

## THE POLITICISATION OF THE UK CIVIL SERVICE: CAUSES, MANIFESTATIONS, AND EVOLUTIONS

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### Abstract

The UK civil service is shaped by three principles – permanency, impartiality and integrity. These principles explain the recurring tensions between the civil service and their ministers, who are ultimately accountable for the civil service. Since the early 1980s, UK governments have sought to reform the civil service to make it more compliant with their short-term political agendas. Attempts at weakening the civil service leads to political conflicts taking a range of expressions: 1) political rhetoric from ministers about the quality and intentions of civil servants; 2) the terms and conditions of employment for civil servants; 3) competition from special advisers; 4) political control of senior appointments by the executive, and 5) being asked to carry out tasks which by their nature are highly politically contentious, such as writing reports on controversial subjects of intense public interest. The overall result of this tension seems to backfire, however. Politicians are increasingly little trusted by the UK citizens, while the guarantees of permanency, impartiality and integrity seem to bear their fruit in producing civil servants able and willing to stand their ground against political expediency.

Keywords: civil service; politicisation; access; progression; dismissal; conflict civil servants/ministers; United Kingdom.

## LA POLITITZACIÓ DE LA FUNCIO PÚBLICA AL REGNE UNIT: CAUSES, MANIFESTACIONS I EVOLUCIONS

### Resum

*La funció pública del Regne Unit se sustenta en tres principis: permanència, imparcialitat i integritat. Aquests principis expliquen les tensions recurrents entre els empleats públics i els seus ministres, els quals, en última instància, són els responsables de la funció pública. Des de principis de la dècada del 1980, els governs del Regne Unit han intentat reformar la funció pública perquè pugui respondre millor als seus programes polítics a curt termini. Els intents per debilitar-la es tradueixen en conflictes polítics que adopten diferents expressions: a) la retòrica política dels ministres sobre la qualitat i les intencions del funcionariat; b) les condicions de treball dels funcionaris; c) la competència que comporten els assessors especials; d) el control polític dels nomenaments d'alts càrrecs per part de l'Executiu, i e) el fet de demanar als funcionaris que duguin a terme tasques que, atesa la seva naturalesa, són summament conflictives des d'un punt de vista polític, com ara redactar informes sobre temes polèmics que susciten un gran interès públic. Tanmateix, sembla que el resultat global d'aquesta tensió té un efecte bumerang: d'una banda, la ciutadania del Regne Unit cada vegada confia menys en els polítics; de l'altra, les garanties de permanència, imparcialitat i integritat sembla que són efectives a l'hora d'assegurar que els funcionaris siguin capaços i estiguin disposats a mantenir-se fermes davant els interessos polítics.*

*Paraules clau: funció pública; politització; accés; progrés; destitució; conflicte funcionaris/ministres; Regne Unit.*

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## 1 Introduction

In the UK, civil servants are servants of the Crown whose job is to assist the government of the day of whichever political persuasion to develop and implement government policy. The civil service comprises the “Home Civil Service, which is managed by the Minister for the Civil Service (in practice, by the Prime Minister) and the Diplomatic Service, which is managed by the Secretary of State (in practice, by the Foreign Secretary)” (Halsbury’s, 2014, p. 285; Sandberg, 2006). The government department with responsibility for the home civil service is the Cabinet Office, of which the Prime Minister is head, which among other things, is tasked with “creating an exceptional civil service, improving its capability and effectiveness” (Cabinet Office website). The Head of the Civil Service is the Cabinet Secretary who is based in the Cabinet Office. As the UK’s most senior home civil servant, he advises the Prime Minister and the Cabinet – the most senior government ministers – on the effective running of government (Cabinet Office profile for the Cabinet Secretary).

Though politically neutral in terms of its party allegiances, the UK civil service is nevertheless a key site for political conflict between government and civil servants: over time ministers have attempted to exercise greater direct control over the most senior civil servants. This is inevitable: the civil service is ultimately a tool of government for the implementation of government policy and a civil service without political masters would have nothing to do. Moreover, with the permanency of the civil service and the principle of ministerial accountability in the UK, a failure in a government department could ultimately require the resignation of the minister rather than a civil servant. It is natural for ministers to want to be accountable only for people that they can exercise a reasonable degree of control over.

In May 2022, for example, the then UK Prime Minister, Boris Johnson, announced plans to reduce the home civil service by 91,000 positions, bringing numbers down to 2016 levels (Lee & Rhoden-Paul, 2022). Similar announcements regarding the employment and terms and conditions of the civil service followed Johnson’s resignation in July 2022 during the subsequent Conservative Party leadership campaign. Liz Truss, the winner of the campaign, for example, announced but then abandoned a plan for pay regionalisation in the civil service, which would have seen public sector salaries reduced to be broadly equivalent to local private sector wages (Sparrow, 2022). Moreover, also in July 2022, the government announced a review of civil service governance to be chaired by Lord Maude, a former Conservative Cabinet Office Minister (Cabinet Office, 2022c).

In this paper, alongside providing an overview of the UK civil service and how it operates, we argue that political conflict about and in the UK civil service operates in at least five ways: 1) political rhetoric from ministers about the quality and intentions of civil servants; 2) the terms and conditions of employment for civil servants; 3) competition from special advisers and other external contractors; 4) political control of senior appointments by the executive, and 5) being asked to carry out tasks which by their nature are highly politically contentious, such as writing reports on controversial subjects of intense public interest.

After providing background information (Section 2), this paper turns to the conditions to access to and progress in the civil service (Section 3) and the general principles that civil servants have to comply with (Section 4). The main challenges facing a reform of the civil service in the 21<sup>st</sup> century are summarised in conclusions.

## 2 Background

### 2.1 Evolution of the civil service

Five main periods can be distinguished in the history of the civil service and its overall general continuity (Public Administration Select Committee, 2013, 7-13). First, the origin of the modern UK civil service starts with the Northcote-Trevelyan report, which aimed to ensure that “*none but qualified persons will be appointed*” (Northcote & Trevelyan, 1854, 3-4). The objective was to limit patronage. The report recommended an Act of Parliament (*Ibid.*, 23) to organise general examinations to enter the civil service (*Ibid.*, 10), organised by a central board of independent examiners (*Ibid.*, 11). It is the founding document of the impartial and permanent civil service appointed on merit alone (Public Administration Select Committee, 2013, 3).

Secondly, the changes in the administrative state in the course of the 19<sup>th</sup> century led to the Haldane report in 1918 (Ministry of Reconstruction, 1918). This report clarified ministerial accountability for the civil service and the importance of recruiting staff to do the necessary preparation and thinking about policy decisions. Thirdly, in 1968, the Fulton report recommended the professionalisation of the civil service both with respect to technical expertise and with respect to the actual management of public business (Fulton, 1968, 35-40).

Fourthly, the Thatcher area (1979-1990) emphasised the distinction between the policy side and the implementation side of the civil service. It sought to reorganise departments to instil a managerial approach to public business based on new public management ideas (PM's efficiency unit). Her reforms cut the civil service from approximately 750,000 in 1979 to approximately 500,000 in 1997 when the Labour Party took over (Leyland, forthcoming). This area also saw heightened tensions between politicians and the administration. The best legal illustration is provided by the conflict over the right to strike in the civil service. At the core of this litigation was the royal prerogative (as the legal ground for organising the civil service) and its reviewability through judicial review. The House of Lords decided in favour of reviewability of acts adopted under the prerogative (*Council for the Civil Service Unions*). The final step was taken in 2010 when the civil service was eventually put on statutory footing (see below Section 3.1).

## 2.2 Statistics

In March 2022, the UK Civil Service had a headcount of 478,090 (Civil Service Statistics). After a dip in the austerity years from 2010 to 2016, the combination of Brexit and the Covid-19 pandemic led to an increase, restoring approximately the civil service to its 2010 position. From a longer-term perspective, this is a low number, compared to the ca. 775,000 headcount in 1978 (Civil Service Numbers). The median age was 44 and the median salary £30,110 in 2022. Five large departments (Department for Work and Pensions, Ministry of Justice, HM Revenue and Customs, Ministry of Defence, Home Office) account for 68% of the workforce (Civil Service Statistics, 3). One civil servant out of five is located in London (Civil Service Statistics, 6) and one in five civil servants works part-time (Civil Service Statistics 15). Trade unions have however reported that flexible working has adverse effects on careers (FDA). In 2021-2022, there were 69,400 entrants and ca. 44,220 leavers. These latter figures seem unusual: the highest since 1975 for the entrants and the highest since 2011-2012 for the leavers. The most usual cause was resignation (23,870) and then retirement (10,450), with dismissal in fifth position (1,950) in 2022 (Civil Service Statistics). Resignation more than doubled between 2021 and 2022.

## 2.3 Grades within the UK civil service

The UK civil service is made up of at least six tiers, known as “grades”. The lowest grade is comprised of Administrative Officers or Administrative Assistants. These roles tend to involve administrative or operational support functions, such as prison officers, caterers, or court ushers. The next grade is Executive Officers, who provide more specialist operational and sometimes policy support. This includes human resources professionals, accountants, IT support workers, and communications specialists. The next grade is Senior or Higher Executive Officers, which comprises officials with specific policy development and management responsibilities. The next grades are so-called Grade 6 and 7 civil servants, who are experienced officials with significant policy development responsibilities. The usual distinction between a Grade 6 and 7 civil servant is that the latter will ordinarily have significant line management responsibilities beyond their policy functions. The top grade comprises Senior Civil Servants, which make up the senior management teams of the civil service. This includes Permanent Secretaries, who support Secretaries of State to run their departments, and Directors and Directors General. Directors oversee the policy work of civil servants in a department and Directors General oversee the work of Directors (Institute for Government, 2019). The pay of the civil service is a matter of public record (Cabinet Office, 2022i).

## 2.4 The civil service in the UK territorial constitution: London and devolution

The London-centric nature of the UK civil service has been a longstanding criticism. In 1968, for example, Lord Fulton's report on behalf of the then government noted that “the Administrative Class of the Civil Service has been on easy and familiar terms... with London, less so with the regions” with the consequence that there was not “enough awareness of how the world outside Whitehall works” (House of Commons, 1968). Similarly,

in 2004 the *Independent Review of Government Relocation* concluded that: “The geographical pattern of government activity needs to be reshaped. National public sector activity is concentrated in and around London to an extent which is inconsistent with Government objectives” (Lyons, 2004). In yet another government review in 2010, Ian Smith argued that: “There is significant scope for further relocations and a continuing rebalancing of activity between London and the rest of the country” and that “Government should set itself a stretching long-term goal of reducing its overall presence in London by a third. It will need a reduction of this magnitude to achieve a proper balance between London and the rest of the country” (Smith, 2010).

In 2018, the government of Prime Minister Theresa May initiated the “Places for Growth Scheme”, which was designed to more evenly distribute government jobs across the UK (Morgan, 2018). During the tenure of Boris Johnson as Prime Minister, there was renewed political attention on the relocation of civil service roles outside London. In its June 2021 *Declaration on Government Reform*, for example, the Johnson government promised that it would: “Implement plans to move 22,000 roles out of London by 2030, including 50% of Senior Civil Servant (CSC) roles, confirming at least five major departmental relocations this year” (Prime Minister and Cabinet Secretary, 2021). This reference to senior civil servants is important. After all, as of 2021, around 80% of civil servants were already based outside London. The challenge is with senior civil servants, where 74% are based in London (Chisholm, 2022).

The “Places for Growth Scheme” took on a renewed importance as part of the Johnson government’s “Levelling Up” agenda, which is a web of policies aimed at redistributing socio-economic and political opportunity more equally across the UK (Prime Minister, 2021). Tasmin Morgan, an adviser in the Office of Government Property which assists in the implementation of the Places for Growth Scheme, identified its three principal objectives in 2018. The first was to address regional socio-economic inequality in the UK through redistributing public sector employment (Morgan, 2018).

A second objective was to improve the recruitment potential for civil service jobs and the skills and knowledge base within the civil service by not requiring talented individuals outside London to relocate (*Ibid*). A third – and apparently the key – objective was to increase the diversity and representativeness of the civil service (*Ibid*). As the *Declaration on Government Reform* put it: “We will look beyond London to all corners of the UK, as part of our mission to be a government more like the country we serve. More civil servants, including senior leaders, will work outside the capital, joining the many dedicated frontline staff already based in towns and cities across the UK” (Prime Minister and Cabinet Secretary 2021). It added that this would enable the civil service to “deepen our understanding of citizens in all parts of the country; draw on a more diverse range of experiences, skills and backgrounds; [and] set the standard for inclusive workplaces where people achieve their full potential...” (*Ibid*).

Since 2020, a fourth, more constitutional, objective has emerged – strengthening the Union of the four nations which make up the UK: England, Scotland, Wales, and Northern Ireland, in light of independence movements, particularly in Scotland and Northern Ireland. In July 2021, for example, the Cabinet Office launched a specific civil service recruitment programme in Scotland called “Closer to Home”, which was designed to encourage people in Scotland to apply for roles within the UK Civil Service based in Glasgow, Edinburgh, and East Kilbride (Cabinet Office, 2021d).

### **3 Access to and progression in the civil service**

#### **3.1 Civil service commission**

The Civil service commission was first set up in 1855 following the Northcote-Trevelyan report (Northcote & Trevelyan, 1854, p. 3) under the royal prerogative. It played a key role in the development of the British civil service, especially through the recruitment of civil servants on the basis of equal and open competitions as a matter of principle (Chapman, 2004). In 1991, its works was taken over by departments and agencies (Public Service Committee, 1998). In 2003, the public administration select committee drafted a bill to put the civil service on a statutory footing (House of Commons, 2003) – a very rare occurrence as select committees normally have no role in the preparation of legislation in the UK. As a reaction to this bill (Ministry of Justice

42), the Government consulted on a Green Paper on the Civil Service, leading to the *Constitutional Reform and Governance Act 2010* putting the civil service and the Civil service commission on a statutory footing.

The Civil service commission includes at least seven members (Section 1 (1) of the Schedule 1 of the *Constitutional Reform and Governance Act*). One of them is known as the “First Commissioner”. The importance of the role is illustrated by the discussions arising from the suggestion that the Chair of the Civil service commission might be a politician (Government and civil service, 2022; Thomas, 2021). Currently, it includes eleven commissioners. The First Commissioner and the other commissioners are appointed by His Majesty on the recommendation of the Minister for the Civil Service (Schedule 1 paragraphs 2(2) and 3(2) of the *Constitutional Reform and Governance Act*). A person’s selection for recommendation must be on merit on the basis of fair and open competition. The terms on which the First Commissioner and the other commissioners hold office are determined by the Minister for the Civil Service. The period of the appointment is to be no more than five years. Before selecting a person as First Commissioner, the minister must consult the First Ministers for Scotland and Wales, and the relevant opposition leaders, i.e. the registered leaders of the registered parties in opposition to His Majesty’s Government which had the highest and second highest national vote at the previous parliamentary general election (Schedule 1 paragraphs 2(4), (8) of the *Constitutional Reform and Governance Act*).

The Commission’s main roles are firstly to recruit directly civil servants in a number of cases, secondly to monitor the compliance with the recruitment principles in cases departments and agencies recruit directly their civil servants (Sections 13 and 14 of the *Constitutional Reform and Governance Act*), thirdly to investigate possible breaches of the civil service code (see below Section 4.2). (Section 9 of the *Constitutional Reform and Governance Act*).

### 3.2 Recruitment procedures for the civil service

Given the wide range of grades and responsibilities, there is no uniform process for recruiting civil servants in the UK (Civil Service Commission, 2018, paragraph 8). However, section 10(2) of the *Constitutional Reform and Governance Act 2010* makes clear that a civil servant’s “selection must be on merit on the basis of fair and open competition”. Section 11 further requires the Civil Service Commission to produce “recruitment principles” putting these objectives into practice. The Commission’s latest principles are found in the *Recruitment Principles 2018*. At paragraphs 4–6 of the *Principles*, the Commission has interpreted section 10(2) as outlining three separate legal requirements: merit, fairness, and open competition. Merit means that the best available person judged against the recruitment criteria should be appointed to the role. Fair means that selection processes must be objective, impartial, consistent, and without bias. Open competition means that appointment opportunities should be publicly advertised and that the criteria for selection are made clear (*Ibid.*).

Vacancies in the civil service are advertised on a dedicated government website called “Civil Service Jobs”. The first stage ordinarily involves an application form, normally completed online (Civil Service Jobs). Moreover, on 13 May 2022, the Cabinet Office announced that from that date all Senior Civil Servant positions must be advertised externally and that ministers will have a personal veto over any requests to recruit internally from the existing civil service (Cabinet Office, 2022g).

For appointments, there must be a selection panel of two or more people. The panel must be chaired by a civil servant and, for the most senior Civil Service roles, by a Civil Service Commissioner (Civil Service Commission, 2018, paragraph 10). It is the task of the selection panel to “ensure that candidates are impartially assessed against the published selection criteria at each stage of the process where assessment occurs and must take the final decision on which candidate or candidates are the most meritorious” (*Ibid.*, paragraph 11). While an objective, impartial and consistent selection process often involves an interview, it does not have to do so (*Ibid.*, paragraph 24).

At both application form and interview stage, the selection panel will be assessing a candidate’s competence for the role via the “Civil Service Competency Framework”. This comprises three groups of skillsets called “Clusters”: the “Strategic Cluster – Setting Direction”, the “People Cluster – Engaging People” and the “Performance Cluster – Delivering results”. Overall, each cluster comprises ten skills: seeing the big picture;

changing and improving; making effective decisions; leading and communicating; collaborating and partnering; building capabilities for all; achieving commercial outcomes; delivering value for money; managing a quality service; and delivering at pace (Civil Service Human Resources, sd2).

The more senior a Civil Service appointment, the greater the degree of government involvement in the appointment. Normally, this would at least amount to consulting the Minister on the job specification, the composition of the recruitment panel, and the individual chosen for appointment (Civil Service Commission, 2018, paragraphs 39-40). However, “the Minister may not be a member of a selection panel and may not add or remove candidates from a competition” (Civil Service Commission, 2018, paragraph 41).

In addition, paragraph 50 of the *Recruitment Principles* requires that a Civil Service Commissioner must chair all selection panels for Senior Civil Servants, particularly for Directors General and Permanent Secretaries, as well as normally for Directors. According to paragraph 44, the First Civil Service Commissioner must personally chair selection panels for Permanent Secretaries or must personally appoint a nominee. The First Commissioner “will be responsible for ensuring that Ministers, including the Prime Minister, are fully involved in competitions in which they have an interest and that their views are relayed to the panel, and taken into account” (Civil Service Commission, 2018, paragraph 44). The names of the appointable candidates are then put forward to the Prime Minister, who must take the final selection decision from among the appointable candidates, in consultation with the Cabinet Secretary and First Civil Service Commissioner (Civil Service Commission, 2018, paragraph 46).

There are eleven exceptions to the operation of the *Recruitment Principles*. The result is that, where these exceptions apply, Ministers need not follow the legal requirements of merit, fairness and open competition and may appoint candidates of their choosing with an open selection and competition process. Exception 1, for example, permits “Temporary Appointments”, “where either the urgency of the need or the short duration of the role make a full competition impracticable or disproportionate” (Civil Service Commission, 2018, paragraph 77). In July 2021, the Civil Service Commission noted in its annual report that the number of civil service appointments made via an open and competitive process in 2020-21 was 45% and the number of appointments made as an exception to this was 55%. Principally, this was because the Covid-19 pandemic meant that government departments and agencies had to rapidly recruit specialist personnel with skillsets not available within the civil service (Civil Service Commission, 2021). In 2018, the number of excepted appointments was nearer 10% (Civil Service Commission, 2019).

### 3.3 Senior civil servants

For a number of officials holding key roles across a number of boards and agencies, a system of pre-appointment scrutiny, including possibly hearings, has been informally developed since 2007 (Library House of Commons, 2008), in addition to the specific appointment process applying for appointments made by or by delegation of Ministers, namely appointments following the Governance Code for Public Appointments (Commissioner for Public Appointments, 2017). The system is provided for in a protocol between the House of Commons and the Government. A specific scrutiny is needed for:

- i. posts which play a key role in regulation of actions by Government; or
- ii. posts which play a key role in protecting and safeguarding the public’s rights and interests in relation to the actions and decisions of Government; or
- iii. posts in organisations that have a major impact on public life or the lives of the public where it is vital for the reputation and credibility of that organisation that the post holder acts, and is seen to act, independently of Ministers and the Government. (Cabinet Office, 2019, paragraph 8).

The list of roles is periodically updated upon agreement between the appointing Secretary of State, the relevant select committee Chair and the Cabinet Office. The last available update is from 2019 (*Ibid.*). The roles currently covered by the pre-appointment hearings include the HM Chief Inspector of the Crown Prosecution Service, the Chair of Competition and Markets Authority, and the Chair of the Gas and Electricity Markets Authority (Maer & Ryan-White, 2017, p. 5).

The Liaison Committee (a select committee coordinating the work of all select committees) identified the following objectives for the pre-appointment hearing:

1. Scrutiny of the quality of ministerial decision making, which is a proper part of ministerial accountability;
2. Providing public reassurance [...];
3. Enhancing the appointee's legitimacy in undertaking their function; and
4. Providing public evidence of the independence of mind of the candidate. (Liaison Committee, 2021).

The Liaison Committee adopted general principles applicable to the pre-appointment hearings (Liaison Committee, 2013). The working of the whole pre-appointment process relies on engagement between the appointing department and the relevant select committee (sharing the job description and person specification, a proposed outline of the timetable for the recruitment and any relevant information about the proposed advertising strategy). The system does not formally recognise a power of veto to the Parliament in order to maintain the principle of parliamentary accountability (see below Section 4.1). However, from the total of 96 pre-appointment hearings between 2007 and 2017 (Maer & Ryan-White, 2017), a committee made a negative assessment of the Government's preferred candidate on five occasions only. For three of these, the appointment went ahead; in one case, the appointment did not go ahead; in the last case, the candidate withdrew from the appointment process after a negative report was issued by the select committee (*Ibid*). In addition, in some cases, committees have had an impact on an appointment without producing a negative assessment of a candidate. For instance, debates during parliamentary hearings have led candidates to withdraw their applications or to resign (Hazell, 2019, pp. 232-234). The Cabinet Office provides detailed guidance as regarding the handling of the outcome of the hearing (Cabinet Office, 2019, paras.27-35). Overall, the UK Parliament seeks to gain more powers over governmental choice in this process (Hazell, 2019, pp. 226-228).

### 3.4 Spads

Section 15(1) of the *Constitutional Reform and Governance Act* 2010 defines a special adviser as a person appointed to assist a Minister after being selected for appointment by that Minister personally. Section 15(1) further requires the appointment to be approved by the Prime Minister and that the terms and conditions for the appointment must end when the Minister who selected the special adviser ceases to hold ministerial office or, if a general election is sooner, at the next general election.

Special advisers are in effect temporary civil servants, employed to help Ministers on political matters where it would be inappropriate for permanent civil servants to become involved. They can provide political assistance in a way that the permanent civil service cannot. This could include giving media interviews to represent the Minister's opinions, liaising with the Minister's political party, liaising with outside special interest groups, and liaising with permanent civil servants on behalf of the Minister (Maer & McCaffrey, 2018). With the exception of the Prime Minister, Cabinet Ministers may each appoint up to two special advisers (Cabinet Office, 2022e). As at 31 March 2022, there were 126 special advisers working across government at an annual cost of £12.7 million (Cabinet Office, 2022d).

Special advisers are bound by the Code of Conduct for Special Advisers and it is the responsibility of each Minister to ensure that his special advisers adhere to the Code (Cabinet Office, 2016a).

Some special advisers have come to be very high profile and controversial – such as Alastair Campbell for Prime Minister Tony Blair, who was heavily involved in preparing the government's case and communications for the Iraq War, and Dominic Cummings for Boris Johnson, who was a leading voice in the pro-Brexit referendum campaign. As the House of Commons Public Administration Select Committee put it in 2012: “Against best advice, successive administrations have brought in certain special advisers of questionable character and reliability, whose track records raise obvious questions about their honesty and integrity” (Public Administration Select Committee 2012, paragraph 7).



Further, there has been criticism that individuals with inadequate unique knowledge and skills have been appointed as special advisers. As the Committee also put it: “It should be obvious that they should be people with suitable political experience, as well as a track record of competence in matters of policy, in order that they should be able to make a full contribution to the work of their department” (*Ibid*, paragraph 2).

In terms of the relationship between special advisers and permanent civil servants, special advisers may sometimes be in active competition with civil servants, which can provoke distrust and antagonism between the two. As the Committee put it, “special advisers occupy influential positions and have the potential to destabilise the relationship between ministers and their officials by competing with officials for the Minister’s attention” (*Ibid*, paragraph 7).

### 3.5 Diversity in the UK civil service

The UK civil service performs fairly well on diversity, inclusion and representativeness metrics. The latest Civil Service Diversity and Inclusion Dashboard for 2021, for example, shows that 54.2% of civil servants are women, 14.3% are ethnic minorities and 13.6% are disabled. The representation of ethnic minority staff is in line with the wider working population (13.6% of the UK’s working population were from ethnic minorities in July 2021) whilst disabled staff are still slightly underrepresented (14.7% of the UK’s working population were disabled as at March 2021) (Cabinet Office, 2022h).

The *Declaration on Government Reform* makes increasing diversity even further a government priority:

We will set a new standard for diversity and inclusion, challenging tired prejudices and championing a diversity of backgrounds and opinions, with the merit principle front and centre... We will make sure that citizens from minority ethnic backgrounds, those living with disabilities and those who have experienced disadvantage in their early lives can flourish in public service. (Prime Minister and Cabinet Secretary, 2021).

In September 2021, for example, the National Leadership Centre housed in the Cabinet Office launched the “Catalyst Programme”, aimed at supporting disabled people to become Senior Civil Servants (Cabinet Office, 2021b).

Moreover, in 1998, the government launched the “Civil Service Fast Stream”, which is designed to recruit specialist talent into the civil service, normally from university graduates. “Fast Streamers” as they are called are normally appointed at Higher Executive Officer level and take four years to progress to Grade 7. Fast Stream applications rose from 21,135 in 2015 to a record high of 64,697 in 2020, dropping slightly to 59,603 in 2021 (Institute for Government, 2022). As of 2022, the Fast Stream is comprised of fifteen different schemes. These include: Diplomatic and Development; Digital, Data, Technology and Cyber; the Government Economics Service; the Government Statistical Service; and Science and Engineering (Civil Service Fast Stream). In its 2017-18 annual report, the Fast Stream noted its historic difficulty recruiting black candidates (Civil Service Human Resources, sd1).

### 3.6 Training

Historically, the UK civil service has struggled to recruit, retain, and develop civil servants with the requisite knowledge and skills to adequately develop, manage, and implement government policy (Institute for Government, 2021, p. 8).

Indeed, the Northcote-Trevelyan report already hinted at the issue of proper training for the civil service in 1854 (Northcote & Trevelyan, 1854, p. 8), and this was reiterated by the Fulton report in 1968 (Fulton, 1968, pp. 35-40). Sometimes, this is not due to a total lack of relevant skills within the civil service but a failure to adequately utilise those skills that are available:

A large part of the difficulty is that skills exist in the civil service but are underused. Notwithstanding ministerial complaints, the civil service is not short of digital specialists (with more than 10,000 in the Digital, Data and Technology Profession), scientists and engineers (around 12,000), analysts (5,000 in the Analysis Function), lawyers and linguists. Too often these are people whose skills are available to

the civil service but not accessed effectively. The civil service should focus on deploying the skills it already has as much as building new capability. (Institute for Government, 2021, p. 9).

Moreover, even when the civil service has the appropriate skills internally, it can struggle to retain those personnel in the long-term due to the high earnings potential of highly skilled professionals in the private sector (*Ibid.*).

As the Institute for Government further noted: “The civil service has worked on its skills development in different ways throughout its history” (*Ibid.*). For example, the Civil Service College was established in 1970, which ran training, organisational development and consultancy courses for UK civil servants (Civil Service College old). This later evolved into the National School of Government, which was closed in 2010 as part of the then government’s austerity programme. Courses included leadership development, strategic thinking and policy delivery (National School of Government). In 2012, the Civil Service College was established and registered as a charity in England and provides many courses previously administered by the National School of Government (Civil Service College new).

On joining the civil service, each civil servant joins a so-called civil service “Profession”, of which there are 29. These are groupings of officials with similar skills designed to provide opportunities for social networking and further skills and knowledge development. Professions include: Commercial and Procurement; Communications; Counter Fraud; Digital, Data and Technology; Legal; and Medical (Civil Service Professions). Furthermore, in 2013, the then Cabinet Office Minister, Lord Maude, established ten “Cross-Government Functions”, including Commercial, Communications, Legal, Digital, Property, and Project Delivery. In each area, the Functions were designed to develop specialist knowledge and skills in relation to: people; standards; delegation; service delivery, and strategy (Cabinet Office, sd).

One challenge for developing civil service skills and training is that:

The UK civil service has a federal structure characterised by a weak organisational centre but strong departments. The centre has limited ability to mandate departments to reform, and the process of securing their agreement can result in consensus around the lowest common denominator. An absence of government-wide training and shared services, combined with the fact that departments often do not feel that their needs are being met even when programmes are set up, have too often resulted in them setting up their own alternatives, such as HM Treasury’s graduate programme or the Ministry of Justice’s Project Delivery Academy. (Institute for Government, 2021, p. 13).

A second challenge has been that:

There has been no comprehensive strategy (strategic workforce plan) to outline the skills the civil service needs for the coming decades. It is reasonable for some skills development to be decentralised or based on departmental or functional need, rather than sticking to a civil service-wide master plan. But without a wider strategy, priorities will be ad hoc and skills development will remain patchy across departments and functions. (*Ibid.*, p. 14).

Other limitations include that it is easy to buy skills in rather than develop them internally (*Ibid.*, p. 19).

This culminated in 2020 in the Cabinet Office and UK Civil Service jointly established the Government Skills and Curriculum Unit designed to assist in the training and education of civil servants (Government Skills and Curriculum Unit). Following this, in 2021, the Unit established a New Curriculum and Campus for Government Skills. The Curriculum for the UK Civil Service includes: foundations of public administration; working in government; leading and managing; specialist skills; and domain knowledge related to a specific area of government (Cabinet Office, 2021g). In September 2021, the Cabinet Office launched a School of Government Property as part of the Campus designed to promote estate and property management skills within the Civil Service (Cabinet Office, 2021c).

Beyond this, in March 2021, the Prime Minister and the Government Digital Service launched the No. 10 Innovation Fellowship Programme, which is designed to attract talented individuals from the digital and technology sectors into senior positions in government departments. Fellowships will operate for a maximum

of two years (Farooq, 2021). In the same month and year, the Cabinet Office launched a Government Projects Academy designed to train and accredit professionals delivering major projects in government. Moreover, in May 2021, the Cabinet Office launched a “Government Consulting Hub” designed to reduce spending on external consultants and to assist civil servants to take a stronger, more direct role in large projects (Cabinet Office, 2021e).

## 4 General principles

The British civil service is known for its non-partisanship, for ministerial accountability to Parliament, and for its permanency (understood as retention of a position during a change of government) (Parris, 1969, p. 26-28). The civil service does not rely on patronage. The acceptance of ministerial responsibility means that civil servants are anonymous as the minister answers in Parliament with respect to government policy (Dargie and Locke, 1999). Finally, the civil service is impartial and needs to comply with standards of public life.

### 4.1 Ministerial accountability

To understand the principles applicable to the civil servants under the UK constitution, it is important to understand the constitutional relationship between the British civil service and elected officials (ministers and parliamentarians). Due to the historic developments of the civil service, it was profoundly shaped by the needs of parliamentary government in the 19th century (Bogdanor, 2003, p. 239). Under the Haldane doctrine, there is no separation of powers between the ministers and their administration. Civil servants, who have a duty of political impartiality, advise the Government but are not directly accountable to Parliament for those decisions. The British parliamentary system has established a constitutional fiction that only ministers are responsible for all the actions and decisions of administrations, even if the minister had no knowledge of them. The line of accountability through ministers to Parliament remains unbroken: they are accountable to Parliament for the policy, administration, and resources of their departments, including operational action, successes and incidents, whatever the extent of delegation and whether they were personally involved or not in the decision-making process (Schedule 1 paragraph 1(2) of the *Constitutional Reform and Governance Act*). Civil servants take a back seat to ministers who take responsibility for all activity in central government. In practice, the ministers answer questions about the working of their departments in the House of Commons. Civil servants can also be called to provide information to select committees, but they will do so under the notional direction of their ministers. This principle of ministerial accountability allowed the establishment of a career civil service that was impartial, politically neutral and recruited strictly on the basis of merit. This organisation of accountability may have been valid at its inception because of the size of the administration at that time. Nowadays, it has become largely out of step with the reality of the working of government and administration.

### 4.2 Principles in theory

- *Permanency*

The theoretical perspective is that civil servants hold office during the pleasure of the Crown (however, see Cabinet Office, 2011, paragraph 5.3.2), and may therefore be dismissed at any time without cause assigned. In practice, however, permanent officials are invariably treated as holding office during good behaviour, and are not removed except in cases of misconduct, inefficiency, or ill health, although there is in addition provision for compulsory premature retirement in the public interest on structural grounds, grounds of limited efficiency and redundancy. Formerly the courts would not entertain an action for wrongful dismissal. More recently, courts accepted that a civil servant has a right to bring a claim for unfair dismissal or to sue on his conditions of service (Employment Rights Act ss 112–116, 191; Employment Tribunals Act s 38; *R v Civil Service Appeal Board*; *McLaren v Home Office*; *R v Lord Chancellor's Department*). The result is to make his situation virtually the same as that of the employee of any ordinary employer (Halsbury's, 2014, p. 296). The statistics indicate that dismissals and redundancy schemes are a reality however. For the year up to March 2022, there were 1,950 dismissals, 590 redundancies with pay, 90 voluntary exits (terms not recorded), 90 compulsory redundancies, 90 voluntary redundancies (terms not recorded), 30 voluntary exits with payment, 10 voluntary exits with reduced pension (Civil Service Statistics, 2022). All in all 2,850 cases out of 44,220

leavers in that year, or 6.4% of them. In 2022, the Government's consulted trade unions about its intention to cut redundancy pay at the same time as announcing the reduction of the civil service by 91,000 jobs (Cabinet Office, 2022a).

What does permanency mean in practice? Not a job for life. There are dismissals and redundancy schemes which are operated in practice. There are also resignations and early retirement. In particular, there have been a number of high-profile resignations and early retirements from Senior Civil Service. In 2020, for example, Sir Philip Rutnam, the Permanent Secretary at the Home Office, resigned making accusations of bullying and inappropriate aggressive conduct by the Home Secretary, Priti Patel (Media, 2020). He began legal proceedings against the department for constructive dismissal (Walawalkar, 2020). His case was then settled out of court (BBC, 2021). In 2020, the Prime Minister's adviser on the Ministerial Code, the government's internal code of ethics and conduct, determined that the Home Secretary had violated the Code through her behaviour towards Sir Philip (Independent Adviser, sd). The adviser, Sir Alex Allan, later himself resigned from his position following the Prime Minister's decision not to dismiss the Home Secretary for violating the Code (Cabinet Office, 2020b).

- *Impartiality*

Career civil servants are expected to implement policy for whichever government is in power (*Cabinet Manual*, 2010, paragraph 7.1). Their impartiality is understood in the sense of impartial in a party-political sense. This does not necessarily mean that it will be neutral or uncontroversial in its implications. Impartiality is especially relevant for accounting officers of departments personally responsible to the House of Commons Committee of Public Accounts for the propriety and regularity of the public finances within their remit, for keeping proper accounts, and for the efficient and effective use of resources (Schedule 1 paragraphs 2(2), 3(2) of the *Constitutional Reform and Governance Act*). In ministries this role of accounting officer (HM Treasury, 2021, chapter 3) is fulfilled by the permanent secretary. Accounting officers must ensure that the minister receives the necessary information and advice on the regularity and legality of his financial decisions. If a proposed decision raises doubts about its regularity, legality, and value for money, the public officer must issue an adverse opinion and if this opinion is not taken into account, she or he must obtain written confirmation of the decision from the minister and refer it to the Comptroller and Auditor General. For example, the 2022 policy of sending irregular migrants to Rwanda for asylum processing and reception was subject to an adverse opinion from the Home Office's accounting officer (Rycroft, 2022), given on the basis of his impartiality.

During election times, civil servants have an obligation of discretion (Cabinet Office, 2022j), which applies for all levels of elections (national, devolved, local). The Government issues code of conduct applicable during sensitive times covering general principles, handling of requests of information, ministerial visits, announcements, public consultations, communication activities, use of government property, legislation, statistical and social research activities, use of public funds, appointments, political activities etc (*Ibid.*). Civil servants can also be briefed by shadow ministers about policy changes would the opposition come to power following the elections (Leyland, forthcoming).

- *Nolan principles* (Bew, 2015; Oliver, 1995; Doig, 1996)

The Committee on Standards in Public Life was established by John Major in 1994 to transform the political culture following the scandals that marked the end of the Conservative period in power. Chaired by Lord Nolan, the committee drew up a list of seven principles of public life for an ethical framework for the action of public decision-makers: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

In addition to putting the Civil Service Commission on a statutory footing, the *Constitutional Reform and Governance Act 2010* put a code of conduct for the civil service on a statutory footing. The code sets out four key ethical principles: integrity, honesty, impartiality, and objectivity (Section 7 (4) of the *Constitutional Reform and Governance Act*). For each principle, the code provides clearly written practical explanations (Civil Service Code). Notably, there has been no alignment or use of the seven principles of public life for this code of conduct - although the principles appear to overlap. The Civil Service code forms part of the terms and conditions of service of any civil servant covered by the code (Schedule 1 paragraph 3(9) of the *Constitutional Reform and Governance Act*).

### 4.3 The principles in practice: illustrations of politicisation

At the beginning of this contribution, we argued that, despite being expressly politically neutral and a tool of all governments irrespective of their party affiliation, the UK civil service is nevertheless a key site of political conflict between the executive and civil servants. In particular, this political conflict operates in at least five ways: 1) political rhetoric from ministers about the quality and intentions of civil servants; 2) the terms and conditions of employment for civil servants; 3) competition from special advisers; 4) political control of senior appointments by the executive, and 5) being asked to carry out tasks which by their nature are highly politically contentious, such as writing reports on controversial subjects of intense public interest. We have touched on the competition between civil servants and special advisers in Section 3.4 and repeated proposals to weaken the employment terms and conditions of civil servants in Section 4.1. In this section, we provide some additional examples of the political conflict between ministers and civil servants in practice.

- *Dismissals, resignations and early retirements*

Contentiously, in 2020, the Prime Minister dismissed Jonathan Slater as Permanent Secretary to the Department for Education following a series of errors made by the Department in its use of an algorithm for the calculation of A-Level results during the height of the Covid-19 pandemic. These results are used to determine students' university places in England and Wales (Cabinet Office, 2020b). The FDA Union, which represents civil servants, commented angrily on Slater's dismissal saying that this was "scapegoating civil servants" (Smith, 2020). This strategy is not new. In 1995, a range of political issues arose in relation to prison management, leading to the dismissal of the then Chief Executive of the Prison Agency. He subsequently made a legal claim against the government department for unfair dismissal (Leyland, forthcoming).

In 2020, Sir Simon McDonald retired as Permanent Secretary to the Foreign Office and Head of the Diplomatic Service, following the announcement of the government that it was to merge the Department for International Development and the Foreign Office (Sedwill, 2020). Similarly, the Cabinet Secretary and Head of the UK Civil Service, Sir Mark Sedwill, announced an early retirement at 56 years of age in 2020 (Cabinet Office, 2020c). Again in 2020, Sir Jonathan Jones resigned as Treasury Solicitor following a suggestion from the government that it would be prepared to breach the Ireland/Northern Ireland Protocol which forms part of the UK/EU Withdrawal Agreement in a "specific and limited" way through the United Kingdom Internal Market Bill (Johnstone, 2020). Rowena Collins Rice, Director General of the Attorney General's Office, followed Sir Jonathan in resigning for the same reason (BBC, 2020).

- *Increasing ministerial control over Senior Civil Servants*

In 2021, the government announced that Lady Stuart, former Co-Chair of the "Vote Leave" pro-Brexit campaign, former Labour MP and current ally of a number of senior Ministers, was the government's preferred candidate for the role of First Civil Service Commissioner (Cabinet Office, 2021b). As we saw in Section 3.1, the First Civil Service Commissioner is head of the Civil service commission and chairs the selection panel for Senior Civil Servants, responsible for taking account of the Prime Minister's views on these appointments. While there is no overt suggestion that Lady Stuart would approach her functions in a partisan or political way, as the Institute for Government put it:

Asking a political figure, known to be a close ally of current senior ministers, to lead the very body that exists to ensure that the civil service can serve governments of any party is a mistake. It fails to recognise that perceived – as well as actual – impartiality is necessary for credibility in this role, will make civil servants less likely to speak honestly to ministers, raises concerns about how the impartiality principle in the civil service code is to be overseen and encourages a creeping politicisation of the civil service. (Thomas, 2021).

- *The civil service as judges of governmental behaviour*

A recent development has been government asking civil servants or ex-civil servants, particularly of the most senior grades, to hold government accountability for its past activities or policies through inquiries, investigations and reports. The Chilcot Inquiry which ran between 2009 and 2016 about the UK's involvement

in the Iraq War was chaired by Sir John Chilcot, for example, who held numerous Permanent Secretary positions in government departments (Cabinet Office, 2016).

Furthermore, in 2021, the government asked the Second Permanent Secretary at the Cabinet Office, Sue Gray, to investigate gatherings which took place in late 2020, which would have been in breach of Covid-19 pandemic regulations and guidelines at the time. The purpose of the investigation was “to establish swiftly a general understanding of the nature of the gatherings, including attendance, the setting and the purpose, with reference to adherence to the guidance in place at the time” (House of Commons, 2021). The sensitivity of the role cannot be understated. Two Independent Adviser on Ministerial Interests – in charge of monitoring the respect of standards of public life by ministers – have resigned under the government of Prime Minister Johnson, and the Cabinet Secretary recused himself from leading the investigation due to his own role during the suspicious gatherings. In May 2022, Sue Gray released her report (Cabinet Office, 2022f). The Prime Minister made a public apology to the House of Commons, apologising for his attendance at some of the gatherings (House of Commons, 2022). This report precipitated a series of resignations that led to the eventual resignation of the Prime Minister himself.

## 5 Conclusion

This contribution argued that the UK civil service is embedded in a long continuous history which started in the mid-19<sup>th</sup> century. Reforms are periodically attempted and over the years have transformed the civil service making it more diverse. The increase in number of the civil service during the pandemic and Brexit highlight how instrumental the civil service is for the implementation of government policy. The main features of the civil service – its permanency, impartiality, and integrity – are deeply connected to ministerial accountability. This leads ministers to seek to exercise control over civil servants – not only in individual cases but also structurally (where they work, pay and conditions, pension, redundancy schemes etc.). Despite being expressly politically neutral and a tool of all governments irrespective of their party affiliation, the UK civil service ends up being a key site of political conflict between the executive and civil servants. The root causes may not so much be the law than a triple asymmetry between the executive and the civil service. First, the short-term perspectives of the executive seem to clash with the longer and slower perspective taken by the civil service. Secondly, there is an asymmetry in the demand/offer: modern government requires the executive to come up with responsive answers to emerging crises on the go, while the civil service struggles to allocate and match skills and needs – maybe because transferable skills are more valued than technical and substantive knowledge, a feature of Weberian bureaucracies more than post-New public management ones. Thirdly, UK public opinion trusts more its civil service (55 %) than its politicians (35%) according to the 2022 UK Trust in Government Survey (Trust in Government, 2022).

It seems clear that new reforms – much talked about over the last ten years – will come sooner or later. It may be time to have a new Northcote-Trevelyan commission to think about the upcoming generation of civil servants. Contrary to the recent attempts by governments to make the civil service more compliant with their short-term political agenda by focusing on the civil service limb of the relationship between civil service and ministers, reforms of the civil service would need to look at the broader context within which the civil service operates – which includes their relationship with ministers and their competition with external providers of services and advice (such as Spads). Despite the difficult balance the civil service has to juggle, the key principles of permanency, impartiality, and integrity need to be recognised and their positive effects on the quality of the civil service acknowledged, so that reforms of the civil service can draw the consequences needed in relation to a much-needed new expression of ministerial accountability and a repatriation of many of the missions entrusted to external providers into the civil service. In short, civil servants should be seen as the best ally by ministers seeking to deliver and implement policy reforms. Contemporary civil servants may no longer be “Yes minister” figures, but in their “No minister” role they embody a wisdom that ministers set aside at their own peril.

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