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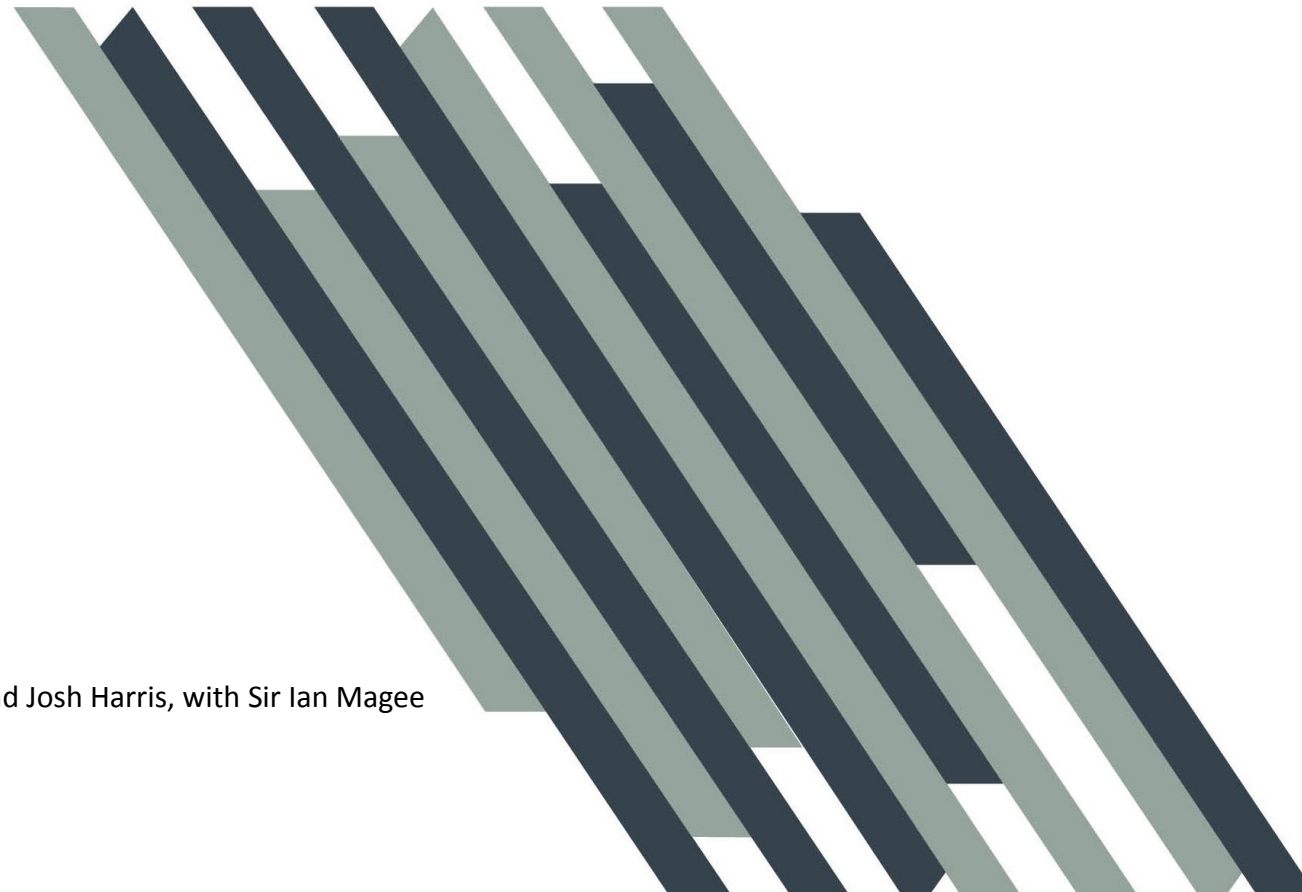
Permanent secretary appointments and the role of ministers



Akash Paun and Josh Harris, with Sir Ian Magee

Foreword

Why are senior civil service appointments important? On one level, the question hardly needs to be asked, given the critical role of the senior civil service in advising and supporting ministers through so many vital aspects of British public life, from education, health, transport and security to environment, protecting our citizens, collecting taxes and paying benefits.

This paper, though, is about much more than the mere process of making senior appointments – though we have observations as to how we think that could and should be improved. There is much interest at present among ministers and others in civil service reform; and a great deal of parliamentary concern about achieving better accountability.

The appointment of the top people to run departments sets the tone, inevitably, for how the organisation is to function. Appointing the 'best' permanent secretary is just as crucial (though different, because of the position of ministers) as finding the right CEO of a FTSE 100. Appointment processes should be fair, open and transparent. From the evidence of our interviewees, we're not convinced that the current system offers all these, perhaps overdosing on fairness but not quite hitting the other objectives. Yet all three need to be there if confidence, of ministers in their officials, of officials in how they are viewed; and crucially, of the public in government, is to be enhanced. Feedback from all of them is that a loss of confidence has been damaging to the public service, so this does need to be addressed.

The recruitment process should enable people with experience of running other, including private sector, organisations to secure the top jobs in government. There needs to be a balance between operational delivery and policy experience, shaped by the specific requirements of the individual departments. It is important too, we believe, that the offering for internal candidates is set within a framework of effective succession planning, and critically, that it commands the confidence of ministers. The evidence from the interviews we conducted is that the performance management process for permanent secretaries needs significant sharpening, applying what has happened within the best departments to others.

For this study, we interviewed over 20 senior people, including secretaries of state past and present; drew on the quantitative evidence available; analysed the available literature; ran a well-attended seminar with many interested parties; and made comparisons with what happens in three very different countries.

Our work forms part of a wider study which the Institute is conducting into accountability. The results will be published later this year.

Ian Magee
Senior Fellow, Institute for Government

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About the authors

Akash Paun is a Fellow of the Institute for Government, where he has worked since 2008, having previously worked at the Constitution Unit, UCL. He currently leads the Institute's work on accountability relationships in Whitehall, of which this report forms a part. He has previously led research on a range of subjects including the challenges of coalition government, barriers to cross-departmental working, and selection processes for parliamentary candidates. His previous publication was *Supporting Ministers to Lead*, a paper on reform of ministerial private offices.

Josh Harris joined the Institute in July 2012. Prior to this he was parliamentary researcher for Steve Webb MP, Minister of State for Pensions, covering a range of issues but focusing on welfare and pensions policy. At the Institute, his work centres on ministerial and civil service accountabilities, and he has also contributed to projects on economic policy making and Whitehall transformation. His most recent publication is a discussion paper on civil service accountability and reform in New Zealand and Australia. Josh graduated from the University of Oxford in 2010 with a degree in history and politics, and has subsequently studied economics at the University of London.

Sir Ian Magee is a Senior Fellow of the Institute for Government. Until 2005, he was 2nd Permanent Secretary at the Department for Constitutional Affairs; and Head of Profession for Operational Delivery for the whole Civil Service. Since then he has held a portfolio of private and public sector posts. He has been a CEO of three different Executive Agencies. Ian has a special interest in public sector leadership, and in the effective use of data to improve services to the public. Ian is co-author of the Institute's studies into government ICT and arm's length bodies.

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This paper benefitted greatly from the experience and expertise of current and former officials, ministers, civil service commissioners, advisers, academics and others who we interviewed in late 2012 and early 2013. Some are cited by name in the pages that follow – including Sir David Normington, Caroline Spelman MP and Ian Davis, who kindly spoke at our seminar on the subject – but many others must remain anonymous. Their contributions have been invaluable.

Any errors or omissions are the responsibility of the authors alone.

Summary

This report discusses how permanent secretaries are and should be appointed, a subject that bears strongly upon the question as to what kind of civil service ministers and senior civil servants want.

Debate on this issue was sparked by the Government's Civil Service Reform Plan, published in June 2012, which called for enhanced ministerial influence over appointments and for increased emphasis on operational experience at the top of Whitehall, requiring greater external recruitment into Whitehall.

We found that there are a number of myths and misconceptions surrounding this debate, which we seek to dispel. We also set out our own vision for how to strengthen the system for appointing and managing the leaders of Whitehall departments.

The reality of permanent secretary appointments

The Government is committed to achieving greater balance between permanent secretaries with operational and policy experience. To achieve this, it favours the use of external recruitment to enable the appointment of officials with a more diverse range of experience and expertise.

However, the reality is that fewer than half (10 of 21) of appointments to lead Whitehall departments and devolved administrations since 2010 have been made following an external competition – to which non civil servants can apply. Furthermore, nine of these 10 competitions were won by serving civil servants. An additional four competitions were filled through internal competitions, to which only civil servants can apply.

The common view in Whitehall is that appointing outsiders – particularly from the private sector – straight in at permanent secretary level is not sensible. Private sector candidates do reasonably well lower down the hierarchy, but they have rarely managed to progress to the top. Other countries, such as New Zealand, appear more open to external recruitment at the top level.

We also found that a significant minority of permanent secretaries are still appointed through 'managed moves' where the civil service leadership – often at the request of ministers – move officials horizontally without any formal process or competition. Since 2010, managed moves account for around a third of permanent secretary appointments – including the appointment of the Cabinet Secretary himself.

No official data is published on how common managed moves are. Nor is there clarity about the rationale for the use of this mechanism. Anecdotally, we were told of cases where managed moves are used to fill an unexpected vacancy, and others where this is a way to quickly exit a permanent secretary who has fallen out with their secretary of state. **We recommend greater transparency in this area, with published data on the use of and reasons for managed moves.**

Ministerial say in permanent secretary appointments

There is also widespread misunderstanding about the existing scope for ministerial influence over permanent secretary appointments, which the Government wishes to strengthen. The specific model apparently favoured is for a secretary of state to be able to select their

permanent secretary from a shortlist of candidates put forward by an independent panel. This would replace the current system where the panel proposes a single candidate whom the minister (and PM) can accept or veto.

In carrying out our research, it became apparent to us that ministers in practice often have more influence than the official story allows. But such influence is often exercised through opaque and undocumented channels. Selection panels are known to take active steps to avoid the possibility of a veto – to the point of avoiding recommending a candidate likely to be opposed by the minister. Selection competitions are also run in circumstances where it is more or less known in advance who the successful candidate will be. Managed moves offer another mechanism for undocumented ministerial influence.

On the specific proposal of allowing ministerial choice from a shortlist of 'appointable' candidates, a common concern is that this would undermine the principle of civil service impartiality. The Civil Service Commission has opposed this reform on these grounds. However, we take a different position. So long as there is rigorous merit-based assessment preceding the exercise of ministerial choice and appointed candidates are bound by the existing civil service code and values, then there would not be an increased risk of politicisation, but a system that is more accountable and more closely reflects the reality.

Indeed the proposed system of 'constrained ministerial choice' is precisely how the government makes hundreds of public appointments – including to highly important and independent posts including the chairs of the UK Statistics Authority, Ofgem, the BBC Trust, the Care Quality Commission and the Financial Conduct Authority.

Neither do we believe that this system would result in a significant increase in turnover. Incoming ministers value the support of experienced officials who understand their department and are effective players in Whitehall. There would not be an incentive for each new secretary of state to bring in their own person. Recent and past experience in any case illustrates that a secretary of state who does not have confidence in their permanent secretary can already force their departure.

We conclude that the government should codify what, in effect, can already happen and allow secretaries of state the right to make the final appointment of their permanent secretary – with the PM retaining a veto as well. This would provide greater transparency and clearer accountability around the appointments system, placing the responsibility formally on ministerial shoulders to appoint effective departmental leaders, informed by objective assessment carried out under the supervision of the Civil Service Commission (CSC).

To ensure that this does not open the way to suggestions of cronyism or partisanship, **the CSC should explicitly assure itself that any candidate graded as appointable, and put to the minister, would be able to work successfully with a number of ministers (not just the current incumbent) and with a different administration**.

We also note that a formal ministerial power of appointment is likely to lead to calls for greater parliamentary scrutiny of appointments – as occurs for many public appointments. We are not convinced that pre-appointment hearings with new permanent secretaries would be sensible. Select committees can already question a new permanent secretary after their appointment. And **if a ministerial power of appointment is formalised, then committees**

should also question the secretary of state about how the appointment process was run and the final decision taken, further adding to transparency.

Another suggestion is for there to be consultation with the opposition prior to a permanent secretary being appointed – as is the case for the appointment of Electoral Commissioners and the First Civil Service Commissioner. This might offer an additional safeguard against any perception of politicisation, and could mitigate the risk of a new administration seeking to replace many top officials. However, a formal role for the Opposition in appointments would represent a significant change from current convention, where officials are solely responsible to the government of the day.

What might be sensible is a convention that any permanent secretary appointments in the final six months of a Parliament (where they cannot be postponed until after the election) would involve consultation with the leader of the opposition, conducted by the First Civil Service Commissioner. If the leader of the opposition had strong objections, then the PM could decide to make an interim appointment.

A more effective appointments system

While strengthening the role of ministers along the lines described could improve the transparency and accountability of the system, we do not believe that this is necessarily the most important issue in designing an effective appointments system. Other aspects of the system should also be considered. For instance:

The appointments process should be focused more closely on the requirements of the specific role and department. Permanent secretaries should be appointed for their ability to carry out the job of leading whichever department they are being appointed to. Permanent secretary positions should not simply go to the person at the head of what one non-executive director called ‘a taxi rank’ of directors general awaiting promotion.

Close involvement of the relevant minister (and the PM) in drawing up the job specification is important to ensure that there is clarity about the type of candidates preferred. It can also lessen the chances of a veto being exercised down the line, as occurred in 2012 at the Department for Energy and Climate Change.

While greater attention should be paid to the individual needs of particular jobs, **it is also important that there is effective management of civil service appointments across Whitehall and a transparent and consistent approach that sends clear signals to those looking to apply** – from both inside and outside the Civil Service.

Permanent secretaries should also be given clearer performance objectives that relate to the major challenges faced by their department. The recent publication of performance objectives for all permanent secretaries was seen by several interviewees as a seriously flawed exercise, for instance because the lists of objectives were too long to provide a useful statement of priorities, and because they had only been agreed half-way through the financial year.

Such **objectives and expectations should be clearly agreed and published on appointment, with regular review as part of a strengthened performance management system** with input from departmental non-executive directors and others.

Including in the objectives a requirement to maintain the confidence of and strong relationships with the ministerial team might also be sensible.

There should be clarity about the expected length of term that each permanent secretary is expected to serve. The length of term might vary, but four years (the expected term under Gus O'Donnell) seems a sensible length. **On completion of this term, there should be a possibility of renewal, subject to a formal performance assessment** conducted by the Cabinet Secretary or Head of the Civil Service, taking account of views of the secretary of state and lead non-executive director in the department.

Performance management of permanent secretaries remains a weak spot in Whitehall and compares poorly to the more rigorous mechanisms developed for management within departments. This picture may reflect the federal nature of Whitehall and the fact that there is no strong central corporate leadership on HR and talent management matters, as provided, for instance, by New Zealand's State Services Commissioner.

There is also a need for continuous central monitoring and public reporting on the diversity of appointments at the senior ranks of the Civil Service.

There is scope for improvement in the efficiency of the appointments system too. Some recent vacancies have taken six months to fill, particularly following unexpected sudden departures. **Better succession planning could help to avoid such problems.**

Introduction

Any organisation stands and falls on its ability to get the right people into the right jobs at the right time. The Civil Service is no exception. How permanent secretaries and other senior civil servants are recruited and appointed is therefore one of the most important issues in determining the effectiveness of government. It is an issue that has exercised civil service reformers since Northcote and Trevelyan, whose famous report is often invoked as the founding text of today's impartial and meritocratic service. And it is an issue at the heart of the present debate on how the Civil Service should adapt to the demanding expectations of modern government and ministers in a hurry to make a difference.

This report is the Institute for Government's contribution to this debate, and forms part of a wider project exploring different aspects of accountability arrangements in Whitehall, including the accounting officer role of permanent secretaries, performance management of civil servants, and the accountability of civil servants to parliament.

The question we address here is whether the current system for appointing senior civil servants – in particular permanent secretaries – functions well, and whether reform could improve the effectiveness of government. One specific question addressed is what role should be played by ministers in the appointment process for top officials, a question that is a matter of dispute at present. We also discuss other aspects of the system, such as how to strike the right balance between departmental and Whitehall-wide considerations when making appointments; how to ensure that the system attracts high-calibre candidates from both inside and outside Whitehall; and what is the right role for other players such as the Civil Service Commission and non-executive members of departmental boards.

In order to write this paper we conducted detailed research into how the existing appointments system works according to the relevant legislation and guidance. But we were keen to understand the practice as well as the theory. To build up a clearer picture of how senior appointments are made in Whitehall we carried out over 20 interviews with serving and retired senior civil servants, secretaries of state and parliamentarians, current and former special advisers, search consultants, occupational psychologists, and other interested and engaged people. We also hosted a well-attended seminar on the subject in January 2013, and carried out some simple quantitative analysis of the results of appointments processes in recent years. In addition, we draw out comparative lessons from appointment processes in other sectors and other countries.

The objective of this paper is twofold. First, we see a value in simply clarifying how appointment processes in Whitehall operate at present. On issues such as the scope for involvement of ministers, there is a significant degree of ambiguity and misconception – including among some participants in the process – and we aspire to provide a factual account of current practice to facilitate evidence-based debate about the merits of reform. But second, we seek also to make a direct contribution to that reform debate, going beyond mere process, by setting out our own case for change.

The paper is structured as follows. We first consider the political context within which the present debate on civil service appointments is unfolding. We then examine in detail how the current system works – in theory and practice – before describing a number of alternative approaches to filling top positions in the UK and elsewhere. Next, we address the specific

question of what role ministers should play in appointments, before broadening the discussion to other relevant aspects of the appointments system. We draw a number of conclusions about how effectively the system works at present, and set out some recommendations for reform.

Political context

The current debate on civil service appointments processes was kicked off by the publication of the Government's Civil Service Reform Plan in June 2012. The reform plan advocates greater ministerial involvement in top civil service appointments, promising to 'strengthen' the role of ministers in 'both departmental and permanent secretary appointments'.[1] This is justified, it is argued, because the quality of relationship between permanent secretary and minister is 'crucially important' and greater influence for the minister in appointing the latter 'increases the chances of the relationship working successfully'.

The reform plan also tackles concerns about operational competence, stating that permanent secretaries should have at least two years operational or commercial experience before being appointed to run a delivery department. The government is seeking a more equal balance between permanent secretaries with policy and operational backgrounds.[2] At the same time, the reform plan also calls for ministers to be able to make a limited number of fixed-term appointments of senior civil servants in 'executive/management roles'.[3] There are therefore clear expectations that reform should lead to different kinds of people being appointed with a wider range of skills and experience.

There is also a more fundamental question of principle that reform of the appointments system is intended to address. If ministers are accountable to Parliament for their department, the argument goes, then their departmental officials should be fully accountable to them. Margaret Hodge MP, former Labour minister and current chair of the Public Accounts Committee, put it straightforwardly: 'If ministers were really accountable for everything their civil servants do, they ought to be able to hire and fire'.[4] Francis Maude, the Conservative minister responsible for civil service reform, made the case in similar terms. "[Y]ou can preserve in all its purity the model of ministers being accountable to parliament for their department. But it seems to me you cannot do that and at the same time deny ministers, to the extent the system currently endeavours to maintain, the ability to have any serious choice over the people who are responsible for delivering the performance of their department.'[5]

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[1] HM Government, *The Civil Service Reform Plan,* UK Civil Service website, June 2012, p.21, accessed 8 May 2013, www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf
[2] HM Government, *The Civil Service Reform Plan,* UK Civil Service website, June 2012, p.26, accessed 8 May 2013, www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf
[3] HM Government, *The Civil Service Reform Plan,* UK Civil Service website, June 2012, p.21, accessed 8 May 2013, www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf
[4] Constitution Committee, *The Accountability of Civil Servants,* Parliament UK website, Sixth report, Chapter 3, paragraph 23, 2012-2013, accessed 8 May 2013, www.publications.parliament.uk/pa/ld201213/ldselect/ldconst/61/6102.htm
[5] Rt Hon Francis Maude MP quoted in Patrick Wintour, 'Ministers to be given say in civil service appraisals', *The Guardian,* 5 August 2012, accessed 14 May 2013, www.guardian.co.uk/politics/2012/aug/05/ministers-formal-role-civil-service-appraisals

In the view of former cabinet secretary, Lord Turnbull, the current debate is different to previous spats between ministers and the Civil Service and 'rather than being episodic and grievance based, so to speak, people are making or attempting to make a principled case for it [reform of the appointments system]'.[6]

The Government's proposals for stronger ministerial powers over appointment are being developed against the backdrop of reports of tensions in some departments between ministers and the Civil Service.[7] High-profile administrative failings – such as over the West Coast mainline franchise process and the confused announcement with incorrect information about the Building Schools for the Future programme – appear to have undermined ministerial confidence in their officials in some parts of Whitehall.[8]

While former cabinet secretary Lord Wilson may be correct that 'incompetence is usually the answer' in these cases, ministers have still criticised civil servants for their attitude as well as their capability.[9] Speaking in spring 2011, David Cameron attacked 'enemies of enterprise' including 'bureaucrats in government departments who concoct those ridiculous rules and regulations that make life impossible, particularly for small firms'.[10] More recently, in autumn 2012, Francis Maude claimed that some unnamed permanent secretaries had deliberately obstructed government policy, though examples were not given and a subsequent FOI request found that the Cabinet Office had no records of such obstructionism.[11]

The 2012 reform plan left open the question of precisely how the role of ministers should be strengthened. However, in the subsequent months the Government's intentions became clearer. Specifically, it became apparent that Francis Maude favoured the introduction of ministerial choice from a shortlist of candidates for permanent secretary appointments in place of the current position (discussed below) whereby ministers are presented with a single name to approve or veto.

Giving evidence to the House of Lords Constitution Committee's inquiry into civil service accountability in 2012, Maude argued: 'The process should be that a panel, properly constituted and invigilated by the Civil Service Commission, should put forward a choice of

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[6] Interview with Lord Turnbull, December 2012
[7] See, for instance, Roland Watson, Rachel Sylvester, and Alice Thomson, 'No, Minister: Whitehall in 'worst' crisis', *The Times*, 14 January 2013
[8] BBC News, *Q&A: West Coast Main Line franchise,* 15 October 2012, accessed 8 May 2013, www.bbc.co.uk/news/business-19810845
[9] Public Administration Select Committee, *Future of the Civil Service, Oral evidence,* Parliament UK website, HC 664-iii Q180, 29 January 2013, accessed 8 May 2013 www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/c664-iii/c66401.htm
[10] Rt Hon David Cameron MP, speech to Conservative Spring Forum conference, 6 March 2011, accessed 8 May 2013, www.conservatives.com/News/Speeches/2011/03/David_Cameron_Building_a_better_future.aspx
[11] At a seminar at the Institute for Government in October 2012, Francis Maude said 'There are cases where permanent secretaries have blocked decisions from going ahead, or instructed others to not implement ministerial decisions.' Video at: www.instituteforgovernment.org.uk/events/creating-better-public-services-what-can-uk-learn-new-zealand-and-vice-versa-0 (quote at c36 minutes into recording). And see: Martin Rosenbaum, 'Cabinet Office has no records of obstructive officials', 7 November 2012, at: www.bbc.co.uk/news/uk-politics-20224736

candidates, both of whom, or all of whom if it is more than two, are totally validated as not being political, not capable of being a political choice.'[12]

This proposal has attracted some criticism, including from the Civil Service Commission. Speaking at an Institute for Government seminar in January 2013, Sir David Normington, the First Civil Service Commissioner, stated that the Commission was 'keen that ministers play an important role in the selection of the most senior civil servants and we continue to evolve our practice to encourage them to do so'. He also described the potential role of ministers in selection processes as 'a positive and powerful force for changing the skills and experience of the future civil service'.[13]

In late 2012, the Commission published revised guidance increasing and clarifying the permissible involvement of ministers in permanent secretary appointments. This did not go so far as to allow ministers a choice from a shortlist of appointable candidates, instead maintaining the practice of selection by an independent panel following consultation with the minister, and with a final prime ministerial veto power. Sir David explained: 'Our practice stops short of allowing ministers to choose from a list of recommended candidates... This maintains the essential balance between involving ministers fully in the process, while safeguarding a non-political Civil Service, selected on merit'.[14]

Other critics of the plans have also expressed concern about the risks of ministerial preferment having a role in appointments. Former cabinet secretary Lord Wilson summed up this fear by stating 'The patronage virus is never dead and constantly needs to be beaten back'.[15] The First Division Association – the trade union for senior civil servants – is firmly opposed to greater political involvement in appointments, not least for the reason that they 'remain to be convinced that this would ultimately lead to better government'.[16] The House of Lords Constitution Committee also argued against ministerial appointment powers, but made the important point that the Government's proposed reforms might simply formalise what already happens and so 'the practical implications of the reforms may not be as significant as they appear to be in purely theoretical terms'.[17]

The Government has not yet pushed the issue any further, agreeing to test the new guidelines for the next permanent secretary appointments. Francis Maude said 'We will wait

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[12] Constitution Committee, *The Accountability of Civil Servants, Oral and Written evidence,* Parliament UK website, Q.340, accessed 8 May 2013, www.parliament.uk/documents/lords-committees/constitution/CivilServ/ACSEvidenceFINAL.pdf

[13] Sir David Normington speaking at Institute for Government seminar, *How Should Permanent Secretaries be Appointed?,* 28 January 2013, accessed 19 May 2013, www.instituteforgovernment.org.uk/events/how-should-permanent-secretaries-be-appointed

[14] Civil Service Commission, 'Press Notice: Civil Service Commission responds to government's reform plan proposals on permanent secretary appointments' Civil Service Commission website, 10 December 2012, accessed 8 May 2013, http://civilservicecommission.independent.gov.uk/wp-content/uploads/2012/12/PRESS-NOTICE-10-Dec-2012.pdf

[15] Constitution Committee, *The Accountability of Civil Servants, Oral and Written evidence,* Parliament UK website, Q.257, accessed 8 May 2013, www.parliament.uk/documents/lords-committees/constitution/CivilServ/ACSEvidenceFINAL.pdf

[16] Public Administration Select Committee, *Future of the Civil Service: Supplementary Written Evidence Submitted by FDA,* January 2013, accessed 8th May 2013, paragraph 4.18, www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/writev/csr/m22.htm

[17] Constitution Committee, *The Accountability of Civil Servants,* Parliament UK website, Sixth report, Chapter 3, paragraph 29, 2012-2013, accessed 8 May 2013, www.publications.parliament.uk/pa/ld201213/ldselect/ldconst/61/6102.htm

to see how they are applied in practice before concluding that revisions to the legislation are not required'.[18] Sir David Normington subsequently confirmed that the Government had agreed to try the new guidelines for one year, though noted that the Government has 'not given up their wish to change the system and to have the final choice'.[19] The revised guidelines are understood to have operated satisfactorily during the most recent permanent secretary recruitment competition – at the Home Office, where the appointment of Mark Sedwill was announced in January 2013.[20] In May 2013 it was announced that Jonathan Stephens would be moving on from his position in the Department for Culture, Media and Sport, providing another opportunity for ministers to assess the new guidelines.[21]

In the meantime, the debate has continued. The think-tank Reform published a report in February 2013 advocating ministerial choice of permanent secretary candidates, with the caveat that 'ministers need the right skills to do so and should appoint on merit'.[22] The Institute for Public Policy Research, which is undertaking a study of accountability arrangements on behalf of the Cabinet Office, is expected to recommend an expanded role for ministers in the appointments process.[23] The Government will itself publish a follow-up to its Civil Service Reform Plan in mid-summer 2013, reflecting on progress over the past year, and presumably clarifying its plans for reform of appointment processes.

In the interim, a number of former ministers have also argued publicly for change. In front of the Public Administration Select Committee (PASC) in February 2013, a cross-party panel of former ministers backed a stronger role for ministers.[24] Caroline Spelman, former Environment Secretary, advocated that ministers should join the selection panel for permanent secretary appointments rather than choosing from a list of names.[25] Former defence minister Nick Harvey (Liberal Democrat) and former Transport Secretary Lord Adonis (Labour) both backed this approach. The Public Administration Select Committee (PASC) is itself due to set out recommendations in this area before the summer as part of its inquiry into 'The Future of the Civil Service'.[26]

While public debate has focused on the question of ministerial involvement, this is only one element of the appointments process. The appointments process must of course produce

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[18] Juliette Jowit, 'Plan to give ministers final approval of senior civil servants', *Guardian,* 10 December 2012, accessed 8 May 2013, www.guardian.co.uk/politics/2012/dec/10/civil-service-appointments-row

[19] Public Administration Select Committee, *Future of the Civil Service, Oral Evidence,* HC 664, Q427-430, 13 February 2013, accessed 8 May 2013, www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/c664-v/c66401.htm

[20] Home Office, 'New permanent secretary for the Home Office', News Story, 9 January 2013, at: www.gov.uk/government/news/new-permanent-secretary-for-the-home-office--2

[21] Suzannah Brecknell, 'Jonathan Stephens to leave DCMS', Civil Service World, 14 May 2013, accessed 24 May 2013, www.civilserviceworld.com/jonathan-stephens-to-leave-dcms/

[22] Andrew Haldenby, Tara Majumdar and Greg Rosen, *Whitehall Reform: The View from the Inside,* p.49, February 2013, accessed 8 May 2013, www.reform.co.uk/resources/0000/0603/Civil_service_report_3.pdf

[23] IPPR was awarded the contract to carry out a study into accountability arrangements from the government's Contestable Policy Fund in September 2012. It is now expected to report in summer 2013. See www.ippr.org/research-project/44/9627/civil-service-reform-lessons-from-overseas.

[24] Public Administration Select Committee, *Future of the Civil Service, Oral Evidence,* HC 664-iii, Q191-258, 29 January 2013, accessed 8 May 2013, www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/c664-iii/c66401.htm

[25] A point Ms Spelman had previously made in http://blogs.spectator.co.uk/coffeehouse/2012/12/top-civil-service-appointments-in-desperate-need-of-reform-says-former-environment-secretary/

[26] Public Administration Select Committee, *Future of the Civil Service*, Parliament UK website, accessed 16th May 2013, www.parliament.uk/business/committees/committees-a-z/commons-select/public-administration-select-committee/inquiries/parliament-2010/civil-service-reform1/

candidates in whom ministers have confidence, but there are other features of an effective appointments system that any reform should bear in mind. In particular, and drawing on appointments processes overseas, in the wider public sector and private sector, we believe the system should:

- identify candidates with the necessary skills and experience for the specific post in question
- be able to reflect broader corporate objectives, such as the balance between policy and operational expertise
- form part of a single civil service-wide talent management system
- send clear and consistent signals to staff about the path and opportunities for progression
- attract strong external and internal candidates
- be transparent and widely understood inside and outside Whitehall
- enjoy the confidence not only of ministers, but also of Parliament and the public
- avoid long delays and excessive costs.

In the following section we describe in greater detail how the appointments system works at present, before returning to some of the specific criteria that an effective system should possess.

The appointments process in practice

The legal and regulatory framework for civil service appointments

It is easy to take for granted today that civil servants are appointed following a competitive recruitment process, rather than on the basis of their political convictions or personal contacts. This has not always been the case. In 1854, Stafford Northcote and C.E. Trevelyan bemoaned the inefficiency of the Civil Service and attributed much of this to the misuse of personal patronage for appointments. A career in the Civil Service was chiefly attractive, the authors argued, to 'the unambitious, and the indolent or incapable' and their appointment was determined by 'the discretion with which the heads of departments, and others who are entrusted with the distribution of patronage, exercise that privilege'.[27] To address this, the Civil Service Commission was established with responsibility for ensuring that entry to the service was on the grounds of merit, tested through open competitive examination. At this stage, the extensive ministerial role in making senior appointments was uncontested, but the principle of appointment on the basis of merit had been established and grew over subsequent decades.[28]

The Civil Service Commission (CSC) remains to this day the regulator of civil service appointments and guardian of civil service values. Since 2010, when the Constitutional Reform and Governance Act was passed, the CSC and aspects of the system it regulates

[27] Stafford H Northcote and CE Trevelyan, *Report on the Organisation of the Permanent Civil Service, together with a Letter from the Rev B Jowett,* How to be a Civil Servant website, p.6, London, 1854, accessed 8 May 2013, www.civilservant.org.uk/northcotetrevelyan.pdf

[28] Haldenby, Majumdar and Rosen, *Whitehall Reform: The View from the Inside,* op cit, p.49

have been underpinned by statute. The Act specifies that the ultimate authority on appointing civil servants is the Minister for the Civil Service, by convention the Prime Minister. He or she has 'the power to manage the Civil Service' (3:1) which explicitly 'include[s] (among other things) the power to make appointments' (3:3). The diplomatic service is an exception; the Secretary of State (in practice the Foreign Secretary) rather than the Prime Minister has management authority, though in practice the PM is also closely involved in senior appointments at the Foreign Office and key embassies. This power to appoint implies a power to disappoint too. The PM retains a veto over civil service appointments, by withholding his support from candidates proposed by an appointment panel. Indeed this has been exercised recently.

The Act did not give the PM unlimited authority over the Civil Service. Appointments to the Civil Service must 'be on merit on the basis of fair and open competition' (10:2). But the legislation says relatively little about the mechanism by which appointments should take place. This is in contrast to civil service legislation in other Westminster systems, such as Australia and New Zealand, where much clearer guidelines about the process itself are set out in law.[29] Instead, the legislation empowers the Civil Service Commission to define what 'merit', 'fair' and 'open' mean in a set of Recruitment Principles (11:1). Although the PM must be consulted, he and civil service leaders cannot overrule the Commission and must comply with those principles in making appointments. The explanatory notes accompanying the legislation clarified that, in practice, the Prime Minister's management powers were delegated to the civil service leadership anyway.[30]

The Commission is an independent body of 12 commissioners, headed by the First Civil Service Commissioner, currently Sir David Normington. The commissioners are appointed on the PM's recommendation after being selected through open competition for five-year non-renewable terms and once appointed cannot be removed by the Government (except in cases of serious misconduct). Only one current commissioner beside Sir David is a former civil servant; the others come from a mix of private, public, and charity sector backgrounds and include a majority of women. Their objective is straightforwardly stated as 'to ensure the selection of the best people, on merit, from strong and diverse fields of candidates, to a Civil Service which remains impartial and objective'.[31]

The legislation formally granted the CSC a role only in regulating 'external' competitions, which are open to outside applicants and have become more common at senior levels in recent years. However, provision was also made to enable additional functions to be conferred on the CSC by agreement with the Minister for the Civil Service. Through this provision, agreement was reached between the CSC and the Cabinet Secretary (then also Head of the Civil Service and chair of the Senior Leadership Committee) that CSC guidance would also be followed for 'internal' competitions, to which only serving civil servants may apply.[32]

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[29] Akash Paun and Josh Harris, J, *Reforming Civil Service Accountability: Lessons from New Zealand and Australia,* Institute for Government website, 2012, accessed 8 May 2013, www.instituteforgovernment.org.uk/publications/reforming-civil-service-accountability

[30] *Constitutional Reform and Governance Act 2010*, Explanatory Notes, Commentary on section 3, 2010, accessed 8 May 2013, www.legislation.gov.uk/ukpga/2010/25/notes/division/6/3

[31] Civil Service Commission, *Annual Report and Accounts, 2011-12,* p.7, July 2012, accessed 18 May 2013, http://civilservicecommission.independent.gov.uk/wp-content/uploads/2012/07/CSC-Annual-Report-2011-12.pdf

[32] Civil Service Commission, 'Civil Service Senior Appointments Protocol', *Chairing Competitions: A Guide to the Approach of the Civil Service Commission,* March 2012, pp.33-35.

All competitions – both external and internal – are therefore conducted in compliance with the Commission's Recruitment Principles. The difference is that for internal competitions the job must be 'advertised civil service-wide, rather than publicly, to meet the principle of openness'.[33] Also, the approval of the CSC is required for 'external' competitions at SCS payband 2 (equivalent to director), payband 3 (director general) and permanent secretary levels, whereas for 'internal' competitions this is the case only at payband 3 and permanent secretary levels. For all these competitions, a commissioner will usually chair the recruitment panel. Commissioners also chair other competitions on request, and monitor departmental compliance with the Recruitment Principles for selections below the levels at which commissioners are directly involved.

The most recent iteration of the CSC Recruitment Principles was published in April 2012, defining the three key terms in the legislation as follows.

> 'Merit' means the appointment of the best available person: no one should be appointed to a job unless they are competent to do it and the job must be offered to the person who would do it best
>
> 'Fair' means there is no bias in the assessment of candidates. Selection processes must be objective, impartial, and applied consistently.
>
> 'Open' means that the job opportunities must be advertised publicly and potential candidates given reasonable access to information about the job and its requirements, and about the selection process.[34]

As far as the present policy debate is concerned, the most significant part of the CSC position lies in its interpretation of the notion of merit. By defining this as meaning that jobs must be offered to 'the best' – as opposed to 'an appointable' – candidate, the CSC explicitly excludes the possibility of ministers being given a choice from a shortlist. And since the CSC's definition of these principles has binding statutory force, reform along the lines proposed by Francis Maude would require (a) a change of heart by the Commission, (b) a change of membership of the Commission, leading to a change of heart, or (c) a change in the legislation itself.

However, although the CSC has used its statutory power to block ministerial choice, this does not reflect what the promoters of the legislation intended to achieve. The then Secretary of State for Justice who sponsored the legislation, Jack Straw, made clear to us that he 'wouldn't have been party to it' had he known the legislation would be used to block ministers from choosing their officials from a shortlist of appointable candidates.[35]

Three different appointment processes

Above we have described the legal and regulatory framework relating to senior civil service appointments made through competitions – both internal and external. However, a significant minority of appointments at senior levels in Whitehall are made via a third approach – the so-called 'managed move', whereby a vacancy is filled by moving an existing civil servant into the post without a formal competition at all.

The key restriction on the use of managed moves is that they can be only be used to move people horizontally within the service – managed moves cannot be used to promote officials

[33] Civil Service Commission, *Chairing Competitions* (March 2012) p.34
[34] Civil Service Commission, *Recruitment Principles* (April 2012) p.2
[35] Interview with Rt Hon Jack Straw MP (January 2013)

to a higher grade, though this was once common. However, certain managed moves are de facto promotions within the same grade. Recent examples include the elevation of the second permanent secretary at the Ministry of Defence to the post of first permanent secretary in the same department, the upward move of the chief operating officer in the Cabinet Office to become permanent secretary of the whole department (see figure 1), and indeed the appointment of the current Cabinet Secretary from his previous position as permanent secretary in 10 Downing Street (not shown in the table below).

Figure 1: Managed moves of departmental permanent secretaries since May 2010

Name	Department appointed	Department moved from
Peter Housden	Scottish Government	Department of Communities and Local Government (DCLG)
Ursula Brennan	Ministry of Defence (MoD)	Second Permanent Secretary, MoD
Robert Devereux	Department of Work and Pensions (DWP)	Transport
Ian Watmore	Cabinet Office	Chief Operating Officer, Efficiency and Reform Group, Cabinet Office
Lin Homer	Her Majesty's Revenue and Customs (HMRC)	Transport
Ursula Brennan	Ministry of Justice	Ministry of Defence

Source: Correspondence with the Civil Service Commission

The decision about which of the three processes to use when a vacancy arises is taken formally by the Senior Leadership Committee (SLC), comprised of senior permanent secretaries, the Cabinet Secretary, the First Civil Service Commissioner, the Director of Talent Management at the Cabinet Office, and chaired by the Head of the Civil Service. In practice, it has been reported, the decision is taken by the Head of the Civil Service and Cabinet Secretary in consultation with the PM and the Secretary of State for the relevant department.[36]

While a competition is now regarded as the preferred option,[37] managed moves are permitted where it is determined that there is a convincing 'business case' for it.[38] The

[36] Public Administration Select Committee, *Future of the Civil Service, Oral Evidence,* HC 664 Q476, Parliament UK website, 13 February 2013, accessed 8 May 2013, www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/c664-v/c66401.htm

[37] Lord Turnbull, former Cabinet Secretary from 2002 to 2005, described to us how he promoted in the then Senior Appointments Selection Committee the presumption that justification was needed to not have an open competition. Interview, January 2013.

[38] Civil Service Senior Appointments Protocol, reproduced in Civil Service Commission, *Chairing Competitions: A Guide to the Approach of the Civil Service Commission,* March 2012, p.33

protocol between the Commission and the SLC provides no further definition. However, an earlier draft version stated that the 'business case' for a managed move could rest on four factors: 'critical business need' (where there is urgency), 'individual development needs' where a high-potential official is transferred to facilitate career progression; 'retaining talent' where an individual with skills that are in short supply might otherwise leave; and 'restructuring' where there is one obvious candidate for a new role created following departmental reorganisation.[39]

The fact that the published version of the protocol contained none of this detail means that the use of managed moves remains shrouded in mystery. The SLC is required to carry out an annual review of managed moves, but – assuming they have occurred – these reviews have not been published.[40] Neither is the status of the SLC itself a good example of transparency: the relevant page on the civil service website is at least two years out of date based on its list of members (most of whom have now left Whitehall).[41]

Interviewees confirmed to us that managed moves are made where an unexpected departure leaves a gap to be filled urgently, and where there is an obvious candidate to take over.[42] But in other cases, it is recognised that managed moves are used as a mechanism for shifting officials whose relationship with their minister has broken down. As one senior Whitehall figure reflected, some managed moves seemed to be used 'more in desperation than long-term planning'.[43]

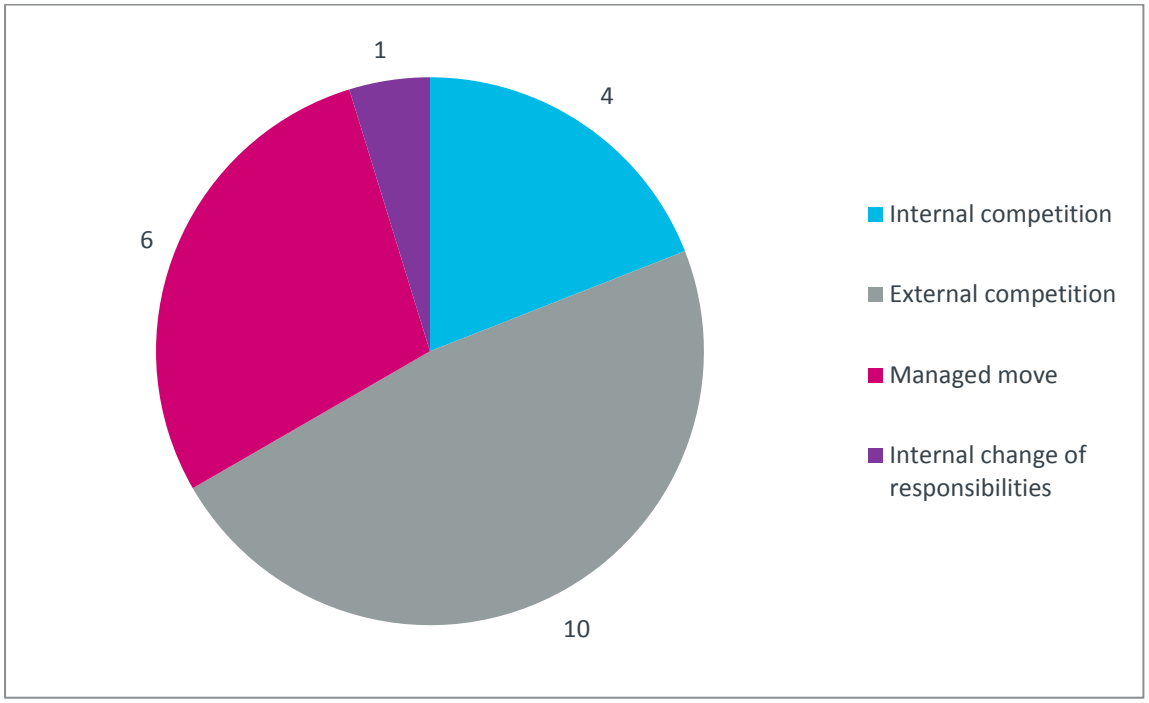
Some permanent secretaries to whom we spoke were themselves not in favour of managed moves, preferring a more transparent system. If managed moves are to be retained as a management tool for civil service leaders, then there ought at least to be greater transparency, with data published routinely on how often and for which posts this mechanism is used, and clarity about the business case justifying each such move.

There were a total of 21 permanent secretary grade appointments made to lead Whitehall departments and devolved administrations between May 2010 and May 2013 (see figure 2). Of these, just under half (10) were made following an external competition, four were made through internal competitions, and (as noted) six through managed moves. The final appointment, of Richard Heaton to the post of Cabinet Office Permanent Secretary, is classified as a 'change of responsibilities' since he already held the permanent secretary ranked position of First Parliamentary Counsel and retained this position (though one might alternatively deem this yet another managed move, with Heaton effectively promoted). On one occasion, at the Department for Energy and Climate Change, an external competition

[39] *Draft Civil Service Senior Appointments Protocol,* undated, accessed 19 May 2013, http://civilservicecommission.independent.gov.uk/wp-content/uploads/2012/08/CB11-23-Annex-A.pdf
[40] This requirement is set out in the Civil Service Senior Appointments Protocol, reproduced in Civil Service Commission, *Chairing Competitions: A Guide to the Approach of the Civil Service Commission,* March 2012, p.35.
[41] The relevant page is at: www.civilservice.gov.uk/about/leadership/civil-service-board/sub-groups/senior-leadership-committee, accessed 28 May 2013.
[42] Sir David Normington recently described such a case to the Public Administration Select Committee: 'There was somebody who was a very good fit for the job that needed to be done. To put that person, who had five years of experience and was very suitable for that job, through a competition was thought to be a waste of time. What you would end up doing was spending money and ending up with that person.' *Future of the Civil Service, Oral Evidence,* HC 664 Q433, Parliament UK website, 13 February 2013, accessed 8 May 2013 www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/c664-v/c66401.htm
[43] Interview #10, February 2013

was first used but following a prime ministerial veto of the successful candidate, the post was then filled through internal competition (see Box A below).

Figure 2: Departmental permanent secretary appointments since May 2010



Source: Annual reports of the Civil Service Commission, 2009-2012; Correspondence with the Civil Service Commission. The data records appointments to lead Whitehall departments and the Scottish and Welsh Governments. Other permanent secretary grade appointments (including the position of Cabinet Secretary) are not captured here.

Notably, however, even when external competitions are used for permanent secretary appointments, internal candidates are often successful against competitors from outside Whitehall. Indeed, of 10 such competitions since 2010, only once has a non-civil servant been appointed. In this case – the appointment of Sir Bob Kerslake to lead DCLG – the successful candidate still came from the wider public sector (the Homes and Communities Agency, a non-departmental public body). There was also one appointment – of Lin Homer at HMRC – from the UK Border Agency, which as an executive agency, is part of the Civil Service though outside of Whitehall itself.

Of the remaining eight permanent secretaries appointed through external competition, one was already a serving permanent secretary and three were appointed to lead the department they were already working in as directors general. The remaining four were recruited from other Whitehall departments. External competition does not open the floodgates to external recruits, even if it does send an important signal about the top tiers of the Civil Service being open to all contenders.

A headhunter we spoke to confirmed that he would never put forward to a senior role an individual with no prior experience at all of Whitehall. To appoint a complete newcomer would be to court disaster, and to subject them to a difficult and unrewarding experience. One individual with a private sector background who had been successfully appointed to a

senior Whitehall post described learning to operate in a political environment as 'trying to drink from a fire hose'.[44]

Terry Moran, former head of Australia's Department of Prime Minister and Cabinet, has described how the Australian public service 'laundered' external recruits, by giving them a non-line management function during a managed transition. They were brought in lower down the organisation, then as their experience of the public service grew were accelerated upward.[45]

In Whitehall, there is likewise a common view that it is often more constructive to bring private sector candidates into the Civil Service at director or director general (DG) level – to give them time to learn the dynamics of Whitehall departments and operating in a highly political atmosphere – rather than directly as permanent secretaries. Leaders from local government and the wider public sector have been slightly more successful at winning permanent secretary competitions – though only on one occasion since 2010, as discussed.[46] Political sensitivity is vital, and clearly a candidate is only appointable if they demonstrate it, a point also made by former secretaries of state whom we interviewed.

Indeed, the data shows that external candidates are more successful when applying for less senior roles. Figure 3 shows recruitment to the Civil Service through external competition alongside the sector from which the successful candidate was recruited. This is recruitment of permanent secretaries, directors general and directors (or equivalents). It shows that since 1995-96, existing civil servants have accounted on average for just 41.3% of successful candidates to jobs recruited through external competition. The remainder of the appointees are evenly split between having public sector (29.4%) and private sector (29.1%) backgrounds. In the most recent year for which data is available, 2011-12, almost half (48.4%) of candidates recruited to the senior civil service through external competition came from outside the Civil Service.

One caveat is that this data only reflects the job the appointed candidate was holding immediately prior to their appointment. So for example, when Sir Jeremy Heywood, the Cabinet Secretary and career civil servant, returned to Downing Street from his brief spell in investment banking he counted in the statistics as a private sector appointment. Nevertheless, these figures show that below the level of permanent secretary, external recruitment does provide an inward flow of recruits to senior positions, commonly to specialist roles such as HR, IT and finance where the Civil Service has been historically weak at developing internal expertise.[47] This intake of senior figures could in principle have provided a new pool from which to appoint permanent secretaries. But in practice, despite the greater diversity of professional backgrounds at grades 2 and 3, just four of 15 permanent secretaries in the big delivery departments have prior 'high levels of operational

[44] Interview #21, March 2013
[45] Jill Rutter, 'Lessons from a land down under…', Institute for Government blog, 13 June 2012, accessed 10 May 2013, www.instituteforgovernment.org.uk/blog/4527/lessons-from-a-land-down-under.../
[46] Pre-2010 examples include the appointments of former local authority chief executives Sir Peter Housden and Sir Michael Bichard.
[47] Public Administration Select Committee, *Outsiders and Insiders: External Appointments to the Senior Civil Service, Seventh Report of Session 2009–10*, HC 241, February 2010, pp.8-9.

and commercial experience', according to the Government, signalling that experience as a policy professional remains far and away the most common route to the top.[48]

Figure 3: Background of successful candidates in external competitions regulated by the Civil Service Commission (numbers)

Source: Annual reports of the Civil Service Commission, 1995-2012. The data records the background (defined as the immediately preceding job) of successful applicants to senior civil service posts filled through external competition.

Existing scope for ministerial involvement

The key point of division in the current debate is, as noted, whether ministers should be able to make the final selection decision for their permanent secretaries from a shortlist of candidates deemed appointable by the selection panel. But whether or not this particular reform is implemented, ministers already have significant opportunity to influence selection processes.

When a vacancy first arises, the commissioner chairing the competition consults on the needs of the role and what the job description and person specification should be. Under guidance published by the CSC in December 2012, secretaries of state should be consulted by the head of the Civil Service on the skills required for senior posts and they should then agree with the First Civil Service Commissioner (FCSC) the final job description, person specification, and terms of the advertisement.[49] Ministers also now should agree the

[48] Cabinet Office, *Permanent Secretary Operational and Commercial Experience,* December 2012*,* accessed 8 May 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79994/Operational_and_commercial_experience.pdf; Rutter, J, *How Permanent Secretaries Reach the Top*, 8 October 2010, accessed 1 May 2013, www.instituteforgovernment.org.uk/blog/674/how-permanent-secretaries-reach-the-top/

[49] Civil Service Commission, *Recruiting Permanent Secretaries: Ministerial Involvement, An Explanatory Note,* December 2012

composition of the selection panel chosen by the department 'to ensure that there is sufficient external challenge'.[50] The panel for a permanent secretary appointment often includes three or four members, chaired by the FCSC, and including the Cabinet Secretary or Head of the Civil Service, another permanent secretary, a non-executive board member, and a senior external stakeholder.

The job is advertised according to a process which both the secretary of state and the commissioner must agree, the latter to certify that the competition is genuinely open. Professional external search consultants are usually engaged for external competitions to ensure the field is as wide and diverse as possible. Sometimes they also advise on drafting the job description, to help ensure the role is specified as closely as possible to what the secretary of state, cabinet secretary, and prime minister agree. This is particularly important where a private sector candidate is wanted, as it can otherwise be harder to make connections between what someone does in a private organisation and the requirements of a politically orientated job in the Civil Service.

Ministers have long had the opportunity to brief the selection panel prior to interviews in order to make clear their expectations for the role. In practice, this opportunity is often not taken up. Dame Janet Paraskeva, First Civil Service Commissioner between 2005 and 2010, told us that only one minister had chosen to brief the selection panel during her five years.[51]

The panel then shortlists candidates for interview, and sometimes where there are a large number of applicants there will be a long-listing process first. The panel's decision is collegiate. The panel only takes a decision on a split vote if it previously agrees unanimously to operate on that basis. Deadlock is resolved by abandoning the competition. The Commission's view is that as a matter of principle appointment decisions should not be in the hands of any single person.[52]

Shortlisted candidates should be those 'with a realistic chance of being judged appointable'.[53] Usually, this is a list of three or four. These candidates may then often undergo further tests before interview, such as interview by an occupational psychologist. Ministers can also at this stage meet the shortlisted candidates to discuss their priorities and feedback to the panel on any strengths or weaknesses to probe at final interview.

This meeting remains in a slightly ambiguous position: it is not itself part of the selection process, but clearly the views of the minister will – and should – influence the panel. Caroline Spelman has reported how she was told that she could not ask questions of candidates for Helen Ghosh's replacement as permanent secretary at the Department for the Environment, Farming, and Rural Affairs (Defra).[54] Lord Turnbull, Cabinet Secretary between 2002 and 2005, has said publicly this was 'incredible' if true and that she had been badly advised, yet the then First Civil Service Commissioner told us that this was indeed the

[50] Civil Service Commission, *Q and A: Ministerial Involvement in Appointments,* December 2012, p.3
[51] Interview with Dame Janet Paraskeva (January 2013)
[52] Sir David Normington speaking at Institute for Government seminar, *How Should Permanent Secretaries be Appointed?,* 28 January 2013, accessed 19 May 2013, www.instituteforgovernment.org.uk/events/how-should-permanent-secretaries-be-appointed
[53] Civil Service Commission, *Chairing Competitions: A Guide to the Approach of the Civil Service Commission,* March 2012, p.14
[54] Institute for Government seminar, *How Should Permanent Secretaries be Appointed?,* 28 January 2013, accessed 19 May 2013, www.instituteforgovernment.org.uk/events/how-should-permanent-secretaries-be-appointed

accepted practice to ensure the meeting did not become a de facto selection interview.[55] Commission guidance has since clarified that this can be a two-way conversation, and extended the scope for ministerial questioning by allowing a second interview if the panel is undecided between two candidates, but it does remain wholly separate from the panel selection interview.

Final interviews then take place, and the panel agrees where a candidate should be placed on the Commission's marking scale, ranking in merit order those placed 'above the line'[56] as follows:

A: an outstanding candidate
B: a very good candidate
B/C: clearly above the minimum acceptable level
C: acceptable

D: near miss
E: clearly not acceptable

An 'above the line' candidate is one whom the panel regards as appointable if there were no other candidates, and who can still be offered the post if higher ranked candidates turn the job down. The top ranked candidate is recommended, and the PM then formally appoints the candidate to the post, or may exercise a veto. In practice the relevant secretary of state can also usually block a proposed candidate. In the eventuality of a political veto, the Commission requires the entire process to be re-run, as occurred in the case of the Department for Energy and Climate Change (discussed in box A below). This prevents a de facto political choice in which the PM or relevant minister vetoes successive candidates in merit order until the preferred candidate is reached. The time, cost, and prolonged uncertainty of re-running a competition is a strong motivation for the PM and secretary of state to accept the proposed candidate, but the possibility of a veto is an equally strong motivation for the panel to take ministerial concerns into account during the process.

It is clear that ministerial influence is felt in the process even where direct ministerial control is not wielded. Although vetoes rarely take place, the system is actively managed to produce a candidate who will be able to work effectively with the secretary of state and to avoid a situation occurring where the PM believes a veto is necessary.

We also found evidence of a significant increase in ministerial involvement in appointments processes since 2010, not just at permanent secretary level but also at lower grades and in public appointments. One interview spoke of a 'step change' in this regard and another noted ministers 'subjecting the appointment process to a degree of scrutiny I haven't seen before'.[57] We also heard that there was notably greater interest from Number 10 than had been the case under Tony Blair and even Gordon Brown, which some officials found uncomfortable at times.[58]

[55] Institute for Government seminar, *How Should Permanent Secretaries be Appointed?* Interview with Dame Janet Paraskeva (January 2013)
[56] Marking scale taken from Civil Service Commission, *Chairing Competitions: A Guide to the Approach of the Civil Service Commission,* March 2012, p.41
[57] Interview #6, January 2013
[58] Interview #19, March 2013; Interview #11, January 2013

Box A: Case study – the Department for Energy and Climate Change

Moira Wallace, Permanent Secretary of the Department for Energy and Climate Change (DECC) announced her resignation in July 2012.

The decision was taken to appoint her successor through an open competition. Chaired by Sir David Normington (First Civil Service Commissioner), the selection panel also included Sir Bob Kerslake (Head of the Civil Service), Lord Stern (economist and climate change expert), and Paul Walsh (Chief Executive of Diageo and lead non-executive director at DECC). There were 43 applicants, of whom five were shortlisted and interviewed.[59] According to Nick Butler, writing in the Financial Times, three businessmen were approached for the role and one was shortlisted.[60] Following the normal recruitment process, the panel recommended David Kennedy, chairman of the Climate Change Committee, to be the new permanent secretary.

This appointment was apparently approved by the Energy Secretary, the Liberal Democrat Ed Davey. But it was vetoed by the Prime Minister, reportedly due to David Kennedy's lack of commercial experience to run a department which deals with major utility companies and his known views on climate change and energy policy. Before the Liaison Committee in December, David Cameron argued that commercial expertise was essential, as well as an open mind on fracking.[61]

In line with the Civil Service Commission's rules, this meant the whole process had to be re-run. This time, however, it was decided that the process would be run as an internal competition. Lord Stern and Paul Walsh were replaced on the panel by Claire Thomas (non-executive director at DECC, and Senior Vice President for Human Resources at GlaxoSmithKline) and Martin Donnelly (Permanent Secretary at the Department for Business, Innovation and Skills).[62] The change in panel membership seemed to reflect the PM's preference that the person chosen would have a commercial focus, although the job description and person specification were not themselves changed.

The successful candidate in the second competition was Stephen Lovegrove, who has a background in consulting and finance and was Chief Executive of the Government Shareholder Executive in the Department of Business, Innovation and Skills prior to his appointment to DECC.

But while there was this degree of unease about heightened ministerial scrutiny, it was also widely recognised that the system has long been responsive to strongly-held ministerial views. A serving permanent secretary reflected 'There's an element of the panel knowing that if they recommend someone as top, it'll be vetoed, and actually taking that into account.'[63] Panels recognise that ministers are ultimately the clients for whom the process is delivering an appointment, and do seek to find a compatible candidate. This is particularly

[59] House of Commons Hansard, Column 783W, 5 December 2012.
[60] Nick Butler, 'David Cameron takes a swipe in energy war', *Financial Times online,* 30 November 2012 (http://blogs.ft.com/nick-butler/2012/11/30/david-cameron-takes-a-swipe-in-energy-war/, accessed 8 May 2012)
[61] 'Cameron defends decision to block top civil service appointment', BBC News, 11 December 2012 (www.bbc.co.uk/news/uk-politics-20683433, accessed 8 May 2013)
[62] House of Commons Hansard, Column 76W, 10 December 2012.
[63] Interview #18, February 2013

true at permanent secretary level. For DG and director appointments, one ex-permanent secretary told us that 'no perm sec worth his salt' would accept a minister demanding a particular official be given the job, but on the other hand that it would be 'a brave or foolhardy perm sec' who did not ensure during the process that the likely successful candidate was acceptable to the minister. Another ex-permanent secretary said that in making DG appointments he would closely consult the secretary of state and 'the reality was that he had a veto. He didn't have a right of appointment, but he had a veto. That's not in the rules'.[64]

The above discussion illustrates that there is already substantial ministerial influence during the course of selection processes, and also that the degree of ministerial involvement can be tailored according to the preferences of each minister. This raises the question of how much difference it would make in practice if the formal powers of ministers were extended further. Other systems illustrate how appointments work with different levels of political involvement.

Constrained ministerial choice in action

The Civil Service Commission view is that allowing ministers a choice of above-the-line candidates would mean an end to merit-based recruitment, since they define this term as meaning that the best single candidate must be offered the role. Dame Janet Paraskeva, former First Civil Service Commissioner, put the position simply: 'There is no basis for choice other than for merit, or there shouldn't be'.[65]

UK public appointments

Yet to find a system that does allow ministers choice from a pre-vetted shortlist, one does not need to look far. The relevant comparator is the UK public appointments system, through which thousands of posts are filled in non-departmental public bodies and other forms of arm's-length body. The public appointments process is similar to that used for senior civil servants. There is a politically independent regulatory body – the Office of the Commissioner for Public Appointments (OCPA) – that plays a similar regulatory role to the Civil Service Commission. And indeed, since 2011, the two systems have been headed by the same person, since Sir David Normington fills the role of Commissioner for Public Appointments as well as that of First Civil Service Commissioner.

The crucial substantive difference between the two systems is that for public appointments, ministers are usually given a choice between two or more appointable candidates. The pragmatic explanation for the difference is that the two systems have different histories. The system from the latter half of the nineteenth century onwards saw civil service appointments based on competitive assessment of merit. In contrast, appointments to the boards of non-departmental public bodies were left almost entirely in the hands of ministers without any independent oversight until 1995, when the current regulatory regime was set up.

The post-1995 system for public appointments greatly reduced ministerial ability to make personal appointments to public bodies, but settled on the compromise of allowing ministers the right to exercise choice from a merit-based shortlist – the precise reform that the

[64] Interview #17, February 2013
[65] Interview with Dame Janet Paraskeva, January 2013

government is now considering for civil service appointments. The Code of Practice which governs public appointments is based – similarly to civil service appointments – on the principles of merit, fairness, and openness. Yet merit for public appointments is defined differently to how it is applied to civil service appointments:

> The overriding principle is selection on merit. This means providing ministers with a choice of high-quality candidates, drawn from a strong and diverse field, whose skills, experience and qualities have been judged to best meet the needs of the public body or statutory office in question.[66]

From the perspective of ministers and others who favour the Maude proposal, it is not obvious why this definition of merit, and the system in which it operates, should be appropriate and effective for public appointments but would risk politicisation and excessive patronage if used within Whitehall.

Indeed, the Labour government of Tony Blair came to a similar conclusion. In a 2003 paper (a response to a Committee on Standards in Public Life report) the government declared itself 'not convinced of the bases of these different approaches' to appointments and argued that giving ministers a 'constrained choice' over senior civil service appointments would not undermine the 'independence and integrity of the appointments process'.[67] In the event, the Government did not press ahead with its plans for reform.

Defenders of the status quo argue that there is a difference of principle between appointments to lead public bodies and those to lead government departments. Sir David Normington, for instance, has argued that the act of making public appointments is itself a policy decision and a 'political act', by which the minister in question can influence how the public body should carry out its function on behalf of the government.[68] For example, the appointment of Tom Winsor as Chief Inspector of Constabulary was interpreted by some as reflecting a deliberate attempt by the Home Secretary to change the relationship between the inspectorate and police forces.[69]

Permanent secretaries are different, the argument continues, because one of their main traditional roles is to be the principal policy adviser to the secretary of state. Former Commissioner for Public Appointments, Dame Janet Gaymer, described the difference in these terms:

> The person who is appointed to run a public body is effectively delivering – not advising on, but delivering – the policy of the day for the minister. There is a very subtle difference between that and what a permanent secretary does. The permanent secretary has, in a sense, an additional role to that of someone who is chairing the board of a public body.[70]

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[66] The Commissioner for Public Appointments, *Chairing Competitions: A Guide to the Approach of the Commissioner for Public Appointments*, April 2012, p.3
[67] *The Government's Response to the Ninth Report of the Committee on Standards in Public Life*, CM 5964, 2003, p.6
[68] Sir David Normington speaking at Institute for Government seminar, *How Should Permanent Secretaries be Appointed?,* 28 January 2013
[69] See for instance, Alan White, 'With Winsor's appointment, the Tories have declared war on the police', New Statesman, 8 June 2012, accessed 28 May 2013, at: www.newstatesman.com/blogs/politics/2012/06/government-declares-war-police
[70] Interview with Dame Janet Gaymer QC, January 2013

This additional role is to provide independent advice, and to safeguard the impartiality and integrity of that advice to ministers. However, public bodies come in many shapes and sizes: not all have a pure implementation function, nor is the role of all public appointees to act as a mere agent of their appointing minister.

In fact, many public appointments are to important posts whose credibility depends on their being (and being seen as) independent from direct ministerial control. Examples include: the chair of the Financial Conduct Authority, the chair of NHS England (formerly the NHS Commissioning Board), the heads of utility regulators such as Ofcom and Ofgem, chairs of public service regulators such as the Care Quality Commission, Ofqual and the BBC Trust, the Chair of the UK Statistics Authority, the Information Commissioner, and indeed the post of First Civil Service Commissioner itself.

Yet in each of these cases, the system permits ministers to take the appointment decision from a shortlist, if they wish to exercise that choice. Ministers are offered a choice of how the results of the competition are presented to them by the selection panel. For example, they can ask for a list of appointable candidates ranked, or not ranked, or ranked and scored. The guidance also states that the appointing minister must agree the selection process.[71]

What the system does not permit are purely personal appointments made by ministers based on friendship or political affiliation. Nor has it created an expectation that a new administration will replace a whole swathe of figures appointed by its predecessor. While certain appointments of figures with known partisan backgrounds by the current and previous governments have come under criticism,[72] the fact is that all such individuals must first be deemed appointable by an independent and OCPA-regulated panel. What is therefore crucial is that there is a robust and independent assessment process (with parliamentary oversight) to provide an appropriate limitation on the exercise of ministerial choice.

The 2003 government report calling for greater ministerial choice also flagged up a distinction operating at that time between external and internal competitions which appears no longer to apply. At that point, it is stated, ministers were allowed a choice from a shortlist for internal competitions, where all candidates were serving civil servants. One senior official confirmed to us that this system had previously been used. Intriguingly, it appears that at some point between 2003 and the 2011 protocol agreed between the Civil Service Commission and the Senior Leadership Committee, decisions taken in Whitehall had the effect of taking from ministers a power that they previously enjoyed. Precisely when this change occurred, and what involvement ministers played in making this change, is unknown to us.

A role for Parliament?

As noted, ministerial choice in the case of public appointments is constrained not only by the fact that they can appoint only from a pre-authorised shortlist, but also by the growing involvement of parliament as a scrutineer of appointments, principally through pre-

[71] The Commissioner for Public Appointments, *Chairing Competitions: A Guide to the Approach of the Commissioner for Public Appointments,* April 2012, paragraphs 2.2.20-21, p.11.
[72] See for instance: Paul Goodman, 'Let's Cull the Tory Hating Quangocrats', Iain Dale's Diary website, 11 February 2010, http://iaindale.blogspot.co.uk/2010/02/lets-cull-tory-hating-quangocrats.html

appointment hearings that select committees hold with ministerial appointees to several dozen senior posts in public bodies. This system was set up under the Brown administration, and – as reported in a previous Institute for Government publication[73] – the growing assertiveness of select committees in this parliament has seen pressures grow for a wider and more extensive role for committees in this area.

A number of interviewees put it to us that if ministers were to take on a more direct role in selecting civil servants – especially at permanent secretary level – then parliamentary committees would demand an equivalent role in scrutinising these appointments to ensure that the minister had exercised his or her power in an appropriate fashion. One select committee clerk we spoke to expressed surprise that their committee had not yet sought greater involvement in permanent secretary appointments, and expected them to do so in future.[74]

The prime minister was pressed on this point during a recent hearing of the Liaison Committee by Natascha Engel MP, who suggested that binding pre-appointment hearings would 'ensure that there is proper accountability and scrutiny' in the event that the ministerial role in the process were strengthened.[75] The Prime Minister promised 'to go away and think about' the idea of greater parliamentary scrutiny of civil service appointments, but so far there has been no indication that such reform is part of the Government's plans.

The Treasury Select Committee hearing with new Bank of England Governor Mark Carney illustrates a complication if the process were extended to civil service appointments. Andrew Tyrie MP, chair of the Treasury committee, said that the benefits of the hearings would 'flow both ways' since 'approval from the Treasury Committee would also provide the new governor with greater authority and independence from the day to day pressures of politics and politicians which will come with his enhanced role'.[76] A similar argument was made in 2010 when the Government decided to give the Treasury committee a binding role (enshrined in legislation) over appointments to, and terminations from, the board of the new Office for Budget Responsibility (although the government has made explicit that this was not intended to create a precedent).[77] By implication, a greater parliamentary role in scrutinising civil service appointments might strengthen officials' independence from ministers, which is far from the intention of the Government's civil service reform agenda. The Government is therefore likely to proceed with caution in this area.

We are also not convinced that pre-appointment hearings with new permanent secretaries would be a sensible way forward. It would carry risks including adding delays and uncertainty to the process, and confusing accountability for appointments made within government by the executive. Select committees can already question new permanent

[73] Akash Paun and David Atkinson, *Balancing Act: The Right Role for Parliament in Public Appointments,* Institute for Government, Institute for Government website, 2011, accessed 15 May 2013, www.instituteforgovernment.org.uk/publications/balancing-act
[74] Interview #22, April 2013
[75] Liaison Committee, *Oral Evidence from the Prime Minister,* HC 484-I Q68-71, Parliament UK website, 3 July 2012, accessed 8 May 2013, www.publications.parliament.uk/pa/cm201213/cmselect/cmliaisn/484/120703.htm
[76] House of Commons Treasury Select Committee, *Treasury Committee to hold a pre-appointment hearing with Dr Mark Carney,* Parliament UK website, 26 November 2012, accessed 8 May 2013 www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news/treasury-committee-to-hold-a-pre-appointment-hearing-with-dr-mark-carney/
[77] Paun and Atkinson, *Balancing Act,* op cit, with discussion of the OBR at p.27

secretaries after their appointment. Further, if a ministerial power of appointment were formalised, then committees could also question the secretary of state (perhaps alongside the First Civil Service Commissioner) about how the appointment process was run and how the final decision was taken. This would add further to transparency.

The local government model

Another alternative model can be found in local government, where local authority chief executives are appointed by and work to the whole council. The standard model is that vacancies are advertised openly and candidates are shortlisted and interviewed by a cross-party panel, after which the preferred candidate is approved by a meeting of the full council. This is appointment by politicians, but not generally seen as 'politicised'. Carolyn Downs, Chief Executive of the Local Government Association and a former local authority chief executive, recently gave evidence to PASC supporting the local government model. She recalled that when her council changed political control, her first question to the incoming leader was whether he wanted her to resign. This scenario is what opponents of political involvement in Whitehall appointments wish to avoid. Yet the cross-party selection not only meant that the new council leader was one of those who had appointed her originally, but also that any replacement he might wish to appoint would similarly need to gain the backing of a cross-party panel. Carolyn Downs' new leader asked her to stay.[78]

The analogy, if this system was imported into Whitehall, would be the Leader of the Opposition sharing with the Prime Minister the decision of selecting the Cabinet Secretary, or shadow ministers playing a role in permanent secretary appointments. There are some appointments where consultation with opposition parties is a statutory requirement – Electoral Commissioners and the First Civil Service Commissioner, for instance – so such a model is not entirely without precedent. A formal requirement to consult with the Opposition prior to the appointment of permanent secretaries might offer a useful additional safeguard against any perception of politicisation, and could also mitigate the risk of a new administration seeking to replace many top officials. But such a change would mark a significant shift from the current system, in which civil servants work solely for the government of the day. It therefore seems unlikely, and is not on the political agenda at present.

However, what might be sensible is a convention that any permanent secretary appointments in the final six months of a Parliament (where they cannot be postponed until after the election) would involve consultation with the leader of the opposition (and perhaps the leader of the third party). This could be conducted by the First Civil Service Commissioner as part of their commitment to ensuring that appointees are able to work with different political masters. If the leader of the opposition had strong objections, then the PM could decide to make an interim appointment only.

[78] Public Administration Select Committee, *Future of the Civil Service, Oral Evidence,* HC 664-vi Q618-619, 27 February 2013, accessed 8 May 2013, www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/c664-vi/c66401.htm

Lessons from overseas

New Zealand

If the UK offers a number of different options for appointments processes, so too does a glance beyond our borders. Other Westminster democracies share similar values of having an independent and impartial civil service, but have different processes for appointing senior officials.

The appointments system in New Zealand is firmly independent of ministers. All department chief executives (permanent secretary equivalents) are employed by the independent State Services Commissioner – the head of the NZ civil service. Like all jobs in the New Zealand public service, these roles are always advertised openly and selection is on the basis of competitive merit. Ministers are consulted on what they think the needs of the role are and the type of person who should be appointed, as in the UK. The Commissioner then chairs the recruitment competition, and recommends the best candidate to be appointed. The Cabinet can veto chief executive appointments, but this is seen as a democratic control of last resort. It has only happened once, in 1990 though, as in the UK, the Commissioner is likely to have knowledge of ministerial views when making his recommendations and will take these into account.

The New Zealand system attracts high-calibre candidates, including chief executives recruited from the private sector as well as from abroad – a number of recent chief executives (including the current incumbent at the Treasury) previously worked in Whitehall. The system is currently undergoing a number of broader changes, which enhance the role of the State Services Commissioner. As Head of the State Services he will have more power to direct resources from individual agencies to government priority areas. He is the main person accountable for making good appointments, for performance managing all chief executives, and where relationships with ministers break down it is his role to intervene as the chief executive's employer.

Since the late 1980s there has been a focus in New Zealand on how to measure and assess the performance of chief executives. While this has had mixed success, there is a much clearer attempt than in the UK to connect the appointments system with the system of continual appraisal and performance management. The use of fixed-term contracts, normally of five years, means this appraisal is an essential part of the system when deciding whether to renew a chief executive's contract. Appointments, employment, and dismissal are part of a clear and well understood system.

There is little demand in New Zealand for greater political involvement in appointments. On a recent trip to the UK, the New Zealand Minister for State Services, Dr Jonathan Coleman, expressed his support for their independent appointments process and his satisfaction with how chief executives were performing. The current New Zealand government has a very clear view of what they are asking their public service to deliver.[79] They have already

[79] Further information about the Better Public Services results can be found on the State Services Commission website, accessed 8 May 2013, www.ssc.govt.nz/better-public-services

structured the relationship between ministers and chief executives to ensure the levers are in place to focus the latter on delivering the former's objectives.

Australia

In Australia, by contrast, the appointments system provides for more direct political control. Appointments of departmental secretaries (permanent secretary equivalents) are made by the prime minister, and while the relevant cabinet minister must be consulted, it is up to the prime minister how closely they are involved in the selection process.[80] The PM is supported in this role by the Secretary of the Department for Prime Minister and Cabinet (PM&C), a similar role to that of Cabinet Secretary in the UK. The Secretary to PM&C and the Australian Public Service Commissioner (a more independent figure) prepare a report for the prime minister before any decision to hire or fire a department head is taken, though these reports are only advisory. Unlike in New Zealand and – usually – the UK, formal competitions are not the norm in Australia.

The system therefore allows considerable political discretion when appointing or dismissing departmental secretaries. Australian departmental secretaries are appointed on a fixed-term basis, but their employment can be terminated by the PM alone. Famously this was used by John Howard when he sacked six of eighteen department heads immediately after winning the 1996 election. This case is often cited as evidence of public service politicisation, but it has not been repeated since. Furthermore, Howard – like other PMs – used his appointment power to promote career public servants rather than political partisans. Most departmental heads have a record of serving successive governments loyally, and there is a strong and enduring ethos of impartial public service, similar to the values in the UK's Civil Service Code.

There is nonetheless an ongoing debate about whether the balance of power between ministers and public servants is out of kilter. Some critics argue that the doctrine of 'responsiveness' to ministerial wishes has led to an erosion of public service capacity to offer 'frank and fearless' advice.[81] Partly in response, recent reforms have made the appointments process more independent, with an enhanced role for the Australian Public Service Commissioner.

United States

The United States has an openly politicised senior civil service. Article II Section 2 of the Constitution says that the President may appoint 'by and with the advice and consent of the Senate'. This means that the President nominates candidates, and Senate confirms or rejects the nomination following a hearing in front of a committee. The scrutiny process can be personally invasive for the candidates and Senate hearings are often highly partisan.

This process applies to a huge number of appointments. There are approximately 1,150 to 1,250 presidentially nominated positions in the executive branch.[82] Senate refusal to confirm a presidential nominee is not rare. Analysis by the Congressional Research Service showed

[80] Paun and Harris, *Reforming Civil Service Accountability*, op cit, p.17
[81] See for example Kathy MacDermott, *Whatever Happened to Frank and Fearless? The Impact of the New Public Service Management on the Australian Public Service,* Canberra, 2008.
[82] Maeve P. Carey, *Presidential Appointments, the Senate's Confirmation Process, and Changes Made in the 112th Congress,* Federation of American Scientists website, p.7, 2012, accessed 8 May 2013, www.fas.org/sgp/crs/misc/R41872.pdf

that in the 111th Congress, for example, President Obama submitted 964 nominations to executive branch positions of which 843, or 87%, were eventually confirmed.[83]

The confirmation process is also time-consuming, often taking two or three months for candidates to pass through the process, meaning that many posts can be left vacant for a significant length of time. Treasury Secretary Tim Geithner was left to cope with the unfolding financial crisis in 2008 with a skeletal staff as President Obama's nominees worked their way through the confirmation process.[84]

Opponents of the UK government's proposals for a greater ministerial role in civil service appointments often point to the US example to support their case that reform would be dangerous. But in reality, there is little appetite in the UK to adopt an American approach. The Government's plans are for ministers to take the final appointment decision, but only from a shortlist of candidates assessed as appointable in a competitive process. Candidates appointed in this way would also remain bound by the Civil Service Code, and its values, including impartiality and objectivity.

Finding the right level of ministerial involvement

The discussion above has focused on how political leaders in different systems are involved in the appointment of senior civil servants, or their equivalents. All systems have to provide responsiveness to the preferences of elected political leaders, but all likewise must build in checks and balances to that responsiveness. There is no answer to the question of what is the 'right' level of political involvement: each system is designed to meet different needs and reflects different constitutional and cultural contexts.

So far as the current UK debate is concerned, we have mainly discussed the government's preferred option of allowing ministers 'constrained choice' from a shortlist. But one proposed alternative is for the relevant minister to sit on the selection panel itself. This is presented by some as a sensible middle-way position between the status quo and full ministerial appointment powers.

This approach has some attractions – including that the minister would be bound into a collective decision-making process, as part of which they would have seen all the relevant evidence and been involved in group deliberations along with the other members of the panel. As Sir Leigh Lewis, a former permanent secretary, put it to us, 'there's something about buy-in to the process' that this reform could bring.[85] But the risk of this approach – a serving permanent secretary argued – is that the presence of the minister would 'distort the panel', and that civil servants on the panel would naturally defer to the minister's view.[86] This official concluded that 'blurring the boundaries might not be the answer'. What on the one hand seems like a more moderate position might in fact therefore lead to a situation where

[83] Ibid. p.3
[84] Alistair Darling, *Back from the Brink: 1,000 Days at Number 11,* pp.297-298, London, 2011.
[85] Interview with Sir Leigh Lewis, January 2013
[86] Interview #19, March 2013

the assessment of whether candidates are above-the-line or not might itself become a matter of ministerial discretion, with significant and potentially damaging consequences.

As for the Government's preferred model – that ministers would take the final selection choice from a shortlist of above-the-line candidates – the main objections are fourfold. First, that ministers will bring in unqualified personal or political cronies; second, that those appointed will owe their jobs to the political leader and will therefore be less willing to challenge ministers and question bad policy ideas; third, that a new government (or even a new minister) will look to bring in their own person, contributing to increased turnover and instability; and fourth, that greater political involvement in appointments will deter quality candidates from applying. These are important objections that must be taken seriously, and we now deal with them in turn.

A backdoor to political patronage?

On the first objection, the crucial point is that ministerial selection power would come into play only after a merit-based assessment process run by an independent panel regulated by the Civil Service Commission as at present. It is not an American – nor even an Australian – model that is being advocated. And as we have outlined, the system being proposed would in fact be in keeping with the existing process for public appointments, including many positions of equal importance to permanent secretaries, and where the requirement for actual and perceived independence from political control is equally as strong. In addition, the cabinet secretary is itself accepted to be a position in the gift of the Prime Minister – Tony Blair reportedly interviewed four candidates before selecting Sir (now Lord) Gus O'Donnell. The current incumbent was simply appointed by the Prime Minister without any evident competition.

What is true is that the candidate identified as the best by the selection panel would not always get the job – which in the Civil Service Commission view would imply an end to merit-based appointment. However, even at present the top-ranked candidate does not always get the job – since ministers already have a veto power and can influence the process through less formal means as well. The assumption that there is always an objectively 'best' candidate is also questionable. A number of interviewees argued that consensus was usually reached on the panel about the top choice candidate: former First Civil Service Commissioner Janet Paraskeva, for instance, thought that 'it was fairly rare that more than one person came out as the star'.[87] But others spoke of cases where it was genuinely difficult to decide between two candidates, or where there were two candidates of similar overall quality but with different packages of skills and expertise. For instance, the choice between David Kennedy and Stephen Lovegrove at DECC, we were told, was a choice between 'apples and pears', in which either could have led the department effectively but with contrasting styles.[88]

On the second objection, that ministerial appointees might be less willing to offer advice that challenges their ministers' preconceptions, the key question is what ministers themselves value in their advisers. There are no doubt politicians who prefer to be surrounded by yes-men and women, but these ministers already exist and can find ways either to sideline

[87] Interview with Dame Janet Paraskeva, January 2013
[88] Interview #11, January 2013

distrusted officials within the department, or to force their departure. But most ministers appear to value the objective and rigorous challenge that well-informed and experienced officials can offer, and will make appointments accordingly. One former Labour secretary of state stated to us that when he was judging appointments: 'My key test is: will a civil servant be afraid of telling the truth to the minister?'[89] It may also be the case, an ex-senior official suggested, that a civil servant appointed by the minister will in fact feel more secure in post, and more confident about providing challenge to that minister.

A risk of increased turnover?

Third, would a stronger ministerial role in appointments be likely to increase turnover? Again, it is important to recognise that a secretary of state can already force the departure of a civil servant in whom they do not have confidence. The high turnover of permanent secretaries since 2010 (highlighted previously by the Institute for Government[90]) in part reflects this fact. One interviewee reported 'an awareness in Whitehall that a number of permanent secretaries have been moved on, because ministers didn't take to them for whatever reason'.[91] (Other changes, however, have followed the expected departures of people who had served a number of years in post, but delayed moving on in order to oversee the post-election transition.)

Lord Turnbull considered the influence of ministers over removing permanent secretaries to have been extensive during his time as Cabinet Secretary under Tony Blair.

> You start with where the action really is: it isn't actually about appointing people, it's about 'disappointing' people. If a minister is deeply dissatisfied with the permanent secretary they will come to the cabinet secretary and the prime minister and say, 'This is an unsatisfactory relationship and please will you find someone else for me'. We try to accommodate this, though it can be difficult to do so.[92]

But many incoming secretaries of state – who in the British system must be ready to hit the ground sprinting – value the stability provided by a permanent secretary who knows the department well, so would be loath to make an unnecessary change unless the personal chemistry was poor. This is the pattern in Australia. Ministers principally want permanent secretaries who can manage the department effectively, avoid embarrassing operational failings, and make efficient progress with implementing their policy priorities.

The former cabinet minister Jack Straw expressed support for Maude's proposals to us, arguing that ministerial choice would give permanent secretaries greater staying power during changes of minister, not less. This included between changes of government, emphasising that politicians of any party look for a similar type of permanent secretary, and don't question their partisan alignment if they are effective at the job:

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[89] Interview #13, January 2013
[90] Katie Dash, *Permanent Secretaries?* 20 November 2012, accessed 7 May 2013, www.instituteforgovernment.org.uk/blog/5204/permanent-secretaries/
[91] Interview #16, February 2013
[92] Interview with Lord Andrew Turnbull, January 2013

> You are more likely to get incoming governments to accept the legitimacy of appointments of permanent secretaries if they've been made by their predecessors as secretary of state, because you're part of the same tribe.[93]

Another former secretary of state, Lord Falconer, described the sense of responsibility which some ministers feel towards their successors:

> You have to be responsible for future generations of ministers who are going to have this permanent secretary… You have got to get to a situation where you're not replacing the permanent secretary every time the secretary of state changes.[94]

As the careers of the current and previous cabinet secretaries demonstrate, the best civil servants can work closely and effectively with different political masters. Having been one of the closest civil service advisers to Tony Blair and Gordon Brown, Sir Jeremy Heywood retained his position in Downing Street under David Cameron, who then personally selected him to become Cabinet Secretary. Close personal association of civil servants and ministers does not necessarily lead to higher turnover.

A deterrent effect?

Finally, is there a risk of political involvement in senior appointments deterring good quality candidates from both inside and outside Whitehall from putting themselves forward? Some serving officials expressed concern that ministerial involvement was already having a deterrent effect. One director general described the current political context as deeply off-putting to potential permanent secretaries, and the lack of transparency around the role of ministers as a major factor in this. He said, 'Whatever the rights or wrongs of it, there is now a perception that unless you are, to use Hugo Young's phrase, "one of us", you're not necessarily going to be considered.'[95]

Similarly, we heard concerns that external candidates may be put off by the potential for their appointment being blocked or their position being terminated on a ministerial whim. Significant lengths are taken during the process to ensure the confidentiality of candidates applying for top positions,[96] but the DECC case illustrated the potential for public embarrassment.

Former First Civil Service Commissioner Dame Janet Paraskeva argued that being a permanent secretary was 'a much less attractive job than it used to be because of the public nature of the role, and because politicians now publicly criticise their staff'.[97] A headhunter we spoke to similarly suggested that public denigration of the Civil Service by ministers was making it more difficult to make jobs attractive to private sector applicants, even if many of the same ministers otherwise speak warmly about wanting private sector candidates.[98]

These challenges are no doubt real, but the fact is that they exist already, as ministers have the power to block appointments or require early departure. The problem is that relationships

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[93] Interview with Rt Hon Jack Straw MP, January 2013
[94] Interview with Rt Hon Lord Charles Falconer QC, January 2013
[95] Interview #20, January 2013
[96] Civil Service Commission, *Chairing Competitions: A Guide to the Approach of the Civil Service Commission,* March 2012, paragraph 2.2.14, p.9
[97] Interview with Dame Janet Paraskeva, January 2013
[98] Interview #21, March 2013

between ministers and their permanent secretaries have broken down in a number of recent cases, but there is no reason to imagine that formalising the ministerial selection power would exacerbate these tendencies.

Indeed, it may be that more transparency about the role of ministers would be helpful. Clearer signals would be sent to those looking to apply to senior posts about the process they would need to pass through. And furthermore, if a minister has been more directly and openly involved in appointing a permanent secretary, forcing the latter's departure a year or two later would carry a degree of political risk, as it would imply that they had erred in the first place.

Greater transparency and clearer accountability

To send clear signals to those already within the service, and to be easily comprehensible by those outside, the civil service appointments system needs to be transparent. Guidance published by the Commission in December 2012 has now made the process clearer, and their efforts to make their role and the process of senior appointments more widely understood is welcome. For example, they ran a heavily oversubscribed workshop at Civil Service Live in 2011 on how to apply for senior positions. Workshops like this and the other steps the Commission has taken, such as holding virtual open days, are welcome and should be continued.[99]

As noted above, however, there remains significant ambiguity about how much influence ministers can exercise over appointment processes in practice. Furthermore, giving ministers the right to select permanent secretaries (and perhaps other senior officials) from a shortlist of appointable candidates would to a large extent formalise the influence that secretaries of state can already exercise, when they choose to do so. There are many cases where permanent secretaries are seen as having been appointed at the request of the relevant minister, but this cannot be openly admitted. It appears to be an open secret in Whitehall that in some cases competitions are run, but are seen as a sham designed to give legitimacy to a decision already taken. And of course, managed moves offer another non-transparent way to make (sideways) appointments at the request of ministers.

As one former permanent secretary put it:

> In practice, it is the case that there are ways and means in which the system ensures, or in which secretaries of state and PMs ensure, that at the very least they don't get the candidates they don't want, and to some extent they get the candidates they do want.[100]

He also made clear that it is sometimes the civil service leadership rather than ministers who use the system to secure a predetermined appointment. 'There is no doubt that at times, the most senior echelons of the Civil Service have decided in advance, in effect, who they want to be the person selected and essentially the process serves to validate that choice.'[101]

By formalising and making transparent the power of ministers to make the final selection decision for permanent secretary appointments, there would also be a clearer accountability

[99] Virtual open week was held in March 2012 with Commissioners answering questions submitted online, accessed 18 May 2013, http://civilservicecommission.independent.gov.uk/csc-open-week-18-22-march-2013/
[100] Interview #14, January 2013
[101] Interview #14, January 2013

for appointments. Lord Falconer, who served in Tony Blair's Cabinet, argued to us that permanent secretaries are chosen for their ability to help ministers do the things which ministers are most occupied with: dealing with internal disputes; formulating policy; dealing with parliament; cutting deals across Whitehall and so on. They were not chosen for their ability to manage complex government organisations. Ministerial choice would, Lord Falconer argued, place responsibility for those choices on ministerial shoulders:

> We are getting people who do what we want them to do. We're most concerned about being successful politicians. We're not being given a wide enough choice [of candidates], and it's our fault more than anybody else's.[102]

If ministers were openly responsible for appointing their permanent secretaries, then no longer could they blame implementation failings on the fact that the official in charge was not their preferred candidate, for instance. Ministers granted the explicit power to make appointments would have to account for how they use this power, to parliamentary committees and in public debate.

In order to avoid suggestions of cronyism or partisanship, the CSC should explicitly assure itself during the assessment process that any candidate graded as appointable, and put to the minister, would be able to work successfully with a number of ministers (not just the current incumbent) and with a different administration.

What role for the Prime Minister?

One final important issue relating to ministerial involvement in appointments concerns the respective roles of prime minister and secretary of state. It is the prime minister who has statutory power over civil service appointments (with the exception of the diplomatic service), but it is now generally accepted that secretaries of state have an effective veto of their own over appointments within their department – at permanent secretary level at least.

The Government appears to wish to give the final selection decision to departmental secretaries of state – but an alternative is for the power to rest with the PM. In Australia, the direct appointment power of the prime minister can act as a subtle but powerful dynamic affecting the behaviour of secretaries who know their future career prospects lie with the prime minister, not their cabinet minister.[103] In the UK, where secretaries of state work from within their department and must build a close and trusting relationship with their permanent secretary, it seems sensible for them to play the central role in making appointments. But no permanent secretary can credibly carry out their job if they lack the confidence of the PM either, so the PM's statutory veto should remain intact. Creating a formal double lock where both PM and relevant cabinet minister must sign off a permanent secretary appointment (or a triple lock, counting also the Civil Service Commission) is the logical solution and would be more transparent than the current position.

[102] Interview with Rt Hon Lord Charles Falconer QC, January 2013
[103] Paun and Harris, *Reforming Civil Service Accountability*, op cit, p.17

A more effective appointments system

All that being said, we do not believe that the role of ministers in the appointments system is the only (nor necessarily the most) important factor in ensuring that the system operates effectively. Below we discuss a number of other important aspects of the system.

Clear specification of the needs of the role

One important factor in getting appointments right is to ensure that the process is focused more closely on requirements of the specific role in question. There is a residual notion in Whitehall – perpetuated by the Civil Service's willingness to shuffle permanent secretaries between departments via managed moves – that there is a permanent secretary sort of person and the demands of the particular department they lead, or the minister they serve, are secondary. Ian Davis, Non-Executive Member of the Cabinet Office Board and chairman of Rolls-Royce, feels permanent secretaries are appointed from 'a taxi rank of highly promising DGs [directors general]' waiting for promotion.[104] This view was echoed to us by a former secretary of state who felt that the top jobs were taken by those who had risen to the 'top of the pile' rather than deliberately recruiting for specific posts.[105]

There is still not a clear sense in Whitehall that candidates are recruited for their ability to carry out a specific job, nor that appointments are linked to specific performance objectives that the appointee is expected to achieve. Indeed, as a hangover from Northcote-Trevelyan, the appointments process and the Civil Service Commission is principally concerned with appointment into the Civil Service as a whole rather than to a specific job. This is occasionally cited as a major difference between civil servants and non-departmental public body (NDPB) chief executive jobs, since the latter are employed on fixed-term contracts to very specific roles, where sectoral or other more specific expertise is often required.

Good specification of the requirements of a role also send clear signals about what potential permanent secretaries need to do for promotion. For example, the current shift to emphasising experience of operational delivery may mean more policy-orientated officials seek operational roles for part of their career. Role specification should therefore be closely connected to the talent management and development of senior civil servants.

The right of ministers to sign off the final job specification is made plain in the guidance on recruitment competitions issued by the Civil Service Commission in December 2012.[106] This is important, since ensuring that there is strong ministerial (and if necessary prime ministerial) buy-in to a job specification at the outset can reduce the risks down the line of disagreement and of a veto being used as occurred at DECC.

One concern is that consultation about the requirements of a particular job takes place only 'after' a vacancy has arisen. Far preferable would be regular succession planning which

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[104] Institute for Government seminar, *How Should Permanent Secretaries be Appointed?* 28 January 2013, www.instituteforgovernment.org.uk/events/how-should-permanent-secretaries-be-appointed
[105] Interview #3, January 2013
[106] Civil Service Commission, *Recruiting Permanent Secretaries: Ministerial Involvement. An Explanatory Note,* December 2012, p.3.

includes the secretary of state since by the time a succession plan is needed it may be too late to start building one,[107] particularly in cases of unexpected departures.

A written succession plan, with regular in-depth reviews, summarises the requirements for a post should a competition be held today. This should then be compared against the current senior talent pipeline and, if no-one matching the requirements is available, greater internal talent management or recruitment from outside to develop potential successors can take place. Specific names should be in the frame for the role even before the vacancy arises. This is not because they are the next up in the 'taxi rank', but because they have been identified and invested in as potential successors for a specific role.

This challenge is recognised at the top of Whitehall. Responding to a criticism from the chair of PASC that certain recent permanent secretary appointments were mistakes (as illustrated by their very short tenures) the Cabinet Secretary argued:

> What we are doing about it is giving a lot more attention now to succession planning, discussing with each permanent secretary who the people are in their departments, in other departments or outside the Civil Service who could potentially be their successor in two to three years' time, what development they need, and whether there are other jobs that they should be moved to in the meantime to give them the experience. We are, then, focusing on what we can do about this for the future, having recognised that it has been a problem in the past.[108]

The value of effective succession planning is not just to smooth the transition from one leader to the next, mitigating the risks of leaving a department in the lurch when an unexpected departure takes place. The value comes also from focusing discussion regularly on the needs of the department and responsibilities of the permanent secretary to meet them. A similar process takes place in New Zealand through the annual performance assessment of chief executives, which includes a 'Letter of Expectations' from the minister outlining the chief executive's objectives that year. A similar letter has on occasion been sent from secretaries of state, or even the Prime Minister, to permanent secretaries in the UK. But this has rarely been followed up, integrated with performance assessment and accountability, or consistently maintained annually.

Engaging ministers in an ongoing, regular review of the performance of their department in a systematic way would be a valuable contribution to an appointments system more focused on the needs of the role. This is an area where non-executive directors on departmental boards, especially those with extensive senior executive experience in the private sector, ought to be able to make a positive contribution.

A case for fixed-term appointments?

One reform mooted occasionally in the UK is to introduce fixed-term contracts for permanent secretaries, like those that exist in Australia and New Zealand. The idea would be to have a fixed term over which a permanent secretary must deliver their objectives, and the renewal

[107] Clarke Murphy, 'A Practical Guide to CEO Succession Planning', *A Russell Reynolds Associates Series*, Issue 4, 2008, p.1.
[108] See exchange between Bernard Jenkin MP and Sir Jeremy Heywood, *Future of the Civil Service,* uncorrected transcript of oral evidence 18 April 2013, to be published as HC 664-x, Q927, accessed 13 May 2013, www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/uc664-x/uc66401.htm

of their contract would depend on assessment of their performance. The current government has been reported to favour the idea of fixed four-year terms.[109] Due to UK and European employment law as well as the anomalous legal position of civil servants as 'servants of the Crown', introducing fixed term contracts is not straightforward.[110] However, permanent secretaries are often already given a clear indication of how long they should expect to serve in post. Under Gus O'Donnell this was four years; under Richard Wilson it was seven.[111] Andrew Turnbull – cabinet secretary between Wilson and O'Donnell – thought four years served well as a 'review point, not a rule'.[112]

Greater clarity about the expectations of tenure would be welcome, even if a rigid contractual relationship is avoided, and four years seems a sensible length of term. This might help establish a public norm of how long permanent secretaries will be in post, and a natural point at which to review their success in the post and whether the department needs new leadership. As in New Zealand and Australia, it might also make sense to allow permanent secretaries to be appointed for a successive term should their performance warrant it, a decision which should be taken following assessment by the Cabinet Secretary and/or Head of the Civil Service, with input from ministers, non-executive directors of the departmental board and other relevant people.

Aside from permanent secretaries, fixed-term performance-based contracts may be particularly appropriate where civil servants are responsible for delivering key projects. Where a civil servant is appointed to lead a project, the term of their appointment, and perhaps also their pay, should perhaps be attached to the delivery of that project or a specific phase of a long-term project where that is not possible, accompanied by a well-planned handover to their successor. The turnover of Senior Responsible Owners (SROs) for key projects in Whitehall is currently excessively high. This was recently highlighted by the Laidlaw Report about the failure of the West Coast Mainline franchise, which cited the turnover of SROs and senior leaders as contributory factors.[113] Focusing appointments on deliverable objectives, robust expectations of tenure, and perhaps structuring rewards around those, would help where the role is delivery focused.

The Civil Service Reform Plan has promised to slow down the turnover of SROs.[114] The head of the Civil Service subsequently described the recent introduction, as part of the annual pay settlement, of a 'pivotal-role allowance, which will apply to a small number of

[109] Jane Merrick, 'Radical plans to make top mandarins 'chief executives'', *The Independent*, 12 May 2013, accessed 14 May 2013, www.independent.co.uk/news/uk/politics/radical-plans-to-make-top-mandarins-chief-executives-8612465.html
[110] For more on the legal status of Crown servants, see J Gaymer, *The Employment Relationship,* London, 2001, pp.107-112.
[111] Interview with Sir David Normington, October 2012; Lord Wilson giving evidence to Public Administration Select Committee, *Future of the Civil Service, Oral Evidence,* Parliament UK website, HC 664-iii Q151, 29 January, accessed 8 May 2013, www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/c664-iii/c66401.htm
[112] Correspondence with Lord Turnbull, May 2013
[113] Department for Transport, *The Laidlaw Inquiry: Initial Findings Report*, paragraph 6.4, 2012, accessed 7 May 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9171/laidlaw-report.pdf
[114] *The Civil Service Reform Plan* p.18

people where we see their continued occupation of that role as critical to the delivery of a government area, and we will have the opportunity to increase salaries for those people'.[115]

Part of a consistent civil service-wide management system

While greater attention should be paid to the individual needs of particular jobs, it is also important that there is effective management of civil service appointments across Whitehall, and a transparent and consistent approach that sends clear signals to those looking to apply.

The problem appears to be that there is no clear corporate leadership on civil service-wide HR issues. The Treasury now has very little role in resourcing issues beyond pay, and Downing Street's role seems to ebb and flows with the personality of the prime minister. There has not been a Civil Service Department since it was abolished in 1981.

The Cabinet Office has the most obvious central role, as it supports the Cabinet Secretary and Head of the Civil Service with their line management responsibilities for permanent secretaries. The team which runs permanent secretary recruitment is in the Cabinet Office, and they provide the support secretariat for the independent Civil Service Commission. Yet there is no longer, if it ever existed, established clear corporate responsibility for the system, as there is in New Zealand where the State Services Commissioner has legal responsibility for recruiting, employing, and managing departmental heads.

There can also be tensions between corporate objectives – such as gender diversity – and departmental interests. Recalling the appointment of her permanent secretary in 2011, former Environment Secretary Caroline Spelman described how the civil service leadership had an interest in achieving greater gender balance across the permanent secretary cadre, while Spelman's own concern was solely to get the best candidate for the role. In the event a woman was appointed, in whom Spelman was wholly satisfied.[116]

However, the case serves as a reminder that a stronger role for departmental secretaries of state over permanent secretary appointments could make it harder to achieve a more diverse cadre of civil service leaders. As the Institute for Government has previously reported, gender diversity has declined since a high point in 2011 when 50% of permanent secretaries in Whitehall were female. There are also no longer any permanent secretaries with an ethnic minority background.[117] However the system is reformed, there is therefore a need for continuous monitoring and public reporting of diversity indicators relating to applications and appointments to senior posts in Whitehall, perhaps by the Civil Service Commission. Overall responsibility for increasing the diversity of permanent secretaries should remain with the civil service leadership as part of their responsibility for developing the 'talent pipeline' of high potential future candidates.

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[115] *Future of the Civil Service,* Uncorrected transcript of oral evidence, to be published as HC 664-x Q907, 18 April 2013, accessed 14 May 2013, www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/uc664-x/uc66401.htm

[116] Interview with Rt Hon Caroline Spelman MP (January 2013)

[117] Jill Rutter, 'Undoing GOD's work? Will gains women made at the top of Whitehall prove short-lived? – update', Institute for Government Blog, 14 August 2012, www.instituteforgovernment.org.uk/blog/4780/undoing-god%E2%80%99s-work-will-gains-women-made-at-the-top-of-whitehall-prove-short-lived-update/

A stronger performance management system

There is a desire on the part of the government to sharpen the performance management of permanent secretaries, and as part of this agenda the personal performance objectives for all permanent secretaries were published for the first time in December 2012.[118]

We have not conducted detailed research into the performance management system, but in the course of our interviews we encountered significant scepticism about the effectiveness of this system. One permanent secretary noted that their list of objectives was too long be meaningful as a prioritising mechanism, so each permanent secretary had to decide their own priorities themselves.[119] It was also pointed out that the objectives published in December 2012 were for the 2012-13 financial year, meaning they had been agreed more than half way through the year. Another permanent secretary agreed that the process of agreeing the objectives had been badly handled last year.[120] We were also told that there is no clear link yet between performance against published objectives and decisions about performance pay. This system clearly needs to be improved for future iterations, though the publication of any objectives at all marks a step in the right direction.

In future, it might be sensible to include in the objectives of all permanent secretaries an explicit requirement to maintain the confidence of and strong relationships with the ministerial team (as is already the case at DWP[121]) since this is ultimately the most important determinant of retaining one's job. Where these relationships break down, it should be the responsibility of the Cabinet Secretary and/or Head of the Civil Service to resolve the issue (a role carried out by the State Services Commissioner in New Zealand). Where resolving the problem proves impossible, then the permanent secretary would normally expect to leave their post – as is the case in practice at present. But a secretary of state should not be able simply to dismiss their permanent secretary at will.

Overall, the message we heard was that performance management within departments, for which permanent secretaries are responsible, is far stronger than management of permanent secretaries by the centre. For example, one permanent secretary told us that until his promotion he assumed permanent secretaries received the same level of feedback on performance that he had received in his previous role. He was surprised that the only written communication he received after his assessment was a short letter confirming his pay for the year.[122] This may reflect the decentralised, federal nature of Whitehall, and the relative weakness of the corporate centre – a theme to which the Institute for Government intends to return in future research.

Within departments, there is also an important role for departmental non-executive directors (NEDs) in the performance management process for permanent secretaries, as part of the

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[118] Cabinet Office, *Permanent Secretaries Objectives Published for the First Time*, 20 December 2012, accessed 7 May 2013, https://www.gov.uk/government/publications/permanent-secretaries-objectives-published-for-the-first-time

[119] Interview #18, February 2013

[120] Interview #19, March 2013

[121] Cabinet Office, *Robert Devereux objectives 2012-13,* 20 December 2012, p.4, accessed 24 May 2013. The specific objective is 'Professional relationships with the Ministerial team, establishing effective relationships with new Ministers from September 2012.'

[122] Interview #20, March 2013

Government's intention that NEDs 'provide challenge and support to their Departments on performance, operational issues…and management'.[123]

Attractive to external candidates

The present and previous governments have both expressed a desire for more extensive recruitment from outside Whitehall into senior civil service roles. We have discussed the risk that qualified candidates from outside Whitehall might be deterred from applying to senior civil service positions due to the challenges of operating in a political environment. But of course, another factor in determining the attractiveness of civil service jobs to private sector managers is about the reward package on offer.

It is beyond the scope of this paper to consider the impact of incentives, pay, and conditions for civil servants. But there is no doubt that there is a significant difference in pay between the Civil Service and private sector at senior levels, which has an impact on the ability of the Civil Service to attract external candidates.

The Review Body on Senior Salaries has compared the salary differences between the SCS and comparable jobs in the public and private sector.[124] The lowest tier of the SCS (deputy directors or equivalents), earn 93% the total remuneration of wider public sector colleagues, and 67% of equivalent private sector pay and benefits. This differential widens as civil servants become more senior. For a Payband 3 role, such as a director general, average total remuneration is just 25% of what someone doing a comparable job in the private sector earns.

Permanent secretaries are also poorly remunerated by comparison with senior leadership roles elsewhere. The uppermost salary for a permanent secretary is £277,000, compared to an average chief executive salary in the FTSE 100 of around £850,000 not including other benefits amounting to, on average, total remuneration of approximately £4.8 million.[125] British permanent secretaries are paid less than some international equivalents as well. For example, New Zealand, which has been able to recruit department heads from private companies as well as other countries, consistently pays more than the UK for senior leaders. The secretary to the Treasury there earns £302,800, compared to Sir Nicholas Macpherson's relatively modest £172,500 at HM Treasury in the UK.[126] In Australia, the salary of the secretary of the department of prime minister and cabinet is rising over three years from AUD 625,000 to AUD 825,000, well over £500,000 at current exchange rates, and more than double the salary of his UK counterpart, the Cabinet Secretary.[127]

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[123] HM Government, *The Civil Service Reform Plan,* UK Civil Service website, June 2012, p.19, accessed 28 May 2013, www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf

[124] Review Body on Senior Salaries, *Thirty-Fifth Annual Report on Senior Salaries 2013,* p.11, March 2013, accessed 7 May 2013, www.official-documents.gov.uk/document/cm85/8569/8569.pdf, accessed 7th May 2013

[125] High Pay Centre, *The State of Pay,* 2012, figures from Manifest – the proxy voting agency, *Total Remuneration Survey 2012*, p.11

[126] Both salaries taken the mid-point of the published upper and lower salary scales for the position. Sir Nick Macpherson is paid £170,000-£175,000 at September 2012 (www.hm-treasury.gov.uk/d/hmt_seniorstaffdata_sept12.csv, accessed 12th March 2013). Gabriel Makhlouf is paid $540,000-$549,000 at June 2012 (www.ssc.govt.nz/sites/all/files/rem-senior-statesector-staff-30june12.pdf, accessed 12th March 2013). Gabriel Makhlouf's salary was converted from NZD to GBP on 12 March 2013 using the exchange rate £1=$1.8.

[127] Jill Rutter, 'Lessons from a land down under…', Institute for Government website, 13 June 2012, accessed 18 May 2013, www.instituteforgovernment.org.uk/blog/4527/lessons-from-a-land-down-under%E2%80%A6/

By contrast, the Institute for Government's research into the success of the 2012 Olympic and Paralympic Games found that offering competitive salaries allowed the government to 'pick from a global cachet' of candidates for key roles, which was an important factor in the project's success.[128] But the present fiscal context makes it difficult for the Civil Service to compete with the private sector in most cases.

Of course, irrespective of how attractive the role is it needs to be adequately advertised to ensure a wide field of candidates is reached. Caroline Spelman recalled one competition for a public appointment which had drawn a poor field of candidates, only to discover it had just been advertised on the civil service jobs website rather than in, for example, the (more costly) Economist or Sunday Times appointments pages.[129] Guidance is now clear that ministers should agree the advertising strategy for permanent secretary roles.[130] It is important that ministers press for these positions to be advertised widely and perhaps even to look abroad where specific skills are needed.

There is also a need to ensure the appointments process is comprehensible and accessible to those without Whitehall experience if the Civil Service is serious about recruiting external candidates. Former public appointments commissioner Dame Janet Gaymer, put it to us that 'strictly speaking the system [for civil service appointments] is for people who are already inside the system … it is in a sense a more internally-focused system than the system of public appointments which is always dealing with people who are applying as members of the public'.[131] It is a system for internal promotion, which has only relatively recently been opened to external candidates. For example, most appointments still use panel interviews despite provision in the Civil Service Commission's rules to split the process up. In the view of one interviewee this implicitly favoured civil service candidates who were used to this interview format. Panel interviews are virtually unknown for senior roles in major private companies, which almost always use one-on-one interviews alongside other testing such as profiling by an occupational psychologist, a model that was favoured by Lord O'Donnell, we were told.[132]

An efficient system not subject to long delays or excessive costs

Recruitment can be a long process. The recent appointment of Mark Sedwill to the Home Office took approximately six months between the vacancy opening and the post being filled. The length of time it can take to fill open vacancies can seriously impair a department's capability during the intervening period, even when an effective interim head is in place. Caroline Spelman was left without a permanent secretary, a director of communications, or a head of news, during the crisis about forestries affecting her department in 2011.[133] While she valued her acting permanent secretary, these key posts being left unfilled was not the sign of an effective appointments system. In normal circumstances, the Civil Service

[128] Emma Norris, Jill Rutter and Jonny Medland, *Making the Games: What Government Can Learn from London 2012,* pp.39-40, 2013, accessed 8 May 2013, www.instituteforgovernment.org.uk/publications/making-games
[129] Institute for Government seminar, *How should permanent secretaries be appointed?* 28 January 2013, www.instituteforgovernment.org.uk/events/how-should-permanent-secretaries-be-appointed
[130] Civil Service Commission, *Recruiting Permanent Secretaries: Ministerial Involvement. An Explanatory Note,* December 2012, p.2.
[131] Interview with Dame Janet Gaymer QC, January 2013
[132] Interview #21, March 2013
[133] Institute for Government seminar, *How should Permanent Secretaries be Appointed?* 28 January 2013, at www.instituteforgovernment.org.uk/events/how-should-permanent-secretaries-be-appointed

Commission consider that a competition should be run in 'about six weeks'.[134] Longer competitions than this should be exceptional.

In some cases a long delay is understandable. Where a permanent secretary leaves suddenly and unexpectedly, as the permanent secretary of the Home Office did in 2012, it is perhaps unsurprising if the department, the Cabinet Office, and the Civil Service Commission are slow off the starting blocks. Appointments do take time to run, especially when they are open to external candidates and the minister is fully consulted and involved. But this does not mean that there should be long interregnums, especially where a permanent secretary's departure could be anticipated. For example, Helen Ghosh left Defra after five years to lead the Home Office, a natural length of time at which to seek a career move from her perspective and undoubtedly one she would have discussed with the Cabinet Secretary in advance. Ghosh's departure was announced on 6 December 2010 and she left at the end of that month; Bronwyn Hill's arrival was announced on 3 March 2011 and she took up the post on 28 March 2011. Even if the Civil Service does not adopt the kind of succession planning used in the private sector (discussed above), where senior leaders can overlap for a handover period lasting up to a year, the time between a permanent secretary leaving and their replacement starting should be minimised.

Fast but effective appointments processes are certainly possible where succession planning, perhaps assisted by fixed terms, is used. The State Services Commission in New Zealand has a target of making 70% of department head appointments within one month of the incumbent's departure. This timescale was met in four of seven appointments in the last year on which figures were reported. The other three were sudden departures which, as in the UK, can lengthen the process.[135]

This is one area where a managed move has a clear advantage, as the lack of procedures and process allows moves to be made swiftly. For example, there was no interregnum between the retirement of Leigh Lewis from DWP and his successor, Robert Devereux, joining from the Department for Transport (DfT) via a managed move, although this then left behind a gap to fill at DfT which took over four months to fill. With adequate planning, a swift handover should not depend on using a managed move, and managed moves should be used carefully so that they don't solve one problem by causing another.

Just as appointments can take time, costs can also mount. Ernst & Young estimated the average cost of an external appointment to the Civil Service as £40,000.[136] There should of course be careful scrutiny of recruitment costs, but squeezing budgets at the expense of ensuring that a large and diverse enough candidate pool is reached would not reflect a sensible trade-off. The Cabinet Office and Civil Service Commission should publish the cost of each recruitment round, but be prepared to justify this expenditure on the basis of the outcomes the process delivers.

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[134] Public Administration Select Committee, *Future of the Civil Service, Oral Evidence,* HC 664 Q482, 13 February 2013, accessed 8 May 2013 www.publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/c664-v/c66401.htm

[135] State Services Commission, *Annual Report: For the year ended 30 June 2012* p.38, accessed 8 May 2013, New Zealand State Services Commission website, www.ssc.govt.nz/sites/all/files/ssc-ar-year-ended-30june2012.pdf

[136] House of Commons Public Administration Select Committee, *Outsiders and Insiders: External Appointments to the Senior Civil Service, Seventh Report of Session 2009-10,* HC 241 para.81.