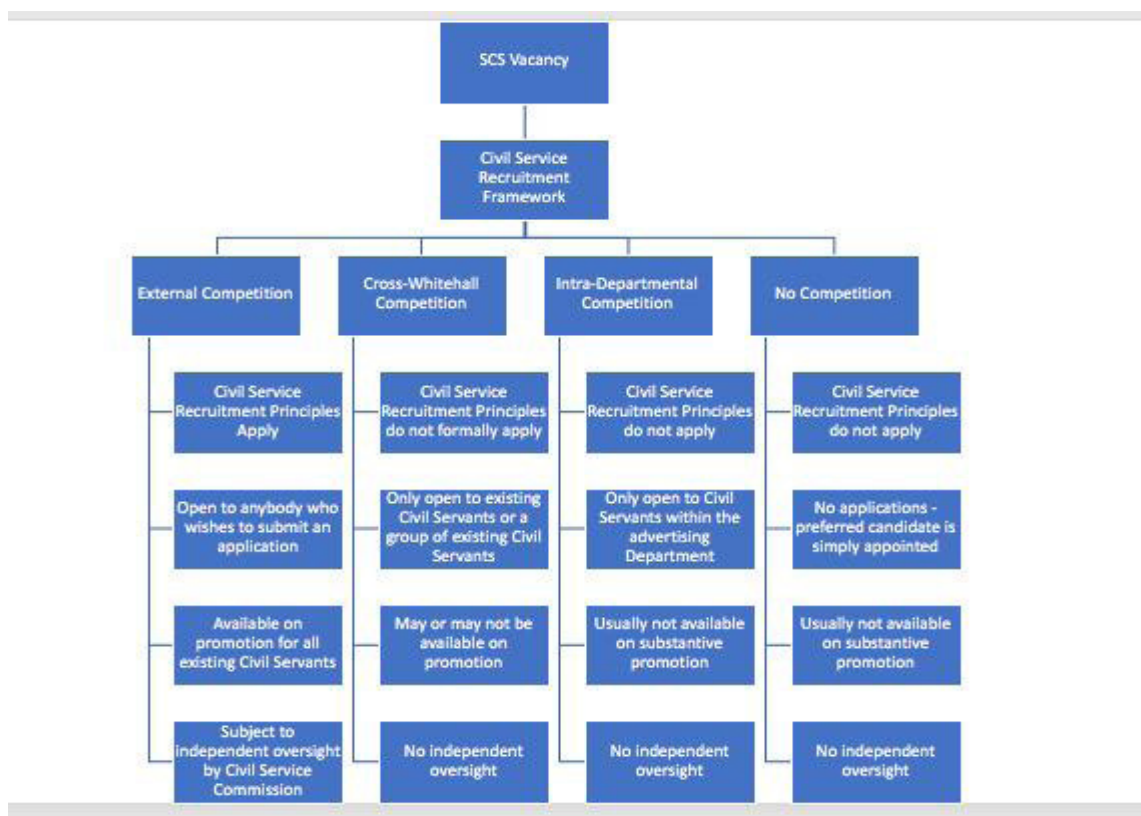
Allowed where there is a clear and justifiable business need.

It also includes a list of non-exhaustive examples (as opposed to rules) illustrating when Senior Civil Service vacancies either do not need to be advertised publicly, or do not need to be advertised at all, including: pressures of time; the specialised nature of the skills needed to do the work; in mitigation against the risk of redundancy for a member of the Senior Civil Service, or; as part of a ‘talent move’.

Not only are these exemptions so broad as to be universally applicable but data regarding their use is sparse. At present, there is no mandatory reporting requirement for departments to indicate how many exemptions to the ‘by default’ rule are authorised each year. This means it is impossible for Ministers, or indeed outsiders, to evaluate how often the present, ‘external by default’ rule is being adhered to across Government.

Whilst data about appointments may be incomplete, recent Freedom of Information (FOI) requests have shown that some appointments to the Senior Civil Service are made without any competition whatsoever.⁹³

93. The Spectator, *Sir Humphrey’s spirit survives in Whitehall*, 17 September 2021, [link](#)



3. How appointments to the 'Top 200 Club' are made

The 'Top 200 Club' is a descriptive term that encompasses the Permanent Secretaries and Directors General across the Civil Service. Decisions about vacancy filling within the Top 200 do not go through the ordinary procedures outlined above. They are instead reserved to a body called the Senior Leadership Committee of the Civil Service.

There are very few details made public about the Senior Leadership Committee. It is generally chaired by the Cabinet Secretary. However, its exact terms of reference, rules of procedure, and the frequency with which it meets are all unknown. No minutes of its deliberations have ever been published. One of the only clear allusions to its role is made within a document dated from 2011, titled the *Civil Service Senior Appointments Protocol*, jointly signed by then Cabinet Secretary, Gus O'Donnell, and then First Civil Service Commissioner, Sir David Norrington.⁹⁴

Unlike for other positions, the Civil Service Commission chair internal competitions at SCS pay band 3 and Permanent Secretary level under the terms of the *Senior Appointments Protocol*. The *Senior Appointments Protocol* states that vacancies for Permanent Secretary and Director General level positions may also be filled according to the same basic rules as for other vacancies that were outlined above - either through external or internal competition, or through a managed move. It also states that:

*The selection route for any appointment... will be decided by the Senior Leadership Committee on which the First Civil Service Commissioner sits.*⁹⁵

94. Civil Service Commission, *Civil Service Senior Appointments Protocol*, 2011, [link](#)

95. Civil Service Commission, *Civil Service Senior Appointments Protocol*, 2011, [link](#)

There is then attached in an Annex to that document a non-exhaustive list of the criteria that will guide - rather than govern - the decisions over which advertising approach to adopt. Reasons given in favour of bypassing a competition entirely include “individual development needs” and “retaining talent”, whereas external competitions might be preferred where “the Secretary of State or Prime Minister have expressed a preference.”⁹⁶

4. How to improve recruitment rules to encourage external applicants

Authorising and Recording Exemptions

The Government should revoke the present delegations and establish a rule that all Senior Civil Service vacancies are advertised externally unless a minister authorises an internal competition. There will be certain situations in which it is not appropriate to run an open competition; recruitment processes must always respond at pace to the reasonable demands of ministers or the requirements of a crisis. However, the power to deviate from the ‘external by default’ rule has been delegated by the Cabinet Office to Permanent Secretaries within Departments. Should they so choose, Permanent Secretaries have been authorised to delegate this authority further. Officials have, in effect, been given the sole authority to decide when a ministerial instruction that has been consistent for the past twenty years should apply and further ministerial oversight is required.

There must also be mandatory reporting of how senior civil servants are hired. Despite successive Ministers issuing instructions that all Senior Civil Service vacancies should be advertised externally by default, there are no complete data sets as to whether and how often this instruction is adhered to by departments. The Minister for the Civil Service must have sufficient data to understand the effective of management initiatives relating to recruitment. The Civil Service Commission already produce a list of all external appointments to the Senior Civil Service that were appointed without competition. In the same way, the Government should publish a list of all Senior Civil Service appointments that were not made following an open competition involving external advertisement of a vacancy.

Ending the UK’s status as an international outlier

The Constitutional Reform and Governance Act (2010) has left the United Kingdom something of an international outlier. The decision by Parliament not to include within the Act the applicability of the merit principle to internal appointments is anomalous. Similarly anomalous is the corresponding decision to give the Civil Service Commission no authority to investigate concerns about the probity of internal appointments, and no powers to act in cases it can investigate. The Government should end the UK’s status as an international outlier by ensuring that internal recruitment is not excluded from legislative supervision. To do so will not only bring the UK in line with international best practice and implement the full

96. Civil Service Commission, *Civil Service Senior Appointments Protocol*, 2011, [link](#)

recommendations of the Northcote-Trevelyan report for the first time in UK history.

Canadian Public Service Employment Act (2003)

For comparison, the Canadian Public Service Employment Act (as amended) states that the Canadian Public Service Commission, the equivalent to the UK's own Commission, has the exclusive authority to make appointments 'to or from within the public service.'⁹⁷ The Act goes on to state that:

*Appointments to or from within the public service shall be made on the basis of merit.*⁹⁸

It also provides both a statutory definition of merit, and for an independent means of appeal for any member of the public service who feels that an internal appointment was not made on merit. Crucially, it allows the Commission to annul any appointment, whether external or internal, that it finds was not made on the basis of merit.

Australian Public Service Act (1999)

Similarly, the Australian Public Service Act 1999 states that:

*The Australian Public Service is a career-based public service that... makes decisions relating to engagement and promotion that are based on merit.*⁹⁹

It then goes on to provide, as distinct from the UK legislation, a statutory definition of merit, including that 'all eligible members of the community [must be] given a reasonable opportunity to apply to perform the relevant duties.'¹⁰⁰ Any breach of the merit principle is subject to the oversight of the Australian Public Service Commissioner and a separate Merit Protection Commissioner, with potential dismissal awaiting any public servant who wilfully fails to uphold the duties Australian law requires of them.

New Zealand Public Service Act 2020

The New Zealand Public Service Act 2020 requires that '[all] appointment[s] under this Act... must give preference to the person who is best suited to the position', and mandates that all Departments must put in place a review mechanism for all appointments where an existing employee raises a complaint that it may not have been made on merit.¹⁰¹

US Civil Service Reform Act 1978

Finally, for the non-political positions within the United States Civil Service, the US Civil Service Reform Act 1978 requires that:

*Selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.*¹⁰²

It then goes on to create an Office for Personnel Management¹⁰³ and a Merit Systems Protection Board¹⁰⁴, with the latter able to hear appeals directly from civil servants who raise concerns that fall within a wide

97. Public Service Employment Act, 2003, [link](#), p. 7.

98. Ibid., p. 14.

99. Australian Public Service Act, 1999, [link](#), p. 9.

100. Ibid.

101. New Zealand Public Service Act, 2020, [link](#), p. 37.

102. US Civil Service Reform Act, 1978, [link](#), Chapter 23, Stat. 1114.

103. Ibid, stat. 1220.

104. Ibid, stat. 1122.

range of prohibited personnel actions, including but by no means limited to internal appointments.

Ensuring an Efficient and Responsive External Appointments Process

One of the major arguments that could be used against external recruitment is that it might take too long to fill a vacancy. Not only do external appointees usually have to serve a notice period with their previous employers, but they may also have to undergo a lengthy vetting process before they can begin work.¹⁰⁵

At present, the UK Government doesn't publish sufficient data about the length of external appointment processes. This makes it incredibly difficult to determine whether such criticisms are accurate or how this process might be expedited. The only partial data set available is from OECD returns, which suggest that the UK Civil Service currently finds itself in the worst of both worlds, having as it does a largely unregulated appointments system coupled with some of the slowest recruitment timescales in the OECD.¹⁰⁶

Unlike the UK, however, Canada does publish annual statistics regarding the time it takes to fill externally advertised vacancies. In Canada, it takes 175 days for departments and agencies subject to the Public Service Employment Act to make an internal appointment and 203 days to make an external one. However, historically it has been lower.¹⁰⁷ The collection and publication of this data has allowed the Commission to target reducing the length of this process:

*Unfortunately, in 2019–20, the median time to hire for external advertised processes increased by 17 days, with recruitment taking close to 7 months. Departments and agencies must do more to transform recruitment and reduce their time to staff. We are committed to collaborating with our partners to enable this transformation.*¹⁰⁸

Similarly, an independent review of the Australian Public Service indicated that whilst it took even less time in Australia (144 days) this was still an area in which it might do better:

*Public-sector roles receive fewer applications than those in the private sector, while the process takes much longer.⁴¹⁴ A pilot study using a sample of advertised positions over two years indicated that the median time to start (from job advertisement to commencement) is 144 days, ranging from 37 to 235 days between agencies.*¹⁰⁹

The pace at which a Civil Service can respond to vacancies and organise a recruitment competition is a key determinant of the overall efficacy of a Civil Service. It is essential that the Civil Service can complete an external recruitment competition at a pace that is comparable to recruitment in the private sector. If the UK Civil Service is to maintain its world-leading status, it is also essential that the UK Civil Service can complete open recruitment competitions faster than its international counterparts. As a result, the

105. Cabinet Office, *Vetting explained*, 14 October 2020, [link](#)

106. OECD Dataset on Strategic Human Resources Management, https://qdd.oecd.org/subject.aspx?Subject=GOV_SHRM

107. Independent Review Of The Australian Public Service, *Our Public Service Our Future*, 2019, [link](#)

108. Independent Review Of The Australian Public Service, *Our Public Service Our Future*, 2019, [link](#)

109. Independent Review Of The Australian Public Service, *Our Public Service Our Future*, 2019, [link](#)

Civil Service Commission should launch an international benchmarking exercise to determine the length of external appointments in the UK and how these compare with other OECD members.

Revisiting the Baxendale Report

As noted in Chapter One, the 2014 Baxendale report shone a light on the appalling obstacles faced by outsiders entering the Civil Service. For that reason, Policy Exchange recommended in *Government Reimagined* that the exercise be repeated”

One of the key recommendations of the Baxendale Report was that “the Civil Service should return to this topic in 6 to 12 months and conduct a further series of in-depth interviews to check what has changed.”The extent to which this happened remains disputed. This exercise should now be repeated and a skilled outsider should be brought back to explore the progress since the Baxendale report was published.

Boardman has since repeated this recommendation:

“That government undertakes a follow up review to the Baxendale Report reviewing the experience of external hires into the Civil Service to ensure that impediments to effective recruitment and retention are eliminated, and that this exercise be repeated at regular intervals.”

There is now no excuse for such an exercise not to happen. An adequately resourced and skilled outsider, operating independently of the Civil Service, must - as a matter of priority - re-examine the impediments to effective recruitment and retention. Furthermore, on completion of such a report, one year later, the same outsider should be invited back to determine whether progress has been made.

Policy Recommendations

- **The Government should end the UK’s status as an international outlier by ensuring that internal recruitment is not excluded from legislative supervision.** Without rigorous application of the merit principle to all Civil Service appointments, with independent oversight to uphold standards, the Civil Service is at risk of embodying the very dangers that Northcote and Trevelyan hazarded against - namely, of professional advancement resulting from either time-served, or the exercise of personal patronage by senior officials. The Constitutional Reform and Governance Act should be amended to make clear that, save for limited exceptions, the merit principle applies to recruitment for all Civil Service positions, whether advertised internally or externally.
- **Ministerial Approval must be required before a Senior Civil Service vacancy is advertised internally.** The Government should revoke the present delegations and establish a rule that all Senior Civil Service vacancies are advertised externally, unless

the appropriate Minister agrees that another approach to filling a vacancy should be taken.

- **There must be mandatory reporting requirements detailing when, why, and how exemptions are exercised.** Despite successive Ministers issuing instructions that all Senior Civil Service vacancies should be advertised externally by default, there are no complete datasets as to whether, and if so, how often this instruction is adhered to by Departments. The Minister for the Civil Service must, as a minimum, have sufficient data to understand the real world effects of management initiatives relating to recruitment.
- **The Civil Service Commission should, as part of an international benchmarking process, seek to ensure that the UK has the most responsive recruitment process in the OECD.** It is essential that the gap between a vacancy opening, the publication of an advertisement for that vacancy, and the completion of the recruitment competition is as short as possible. Inefficiency in this process creates strong incentives for officials and Ministers to run an internal recruitment competition in order to ensure a candidate is appointed quickly.
- **The Government should commission independent research into the issues external hires face when joining the senior levels of the Civil Service.** One of the key recommendations of the Baxendale Report (2014) was that “the Civil Service should return to this topic in 6 to 12 months and conduct a further series of in-depth interviews to check what has changed.” This exercise should now be repeated, as recommended by the Boardman review, and a skilled outsider should be brought back to explore the progress since the Baxendale report was published.

4. Improving the Capability of the Civil Service Commission

Introduction

If more people are to come in from the private sector there must be sufficient oversight of their behaviour whilst a Civil Servant. This report has already highlighted a number of anomalies in the limits of the UK Civil Service Commission's powers compared to its international equivalents in Australia, Canada, New Zealand, and the United States. Specifically, it has no power to investigate internal appointments within the Civil Service, and it has no power to annul appointments that have been improperly made. This report will explore further. This chapter is divided into four sections:

1. The Resourcing of the Commission
2. Satisfactory degree of independence from the leadership of the Civil Service
3. Improving the Civil Service Commission's Capacity to Investigate Breaches of Propriety
4. Reporting Senior Civil Servants for Breaches of Propriety

The Civil Service Commission must ensure that the ethical and professional standards of the Senior Civil Service are retained. The Civil Service Commission has an important historical and contemporary position in the Civil Service. It has a statutory duty, under the Constitutional Reform and Governance Act 2010, to uphold the merit principle in external appointments and to investigate potential breaches of the Civil Service Code that are brought to its attention by civil servants.¹¹⁰ The serious impediments to the functioning of the Commission must be addressed.

1. The Resourcing of the Commission

The model of an impartial Commission to protect the merit principle has been adopted, with some variations, across the world's democracies. New Zealand, Canada and Australia, by way of example, all have a Public Service Commission which has conceptual parity with the UK Civil Service Commission, whilst the United States maintains an Office of Personnel Management as its equivalent body. Australia and the United States also have a separate Merit Protection Commission or Merit System Protection Board to head appeals where the merit principle may not have been

110. Cabinet Office, *The Civil Service Code*, 16 March 2015, [link](#)

followed.

The table below illustrates the scarcity of resources afforded to the UK Civil Service Commission in comparison with two of its international counterparts - the Public Service Commissions of Australia and of New Zealand.

	Australian Public Service Commission (including the Merit Protection Commissioner) ¹¹¹	New Zealand Public Service Commission ¹¹²	UK Civil Service Commission ¹¹³
2019/20 Budget in GBP (currency converted at the exchange rates as of 31st July 2021)	~£24m	~£14.9m	£2.25m
Number of Staff	238	154	19.4 FTE (plus Commissioners)

Considered against these international comparators, the UK's Civil Service Commission is heavily under-resourced. Our First Commissioner is a part-time office holder, paid considerably less (albeit pro rata) than a middle-management grade Civil Servant, and is supported by a group of fee-paid Commissioners who are able to devote only limited time to their duties. Our Commission has a secretariat of less than 20 full time equivalent staff, all of whom are seconded civil servants.¹¹⁴ This roughly equals one member of full time Commission staff for every 24,400 UK civil servants. Our Commission's annual budget for its most recent reporting year was £2.257 million, approximately three quarters of which was spent on staffing costs.¹¹⁵

Contrast this with the position in New Zealand, where the Civil Service is approximately 10% the size of the UK's. The Public Service Commissioner in New Zealand, who is also the head of the New Zealand Public Service, is paid almost six times the salary of his UK counterpart, and has at his disposal an organisational budget approximately 12 times that of his UK equivalent, and over 9 times as many staff working for him.¹¹⁶

The position of the Civil Service Commission is pivotal for the functioning of the constitution and for upholding the principles on which the Civil Service has been founded. A comparative reading of the annual reports of the UK Commission against its Canadian, New Zealand, and Australian counterparts is illustrative. Our Commission lacks almost any meaningful data or insights into how the operation of recruitment across the Civil Service has functioned. It provides confusing and, at times, misleading statistics on its role in protecting the merit principle and in investigating breaches of the Civil Service Code. To command confidence in its independence and efficacy, it simply must do better.

114. Civil Service Commission, *Annual Report and Accounts, 2020-21*, [link](#)

115. Civil Service Commission, *Annual Report and Accounts, 2020-21*, [link](#)

116. Public Service Commission, *Chief Executive Remuneration Disclosure*, [link](#); Public Service Commission, *SSC Annual Report 2019*, [link](#)

111. Australian Government, *Australian Public Service Commission Annual Report 2019-20*, [link](#)

112. Public Service Commission, *SSC Annual Report 2019*, [link](#)

113. Civil Service Commission, *Annual Report and Accounts, 2020-21*, [link](#)

2. The Functional Independence of the Commission

The 2014 Triennial Review of the Commission observed that “the Commission is the independent regulator for some of the most important aspects of the Civil Service... All parties should respect the need for the Commission to be and perceived to be independent.”¹¹⁷ The Civil Service Commission does not employ any of its own staff, despite having the statutory authority to do so. The entirety of its secretariat is staffed by civil servants on secondment. All of the First Commissioners appointed since the passage of the 2010 Act have been former civil servants, and the current First Commissioner is a former Permanent Secretary.

None of these are novel or original observations. The 2014 Triennial Review of the Commission recommended that the leadership and staffing of the Commission should not consist entirely, or largely, of former and current civil servants, and also recommended that the Commission should exercise its statutory authority to directly employ its own staff.¹¹⁸

The First Commissioner also sits on the Senior Leadership Committee of the Civil Service, and participates in decisions relating to talent management and how to fill the most senior vacancies across the organisation at Permanent Secretary and Director General level. The Commission exists to regulate the behaviour of the Civil Service so as to provide some independent assurance to Parliament that civil servants are operating within the ethical boundaries set by Parliament and recruited according to the criteria determined by Parliament. It is difficult to envisage how the Commission is able to exercise administrative, functional, or decision making autonomy from those it is supposed to regulate when it is entirely dependent on civil servants for its staffing and is led by a retired Civil Servant.

3. Improving the Civil Service Commission’s Capacity to Investigate Breaches of Propriety

As this report has already outlined, the Constitutional Reform and Governance Act 2010 established on a statutory footing a *Civil Service Code*, which sets out the ethical standards to which civil servants are expected to adhere in the course of their official duties. The *Code* sets out the core Civil Service values of integrity, honesty, impartiality, and objectivity.

The 2010 Act also empowers the Civil Service Commission to hear complaints from civil servants about potential breaches of the *Code*. However, the Act places an important limitation on this power, by stating that the *Code* may set out steps that a Civil Servant must take before raising a complaint with the Commission. The steps that have in fact been put in place are that a Civil Servant must first raise their concerns with his or her employing Department.

This curious legislative feature was a compromise following considerable discussion when the then Labour government consulted on a draft Bill which, ultimately, became the nucleus of the 2010 Act. That draft Bill sought to largely exclude the right of civil servants to bring complaints

117. Cabinet Office, *A Better Civil Service: Triennial Review of the Civil Service Commission*, [link](#)

118. Cabinet Office, *A Better Civil Service: Triennial Review of the Civil Service Commission*, [link](#)

to the Commission about potential violations of the Civil Service Code, a proposal which met with widespread criticism in consultation responses. Indeed, the Civil Service Commissioners at that time argued in their own response to the consultation that:

*We continue to have concerns that individuals may be constrained from pursuing appeals for fear of the impact on their careers.*¹¹⁹

With this in mind, it is perhaps not surprising that there is no record of any official formally raising any objections about Heywood's conduct towards Greensill. The law as it currently stands would have required them first raising their concerns with Cabinet Office officials, all of whom, ultimately, reported to Heywood. It is understandable in such a scenario that they may have felt 'fear for the impact on their careers.' This is especially true when, as this report has also identified, career progression within the Civil Service is largely free of independent oversight or effective controls on patronage and favouritism.

The Government should remove the prohibition on bringing potential Code violations directly to the attention of the Commission, where the complaint relates to the most senior officials within a Department.

4. Reporting Senior Civil Servants for Breaches of Propriety

In 2012, the period when Greensill was first appointed and which raises the most serious questions about the probity of Heywood's conduct, the only independent body with the power and independence to adjudicate on Heywood's behaviour was the Civil Service Commission. Boardman has revealed that several officials at the time felt uncomfortable enough with Greensill's position that they outright refused to work with him, and two senior officials at least felt able to articulate their concerns directly to Heywood. Tellingly, however, not a single complaint was raised with the Commission.

Improving whistleblowing was a key feature of the Boardman Review. As Boardman noted, "in the Cabinet Office's 2019 staff survey, one in three civil servants were unaware of how to raise a complaint under the Civil Service Code and one in four were not confident that it would be investigated properly." In light of this, Boardman recommended a number of changes, including:

- Whistleblowers should have the option to raise a concern with someone outside the Civil Service and the Civil Service Commission, e.g. the Chair of the audit and risk committee of the department.
- Whistleblowing cases should not be referred back to the department to investigate unless the whistleblower consents.¹²⁰

However, what the Boardman Review does not reflect is the fact that a Civil Servant who attempted to whistleblow to the Civil Service Commission

119. Ministry of Justice, *The Governance of Britain - Analysis of Consultations*, March 2008, [link](#)

120. Boardman, *Review Into The Development And Use of Supply Chain Finance (And Associated Schemes) In Government*, Part 2: Recommendations and Suggestions, 5 August 2021, [link](#)

would not have any assurance that doing so brought them within the protections of whistleblowing laws. It has been the policy of successive governments since the enactment of the Public Interest Disclosure Act 1998 to protect the position of *bona fide* whistleblowers in the workplace who discover genuine evidence of wrongdoing by their employers. That Act recognises that there are extreme circumstances in which an employee might not feel sufficiently confident to first raise their concerns directly with their employer, and it provides the appropriate legal protections for those employees who raise concerns in good faith with a list of appropriate authorities prescribed by the Act. It is noteworthy that this list of prescribed authorities, freely published online, does not include the Civil Service Commission.¹²¹

Policy Recommendations

- **The Civil Service Commission must be properly resourced.** The Government must ensure that the Commission is adequately resourced to perform its statutory functions. This should include making the First Civil Service Commissioner a full-time position with pay which is commensurate with the gravity and importance of the role, and which is comparable to equivalent positions elsewhere within the UK and other jurisdictions.
- **The Government should undertake a comprehensive independent international benchmarking exercise to identify the Civil Service Commission's strengths and weaknesses.** This benchmarking exercise should include funding, staffing, expertise, pay, and the adequacy of its supervisory powers.
- **The Civil Service Commission must be made more accessible to individual Civil Servants.** The Constitutional Reform and Governance Act states that the Commission must consider complaints raised by civil servants regarding potential breaches of the Civil Service Code. However, current rules require a Civil Servant to raise potential Code breaches with their employing Department as a precondition of the Commission being prepared to consider a complaint. This precondition should be removed where a complaint relates to the conduct of the most senior civil servants within a Department.
- **The Government should update the list of 'prescribed persons' under the Public Interest Disclosure Act (1998).** The Civil Service Commission is not listed as a 'prescribed person' for the purposes of the Act. A Civil Servant who attempted to whistleblow to the Commission would thus not have any assurance that doing so brought them within the protections of whistleblowing laws. The Act should be updated to ensure that it includes the Civil Service Commission with respect to potential breaches of the Civil Service Code.

121. BEIS, *Whistleblowing: list of prescribed people and bodies*, 13 February 2020, [link](#)

- **The Civil Service Commission must have genuine independence from the wider Civil Service leadership.** Every First Civil Service Commissioner appointed since the Constitutional Reform and Governance Act became law has been a former Civil Servant, and the entire Commission Secretariat is staffed by current civil servants. The Government should carefully consider the desirability of a Commission that has only ever been led by former civil servants, and a Commission Secretariat that has only ever been staffed by existing civil servants. The Government should consider how best to enable the Commission to choose to employ its own staff, directly.
- **The First Civil Service Commissioner should not participate in the management of the Civil Service.** The First Civil Service Commissioner is a member of the Senior Leadership Committee of the Civil Service, and participates in decisions about talent management and hiring approaches for senior vacancies. This blurs the boundaries between the regulator and the regulated and gives rise to the possibility of the Commissioner being required to consider the ethics of management decisions in which he or she may have actively participated.



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