

**FINAL DRAFT**

# **TRUST IN THE SYSTEM**

**Restoring trust in our system of government and regulation**

Regulatory Policy Institute

**rpi**

**Better Government Programme**

# Regulatory Policy Institute

## Trust in the System

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## Executive summary

### The nature of trust

Even before the parliamentary expenses revelations, distrust - not just of politicians or the Government but of the system of government - appeared to be both deep-rooted and deteriorating. The current economic crisis has aggravated the crisis of trust in the system. People have lost confidence in both political and regulatory processes. (10-29)

We identified six roots of distrust: electoral considerations; conventions of responsibility and accountability; the position and needs of the media; failure to manage expectations; incomplete grasp of the communications needs of today's citizens; and the changing professional hierarchy. (30-34)

Any attempt to address the trust challenge must be underpinned by three considerations:

- *Taking the politicking out of politics.* It is not politics itself, but its conduct, that goes to the heart of trust in politicians and colours perceptions of the rest of the system. Trust can be improved through limiting the scope for narrow party or personal interests to predominate. As the Power Commission put it, ...*"the only way politicians can differentiate themselves from their opponents is by attacking competence or probity. Over time, this inevitably leaves the public with a sense that lack of probity and incompetence are characteristics of all politicians."* It is a cornerstone of democracy that we should be able to choose those whom we put in charge of the system (although there is scope for debate over what "in charge" should involve). But the need to be elected carries with it the temptation to posture, over-promise, attack rivals, bury failures, buy votes and organise into election-winning (rather than public-serving) factions. That is the price we have to pay, but the implications for trust are obvious. Our task has been to work out how those temptations can be contained.
- *Increasing the perception of government in the public interest.* Improving trust by demonstrating that decisions have been made by those best placed to make them and that they have been made transparently.
- *Improving perceptions of the competence and responsiveness of the system.* Improving trust through greater accountability of decision makers to citizens. (38)

## Core recommendations

### 1. Redefining the way Ministers and their advisers operate

The convention that Ministers make all decisions in their Department is unrealistic and only serves to fuel the destructive political blame culture that deters respect for their role and corrodes trust. Protocols should be published defining the roles and responsibilities of Ministers

and officials such that while decisions on policy would rest with Ministers, policy making would be recognised as an iterative process between Ministers and advisers and policy management would be attributed between Ministers and Civil Service and other advisers. It would be harder, under this innovation, for Ministers or their parties constantly to be targeted for newsworthy or politically opportunistic reasons. (80)

Responsibility for errors should be attributable where they are caused, and not always to the top of departments. Officials, regulators and NDPB heads should be directly accountable to Parliament as well as to Ministers. But accounting officers should no longer be held personally responsible for problems that may have arisen a decade before they took over or for problems arising from a policy structure they would probably never have designed. (75)

Permanent Secretaries, with the approval of their departmental boards, should be given the right to seek a formal instruction from the Minister (reported to the National Audit Office which should have extended powers to review the propriety of ministerial conduct) if a Minister wished to overrule advice that a decision was not just illegal, but also wasteful, disproportionate or impracticable. (75)

Ministers and advisers should be more conscious of gross negligence and misconduct in the exercise of public office, which should be made a statutory offence. An external review body should have the power to assess whether a prima facie case has been made, for example where economic or budgetary mismanagement or smear campaigns are alleged. (75, 79)

The balance between policy and financial management and delivery skills should be re-assessed in setting criteria for filling the most senior grades in Departments through open competition. Departments should also be more ready to replace the five to 10% of worst-performing staff every year. A reward structure should be developed to give at least equal recognition to project management and delivery as is given to policy development and service to Ministers. (75)

Officials should be allowed to develop at least three to four years experience in each subject-related policy posting and move the emphasis away from diagonal to vertical promotion paths designed to develop expertise in depth. Similarly, the average appointment for a Secretary of State is two years and for a Minister just one year and eight months. Few concerned about trust in the competence of Ministers could believe that this is long enough to master a wide range of issues, let alone the machinery of their Department. (75)

All Chancellors try, to a greater or lesser extent, to buy elections. A body giving independent guidance on public borrowing and spending proposals might discourage decisions made with more than an eye to the electoral cycle. (76)

The NAO's recommendations for strengthening Whitehall Capability Assessments should be implemented. (75)

The Interchange Programme should be further extended to give officials more experience of the sectors with which they must deal. The Cabinet Office should consider ways of enabling secondments to and from smaller bodies. (75)

There is merit in strengthening the legal basis of Departments as institutions with clear statutory remits and legally constituted Boards. (33)

## **2. Clearer and stronger rules of procedure for Ministers and political advisers**

The Independent Adviser on Ministerial Interests or Parliamentary Commissioner for Standards, investigating on their own initiative rather than at the Prime Minister's discretion and reporting to Parliament, should certify whether or not the Ministerial Code has been followed. (79)

Duties should be included in the Code to ensure that no conflict arises between Ministers' and Special Advisers' public duties and the interests of any political party with which they are affiliated. (79)

The NAO should be given a duty to audit the decisions underpinning resource allocation in order to constrain Ministers from making pork barrel decisions. Policy making, and the auditing of the system, should be an end to end process without an artificial barrier being raised between Ministers and their departments and agencies. (79)

The Ministerial Code should include the currently implicit expectation that Ministers must explain departures from advice. (79)

## **3. Strengthening scrutiny**

Select Committees should hold pre-appointment hearings, with public input, not only for public bodies but also for Ministers, senior officials, and regulators. In calling the system to account they should be able, if necessary, to recommend disciplinary action - including dismissal. (59)

Parliament's independence from the less popular aspects of party pressure and its influence on scrutiny of the Executive should be encouraged through secret ballot election of Select Committee chairmen; ending Whips' nominations for Select or Public Bill Committees, which should as far as possible be appointed on the basis of expertise; and establishment of a Commons Business Committee to replace the Usual Channels. (60)

Parliament should be able to establish its own Commissions of Inquiry on major issues. (61)

Select Committees should be allowed to appoint a larger panel of specialist assistants. There are occasions when it might benefit the inquiry process if specialists were empowered to question organisations on behalf of their committee - akin to Committee Counsel in Congress. (62)

There should be a significant extension of joint working by combining some overlapping Commons and Lords committees and turning others into joint committees which could offer combined expertise and the moderating influence of the Lords on partisanship. (63)

## **4. Forcing parties to reach out to a wider public**

Parties must become more responsive to the public as a whole and less self-absorbed. In order to encourage greater engagement with citizens, and in the absence of cross-party agreement, Government should impose a £50,000 limit on annual donations by any one entity. The

reluctance to accept such a cap is not surprising and we accept that in the short term, party revenue would probably fall significantly. They would have to adapt or shrivel. (58)

Candidate choice by a tiny group of activists is little different from the politics of the rotten borough. The influence of traditional party politics should be reduced in candidate selection through adoption of open primaries. (see Better quality MPs below)

#### **5. Reforming the way in which Parliament calls Government to account**

Prime Minister's Questions and departmental question times should be supplemented by increasing to monthly the frequency with which Prime Ministers and their departmental counterparts appear respectively before the Liaison and departmental Select Committees, in which any backbencher or Peer should be able to participate. (82)

Playground behaviour entertains some but deters many. Speakers have over centuries turned a deaf ear to such behaviour: they must more strictly enforce the Code of Conduct for MPs which circumscribes conduct that weakens trust in Parliament (82)

Online questioning of Ministers and senior officials by panels of experts, who would invite the public to submit questions, should be piloted. We were impressed with the Treasury Select Committee's innovation in adopting a similar innovation, inviting the public to send in questions for a session with the Chancellor, Bank of England and the FSA. The experiment should be adopted by all parliamentary investigative committees. (83)

The Lords (with a significantly increased elected element, but protecting the position of Cross-Benchers) would become a more respected check on the Executive and the Commons if its Appointments Commission was able to vet candidates through both assessing external nominations and inviting people of recognised distinction and expertise to put their names forward on the basis of a strengthened test of significant distinction and/or outstanding service. A reformed House of Lords should lose its prohibition on Second Reading defeats and on amending public finance Bills, and an overwhelming Lords majority against Commons legislation should be sufficient to block legislation, at least for the term of one Parliament. (73)

Parliamentary consultation on the shape of the government's overall legislative programme and post-legislative and regulatory scrutiny should be introduced to assess whether laws and regulation have achieved their aims. (84)

#### **6. Greater disclosure**

The current Freedom of Information process should be reversed - all information held by the system should, subject to defined exceptions, be posted on line. This could include the *essence* of options presented to Ministers in order to allow Parliament and public to assess whether Ministers have departed from advice and to seek explanations if they have not been given. It would give the public a more realistic idea of the interplay between Ministers and their advisers in the decision-making process and possibly limit the scope for politically-focused attacks. We see no reason why Cabinet minutes and votes should not be published, subject to the exceptions mentioned above. (86)

## **7. More transparent use of evidence**

Impact Assessment should become a statutory requirement (allowing it to be legally challenged) for departments, regulators and other public bodies. (87)

The NAO's current oversight of IA should be extended to include ministerial proportionality tests. This might be expected to cause Ministers to be both more careful and more open. (87)

All Budget items currently subjected to IA following their announcement should be fully assessed in advance. (87)

Ministers and Permanent Secretaries (or advisory bodies) should jointly have to attest that any decision has been fairly based on the available evidence. This gives officials the opportunity to express concern if they feel that decisions are likely to be made in disregard of evidence; it is likely to make Ministers take greater care in imposing decisions; and it would provide evidence in Review proceedings. It is consistent with our view that policy making should be seen to be a partnership between Ministers and their advisers and that responsibility for poor judgement or execution should fall where it is due. (87)

## **8. User-friendly consultation**

Whitehall should borrow from the practice of some regulators of consulting upon and publishing "approach documents", with the aim of securing agreement in advance to the way in which policy reviews should be approached. (88)

People need to feel that their contribution has made a difference; or they should at least be told why it has not. Departments and NDPBs should publish Response to Consultation documents summarising and analysing responses received before delivering their verdict. With an increasing number of responses being received online, respondents could receive a copy at no cost; similarly, Select Committees could send links to evidence and reports to all those who have emailed them in connection with an inquiry. (88)

Whitehall should convene Test Panels to agree methodologies, assist in evidence assembly and advise on balancing evidence in all cases involving decisions that may impact on business sectors. Alternatively, Departments and NDPBs should recruit on line test panels amalgamating business sectors and citizens' panels or juries. Sub-regional juries, chaired by the MPs for their area (which might encourage cross-Party action), should be established. (88)

A more far-reaching option would involve what is known as Open Source Government, in which the system would act as referee, managing public debate (through, for example, mutually editable consultation documents on Wikipedia lines). This could incorporate rights such as those in Switzerland, where there is a duty for Parliament to debate issues if they attract the support of a sufficient number of people, or a recall mechanism if enough people protest about measures. (88)

Sector regulators try to be punctilious about setting out and keeping to timetables for policy processes. Neither Whitehall nor the Commission has ever submitted to such discipline. As a result, outsiders have little idea when announcements will be made, giving the impression of a lack of consideration for those affected by the system's decisions and of inefficiency. Government and Brussels have given no good reason why they are so different from regulators. The procedure should be tested through three pilots involving a major policy development exercise, a policy review, and a Bill. (89)

Allied to this is operating on a "legitimate expectations" basis under which policy-making aims at delivering long-term certainty. Several regulators strive for this but Government has done little to persuade outsiders that policy will not be set with a view to, say, a five year horizon of stability. (90)

### **9. Better quality MPs**

Opening up candidate selection to a wider cross-section of the public might stimulate engagement and curb the formulaic political plays that many perceive as characterising MPs. Open primaries have the potential to appeal to a constituency turned off by the activities of what they see as a small political class and to foster greater identification with voters. (67)

While the scope of Privilege should not be restricted, the Code of Conduct for MPs could be amended to require MPs to take reasonable steps to ensure that any statements made in the course of their parliamentary duties which may lead to economic or reputational damage should be true or should constitute fair comment on a matter of public interest: that is, opinion which any person could honestly hold, based on facts known at the time. (69)

The Parliamentary Fees Office's enforcement of the Wholly, Necessarily and Exclusively principle for expenses should be audited by the NAO. (69)

### **10. Education**

It is important that children are given an understanding of what they should expect from the system and how to deal with it, not just at service level but also in making their views count. This could be assisted by a series of documentaries, produced not just for schools (with explanatory teaching materials) but for mass market viewing, on the work of parliamentarians, local government, and Brussels. And the BBC's pre-1997 series on Whitehall should ideally be remade, but it is still up to date in conveying the work of departments and could be re-run in schools with a preface and minor edits. (106)

The onus is on the system to demonstrate its competence and integrity, but the media may be too ready to provide uncritical platforms and should be even tougher in highlighting politicking, PR and evasiveness and in calling its architects to account. (108)



## **Additional recommendations**

### **11. Fixed term Parliaments**

Should be introduced, but this would of itself not be uppermost in the public's list of trust builders: it would have to be combined with measures to turn elections into a true choice between candidates of perceived probity, likely to respond more to their constituents and less to their Whips, and to limit the perception of promises that are not kept. (45)

### **12. Improving analytical support for Parliament as a whole**

A stronger secretariat for both Houses, including a Parliamentary Finance Office, may help to make parliamentarians look better informed and reduce the likelihood of unrealistic manifesto commitments. (64)

### **13. Brussels**

Some elements of the Brussels process are still not covered by an Impact Assessment requirement, most notably Conciliation procedure. Conciliation timetables are tight, but clarity and accountability are as important at that stage as at any other. IA should apply. (91)

The UK (and all Member States) should routinely make public their analysis of draft EU Directives. (91)

All Member States should provide a clear explanation ahead of reaching Common Position in the Council of Ministers of the scope of national application and of the way it will interpret and apply measures. The Council Bureau should seek sight of draft implementation plans before Common Position (and, if significant amendment has taken place in Conciliation, before the Council finally agrees). This may delay the process by one or two months, but that is justified by the benefit in greater certainty that it would bring. (91)

In order to reduce distrust of direct applicability of EU legislation, initial consultation on transposition should become part of the IA process, with views on costs, benefits and implementation options being invited while proposals are at Working Group stage. Introduction of automatic notification would allow affected sectors to be kept informed of the implications as negotiating drafts change. (91)

The question of whether the problem of UK trust in the EU is less a function of a democratic than a presentational deficit may not be resolvable. However, although it may carry with it significant legal and practical complications, a Yellow Card right, requiring reconsideration of measures to which a third of national parliaments object, should be considered. And the link between MEPs and constituencies, rather than large regions with which few identify, should be re-established (76)

### **14. Improving the way the system presents itself**

Government websites should be reviewed to introduce greater consistency of identity, with a particular focus on location of contact details, What's New information and access to publications. (99)

A target of 60 minutes should be set – and met – for posting of material following its publication and that the issuing body posts announcements on its own site simultaneously with the NDS. (99)

All bodies within the system should offer, and prominently promote within “What’s New” sections, an automatic notification facility covering not just press releases but reports, speeches, statistical updates and new or revised pages within users’ selected areas of interest. All releases announcing publications should include a link to the document. (99)

All bodies should put their internal directories on line, with access to clear and comprehensive organograms showing contacts and responsibilities extending down to lower management levels. Websites should give some indication of the appropriate level at which to approach the system in particular circumstances – for example, when seeking information or making a submission. (99)

The search engines commonly used by the system in the UK and in Brussels compare poorly with Google, Yahoo and others in their performance, invariably producing unusable results. They should be reviewed and improved or replaced. (99)

An online One Stop Shop should be put in place to allow outsiders to access and respond to all Whitehall, sector regulator and NDPB consultations through a single point, with a clear link to a parallel EU facility. They should be clearly signposted and well promoted, using mass membership bodies to publicise site links to their members – a strategy referred to as “de-governmentalising information.” (99)

The One Stop site should offer a facility enabling people to access a plain English version of Bills. (99)

User-friendly information includes process governance issues. For example at present, public explanation of plans for the implementation of EU legislation is given at a late stage and is poorly disseminated. It may not be possible for Transposition Notes to be published earlier, but the draft implementation plans that have to be drawn up for all transposable EU legislation could be posted on line when they are sent to the Council Bureau. (99)

Departure from the Cabinet Office’s consultation deadlines should be explained (100)

Requests for input on policy should offer a clear explanation at the outset of why regulators/Government need to act and show that a genuine assessment of non-regulatory options has been undertaken. (100)

The system should tell affected sectors that it will within a defined deadline undertake ex-post review of regulation to compare projected and actual impacts; and then fast-track required amendments. (100)

The system should make compliance with the European Commission's consultation and impact assessment requirements a standard request at the start of any EU legislative process. If stakeholders point out omissions, the system should demonstrate responsiveness by taking them up with Brussels and the Cabinet Office. (100)

The system should establish and publicise a simple route for people and companies to complain about and receive feedback on over-burdensome or poorly applied regulation (100).

The system should invite people to register with its one stop shop site as panellists who could vote on propositions. This would both enable the system to run giant tracking surveys, with developing results for each poll displayed in real time, and foster a sense of engagement. (100)

There are few examples of the system visibly changing its mind as a result of Impact Assessment. Departments and the NAO's annual review should highlight cases where IA has made a difference in order to prove that it is used to inform decisions rather than to justify them. (100)

Whitehall should extend initiatives such as the Show Us A Better Way competition to give public a say over use of the system's information. (101)

The establishment of shared public feedback facilities on the NHS, police, childcare and comparative local authority performance is welcome and should be extended, but awareness of its availability will have to be promoted. (101)

Blogs do what established on line consultation cannot – allow the public and policymakers to talk to each other on a rolling basis. They should be used by Whitehall to develop a new channel for comment on proposals. (103)

## **15. Regulation**

Any request from Departments to independent bodies such as sector regulators to act (for example to review markets) should be published with a full justification. (110)

There should be a presumption in favour of publishing information on evolving thinking on the application and enforcement of rules. (111)

There is merit in regulators holding twice-yearly press conferences to raise their visibility with a public beyond their regulated stakeholders. (111)

## Ten keys to a trustworthy system: advice to those who hold - or seek - power

We looked for simple keys to trust. At their shortest, we suggest

- Treat taxpayers' money as if it was your own
- Promise only what you believe you can deliver
- Deliver it
- If you can't, explain why and be honest about it
- Keep the voters and stakeholders informed about what you are doing and aiming to do, the reasons why, and how they will benefit
- Try to understand the practical impact of whatever you are doing and want to do on those people it will affect
- Encourage feedback and make it easy for ordinary people as well as interest groups to give it.
- Penalise those who abuse their trust as public servants
- Recognise and encourage good professional performance and be intolerant of incompetence
- Strive to leave both the public finances and the reputation of our system of government better than you found them

The system will claim that it is already driven by those principles, so we have developed them as follows:

1. You work for us, with our money
2. The combined membership of the three main national political parties is little over half a million. Never put yourself in a position where it could be questioned whether decisions announced in the national interest are considered to have been driven by considerations of securing party advantage. Service to your party should be carried out in your own, unpaid time.
3. The public is at best bored with the atavistic culture of Government and Opposition; at worst it taints views of the system as a whole. Constant attacks on other parties fuel public cynicism and distrust of genuine national interest motivations. Opposition parties should see themselves as alternative governments with improved policies and approaches to government - not as vehicles for constant criticism of the party in power. Such criticisms please a few but contribute to widespread suspicion that all Opposition actions are crafted predominantly with a view to securing power rather than in the broader national interest.
4. Make all the available evidence and advice available; and explain your reasons for departing from it.
5. Don't promise what you can't deliver. Give formal responsibility for policy management and delivery to those who have no interest in anything other than doing the job – and make them directly accountable to the public or its representatives.

6. People are bored by success claims. If the system is going to trumpet its successes, it must prove that it has made a change not just to outputs but to outcomes.
7. Show you are human. The public - and even the media - will more readily trust the system if it rapidly (and even pre-emptively) admits to failures when they occur. Constantly emphasising the positive and obfuscating when things go wrong (or appear to go wrong) only fuels cynicism. And do what trusted humans do: if asked a question, answer it directly and without craft. Remember Socrates: "*The greatest way to live with honour in this world is to be what we pretend to be.*"
8. Certainty and foreseeability contribute to trust in a well-functioning system. A clear understanding of approach, predictable timetabling and a commitment to long-term policy stability are keynotes of many regulators' methods of work: Whitehall and Brussels would do well to learn from them.
9. While most members of the public will not notice, replacement of hazy (and often outdated) conventions and unpublished internal guidelines with clear protocols defining roles, expectations and conduct parameters could reduce suspicion that the system makes (and covers) up the rules as it goes along.
10. Communication must be a two way exercise. Make it easy for people both to convey views to the system and to receive feedback on them. Make them feel that their contributions have made a difference or tell them why their ideas cannot be accepted.

*Public trust is a pillar of public life. It is concerned with perceptions of honesty but is also about confidence and satisfaction with the outcomes of service delivery. Bridging the gap between values held by the public and their perception of official behaviour is a major challenge facing public bodies in the UK<sup>1</sup>*

## **Introduction**

1. The Regulatory Policy Institute is an independent, charitable organisation dedicated to the study of all aspects of regulation and deregulation, including the institutional processes through which public policy is formed and the development, implementation, enforcement and impact of particular policies.
2. RPI's Better Government Programme has for some years sought to produce practical proposals designed to improve the governance and user-friendliness of policy and regulatory systems. In 2004 it published 20 recommendations principally covering the use and availability of information, and in 2006 a commission assembled by RPI reported on reducing political and regulatory risk<sup>2</sup>. In 2008-9, we sought not only to review progress made by the system since those two reports, but also to examine the topical issue of trust: not just trust in the Government or in politics, which are regularly debated at length both in the media and most significantly by the Power Commission<sup>3</sup>, but in the system of central and local government, regulators and public bodies – their principles, institutions and the way they work.
3. The need for a further study on this issue might be questioned given the attention that has already been focused on it. The present Government has undertaken a Governance of Britain exercise<sup>4</sup> and has tabled a Constitutional Renewal Bill<sup>5</sup>. The Public Administration Select Committee has run an inquiry into Good Government<sup>6</sup>, the Hansard Society has produced a number of publications on areas within this topic<sup>7</sup>, and several projects such as the Better Government Initiative<sup>8</sup>, Conservative Democracy Task Force, and the Power Commission have produced detailed ideas on improving trust. And, of course, there is the work of the Committee on Standards in Public Life.
4. However, we believed that there is still a gap. The Bill, initiated with the intention “to help renew trust and confidence in our democratic institutions” and “to rebalance power between Parliament and Government and give Parliament more ability to hold the Government to account” arguably only tinkers at the edges of what may be an even more deeply rooted lack of trust or respect for the way our institutions - Executive, Parliament, public bodies and Brussels – operate than the mass of recent comment about “broken politics” has claimed. In the

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<sup>1</sup> *Getting the Balance Right - Implementing Standards of Conduct in Public Life*, Committee on Standards in Public Life, 2005, para 1.4

<sup>2</sup> *Political and Regulatory Risk*, RPI 2006 <http://www.rpieurope.org/Research/BGP%20Risk%20Report%20full.pdf>

<sup>3</sup> *Power to the People*, Joseph Rowntree Trust, March 2006

<sup>4</sup> See <http://www.justice.gov.uk/whatwedo/governance.htm>

<sup>5</sup> See <http://www.commonleader.gov.uk/OutPut/Page2171.asp>

<sup>6</sup> HC 97-I

<sup>7</sup> Most recently *Parliament and the Public: Knowledge, Interest and Perceptions* (2008) and the *Digital Dialogues* series

<sup>8</sup> <http://www.bettergovernmentinitiative.co.uk/da/57700>

aftermath of exposés over parliamentary expenses, proposals to “clean up politics” have only touched on “clean” conduct that alienates citizens from the system. Kenneth Clarke’s Democracy Task Force has gone further, but it has not questioned whether the fundamental principles of our system should be reviewed. The BGI has produced excellent reports, but they could be seen as insiders’ views of their system, concentrating on carefully reasoned but relatively small scale changes to address trust by improving the system’s effectiveness. And the Power Commission and Hansard Society have looked at trust in politics and democracy, not at the system of government.

5. In common with the BGI, we are seeking to focus on the system, but unlike the others we felt that if the trust “problem” is as deep-seated (whether actively or through apathy) as we believe (and, as we point out below, it is highlighted during low points in the economic cycle when expectations of the system to deliver are greater), the need to re-assess the relevance of even our most basic constitutional models and to reconsider the relationship between the components of power should not be ignored. This contrasts with the RPI’s traditional work, which centres on narrower, detailed considerations of aspects of regulatory policy and economics. In this exercise, our intention was to mix small scale, practical and relatively easy to implement recommendations with major political and constitutional findings designed to challenge current thinking and stimulate further debate.

6. We assembled an advisory commission with close experience of observing and of working with and inside Government<sup>9</sup>. Starting work in June 2008, long before expenses claims triggered a debate over trust in Parliament, it agreed the following terms of reference:

**To review progress made by Government, regulators and public bodies in implementing the RPI’s 2004 recommendations for improving the system’s user-friendliness; and to produce recommendations for improving public and corporate trust in the institutions of government.**

Evidence was invited from 15 bodies and individuals with detailed knowledge of the system and contributed by a large number of sources<sup>10</sup>. Consistent with our normal practice, evidence has been reproduced without detailed attribution unless sources requested otherwise.

7. The first question we had to address was whether the problem could be solved. While working on this report, the news agenda and the apparent work of our institutions was dominated by one trust issue after another: fighting between (and within) political parties portrayed as predominating over the business of policy making and public administration; the ethics and integrity of those who work in the system; major stakeholders refusing to implement policies that have failed to secure their support; expenses scandals - not a new issue but simply the most sensational recent example of a relentless news flow that progressively erodes and destroys trust - and so on. Against that background, we had to ask whether it would ever be possible to redesign a system that would be truly trusted, or whether more realistically we should aim for an optimum level of mistrust. Was there any point in seeking to address wholesale the causes of apathy, cynicism, and disengagement among citizens and the culture within our institutions that may contribute to it; or should we look at a series of relatively undramatic changes that might put the system on the road to a reduction in distrust? There might be significant disadvantages in tearing out some of the roots of

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<sup>9</sup> For membership, see Annex 1

<sup>10</sup> See Annex 2

distrust at the base – for example, the need to be elected drives short-termism, over-promising and obfuscation over under-delivery, and a corrosive PR-dominated culture of highly personalised attack and defence that has little connection in the eyes of the bulk of the electorate with working on our behalf; but there is widespread support for the people’s right to choose their representatives. And it is vital that the media should be able to expose political game-playing and poor delivery or for the NAO and Audit Commission to criticise wasteful inefficiency even if that results in reduced respect for government. Where the Commission could not agree on whether some of our most fundamental principles should be re-examined, we have set out contrasting conclusions.

8. We took the view that our report should focus not on intangible rhetorical imperatives but on concrete proposals that might have a chance of being put in place. We were conscious of the need to subject our ideas to the “So What?” test, and although none of our 80 or so recommendations, taken individually, represents a step change - there is probably no one action that could transform the landscape of trust - together, we believe, they represent a programme that could be implemented without great leaps of faith and which could both reduce the penumbra of distrust and increase confidence in the integrity of the system and its processes. We accepted, however, that its benefits – in terms of improved engagement, a more functional balance of power, and a more transparent and accountable decision-making process – would always run the risk of being ruined by a string of false expenses claims, evasive interviews or data losses, but we have been at pains not to seek or respond to headlines but to look at the underlying parameters of trust.

9. In our opening pages, we set out a series of keys to a trustworthy system. Underpinning our recommendations are six principles with which we believe few would disagree:

- Elections are an essential element in a democratic system; but people no longer accept that elections should be their only (or perhaps even their principal) opportunity to hold the system to account. They expect constant accountability and mechanisms that will offer it meaningfully.
- The business of government is an end to end process. There should be no artificial accountability barrier between Ministers and their departments and agencies.
- Responsibility for successes and errors should be attributed where it is due, not on the basis of constitutional fictions.
- Trust-related safeguards should as far as possible seek to ensure that good government is not prejudiced by electoral considerations.
- Where evidence must be tempered by judgement, we have a right to know why.
- With limited exceptions that most will understand, information held by the system is held on our behalf, paid for by us, and should be easily accessible.



If we have been able to embody those principles effectively in the suggestions that follow, it is thanks to the Commission members and witnesses who gave us considerable time and expertise.

## The nature of trust

10. Trust in the system is determined at several different levels:

- **Service level** (for example benefits and public services) - where trust is likely to be associated most closely with efficiency of delivery. The trust risk is therefore service failure, and unwanted success claims by the system are likely to create irritation akin to junk mail or cynicism if those claims are not matched by delivery.
- **Via the media** – through which most people engage with the political and policy-related system at one remove. Trust is influenced by the media’s need to be fed, its frequent requirement for headline-length encapsulation, and by the system’s need and desire to feed and exploit the media as a conduit to the public. The trust risks are obvious: a perception of crafted communication and the encouragement of politicking; and the creation of misconceptions about the motivations and integrity of the system through what has often been described as a “bias against understanding”, a feature of which is the media’s emphasis on the visible and its arguable over-emphasis on party political manoeuvring.
- **Personal** – citizen and business contact with officials and politicians. At this level, the trust risks lie in a lack of connection; a perceived lack of due process; inefficiency; and the perception of a self-serving class.

11. And it is perceived differently by different categories of citizen:

- The public at large, which may have little close interest in the system and its work even though it may have a high level of contact with the services provided by the state.
- The ‘Beltway’, in which there may be a high level of interest in the work of the system and in concepts of government
- Users of the system – those who engage with policy or regulatory processes or with the system for commercial reasons

12. Is it a major problem? There is abundant polling research on trust, but most of it concentrates on trust in the Government or in politicians. For example, Ipsos MORI routinely asks a sample whether it trusts the Government to tell the truth. Its November 2007 survey (all the polls below have been chosen to pre-date the MP expenses upheaval) shows that:

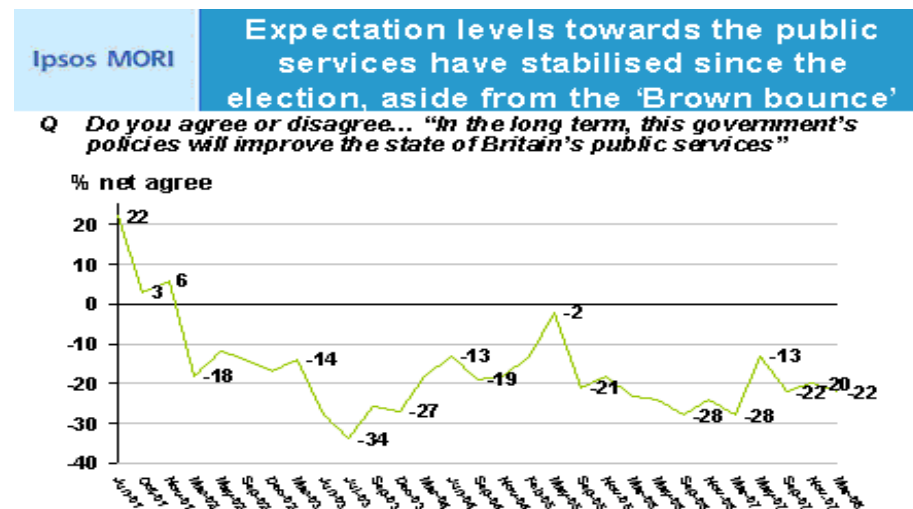
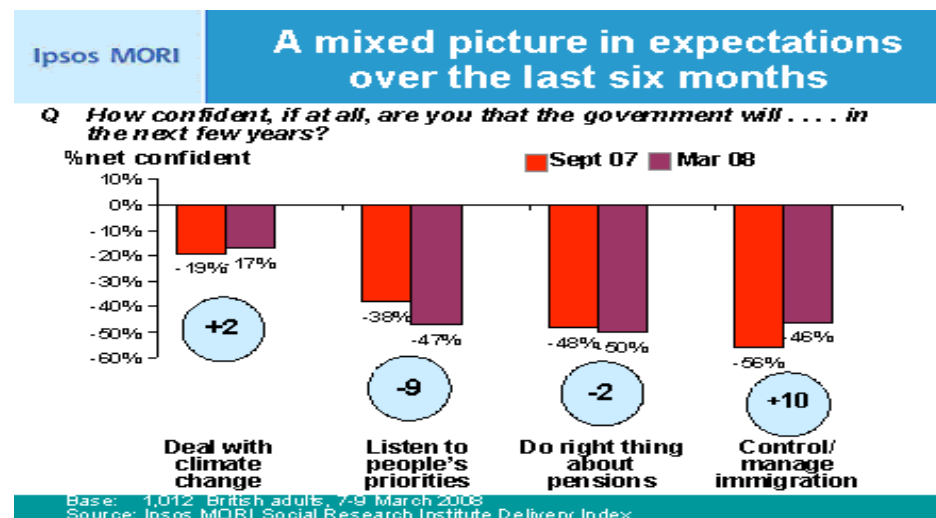
*The polls show there is a problem with trust...*

Strongly agree	Tend agree	to Neutral	Tend to disagree	Strongly disagree	Don't know	Agree	Disagree	Net confident
%	%	%	%	%	%	%	%	±%
6	15	8	25	44	1	21	69	-48

13. The Ipsos MORI Delivery Index offers a similar picture. Taken before the current economic downturn, its tracking survey showed that over seven in ten (72%) lacked confidence that the Government will listen to the people's priorities in the next few years, with the 'net confident' score falling over time – as of September 2008, it had reached *minus* 51%. Seven in ten (71%) also say they do not trust the Government to tell the truth, and around half (49%) do not trust the Government to act in the country's best interests.

14. This is linked to expectations of performance. The Delivery Index survey of the same date indicated low confidence in the public services and in the Government<sup>11</sup>:

15. Ipsos MORI research for the BBC indicates that the system's standing is low relative to other institutions. Two-thirds of people (65%) say they trust the Government least or next least of the seven institutions listed below. More generally, only 16% agree that "In general, I tend to trust politicians", while 83% disagree. The public give a variety of reasons for disagreeing — most commonly that they do not tell the truth (31%) or do not deliver on their promises (22%).

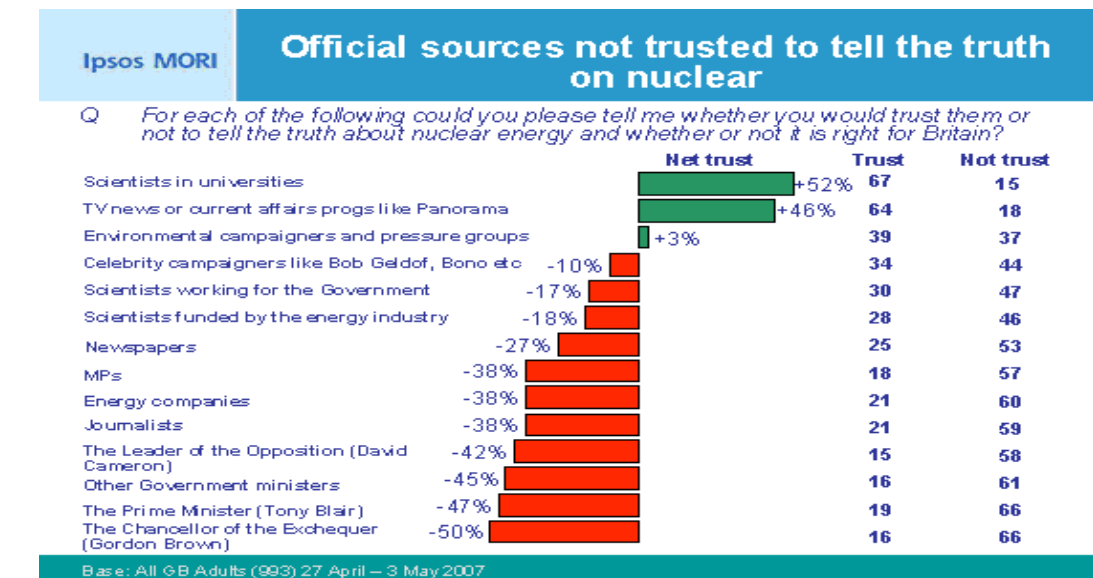


<sup>11</sup> We note that the question refers to 'the government' rather than 'this government' but respondents may have interpreted it ambiguously.

16. Yet the Ipsos MORI surveys show that many of the public are prepared to trust the government's advice on health and safety issues. Around three in four would trust the government's advice on smoking (77%), alcohol and drugs (72%) and on traffic speeding (76%). Trust tends to lessen for more contentious issues. For example, almost three in four (72%) would not trust the government's advice on the impact of immigration and on nuclear power there was a major credibility gap between scientists in universities (net trust +52%) and TV news and current affairs programmes (+46%) and Gordon Brown (-50%) and David Cameron (-42%). But high levels of distrust do not just apply to politicians. Depending on the issue, scientists can be considered tainted if they work for Government. In the case of nuclear power, their net trust rating was 69 points below their academic counterparts:

...and not just with politicians

17. The Committee on Standards in Public Life has further divided this among some of the components of the system. Its 2008 *Survey of public attitudes towards conduct in public life* indicates that only 22% of people think that all or most Ministers tell the truth – meaning that around 34 million adults do not think they are honest - and that only 38% think that all or most do not use their power for their own gain. 39% trust senior Civil Servants to tell the truth compared with 35% for local government



officers, local MPs and councillors were level at 46% and 45% respectively, but MPs in general were trusted by only 26% - which suggests, looking back to levels of contact with the system, that perceptions of incompetence are often not based on direct experience but on a more general sense of alienation from politics and politicians (and that poll was undertaken before the exposure of MPs' expenses claims). These ratings compare with doctors (94%), head teachers (83%) and judges (82%)<sup>12</sup>.

18. Our Risk report<sup>13</sup> surveyed the confidence (which can be taken as an analogue of trust) of organisations in policy and regulatory processes. Our survey sample was asked to rate political and regulatory risks from 1 (not significant) to 5 (highly significant). There was a high level of uncertainty (over 4) over whether politicians or regulators would intervene, over the outcome of policy and regulatory processes, and over the criteria to be taken into account in making policy and regulatory decisions; and concern that the costs and benefits of policy or regulatory options would not be fairly calculated or balanced and that expert assessments would be politically amended.

19. Of the surveys set out above, only the RPI research covers institutions and processes; but from the other polls, if it is assumed that it is difficult to separate perceptions of individuals (or classes of individuals) from the components of power in which they work, there is clearly a problem of systemic distrust; and it is one widely acknowledged by the system itself. It has changed somewhat in recent decades: the Hansard Society's 2009 Audit of Political Engagement<sup>14</sup> shows that in 1991, 31% felt our system of government works well and 63% felt it needed a lot of improvement. In 1995 it was 22% and 76% and in 2008 it had roughly returned to 1991 levels (33% and 66%). But four decades ago the figures were very different: in 1973, the split was 48% and 49%. We have not found any surveys dating back 50 years or from the pre-war period, but it may well be that increased media exposure and a decline in respect for the state has reduced trust over time.

20. Are these levels of distrust a UK phenomenon? It seems not, although we have less trust in our institutions than do most of our neighbours:

- The EU's Eurobarometer has tracked attitudes among member states for several years, and its Spring 2008 survey<sup>15</sup> shows an EU average for distrust in national governments of 62%, with the UK on 72% behind Hungary and Latvia (80%) and five others. Conversely, at 24% the UK's trust level is seventh from the bottom, contrasting sharply with Cyprus (69%), Finland (61%), Malta (56%) and Denmark, Spain and Luxembourg (55%). Our distrust of the British parliament (65%, against an EU average of 58%), places us eighth from bottom – the Baltic states are least trusting with figures in

*We are not alone, but  
we have one of the least  
trusted systems*

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<sup>12</sup> [http://www.public-standards.org.uk/Library/SOPA\\_bookmarked.pdf](http://www.public-standards.org.uk/Library/SOPA_bookmarked.pdf). Corroborated by Ipsos MORI's annual Trust in Professions surveys. The 2007 survey puts Civil Servants on 44%, Ministers on 22%, and politicians generally on 18% - compared with doctors (90%), teachers (86%), and professors and judges (78% each). <http://www.ipsos-mori.com/assets/polls/2007/pdf/trust-in-professions-2007.pdf>

<sup>13</sup> *Political and Regulatory Risk*, Annex 2

<sup>14</sup> *Audit of Political Engagement* 6, Hansard Society 2009, p.30

<sup>15</sup> Euromonitor 69, Spring 2008

the mid-80s – and with a trust rating of 24% we are 18<sup>th</sup>, lagging some way behind Denmark (76%), Cyprus (69%) and Finland (66%). And while distrust of political parties in the UK stands at 83%, that only puts us 12<sup>th</sup> in the EU league, albeit only slightly behind leaders Latvia (90%), Lithuania (87%) and Poland (86%). Only 13% of the UK sample trusted political parties, a sharp contrast with Denmark (50%), Spain, and the Netherlands (40% each).

- The European Social Survey<sup>16</sup> examined trust in politicians across 17 Member States, with the UK placed eighth on 3.5/10 (compared with Denmark (5.6) and Poland (2.1)). So we might conclude either that the UK is not alone in exhibiting high levels of distrust or that the majority of European systems engender greater trust than do ours.

21. Compare that with the US, where Gallup has been tracking trust in institutions since 1972. Its most recent survey (September 2007)<sup>17</sup> indicates trust levels of 49%, 43% and 50% respectively in federal government, the Executive and Congress – much higher than the UK even though the US ratings declined markedly in the recent years up to 2007.

22. But what causes this distrust and what are its key elements? Opinion research offers some pointers:

- The BBC survey mentioned above asked its sample why it did not trust politicians – and in the same way as the reputation of institutions is coloured by perceptions of those who run them, it must be concluded that trust in the system and trust in politics are intertwined – and found that while only 6% were concerned about corruption, 7% that politicians have their own agenda and 10% that they are evasive and do not offer straight answers, not delivering on promises (22%) and not telling the truth (31%) were the strongest roots of distrust. On MPs in particular, 55% of the sample considered that they put their own interests first; 34% their Party's. Only 4% felt that the national interest was MPs' prime motivation.
- The Committee on Standards in Public Life took the reverse approach, asking which qualities in public office holders were most likely to engender trust. Conduct in their private lives was rated bottom, considered extremely important by 33%, and not taking bribes led with 85%, but in between were telling the truth (76%), using public money wisely (74%), not using their power for personal gain (73%), dedication to doing a good job for the public (66%), competence (61%), being in touch with public priorities (59%), owning up to mistakes (53%) and giving reasons for actions and decisions (48%).
- And YouGov for The Daily Telegraph in 2007 found that 73% agreed that "politicians constantly make promises they know they can't keep" and that "politicians of different parties are too reluctant to co-operate in the national interest" (70%).

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<sup>16</sup> *Exploring Public Attitudes, Informing Public Policy*, October 2008

[http://www.cies.iscte.pt/np4/?newsId=57&fileName=ESSFindingsBooklet\[1\].pdf](http://www.cies.iscte.pt/np4/?newsId=57&fileName=ESSFindingsBooklet[1].pdf)

<sup>17</sup> <http://www.gallup.com/poll/28795/Low-Trust-Federal-Government-Rivals-Watergate-Era-Levels.aspx>

23. Putting those surveys together, we can conclude that we expect our public servants not to be corrupt and they generally deliver; but dishonesty and conflict between public, party and personal interests are at the heart of any trust problem, and that problem deepens during economic downturns when there is a greater focus on governments as potential providers of remedies.

24. Polling may give us some indication, but there is a need to look deeper, and in particular at what people mean by 'trust'.

25. Where the system is trusted, that trust generally vests in concepts such as democratic accountability, elected representation, and Parliament as a legislative review body, rather than with the way the system is considered to work. Commonly, "The System" is associated with its visible manifestation.

26. While we note with the Power Commission's conclusion (see box below) that failure of trust can arise from a significant perception of disengagement, apathy cannot be overlooked, possibly because the system means little to many or gives them no reason for taking an interest in it because they believe they are disenfranchised - they (85% of those polled for the Audit of Political Engagement) feel that what they do will not make a difference, and the overwhelming reason is a perception that the system excludes them<sup>18</sup>. People may draw a distinction between the delivery of a service by the state - for example benefits or policing - which they may see as being no different from a utility, expecting that service to be provided undramatically and only noticing when that service fails<sup>19</sup> - and its management and debate over how it should be delivered. Most people are simply not bothered, and view with bemusement or contempt the inward-facing battles for power and ideological dominance that seek the public's support only in order to enable one faction or another to do what it wants. They like choice, but in practice most do not mind how those who govern get into office or where responsibility falls as long as they do the job. Poor perceived execution, and all the political diversions from it, are at the core of distrust.

*Poor perceived execution is at the root of distrust*

27. There is another approach to trust - by those who do have to or want to work actively with the system - and that is a perception of institutions operating to their own rules, coy and clumsy about opening themselves up to scrutiny, constantly distracted from efficient policy formulation and delivery by electoral considerations and prone to fuelling trust-destroying uncertainty about the outcome of their processes. We are all familiar with the manifestation of these failures:

*"Why are these lying liars lying to us?"*

*"Politicians make promises to secure power but never deliver on them"*

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<sup>18</sup> See Audit of Political Engagement 6, Fig. 16

<sup>19</sup> Note that 55% of the public do not want to be involved in decision making – Audit of Political Engagement 6, p. 36

*“Politicians’ first interest is in gaining and maintaining power – party interest comes before the national interest”*

*“Parliament is an empty institution that has done nothing for us”*

### **The Power Commission on apathy...**

Disengagement is NOT caused by:

- an apathetic and uninterested public with a weak sense of civic duty;
- a widespread economic and political contentment;
- the supposedly low calibre and probity of politicians;
- the lack of competitive elections (this may have a minor impact on election turnout but it needs to be set in the wider context of an electoral system which is widely perceived to lead to unequal and wasted votes);
- an overly negative news media;
- lack of time on the part of citizens.

*Power* concluded that the following explanations stood up in the face of the evidence:

- citizens do not feel that the processes of formal democracy offer them enough influence over political decisions — this includes party members who feel they have no say in policy-making and are increasingly disaffected;
- the main political parties are widely perceived to be too similar and lacking in principle;
- the electoral system is widely perceived as leading to unequal and wasted votes;
- political parties and elections require citizens to commit to too broad a range of policies;
- many people feel they lack information or knowledge about formal politics;
- voting procedures are regarded by some as inconvenient and unattractive.

### **...and on disenfranchisement**

The survey of non-voters in the 2005 General Election asked respondents to choose an option from a list of twelve factors which might encourage them to vote. The most popular option was “politicians listened to my views between elections” which was identified as ‘very likely’ or ‘likely’ to encourage voting by 53 per cent of non-voters. Surprisingly, given the widespread sense of politicians’ lack of honesty, this was more popular than the option “politicians’ promises could be trusted”.

The proportion of those who strongly believe that ‘people have no say in what the government does’ rose from 15 per cent in 1973 to 30 per cent in 1994. 56 per cent agreed in 2003 that they have ‘no say in what the government does’.

Over three-quarters of those questioned in 2000 felt they had little or no power between elections.

*Power Commission, pp 17-18, 74, 76*



*“How can you expect us to trust them when they are mired in sleaze?”*

*“Evidence is distorted for unexplained reasons that we suspect are politically expedient”*

*“Our votes do not count – the system does not listen”*

*“Secrecy – we don’t know what they are doing or why they are doing it”*

*“How can we trust a system that sneaks in EU legislation by the back door?”*

*“They don’t seem to realise that they work for us”*

*“They are terrible at running things. So much of our money wasted”*

*“It’s just endless one-way communication of slick, crafted, insincere soundbites. Why can’t they tell it as it is?”*

28. Those concerns may have little to do with anything the system has done, actively or by omission. Trust in the system may be shaped by unemployment or recession, neither of which may be the system’s fault but which are associated with governments because the system rarely seeks to engender a realistic expectation of its limitations.

29. So, in addressing those concerns, it is necessary to be mindful of two alternative arguments:

**Argument A:** the only way to engage the public is to find ways of giving them a much greater say over the people and the policies of government.

**Argument B:** people don’t want involvement - they just want the system to do the job - like a utility - without PR, prevarication and knock-about politics. This attitude might be expected to prevail in periods of economic optimism, when people just want the system not to interfere with their lives. In more straightened times, expectations of and interest in the system grow.

30. Decision makers within the system try, in the main, to do “the right thing”. If the public suspects their motives, the fault may lie

- with a lack of understanding of the decision making process: born of ignorance, apathy or a failure to explain;
- with a perception that the wrong decision has been made, albeit with good intentions;

- with a perceived over-emphasis on announcement over delivery; or
- that an objective process has been distorted for political advantage

### **Professor Anthony King on trust and competence**

...Britons have always been sceptical about politics and politicians. Now their scepticism has morphed into cynicism, even contempt. At dinner parties, it is now rare to meet an admirer of more than two or three prominent politicians. It is the few oddballs, the one-offs - Vince Cable, Ken Clarke, Frank Field - who fare best. The issues that excite intense interest in political circles seldom rate a mention anywhere else.

People still care about the world around them but are barely concerned with the party-political battle as currently conducted. Why should that be so?

Part of the answer lies in a crucial fact that almost everyone in Britain is dimly aware of but that has yet to find full expression. It is that our system of government is failing to perform adequately. Governments of both major parties blunder and fail far more often than they used to.

To be sure, the post-war Attlee government wasted millions trying to grow groundnuts in Tanganyika and the Eden government rashly invaded Suez. But grandiose lapses of that kind used to be rare. Britain during the post-war era was, by and large, well governed and administered.

However, the past three decades have given us the BSE debacle; the poll tax; the Child Support Agency; Britain's ignominious expulsion from the European Exchange Rate Mechanism; the Millennium Dome; the massive cost-overruns and the partial or total failure of IT projects across the public sector; the failure to control immigration; the bungled introduction of home information packs (Hips); the abandonment of supercasinos; the fiasco of the cost-ineffective Assets Recovery Agency; the collapse of Metronet; GPs' and dentists' ill-drafted contracts; Northern Rock; the failure of government regulation across the financial sector; the botched marking of last summer's Sats exams; the mishandling of Post Office card accounts; the shambolic arrest of Damian Green, and a great deal else besides. And we still have ID cards and the London Olympics to look forward to.

British governments increasingly resemble cleaning ladies: they break the crockery and scratch the furniture, but they never, ever own up. It is always someone else's fault. Sir Andrew Turnbull famously likened Gordon Brown to Macavity the Mystery Cat ("At whatever time the deed took place - Macavity wasn't there!"), but practically every leading politician is feline in this respect. Most people, not resident in the Westminster Village, are unimpressed. They think it would be nice if politicians just occasionally confessed to making a mistake.

The air of omnicompetence that politicians exude is, of course, of a piece with their windy but empty rhetoric. Gordon Brown's claim to have abolished "boom and bust" is only the most recent example. Tony Blair declared in the 1997 Labour manifesto that "we have made it our guiding rule not to promise what we cannot deliver, and to deliver what we promise". "Politics in Britain," he wrote, "will gain a new lease of life." Today British politics looks more moribund than revitalised - and the gap between rhetoric and reality is at least partially to blame.

There is another point. Rhetoric necessitates the use of words, and ministers give the impression of imagining that speaking is equivalent to acting; that announcements ("I can announce today") are the same as positive accomplishments. There was once a saying that, whereas opposition politicians looked in the mirror every morning and asked: "What will I say today?", ministers asked themselves: "What will I do today?". Now senior civil servants agree that many of the ministers they work for have lost sight of that distinction.

What are all these words for? They are seldom to educate. They are often to obfuscate. Not least, they are deployed to score points off the other side - an exercise that most voters find tedious and pointless. Party A suggests something. Party B thinks Party A's suggestion is a good idea - or at least a popular idea - and takes up Party A's policy as its own. Instead of applauding, Party A's spokesmen then accuse Party B of having stolen its clothes - a phrase that may have sounded fresh in the 1840s when Disraeli first used it but one that is desperately tired today.

To most voters, party politicians in partisan mode, which they nearly always are, sound like belligerent speak-your-weight machines. Almost all they say is as dreary as it is predictable. Barack Obama is elected US President. What happens? Gordon Brown applauds a triumph of progressive politics. David Cameron applauds a victory for the forces of change. A potentially world-transforming event is domesticated and trivialised. All of the above would alienate those on the popular side of the great divide even if nothing else were true. But something else is true. While most politicians are above reproach in terms of their personal conduct, some are not. Peter Mandelson hobnobs with Oleg Deripaska. George Osborne sits quietly by while others discuss the possibility of a dodgy donation to the Tory Party. Unsurprisingly, a YouGov poll for The Daily Telegraph found that 81 per cent of voters believe "leading figures in all the main parties bend or break the rules to raise money for their party".

So what? The answer is not that "democracy is under threat". Democracy is secure; most people want more of it, not less. The answer is that misgovernment is bad in itself and that cynicism of politicians on the present scale corrodes people's respect for the law generally and undermines the ability of governments of all parties to persuade ordinary people to act in a disinterested, civic-minded way. If our politicians are such a shabby lot, why should we be any better? It would be sad if this country's public life came to resemble that of Greece or Italy.

*Daily Telegraph, 3 December 2008*

31. Whether such suspicions are justified is not the point. The perception of failings suggests a need for means to be found that would enable institutions to demonstrate that actions are taken in the public interest and are not influenced by considerations of electoral advantage. But it also matters whether criticisms are justified. It would clearly be a mistake to reform existing features of the system and replace them with something worse on the basis of unjustified criticism. And, given the preference of many for the individual over the State and the scope for our conventions of government to create distrust (see 32-33 below) it may be realistic to aim for an optimum level of distrust rather than expect that there is a formula that will produce broad trust in our institutions and processes. One Commission member believed that this negative approach to trust is realistic while government is based on a large, centralised state:

*More realistic than restoring trust may be aiming for an optimum level of distrust*

*“There is a school of thought, traceable back to De Tocqueville, which attributes apathy to the over-mighty State. As Simon Jenkins put it, ‘There are numberless London think-tanks devoted to such arcane topics as House of Lords reform, changes in voting systems, a better civil service. But every suggestion is a version of the same, how better to manage an ever more centralised state.’*

*Centralism is a major cause of low public trust. If governments behave in a way which sends a low-trust signal to ordinary people - eg by piling up regulations which erode their freedom and ability to make decisions for themselves, all of course for their own good - it is hardly surprising that people should reciprocate with low trust attitudes. The one breeds the other. Why should anyone bother to vote in local elections when most of the services they get locally are determined far away in Whitehall? And regional assemblies are no substitute because few people identify with the region in which they happen to live or have the slightest idea what regional assemblies actually do.*

*Improving the basic competence of government isn't just or even primarily a matter of training civil servants in project management - badly needed though that is. Unless we devolve more power back to local authorities, parish councils and other elected local bodies, I cannot see how we can re-engage people in the political process, regardless of the detailed constitutional and procedural changes that may be contained in your report, desirable though most of them are.”*

This issue deserves a study in its own right, and has frequently been debated. But all governments have been aware that the balance between centralised coordination, consistency in policy making and application, and bringing the system and its mechanisms closer to those on whose behalf it is run has never been properly struck. In principle, we believe there should be a significant relaxation of central control but we also accept that this is a complex issue which will need a dedicated and detailed investigation.

32. It might be suggested that part of the problem stems from adherence to constitutional and other conventions that inhibit more efficient government and a more accurate understanding of the way Government operates on behalf of the governed (and a perception that it does run on our behalf). For example

- Flexible Parliaments allow election dates to be determined for purely political advantage
- The convention that Ministers make all decisions encourages them to involve themselves in management of a system the size of which is impossible for the great majority of transient Ministers to control. It also encourages an environment in which Ministers are criticised both for taking credit for policy and for evasiveness when blamed for problems that in most cases were not their fault.
- Similarly, the convention that only elected politicians are “accountable” and that exercises such as Prime Minister’s Questions constitute “accountability”.

*Contrast between  
constitutional fictions and  
reality*

- The constitutional position of Parliament and the Whipping system respectively create unrealistic expectations and cynical impressions of its influence. There is a mismatch between constitutional fiction and the reality which is likely to breed cynicism - for example, the ideal of Parliament in the Constitution as representatives of the people holding Government to account is difficult to square with a perception that MPs are "lobby fodder" subject to their parties' Whips.

**The Committee on Standards In Public Life survey of expectations and key principles applicable to public servants**

We will assess our proposals against "Trust Factors" based on similar metrics

<b>Behavioural attribute</b>	<b>Which Principle the attribute relates to</b>
They should be dedicated to doing a good job for the public	Selflessness
They should not use their power for their own personal gain	Selflessness; Integrity
They should not take bribes	Selflessness; Integrity
They should own up when they make mistakes	Accountability; Openness
They should explain the reasons for their actions and decisions	Accountability; Openness
They should make sure that public money is used wisely	Fiscal prudence
They should set a good example for others in their private lives	Private behaviour
They should tell the truth	Act in an honest manner (distinct from 'Honesty' principle, which is concerned with declaring private interests and resolving conflicts of interest)
They should be competent at their jobs	Not one of the seven principles but identified by surveys as important
They should be in touch with what the general public thinks is important	Not one of the seven principles but identified by surveys as important

*Survey of public attitudes towards conduct in public life, 2008, Table A*

33. But there are other reasons:

- The pervasiveness of Party patronage may inhibit the election, and the conduct once elected, of people of principle, recognised expertise and integrity; and it entrenches the temptation to engage in the Punch and Judy politics that fuels apathy, estrangement and distrust.

*The party system fuels conduct that is corrosive of trust*

- Our Risk report noted the contrast in public esteem between judges and Ministers and concluded that the key reason that judges' decisions are not perceived as capricious or driven by anything other than evidence is that they are required to work within clear and respected rules of procedure. Ministers do not. It may be felt that while such rules restrict flexibility, they also encourage scrupulousness by increasing the fear of challenge and reducing the scope for form, content and timing to be influenced by opportunistic considerations (for example, our 2004 recommendations and the Risk report highlighted the widespread concern that non-binding Impact Assessments are used to justify, not to check, selected policy options). And where governance checks are applied, secrecy (for example, both reports mentioned the *in camera* operation of the Panel for Regulatory Accountability, leaving questions about its own accountability) creates suspicion and only serves to increase the impact of the National Audit Office by emphasising its transparency (although the NAO is constrained from exercising oversight of Ministers). But it could also be argued that judges mainly deal with non-controversial issues; the reverse is true of much of what Ministers handle.

### One diagnosis of the problem...

*"In the past it was assumed that governments might not be able to do everything but that they did what they said they would. Now we are rather like the way we thought of Italy – delivery has become a business of chance...and people have come to think of politicians as part of a world of celebrity – interesting but flawed, a source of little more than entertainment. And the way politicians and the media discuss policy – its implementation reinforces this – comes over as a game of denigration.*

*Why? Governments are trying to do too much too superficially. It's as though the main objective is the announcement. That leads to a lack of focus on the connection between initiatives."*

*Sir John Bourn, former Comptroller and Auditor General and Adviser on Ministerial Interests, in evidence to the Commission*

*The system is little understood – and does little to explain its work*

- The work of public institutions is still little understood by the governed. Apathy means that there is relatively little desire to engage; the educational system and the media (through which most people experience or interact with "government" at one remove) perpetuate textbook fictions that have changed little since Bagehot's day; and Government, despite having made great strides in communication, does not make it easy for people to learn about its work. Similarly, the work of MPs and councillors has never been clearly explained to today's citizens (look at Parliament's terrible handling of the expenses issue, for example). Indeed, it may be felt that the televising of Parliament, with its emphasis on the Chamber, creates a misleading and unfavourable view of elected representatives.
- Constant institutional change, for presentational reasons or to accommodate members of the governing Party, was cited by one witness as a cause of frustration at best: *"DTI changing to BERR – did it make any difference? It's just a complication for people who deal with institutions: contacts change, websites are slow to adapt, and so on."* The

Economic and Social Research Council's recent audit of government since 1997<sup>20</sup> concludes that the Government's successes have mostly come in Departments it inherited in 1997 and that its poor record is mostly in Departments it split up, amalgamated, or reorganised and fiddled with. Commentators have suggested<sup>21</sup> that the Departments that have been left alone delivered because they have been able to develop institutional tradition and experience. There may be merit in strengthening the legal basis of Departments as institutions with clear statutory remits and legally constituted Boards.

**...and this is the result**

Blogger Iain Dale on an audience Q&A session with Ann Widdecombe

*"If you were Chancellor of the Exchequer, what would you do to get us out of recession?"*

The audience was expecting Ann to announce a series of economic initiatives which would rescue the economy. But her answer was rather different.

*"Haven't a clue," she said. "And the trouble is, nor has anyone else."*

She accused politicians of announcing initiatives for their own sake, rather than because they were sure to have an effect. They were keen to be seen to be doing something, even if it turned out to be the wrong thing.

She has a point. No politician in government or those in the senior echelons of the Opposition can be seen to be shrugging their shoulders in despair or admitting they really don't know what should be done because we are in uncharted territory.

But that's exactly where we are. So when we hear Gordon Brown repeatedly saying that "we're doing everything we can" or "using all the weapons at our disposal" what he's really saying is "frankly, we ain't got a clue what to do either, but we can't be seen to admit it."

*Iain Dale's Diary, 25 January 2009*

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Iain Dale is a Conservative blogger, so in the interests of balance, for "Gordon Brown" read "any government"

- There has been relatively little progress since our 2004 report on bringing Government to the governed. Departmental, parliamentary, regulatory and public body websites are often difficult to navigate and inconsistent in format; automatic notification of information has in some cases regressed since 2004; it can be very hard for outsiders to find the right

<sup>20</sup> *Options for a New Britain*, ESRC, March 2009

<sup>21</sup> See *Labour's centralist impulse is verging on the demented*, Martin Kettle, The Guardian, 13 March 2009

official or document; and there has only been limited exploitation of new distribution channels. At best this creates frustration; at worst it reinforces a view that the system thinks principally of its own needs and is not the servant of the people.

*The media's pivotal role in shaping perceptions of the system*

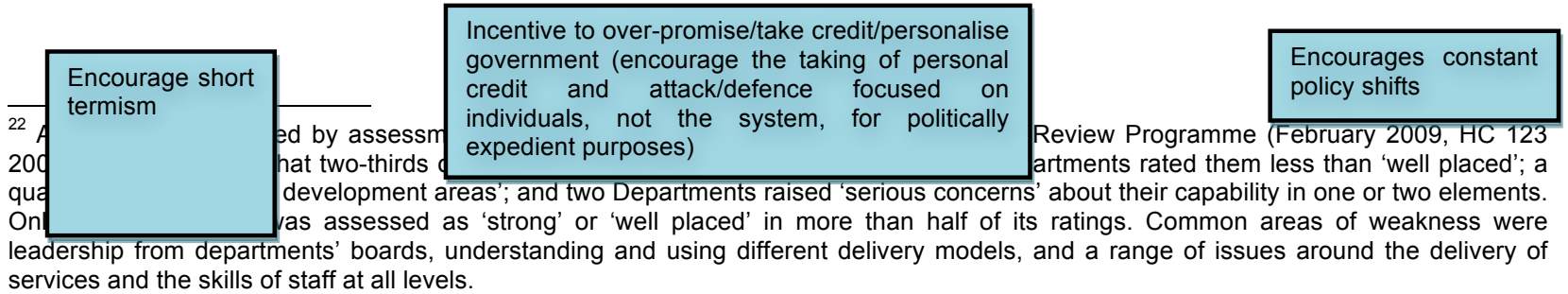
- The Media (old and new) has let in light upon magic. It increasingly catches the system out. Greater availability of information media has encouraged individuals to search more and be less inclined to take information at face value. And there is the 'Google Effect' – people can access information immediately and expect the same responsiveness from the system.
- The perceived gap between the system's rhetoric and delivery has complex causes (not least the desire to secure or retain power) and consequences (in particular, creating at the same time unrealistic expectations of entitlement and low expectations that promises and outcomes will match. This is complicated by the increasing need, largely unexplained to the public, for action to be taken on a cross-border basis through treaties that inhibit state action. Some sections of the public inevitably lose respect for a system they see as being powerless and as having ceded national authority; others (particularly corporations) may feel that trust would be improved if we ceded sovereignty for efficiency and certainty.
- The feeling that other areas of life have become more efficient – for example, the amount, presentation and speed of delivery of information on line – but that Government has lagged behind<sup>22</sup>.

**Things must change**  
New pressures must be applied to the leaderships of parties to make them more responsive. Under New Labour and the Conservatives, the pressures on the few who pull the strings come from focus groups and

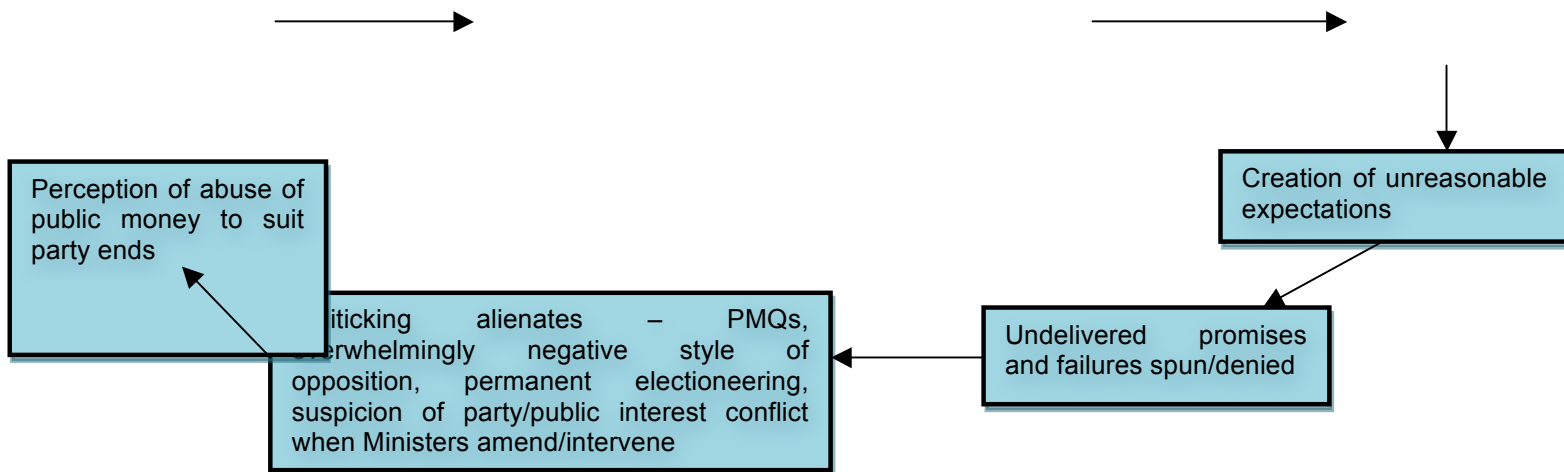
*The gap between promises and outcomes*

34. We have distilled our conclusions into six principal roots of distrust:

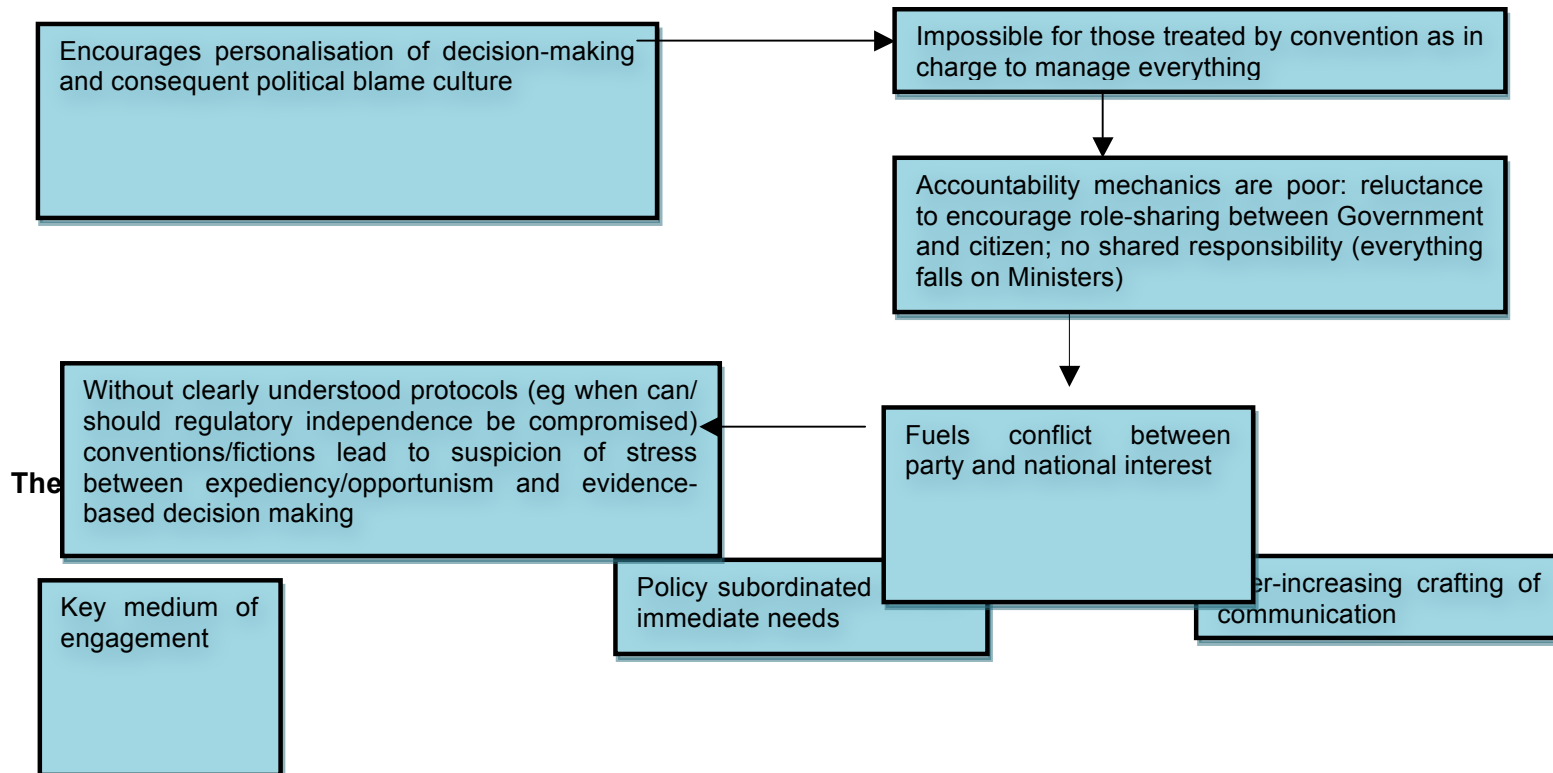
### Electoral pressures

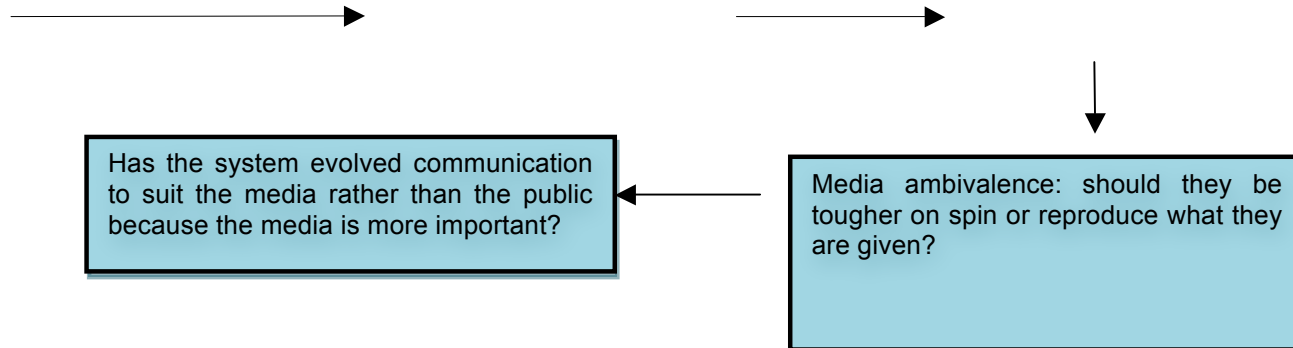




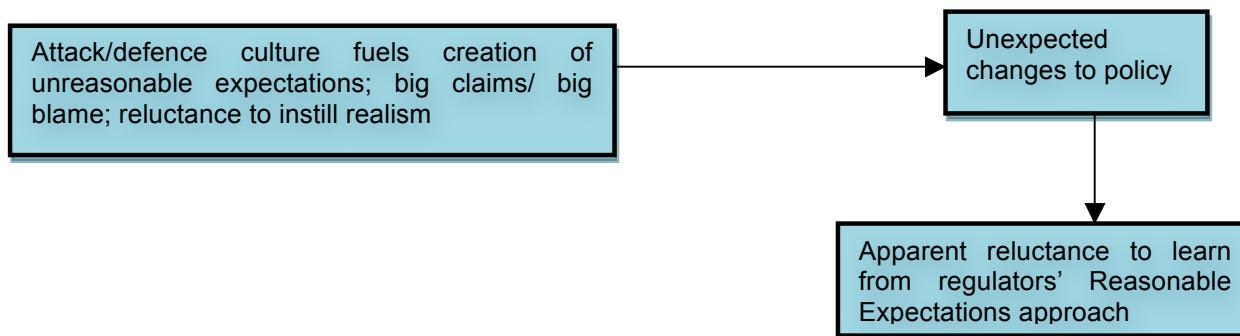


### Conventions of responsibility and accountability

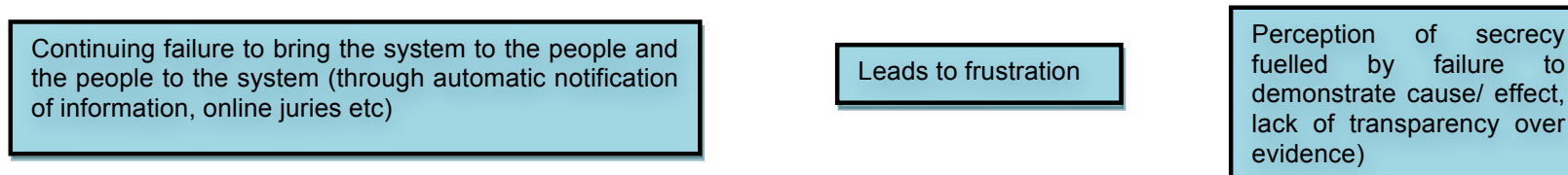


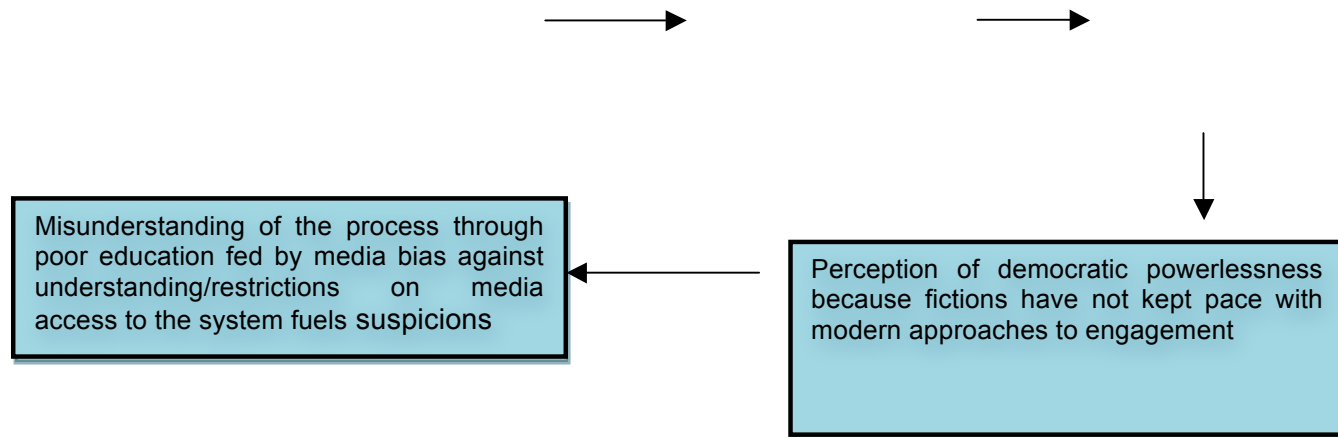


**Failure to manage expectations**

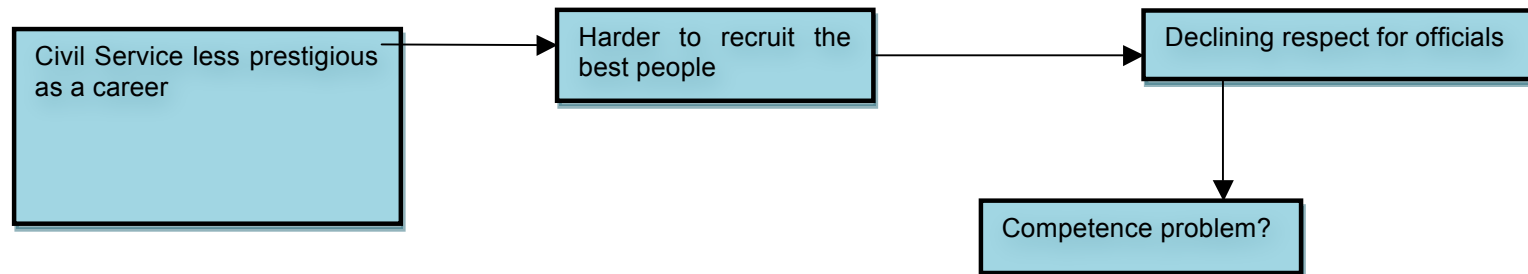


**Incomplete grasp of the communications needs of today's citizens**





**The changing professional hierarchy**



**How the system destroys trust in itself**  
 The following is an example of several of the trust-destroying phenomena set out here. It was likely that the “secret plan” to raise VAT was a rejected option included in error; but it suited the media and the Opposition to dramatise it as a conspiracy. Disclosing and explaining all options (see 86. below) would pre-empt this.

**ALISTAIR Darling drew up secret plans to increase VAT to 18.5 per cent, it was revealed last night.**  
 Documents show the Chancellor planned to force through the bombshell rise in 2011 — **AFTER** the next election.

Last night the Treasury admitted the explosive plans were scrubbed from Monday’s Pre-Budget Report at the last minute. Rumours swept

35. The system therefore makes politicians the target of suspicions over credibility and competence, distortion of process, and conflicts of interest; and officials subject to concerns over integrity compromised by political demands and over competence and delivery. Trust in that system will only be restored if it recognises that a fresh approach is needed to reform. But should that be based on refinements to existing structures and procedures or a more radical programme of change?

### **David Miliband on the Expectations Gap**

As Director of the Prime Minister's Policy Unit from 1997-2001, David Miliband developed the notion of an 'expectations gap' - the difference between the public's expectations of what the state *should* deliver and what the state *could* realistically deliver given the resources it was provided with. He believed that although Labour's modernisation agenda for the public services could marginally increase performance, it was never going to close the gap. The most important role for Ministers, he argued, was not necessarily driving forward reform but suppressing (or at least not inflating) public expectations about what the state could deliver.

This notion is highly relevant to the 2005-7 review on the future of the state that was conducted within an acceptance that public expectations of the state were increasing rapidly. As a result it recommended public sector reforms that were designed to achieve increased efficiency levels in order to maximise the levels of service that could be delivered within a finite resource package. In Miliband's terms, the report focused its attention on increasing supply, rather than suppressing demand.

### What could and should be done?

*Does the system work better because it is trusted? No – a better working system earns trust*

36. Even if we leave expenses claims aside, few even within the system would doubt that there is a problem – and at best a potentially serious one – with trust. And, while people have always distrusted the system to some extent without affecting its ability to operate, it matters. As one witness put it, “*At the very least, without trust it is harder for the system to persuade people to change their behaviour – enrolling in training programmes, stopping smoking or eating sensibly, recycling waste and so on.*” And trust goes hand in hand with efficiency. Another witness added: “*Does the system work better because it is trusted? No – a better working system earns trust.*”

*But would even root and branch reform restore trust?*

37. But can the problem be remedied? Several witnesses were concerned at the scale of the task, pointing to barriers of apathy and the length of time required – well beyond short-term political horizons - to effect meaningful change. It is not just the time it would take to introduce change within the system; the results of that change have to be noticed and appreciated if distrust is to be reduced. One witness explained that “*Even root and branch reform will not of itself matter because for most people, it is outcomes that count, not outputs. Look, for example, at business support simplification: there is a target to reduce something like a thousand schemes down to 50, but no difference will be noticed for 18-24 months, so the trust factor will lie not in the claimed but in the perceived achievement.*”

*The conduct of politics must change*

38. We believe that any attempt to address the challenge must be underpinned by three considerations:

- *Taking the politicking out of politics.* It is not politics itself, but its conduct, that goes to the heart of trust in politicians and colours perceptions of the rest of the system. If trust is to be improved, the scope for narrow party or personal interests (as opposed to genuine differences of policy, responsibly debated and communicated) to predominate must be limited. As the Power Commission put it, “*in an era where there is decreasing room for genuine policy difference between parties – particularly on economic matters – and when ideological vision is largely absent, the only way politicians can differentiate themselves from their opponents is by attacking competence or probity. Over time, this inevitably leaves the*

#### Trust matters

Without trust – or at least, achieving an optimum level of distrust – the system will find it difficult to inspire beneficial changes in attitudes and behaviour. This extract is from research commissioned by the Department for Transport on public attitudes to transport and climate change:

The majority of participants were initially sceptical of Government and there was particular **suspicion that the Government was using climate change as a way to raise taxes**. This view was most prevalent amongst, but by no means limited to, those in the discussion groups who were more sceptical about the reality of climate change and the extent to which it was the result of human activity.

By the end of the project there was little change in this scepticism towards Government. Aside from the tax issue, there were concerns that Government was telling others to act, whilst doing little itself.

*Exploring public attitudes to climate change and travel choices: deliberative research, DfT 2009, para 7.4.1*

*Electoral needs encourage trust-eroding conduct – how do we stop politicians from being led into temptation?*

*The public interest must dominate*

*Perceived competence and accountability must improve*

*public with a sense that lack of probity and incompetence are characteristics of all politicians.”<sup>23</sup> It is a cornerstone of democracy that we should be able to choose those whom we put in charge of the system (although there is scope for debate over what “in charge” should involve). But the need to be elected carries with it the temptation to posture, over-promise, attack rivals, bury failures, buy votes and organise into election-winning (rather than public-serving) factions. That is the price we have to pay, but the implications for trust are obvious. Our task is to work out how those temptations can be contained.*

- *Increasing the perception of government in the public interest.* Improving trust by demonstrating that decisions have been made by those best placed to make them and that they have been made transparently.
- *Improving perceptions of the competence and responsiveness of the system.* Improving trust through greater accountability to citizens of better-skilled decision makers.

39. With those in mind, we have looked at trust detriments and their remedies under five headings:

*Constitutional reform:* examining major constitutional principles – and fictions – such as accountability

*Institutional reform:* would changes to the system’s components improve trust?

*Procedural reform:* should we change the way the system operates?

*Presentational reform:* what could be done to improve the way the system and citizens engage with each other? What could be done to improve perceptions of the system?

*Regulatory reform:* are changes needed to the way regulators operate and to their relationship with the rest of the system?

In each case, we have set aside proposals that may lead to better government or regulation but which will not necessarily improve trust.

### **Constitution**

40. Our first section showed that there is an abundance of evidence of a lack of confidence that power is exercised competently and with integrity, and although this has been a perennial problem, the extent of lack of respect for our institutions and, we suspect, a feeling of a gulf between widely supported principles and the way they are translated into practice is a modern phenomenon. In the face of this malaise, it might be suggested that what is needed is nothing less than

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<sup>23</sup> Power Commission, p 62

a new approach to government, democracy and accountability, based on reassessing theories – or perhaps fictions - dating back to the 19<sup>th</sup> century (or earlier), avoiding sleaze and abuse of power, and open government (both in terms of demonstrable competence and improved engagement and sharing of power).

41. The political parties understand this, but are reluctant to act for fear of inhibiting their power or out of attachment to a perception of government that is increasingly only tenuously shared with the public. Because of that, it is arguable that the forthcoming Constitutional Renewal Bill, which will include the right to a parliamentary vote declaring war, Select Committee vetting of public appointments, and ending the Attorney General's influence over prosecuting authorities and the Prime Minister's power over judicial appointments will, while welcome in itself, barely register with those whose confidence it is designed to rebuild. The Justice Secretary, in a statement to the House (25 March 2008) on the draft Bill, acknowledged that need:

*“The accountability of Government is fundamental to the health of our democracy. Arbitrary action and lack of transparency can undermine that. But for decades the royal prerogative has been used by successive governments to sustain executive power.”<sup>24</sup>*

#### **The system's reluctance to effect real change**

*As we took evidence the difference between the public response and the 'insider' response was palpable. The politicians have no idea of the extent of the alienation that is out there. The people round the Westminster water coolers are clearly not having the same conversations as they are everywhere else. Their temperature gauge is seriously out of kilter. When politicians or party managers were asked for ideas for re-engagement, the suggested solutions were almost all about tweaking the existing system, with a bit of new technology here and a consultation there*

*The response of the political system to post-industrialism and to political disengagement has been either technocratic or self-interested in the sense that the parties have adapted their policies and campaigning simply to win elections. The political strategy of “triangulation”, for example, is democracy by numbers. It is a mathematical equation that secures power but in the end drives down people's desire to be politically engaged. It hollows out democracy because it inevitably means by-passing party members who want debate and neglects the democratic channels of engagement which might get in the way of the strategy.*

*Power Commission, p 11*

42. The process underpinning the forthcoming Bill does include an assessment of the Prerogative, under which the monarch's powers are devolved to the Government, but its focus is on codifying what has to date been a series of unwritten

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<sup>24</sup> Hansard, 25 April 2009, Col 21



*Neither Government  
nor Opposition  
proposals are likely to  
improve trust*

conventions and it ignores the most fundamental questions, such as who would be most trusted to make decisions and how they should be scrutinised. The Conservative Party's Democracy Task Force and the Better Government Initiative have gone further, replicating the Bill's proposals but adding several constructive recommendations covering the setting and monitoring of rules of procedure for Ministers and restrictions on the power of the Whips, but the most basic roots of distrust - antipathy to party politics and the largely negative and transparently expedient conduct of opposition parties; the perceived failure of the system to deliver; the conflict between electoral ambitions and public service - have not been considered. The following propositions seek to address those problems.

#### *A written constitution*

43. An element of trust that has not thus far been discussed is the citizen's trust that authority should not be arbitrarily exercised. It has been suggested, not least by the current Justice Secretary, that a written constitution would be desirable in order to codify rights (and, it has on occasion been proposed, responsibilities) of the citizen. The process of debate on a document clarifying the rule of law and the Prerogative could, if properly run, engage mass interest and stimulate awareness of the system and the limits of its power.

44. As we have noted, from a trust point of view any process of constitutional review should go further than a mere codification of existing conventions and the entrenchment of existing 'constitutional' legislation such as the Human Rights Act. To date, however, the complexity of establishing a Constitutional Convention has sidelined debate on this topic. And witnesses were uncertain as to whether a written constitution or Bill of Rights would impact on levels of trust among the public as a whole. One told us that *"While it is true that the process of writing a written constitution COULD 'engage mass interest', it might well have the opposite effect. If it is true that a large part of the public already find politics alienating and remote, this is even more likely to be so if politicians' preoccupations and debate come to focus on abstract constitutional issues - a distraction from people's real concerns and interests, especially in times of economic difficulty. For politicians to spend a lot of time debating a written constitution could well be seen by the public as fiddling while Rome burns."*<sup>25</sup> If it is felt that this area should be examined more seriously, a Concordat focusing on the relationship between Parliament and the Executive would have advantages over a written constitution because it could be drafted to embody flexibility and the possibility of review.

*A concordat on the  
balance of power might  
be better than a written  
constitution*

#### **A written constitution?**

**Proposition:** A written constitution defining the rights of the citizen could improve trust by more clearly defining the limits of the system's powers and its duties. The stimulation of a national debate on a constitution could revive interest in engagement with the system.

<sup>25</sup> While peripheral to the trust issue, there is an argument for making a clearer distinction between constitutional and non constitutional measures. At present the committee stage of a constitutional Bill is conducted by a committee of the whole House, but the Government (through the 'usual channels') decides what is or is not a constitutional Bill. The Legislative and Regulatory Reform Bill is one example of a Bill which should have been treated as a constitutional measure, but the Government did not. There could be a legal definition of this referenceable in the courts and the second chamber could be given slightly greater powers to delay a constitutional measure.

It would be important not to adopt the standard UK approach of appointing a high court judge, retired senior Civil Servant or elder statesman to chair a Royal Commission. Such an approach is unlikely to capture the public imagination. One Minister has suggested holding a special election to form a one-off constitutional convention. The Citizens Assembly model being pioneered in Canada, where a random group of citizens are selected to deliberate on constitutional issues, is worth considering.

As an alternative, an easily reviewable Concordat clarifying the relationship between the Executive and Parliament could be drafted.

Constituency addressed	Trust factor addressed	Pro	Con
Beltway (those who closely watch and take an interest in government and politics); possibly general public	Concern over a system that does what it wants	<p>Gives greater certainty over the limits of power.</p> <p>May extend current scope for legal challenge to the system.</p> <p>Could introduce true separation of powers.</p> <p>Concordat would be consistent with our proposal (see 49. and seq below) for protocols defining the relationship between Ministers and officials.</p>	<p>Would be a contentious 'all or nothing' throw of the dice whereas reform through successive acts is more politically feasible.</p> <p>In general, integrated written Constitutions only gain political traction in the context of a revolution or a proven systemic breakdown (as in France in 1958). Constitutional amendment is difficult – there might be a problem if a written constitution appropriate to one time bound the decision-making of later generations facing very different problems.</p> <p>We cannot ignore EU legislation – Human Rights Convention</p> <p>Would it be wide-ranging and largely abstract or would it list individuals' rights in detail and provide an exhaustive summary of Britain's constitutional settlement? If the latter, it could prove beyond the grasp of most of the citizens it would be designed to protect.</p> <p>Concordat would have to be Whip-proof.</p>
<p><b>Verdict:</b> probably too difficult to take forward. May do little to increase trust.</p>			

#### *Fixed term Parliaments*

45. Prime Ministers' right to decide on election dates has arguably only once in modern times not been exercised principally in the interests of their party (Edward Heath's "Who Governs?" election of February 1974; on several other occasions, a Parliament had either reached the five year limit or no manageable majority existed). The current Prime Minister has proposed that the Royal Prerogative should be reviewed to allow Parliament to decide the calling of elections; but this

*The calling of elections is almost never about the national interest*

would hardly change the current position given that unless a free vote is allowed (and possibly even then, given the long shadow of the Whips) the majority party will always get the motion that the Prime Minister wants.

Fixed term Parliaments			
<p><b>Proposition:</b> It may be felt that the power to decide when to hold General Elections benefits only the government and has no clear national interest benefit. It may be better to move to fixed term parliaments, with the exceptions (following the German example) that where a government has no clear majority, where it cannot command the confidence of the Commons or where defined exceptional circumstances (for example, the 2001 outbreak of Foot and Mouth delayed the Election) the Prime Minister would have discretion.</p>			
Constituency addressed	Trust factor addressed	Pro	Con
General public; Beltway	Politicking	Inhibits arbitrary exercise of power. Precedent in Scottish Parliament, which has fixed terms and rules that lay down when exceptional elections must be held.	<p>Debatable whether many people really distrust the system because of this.</p> <p>What about cases where a PM makes a policy change and feels that it needs voter endorsement or where a new political alignment develops during a Parliament (eg 1931 National Government)?</p> <p>Governments could engineer No Confidence votes in order to call an Election (as in Germany in 2005)</p>
<p><b>Verdict:</b> Should be introduced, but this reform would of itself not be uppermost in the public's list of trust builders: it would have to be combined with measures to turn elections into a true choice between candidates of perceived probity, likely to respond more to their constituents and less to their Whips, and to limit the perception of promises that are not kept – see Institutions and Procedures sections.</p>			

*Reviewing the role of Ministers*

46. There are two views that may be taken about the role of Ministers, about who should make decisions in our system, and about concepts of accountability:

- On the one side, it may be felt that our principle of democratic accountability - that (in large part at least) only those accountable to the electorate or its representatives should be entitled to make or shape policy - is too fundamental to be radically amended and that in the main it works well.
- Others may consider that lack of trust in our system of government stems to a substantial degree from conventions that give decision making and patronage power to those subject to regular conflict between party interests - which can be reduced to the desire to attain or remain in office - and the national interest (however defined); that true democratic accountability is scarcely satisfied by often ill-tempered and juvenile exchanges of sound bites across the Despatch

*Democratic accountability is an important principle...*

*...but we do not have effective accountability*

Boxes; and that citizens' voting power does little to control governments once elected other than to influence decision making towards the electoral cycle, and does almost nothing to engage the public.

47. It is of course not the case that Ministers make all the decisions in the system - delegated legislation, the growth of NDPBs and implementation of public services by unelected officials and managers have long been accepted. However, the long-standing convention is that Ministers are - and should be - responsible for everything the system does. On the one hand, it is argued, it is right that power should be exercised by those selected by the people and accountable in Parliament and at elections. Respecting that view, we set out in 79-83 below proposals that would introduce clearer and stronger safeguards against abuse of power. But there are arguments in favour of reviewing this principle:

- It encourages the personalisation of power, with Ministers claiming responsibility for popular decisions and running away from poor ones; and with Opposition parties expediently seeking to blame Ministers for every failure of government, regardless of involvement.
- In the absence of stronger constraints, it permits Ministers to impose on what they have said<sup>26</sup> should be an evidence-driven process decisions that may be driven by the desire to court short-term popularity or to reward supporters.
- In the main, elected Ministers are seen as amateurs whose decisions are often considered to be made without the benefit of personal expertise. They are less the best people for the job than the best people (or just the rewardees) that Prime Ministers have chosen from the small pool of their own party's (largely) elected members. Election does not confer on an individual a special skill of competent decision making that is lacking in others. In the United States, Germany and Sweden, heads of government can select the most capable individuals to manage portfolios without confining themselves to the legislature and with less public disapproval than Ministers face here. Why should a Prime Minister not be given the same freedom? There is a long tradition of governments here bringing in non-political experts (the current term is *Government Of All The Talents*) but only as junior Ministers, with limited decision-making power on significant issues. They are given peerages and are not, therefore, personally accountable electorally. Other Ministers (including one member of the current Cabinet) also sit in the Lords.
- Even when Ministers do not involve themselves, the strength of the constitutional fiction<sup>27</sup> (see 107-111 below for educational proposals) is such that unnecessary risk is often created through uncertainty over political intervention.

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<sup>26</sup> Modernising Government White Paper, CM 4319, 1999, Ch 2, para 2

<sup>27</sup> A term we use advisedly – the courts have acknowledged that the principle of ministerial decision-making in reality means a collaborative process: “*To treat the minister in his decision-making capacity as someone separate and distinct from the department of government of which he is the political head and for whose actions he alone in constitutional theory is accountable to Parliament is to*

- Both Government and Opposition have recognised that the public trusts non-political “experts” (however defined) above politicians to make certain types of decisions or to manage processes. Apart from the Monetary Policy Committee and Competition Commission, we have also seen the Office of National Statistics established as an independent Statistics Commission (which has recently taken decisive steps to insulate itself from political intervention) in order to avoid any suspicion of intervention, and the Conservatives have proposed a Fiscal Policy Committee to monitor governments’ economic management policies. Where Ministers have relinquished powers (for example in setting interest rates or in most merger cases) confidence in the objectivity of processes has improved even if they are no more transparent or certain. In the case of bodies such as the FPC, it might therefore be more effective to consider a system under which those whose experience and management skills are likely to command wide respect are given responsibility for decision making rather than mere advice.
- Democratic accountability conventions - in the form of questions in the House or the ability to vote out a government every few years - have encouraged a culture of obfuscation, point scoring rather than calling to account, and Lines to Take rather than true explanation. Accountability must be constant and meaningful: those conventions should either be reassessed or the doctrine that only elected politicians can be truly accountable should be reconsidered.

*Accountability must be constant and meaningful*

48. The convention that Ministers are deemed to know of and be responsible for everything that goes on under their command should not be sacrosanct, a view shared by several witnesses to the recent Public Administration Select Committee Better Government inquiry. For example, former Treasury Permanent Secretary Sir Steve Robson<sup>28</sup> said that *“delegation... is a good route to go but it is only going to bring profound benefits if Ministers cease to be responsible for micro issues”*, adding that Ministers *“account for the broad policy, they account for the structure they put in place.... they account for the top hires, and they account for the incentives they give their top hires—and that is it”*, observing that so long as ministerial responsibility exists, *“delegation is not going to bring the benefits it can do because it is never going to be real delegation.”* Kenneth Clarke MP observed<sup>29</sup> that *“The relationship between the politicians and the Civil Servants has changed very badly. We have taken to absurd lengths the idea that politicians lay down policy and Civil Servants deliver.... They [Civil Servants] will administer things better if they play the key role they used to have in the formulation of policy.”* Former Cabinet Office, MoD, DETR and DWP Permanent Secretary Sir Richard Mottram<sup>30</sup> added that *“big departments should be run on the principle that the Secretary of State is effectively the executive chairman for strategy and policy, and the nonexecutive chairman for the leadership and management and proper conduct of business of the department, and the Permanent Secretary should be held to account for all of these things.”*

*Ministers cannot – and should not – try or be considered to do everything*

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*ignore not only practical realities but also Parliament’s intention.” – Diplock LJ in Bushell and Another v Secretary of State for the Environment [1981] AC 75 at p 94. And see para 48. below.*

<sup>28</sup> *Better Government*, Public Administration Select Committee, HC 983, Q83-84

<sup>29</sup> *Ibid*, Q135

<sup>30</sup> *Ibid*, Q27

49. We examined a model based on an approach under which decisions within the system should be regarded as having been taken by people with relevant expertise; be seen to be based on a fair balancing of evidence and to be taken in the national interest; and be subjected to true scrutiny, with the unelected becoming more accountable than the elected are now. It might have the following characteristics:

*An option could restrict Ministers' responsibility to governance and setting objectives...*

- The convention that Ministers make all decisions and are responsible for everything would be replaced with a radical change in role. While the Prime Minister's ability to appoint the Cabinet would be unchanged, Ministries would be restructured on the lines of a managed fund or the BBC Trust, under which the Secretary of State would appoint (from the best available talent, which could include Parliament) and chair a board that would decide on budgets and on policy objectives and parameters and would give directions to sector specialists, who would be responsible for detailed policy making and implementation.
- The board would therefore be akin to trustees, responsible (and accountable) for *governance*; the executive staff for *execution* (although we would envisage executive staff discussing implementation options with the board). Following the BBC Trust model (albeit that its operation has recently been called into question), the roles of and relationship between the trustees and the executive would be defined by published protocols, similar to the relationship between Ministers and sector regulators and akin in concept to Service Level Agreements, of which there are thousands between Departments and public bodies, or the BBC Trust's Purpose Remits and Service Licences. Failure of governance or execution, as defined in the protocols and in statute, would be judicially reviewable.
- The trustees would have the support of a scrutiny cabinet, which would monitor executive performance.
- The Secretary of State and any Ministers that may sit on the Board would lead during Whole House stages of legislation but Ministers and officials would jointly be answerable during the Standing Committee stage in order to improve the quality of responses to amendments and questions.
- Changes should be made to senior-level recruitment by Departments (see 75. below) to ensure that policy management and delivery is managed by the most competent available people.
- The Board (not including the Secretary of State) and senior executive level appointments would be subject to public confirmation hearings by the relevant Select Committee or by a joint Commons/Lords committee, which could vote against appointment. This is a significant extension of the proposal in the Constitutional Renewal Bill that committees could hold pre-appointment hearings for a limited range of (principally) executive agency appointments.<sup>31</sup>

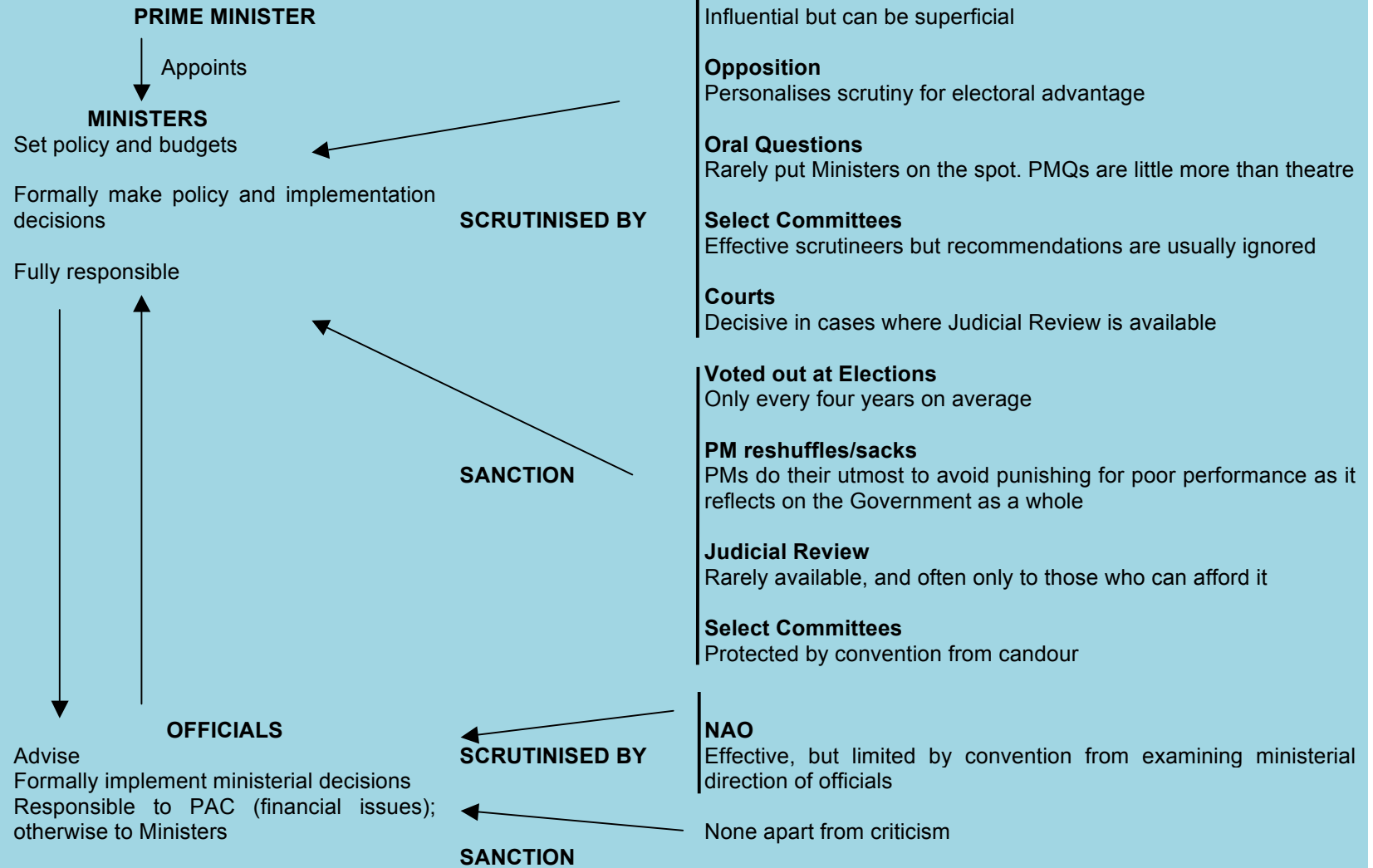
*...with non-political experts being responsible for execution...*

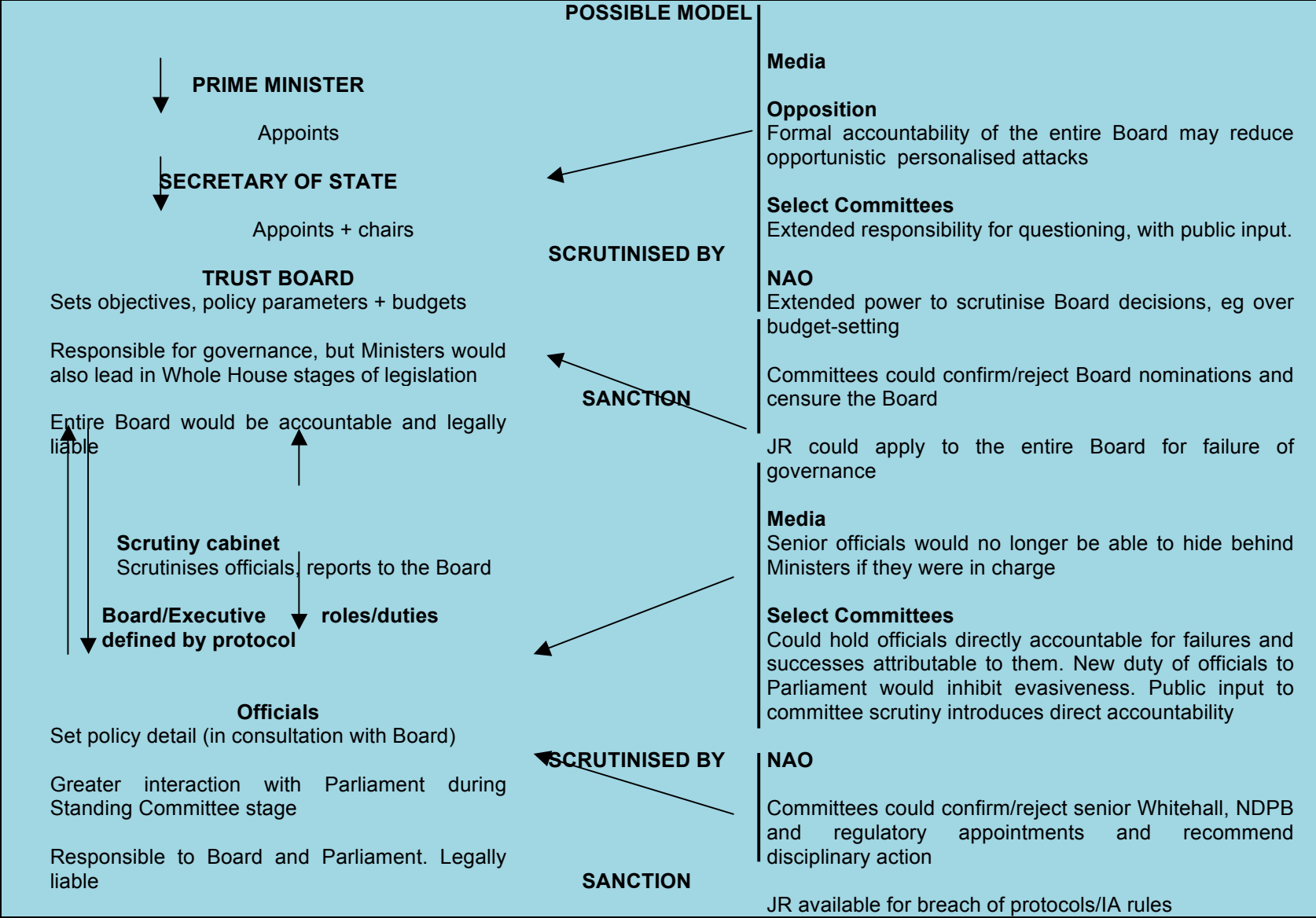
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<sup>31</sup> See Liaison Committee, *Pre-appointment hearings by select committees*, HC 384, March 2008, para 11 <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmliaisn/384/38404.htm#a2>

## Reviewing the role of Ministers

### CURRENT MODEL







50. It may be suggested that a reduced number of Ministers with reduced powers would deter parliamentary candidates. Leaving aside the priority that should be given to an MP's traditional role as constituency representative, the evidence suggests that there was no shortage of candidates when the Government was half its present size.

51. It may also be contended that ending the right of the unelected to hide behind Ministers would inhibit the desire of experts and others to put themselves forward for public service, but it may be felt that if people are not prepared to be called to multipartisan (rather than party political) account they are the wrong ones for the job.

52. It was over this issue that the Commission debated at greatest length and with greatest contention. No common view emerged, with members divided between those who felt that limiting political motivation in decision making is necessary in order to reduce distrust and others who believed that undermining the principle of electoral accountability would be dangerous; that there would be no prospect of the system considering such a change; and that delegation to experts is likely to be effective only in a narrow range of technical areas.

...but it would be controversial

#### **Contrasting views from Commission members on redefining ministerial power**

*I do not believe responsibility for policy making should pass from elected politicians to unelected Civil Servants or to other, shadowy individuals who would have "no interest in anything but doing the job". How would these paragons be identified or chosen? There has to be a real risk that they would be drawn from the massed ranks of political cronies. Be that as it may, I fear that far from enhancing public trust, this diluting of democracy could do the opposite. It would certainly give politicians/officials/advisers/others a heaven-sent opportunity to blame each other and evade responsibility for mistakes even more effectively than they do now.*

*I would not be comfortable with geneticists setting the policy for stem cell research, but once they have been given their policy parameters by politicians I don't think the political class can have anything more of value to say on the subject and the scientists should get on with it. Likewise, I don't think the Bank of England should fix the monetary framework or its targets, but it should have the independence to meet its set objectives in whatever way it sees fit. Nor should the FSA write banking legislation, but it should be free from political influence when it supervises a financial firm (especially one based in a senior politician's constituency).*

*I would be happy with a position that says that the elected political level should clearly and transparently set policy, preferably at a high enough level that it doesn't need endless revision. The system should then encourage appointed experts or agencies to carry this out these policies as independently as possible. Also, independence isn't a carte blanche to run away with an issue, as it must always be tempered by, for example, accountability to Parliament; or review (ombudsman, judicial etc.) if it strays beyond the parameters that were set by the high level policy objectives.*

**Should ministerial power be redefined?**

**Proposition:** redefine Ministers' role in terms of governance and the setting of policy objectives and budgets through a board, to which officials, with senior posts filled through open competition to improve contextual expertise, would report in respect of detailed policy-making and delivery. Published protocols would define the responsibilities of Boards and officials, who would be accountable to Select Committees which would hold confirmation hearings on board, senior official and NGO appointments and could censure or recommend disciplinary action in the event of failure of duty.

<b>Constituency addressed</b>	<b>Trust factor addressed</b>	<b>Pro</b>	<b>Con</b>
All	Reduce scope for politicking; improve perception of competence; reduce scope for conflict of interest	<p>Greater trust would be vested in people who have no interest in anything other than doing the job and who have recognised expertise. Will this reform mean that we will get unimpeachable excellence from our new managers? That is too much to expect, but at least the trust-destroying suspicion that decisions are taken for the wrong reasons will be reduced.</p> <p>Harder for blame to be attributed for purely party political purposes</p> <p>May lead to more effective accountability; would offer more direct accountability of all players in the system.</p> <p>Addresses frequently-expressed concern that there are too many Ministers.</p> <p>Would reduce suspicion of a politicised Civil Service.</p>	<p>Offends against the principle of decisions being taken by elected representatives.</p> <p>Will it stop personalisation? That will depend on who is available to the media.</p> <p>Experts get it wrong too – remember BSE, banking regulation?</p> <p>Would fewer Ministers, with a more limited role, discourage people of talent from standing for Parliament?</p> <p>Many statutes would have to be amended because they list the Secretary of State as the sole decision maker.</p>

**Verdict:** If the Executive wants to re-establish trust, it may have to cede some power. However, a move as radical as proposed above would call into question the principle of electoral accountability and would not be considered by the system. A more practical compromise would involve a clearer definition of the roles of Ministers and officials, combined with more effective accountability structures. These are set out in 76-80. below.

### **Institutional reform**

53. Our premises for looking at institutional reform are four-fold:

- That trust in the system has been materially influenced by a lack of confidence in Parliament, either as a body that acts honestly and responsibly or as an effective check on the Executive.
- That the Civil Service is generally considered to be honest but increasingly politicised and in some areas struggling to demonstrate competence in the face of ever more complex policy issues; and that trust is prejudiced by a perception that officials see their duty in terms of Ministers and their departments rather than to the public.
- It has been suggested that trust in public bodies, in particular those that regulate conduct (by which we mean not just sector regulators but also bodies such as the HSE and Environment Agency), is prejudiced by a widespread perception of them as inward facing and unconcerned about how they interact with the public. But that may confuse trust with irritation.
- That the influence of EU institutions on the UK is (whether justifiably or not) widely seen as unnecessary, heavy-handedly exercised, and that it has served to emasculate (and therefore to diminish respect for) our own institutions.

### *The Commons*

54. There is nothing new in the complaint that Parliament invariably acts as little more than an arm of the Executive - it has been voiced regularly since Dunning's Motion in 1780. Ninety years later, Bagehot commented on the "efficient secret" of the constitution - the power of the Executive - while suggesting that it was important, in order to maintain respect for them, to preserve the fiction that the monarch and Parliament made the decisions. The monarch's role has long been more realistically perceived, but the public's view of Parliament is a confused one. We are taught at school that Parliament "makes laws" and of the importance and influence of MPs. The media, largely denied access to Whitehall, arguably over-emphasises the importance of Parliament, which acts as a ready source of comment; and the televising of proceedings, with its predominant focus on Prime Minister's Questions, offers an impression of playground politics, at once anal and yet based around contrived sound bites for public consumption, and it fosters the belief that if MPs are not in the Chamber they are not doing their job.

55. Despite regular expressions of concern about Parliament's failure to check the Executive, the Commons has done little to help itself. It has established the highly effective joint pre-legislative scrutiny system, but this is widely respected only by cognoscenti within the Beltway. Select Committee recommendations are largely brushed aside by Government. Debates are a ritual, ignored by the public. Governments hardly ever lose a vote. And MPs are seen as self-serving and lacking in probity.

56. What is at the root of this problem?

*Media coverage of Parliament emphasises playground politics and fuels cynicism*

*So much energy is spent on gaining and retaining power that there is little left for governing*

(i) Firstly, the influence of party machines. As former Liberal Democrat leader Charles Kennedy MP put it in a recent assessment of the system, *“so much energy is devoted to getting into power, staying there and to fighting other parties that there is little left for actually governing.”* As the surveys suggest, the country does not trust people because they are elected; but it distrusts them to a fair extent because of what they feel they have to do to be elected and to gain and stay in power. Because election is impossible without party patronage, MPs carry with them an obligation to support their party. Lack of enthusiasm for attacking other parties is unlikely to secure a candidate selection. Resisting the demands of the Whips is usually a route to a short or at best static career, which is fine if MPs’ only ambition is to serve constituents but not if they want power - as most of them do. If trust is to be restored in Parliament and MPs, a means must be found to give them greater incentive to be seen to act in the national interest rather than as ciphers for their parties’ more atavistic aims. It may also be considered that while MPs in general are hard-working and more intelligent and diverse in their backgrounds than they are portrayed, the need to act unconstructively - filibusters, planted questions, defending the indefensible and opposing other parties’ positions as a matter of course – may deter people of acknowledged expertise and integrity from standing for Parliament by and that incentives are needed to attract the best and finest to serve.

(ii) Secondly, the traditional role of MPs as constituency representatives - and the one they perform best - is significantly undervalued (other than by constituents who benefit from their work), largely because it is ignored by the media, which prefers to use them as talking heads on national issues and to encourage, or at least focus on, party conflict. As noted in 84. below, the media’s neglect of the MP as Citizens’ Advice Bureau and local problem solver is largely to blame for a still widespread view that MPs do no work during recesses.

The media largely ignores MPs’ constituency work

One Cabinet minister says that MPs themselves have turned Westminster into a “conveyor belt of personality stories” by allowing politics to become too “manufactured” and centrally controlled. “Too much of modern politics starts from what voters already think, based on focus group research, and then tries to create dividing lines to box other parties into being against positions which those focus groups reveal to be popular with the public,” he says. “But the voters see straight through us so they stop listening. Left on the outside of a closed system voters interpret our words through the prism of our personality to try to get to the real meaning. We need a different politics that reflects the importance of the decisions at stake.”

Times, 28 April 2009

(iii) And finally, sleaze. It is likely that MPs behave no more improperly now than they did 50 years ago; but scrutiny by the media and other political parties has widened the gap between politicians’ behaviour and our expectation that they should lead blameless lives. Furthermore, the Commons has added to a perception that there is one law for Parliament and another for those it represents with recent attempts to avoid disclosure of expenses and to exploit what are seen as allowances unavailable to their constituents.

57. We have therefore considered

- Whether it is possible to reduce the power of party machines without prejudicing the efficiency of parliamentary business

- How the public can be given an accurate and more constructive picture of the role and work of MPs (see 103. below)
- Whether and how Parliament should be given greater scrutiny power and resources; and
- Whether further conduct rules are necessary.

*Political party funding*

58. As we note in 66. below, the membership of British mainstream political parties is shrinking, no doubt in part because their objectives and activities are perceived by citizens as a game in which they have little interest. If engagement is considered to be a product of trust, the conventional parties will only reduce the current very high level of apathy and distrust in them if they reach out to a wider potential membership: only three per cent of the population reported to the Audit of Political Engagement that they had donated money or paid a membership fee to a party in the last two or three years, and the percentage is falling.<sup>32</sup> There are only modest signs – for example, open primaries (see 67. below) - that they are doing this. One stimulus could lie in reform of party funding. The subject has been debated at length, and we do not propose to comment in depth on alternative models, but viewed not from the parties' perspective but from that of public engagement and trust we concluded that

- A significantly increased level of state funding (it currently runs at just under a quarter of total funding), while acting as a leveller, would be resented by many and would suggest a value that many citizens would feel parties have not earned. Nor would it encourage political parties to adapt their culture and activities in order to address distrust.
- British parties have taken a great interest in the way in which the Obama campaign created a broad supporter/donor base. However, the large number of small donors motivated by Obama's engagement strategy were allied to the usual large corporate, union and interest group payments. If our parties are to be given a real incentive to find ways of capturing much wider public interest, they may need to be encouraged to change their donor focus. For that reason, we believe that the Government should be bold and impose the Hayden Phillips review recommendation<sup>33</sup> of a £50,000 annual limit on donations by any one entity in the absence of agreement between the parties on voluntary compliance. The reluctance to accept such a cap is not surprising: the Electoral Commission's historic records show that 46, 25 and 61 per cent respectively of Conservative, Labour and Liberal Democrat donors give less than £50,000<sup>34</sup> and the proportion of total

Impose a £50,000  
limit on individual  
donations to parties

<sup>32</sup> Audit of Political Engagement 6, p.25

<sup>33</sup> Strengthening Democracy: Fair and Sustainable Funding of Political Parties - The Review of the Funding of Political Parties, March 2007, p.10

<sup>34</sup> Our calculation based on the Electoral Commission's Register of donations to political parties

revenue represented by those donors is rather less than that. We accept that in the short term, parties' revenue would probably fall significantly. They would have to adapt or shrivel.

<b>Forcing parties to reach out to a wider public</b>			
Proposition: impose a statutory annual limit of £50,000 on donations by any one entity			
Constituency addressed	Trust issue addressed	Pro	Con
All	Disengagement	Would force parties to seek to engage a much larger element of the currently apathetic or disaffected electorate	<p>Party revenue would be cut significantly in the short term</p> <p>A low ceiling would disproportionately benefit the LibDems, who derive a much higher proportion of funding than the Conservatives or Labour from donations under £25,000</p> <p>No party would vote for this</p>
Verdict: No party would willingly accept this, but the bullet must be bitten.			

*Strengthening scrutiny*

59. Parliament's ability to scrutinise the Executive should not be inhibited by party interests: that contributes to distrust. It is difficult to expect a legislature to hold the Executive to account while the Government's whips can command an automatic majority in the legislature itself, or to expect more independently-minded MPs while for the most part they owe their prospects and their very election to the party leader. Leaving aside the complete separation of Parliament from the Executive, which would redefine checks and balances but which no Government would ever accept, we looked at several options for strengthening public regard for Parliament as an effective check. The first of these would require those at the top of the system to prove their qualification for office. It was originally proposed that the Constitutional Renewal Bill would give Select Committees the power to hold nomination hearings for public bodies, although that was dropped. In fact, there is nothing to prevent this at present: the Treasury Committee has for some years scrutinised Monetary Policy Committee nominees and several others have recently followed suit; but we believe there is a need to widen parameters. In order for both Parliament and citizens to assess the experience of those charged with decision making and delivery in the system, Select Committee pre-appointment hearings should cover Ministers, senior officials, regulators and NDPB leaders and should allow for public input (see 83. below). We debated whether these sessions should be congressional-style confirmation hearings that would allow committees to block appointments. However, it was felt that just calling into question (with a formal report to the Civil Service Commissioners and Commissioner for Public Appointments) a nominee's competence would probably force the system (and the candidate) to reconsider. That extension of scope should not stop at nominations: in examining the work of departments, regulators and agencies committees should be able not only to call all Ministers, officials and NDPB members to account as at present, but if necessary to recommend disciplinary action - including dismissal.

*Select Committees should have the power to hold nomination hearings not just for NDPBs but also for Ministers, senior officials, and regulators and NDPBs*

*Remove Whips' influence from committee selection*

60. We endorse the proposals of the Better Government Initiative and the Conservative Democracy Task Force that Select Committee Chairmen should be elected for the life of a Parliament by a secret ballot of the whole House; that there should be a prohibition on Whips' nominations for Select or Public Bill Committees, which should as far as possible be appointed on the basis of expertise; and that a Commons Business Committee should be established to replace the Usual Channels and give Parliament greater control over the use of Parliamentary time and improved negotiating ability with Government over timetabling.

61. Implementing the recommendation of the Public Administration Select Committee that Parliament should be able to establish Parliamentary Commissions of Inquiry on major issues would complement a more prominent role for departmental Select Committees in cases where Select Committee calendars would not permit intensive and lengthy reviews. We believe that such inquiries should be run by a committee of both houses.

62. We feel there is merit in the BGI's proposal to allow Select Committees to appoint a larger panel of specialist assistants. There are occasions when it might benefit the inquiry process if specialists were empowered to question organisations on behalf of their committee - akin to Committee Counsel in Congress.

63. As the Conservative Democracy Task Force secretary pointed out in evidence to us, the respect accorded to Select Committees has (with some exceptions) to some extent been based on the acceptance by their members that they should operate on a multipartisan basis. He was concerned that an extension of Committees' power (for example, giving them a veto over senior appointments) might encourage them to split on party lines and that a more influential role might tempt committees towards headline-grabbing confrontational evidence sessions. While the occasional witch hunt session is probably unavoidable, it is important that the significant extension of their power that we propose does not tempt them to move from their most valuable role – as cross-party committees of inquiry. In order to avoid this potential problem, we recommend a significant extension of joint working by combining some overlapping Commons and Lords committees

*Merging Commons and Lords committees would strengthen expertise and limit partisanship*

#### **Current committee overlaps**

Lords	Commons	Extent of overlap
Communications	Culture, Media + Sport	Substantial
Constitution	Public Administration	Partial
Delegated Powers +Regulatory Reform	Regulatory Reform	Substantial
Economic Affairs	Treasury	Substantial
Liaison	Liaison	Substantial
Science + Technology	Innovation, Universities + Skills	Substantial

and turning others (Commons departmental committees and the Lords EU committees) into joint committees which could offer combined expertise and the moderating influence of the Lords on partisanship and on susceptibility to pressure from

Ministers. Given that there is growing acceptance that a reformed Lords would have fewer working Peers and that the number of parliamentary constituencies may be reduced (although this could distance MPs from their constituents, as has happened with the regional list system for MEPs – see 76. below), applying to policy scrutiny the same principle that has been successfully introduced to pre-legislative review (and there are already four joint Select Committees) would appear to be sensible, desirable and feasible.

<b>Augmenting the role of Select Committees</b>			
<b>Proposition:</b> empower Select Committees to vet Ministerial, regulatory and senior Whitehall and NDPB nominations; extend committees' remit to include recommending disciplinary action - including dismissal, for Ministers, officials, regulators and NDPBs. Elect Select Committee chairmen for the life of a Parliament by a secret ballot of the whole House, ban Whips' nominations for Select or Standing Committees and appoint as far as possible on the basis of expertise. Allow Commissions of Inquiry, with membership drawn from both Houses. Augment Select Committee staffing. Combine Commons and Lords committees			
<b>Constituency addressed</b>	<b>Trust issue addressed</b>	<b>Pro</b>	<b>Con</b>
All	Reduced scope for politicking; improved scrutiny and accountability	<p>May improve Executive, Whitehall and NDPB competence</p> <p>Demonstrates that committees are independent of the party system</p> <p>Combining Commons/Lords committees would strengthen collective expertise and limit the scope for partisanship and showboating</p> <p>Augmented staffing may improve questioning and reports</p>	<p>Whips could still influence secret ballots and the Selection Committee (for Standing Committee places)</p> <p>Would a significant increase in committees' power tempt them to split on party lines?</p> <p>Combining committees would mean fewer inquiries</p>
<b>Verdict:</b> demonstrating that Parliament has cross-party power to act as a true check and balance would improve trust.			

*Improving analytical support for Parliament as a whole*

64. At present, it is frequently difficult to impossible for individual MPs and Peers or opposition parties to match Whitehall's ability to research issues and assess the social, economic, environmental, public administrative and legal implications of existing and prospective policy. This leads to frequent charges of amateurism and poorly-informed proceedings. A stronger secretariat for both Houses, including a Parliamentary Finance Office<sup>35</sup> may help to make parliamentarians look better informed and reduce the likelihood of unrealistic manifesto commitments. In the same vein, it was also suggested that we should consider a Department of the Opposition, staffed by seconded officials, to inject practical

*Improved research/ advisory resources might improve the quality of scrutiny and of opposition politics*

<sup>35</sup> A Hansard Society proposal, modelled on the Congressional Budget Office.



policy analysis and public administration skills. Why, in principle, should opposition parties not have access to the same quality of advice as is available to the Government? However, we were not able to reach agreement on this idea.

Improved parliamentary research facilities			
<b>Proposition:</b> increase Commons/Lords library research staff. Establish a Parliamentary Finance Office to improve the ability to scrutinise budget and spending proposals.			
Constituency addressed	Trust factor addressed	Pro	Con
All	Parliamentary competence; tougher scrutiny	Could reduce impression of poorly informed debate, scrutiny and comment	Will not curb the Opposition's temptation to play politics
<b>Verdict:</b> should be considered if it could help all opposition parties to understand the legal and public administrative implications of their policy ideas.			

*Better quality MPs*

65. We have looked at this issue from three standpoints: reducing the current disconnect between the bulk of citizens and candidate selection; attracting better candidates; and reducing the scope for impropriety.

66. At present, parliamentary candidates are selected by party machines whose membership comprises little more than one eightieth of the electorate – as a distinguished analyst put it, “*The combined membership of the three main political parties is scarcely more than half that of the Royal Society for the Protection of Birds.*”<sup>36</sup> The most important quality for a prospective MP is loyalty to a party and enthusiastic criticism of the others – a characteristic that, we maintain, alienates many outside the Beltway. Candidate choice by a tiny group of activists is little different from the politics of the rotten borough. Opening up selection to a wider cross-section of the public might stimulate engagement and curb the formulaic political plays that many perceive as characterising MPs.

*Current candidate selection is little different from the politics of the rotten borough*

67. The Conservatives have taken the initiative by allowing their constituency associations to run selection “primaries”, either on an open (anyone may attend hustings and vote, either in person or by text message/email/weblink) or closed (only registered party supporters may participate) basis. Initial experience has been mixed, with rival parties seeking to sabotage votes (on at least two occasions, constituency association Executives have rejected the candidate favoured by local citizens, although the selection of Boris Johnson in the London-wide open primary election for Conservative candidate to be Mayor of London shows that the dangers of opposition party entryism/trouble-making may be more imaginary than real), and while they may currently fail the “so what?” test for the bulk of the public, they have been widely supported since the concerns over parliamentary expenses broke and over time (and if widely promoted) they have the potential to appeal to a constituency

*Open selection/ reselection primaries might broaden interest and modify negative party-focused behaviour*

<sup>36</sup> *As the Queen opens Parliament, the chasm between politics and people widens*, Anthony King, Daily Telegraph, 3 December 2008 (see box, pp 25-26 above)

turned off by the activities of what they see as a small political class and to foster greater identification with voters. Furthermore, if a broader cross-section of constituents feel they have a say over selection, they may be more active in calling their MP to account where impropriety has been suspected – at present, between elections that role largely falls to the local press.

68. We have considered whether it would be desirable or possible to introduce an experience requirement for MPs (whether through age or a more specific qualification) in order to address the issue of distrusted “professional politicians.” On the one hand, it might be argued that this would act as a disincentive to the most disaffected 18-24 group to become involved in politics or that professional politicians may simply spend more time in party or trade union research departments until they meet a higher age qualification. On the other, a higher entry age might enhance the practical wisdom of new politicians and improve trust by reassuring voters that politicians have some experience of real working life.

69. Once they are in the House, there is the question of poor or improper conduct, a significant source of public mistrust. Lack of transparency, and the Commons’ perceived reluctance to improve it, has been much criticised and is a material source of distrust, as is exposure of cases where MPs do not meet the standards expected of them by public and media alike. At the time of publication, the Committee on Standards in Public Life was tasked with reviewing the contentious rules on expenses, so we will not add to the many ideas that have already been mooted other than to suggest that the Parliamentary Fees Office should be subject to NAO audit to establish, in particular, whether the “wholly, exclusively and necessarily” principle has been rigorously applied. But we consider in para. 82 whether additional behavioural safeguards would address these issues, and have also examined the trust risk arising from concern that Parliamentary Privilege currently enables MPs and Peers to make economically and reputationally damaging statements which may be misinformed. This freedom is guaranteed by the 1689 Bill of Rights which states that *freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament* and is considered the single most important parliamentary privilege.<sup>37</sup> However, there will be many citizens who feel that freedom of speech should not include the freedom to defame and that parliamentarians should have a duty to be as careful as their constituents in making claims or derogatory statements about others, with the principal statutory defences to defamation (truth, fair comment, reasonable care and qualified privilege) being sufficient.

*Enforcement of the “Wholly, Necessarily and Exclusively” principle for parliamentary expenses should be NAO audited*

*Is it right that defamation by MPs and Peers should be above the law?*

#### **Improving parliamentary conduct**

**Proposition:** a) select and reselect candidates through open primaries. Introduce a register of interests for candidates; b) introduce an experience requirement for MPs, either by setting a higher age threshold for MPs than for voting or by specifying categories of experience required; c) introduce additional safeguards to improve transparency in MPs’ finances and external interests, including NAO audit of the Fees Office; d) consider whether the scope of Privilege should be restricted to give MPs and Peers the same responsibilities as other

<sup>37</sup> See the 1999 report of the Privileges Committee <http://www.publications.parliament.uk/pa/jt199899/jtselect/jtpriv/43/4303.htm>

citizens in respect of defamation.			
Constituency affected	Trust factor affected	Pro	Con
All	Discouraging improper conduct; reducing perceived gap between legislators and the public	<p>Could encourage wider interest in candidate selection and reduce party tribalism</p> <p>Important that parliamentarians are perceived as community leaders, honest and of integrity</p> <p>More experienced legislators might be more respected</p> <p>Several countries (incl Canada, US and Italy) impose higher age requirements for some categories of legislator</p>	<p>Danger of primaries being hijacked by opponent parties</p> <p>A higher age requirement might mean that prospective candidates would simply spend more time working for party or union research departments etc and would not necessarily broaden their outlook beyond political ambition. Specifying categories of experience (e.g. working in industry, work outside politics, etc) would be arbitrary, subjective in application and potentially discriminatory</p> <p>A raised age of candidacy might discourage some talented younger people (eg members of Youth Parliaments) from engaging with the system</p> <p>There are probably adequate transparency safeguards in the current parliamentary disclosure requirements. It is impossible to rule against indiscretions by parliamentarians: more open candidate selection might improve the chances of honourable members being elected</p> <p>Limiting the scope of Privilege to permit actions for defamation would breach a principle of freedom of debate considered by many to be fundamental</p>
<p><b>Verdict:</b> a) Open primaries with candidate registers of interests should be given a wider trial. b) A higher entry age would not of itself necessarily inhibit party rivalry or improve perceptions of integrity. c) Current transparency requirements are adequate - it is better to encourage candidates of integrity than to seek to correct sub-standard MPs once elected. Our proposed power for Select Committees to recommend disciplinary action against Ministers could be augmented by stronger action by the Committee on Standards and Privileges to censure MPs if public complaints are upheld; however, it would be difficult and inequitable to apply to legislators legal standards (eg against adultery) that do not apply to their constituents. d) While the scope of Privilege should not be restricted, the Code of Conduct for MPs (see 82. below) could be amended to require MPs to take reasonable steps to ensure that any statements made in the course of their parliamentary duties which may lead to economic or reputational damage should be true or should constitute fair comment on a matter of public interest: that is, opinion which any person could honestly hold, based on facts known at the time.</p>			

*The House of Lords*

70. Lords reform has been endlessly debated from the standpoints of equity and representative government. But does the current structure and operation of the Lords create a problem of trust?

71. There is a problem with the Lords. On the one hand, it passes the “wouldn’t start from here” test. On the other, it has over the past quarter century at least acted as the real parliamentary check on the Executive, showing itself ready to take on governments of both colours and often to be more sensitive to external concerns. It arguably contains a greater depth of expertise than the Commons and its crossbenchers act as a bulwark against the party machines. As the Joint Committee on House of Lords Reform commented, *“the existing House, in exercising independence and in applying expertise, has contributed significantly to the process of parliamentary scrutiny. That may also be considered a basis of legitimacy, important but different from legitimacy conferred by election.”*<sup>38</sup>

72. The question of Lords reform has been at or near the forefront of the present government’s agenda since 1997. But in its attempt to turn the Lords into a more democratically representative body, the Government may have overlooked the consideration of checks and balances - understandably, in view of every government’s desire to drive through its legislative programme with the minimum of fuss, but not excusably. We have considered whether a trust-focused agenda would dictate a different model of Lords reform. For example, an upper house largely elected on the current model for MPs may be seen by the electorate as a party politics-dominated mirror of the poorly regarded Commons, and the Government appears to recognise this in its proposals<sup>39</sup> which suggest that the only criterion for selection of appointed Peers should be the ability to contribute to the Lords’ work, not political affiliations<sup>40</sup> - indeed, there is currently a distinct category of non-party political nominations. We agree with the Wakeham Commission that that *“the new second chamber should be composed in a way which both ensures that no one party is ever in a position to control it and also limits the influence of political parties upon its individual members.”*<sup>41</sup>

73. On that basis, an alternative model might include the following features:

- A smaller (limited to 400) House in which, regardless of the electoral system chosen (although we assume it will have a significantly increased elected element), the Lords Appointments Commission would have an augmented responsibility for vetting candidates through both assessing nominations and inviting people of recognised distinction to put their names forward. We suggest below a revised eligibility test.
- We will not seek to add to the complex debate over length of tenure and the split between elected and appointed members or between constituency or national list voting. However, if a reformed House of Lords is to have strengthened powers to check the Commons and the Government, it will need at least an appreciable elected element in order for those powers to have legitimacy; and if so, because it is important that candidates for the highly respected Cross Benches

*Important that no one party should control the Lords*

*Lords Appointments Commission should be able to invite the most eminent to put their names forward*

*In strengthening the elected element, Cross-benchers must not be disadvantaged against party machines*

<sup>38</sup> Joint Committee on House of Lords Reform – First Report, 2002, HL 17, para. 67

<sup>39</sup> *The Governance of Britain: An Elected Second Chamber - Further reform of the House of Lords* CM 7438

<sup>40</sup> *Ibid*, para. 6.19

<sup>41</sup> *A House for the Future*, 2000, CM 4534, para 3.13

should not be disadvantaged alongside party election machines, we would recommend that election costs are capped on the same basis as for current parliamentary candidates and that they are funded by the State.

- At present, the Commission applies a propriety test<sup>42</sup> to political nominations, supplemented by a test for non-party political candidates requiring that “*applicants and nominees should:*”
  - *have a record of significant achievement within their chosen way of life [the Government proposes to replace this with the shorter “have a record of significance”] that demonstrates a range of experience, skills and competencies;*
  - *be able to make an effective and significant contribution to the work of the House across a wide range of issues;*
  - *have some understanding of the constitutional framework and the skills and qualities needed to be an effective member of the House;*
  - *have the time available to make an effective contribution within the procedures of working practices of the House; and*
  - *be able to demonstrate outstanding personal qualities, in particular integrity and independence.”*

*An eminence or outstanding service test should apply to all candidates*

We believe the achievement test should be applied to all candidates<sup>43</sup>, but the current and proposed wordings are insufficiently precise. The first criterion should be amended to a test of having achieved significant distinction in a field of expertise that has benefited the nation; and/or of having demonstrated outstanding service to communities and/or the nation. This would not exclude politicians – indeed, it is important that the Lords continues to include people with legislative and constitutional experience. Under this formula (which could be pre-tested by citizens’ juries or broader polling), political nominations would still be permitted, but candidates would have to pass a stricter test than at present (which would incidentally mean that it would be irrelevant whether they donated to a party since our proposed system would vet positively rather than negatively by requiring proof of distinction from all nominees, reducing concern that the financial support for a party rather than merit could predominate in influencing the award of peerages). This does not guarantee that the new House of Lords would be any better at the task of legislating, but its debates and reports would carry greater weight.

*Restrictions on a reformed Lords checking governments should be lifted*

- Reform should not just seek to turn the Lords into a more eminent institution. If the creation of greater balance between the Executive and Parliament is an element in improving trust, the Lords should play its part, and the “new” chamber should therefore lose some of the restrictions that inhibit its ability to check governments. The prohibition on Second Reading defeats and on amending public finance Bills should be scrapped, and either the Parliament Act should be repealed or, less radically, a simple majority vote against Commons legislation could delay, but not block, that legislation; however, an overwhelming Lords majority against Commons legislation (say, two-thirds voting against, or 75% doing so,

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<sup>42</sup> [http://www.lordsappointments.gov.uk/criteria\\_guiding.aspx](http://www.lordsappointments.gov.uk/criteria_guiding.aspx)

<sup>43</sup> The Prime Minister appears to agree that both probity and public interest tests should apply – see press conference, 19 December 2007 <http://www.number10.gov.uk/Page14092>

or the failure of the proposed legislation to achieve a majority of all Lords entitled to vote) should be sufficient to block Commons legislation, at least for the term of one Parliament.

<b>The Lords and trust</b>			
<b>Proposition:</b> Reduce the Lords to 400 members and give it stronger powers to check the Executive. Such strengthened powers would require there to be at least an elected element. A stricter eligibility test for all Peers should be introduced to demonstrate that the Lords is a forum for members of recognised national achievement who would be selected both by nomination and by invitation. Safeguards should be put in place to avoid Cross Bench candidates being disadvantaged alongside those backed by party machines. Restrictions on the Lords' ability to check the Government should be reduced.			
<b>Constituency addressed</b>	<b>Trust issue addressed</b>	<b>Pro</b>	<b>Con</b>
Beltway; general public (possibly)	Need for stronger institutional checks on power; reduce the scope for perceived conflict between party politics and the national interest	Would produce a more respected and more legitimate Lords, with greater focus on forensic debate and committee work	A reconstituted Lords would not necessarily act as a more powerful check on the Government  Our most eminent would not necessarily make good legislators; nor might they want to stand for election, so many passing the eligibility test might decline unless a balance was struck between appointed and elected elements
<b>Verdict:</b> although a Lords elected largely on party political lines is a recipe for reinforcing distrust, it should have strengthened powers to check the Government, and to give this legitimacy there should be an increased elected element and an eminence qualification should be introduced.			

*Whitehall*

74. There is less public concern about the Civil Service. However, the following do engender distrust:

- A perception that Whitehall's culture is still inward-facing. Officials are still inculcated with the outlook that "Servant of the State" should predominate over "Public Servant". Whitehall has improved in this respect, but it is still in fair part reluctant to explain how it works and to disclose evidence.
- Whitehall does have its own agendas and officials do seek to reason with Ministers where evidence may not fully justify a decision; but it is seen as to some extent in cahoots with Ministers, governing behind closed doors and elegantly managing consultation and the presentation of evidence (for example, the many examples of poor Impact Assessments produced

### **They don't give the impression of using our money competently**

Few departmental boards are presented with accurate, timely and integrated financial and operational performance information to enable them to take sufficiently informed decisions on the use of resources and to review how well they are utilised. Policy and operational decisions, for example, are rarely based on a full assessment of their financial implications...

3. Only 41% of departments' policy proposals always included a full financial appraisal and only 20% based policy decisions on a thorough assessment of their financial implications...

7. 19% of departments, collectively managing assets of £23bn, rated themselves as weak at managing their balance sheet...

13. In order to develop a strong finance culture, it is important that Permanent Secretaries, the board and budget-holders are accountable for financial resources under their control and that appropriate incentives are in place to manage them effectively. A strong finance culture is driven by departmental boards and, in particular, the support of Permanent Secretaries. Financial management is not, however, a routine consideration in the performance appraisal of Permanent Secretaries or senior budget holders. The Cabinet Office's 'Performance Management Guidance 2007–08' sets out a common framework with which to assess and manage the performance of the Senior Civil Service. Finance is a core component of this framework along with efficiency and people management. Although the introduction of Public Service Agreements and Departmental Strategic Objectives is intended to promote stronger departmental accountability for the use of resources, there are few examples of Finance Directors or other senior staff who have lost their positions, in spite of the many examples of financial mismanagement in recent years.

*Managing financial resources to deliver better public services*, NAO, February 2008

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The National School of Government teaches a course for civil servants involved in finance and accounting called **Managing Public Money**. The stated organisational benefits of the programme are:

- To avoid a Department being disadvantaged in the public expenditure process
- To protect the Accounting Officer's position

There is *no* reference to the taxpayer or how to deliver value for money in the course objectives.

*It's Your Money - A New Plan for Disciplined Spending in Government*, Conservative Party, January 2009

after decisions have effectively been made) to assist governments in driving through their programmes, with a natural conflict between duty to Ministers and compliance with the admirable Civil Service Code<sup>44</sup>.

- Despite a host of safeguards, the NAO regularly demonstrates how wasteful the public sector can be with our money.

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<sup>44</sup> <http://www.civilservice.gov.uk/iam/codes/cscode/code.asp>

*Delivery should be better rewarded. Encourage vertical, rather than zig-zag promotion*

- Investment in staff is geared towards policy development and management. Sir John Bourn has commented that *“The whole culture of the senior civil service needs to be changed. The top jobs should go to those who have successfully managed programmes and projects – in health, social welfare and taxation as well as construction and defence. At the moment they are given to those best at helping their ministers get through the political week. Changing this would produce a new breed of civil servants who would concentrate on securing successful public services. It would alter ambition and behaviour right down the line.”*<sup>45</sup> and there is evidence that an improvement in technical resourcing and skills could pay greater dividends. A Commission member commented that *“it has been calculated that the rate of return of investment in high quality DSS fraud IT cross-checking could be equivalent to that of North Sea oil.”* Another witness, the procurement director of one of the largest Whitehall Departments, told us that *“It is not enough to be seen to be doing the right thing. One must achieve results. And if that carries with it risk, so be it.”* There has been a move in some agencies to base reward on delivery rather than seniority; it should be more widely considered across Whitehall, and

### **A former senior official contrasts Whitehall and private sector concepts of efficiency**

*Ministers c1995 were told that Whitehall was already efficient, the Next Steps Agencies had got the message and were well on their way to completing their productivity-raising job (Child Support Agency?) so why, Minister, become dependent upon private contractors over whose barrel you will become the end of the contract? The data spoke differently.*

*While Whitehall was promising to produce a c8% productivity gain over five years, the contractors were already demonstrably delivering the same or better (certainly better defined and monitored) services for a price averaging 23% less over similar periods. But what officials failed to point out was that the contractors’ 23% was an average contacted-for **price** and the Agencies’ promise was an average 4% **cost**-saving. The difference between price and cost being profit, inspection of contractors’ Reports & Accounts showed average margins of greater than 10%, even after including the parent firms’ central overheads and much else that didn’t apply to the Next Steps Agency comparison). In other words, the contractors were finding it possible to cut an average of more like 35% from the original cost base inherited. Given that the contractors inherited the Departments’ cost bases on Day One of most contracts, the savings needed to be achieved before the end of the contract were bound to be much higher.*

*In short, the scope to achieve some combination of massive savings to public service running costs **and** secure overdue service level improvements was obvious. I believe most services run by Departments are on average double-manned. But then the current Government, while promising to reform the public services, ditched the programme on arrival in office. If you think I am exaggerating about manning levels, consider the privatisation of HMSO. We were told the private sector couldn’t run it; Hansard wouldn’t come out... The truth was that it had over 2,000 staff doing the work of 1,000. This was shown by the management who bought the business, slimmed it down to 1,000 and sold it on.*

*Written evidence to the Commission*

<sup>45</sup> Financial Times, 14 May 2008



there should be a greater (but not exclusive) focus on vertical advancement, building expertise narrowly but in depth, rather than on the current zig-zag career path that is widespread.

- At present, the average time in post for a senior official is two years and eight months. Officials should be allowed to develop at least three to four years experience in each subject-related policy posting.<sup>46</sup>

75. We have therefore considered the following proposals:

- Adopting the Bourn suggestion that the balance between policy and financial management and delivery skills should be re-assessed in setting criteria for filling the most senior grades in Departments (around half of such officials are drawn from outside Whitehall)<sup>47</sup> – and developing a top to bottom reward structure that gives at least equal recognition to successful project management and delivery as is given to policy development and service to Ministers. Departments should also be more ready to replace the five to 10% of worst-performing staff every year.
- Following our recommendation in 80. below that protocols should more clearly define the roles of Ministers and advisers, responsibility for errors should be attributable where they are caused, and not always to the top of departments<sup>48</sup>. Officials, regulators and NDPB heads should be directly accountable to Parliament as well as to Ministers - it should no longer be acceptable for officials to be able to hide behind Ministers in giving evidence to committees. Conversely, there is a need to review the accountability of accounting officers such that they are no longer held personally responsible for problems that may have arisen a decade before they took over or for problems arising from a policy structure they would probably never have designed. In addition, it may be felt that gross negligence in the exercise of public office should be made a statutory offence, as it effectively is in local government.<sup>49</sup>
- Establish an independent body to give authoritative guidance on public borrowing and spending proposals - broadly along the lines of the Fiscal Policy Committee now being mooted by the Conservatives. All Chancellors try, to a greater or lesser

<sup>46</sup> This change should not just apply to officials. The average time in post for Ministers has significantly shortened over the last thirty years: for a Secretary of State it is less than two years and for a Minister just one year and eight months. Few concerned about trust in the competence of Ministers could believe that this is long enough to master a wide range of issues, let alone the machinery of their Department - Public Administration Select Committee, *Ninth Report of Session 2006-07, Skills for Government*, p.38.

<sup>47</sup> Recruitment. Across the Barricades', *Whitehall and Westminster World*, 2 December 2008

<sup>48</sup> The Conservatives (*It's Your Money - A New Plan for Disciplined Spending in Government*) have proposed including a fiduciary responsibility to taxpayers in the employment agreements of all senior officials, with disciplinary implications if it is breached. We agree, but believe (see Reviewing the Role of Ministers above) that the policy and delivery process runs from end to end and that Parliament should have the power to discipline officials and Ministers for failure of duty.

<sup>49</sup> This was considered by the Committee on Standards in Public Life, which recommended an offence of Gross Misuse of Public Office - <http://www.archive.official-documents.co.uk/document/parlament/nolan3/misuse-1.htm>

*Develop expertise by staying in post longer*

*and delivery skills for senior level recruitment*

*Officials should be responsible to Parliament for their errors*

*Gross negligence in public office should become an offence*

*Independent vetting of borrowing and spending proposals would inhibit the buying of elections*

extent, to buy elections: an FPC - possibly sitting alongside the Bank of England's Monetary Policy Committee - might discourage decisions made with more than an eye to the electoral cycle.

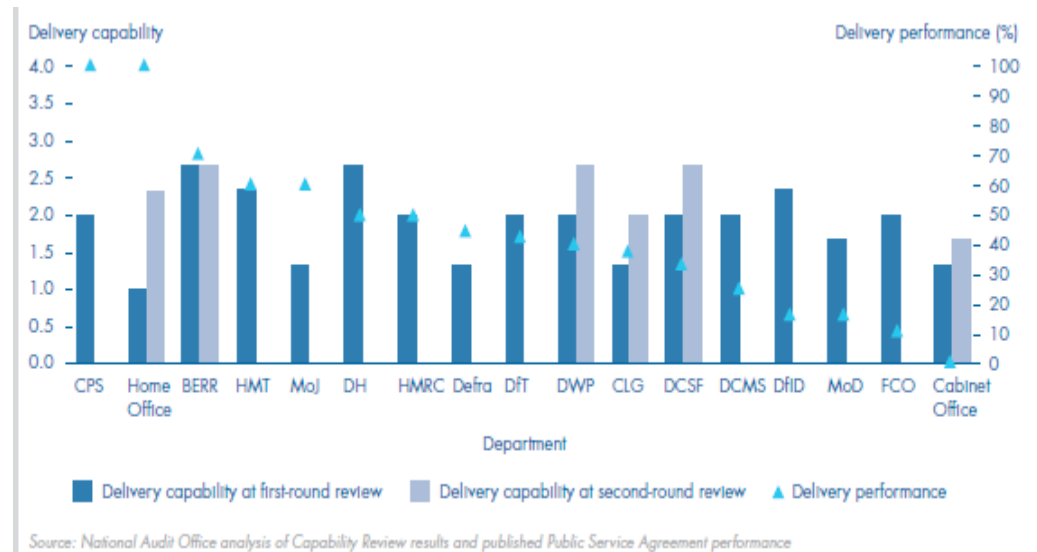
- The NAO found four deficiencies in Whitehall Capability Reviews<sup>50</sup>:

*Assess performance, not just capability*

- They assess capability, not performance. NAO reported a “*divergence between reported delivery performance and the review teams’ assessments of each department’s delivery capability...The lack of a link between Capability Review scores and reported performance will appear increasingly anomalous and could undermine the credibility of both.*” It recommended that Departments should explain the links between actions and outcomes and provide data demonstrating improved performance.<sup>51</sup>

- Their coverage of delivery shared with other departments or by agencies and NDPBs is limited. “*The quality of such arrangements is central to citizens’ experience of government.*” It recommended that agencies and NDPBs should be included in future reviews<sup>52</sup>

**Whitehall assessed capability compared with delivery performance**



- They do not benchmark departments’ capabilities against private sector best practice. NAO recommended that Departments should use performance metrics in common use by organisations outside central government to aid comparison of performance: “*As well as driving higher performance, such benchmarking will help maintain momentum for continuous improvement because departments will have to do better simply to maintain scores relative to other improving organisations.*”<sup>53</sup>

*Benchmark capability against private sector best practice*

<sup>50</sup> See footnote 22 above

<sup>51</sup> Ibid, paras 1.19, 1.20 and 3.2

<sup>52</sup> Ibid, paras 1.21 and 1.22

<sup>53</sup> Ibid, paras 1.24 and 3.17

*Capability reviews must cover front line staff*

- They focus on senior leadership and do not cover middle management and front-line staff.<sup>54</sup>

These recommendations should be implemented, and in addition consideration should be given to piloting of a variant of the Audit Commission's Comprehensive Performance Assessment system used in local government as a model for basing career prospects on identification of responsibility for success and failure. Central government should apply to itself the same rigour and comprehensiveness in its performance assessment arrangements as it does to local government.

*Perm Secs should get a formal instruction from Ministers if advice on legality or impracticality is overruled*

- The Conservative Democracy Task Force has proposed extending the right of Permanent Secretaries to seek a formal instruction from the Minister (reported to the NAO which, we propose, should have extended powers to review the propriety of ministerial conduct – see 79. and 87. below) to cover cases where a Minister wished to overrule a Permanent Secretary's advice that a decision was not just illegal (the current right) but also wasteful or impracticable. We think this should be amended in two directions: it should include questions of proportionality (see also 79. below); and Permanent Secretaries should have to secure the approval of their departmental board. Para 79. below makes a further recommendation in relation to other officials.
- Although it would be unrealistic to expect a level of two-way transfer between the Civil Service and private sector that is seen in France, the Interchange Programme should be further extended in order to give officials more experience of the sectors with which they must deal. The current system is skewed towards larger organisations, and the Cabinet Office should consider ways of enabling secondments to and from smaller bodies, which may find it harder to accommodate temporary staff. In addition, regular exposure of policy-level officials to the front line of delivery, and the encouragement of ideas to flow upwards from the front line, should become a feature of Whitehall and agency operation.

*Increase exchanges with outside organisations*

#### **Increasing trust in Whitehall's competence and objectivity**

**Proposition:** a) Appointment and reward structures for the most senior Whitehall appointments through open competition should give greater recognition to project management and delivery. Departments should be more ready to replace the five to 10% of worst-performing staff every year. b) allow officials to develop at least three to four years experience in each subject-related policy posting. Move to vertical promotion to improve expertise in depth. c) responsibility for errors should be attributable where they are caused, and not always to the top of departments. Officials should be directly accountable to Parliament as well as to Ministers. It should no longer be acceptable for officials to be able to hide behind Ministers in giving evidence to committees. Conversely, there is a need to review the accountability of accounting officers; d) gross negligence in the exercise of public office should be made an offence; e) establish an Office of Budgetary Responsibility, led by a panel of independent specialists, to vet and advise on public borrowing and spending proposals; f) implement the NAO's recommendations for strengthening Capability Assessments; g) pilot a variant of Comprehensive Performance Assessment in Whitehall as a system for identifying responsibility for success and failure h) extend the right of Permanent Secretaries, on behalf of their departmental boards, to seek a formal instruction from Ministers (reported to the NAO which would have extended powers

<sup>54</sup> Ibid, para 1.25

to review the propriety of ministerial conduct) if the Minister wished to overrule advice that a decision was illegal, wasteful, disproportionate or impracticable; i) further extend the Interchange Programme in order to give officials more experience of the sectors with which they must deal. The Cabinet Office should consider ways of enabling secondments to and from smaller bodies.			
Constituency addressed	Trust factor addressed	Pro	Con
Beltway; professional users	Competence; depoliticising detailed policy development and delivery; accountability	<p>Open competitions and personal responsibility do not deter recruitment in the private sector; there is no reason why the Civil Service should be any different</p> <p>Could improve perception of competence</p> <p>Brings accountability conventions up to date</p> <p>Improves checks on capricious exercise of political power</p> <p>OBR might inhibit governments from seeking to buy elections</p>	<p>Officials need public administration and policy management skills, not just subject expertise</p> <p>Are there disadvantages to blurring the current distinction between decision-making and advice?</p>
<b>Verdict:</b> recruitment, career structure, accountability and legal liability, capability and scrutiny recommendations should be implemented.			

*Brussels*

76. There is no doubt that a significant element of public distrust in the system stems from distrust of Brussels, and the role which the EU plays in the governance of this country - whether that distrust is well-founded or not. Although it may be more a function of poor explanation - by Brussels and the UK - of the need for supra-national measures and of the UK's input to EU decision-making processes than of deficiencies in institutional structures, there is real concern about the "democratic deficit". Several suggestions have been put forwarded for improvement, of which we have examined three:

- The proposal, backed by a number of parties around the EU, of a 'yellow card' right within the European Constitution, requiring reconsideration of measures to which a third of national parliaments object. Such a measure would require renegotiation of Treaty provisions; but revisions of EU law on decision-making are a fully accepted part of the EU's workings - that is what the Treaties of Maastricht, Amsterdam and Nice were all about, as well as the proposed European "constitutional treaty" and the Treaty of Lisbon. There is no inherent reason why every treaty revision on decision-making measures should go in a centralising direction, taking power from national parliaments: the notion of subsidiarity was supposed to offer the opposite. However, such blocking rights could weaken effective decision-making at EU level because EU decision-making power would to some extent have reverted to national parliaments - making single market measures, for example, more difficult to introduce. And securing agreement to the renegotiation could, as the debate on

Would people trust our system more if it had greater power to renegotiate EU proposals?

the constitutional treaty has shown, be difficult, particularly if the bar (for example, a two-thirds majority vote by a Member State legislature) was set at a particular level. For those reasons, and because there may be further legal complications, while we favour the 'yellow card' procedure in principle we cannot advance it as a formal recommendation.

- Transfer more law-making power to the elected (albeit on low turnouts) European Parliament. But that would be to create a pan-European democratic legislature - an essentially federalist measure which has no democratic legitimacy in the UK (or, to judge from recent referendums in France, the Netherlands and the Republic of Ireland, elsewhere in the EU either). And the Parliament has not been able to sell itself effectively to the UK public, a failing exacerbated by the move to regional lists, denying people an identification with "their" MEP.
- The regional list system, by eliminating any connection between representatives and a constituency or close area, means that few know who their MEP is. We will not seek to intervene in the complexities of voting systems, but until people can identify with a local champion in the European Parliament there is little chance of establishing trust in its work.

<b>Improving trust in EU institutions and processes</b>			
<b>Proposition:</b> give a 'Blocking Minority' power to national parliaments to force reconsideration of EU proposals; transfer more legislative power to the European Parliament; re-establish the link between MEPs and constituencies			
<b>Constituency addressed</b>	<b>Trust factor addressed</b>	<b>Pro</b>	<b>Con</b>
All	Need to bring power closer to the people	<p>Could overcome concern at national impotence</p> <p>Would establish a closer link between MEPs and constituents</p> <p>Council of Ministers operates with blocking minorities</p>	<p>Could make necessary supra-national (eg harmonisation) measures harder to secure</p> <p>Possibly significant legal and administrative problems in introducing a Yellow Card system</p> <p>European Parliament already has stronger legislative power than Westminster; strengthening it might upset the Parliament – Commission – Council balance</p>
<b>Verdict:</b> Yellow Card proposal may be too fraught with complications to be a formal recommendation; returning MEPs to manageable constituencies should be an objective			

**Procedural reform**

77. As we mooted in *The Nature of Trust*, it may be concluded that public trust in and respect for our *model* of government - the concept of parliamentary and electoral representation and of politically-led decision making - may be reasonably strong; but that the way in which government and public institutions operate in practice compromises confidence. This can be broken down into five concerns:

*Failure of trust in the way the system works stems from...*

- Conflict of interests...*
  - Decisions too often reflect a conflict between the national interest - however defined - and what is most expedient for the ruling party.
- Opportunistic Opposition attempts to blame everything on Ministers...*
  - The nature of Opposition politics is overwhelmingly negative, focusing for electoral advantage on personalising government's operation around a few individuals, apparently voting against the Government in order to be seen to oppose and offering electors whatever suits the moment.
- An inward-looking culture*
  - Even in an age of Open Government and Freedom of Information, the system still appears to operate behind closed doors with an inward focus and a reluctance to publish evidence or otherwise to provide an objective substantiation for decisions governing policy and resource allocation; furthermore, that while some are able to force disclosure of material in the public interest through the courts, others who lack sufficient resources cannot.
- Unexplained departures from evidence...*
  - Evidence and advice provided by experts is distorted by a subjective political overlay, often without explanation.
- Parliament cannot compete with the Executive*
  - Parliamentary scrutiny of legislation often appears poorly informed and unable to compete with the Executive's resources.

78. The threads in addressing this are reducing perceived stress between political and public interest considerations and creating greater transparency. In considering those two requirements, we first looked at whether clearer rules of procedure for Ministers or protocols defining their role and relationship with the Civil Service and Parliament might improve trust.

79. Some may see Ministers as operating in an analogous manner to judges. They are meant to reach decisions on a balance of evidence provided by officials, expert advisory bodies and others. But there are four principal differences. Unlike judges, they may take account of sentiment, for example in sentencing policy or decisions in cases where

**The Prime Minister maintains discretion over Ministerial Code investigations**

The Government's response to the Public Administration Select Committee's recommendation that the decision to investigate alleged breaches of the Ministerial Code should be transferred from the Prime Minister to the Independent Adviser

**7. It is hard to see how the Independent Adviser can command public confidence if the Prime Minister can decide that prima facie breaches of the Code will not be investigated.**

The Government notes this conclusion but continues to believe that if there is an allegation about a breach of the Code, and the Prime Minister, having consulted the Cabinet Secretary, feels that it warrants further investigation, the matter will be referred to the independent adviser. In deciding whether or not to refer a matter to the independent adviser for investigation, the Prime Minister will wish to take into account a range of factors, including whether the facts are already known. In line with the Government's response to the Committee's recommendation 5, the Government believes it must ultimately be for the Prime Minister to account to Parliament for his decisions and actions in relation to the appointment of his Ministers.

*Investigating the conduct of ministers: Government Response – HC 1056, 14 October 2008*

the public mood has been swayed by the way campaigners have presented their side of the story. They operate within few rules of procedure and in practice have considerable latitude over the interpretation of those rules. They take their decisions behind closed doors - the advice given to them on how evidence should be balanced rarely sees the light of day. And the scope for challenging their decisions is limited and poorly defined. As we observed in our Risk report, an aim of systemic reform should be to elevate the respect in which Ministers are held to that of the judiciary. In 46. above we suggest ways in which governments could gain trust through transferring some decision making powers. If that is considered too radical, other options might include

- **Revising the Ministerial Code**<sup>55</sup> (formerly known as Questions of Procedure for Ministers). The Code covers issues such as collective responsibility, Cabinet conduct, separating personal or constituency interests from ministerial duties, and a requirement of honesty to Parliament. All of these are good in themselves and are invariably observed. However, while there is a requirement to act in the public interest it is undefined; there is no curb on decision making in the interest of a party or other faction; and discretion on interpretation of the advice to “be as open as possible” and to provide information is left to each Minister, with the ultimate judge being the Prime Minister, who on policy matters at least can be expected to have common cause with Ministers and a desire to avoid embarrassment.

We agree with the Conservative Democracy Task Force that “*it would clearly be insufficient for the Prime Minister to be judge of his or her own actions. Bodies such as the Public Administration Committee already concern themselves with the process of decision-making, but there should also be – at least in cases where the issue is raised – the ability for an outside body to certify whether or not the Code has been followed.*”<sup>56</sup> The Task Force proposed that the NAO (or a body with similar powers<sup>57</sup>, in particular the access to papers NAO enjoys in investigating spending) would be well placed to undertake this role, but there is no reason why the current Independent Adviser on Ministerial Interests or Parliamentary Commissioner for Standards (as proposed in the Constitutional Renewal Bill) would not be suitable provided they were able to investigate on their own initiative as well as at the Prime Minister’s discretion and report to Parliament (which, as proposed in Institutional Reform, would be able to recommend remedial action).

We considered going further by

- amending the Code to include (at 1.2f, which states *Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests*) the clarification that “private interests” includes the interests of any political party with which Ministers are affiliated and stressing that service to a political party should be carried out

*Sole discretion to investigate Ministerial Code compliance should be taken away from the PM*

*Ministers must avoid party/electoral opportunism...*

<sup>55</sup> [http://www.cabinetoffice.gov.uk/media/cabinetoffice/propriety\\_and\\_ethics/assets/ministerial\\_code\\_current.pdf](http://www.cabinetoffice.gov.uk/media/cabinetoffice/propriety_and_ethics/assets/ministerial_code_current.pdf)

<sup>56</sup> *An End to Sofa Government*, Conservative Democracy Task Force, 2007, p.4

<sup>57</sup> The Task Force’s *Trust in Politics* report (January 2008) recommends (p.3) that the Parliamentary Commissioner for Standards should have this role.

in Ministers' own, unpaid time, something that is currently strictly enforced only in relation to attendance at Party conferences. 1.2i, 6.1, 6.3 and 8.1 add that Ministers must not use Government resources for Party political purposes. These and the parallel provision (3.6) applying to Parliamentary Private Secretaries should be interpreted by Permanent Secretaries, the external review body and the Committee on Standards as constraining any statement or action that is, or appears to be Party political if made by Ministers in their capacity as Ministers or at their request by officials or Special Advisers;

*...and so should Special Advisers...*

- similar amendments should be made to the Code of Conduct for Special Advisers<sup>58</sup>. It currently includes (in para. 3) in the duties of SpAds *representing the views of their Minister to the media including a Party viewpoint...attending Party functions and maintaining contact with Party members...and taking part in policy reviews organised by the Party*. Most importantly, it requires (para. 6) that *They should avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes* and (para. 23) that they should *express comment with moderation and avoid personal attacks*. We believe that the granting to parties of privileges unavailable to the electorate as a whole is a root of distrust and that references in para. 3 to a party dimension – which in any event appear to conflict with para. 6 – should be removed (preparation of Party conference speeches would have to be paid for by their Party). Taken together, this and the recommendations in the preceding paragraph should make it harder for Ministers and their advisers to engage in activities designed to promote or denigrate a political party, one of the elements of the deeply distrusted culture of “spin”. In the end, however, as an unidentified Cabinet Minister was reported in *The Times* (15 April 2009), *“These changes to the rules about special advisers are completely and totally irrelevant. It’s not about rules, it’s about the moral compass of those involved.”*

*...in order to limit opportunities for spin...*

*...but rules will not of themselves make people operate in a trustworthy manner*

*The threat of a misconduct charge should be taken more seriously*

*Inhibit Pork Barrel decisions by allowing NAO to audit Ministers’ role in resource allocation... because policy making is an end-to-end process*

- giving the external reviewer the power to assess whether a prima facie case of gross negligence in the exercise of public office (see 75. above), misconduct in public office – meaning wilful misconduct to such a degree as to amount to an abuse of the public's trust – or misfeasance in public office - involving bad faith in the sense of the exercise of public power for an improper or ulterior motive has been made for further consideration by the Crown Prosecution Service. These offences could be applicable in cases involving, for example, economic or budgetary mismanagement and smear campaigns.
- giving the NAO the duty to audit the decisions underpinning resource allocation in order to constrain Ministers from making pork barrel decisions<sup>59</sup>. This is consistent with our recommendation (see 87. below) that NAO’s scrutiny of Impact Assessments should extend to Ministers’ role in applying the Proportionality Test. Policy making, and the

<sup>58</sup> [http://www.cabinetoffice.gov.uk/propriety\\_and\\_ethics/special\\_advisers/code/code.aspx](http://www.cabinetoffice.gov.uk/propriety_and_ethics/special_advisers/code/code.aspx)

<sup>59</sup> The Conservatives have by analogy endorsed the principle of this in proposing that the Audit Commission should report on the transparency of local government finance settlements in order to avoid “covert party political interference” – *Returning power to Local Communities*, February 2009, 1.1



auditing of the system, should be an end to end process without an artificial barrier being raised between Ministers and their departments and agencies;

- giving officials the right to report to the independent monitoring body cases where Ministers have departed from advice or evidence without explanation (at present, Accounting Officers are required to report to NAO cases where advice that a course of action would be wasteful is overruled without evidence, but no analogous provision exists for other officials – see 75. above for a related proposal) and for any such notification to be published without attribution. However, it would be simpler to express in the Ministerial Code the currently implicit expectation that Ministers must explain such departures.
- If our proposals on revising Ministers’ and officials’ roles are considered acceptable, we would add to our proposed new accountability of officials to Parliament as well as to their Ministers a requirement to be more open to parliamentary committees, a Ministerial Code point honoured more in the breach at present.

*Should officials be able to report unreasonable departures from advice? Better that Ministers should have to explain them.*

<b>Strengthening ministerial rules of procedure</b>			
<b>Proposition:</b> strengthen the Ministerial Code to limit the scope for conflict between public and party interests; give greater consideration to the charge of misconduct in the exercise of public office; allow the independent adviser to monitor compliance with the Code on his own initiative, reporting to Parliament; give the NAO power to audit the decisions underpinning resource allocation; give officials the right to report to the body cases where Ministers have departed from advice or evidence without explanation.			
<b>Constituency affected</b>	<b>Trust affected</b>	<b>issue</b>	<b>Pro</b>
Beltway; professional users; general public if changes are seen to constrain politically opportunistic decision making	Avoid conflict between party and public interest; promote evidence-based decision making		May inhibit opportunism and spin culture
			<b>Con</b>
			Difficult to prove that the public interest has not been served other than in cases of illegality, waste of public money or clear incompetence  Risk that NAO may become politicised if it audits political decisions  Ministers and Special Advisers will find ways around the wall between public duties and party politics unless their activities (eg media briefings) and strictly monitored
<b>Verdict:</b> should be considered – provided monitoring and enforcement are seen to be strict.			

80. **Redefining the way Ministers and their advisers operate.** We have already stated (see 48. & seq above) that a doctrinaire reliance on the convention that Ministers make all decisions in their Department is unrealistic and only serves to fuel the destructive political blame culture that deters respect for their role and corrodes trust. Although we were not able to reach agreement on a radical model that would restructure decision-making and accountability within the system, we do

*Publish protocols setting out the roles and responsibilities of Ministers and officials*

believe that procedural elements of the proposal could both play a part in fostering a more appropriate understanding of the way decisions are made and who should be responsible for them. In particular, introducing published protocols (similar to Service Level Agreements – see 49. above) would for the first time clearly define the roles and responsibilities of Ministers and officials such that while decisions on policy would rest with Ministers, policy making would be recognised as an iterative process between Ministers and advisers and policy management would be attributed between Ministers, the Civil Service and other advisers (for example, there is no reason, as proposed in our radical model above, why Ministers and officials should not jointly participate during the Standing Committee stage in order to improve the quality of responses to amendments and questions). It would be harder under this innovation, termed the ‘public service bargain’ by the Public Administration Select Committee, for Ministers or their parties constantly to be targeted for newsworthy or politically opportunistic reasons.

<b>Cooperative policy making; improved accountability</b>			
Proposition: published protocols should clearly set out the roles of Ministers and officials in decision making, formulating policy and delivery. Responsibility for failure should be attributed where it is due.			
<b>Constituency affected</b>	<b>Trust issue affected</b>	<b>Pro</b>	<b>Con</b>
Beltway, professional users. (Potentially all by osmosis)	Political blame culture	<p>Could reduce opportunistic personalisation of blame</p> <p>Would create a clearer understanding of who is responsible for what</p> <p>Introduces a fairer concept of accountability</p>	<p>Breaches principle that accountability should fall on the elected</p> <p>Political parties and the media may ignore it and continue to attribute all failings to Ministers</p>
<b>Verdict:</b> could play a significant part in fostering a more realistic understanding of the way the system works and in limiting distrust of Ministers.			

*Question times may be entertaining but they foster contempt for the system*

81. **Reforming the way in which Parliament calls Government to account.** It might be considered that parliamentary question times, and particularly Prime Minister’s Questions, have little to do with informing and calling to account and more with point scoring and conveying an image of the legislature as children’s playground. They may be part of the drama of politics, but analysis of comments on PMQs suggests the likelihood that such displays, and the way they are reported to the public, alienate more than they entertain outside the Beltway. If that is the case, it may be desirable to supplement PMQs and departmental question times by increasing to monthly the frequency with which the Prime Minister and his departmental counterparts appears respectively before the Liaison and departmental Select Committees and allowing any backbencher or Peer to participate in such sessions by submitting questions to the committee in advance (which would be vetted by the committee to eliminate planted or empty questions) or seeking to ask supplementaries.

82. That change alone would not break the connection between question times and Punch and Judy politics or ensure that they are geared to genuine questions and informative answers and reduce time wastage through planted or political questions, all of which add to Parliament's drama for some but for others create an impression of an expensive bear pit occupied by people who are not fit to govern. A balance must be struck between not making politics duller and increasing trust. Speakers have over centuries turned a deaf ear to such behaviour. There is a pressing need for them more strictly to enforce the Code of Conduct for Members of Parliament, which requires<sup>60</sup> that

*The Code of Conduct for MPs must be enforced...*

*Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.*

The way that MPs yell at each other in Parliament and have to be told off like naughty schoolboys has been accepted for years as just the way that things happen. Indeed, some suggest that this parliamentary style makes political discourse vigorous. This is quite wrong.

*...and strengthened to restrict Punch and Judy politics*

It would be helpful to add to the Code the Scottish Parliament requirement<sup>61</sup> that MSPs deal with each other in a "courteous and respectful manner" and for guidance to be drawn up on interpretation of the provision (covering, for example, a requirement that Ministers should answer questions factually and directly) with the aim of addressing the above concerns.

*Online questioning by expert panels and the public would foster involvement and widen interest*

83. A further option might be online questioning of Ministers and senior officials by panels of experts – for example, Treasury would be questioned by economists and tax specialists – who would invite the public to submit questions. We were impressed with the Treasury Select Committee's innovation in inviting public questions to be put to a session with the Chancellor, Bank of England and the FSA. Some 5000 were received and the experiment should be adopted by all Commons and Lords investigative committees.

*Introduce post-legislative/regulatory scrutiny*

84. Building on the success of pre-legislative scrutiny, we would propose the introduction of parliamentary consultation on the shape of the government's overall legislative programme and the creation of a system of post-legislative and regulatory scrutiny to assess whether laws and regulation have achieved their aims.

#### **More effective parliamentary scrutiny**

**Proposition:** a) supplement Prime Minister's and departmental oral Questions with monthly appearances before the Liaison/departmental Committees at which any MP or Peer could table questions; b) strengthen and enforce the Parliamentary Code of Conduct to discourage attack/defence politics c) Regular online questioning of Ministers by expert panels. d) Open Select Committee questioning of witnesses to the public. e) Parliamentary consultation on the advance shape of the legislative programme, coupled with post-legislative/regulatory scrutiny.

<sup>60</sup> Part V, 15 <http://www.publications.parliament.uk/pa/cm/code02.htm#a4>

<sup>61</sup> Standing Orders 7.3.1

Constituency affected	Trust affected	issue	Pro	Con
All	Reduce scope for politicking; increase scope for non-political scrutiny		Would go some way to replacing theatre with information-gathering and forensic scrutiny  Introduces new concept of scrutiny by outside groups and the public	Reducing the theatrical element may discourage even more people from watching Parliament  Point scoring may be reduced in the House, but not via the media  If successful, public questions may swamp the ability of committees to raise their own issues. Careful selection will be needed and that will disappoint many unless expectations are managed  Would restrict the ability of opposition parties to question the Government
<b>Verdict:</b> could make a difference to perceptions of knock about politics, but regulation cannot of itself make the parties change their approach.				

85. **Greater disclosure.** We questioned why it should be necessary to have to go to court to force disclosure of advice to Ministers. One option would be to scrap the convention that officials do not have to disclose it, with defined exceptions for sensitive (security, personal information or confidential commercial) cases. However, the reality of policy-making involves throwing up “thinking the unthinkable” ideas, which might not necessarily be popular or saleable to the public, before reaching a settled conclusion. Making this process transparent carries the risk of inhibiting free-ranging internal discussion and brainstorming.

*Reverse the FoI process – we should have passive access to everything in the system, including policy options and Cabinet minutes and votes...*

86. From the standpoint of trust, the most salient question arising from the 2008 Damian Green case was not whether the sanctity of the Palace of Westminster had been breached but why an MP needed to resort to a covert arrangement with an official in order to put into the public domain information that should always have been there – a conclusion confirmed by the Director of Public Prosecutions, who found in that case that the system's attempt to avoid disclosure on the basis that the leaked material compromised national security was without foundation.<sup>62</sup> Allied to the option above, therefore, or as an alternative, the current Freedom of Information process should be reversed to one of passive access whereby all information held by the system would, subject to defined exceptions, be posted on line. This could include the essence of options presented to Ministers (in order to address the usual objection that disclosing advice in its unvarnished form would inhibit candour) in order to allow Parliament and public to assess whether Ministers have departed from advice and to seek explanations if they have not been given (although we would propose that the Ministerial Code should include a requirement to do this and to publish the full evidence base underpinning decisions - similar to disclosure in Judicial Review cases). A further benefit of this idea is that it would give the public a more realistic idea of the interplay between Ministers and their advisers in the decision-making process and possibly limit the scope for politically-focused attacks. We see no reason why Cabinet minutes and votes should not be published, subject to the exceptions mentioned above.

#### **A former senior official on disclosure**

*"I worked in four Departments and with several others and was regularly disappointed by the quality and quantity of analysis used to underpin advice leading to important decisions. (The advice offered by the then Department of Employment seemed to me risible at times.) Invariably, advice would be elegantly and succinctly expressed, and compellingly advocated. But the substance underneath the style often seemed to me thin, sometimes extremely so. And people skating on ice they know to be thin are the least likely to welcome scrutiny, especially by expert special interest groups able to dissect such advice and diminish the standing of the advisers. You don't have to look far for decisions taken on the basis of mistaken advice or inadequate regulation (do mistakes get much bigger than the advice and decisions that led to war in Iraq and to nationalisation of the City?)*

***The burden of proof for keeping advice confidential needs to be shifted onto the shoulders of advisers.** The recent Home Office leaks and their aftermath have shown - if it needed showing - just how far the balance of advantage has tilted to Government from Parliament. Departments' ability to remain opaque, and so remain to all practical purposes unaccountable, seems to me as great if not greater than ever as our expectations have eroded. There is a need to think about mechanisms for shifting the burden of proof."*

*Oral evidence to the Commission*

*Show that Impact Assessment is driving decisions and is not being used to justify them...*

87. Allied to disclosure is **more transparent, and more apparent use of evidence**. Using Impact Assessment to demonstrate that evidence has driven decisions, and has not been manipulated to justify them, is an important contributor to

<sup>62</sup> See [http://www.cps.gov.uk/news/press\\_releases/122\\_09/](http://www.cps.gov.uk/news/press_releases/122_09/)

trust. It has been mentioned in several places in this report, but in the context of a “what works” policy process we would highlight three recommendations to strengthen IA’s influence:

*...by making IA a legal requirement...*

- Following the recommendation in our 2004 report, making Impact Assessment a statutory requirement for departments, regulators and other public bodies (some regulators are currently subject to this), which would allow it to be legally challenged.

*...and allowing NAO oversight of proportionality tests*

- Following the recommendation in our Risk report, and consistent with our view that scrutiny should be an end to end process, extending the NAO’s current oversight of IA to include ministerial proportionality tests, under which Ministers have to attest that they have fairly balanced the evidence on costs and benefits without at present requiring them to explain how they have done so. This extension might be expected to cause Ministers to be both more careful and more open.

*should be impact-assessed beforehand*

- Requiring that all Budget items currently subjected to IA following their announcement to be fully assessed in advance (now adopted as Conservative policy). There is little justification for Budget “surprises” (although the Shadow Chancellor was reported as still wanting the power to make such announcements) and, while most Budget/PBR measures are nowadays subject to consultation before announcement and a long list of IAs is published as part of the Budget package, Some commitments are announced first, with subsequent consultation on details only, leading to considerable anger and suspicions as to Government’s motives (for example, the suggestion that a tax grab is being disguised as a green measure).

*Evidence based decision making should be certified by Ministers and Perm. Secs*

- In line with our proposal that protocols should define the responsibilities of Ministers and officials, Ministers and the Permanent Secretary (or, in the case of input such as that from the Conservatives’ proposed Fiscal Policy Committee, advisory bodies) should jointly have to sign a certificate attesting that any decision (including the proportionality test in Impact Assessment) has been fairly based on the available evidence. This formalises the procedure set out in 82. above; it gives officials the opportunity to express concern if they feel that decisions are likely to be made in disregard of evidence but should also make them pay greater attention to the robustness of their evidence collection and analytical methodologies; it is likely to make Ministers take greater care in imposing decisions; and it would provide evidence in Review proceedings. This is consistent with our view that policy making should be seen to be a partnership between Ministers and their advisers and that responsibility for poor judgement or execution should fall where it is due. Ministers should not be held responsible for decisions honestly made on the basis of evidence that they did not know was flawed. One of our advisers cited the weapons of mass destruction issue as a reason for concern over this proposal. The trust issues on that seem to lie not just in whether the Prime Minister made a decision in the face of inconclusive evidence but also on whether Whitehall was pressurised into distorting evidence in order to suit a political agenda. Under our proposal, the Cabinet Secretary could have refused to sign the evidence certificate - and that might have led to a very different vote in Parliament.

**More user-friendly consultation.** Whitehall has made strenuous attempts to improve consultation exercises. We have seen an increase in the use of forums and techniques such as Local Strategic Partnerships, citizens' panels, questionnaire surveys, internet consultation and focus groups, as well as one-off exercises such as the Big Conversation. However, from a trust point of view, the suspicion is still frequently raised that decisions are taken ahead of consultation. We examined options for improving trust through a more inclusive approach to initiating consultation:

*Seek advance agreement on the way policy is reviewed*

- Whitehall would do well to borrow from the practice of some regulators of consulting upon and publishing "approach documents", with the aim of securing agreement in advance to the way in which policy reviews should be approached.
- People need to feel that their contribution has made a difference; or they should at least be told why it has not. As matter of course, Departments and NDPBs should publish Response to Consultation documents that would summarise and analyse responses received before delivering their verdict (the CAA's Economic Regulation Group is a model in this respect). With an increasing number of responses being received online, respondents could receive a copy at no cost; similarly, Select Committees could send links to evidence and reports to all those who have emailed them in connection with an inquiry.

*Use Test Panels to boost cooperative decision making*

- Our 2004 and Risk reports encouraged Whitehall to convene small Business Test Panels to agree methodologies, assist in evidence assembly and advise on balancing evidence in all cases involving decisions that may impact on business sectors; but little consideration has been given to formalising the current patchy use of consultation groups (which should not be restricted to business-related issues). An alternative would be for Departments and NDPBs to recruit on line test panels amalgamating business sectors and citizens' panels or juries; or for sub-regional juries, chaired by the MPs for their area (which might encourage cross-Party action), to be established.

#### **Improving confidence in the process – Ofgem and the Distribution Price Review**

The approach taken by Ofgem to this major review has been applied to its smaller-scale policy and regulatory exercises and is also adopted to a greater or lesser extent by other regulators such as Ofwat, Ofcom and the National Lottery Commission. We will therefore set out the broad principles rather than focus only on the DPR:

- It published a draft Approach Paper, setting out the way in which it proposed that the Review be conducted, and invited views. This allowed affected parties to recommend methodological assumptions and governance principles at the outset
- It held hearings on the Approach Paper and on subsequent consultation papers. Some Departments are starting to adopt this practice
- It allowed affected parties to comment on the methodology to be used for the calculation of costs and benefits
- And it set out a clear timetable for the review, with target dates for every stage

From *Political and Regulatory Risk*, RPI 2006, p.24

*Could Open Source Government work?*

- A more far-reaching option would involve what is known as Open Source Government, in which the system would act as referee, managing public debate (through, for example, mutually editable consultation documents on Wikipedia lines). This could incorporate rights such as those in Switzerland, where there is a duty for Parliament to debate issues if they attract the support of a sufficient number of people, or a recall mechanism if enough people protest about measures.<sup>63</sup> The Conservatives have recently supported the use of referenda at local authority level<sup>64</sup> but have not explained why the procedure should not be an appropriate citizens' input to central government.

*Whitehall should emulate regulators' discipline on decision-making timetables*

88. Clarity and certainty are further elements in user-friendliness. Sector regulators try to be punctilious about setting out and keeping to timetables for policy processes. Neither Whitehall nor the Commission has ever submitted to such discipline. As a result, outsiders have little idea when announcements will be made. The best the system will often offer when asked is "in the Spring" or "later in the year". This gives the impression of a lack of consideration for those affected by the system's decisions and of inefficiency. Government and Brussels have given no good reason why they are so different from regulators. In our Risk report, we suggested that the procedure should be tested through three pilots spread over different Departments/DGs and involving a major policy development exercise, a policy review, and a Bill, but in order to avoid concerns over guillotining we recommended it subject to the presumption that it should only apply to the parliamentary stage of the process in extremis (we distinguish between pre-legislative scrutiny committees acceptably being set a deadline for reporting and the imposition of a guillotine on debate) and provision would have to be made for changed circumstances or new evidence.

*Adopt a Legitimate Expectations approach to policy making*

89. Allied to this is operating on a "legitimate expectations" basis under which policy-making aims at delivering long-term certainty. Several regulators strive for this but Government has done little to persuade outsiders that policy will be set with a view to, say, a five year horizon of stability. This is not, of course assisted by the desire of incoming governments to remove the stamp left by their predecessors.

#### **Trusting users fosters trust in the system**

DCSF's Shared Services Team convened a ten strong end-user steering group of local authority education recruitment officers and schools to assess tenders for its on line Schools Recruitment Service platform. The Group received presentations from bidding consortia and scored them on functionality against some 50 criteria. DCSF did not seek to influence that part of the process. Those consortia achieving more than 65/100 were short listed and were evaluated by the Department on price. "It gave us buy-in and an educated view from those for whom the SRS is being set up", DCSF commented.

<sup>63</sup> The Swiss have three types of national poll: citizens' initiatives; veto votes on recently passed legislation; and referenda to confirm changes to the constitution. Detailed proposals on thresholds and other referendum or public inquiry requirements are set out in the Power Commission report, pp 240-243. For further ideas on referenda and recall mechanisms, see *The Localist Papers: Open Politics*, Centre for Policy Studies, May 2007, pp 4-6.

<sup>64</sup> See footnote 57 above, para 2.3.



<b>Openness in disclosure and consultation</b>			
<b>Proposition:</b> a) all information held by the system should automatically be made publicly available, subject to security, personal and commercial privacy etc exceptions; b) disclose the essence of options presented to Ministers, plus Cabinet minutes and votes; c) publish approach documents, give accessible feedback to consultation respondents, and seek buy in for ideas by using test panels and citizens' juries; d) introduce obligations to debate and even recall measures if they attract sufficient public support/opposition; e) make Impact Assessment a statutory requirement, allow NAO to review proportionality tests and extend advance IA to Budget items. f) Ministers and Permanent Secretaries or advisory bodies should jointly certify that decisions have been based on the best available evidence. g) introduce indicative timetables for policy processes and take a "legitimate expectations" approach to policy planning, seeking cross-party agreement if necessary in order to create 5-10 year stability.			
<b>Constituency addressed</b>	<b>Trust issue addressed</b>	<b>Pro</b>	<b>Con</b>
Beltway; professional users	Secrecy; lack of engagement; insufficient evidence based decision making	<p>Could inhibit capricious activity and improve perception of transparency</p> <p>Could encourage wider interest in scrutiny</p> <p>Would promote a more realistic view of the way decisions are made and might limit the scope for attempts to pin blame on Ministers alone</p> <p>Ends illogicality of Departments and regulators not having symmetrical impact assessment duties</p>	<p>"Government by Petition" could be a boon to pressure groups at the expense of individual citizens</p> <p>Changing events may require policy change. Governments cannot handcuff themselves or their successors for the sake only of foreseeability</p> <p>Not all Ministerial decisions are assessments of evidence. Many are expressions of policy preference (eg over tax rates, award of welfare benefits, whether certain industries should be privatised or nationalised).</p>
<b>Verdict:</b> there is no reason why b), c) and e), f) and g) should not be implemented. a) would require careful consideration of exemptions to ensure that the freedom is not emasculated and that the system is not inhibited from operating efficiently. Care would have to be taken with d) to ensure that a culture in which Parliament is hijacked by interest groups does not emerge. The system should explain why timetabling and operating to medium term horizons can work for regulators but not for Whitehall.			

90. We finally examined procedures relating to EU legislation with the aims of reducing suspicion of law imposed upon the UK.

*All stages of EU legislation should be subject to Impact Assessment*

- Some elements of the Brussels process are still not covered by an IA requirement, most notably the increasingly used Conciliation procedure, which produces compromises with little explanation and no analysis of costs and benefits. Conciliation timetables are tight, but clarity and accountability are as important at that stage as at any other. IA should apply.

*Publish analysis of draft Directives*

*Work out how to implement EU measures before signing up to them*

- The UK (and all Member States) should routinely make public their analysis of draft EU Directives. It is in EU negotiations that key proportionality decisions are often taken, yet there is a lack of transparency over how the decisions are made. Publishing the analysis made available to Ministers would greatly enhance transparency and address the “What do they have to hide?” question.
- The system should provide a clear explanation ahead of reaching Common Position in the Council of Ministers of the scope of national application and of the way it will interpret and apply the measure. Current Cabinet Office guidance to officials is to produce a project plan for transposition no later than adoption of a Common Position by Council; but if plans are produced late in the process (for example, between political agreement and adoption) they may result in the UK agreeing to legislation without knowing how or whether it can cost-effectively be made to work. It may be argued that the complex politics of reaching agreement in Council can on occasion preempt such preparation; but a “shoot now, ask later” approach can never be acceptable and that the Council Bureau should seek sight of draft implementation plans before Common Position (and, if significant amendment has taken place in Conciliation, before the Council finally agrees). This may delay the process by one or two months, but that is justified by the benefit in greater certainty that it would bring.
- In order to reduce distrust of direct applicability of EU legislation, initial consultation on transposition should become part of the IA process, with views on costs, benefits and implementation options being invited while proposals are at Working Group stage. Introduction of more comprehensive automatic notification (see 99. below) would allow affected sectors to be kept informed of the implications as negotiating drafts change.

<b>Clearer lines of control over Brussels</b>			
<b>Proposition:</b> Conciliation to be subject to Impact Assessment; publish analysis and briefing for negotiating positions on new EU Directives; explain how measures will be implemented nationally before Common Position is agreed; consult on transposition as part of the IA process at Working Group stage			
<b>Constituencies affected</b>	<b>Trust factor affected</b>	<b>Pro</b>	<b>Con</b>
Professional users	UK sovereignty emasculated by the EU	Would inhibit UK from signing up to EU measures before assessing costs and benefits or transposition feasibility	Regular changes to proposals before agreement may involve several reassessments of costs and changes in negotiating briefs, but what does the system have to hide?
<b>Verdict:</b> hard work for officials, but would deliver a benefit through reducing uncertainty and the risk of nationally unworkable measures being agreed.			

### **Presentation**

91. In this section, we examine education about and perception of the system, the way it presents itself and the way it communicates with the governed. This was a key feature of our 2004 report, which focused on relatively simple

improvements that might bring Government to the governed. Although some recommendations were adopted, the system's expenditure on public information has done little to help citizens deal with it or to shape a realistic understanding of what it does.

92. That broad conclusion can be explained in a little more detail:

*Education system and media perpetuate textbook fictions about the system...*

- The work of public institutions is still little understood by the governed. There is an underlying lack of interest (most citizens consider Government and the public sector in the same way as they view utilities, expecting a service to be provided undramatically and only noticing when the service fails), but apathy means that there is relatively little desire to engage; the educational system and the media perpetuate textbook fictions that have changed little since Bagehot's day; and Government, despite having made great strides in communication, does not make it easy for people to learn about its work.
- The work of Ministers, MPs, officials and councillors has never been clearly explained to today's citizens. Indeed, it may be felt that the televising of Parliament, with its emphasis on the Chamber, creates a misleading ("only participation in children") view of elected representatives, whose value as media-fodder on national policy issues tends to obscure a perception of their role in serving their communities.
- Departmental, parliamentary, regulatory and public body websites are often difficult to navigate and inconsistent in format<sup>65</sup>; automatic notification of information has in some cases regressed since 2004; it can be very hard for outsiders to find the right official or document; and there has been little adoption of new distribution channels such as RSS. At best this creates frustration; at worst it reinforces a view that the system thinks principally of its own needs and is not the servant of the people.

*...But the system does little to dispel damaging misconceptions*

*the system*

93. Great efforts have been made to stimulate interest in the work of government and in engaging with the policy process. As all the polls show, those attempts have been largely unsuccessful. It might be considered that these suggested failings stem from

- A genuine desire to engage, limited by lack of competence
- A continuing culture of secrecy and of serving the system rather than those on whose behalf it operates

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<sup>65</sup> A third of government websites do not comply with Government accessibility standards - *Government on the Internet: Progress in delivering information and services online*, 16th Report, PAC, HC143, 2007-08

- A conflict between the presentation of public and party political information (for example, do people perceive any announcement of Government progress or success, however objectively justified, as party spin - insofar as it registers at all?)
- A culture of political communication that rarely engages interest and at worst breeds cynicism - an ingrained tendency of all governments to take credit for good news and to run from setbacks and of Oppositions to ignore successes
- The demands of 24/7 media channels, which may encourage knee-jerk reactions, empty statements ahead of the system's ability to comment in detail, and platitudes constructed to court the audience of the moment
- The inability (or lack of desire) of the media to focus on anything other than the gift wrapping of government; alternatively, the way in which the system controls media access to it
- Poor training of teachers and misleading educational materials and tools.

94. We have considered remedies for these problems under three headings – better and more user-friendly information; encouraging constructive input; and better education.

*Improving the way the system conveys information*

95. In our 2004 report, we commented on the difficulties faced by typical users in seeking to access information about and from the system. For example

- There was little consistency between Government websites, making it difficult to master their geography
- Facilities for automatic notification of information had been adopted by a number of Departments, regulators and NDPBs, but in many cases they were hard to find and little more than press releases were available
- It was very difficult to find out who does what in the system, let alone contact them. Some institutions included organograms on their sites, but most of these only showed the highest grades. Contact details for Departments were frequently difficult to find, and it was even harder within them to find telephone numbers
- Publications were often not available on line when they were announced. It was quite common to find that the most recent information listed on "What's New" pages was some days old (as an example, Ofcom issued an announcement on 29 June 2008 of the publication of a document following consultation on the margin between wholesale prices of two BT products pivotal to much of the broadband market. The document was still not posted on line as at 5 July). In almost every case, the quickest way to access announcements is not through the website of the issuing Department or public body but

on the Central Office of Information's News Distribution Service site, which while describing itself as "*the public sector leader in the electronic delivery of news releases and information*" does not offer automatic notification to the public. And information pages on departmental sites often showed that they had last been updated many months before.

96. We decided to produce a scorecard assessing the up to date performance of all Whitehall and a selection of regulators and public bodies against the following user-friendliness criteria:

- Contact*
  - 1. Ease of finding contact information.
  - 2. Is a direct telephone number provided?
  - 3. Are direct telephone contact details for relevant officials provided?
- Who's Who*
  - 4. How easy is it to identify officials? a) Ease of finding them; b) Information on responsibilities
- New information*
  - 5. Visibility
  - 6. Content
  - 7. Speed of posting
  - 8. Is an automatic notification facility available? How visible is it? Does it offer access only to press releases or to all documents?
- Content*
  - 9. Information on what the Department/body/regulator does
  - 10. How up to date is it?
- Search*
  - 11. How efficient and easy to use is the search engine?

**Whitehall website scorecard (best = 5; worst = 0)**

	1	2	3	4a	4b	5	6	7	8	9	10	11	Ave
BERR	2	5	1	1	1	1	3	4	3	2	2	3	2.33
CO	4	4	3	2	3	2	4	4	3	3	4	3	3.25
DCSF	3	5	3	4	4	5	4	4	4	2	4	3	3.83
DCMS	2	5	0	1	1	3	2	5	4	2	2	4	2.16
DECC*	1	5	1	0	0	4	2	1	0	2	1	0	2.58
DCLG	4	4	3	4	4	3	3	4	3	4	4	3	3.58
Defra	3	0	2	3	2	4	4	2	0	2	2	2	2.16
DfT	4	3	3	4	4	4	4	3	3	4	3	4	3.58

DIUS	4	5	3	4	4	3	3	5	4	4	4	3	3.83
DoH	4	4	0	0	0	4	4	3	3	4	4	4	2.75
DWP**	1	0	0	0	0	4	4	2	0	3	4	2	1.66
EA	4	3	3	4	3	2	3	4	3	2	4	4	3.25
FCO	4	4	2	3	4	4	4	4	4	3	4	4	3.66
FSA	2	5	2	3	5	4	4	4	0	2	4	4	3.25
HMRC**	4	1	0	0	0	1	4	5	4	1	4	4	2.33
HMT	4	4	3	4	3	4	4	3	3	4	3	2	3.41
HO	4	4	0	3	2	4	3	4	3	2	2	2	2.75
MoJ	3	5	2	3	4	5	4	4	3	4	4	3	3.66
Ofgem	4	2	4	3	4	2	5	5	5	4	2	2	3.50
Ofwat*	2	5	3	3	3	5	5	5	0	4	5	4	3.66
OFT	3	4	3	3	2	4	5	5	5	4	4	4	3.83

\*Site under development at the time of the survey

\*\*Site designed to be claimant/tax advice, not policy, focused

Key BERR – Department for Business, Enterprise and Regulatory Reform CO – Cabinet Office DCLG – Department of Communities and Local Government DCMS – Department of Culture, Media and Sport DCSF – Department for Children, Schools and Families DECC – Department for Energy and Climate Change Defra – Department of the Environment, Food and Rural Affairs DWP – Department of Work and Pensions	DfT – Department for Transport DIUS – Department for Innovation, Universities and Skills DoH – Department of Health EA – Environment Agency FCO – Foreign Office FSA – Financial Services Authority HMRC – H M Revenue and Customs HMT - Treasury HO – Home Office MoJ – Ministry of Justice
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97. The most common failings are

- As mentioned, the NDS is usually faster. Why can announcements not be posted on the issuing site at the same time?
- Difficulty in identifying which officials are responsible for what and then in contacting them.
- A perception of reluctance to set out the state of play on policy.

98. Areas where relatively simple improvement could be made are in the current limitation of automatic notification to press releases and the reluctance to provide contact details and information on responsibilities for working level officials. The inability quickly and easily to identify officials relevant to outsiders' interests and to have confident awareness of new

requirements, consultations, statistics, and reports creates on the one hand frustration, uncertainty, and a perception of inwardness and inefficiency; and on the other unnecessary demand for expensive monitoring services and pressure on switchboard and information lines.

99. In the light of this, we recommend

- That sites are reviewed to introduce greater consistency of identity, with a particular focus on location of contact details, What's New information and access to publications.
- That a target of 60 minutes is set – and met – for posting of material following its publication and that the issuing body posts announcements on its own site simultaneously with the NDS. It is not conducive to an impression of efficiency if, for example, the Department for Transport posts a parliamentary statement on its review of the CAA three hours after the CAA's response to it is available, as occurred on 26 November 2008. But there is also a need for tighter controls on material being leaked to selected publications – as a Commission member commented, "it doesn't really matter if something's online within the hour if it's been passed exclusively to the Sun the day before."
- That all bodies within the system offer, and prominently promote within "What's New" sections, an automatic notification facility (whether through email, RSS, SMS or other channels) covering not just press releases but reports, speeches, statistical updates and new or revised pages within users' selected areas of interest. All releases

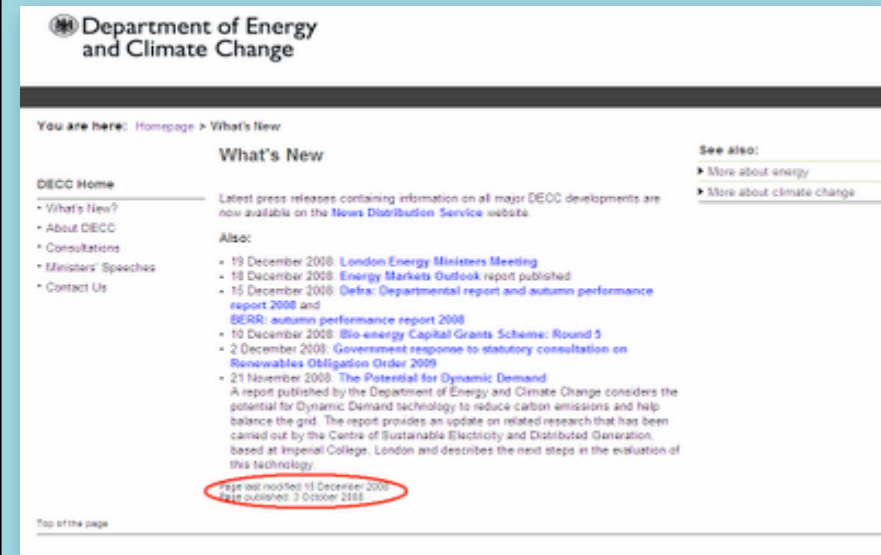
*Get items online faster*

*Offer automatic notification of all new items*

## Failure to match private sector e-communication standards breeds cynicism...

### [Nothing new from Miliband for over a month?](#)

We often hear some politician in the Government somewhere telling us how climate change is "one of the biggest issues to face our generation" - or words to that affect). Funny then that the Department of Energy and Climate Change seems to do so little to inform the public of this.



The [website](#) is virtually empty and its not been updated for over a month. The "What's new" [section](#) was last modified on December 15th. So I guess that there is nothing new at Ed Miliband's department.

Run out of ideas perhaps?

*From the Dizzy Thinks blog site, 19 January 2009*

announcing publications should include a link to the document – at present, many link only to the main departmental website, leaving the user to look for the item.

*Make it easy to find the right official*

- That all bodies put their internal directories on line (the European Commission is an example to follow), with in addition access to clear and comprehensive organograms showing contacts and responsibilities extending down to lower management levels. Use of reveals, where clicking onto a head of division would bring up further windows showing their command, would address the concern that such charts would be too large to be accommodated on a screen. Websites should give some indication of the appropriate level at which to approach the system in particular circumstances – for example, when seeking information or making a submission.

*Most government websites engines are terrible*

- The search engines commonly used by the system in the UK and in Brussels compare poorly with Google, Yahoo and others in their performance, invariably producing unusable results. They should be reviewed and improved or replaced.

*We need an all in one Whitehall, NDPB and regulatory consultation site*

- There have been a number of attempts to introduce One Stop Shop information sites for Whitehall (most notably DirectGov and the Office of Public Sector Information) but they have been poorly promoted and awareness of them is, bulk of its visitors were other officials). We reiterate our recommendation of five years ago that a One Stop Shop should be put in place to allow outsiders to access and respond to all Whitehall, sector regulator and NDPB consultations through a single point, with a clear link to a parallel EU facility. They should be clearly signposted and well promoted, using mass membership bodies such as business organizations, professional trades unions, the Local Government Association, WI and so on to publicise site links to their members – a strategy referred to as “de-governmentalising information.”

- The One Stop site should offer a facility enabling people to access a plain English version of Bills.

*Explain plans for implementing new EU rules early*

- User-friendly information includes process governance issues. For example, our Risk report noted that at present, public explanation of plans for the implementation of EU legislation is given at a late stage, in the Explanatory Notes and Transposition Notes that are meant to be produced when legislation is introduced in Parliament, and is poorly disseminated (the Notes are meant to be posted on departmental websites but are difficult to find and, as we have noted, few departments have introduced automatic notification systems to make it easier for affected parties to gather information such as this). While it is probably not possible for TNs to be published earlier given that they are designed to offer a clause by clause commentary on the implementing legislation, the draft implementation plans (covering definitions, the implementation plan and timescale, scope of application, and the basis for any elaboration of the original text) that have to be drawn up for all transposable EU legislation could be posted on line when they are sent to the Council Bureau.



<b>Improving the way the system conveys information</b>			
Proposal: improve consistency of navigation for sites across the system; post information as soon as it is published; all bodies to offer automatic notification facilities for all online material; all bodies to offer online organograms covering responsibilities and contacts for all management staff; establish one stop shop, offering auto-notification of/response facility for all consultations; improve search engines; post implementation plans for EU measures online and early.			
<b>Constituency affected</b>	<b>Trust issue affected</b>	<b>Pro</b>	<b>Con</b>
Professional users; potentially general public	Demonstrate openness; reduce perception of inwardness	<p>Would reduce frustration and impression that the system is not outward-facing</p> <p>Would bring government to the governed</p> <p>Automatic notification/one stop shop would reduce risk of organisations being caught out by changes and might increase numbers responding to consultation</p>	None
<b>Verdict:</b> a small but welcome contribution to boosting confidence in the system though improving the user-friendliness of public sector information			

#### *Helping the system help itself*

100. In addition to the provision of information, it is important the people are not deterred by distrust of the system from contributing to consultation on policy or the improvement of public services. We have proposed above mechanisms for improving awareness of the need for input but if people are to be stimulated to contribute they must be made to feel that their efforts are worthwhile:

- There is a need to avoid stress between parliamentary timetables and consultation requirements (for example, the Cabinet Office's 12 week rule is often broken without explanation). If people do not feel there is a good reason for being given a very limited period in which to respond, they may assume that consultation is little more than an afterthought.
- Requests for input on policy should offer a clear explanation at the outset of why regulators/Government need to act and show that a genuine assessment of non-regulatory options has been undertaken.
- The system should tell affected sectors that it will within a defined deadline undertake ex-post review of regulation to compare projected and actual impacts; and then fast-track required amendments.

*Explain any reduction in standard consultation periods*

*Show that non-regulatory options have been considered*

*Undertake ex-post review*

*And insist that the Commission assesses impacts*

- The system should make compliance with the European Commission's consultation and impact assessment requirements a standard request at the start of any EU legislative process. If stakeholders point out omissions, the system should demonstrate responsiveness by taking them up with Brussels and the Cabinet Office.

### **The Government is attacked for ineffective consultation**

#### **Tories attack 'sham' public consultation**

The taxpayer has spent £33.47 for each submission to a consultation on the government's forthcoming legislative programme, in an exercise branded as "sham" and "defective" by the Tories.

Gordon Brown showcased his move to seek the public's views on proposed legislation as symbolic of his commitment to more open government.

In a foreword to the consultation on the 18 bills proposed for next month's Queen's Speech, the prime minister says "we want you to have your say as it is you who would be affected by changes to our laws".

The government has spent more than £62,900 publicising the draft legislative programme and running an extensive consultation exercise, including 62 regional events. But official figures reveal only about 1,200 people and organisations in total attended the meetings – an average of 19 at each one.

Fewer than 700 comments or suggestions were submitted online or by post. A list of "top 10 recent submissions" on the Commons leader's website includes a "compulsory [sic] working act" justified on the basis that "the youth today do not know the meaning of work . . . people can benefit from a kick rather than a reward". A "noise reduction bill" is proposed to outlaw "noisy hifi equipment . . . in cars with windows open, noisy conversations on mobile phones – the list is endless". Other suggestions include time off equivalent to maternity leave for childless employees and a moratorium on all road building.

Officials acting for Harriet Harman, the leader of the Commons, refused to comment on the quality of the submissions, or to state whether any had had a material impact on the proposed legislation. The government will publish a report summarising the results of the consultation exercise within a few weeks.

Shailesh Vara, shadow deputy leader of the Commons, said the government's approach to the consultation suggested it had been a "sham exercise," which ministers had "never intended to take seriously". He said the decision to restrict submissions via the official website to 500 characters left limited scope for considered input. He also questioned the way the programme of events had been run, saying it was unclear how many members of the public – as opposed to the usual lobbyists – had been aware of the meetings.

"To what extent has the government really sought independent views?" Mr Vara asked. "I think it's already made up its mind."

The final shape of the legislative programme for the next parliamentary session will be revealed in the Queen's Speech on December 3. The 18 bills set out in the draft programme include at least one measure already introduced to parliament – the banking reform bill – as well as legislative staples, such as bills on welfare reform and crime reduction.

*Financial Times, 9 November 2008*

*Establish a route for complaint about poor or over-regulation*

- In similar vein, the system should establish and publicise a simple route for people and companies to complain about and receive feedback on over-burdensome or poorly applied regulation. Although its existence was only known to professional users of the system, the scrapping of the Better Regulation Task Force eliminated a useful independent forum to which such concerns could be brought.
- The system should invite people to register with its one stop shop site as panellists who could vote on propositions. This would both enable the system to run giant tracking surveys, similar to YouGov but with a much larger sample base and with developing results for each poll displayed in real time, and foster a sense of engagement.
- There are few examples of the system visibly changing its mind as a result of Impact Assessment. Departments. The NAO's annual review should highlight cases where IA has made a difference in order to prove that it is used to inform decisions rather than to justify them.

*Whitehall, NDPBs and councils need a permanent competition to encourage ideas on use of public information*

101. The Cabinet Office, which has established a Power of Information Taskforce to assess opportunities for improving public availability of government information, recently ran a Show Us A Better Way competition<sup>66</sup>, inviting ideas for websites that would use Government information for public benefit (these included location of recycling facilities, schools and postboxes and information on how public money is spent). The Minister responsible said that *"This is about taking service design out of Whitehall and to the people who use it. By trusting the public and throwing it open to them to put forward their ideas, the solutions are of real, practical use. Ultimately, this is about building something from the bottom up rather than having Whitehall dictate from the centre."* The success of initiatives such as this depends on the cooperation of the media because without wide dissemination perceptions that the system does not listen will not change, but the competition should become a permanent scheme and be copied by NDPBs and local authorities. Similarly, the establishment of shared public feedback sites for the NHS, police, childcare and comparative local authority performance<sup>67</sup> is welcome and should be extended, but if the Government wants this development to be like TripAdvisor for public services, as it claims, awareness of its availability will have to be promoted.

*Citizen rating of public services should be encouraged*

#### **What could be worse than this?**

##### **So much for open government**

An unhelpful fact emerges for the government as they deny that Downing Street is suffering from a "bunker mentality". They have closed down the facility which enables members of the public to email Gordon Brown. Instead, you can write a letter or - step back in time - send a fax. Francis Maude, Tory Chairman, tells me he's discovered an official government policy of reducing "avoidable contact" with the electorate (intended to speed up services and cut out timewasting, but it's not going to win much support from people who hope to be in touch with officials or make a complaint)...

*Observer, 22 March 2009*

<sup>66</sup> See [http://www.cabinetoffice.gov.uk/newsroom/news\\_releases/2008/081110\\_betterway.aspx](http://www.cabinetoffice.gov.uk/newsroom/news_releases/2008/081110_betterway.aspx)

<sup>67</sup> *Working Together - Public Services On Your Side*, Cabinet Office, March 2009 <http://www.hmg.gov.uk/workingtogether.aspx>

102. It can be the case that the system feels inhibited from encouraging two way communication because of concern that disproportionate resource would be needed both to stimulate interest in engaging and to handle the responses. For example, recent consultation on the 2008-9 legislative programme involved expenditure of £63,000 on promoting and running over 60 regional events which only attracted an average of 19 at each one. And attempts by some Ministers and parties to establish blogs have not been a success in comparison to independent political bloggers (and MPs who blog independently), who have attracted an enthusiastic and growing band of readers and contributors, for four reasons:

- few know of their existence, whereas communication of the leading political blogs outside the system has been viral (although one Commission member commented that “it is not the case that few know of politicians' blogs existence - it's because they're so dull. Plenty of people linked to the Miliband blog etc, but stopped visiting when they realised there was nothing of interest, perhaps due to the constraints of power. I don't really think the stuff about communication being viral is the point, either - the thing about the web is that if something is good, it will get distributed”);
- a perception of spin on the one hand (which responses crafted by PR departments that do not give a direct answer do nothing to allay) matched against genuine conviction on the other<sup>68</sup>;
- a feeling that the system establishes such mechanisms to transmit, not to receive, whereas blogs build their community through encouraging the hope that contributions by readers will influence the blogger and a wider community;
- and the frequent delay in receiving a response in an age when the on line community is used to rapid reaction.

*Departments should establish blogs to encourage new ideas and debate on proposals*

103. However, the establishment by Departments of blogs to raise and debate individual policy issues may be more effective than efforts to date. At present, consultation is essentially a bilateral exercise: the system sets a framework and invites responses, but consultees have no ability to comment on each others' views. Blogs do what established on line consultation cannot – allow the public and policymakers to pose questions, talk to each other and to comment and respond on a rolling basis. Training Whitehall in the mechanics of setting up, updating and monitoring blogs will be a large-scale and time-consuming exercise<sup>69</sup>, many blog inputs are little more than rants, and it is likely that the most serious and substantial consultation responses will still be delivered in the traditional way, but it would introduce an element of involvement and

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<sup>68</sup> For example, the Number 10 e-petition service was criticised for tokenism, although a petition on road toll pricing did attract a lot of support and did influence policy. Similarly, the response to an invitation from the Prime Minister to submit questions to the Number 10 YouTube channel was that the event was staged and did not engage with the questions in any depth.

<sup>69</sup> Parts of the system are making attempts to embrace the latest communication facilities, but concerns have frequently been expressed over sums spent on establishing and maintaining blogs and websites that, it has been claimed, are far in excess of typical private sector costs; and well-intentioned initiatives have not always been thought through - for example, the Ministry of Justice is trying to encourage Twitter input to its Rights and Responsibilities debate without, perhaps, considering the impracticality of responses restricted to 140 characters.

connection with a significantly disenchanted generation where present methods of engagement on policy planning have failed.

<b>Fostering constructive engagement</b>			
<b>Proposition:</b> explain departure from consultation guidelines; explain why action is needed and show that non-regulatory options have been considered; conduct ex-post review of regulation; insist that Brussels meets its consultation rules; establish Citizens Panel for polling/tracking surveys; demonstrate that Impact Assessment has influence; extend initiatives to give public a say over use of the system's information; Whitehall to use blogs to foster debate on policy issues.			
<b>Constituency affected</b>	<b>Trust factor affected</b>	<b>Pro</b>	<b>Con</b>
Professional users; general public	System must be seen as switched to receive; need to encourage engagement; must show that citizens' input is worthwhile	<p>Could stimulate greater involvement in policy planning</p> <p>Would give the system more accurate information on public attitudes at low cost</p>	<p>Policy makers will have to be trained to establish blogs</p> <p>Monitoring and responding to blog postings will be time-consuming.</p>
<b>Verdict:</b> all these proposals are feasible. If publicised widely, they could reduce the perception of a system that operates despite the governed rather than for them.			

*Fostering a realistic understanding of the system*

104. Perceptions of the system are significantly influenced by the way it is explained in schools and by its representation in the media. Both can play a major role in resolving the conflict between constitutional fictions and the desirability of explaining how the system really works. There is no shortage of initiatives (Youth Parliament, citizen juries, school visits to Parliament and so on) but they do not appear to have improved trust in the system - or in its interpretation of traditional democracy – among the young. Our natural distrust of authority and a belief that the system has no relationship to most people's lives on the one hand, and on the other the creation of unreasonable expectations (which are therefore rarely met) of what the system should and will deliver engenders apathy among many and an attraction to parallel channels of engagement (such as direct action or blogging) among others.

105. To some extent, governments and political parties create problems for themselves here by trying to lead society with laudable but largely unmanageable concepts such as Active Citizenship. But, as the Hansard Society pointed out to us, there is also a general lack of status and visibility of citizenship education within the curriculum as a whole and a paucity of trained specialist staff. The Department of Justice's Youth Citizenship Commission, part of whose remit is to increase young people's political participation, is a welcome development. But we agree with the Hansard Society that a priority for the Commission must be to address the challenges faced by the citizenship curriculum seven years on from its introduction. A study by the National Foundation for Educational Research<sup>70</sup> into citizenship education found that while the programme has flourished in some schools, it appears to be stagnating in its overall development.

106. We note that while Whitehall is placing a duty on local authorities in the Local Democracy, Economic Development and Construction Bill "to promote understanding of their functions and democratic arrangements"<sup>71</sup>, it has never placed the same duty on itself. And while Parliament does run educational programmes, misconceptions about the work of MPs and Peers is widespread and it is questionable whether the Bill's requirement "to promote information and

*Documentaries on the system should be shown in schools*

### **The media-Government auto-da-fe**

*David Aaronovitch in The Times, 21 April 2009*

**For politicians, truth is never its own reward  
Our leaders might be more honest with us if we were more likely to give them credit for being open about harsh reality**

...All this is a symptom of the mutual catastrophe of trust, in which politicians and journalists are not trusted by the public, and the public is not trusted by politicians and journalists. The public want many things, the almost subliminal logic runs - reassurance, emotional connection, a satisfying narrative - but not the truth.

...Politicians, in their cups, will agree that they do things simply for fear of how not doing them will look. Recently the former Education Secretary Estelle Morris gave instances of some Labour policies that owed nothing to necessity - such as homework for 5-7 year olds, where the evidence was "that it matters not a jot whether very young children do homework. Were we going to go out and change our policy? No, we were not because... we wanted to sound firm on that."

So we got unnecessary homework for our kids because the Government thought that we would like them better for it. And probably we did! Maybe it's been rational of government and politicians to pander to our irrationalities, believing that we are more likely to punish than reward honesty.

Even so, readers may feel, as I do, that we are coming to the end of this double pretence. Perhaps the incredible volume of information generated by the infotech revolution - the capacity to check on claims or film policemen or discover hidden e-mails - make it harder for one's tender illusions to survive and be nurtured by those in authority. It could be that the price to be paid for dishonesty and evasion - ours and theirs - is going up. I hope so, because it's time the culture changed.

<sup>70</sup> Citizenship Educational Longitudinal Study, 6th report 2008

<sup>71</sup> Local Democracy, Economic Development and Construction Bill, Clause 1(i)

understanding of the role of councillors”<sup>72</sup> would currently be effectively discharged if it were applied to Westminster. It is important that by the time they are 16, children are given an understanding of what they should expect from the system and how to deal with it, not just at service level but also in making their views count. This could be assisted by a series of documentaries, produced not just for schools (with explanatory teaching materials) but for mass market viewing, on the work of parliamentarians, local government, and Brussels. And the BBC’s pre-1997 series on Whitehall should ideally be remade, but it is still up to date in conveying the work of departments and could be re-run in schools with a preface and minor edits.

107. The media’s role in changing the public’s perception of the system is problematic. It arguably distorts the presentation of Government and its work by over-focusing on the political, on Parliament and Ministers; it offers, and thrives upon, abundant opportunities for the parties to play the games that alienate the electorate; and it exhibits a bias against understanding in failing to explain how the system really works (for example, the instance of the 18.5% VAT option on p. 35: in the absence of Government clearly setting out the options it had considered and rejected, the media could both have done Government’s work for it and made it clear that those who opportunistically exploited the error were well aware of the true position. It did not because there was better copy in letting the story run). But for much of the time it is also denied access to the system’s engine room, whose work is therefore rarely seen; and that is compounded by limited parliamentary television feeds, focusing mostly on the behaviour at PMQs that fuels distrust. It also believes it has a duty to provide access to the parties and that it would be undemocratic to deny that access, even though the result is to bring the system into disrepute.

108. It would be unrealistic to expect that the media should reschedule to prime time programmes about Government that currently screen in very off-peak hours in the hope that their tiny audiences will grow; and even if our proposals to transform the roles of Ministers and officials were implemented the media and the political class would focus on and promote the most available and most interesting faces. The onus is on the system to demonstrate its competence and integrity, but it might be argued that the media can be too ready to provide uncritical platforms (we accept that it is difficult to withdraw from the current incestuous relationship between the media and Government and Opposition under which Special Advisers and press officers reward journalists with covert briefings in return for coverage of a fed line) and that it should be even tougher in highlighting politicking, PR and evasiveness and in calling its exponents to account.

*Should the media be tougher on politicking, PR and evasiveness?*

<b>A more realistic picture of the system</b>			
<b>Proposition:</b> review and improve citizenship programmes – explain how the system really works and how to engage with it; produce documentaries for schools and general public on the work of Whitehall, MPs, local government and Brussels; media should be less tolerant of politicking.			
<b>Constituency affected</b>	<b>Trust issue affected</b>	<b>Pro</b>	<b>Con</b>
All	Bias against	May reduce misconceptions and	Will only do so if the system heals itself

<sup>72</sup> Ibid, Clause 1(ii)

	understanding; misleading impression and expectations of the system	change expectations of the system	It may have to be concluded that the problem of UK trust in the EU is less a function of a democratic than a presentational deficit, which may not be resolvable
<b>Verdict:</b> a better educated electorate will only reduce its distrust if the system persuades the media that it really is working for the electorate.			

### Regulation

109. This element of the Commission's work is arguably its narrowest, since direct engagement with regulatory bodies is confined to a relatively limited segment of the business community. However, concerns have been raised about the impact on corporate trust in regulators of what is seen as a lack of independence from policymakers. That said, the current financial and economic crisis has generated widespread concerns about the efficacy of financial services regulation and there must be a concern that this may infect trust in regulation more generally.

110. Regulators work within their establishing legislation and directions from Ministers but are otherwise meant to be independent. It is important to avoid suspicion that the principle of an arm's length relationship between them and the rest of the system is circumvented through opaque pressure. That does not mean that Whitehall should not intervene where there has been regulatory failure or where, as in the recent banking crisis, there is a need to correct faults in design of the regulatory system. But in order to insulate regulators from pressure, we recommend that it should become a requirement that any request from Departments to independent bodies such as sector regulators to act (for example to review markets) should be published with a full justification - for example, a failure to act in accordance with statutory duties.

111. There is the question of trust in regulators themselves, on which we drew on the recommendation in our Risk report that there should be a presumption in favour of publishing information on evolving thinking on the application and enforcement of rules. As one Commission member put it, "*not least because it is easier than having to put in requests for information that you might not know you need to know.*" We also recommended in 59. above that the appointment of regulators should be vetted in confirmation hearings by the relevant Select Committee. Finally, while several regulators regularly offer interviews to national and sector media, there may be merit in regulators holding higher profile twice-yearly press conferences.

*Departmental intervention in independent bodies must be justified*

<b>Improving trust in regulators; safeguarding their independence</b>			
<b>Proposition:</b> any request from Departments to independent bodies such as sector regulators to act should be published with a full justification. Information on evolving thinking on the application and enforcement of rules should be published. The appointment of regulators should be vetted in confirmation hearings by the relevant Select Committee. Hold twice yearly press conferences.			
<b>Constituency affected</b>	<b>Trust issue affected</b>	<b>Pro</b>	<b>Con</b>



Professional users; general public (marginally)	Regulatory independence compromised; trust in regulators	May inhibit ministerial intervention or lead to greater transparency in Whitehall-regulator and regulator-industry dealings as well as improving the wider public perception of regulators' work	No drawbacks known
<b>Verdict:</b> the regulated must trust the system to operate foreseeably and without risk of political pressure and consumers must perceive greater accountability. These proposals should be implemented.			

### Conclusions

Some people will always have unreasonable expectations of what the system should do for them and will distrust it when it fails to meet those expectations. Some will always be inclined to distrust the State and authority. Not a few have far-fetched ideas of how the world should be run and will never be satisfied by a system that is meant to serve the many. And there is a large number with no interest in the way we are governed and regulated as long as the system does not interfere with them unduly and appears to provide core public services efficiently. But they all have a right to expect

- An understanding that those who work in our public institutions are placed there as agents of our citizens, with an obligation to spend our money exclusively on serving the public. As our Keys to Good Government stresses, activities such as attacks on other parties and policy-making or communication of the system's message directed at electoral advantage or self-promotion are a diversion from that obligation and an implicit breach of trust.
- That also implies a system that does not just operate ethically but is perceived to so, and without self-interest.
- And in addition to spending our money without regard to political pragmatism, the system should be seen to spend it to acceptable standards of efficiency.
- Leaving aside the inevitable excess of demand over resources, a system that delivers services to standards of quality and reliability that citizens have come to expect from others who service their daily lives.
- And a system that is transparent and accessible – one where decisions are demonstrably based on respected evidence; where citizens can easily contribute to the policy process; and where the system's information is treated as public property and made available as such.

Our opening chapter suggested that those expectations are far from being met. To some extent, the low level of public trust in our system is unfair. Most parliamentarians and an even higher proportion of Civil Servants do the job out of a desire for public service. Many are particularly gifted. If their motivation and activities are misunderstood or misinterpreted, they can point to the media's natural inclination to seek the newsworthy and entertaining and overlook the worthy but mundane – a

feature well highlighted by Martin Kettle's rhetorical question: *What aspect of the restoration of trust in politics would be in the media's interest? The answer is no part of it at all. A media that have become progressively less engaged with serious political argument and progressively more focused on personal frailty, foible and failure is one of the shapers of the nation's political problem, not the deliverer from it.*<sup>73</sup> But our analysis also points to perceived deficiencies of the system's own making:

- Its promotion of its successes is largely met sceptically because it has never done much to explain how it really works (but it admittedly is given little opportunity by the media to do so to mainstream audiences).
- It clings to conventions imposing such tempting powers and impossible responsibilities that they create constant hostages to fortune; and it often places into positions of power people with few apparent qualifications to make decisions on highly complex, specialised issues.
- It has been very poor at managing the public's expectations of its ability to deliver.
- The value it has placed on skills has tended to favour political management over public service. Trust in the Civil Service is inhibited by the culture imposed on it of clustering round the Queen Bee with the overriding aim of protecting it from attack and helping it deliver its party's programme, even if that means suppressing information that should be in the public domain, creative use of evidence and blurring errors at the expense of fostering and rewarding the delivery skills that are most appreciated by those who pay their salaries. That is not to argue for a system run only by experts: for all their deficiencies, by virtue of having to serve constituents Ministers are more likely to be in touch with every walk of life than most specialists, no matter how eminent.
- It has been torn between modern concepts of accountability and traditions that increasingly appear to be little more than a fiction.
- And it is handicapped by the dominance of the electoral cycle and its associated motivations and planning deficiencies. Political parties, for whom that cycle is their *raison d'être*, still concentrate on increasingly sophisticated marketing but seem to remain insensitive to their isolation from the vast proportion of the population who are not activists, have no interest in identifying with a party and who are at best bemused and, more likely, alienated by vote-catching strategies that appear to have little connection with serving the public.

It is easy to be critical; and commentators have never been short of solutions. We are certain that the traditional politician's call for more policy and greater energy devoted to getting the message across misses the mark. It needs nothing less than a transformation of citizens' view of the system's conduct. There is no magic bullet for this. What we have tried to do is

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<sup>73</sup> Guardian, 15 May 2009

recognise the fundamental public service ethic that runs through the system and find ways of ring-fencing it from the less desirable temptations of electoral imperatives, bringing concepts of accountability up to date and promoting a more outward-facing approach from our institutions. Although we do not underplay the contentiousness of some of our recommendations (for example in relation to party finance), it is in the interstices of process that real trust is built, so with minor exceptions we have rejected big, think tank-type ideas in favour of procedural requirements designed to produce the same appearance of objectivity and integrity from our decision makers as people consider they get from our judges. Structures that would toughen scrutiny by our representatives of all the system's components. Requirements that would limit the scope for suspicion of an overtone of party interest in processes that should run only in the wider public interest. Reducing the dominance of unconstructive criticism as a characteristic of the politics of opposition. A more outward facing focus for Whitehall skills and a clearer and fairer redefinition of responsibility. And a system that embraces public expectations of engagement, access and transparency.

Concern was expressed by some Commission members that in reassessing traditional concepts of decision making and accountability we open ourselves to charges of appearing undemocratic and technocratic. In that respect, we invite readers to decide whether our proposals would lead to a clearer understanding of who makes policy and delivery decisions and how they are made; whether they would improve and extend democratic accountability; and whether they would attribute responsibility more fairly. And they should also consider whether it would be possible for distrust to be reduced while maintaining those features of our system that have given rise to so much criticism.

These changes alone cannot guarantee an improvement in trust. Most particularly, they cannot change human nature. But they could make a noticeable difference.

## **ANNEX 1**

### **Commission members**

David Bennett - Chief Executive, Association of Private Client Investment Managers and Stockbrokers and former Head of the Corporation of London's European Office

Robert Colvile - Daily Telegraph features editor and leader writer and author, *Politics and the Internet*, Centre for Policy Studies 2008

Alexander Ehmann - Head of Regulation and Enterprise Policy, Institute of Directors Policy Unit

Dr Michael Grenfell - Partner, Competition, Regulation and EU, Norton Rose

Dr Kevin Hawkins - former member of the Better Regulation Task Force and Director General, British Retail Consortium

Alan Houmann - Director, European Government Affairs, Citi and former adviser to the Committee of European Banking Supervisors

Dr Alan Kemp - Director, Haymarket Group and former Ministry of Defence official and Departments of Trade and Industry and Environment Special Adviser

Charles Miller – (coordinator), Head, Better Government Programme, Regulatory Policy Institute, and editor of the RPI's Trust report

Barry Neville - Director of Public Affairs, Centrica

Ed Humpherson - Assistant Auditor General, National Audit Office (Observer)

We were also given valuable assistance by Fiona Booth, Chief Executive, Hansard Society, and Sue Cameron, Whitehall commentator, Financial Times

The views expressed in this document are reflective of collective discussions between the members in their personal capacities (albeit drawing on their professional expertise and experience) and should not be attributed to the firms or organisations for which they work.

## **ANNEX 2**

### **Evidence was invited from the following**

Adam Smith Institute

Better Government Initiative

Sir John Bourn

Centre for Policy Studies

Conservative Democracy Task Force

The Constitution Unit

First Division Association

ICM

Institute for Government

Ipsos Mori

National School of Government

Policy Exchange

Reform

A former senior Civil Servant

A former Special Adviser