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## INFORMATION NOTE

### Some Civil Service Management Issues in the United Kingdom

#### 1. Institutional Arrangement of the Civil Service in the United Kingdom

1.1 In the United Kingdom (UK), the Prime Minister, as Minister for the Civil Service, is responsible for the central co-ordination and management of the civil service<sup>1</sup>. The Prime Minister is supported by Head of the Home Civil Service. Since 1981, the function of Head of the Home Civil Service has combined with that of Secretary of the Cabinet<sup>2</sup>. These two positions are not ministerial posts and are filled by senior civil servants.

1.2 Although the functions of the two positions are combined, they are still two different posts and have different appointment procedures. The Queen approves the appointment of the position of Head of the Home Civil Service, while the Prime Minister approves the appointment of the position of Secretary of the Cabinet. The Cabinet Office has its own permanent secretary who is separated from the position of Secretary of the Cabinet.

1.3 The current Secretary of the Cabinet and Head of the Home Civil Service is Sir Richard Wilson. Prior to his appointment, Sir Richard was Permanent Secretary at the Home Office.

1.4 Permanent Secretaries are heads of government departments who are responsible to Ministers for the day-to-day running of their departments. They are also designated as departmental accounting officers.<sup>3</sup> Permanent Secretaries are appointed by the Prime Minister on the recommendation made by Head of the Home Civil Service (who in turn is advised by the Senior Appointments Selection Committee<sup>4</sup>).

1.5 The Senior Civil Service consists of the 3 500 most senior managers and policy advisers in the civil service. Responsibility for the management of the Senior Civil Service is principally a matter for departments and agencies. However, some terms and conditions are set centrally. All appointments to the Senior Civil Service have to be approved by the Civil Service Commissioners. (See part 3 below.)

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<sup>1</sup> The civil service in the UK comprises the Home Civil Service and the Diplomatic Service.

<sup>2</sup> The Secretary of Cabinet is the head of the Cabinet Secretariat.

<sup>3</sup> The essence of the role of an accounting officer is a personal responsibility for (a) the propriety and regularity of public finances for which he or she is responsible; (b) keeping proper accounts; (c) the avoidance of waste and extravagance; and (d) the efficient and effective use of resources.

<sup>4</sup> The Senior Appointments Selection Committee is made up of a small number of permanent secretaries and the First Civil Service Commissioner. Its meetings are chaired by Head of the Home Civil Service.

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1.6 Except for the Senior Civil Service, departments and agencies in the UK have the authority (delegated by the Minister for the Civil Service) to determine terms and conditions relating to the pay and grading of their staff. Pay arrangements for the Senior Civil Service are managed within a central framework set out by the Cabinet Office.

1.7 Except for the Senior Civil Service, departments and agencies in the UK also have the authority (delegated by the Minister for the Civil Service) to determine performance review arrangements for their staff. Performance reviews for the Senior Civil Service are managed by individual departments within a common appraisal scheme laid down by the Cabinet Office.

## 2. Civil Service Code

2.1 In the 1980s, following a series of civil service reform initiatives, relationships between certain Ministers and some of the most senior officials were sometimes strained.<sup>5</sup> With the occurrence of certain events<sup>6</sup> in the 1980s and 1990s, there were concerns that traditional values of the civil service were being eroded. The UK Government was persuaded in 1996 to introduce a *Civil Service Code* to provide a clearer definition of principles of the civil service and the duties of civil servants and of ministers towards them.<sup>7</sup> Under the terms of the *Civil Service Code*, civil servants are required to conduct themselves with integrity, honesty, impartiality and objectivity.

2.2 While the *Civil Service Code* does not have the authority of a statute, it is stronger than simply guidance. Departments and agencies must incorporate the *Civil Service Code* in the conditions of service of their staff.<sup>8</sup>

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<sup>5</sup> See Peter Barberis, *The Civil Service in an Era of Change*, Hants: Dartmouth Publishing Ltd, 1997, Chapter 1. and William Plowden, *Ministers and Mandarins*, London: Institute for Public Policy Research, 1995. For general studies of relations between senior civil servants and Ministers, please see Anthony Barker & Graham K. Wilson, "Whithall's Disobedient Servants? Senior Officials Potential Resistance to Ministers in British Government Departments", *British Journal of Political Science*, 27 (1997) pp. 223-246 and Peter Barberis, *The Elite of the Elite: Permanent Secretaries in the British Higher Civil Service*, Aldershot: Ashgate, 1996.

<sup>6</sup> Including (a) the Tisdall affair in 1985 (a civil servant was sentenced to jail for leaking government information); (b) the Ponting affair in 1985 (a civil servant was prosecuted for releasing secret information); and (c) the arms to Iraq affair (the Scott inquiry found that Ministers had asked civil servants to help them misinform Parliament and the public).

<sup>7</sup> See Kitty Lam, *The Civil Service Code of the United Kingdom*, HK: Legislative Council Secretariat, 2002. The *Civil Service Code* is available at <http://www.cabinet-office.gov.uk/central/1999/cscode.htm>.

<sup>8</sup> The *Civil Service Management Code*, paragraph 4.1.2.

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2.3 The *Civil Service Code* does not provide any disciplinary actions for those in breach of the provisions. The discipline of civil servants is handled by individual departments and agencies. The *Civil Service Management Code*<sup>9</sup> sets out the central framework of disciplinary rules and the code of practice for the civil service. Departments and agencies are responsible for defining the circumstances in which initiation of disciplinary procedures may be appropriate, and the standards they require of their staff must reflect the *Civil Service Code*. (The *Civil Service Management Code*: paragraph 4.1.2.)

2.4 In the UK, there appears to be a general political consensus that a Civil Service Act is needed so as to provide statutory backing for maintaining essential values of the civil service (including those laid down in the *Civil Service Code*).<sup>10</sup> The UK Government has recently reiterated its commitment to such an Act, subject to the availability of legislative time.<sup>11</sup>

### 3. Civil Service Commissioners

3.1 The Civil Service Commissioners are appointed directly by the Queen under the Royal Prerogative. They are not appointed as civil servants and are independent of Ministers. They report their work annually to the Queen and publish an annual report of their work.<sup>12</sup>

3.2 At present, there are 15 Civil Service Commissioners. The existing First Commissioner is Chancellor of De Montfort University. Other Commissioners include individuals from the private sector and those who have public service experiences.

3.3 Commissioners are normally appointed for a period of three years in the first instance with the possibility of extension of up to a further two years. The First Commissioner serves three days a week, while other Commissioners work two to eight days a month. The Commissioners are supported by a small unit which is part of the Cabinet Office for resource purposes.

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<sup>9</sup> The *Civil Service Management Code* sets out regulations and instructions to departments and agencies on the terms and conditions of civil servants.

<sup>10</sup> *The Sixth Report of the Committee on Standards in Public Life*: paragraph 5.44, available at [www.public-standards.gov.uk](http://www.public-standards.gov.uk).

<sup>11</sup> See Sir Richard Wilson's Evidence to Select Committee on Public Administration of 1 November 2001 (HC 262-ii).

<sup>12</sup> Office of the Civil Service Commissioners, *Annual Report 2000-2001*, available at [www.civil-servicecommissioners.gov.uk/annualrep.htm](http://www.civil-servicecommissioners.gov.uk/annualrep.htm).

3.4 The Civil Service Commissioners are responsible for upholding the principle that the selection of appointments in the civil service must be on merit and on the basis of fair and open competition. The Commissioners publish and maintain a Recruitment Code on the interpretation and application of the principle of selection on merit, and audit departments and agencies for compliance with it.

3.5 At the end of 1995, the Civil Service Commissioners were given the responsibility to hear and determine appeals in cases of concerns about propriety and conscience raised by civil servants under the *Civil Service Code* which could not be resolved through internal procedures, and to publish such appeals made to them.<sup>13</sup>

3.6 When an appeal is received by the Civil Service Commissioners, they normally get the full record of the conclusions reached by the internal procedures of the department or agency concerned. Departments and agencies have a duty to co-operate with the Commissioners' investigations. The Commissioners may also decide to inspect official papers and files. If the Commissioners support the appeal, they will make recommendations to the department or agency concerned.

#### **4. Select Committees and Civil Servants**

4.1 Parliamentary Select Committees are given the power to summon for persons, and request for papers and records. Select Committees can issue summons if any person other than a Member of Parliament refuses to attend a meeting. Witnesses who refuse to answer questions or produce documents, give false evidence or persistently or deliberately mislead a committee, will be considered guilty of contempt.

4.2 The Cabinet Office has published a document entitled *Departmental Evidence and Response to Select Committees (DERSC)*<sup>14</sup>, which provides guidance to civil servants giving evidence before Select Committees. However, the guidance is only a government document and has no parliamentary standing.

4.3 DERSC states that civil servants may be called upon to give a full account of government policies or their own recollection of particular events, but 'their purpose in doing so is to contribute to the central process of ministerial responsibility, not to offer personal views or judgements on matters of political controversy, or become involved in what would mount to disciplinary investigations'. (DERSC, paragraph 38.)

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<sup>13</sup> For information on how a civil servant can appeal to the Civil Service Commissioners, see <http://www.cabinet-office.gov.uk/ocsc/appeal/appeal.htm>.

<sup>14</sup> <http://www.cabinet-office.gov.uk/central/1999/selcom/index.htm>.

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4.4 Under DERSC, civil servants should as far as possible confine their evidence to questions of fact and explanation relating to government policies and actions, and explain the justification and objectives of those policies as the government sees them. Any comments by civil servants on government policies and actions should always be consistent with the principle of civil service political impartiality. (DERSC, paragraph 48.)

4.5 Civil servants should only hold information back on grounds that are necessary in the public interest as set out in law<sup>15</sup> and the *Code of Practice on Access to Government Information*<sup>16</sup>. Views of Ministers should be sought if there is a question of withholding information. When committees need such information to discharge their duties, they should take evidence in a closed session on an understanding of confidentiality.

4.6 Paragraph 44 of DERSC states that ‘it is extremely rare, but not unprecedented, for [Select] Committees to request evidence from officials [civil servants] who have retired. A [Select] Committee could, again, issue an order for attendance if it chose. However, retired officials [civil servants] cannot be said to represent the Minister and hence cannot contribute directly to his accountability to the House.’

## 5. The Public Interest Disclosure Acts

5.1 The *Public Interest Disclosure Acts 1998* provides a framework for whistleblowing in the private and public sectors. The Act applies to those in service of the Crown but not to police officers or those involved in national security and intelligence work.

5.2 For those who have fallen under the umbrella of the 1998 Act, they are protected against any victimisation by their employer when they have made a qualifying disclosure. However, a disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.<sup>17</sup> An example is a disclosure which is in breach of the *Official Secrets Act*. It will not be treated as being a qualifying disclosure.

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<sup>15</sup> such as the *Freedom of Information Act 2000*.

<sup>16</sup> *The Code of Practice on Access to Government Information* came into force in 1994. Certain categories of information, such as information in relation to defence and security issues, internal opinion and advice, and law enforcement and legal proceedings, are listed as exemptions.

<sup>17</sup> For detailed information on the *Public Interest Disclosure Acts 1998*, please refer to David B. Lewis, *Whistleblowing at Work*, London: The Athlone Press, 2001 and John Bowers & others, *Whistleblowing: the New Law*, London, Sweet & Maxwell, 1999.

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## References

### Books and Articles

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2. Barberis, Peter. *The Elite of the Elite: Permanent Secretaries in the British Higher Civil Service*, Aldershot: Ashgate, 1996.
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4. Birkinshaw, Patrick. *Government & Information - The Law relating to Access, Disclosure & their Regulation*, 2<sup>nd</sup> ed., United Kingdom: Butterworths, 2001.
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11. Plowden, William. *Ministers and Mandarins*, London: Institute for Public Policy Research, 1995.

### Other Materials

1. *Appeal to the Civil Service Commissioners under the Civil Service Code*: <http://www.cabinet-office.gov.uk/ocsc/appeal/appeal.htm>.
2. *Civil Service Commissioners Annual Report 2000-2001*: <http://www.civil-servicecommissioners.gov.uk/annualrep.htm>.
3. *Civil Service Code*: <http://www.cabinet-office.gov.uk/central/1999/csode.htm>.

4. *Civil Service Management Code*: <http://www.cabinet-office.gov.uk/civilservice/managementcode/index.htm>.
5. *Departmental Evidence and Response to Select Committees*: <http://www.cabinet-office.gov.uk/central/1999/selcom/index.htm>.

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