



Cabinet Office

# A Better Civil Service

Triennial Review of the Civil Service Commission

Sir Gerry Grimstone

December 2014

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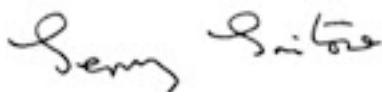
# Foreword

The Civil Service Commission exists to ensure the meritocracy and ethical integrity of the Civil Service. It does this primarily by ensuring that recruitments to the Civil Service are done on merit and by hearing and determining appeals made by civil servants under the Civil Service Code. It is easy to agree and understand that an independent regulator is needed to carry out these functions.

However, a wider view is that, important those these elements are, what the United Kingdom needs is a healthy Civil Service where the best people are in the right jobs, talent is managed properly, capability is built, diversity is cherished, and the policies of the Government are implemented and delivered in the most effective way. These factors are the best guarantee of an impartial Civil Service able to serve the Government and the people of our country.

The Civil Service Commission is an important element of a complex process that necessarily has to involve Ministers, the senior management of the Civil Service, and Human Resource processes throughout government. If these processes are deficient, the laudable aims of the Commission cannot be achieved. Much progress has been made in recent years but this review shows that the Civil Service still lags behind best practice in the private sector in a number of respects and that the impact of the Commission could and should be considerably strengthened.

I have consulted widely in formulating my recommendations and taken wisdom and challenge from many people more expert than I. Additionally, I have been very ably assisted by Erika Newman and Ivana Gordon throughout this Review. Its conclusions are, of course, my own.



Sir Gerry Grimstone

17th December 2014

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# The Review's Recommendations

An independent body is needed to monitor and help assure the effectiveness and ethical integrity of the Civil Service. The Constitutional Reform and Governance Act 2010 gives a sound basis for the Civil Service Commission to fulfil this role. The Civil Service Commission should remain as an executive Non-Departmental Public Body (NDPB).

The challenges faced by today's Civil Service are complex and wide-ranging. The best guarantee of a meritocratic Civil Service able to serve the Government and the people of the United Kingdom is a healthy organisation where the best people are in the right jobs, talent is managed properly, capability is built progressively over time, diversity is cherished and the policies of the Government are implemented and delivered in the most effective way. In an expanded role as the Civil Service's principal regulator, the Commission should both provide assurance and help develop best practice in its areas of competence.

## **The Civil Service Commission**

1. The Commission is the independent regulator of some of the most important aspects of the Civil Service. To be effective, the Commission has to work closely in a constructive relationship with the Government, individual Ministers, and the leadership of the Civil Service. All parties should respect the need for the Commission to be and perceived to be independent.
2. The Commission should engage actively with Ministers and the senior management of the Civil Service to improve the Civil Service's effectiveness.
3. Individual Commissioners should continue to be selected for their relevant expertise and their ability to carry out their required functions. In an expanded regulatory role, they need to have a clear sense of best practice and the rigorous setting of standards. But also, as a group, they should be chosen so as to operate as a high-performing Board able to take collective decisions that are insightful and authoritative.
4. The Commission should continue to operate to the highest standards of transparency and corporate governance committed to monitoring and enhancing its own effectiveness.
5. The Commission's staff must have the required skills and expertise, for example in the areas of Human Resources (HR) and recruitment, to support the Commission. Civil servants on secondment will have a valuable role to play but they should not form the totality of the staff. The Commission has the powers to employ its own staff and, in particular, going forward in its expanded role, the Commission's management should not all be, or have been, senior civil servants.
6. The First Civil Service Commissioner is one of the most important public appointments. Before selecting an individual for the post, the Minister is required under the Constitutional Reform and Governance Act 2010 to consult the First Ministers for Scotland and Wales and the relevant opposition leaders. It is also an appointment which is subject to pre-appointment Parliamentary

scrutiny and needs to be clearly seen to be independent of the Senior Civil Service (SCS) and the Government.

7. The Commission should consider setting up its own compliance monitoring capability and also using government shared services where appropriate to reduce its costs.
8. The Commission's staff should where appropriate continue to provide support to the House of Lords Appointments Commission (HOLAC), the Advisory Committee on Business Appointments (ACOBA), and the Office for the Commissioner for Public Appointments (OCPA) but it is important that this does not jeopardise nor be at the expense of their primary functions.

### **Recruitment Principles**

9. The Commission's Recruitment Principles (the Principles) form a sound basis for ensuring that appointments to the Civil Service are made on merit on the basis of fair and open competition. They should regularly be reviewed and updated.
10. The number of exceptions to the Principles being exempted each year under the various categories of exemption should be published and explained. The Principles should not be operated in such a way as to inhibit the employment of young people or the creation of apprenticeships.
11. Departments who consistently and materially do not adhere to the Principles should be reported by the Commission to the Head of the Civil Service and the Minister for the Cabinet Office for appropriate action to be taken.
12. The Commission should continue to consider complaints from people that appointments have been made in contravention of the Recruitment Principles.

### **The Civil Service Code**

13. The Civil Service Code, published by the Minister for the Civil Service, is an important ethical yardstick against which civil servants should constantly be measured. The Commission's assurance processes should confirm that the Code is fully representative of best practice, that it is front of mind for civil servants, and underpins all that the Civil Service does. The Commission should also assure that departmental policies and procedures relating to the Code, including Code-related 'whistleblowing' procedures, are effective.
14. Civil servants should continue to have the right to refer the matter to the Commission if they believe that they or another civil servant are being asked to act in a way that conflicts with the Code.
15. Ministerial complaints about civil servants should normally be resolvable by Permanent Secretaries or the Head of the Civil Service. Exceptionally, in far-reaching and egregious cases of non-compliance with the Code, Ministers, in consultation with the Minister for the Cabinet Office, should also have the right to refer cases to the Commission.
16. As part of the biennial audit of the Code, the Commission should gather departmental data on the number of internal complaints handled and nature of concerns raised, and use analytics to identify any systemic issues across the Civil Service.

### **The Senior Civil Service**

17. Recruitment, retention, and talent management of senior people are some of the most important duties of management. This should continue to be



recognised and emphasised both in the objectives set for Permanent Secretaries and in their appraisals.

18. An organisation as complex as the Civil Service needs highly effective HR management. Heads of Departments should work very closely and in partnership with their Heads of HR to ensure this. People Management is a highly-professional and skilled function and needs to be staffed accordingly and recognised as such.
19. Effective HR needs good data and more attention should be made to collecting this on a cross-departmental basis and making it suitably transparent.
20. Whilst departments should retain the primary responsibility for ensuring their SCS is effectively staffed, this responsibility should be monitored by the Cabinet Office to ensure excellence, consistency of treatment, and to promote mobility within the SCS.
21. The Senior Leadership Committee (SLC) must be, and be seen to be, a highly-competent professional body. It always has to be alert that its purpose is not wrongly perceived as a tendency to want to perpetuate the status quo. Although the decisions of this Committee should be confidential, aggregate annual categorised data on movement activity should be collected and be publicly available. Such data would allow the balance between Open and Internal Competitions, and Managed Moves to be clearly visible and allow trends to be monitored.
22. The First Civil Service Commissioner and the Lead Government Non-Executive Director should attend all meetings of the SLC to add to its expertise and to help monitor its effectiveness. An additional suitably-qualified Non-Executive Director (NED) should be appointed by the Minister for the Civil Service to increase the independent voice on the Committee.

### **Recruitment into the SCS**

23. Recruitment and selection processes should not be so standardised as to militate against diversity and the best candidates being selected.
24. Sufficient desk research, third-party independent referencing and potentially face to face contact with the candidate should take place to ensure that anyone short-listed for a post is, at least on paper, potentially appointable. An interview panel is not necessarily the only way to bring the process to a conclusion.
25. There should be a small, enhanced Recruitment Centre of Excellence based in the Cabinet Office to support departments and to provide constructive challenge, covering such matters as whether the job description has been properly thought through, whether the proposed salary-range is likely to attract appropriate candidates, the best way to publicise the Competition, and whether or not headhunters should be employed and, if so, what type.
26. This Centre of Excellence should have within it staff on secondment from outside the Civil Service able to supplement internal skills and to provide insights on the external market.
27. In its role as regulator, the Commission should monitor closely all Open Competitions within the SCS to ensure they are fit for purpose and to certify that appointments have been made on merit, on the basis of fair and open competition. The Commission's monitoring may include chairing Open Competitions, attending as an observer, or overseeing an appropriate due

diligence process. It should not feel that it has to chair all Competitions other than the most senior.

### **Role of Non-Executive Directors**

28. All departments now have independent Non-Executive Directors (NEDs) on their Boards capable of providing independent judgment and who are knowledgeable about their department and its requirements. As such, they are an important resource and should be involved in Open and Internal Competitions for SCS pay band 2 posts and above where appropriate including chairing panels. Their involvement should help provide a better accountability to the Board, overseeing the department and through their membership of the Whitehall NED network, help facilitate good practice and experience being transmitted across departments.

### **Permanent Secretary Appointments**

29. The First Civil Service Commissioner should certify at the conclusion of each Competition to appoint a Permanent Secretary that the process has been carried out with integrity on the basis of fair and open competition.

### **Internal Competitions**

30. Responsibility for Internal Competitions within the SCS other than Permanent Secretary appointments should clearly rest with the Civil Service's senior management. The Commission should monitor the robustness and effectiveness of these Internal Competitions; there is no need for the Commission to have a continuing role in chairing internal DG appointments *unless the permanent secretary or the Secretary of State wishes to use their expertise in a specific case.*

### **The Health of the Civil Service**

31. The Commission should be empowered to conduct thematic reviews of matters within its competence, including, for example, topics such as the Civil Service's ability to attract quality recruits, whether the onboarding of senior staff recruited from outside maximises their utility and retention, the effectiveness of the Recruitment Principles and of the Civil Service Code, the credibility and robustness of internal HR processes including the quality of performance appraisal and talent management, the conduct of Competitions, and the attention paid to diversity. Based on such work, the Commission's Annual Report should be an authoritative guide to the health of the Civil Service, and a source of relevant data. This would both improve transparency and raise standards through aiding the sharing of best practice across departments.

# Chapter 1

## Background and Introduction

- 1.1. This document sets out the findings of the 2014 Triennial Review of the Civil Service Commission (the Commission). It describes the purpose of triennial reviews, the process adopted for the review, and presents findings based on feedback from stakeholders and analyses of a range of evidence on the Commission's work and responsibilities. The report draws on this evidence to make recommendations as to the future of the Commission.
- 1.2. The review was announced by the Right Honourable Lord Wallace of Saltaire on 28 July 2014, both to Parliament and on [www.gov.uk](http://www.gov.uk). The review's terms of reference are as follows:

*Civil Service Commissioners were first appointed a year after the Northcote-Trevelyan report of 1854 as a guarantor of its principles of professionalism, impartiality and meritocracy. The Commission was given statutory underpinning in the Constitutional Reform and Governance Act of 2010. The triennial review should swiftly verify that the requirement for the Commission as set out in that Act persists.*

*It should then review whether its remit should be extended or amended to ensure that the challenges the Civil Service faces today are being properly addressed. This would include, but not be limited to, the following areas: capabilities; upholding standards; performance management; and leadership and stewardship*

- 1.3. This report is divided into four main parts:
  - a. the purposes of a Triennial Review;
  - b. a description of what the Commission does;
  - c. an analysis of whether there is still a need for it; and
  - d. a discussion of whether its role should be extended or amended.
- 1.4. It is government policy that a Non-Departmental Public Body (NDPB) should only be set up, or remain in existence, where the model can be clearly evidenced as the most appropriate and cost-effective way of delivering the function in question. In April 2011, the Cabinet Office announced that all NDPBs still in existence following the reforms brought about by the Public Bodies Act 2011 would have to undergo a substantive review at least once every three years. This is the first review of the Commission and it has been carried in accordance with the *Guidance on Reviews of Non Departmental Public Bodies*, published in June 2014.

- 1.5. Triennial Reviews have two aims:
  - a. to provide a robust challenge of the continuing need for individual NDPBs – both their functions and their form; and
  - b. where it is agreed that a body remain as an NDPB, to review:
    - i. its capacity for delivering more effectively and efficiently, including identifying potential for efficiency savings and its ability to contribute to economic growth; and
    - ii. the control and governance arrangements in place to ensure that the public body and the sponsoring department are complying with recognised principles of good corporate governance. This should also include an assessment of the body's performance.
  
- 1.6. This review has been carried out on that basis although, due to the nature of the Commission, its size and its work, a pragmatic view has been taken of the extent to which the guidance applies.

# Chapter 2

## What does the Commission do?

- 2.1 In 1854, the Northcote-Trevelyan report on the organisation of the permanent Civil Service identified patronage as one of the main reasons for its endemic inefficiency and public disrepute. It recommended an open competitive examination to test merit. Civil Service Commissioners were first appointed a year after the Northcote-Trevelyan report to guarantee its principles of professionalism, impartiality and meritocracy.
- 2.2 Nowadays, the Civil Service Commission has two primary functions, as detailed in the Constitutional Reform and Governance Act 2010 (the 2010 Act):
- i. The Commission is responsible for providing assurance that selection to appointments in the Civil Service is on merit on the basis of fair and open competition, in line with the legal requirement.
  - ii. The Commission can hear and determine complaints raised by civil servants under the Civil Service Code (the Code), the ethical code which forms part of the terms and conditions of every civil servant.
- 2.3 The Civil Service Code outlines the core values of the Civil Service of honesty, integrity, impartiality and objectivity and describes the standards of behaviour expected of individual civil servants against each of these four values.
- 2.4 The Commission has also agreed with the Government to take on the following additional functions under section 17 of the 2010 Act:
- i. chairing internal appointments at Director General and Permanent Secretary level to provide assurance that they have been conducted in line with the Recruitment Principles.
  - ii. working with departments to help them promote the core values of the Civil Service as outlined in the Civil Service Code.
  - iii. providing secretariat and other support for three other Independent Offices: the House of Lords Appointments Commission (HOLAC), the Advisory Committee on Business Appointments (ACOBA) and the Office of the Commissioner for Public Appointments (OCPA)<sup>1</sup>.
- 2.5 The Commission is independent of Government and of the Civil Service. It is an executive Non-Departmental Public Body sponsored by the Cabinet

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<sup>1</sup> The Government decided in 2010 that the posts of First Civil Service Commissioner and Commissioner for Public Appointments should be filled by the same individual. They are currently held by Sir David Normington.

Office. The key characteristics of this type of public body are set out at Annex A. Commissioners are appointed by the Queen, following open competition. The Commission is presently made up of 10 Commissioners, including the First Commissioner and a Secretariat of 20 staff, of whom 12 work on core Civil Service Commission work; the remainder of staff effort supports the other Independent Offices. The Commissioners' professional backgrounds are set out at Annex B.

- 2.6 The total expenditure of the Commission taking into account its work for the other Independent Offices was £2.252 million in 2013-14, £1.335 million in 2012-13 and £1.13 million in 2011-12. The increase in 2013-2014 was to incorporate the budgets and expenditure of the other Independent Offices for which the Commission provides secretariat support. Like other executive NDPBs, the Commission receives its funding from Grant-in-Aid.
- 2.7 The main items of expenditure during 2013-14 were:
- i. Secretariat staff costs of £901,000, of which £550,000 relates to core Commission work.
  - ii. Compliance monitoring audit contract (KPMG), £234,000, of which £129,000 relates to core Commission work and the remainder relates to work for OCPA.
  - iii. Civil Service Commissioners' competition fees, £188,000.
- 2.8 The Commission's net expenditure on its core activities in 2013-2014 was £1.328 million. The Commission has a contractual relationship with KPMG for annual compliance monitoring audits, with Compupay to process Commissioners' payments, with DF Press to provide press officer support and (in connection with OCPA work to fulfil its commitments under the Royal Charter on press self regulation) with Gatenby Sanderson for executive search services.
- 2.9 The Commission's internal audit function is provided by the HM Treasury audit team and an independent accounts specialist is used on an ad hoc basis by the Commission to provide training to its finance staff.
- 2.10 The Commission has the power to appoint its own staff but, at present, all the staff of the Commission are on secondment from the Civil Service. The First Civil Service Commissioner, who chairs the Commission's Board, is Sir David Normington, a man of great knowledge and integrity, who was a senior Permanent Secretary prior to being appointed to the role following an open competition. The backgrounds of the present Commissioners are set out in Annex B.

### **The Recruitment Principles**

- 2.11 The Commission is responsible for providing assurance that selection for appointments in the Civil Service is on merit on the basis of fair and open competition, in line with the statutory requirement. The Commission's Recruitment Principles<sup>2</sup> are the key source document to which departments, the devolved administrations and agencies must refer for the Commissioners' interpretation of the statutory requirement of appointment

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<sup>2</sup> <http://civilservicecommission.independent.gov.uk/civil-service-recruitment/>

on merit on the basis of fair and open competition. The Recruitment Principles also outline the circumstances in which appointments may be made as exceptions to the merit requirement. The Principles were last revised by the Commission in December 2014.

2.12 The 2010 Act gives the Commission the power to determine circumstances in which it is lawful for departments<sup>3</sup> to appoint staff by exception to the legal requirement for appointment on merit, following fair and open competition, where it is either in the interests of the Civil Service or necessary to enable the Civil Service to take part in a Government employment initiative.

2.13 Appointments by exceptions for senior appointments at Director level or above, or a salary above the Senior Civil Service pay band 2 minimum<sup>4</sup> require prior approval by the Commission. Applying exceptions below these levels is for the majority of cases, delegated to departments although the Commission's approval is required in certain circumstances (for example, short term appointments for longer than two years). Departments and agencies are free to develop their own approaches to recruitment as long as they are consistent with the Recruitment Principles.

2.14 Table 1 below shows that the number of exceptions to the Recruitment Principles at SCS pay band 2 or above approved by the Commission has increased in the last three years (financial years 2011-12 to 2013-14). The largest increase has been in short term appointments. As table 1.2 shows, below SCS pay band 2, 3,859 appointments excluding mandatory TUPE transfers were made by exception in 2013-14. The Commission will be carrying out a review of exceptions during 2015.

*Table 1: Exceptions to the Recruitment Principles at SCS pay band 2 or above approved by the Commission (up to March 2014)<sup>5</sup>*

Exception	2013-14	2012-13	2011-12
<b>Exception 1:</b> Short term appointments to meet short term needs, up to 2 years	27	16	7
<b>Exception 2:</b> Not applicable at senior grades	-	-	-
<b>Exception 3:</b> Individuals with highly specialist skills, up to 2 years	-	1	1
<b>Exception 4:</b> Secondments up to 2 years to facilitate interchange	3	7	5
<b>Exception 5:</b> Reappointment of former civil servants	1	1	1
<b>Exception 6:</b> Transfer of an organisation into the Civil Service	-	2	-
<b>Exception 7:</b> Transfer of individuals into the Civil Service	-	4	-
<b>Exception 8:</b> The recruitment of disabled people	-	-	-
<b>Exception 9:</b> Assistance for disabled people	-	-	-
<b>Total</b>	<b>31</b>	<b>31</b>	<b>14</b>

<sup>3</sup> Departments include the Scottish Government and the Welsh Government

<sup>4</sup> Currently £85,000

<sup>5</sup> The Recruitment Principles were revised in April 2014 with 10 numbered exceptions.

Table 1.2: Exceptions to the Recruitment Principles below SCS pay band 2 delegated to Departments (up to March 2014)

Exception	2013-14	2012-13	2011-12
<b>Exception 1:</b> Temporary appointments to meet short term needs of up to two years	2561	4103	1444
<b>Exception 2:</b> Conversion to permanency of AO and AA staff appointed under exception 1	225	217	174
<b>Exception 3:</b> Appointment of highly specialist staff for up to two years	37	83	50
<b>Exception 4:</b> Secondments of up to two years to facilitate interchange	593	548	463
<b>Exception 5:</b> Reinstatement of former civil servants	67	82	47
<b>Exception 6:</b> Transfer of organisations into the Civil Service (including legally mandatory TUPE transfers)	5253	232	-
<b>Exception 7:</b> Transfers of individuals into the Civil Service (including from the Northern Ireland Civil Service or accredited NDPBs)	369	1384	456
<b>Exception 8:</b> Participation in schemes to support disabled people	2	3	198
<b>Other</b>	5	22	-
<b>Subtotal</b>	<b>9112</b>	<b>6652</b>	<b>2832</b>
<b>Total exceptions below SCS pay band 2 excluding mandatory TUPE transfers</b>	<b>3859</b>	<b>6420</b>	<b>2832</b>

Data based on Departmental returns to compliance monitoring audit.

2.15 Below SCS pay band 2, the Commission monitors compliance with the Recruitment Principles and capability for future recruitment through an annual audit. On the basis of a range of quantitative and qualitative data relating to recruitment by departments, a risk rating is determined by the Commission which is published on their website. Above pay band 2, compliance is monitored by Commissioners' direct oversight of recruitment through chairing interview panels. The Commission identified 17 cases in 2013-14 where departments failed to apply the Recruitment Principles correctly and where appointments were therefore unlawfully made.

### External (Open) and Internal Competitions

2.16 For the most senior roles in the Civil Service, the Civil Service Commissioners chair selection panels for all external (known as Open) recruitment competitions at Director, Director General and Permanent Secretary levels<sup>6</sup>. An Open Competition is one that is advertised outside the Civil Service and candidates who are not existing civil servants may apply.

2.17 Commissioners also chair Internal Competitions at Director General and Permanent Secretary levels under the terms of the Senior Appointment Protocol, agreed with the Head of the Civil Service in 2007. An Internal Competition is one advertised across the Civil Service, but which is not open to applicants who are not existing civil servants.

2.18 As shown in table 2 below, there has been an increase in the number of competitions that Commissioners have chaired in the last three years (financial years 2011-12 to 2013-14).

<sup>6</sup> Director – SCS pay band 2, Director General – SCS pay band 3, Permanent Secretary – SCS pay band 4



Table 2: Competitions at SCS pay band 2 and above

	Competitions chaired by Commissioners			Appointments made			No appointment made
	Open	Internal	Total	Open	Internal	Total	
2013-14	100	16	116	83	15	98	18
2012-13	96	8	104	85	8	93	11
2011-12	69	11	80	62	11	73	7

2.19 Table 3 sets out the number of panels that Commissioners have chaired for posts below SCS pay band 2. Commissioners receive competition fees for competitions they chair. The total fees paid to Commissioners for chairing competitions in 2013-2014 were £188,000.

Table 3: Competitions below pay band 2 chaired by the Commissioners

	Competitions chaired by Commissioners			Appointments made			No appointment made
	Open	Internal	Total	Open	Internal	Total	
2013-14	5	-	5	-	-	-	5
2012-13	-	-	-	-	-	-	-
2011-12	-	4	4	-	-	-	4

### Senior Civil Service Appointments

2.20 Since 2010 there has been a total of 49 Permanent Secretary appointments of which the Commission chaired 34. The table below shows the breakdown of these appointments with the majority made through Internal Competitions and Managed Moves. Although 18 competitions were external, only two appointees came from the private sector and one from the wider public sector. Several of those appointed from within the Civil Service had joined the Civil Service relatively recently following careers spent primarily in the private or wider public sector.

Table 4: Permanent Secretary Appointments 2010-2014

	Internal Competition	Open Competition	Managed Move	Personal Promotion
Already Serving Perm Sec	4	-	12	-
Already Director General within Department	7	6	-	1
Existing Civil Servant from Whitehall Department	3	9	-	-
Already Perm Sec equivalent grade from Diplomatic Service.	-	-	1	-
From Wider Public Sector	-	1	-	-
From Private Sector	-	2	-	-
Re-instated previous Civil Servant	2	-	1	-
<b>Total Number of Appointments</b>	<b>16</b>	<b>18</b>	<b>14</b>	<b>1</b>

2.21 Over the last two years a total of 59 competitions were conducted for the recruitment of Director General grades. Detailed breakdown of these appointments is not available but the table below shows that the majority of Director General recruitments were Open Competitions. 44% of these

resulted in an appointment from either the wider public sector or private sector.

Table 5: Director General Appointments 2013-2014

	Internal Competition	Open Competitions	Limited Trawl <sup>7</sup>
Internal Appointments	17	23	1
External Appointments	-	18	-
<b>Total Number of Competitions</b>	<b>17</b>	<b>41</b>	<b>1</b>

### Civil Service Code

2.22 The Commission can hear and determine complaints raised by civil servants under the Civil Service Code, the ethical code which forms part of the terms and conditions of every civil servant working for the UK Government, including the Diplomatic Service and (with modifications) special advisers<sup>8</sup>. The same Code forms part of the terms and conditions of civil servants working for the Welsh Government, a separate, but very similar Civil Service Code applies to the Scottish Government. The Code explicitly excludes HR issues from being raised under it.

2.23 Departments have the duty to make civil servants aware of the Code and its values. Departments must consider concerns raised by civil servants under the Code and must ensure that civil servants are not penalised for doing so. The majority of Code complaints and concerns are dealt with internally by departments without ever reaching the Commission and therefore, the number of complaints directly handled by the Commission is low. Departments do not routinely publish information on the numbers and nature of Code complaints they deal with and the Civil Service central leadership does not gather Service-wide data on Code complaints. However, the Commission publishes information about all Code complaints it receives.

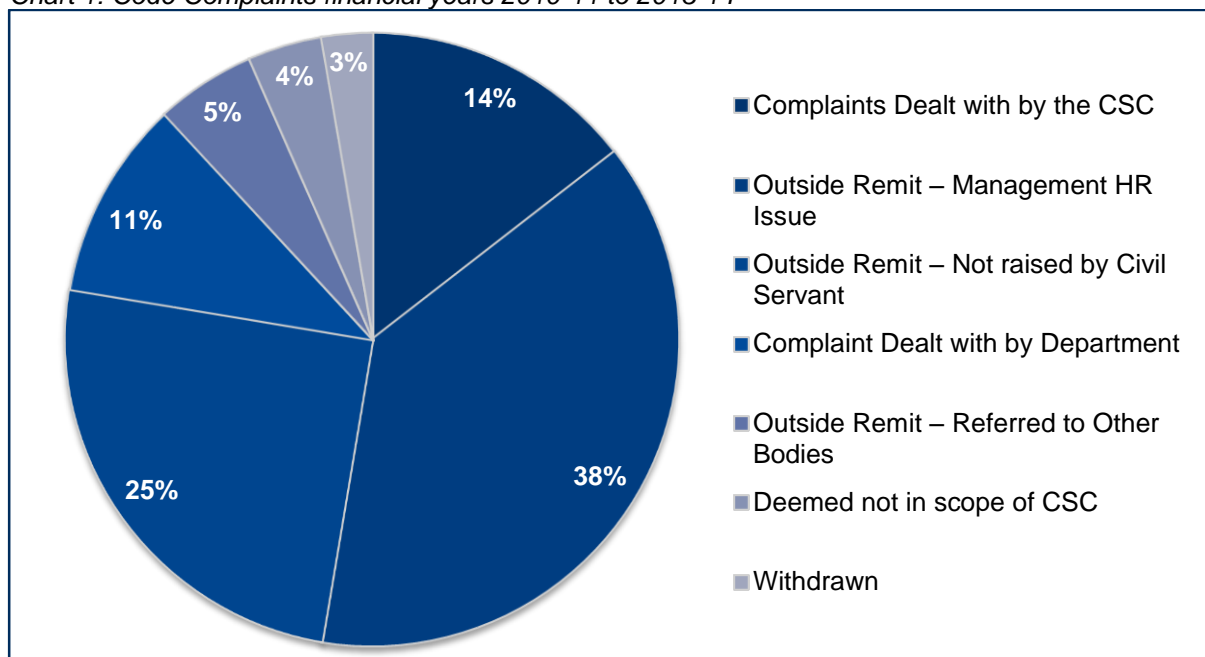
2.24 Since 1996 the Commission have heard appeals from civil servants on alleged breaches of the Code. The chart below sets out the number of complaints against the Code received by the Commission in the last four years. A total of 76 complaints were received between financial years 2010-11 to 2013-14<sup>9</sup>. Of these 14% (18) were dealt with by the Commission. The majority of complaints received were either outside the Commission's remit or resolved by the originating department.

<sup>7</sup> This applies to competitions for a very small number of highly specialist roles, for example, in the security agencies, where applications from particular departments and other public sector bodies are requested.

<sup>8</sup> Special advisers are required to comply with the requirements of the Code relating to honesty and integrity but not those relating to objectivity and impartiality.

<sup>9</sup> Total number extracted from the Civil Service Commission Annual Report and Accounts 2010/11; 2011/12; 2012/13 and 2013/14.

Chart 1: Code Complaints financial years 2010-11 to 2013-14



2.25 Over the last century and a half, civil servants have aspired to discharge their duties with honesty, integrity, impartiality and objectivity and there is a continued rise in the public trust of civil servants, from 25% in 1983 to 53% in 2013<sup>10</sup>. Following the publication in September 2003 of *The Government's Response to the Ninth Report of the Committee on Standards in Public Life*, the Commission undertook the additional role of working with departments to promote the Civil Service Code and help to ensure its effective operation.

2.26 Since 2009 the Commission has conducted self-assessment audits of Code policies and practices biennially; publishing findings and recommendations through their annual report and accounts, providing departments with detailed feedback based on their individual responses and good practice guidance. In helping departments uphold and promote the values of the Code, the Commission has worked with the Cabinet Office and Civil Service Resourcing to produce a first iteration of a set of standard policies and procedures for departments to adopt or adapt.

2.27 The Cabinet Office established a register of Nominated Officers in 2003 to oversee the operation of the Code. Individuals are appointed by the Permanent Secretary in each department to provide advice to staff from someone outside their management chain, should they wish it. Nominated Officers play an impartial intermediary role, ensuring due process is followed and advising staff on the interpretation of the Code and implications of raising a complaint. The 2009 and 2011 self-assessment audits indicated that more could be done to provide training and support for Nominated Officers and staff in HR departments with responsibility for the Civil Service Code. The weakest areas identified in 2013<sup>11</sup> continued to be those that related to the role of Nominated Officers.

<sup>10</sup> <https://www.ipsos-mori.com/researchpublications/researcharchive/15/Trust-in-Professions.aspx>

<sup>11</sup> <http://civilservicecommission.independent.gov.uk/wp-content/uploads/2014/06/CSC-Annual-Report-201314.pdf>

2.28 The Civil Service People Survey 2014<sup>12</sup> shows that across the Civil Service there is a steady annual increase in the awareness of the Code, in the understanding of processes for raising complaints and confidence in handling them. Despite the year-on-year improvements, there remains a way to go; 64% of staff know how to raise a concern in their organisation but only 69% felt confident it would be investigated properly.

### **Devolved Administrations**

2.29 The Commission hears Code complaints from civil servants working for the Welsh Government and the Scottish Government. The Recruitment Principles, approvals for selections and exceptions, complaints and compliance monitoring apply to the Scottish and Welsh Government.

2.30 The Commission received 46 complaints about recruitment in 2013-2014, of these two complaints related to the Scottish Government and none related to the Welsh Government. Five cases were decided to be within the Commission's remit and were investigated, none were found to be in breach of the Recruitment Principles.

2.31 The Commission does not have a role in relation to the Northern Ireland Civil Service, which is overseen by the separate Civil Service Commissioners for Northern Ireland under separate legislation. The Commission's remit in Northern Ireland extends only to those civil servants working in UK Government Departments, not the Northern Ireland Executive.

### **NDPB Accreditation**

2.32 The Cabinet Office's policy is for staff in NDPBs to be eligible to apply for jobs advertised (Internally) across the Civil Service. In order for this to happen without compromising the legal requirement that selection for appointment to the Civil Service must be on merit following fair and open competition, NDPBs must first be accredited by the Commission.

2.33 An NDPB whose recruitment policies have been judged by the Commission as complying consistently with the Recruitment Principles will be accredited for three years at which point it must be renewed. Once accredited, NDPBs can use the Civil Service website to advertise a vacancy and their staff will be able to apply for Civil Service wide jobs. There were 35 reviews for accreditation carried out by the Commission in 2011-12, 16 in 2012-13 and 34 in 2013-14.

3.1 As part of considering whether there is a continuing need for the Civil Service Commission, the review has considered whether there is potential to learn lessons from other Civil Service Commissions worldwide operating in similar jurisdictions to that found in the United Kingdom. Similar to the processes underway in the UK, other Civil Services have adapted and modernised to meet the challenges of the 21st-century.

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<sup>12</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/376797/csps2014\\_benchmarks.csv/preview](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376797/csps2014_benchmarks.csv/preview)

- 3.2 Both Australia and New Zealand strengthened the power of their Public Service Commissioners in 2013. The Australian Public Service Commission (APSC) role has been significantly remodelled, blending contemporary approaches with enduring principles of public administration that go to the heart of the Westminster model, making the APSC the central authority for Australian Public Service workforce development and reform.
- 3.3 The APSC holds responsibility for promoting good practice in management, leadership, learning and development and coordinating public service wide training, as well as encouraging an ethical and diverse workforce. The APSC also has a role to provide advice on ethics and evaluate the extent to which public sector agencies incorporate and uphold the Australian Public Service Values. Most significantly, the Commission evaluates performance of agencies annually for the purpose of a state of the service report.
- 3.4 In New Zealand the legislation adds to the role of the State Services Commissioner (SSC) so that it now includes explicit responsibility for leadership and oversight of the performance of the state services as a whole. The legislation also enables the Commissioner to identify and deploy talent across the public service. This means being able to move Chief Executives (Permanent Secretary equivalents) into vacant positions within the Public Service. The success of the Commission is intertwined with the performance of the State Services. The SSC became the principle assessor of chief executive performance, taking a direct role in their recruitment, remuneration and appraisals
- 3.5 The Singapore Civil Service is regularly regarded as a world leader in government and Civil Service reform. The change in Singapore in recent years focused on the maintenance of the central values of the Civil Service. The Public Service Commission (PSC) of Singapore has recently developed non-statutory responsibility for the PSC Scholarship, which is similar in many ways to the Fast Stream programme of the UK. With the intention to embed a culture of change, improvement and innovation, the Commission has taken direct control of the attraction and development of the best and brightest and in doing so ensures that its central values are set in place early and continue to the top. Recruitment at all levels is open to anyone from inside and outside of government, with the Public Service Commission recruiting the Departmental Chief Executives (Permanent Secretary equivalent).

3.6 Closer to home, the Northern Ireland Civil Service Commission has evolved greatly since 2013 as the case study below demonstrates:

#### CASE STUDY – NORTHERN IRELAND CIVIL SERVICE COMMISSION

As an Arm's Length Body of the Northern Ireland Office, the Civil Service Commissioners for Northern Ireland are responsible for ensuring appointments to the Northern Ireland Civil Service (NICS) are made on merit on the basis of fair and open competition. They also safeguard the NICS Code of Ethics<sup>1</sup> by hearing appeals made by existing civil servants.

**Their primary role is to regulate appointments to the NICS, at all levels**, to ensure that the principle of merit is adhered to. Commissioners are concerned only with new appointments made to the NICS by way of open competition and have no remit in relation to internal competitions, managed moves or promotions, which remain the responsibility of the NICS. In early 2013, the Commission **identified recommendations for improvement**. These have led to a series of changes, including:

**Assurance:** The Commission developed a clear **four stage recruitment process for appointment to the Senior Civil Service**. They **ensure commonality of approach by using an agreed Chairperson's checklist**. This gives the Commission assurance that the principle of merit is being adhered to, without necessarily chairing competitions themselves, and keeps the Commission actively involved in NICS recruiting procedures in practice. In addition, the Commission conducted a review to examine the communications and feedback from SCS candidates during the selection and recruitment process, this provided further assessment against recruitment processes.

**Guidance:** A review and rewrite of the guidance related to the **appeals process under the Code of Ethics** to explain the Commission's role and remit and bring greater clarity to the process.

**Compliance and Recruitment Processes:** The Commission undertook a compliance review to consider how consistently NICS recruitment processes were being applied with upholding the principle of merit. This led to **significant improvements to the selection and recruitment process** that included: the review of job analysis, documentation in relation to vacant posts, consideration given to the use of the wider and more innovative selection methodologies, new documentation for recording conflict of interest at all stages of the recruitment process and new procedures for obtaining feedback from candidates.

**Audit:** A key development was the appointment of a member of staff within the Secretariat to manage the audit function and to consider, on behalf of Commissioners, recruitment-related data provided by the NICS. This appointment has already had a **significant impact upon their ability to regulate and oversee recruitment** within the NICS. Having a dedicated resource focused primarily on the audit role, in addition to monitoring the Code's requirements in relation to NICS recruitment-related information, brings a **higher level of expertise and specialist knowledge to the regulatory role**.

The Commission has managed to achieve greater value for money by streamlining processes, becoming more focused and strategic in order to adjust and improve in the face of restricted budgets without diminishing their role as a regulator. The Commission's role has become more dynamic and specialised, actively engaging stakeholders and asserting its role across government, through clarification and guidance, continuous improvement and review of recruitment procedures but above all strengthening their audit function to maintain their ability to operate as effective regulators.

<sup>1</sup> <http://www.nicscommissioners.org/code-of-ethics.htm>

#### The Triennial Review Tests

3.7 Government policy states that if a public function is needed, it should be undertaken by a body that is democratically accountable at either national or local level. A body should only exist at arm's length from government as an NDPB if it meets one or more of three tests:

- i. it performs a **technical function** which needs external expertise to be delivered – for example a function that could not be delivered in a department by civil servants, and where it would

not be appropriate to recruit staff with the necessary skills to the department to undertake the function;

- ii. its activities need to be, and be seen to be, delivered with absolute **political impartiality** – for example where political involvement, or perceived involvement, could adversely affect commercial considerations, growth, or the financial markets, or could lead to criticism of partiality; or
- iii. it needs to **act independently of Ministers** to establish facts and/or figures with integrity.

3.8 If the Commission is to continue as an executive NDPB, it must satisfy at least one of the three tests:

- i. **Test 1 - Technical function** (fail): The Commission's primary functions are not technical and do not require specialist external skills that could not be delivered by civil servants in departments. Prior to becoming an executive NDPB, the Commission was a unit of Cabinet Office.
- ii. **Test 2 - Political impartiality** (pass): Those whom the review have consulted all have commented on the importance of impartiality in the Commission when carrying out its functions. For credibility, it is essential that a regulator is able to operate without political involvement or perceived involvement.
- iii. **Test 3 - Establish facts and/or figures with integrity** (pass): The Commission necessarily has to establish facts and figures to carry out its work and provide assurance and this must be done with independent credibility to be effective.

3.9 The review therefore considers that the Commission passes two of these tests.

3.10 Triennial Reviews are required to consider whether the functions of an NDPB, if still required, could be delivered more effectively by a different organisational delivery model.

- i. **Abolish** – all respondents favoured the continuation of the Commission, recognising the need for there to be an independent guardian of recruitment into the Civil Service on the basis of merit, and with honesty, integrity, objectivity and impartiality as its core values. The *'Civil Service Reform Plan Progress Report'* states that by April 2015 there will be a move to the presumption that Senior Civil Service appointments below Permanent Secretary level are open to external candidates as well as civil servants. There is a statutory requirement for the functions of the Commission to be provided and thus abolition would either require the statutory position to be changed or it would necessitate the establishment of another delivery option. The review recommends neither course.
- ii. **Move out of central government** – the Commission's work is so intertwined with central government that its functions could not sensibly be carried out by local government nor the voluntary sector. The review concludes that there would be no benefit in moving the Commission out of central government.

- iii. **Commercial model** – there is no scope for the Commission to offer services to the public to bring in revenue. The conclusion of the review is that a commercial model would not be appropriate.
- iv. **Bring in-house** – the Commission was formerly a unit of the Cabinet Office and it was then decided that in order to maintain the position of impartiality it should operate at arm's length from government. The review agrees with this.
- v. **Merger with another body** – during the consultations, a suggestion was made that the Commission could merge with the Senior Salaries Review Body (SSRB). SSRB provides independent advice to the Prime Minister, the Lord Chancellor, the Secretary of State for Defence, the Secretary of State for Health and the Home Secretary on the pay of senior civil servants, the judiciary, senior officers of the armed forces, certain senior managers in the NHS and Police and Crime Commissioners. The work is different in concept and type and although they both require impartiality, it is of a different kind. The review does not recommend a merger.
- vi. **A Parliamentary Body** – to be effective, the Commission, whilst maintaining its integrity, has to work in a constructive relationship with the Government, individual Ministers, and the leadership of the Civil Service. The complete separation that would be afforded by Parliamentary status would be likely to hinder rather than advance the Commission's effectiveness and the review does not recommend this.

**3.11 An independent body is needed to monitor and help assure the effectiveness and ethical integrity of the Civil Service. The Constitutional Reform and Governance Act 2010 gives a sound basis for the Civil Service Commission to fulfil this role. The Civil Service Commission should remain as an executive Non-Departmental Public Body.**

3.12 The Commission is only effective if it carries out its functions with impartiality and integrity.

**3.13 To be effective, the Commission has to work closely in a constructive relationship with the Government, individual Ministers, and the leadership of the Civil Service. All parties should respect the need for the Commission to be and perceived to be independent.**

#### **Effectiveness and Efficiency**

3.14 A Triennial Review is also required to assess effectiveness and efficiency and questions of good governance. Good corporate governance is central to the effective operation of all public bodies.

3.15 The review prepared a Board effectiveness questionnaire for the Commission to complete. This type of questionnaire is often used to assess and monitor over time the effectiveness of Boards but one had not previously been completed by Commissioners. Overall, the findings showed a broad consensus of views across the Commission, and a broad sense of



collective responsibility. Commissioners felt that Board processes allowed shared conclusions to be reached in an open environment, and that the Commission was the right size with appropriate skills and a diverse composition.

- 3.16 Commissioners strongly agreed they understand their responsibilities and role. They receive extensive inductions upon their appointment that includes training on the regulatory framework and their responsibilities; the basics of chairing panels and governance. To be effective, the Commission clearly needs good Commissioners but they also need to operate, as they feel they do now, within a collective framework.
- 3.17 Individual Commissioners should be selected for their relevant expertise and their ability to carry out their required functions. In an enhanced regulatory role, they need to have a clear sense of best practice and rigorous standards setting. But also, as a group, they should be chosen so as to operate as a high-performing Board able to take collective decisions that are insightful and authoritative.**
- 3.18 The Commission should continue to operate to the highest standards of transparency and corporate governance committed to monitoring and enhancing their own effectiveness.**
- 3.19 Similar NDPBs sponsored by the Cabinet Office have developed the capability for compliance monitoring in-house. It is possible that this could provide increased value for money.
- 3.20 The Commission should consider setting up its own compliance monitoring capability and also using government shared services where appropriate to reduce its costs.**
- 3.21 The use of such services would not compromise the Commission's independence.
- 3.22 During the review's consultation, some questions were received regarding the appointment of a former Permanent Secretary to the role of First Civil Service Commissioner. The joining of the dual role of First Civil Service Commissioner and Chair of the Public Appointments Commission had logic in it but the expanded role that this review envisages for the Civil Service Commission means that in future there would be clear advantages for its Chair to be perceived to be independent both of the Civil Service and the Government and have a background wider than that of the Civil Service.
- 3.23 Likewise, the staff of the Commission need to have a broad range of skills and experience, including expertise in HR and recruitment. The Commission has the powers to appoint its own staff and other NDPBs take advantage of their own powers similar to this. It seems surprising that the Commission's staff are all seconded from the Civil Service.
- 3.24 The Commission's staff must have the required skills and expertise, for example in the areas of HR and recruitment, to support the Commission. Civil servants on secondment will have a valuable role to**

play but they should not form the totality of the staff. The Commission has the powers to employ its own staff and, in particular, going forward in its expanded role, the Commission's management should not all be, or have been, senior civil servants.

- 3.25 **The First Civil Service Commissioner is one of the most important public appointments. Before selecting an individual for the post, the Minister is required under the Constitutional Reform and Governance Act 2010 to consult the First Ministers for Scotland and Wales and the relevant opposition leaders. It is also an appointment which is subject to pre-appointment Parliamentary scrutiny and needs to be clearly seen to be independent of the Senior Civil Service and the Government.**
- 3.26 Those whom the review consulted thought that it was sensible for the four Independent Offices to share secretariat functions provided that the efficiency of the Offices was not affected in any way. The arrangement was thought to work well in practice.
- 3.27 **The Commission's staff should where appropriate continue to provide support to the House of Lords Appointments Commission (HOLAC), the Advisory Committee on Business Appointments (ACOBA), and the Office for the Commissioner for Public Appointments (OCPA) but it is important that this does not jeopardise nor be at the expense of their primary functions.**

### **Recruitment Principles**

- 3.28 The Commission's Recruitment Principles are the cornerstone of the Commission's work. They have evolved over time and form a pragmatic, sensible framework for ensuring that appointments to the Civil Service are made on merit on the basis of fair and open competition. However, the review was told that the operation of the Principles in practice by some departments leaves something to be desired and is not always in line with best practices elsewhere. It is important to be alert that form does not substitute for substance which is why regular monitoring by the Commission is important to ensure that the Principles are being adhered to. The Commission recently reviewed the Principles. How they are applied is even more important at below SCS pay band 2 level, where the Commission does not actively chair or approve competitions.
- 3.29 **The Commission's Recruitment Principles form a sound basis for ensuring that appointments to the Civil Service are made on merit on the basis of fair and open competition. They should regularly be reviewed and updated.**
- 3.30 Maintaining public confidence in the Principles and the way that they are operated requires those who feel, when applying for a job, that they have been unfairly treated to have a structured process through which substantive grievances can be addressed.

- 3.31 **The Commission should continue to consider complaints from people that appointments have been made in contravention of the Recruitment Principles.**
- 3.32 The Civil Service embraces a wide variety of job types varying from the administrative to the industrial, and from advising on policy to delivery of some of the most important projects in the UK. Bulk recruitments sometimes need to be made to carry out urgent functions and sometimes there are bulk transfers of staff into the Civil Service. Flexibility is also needed to boost employment for young people, particularly school-leavers, and to encourage apprenticeships. It is understandable therefore that exceptions to the Principles will need to be made but they all have to be clearly justifiable either individually or as a class. The publication of exceptions data has varied over the last few years. The largest number of exceptions are below SCS pay band 2 and under delegated authority to departments. A breakdown of the reasons for these exceptions does not consistently appear in the Commission's annual reports.
- 3.33 The Senior Civil Service (SCS) provides leadership and management to the Civil Service and is its most influential cadre. Recruitment into the SCS should be correspondingly stringent and there should be full transparency and an explanation for all exceptions to the Recruitment Principles.
- 3.34 **The number of exceptions to the Principles being exempted each year under the various categories of exemption should be published and explained. The Principles should not be operated in such a way as to inhibit the employment of young people or the creation of apprenticeships.**
- 3.35 This will allow trends to be monitored over time and corrective action taken as necessary.
- 3.36 **Departments who consistently and materially do not adhere to the Principles should be reported by the Commission to the Head of the Civil Service and the Minister for the Cabinet Office for appropriate action to be taken.**

### **Civil Service Code**

- 3.37 Ethical codes setting out expected standards of behaviour have an important role to play in modern society. Traditionally, ethics were thought to be an inherent feature of certain societal groups and it was thought that people would naturally "do the right thing". Experience in the financial services sector and elsewhere shows regrettably that this is no longer the case.
- 3.38 For codes to be effective, they must be relevant and concise, they must be visible, and they must become a natural part of discourse in the workplace. Most importantly, people must live the code rather than just reading it and teams in the workplace must self-regulate themselves and call out inappropriate behaviour as soon as it occurs to stop it becoming embedded and appearing to be the norm.

- 3.39 Proper whistleblowing processes are an important part of this. There is in the private sector a renewed emphasis on the importance of robust whistleblowing procedures. There is always a danger that concerns about serious code breaches will not be raised, particularly if individuals fear that doing so might be held against them. In such situations a concerned civil servant may feel the only alternative to silence is to leak information anonymously outside the Civil Service. The Public Account Committee's Whistleblowing<sup>13</sup> report highlighted that many concerns go unreported and there is an inconsistent approach across departments. Robust procedures across the public sector are needed to ensure concerns can be raised and there is a clear channel for such concerns to be dealt with properly.
- 3.40 **The Civil Service Code, published by the Minister for the Civil Service, is an important ethical yardstick against which civil servants should constantly be measured. The Commission's assurance processes should confirm that the Code is fully representative of best practice, that it is front of mind for civil servants, and underpins all that the Civil Service does. The Commission should also assure that departmental policies and procedures relating to the Code, including Code-related 'whistleblowing' procedures, are effective.**
- 3.41 Breaches of the Code and complaints under it should in the first instance be a responsibility of the Civil Service's line management. For those complaints which come from Civil Servants themselves, there is a right of appeal to the Commission. Only 1 in 12 UK public servants are classed as civil servants. Civil servants are those who are employed by the Crown this does not therefore include those employed by Parliament or public servants employed by other public bodies.
- 3.42 **Civil servants should continue to have the right to refer the matter to the Commission if they believe that they or another civil servant are being asked to act in a way that conflicts with the Code.**
- 3.43 The review found varied opinions to consider on whether non-civil servants should also be able to raise complaints under the Code. The majority considered it would not be appropriate or proportionate to extend the hearing of complaints from members of the public. There are other bodies, such as the Parliamentary and Health Service Ombudsman, the Public Services Ombudsman for Wales and the Scottish Public Services Ombudsman that take maladministration complaints, and it is most effective if complaints are dealt with as near to source as possible.
- 3.44 However, it does not seem right that only civil servants should be policing themselves in this area. There will be some complaints which are so far-reaching and egregious that they deserve to be investigated by an independent authority whether or not a civil servant themselves have raised them.

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<sup>13</sup> <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmpubacc/593/59302.htm>

- 3.45 **Ministerial complaints about civil servants should normally be resolvable by Permanent Secretaries or the Head of the Civil Service. Exceptionally, in far-reaching and egregious cases of non-compliance with the Code, Ministers, in consultation with the Minister for the Cabinet Office, should also have the right to refer cases to the Commission.**
- 3.46 The Commission is also able to conduct investigations when they become aware of a conflict of the code, without the need for a civil servant to raise a complaint officially.
- 3.47 **As part of the biennial audit of the Code, the Commission should gather departmental data on the number of internal complaints handled and nature of concerns raised, and use analytics to identify any systemic issues across the Civil Service.**

# Chapter 4

## Should the Commission's role be extended or amended?

- 4.1 This review was asked to consider whether the Commission's remit should be extended or amended to ensure that the challenges the Civil Service faces today are being properly addressed. These challenges are arising during a period of continuing financial constraint within the public sector that necessarily has led and will lead to major reductions in resource and staffing. The challenges include ensuring that the Civil Service has the appropriate capability to fulfil its tasks and responsibilities. Different ways have to be found to do things, sometimes involving the private sector, and operational efficiency is paramount.
- 4.2 The Civil Service's capability is driven by its leadership, competence and skills, and its ability, particularly at the more senior levels, to recruit, develop, and retain people of high ability and integrity. The Civil Service is rightly paying much greater attention to performance appraisal, talent management, leadership development, promotion and succession planning.
- 4.3 Senior posts are filled by a combination of Open (external) recruitment, Internal Competitions, and Managed Moves, and it will always be important to ensure that the right balance is struck between these three channels. The Civil Service's efficiency and reform programme is bold and far-reaching with implementation a major task.
- 4.4 A healthy and vibrant Civil Service needs more however than impartial and meritocratic recruitment. Although good leadership and effective management is necessary throughout the Civil Service, particularly at the most senior levels, mechanisms are needed for getting the best people into the right jobs, for performance measurement and capability building, and for succession planning.
- 4.5 Impartiality is vital to the Civil Service but is not always straightforward to apply in practice. It is easy to recognise inappropriate partiality but not easy to define what impartiality means. The best guarantees of impartiality are good HR processes, transparent mechanisms for recruiting, promoting and moving people, and the checks and balances similar to those found in the leading companies in the private sector. Appropriate impartiality is nothing more nor less than one of the ingredients of a healthy Civil Service. Critically, impartiality must not be allowed to blur the proper responsibilities of management and it must not be allowed to become a religion in its own right in isolation from other topics.

- 4.6 In the private sector, senior management spend a considerable amount of time managing their organisation, providing leadership, and ensuring that leaders at all levels have the skills and expertise to carry out their functions.
- 4.7 **Recruitment, retention, and talent management of senior people are some of the most important duties of management. This should continue to be recognised and emphasised both in the objectives set for Permanent Secretaries and in their appraisals.**
- 4.8 **An organisation as complex as the Civil Service needs highly effective HR management. Heads of Departments should work very closely and in partnership with their Heads of HR to ensure this. People Management is a highly-professional and skilled function and needs to be staffed accordingly and recognised as such.**
- 4.9 Seasoned HR practitioners in the private sector recognise good data as being the essential underpinning of good HR practices. In conducting this review, good data has been hard to come by. It is either not collected systematically across departments or it is not always pulled together centrally to identify trends or the need for intervention. Strategic workforce planning is about ensuring the organisation has the right people and skills to meet business goals and a key component of this is robust workforce data.
- 4.10 **Effective HR needs good data and more attention should be made to collecting this on a cross-departmental basis and making it suitably transparent.**

### **The Senior Civil Service**

- 4.11 The Senior Civil Service (SCS) provides leadership and management to the Civil Service and is its most influential cadre. Recruitments and promotions into the SCS, and transfers within it, have an enduring effect on the capability of the Civil Service. Much has been done in recent years to achieve an appropriate balance between the accountability of departments and the need to manage the Civil Service coherently. Such coherence is particularly important at a time when there is continued pressure on public expenditure and efficiencies have to be rigorously searched for and applied.
- 4.12 **Whilst departments should retain the primary responsibility for ensuring their SCS is effectively staffed, this responsibility should be monitored by the Cabinet Office to ensure excellence, consistency of treatment, and to promote mobility within the SCS.**
- 4.13 The Senior Leadership Committee (SLC) has the primary responsibility within the Civil Service for Permanent Secretaries and Directors General, the two most senior grades in the Civil Service. Movements in this group occur through Open Competition, Internal Promotions and Managed Moves and are overseen by the SLC. The SLC is composed of the most senior Permanent Secretaries and is presently chaired by the HM Treasury's Permanent Secretary. The First Civil Service Commissioner attends its meetings and, recently, the Government's Lead Non-Executive has also nominated an independent member to attend. It is a very important body that

should always follow clear principles of governance and have transparent Terms of Reference. Whilst personal knowledge and personalities will always be important, it must also be both data driven and analytical.

- 4.14 **The SLC must be, and be seen to be, a highly-competent professional body. It always has to be alert that its purpose is not wrongly perceived as a tendency to want to perpetuate the status quo. Although the decisions of this Committee should be confidential, aggregate annual categorised data on movement activity should be collected and be publicly available. Such data would allow the balance between Open and Internal Competitions, and Managed Moves to be clearly visible and allow trends to be monitored.**
- 4.15 Experience in the private sector where Nomination & Governance Committees are highly developed shows the importance of constructive challenge and an independent voice. The workings of the SLC should also be subject to such external scrutiny.
- 4.16 **The First Civil Service Commissioner and the Government Lead Non-Executive should attend all meetings of the SLC to add to its expertise and to help monitor its effectiveness. An additional suitably qualified Non-Executive should be appointed by the Minister for the Civil Service to increase the independent voice on the Committee.**

#### **Recruitment into the Senior Civil Service**

- 4.17 There is no such thing as a typical Senior Civil Servant and the range of skills required is no less complex than that found at the top of the largest companies. One size does not fit all. It would be expected therefore that recruitment processes – whether external or internal – would recognise this complexity and flex accordingly. This does not always appear to be the case.
- 4.18 Keeping the SCS properly staffed is one of the most important tasks facing the management of the Civil Service both centrally and at departmental level. Whenever there is a vacancy to be filled in the SCS, the first step should be to consider the nature of the post and to define the skills and capabilities that the holder requires to allow its duties to be carried out successfully.
- 4.19 Recruitment into the Senior Civil Service from outside is an important source of capability and talent. It should therefore always be explicitly considered whether any vacancy might best be filled by an outsider. However, the purpose of effective succession planning and talent management is to develop internal candidates in a way that allows them to progress both sideways and upwards. If desk benchmarking shows there are high-quality internal candidates with the complete range of necessary skills, there is no need to go outside other than the important requirement from time to time to refresh and supplement the internal gene pool. The bias may be towards Open Competitions but if, because of the nature of the role, an outsider is unlikely to have the necessary qualifications there is no point in searching for a needle in a haystack.



- 4.20 If there is to be an Open Competition, it needs to be designed appropriately bearing in mind the role that is to be filled. This would include, for example, whether or not to use head-hunters, the recruitment and selection processes, and what salary range would be necessary to attract a credible external candidate.
- 4.21 Competitions traditionally involve casting a wide net in order to draw up a Long List of potential candidates; doing sufficient research on the Long List to identify a Short List of candidates; and then subjecting the Short List to an intensive selection process in order to identify the preferred candidate. Because this last process is resource intensive, it is important that everyone on the Short List is of the calibre to be appointed. This appears not always the case. There is no point in putting people on a short list “to make up the numbers” as this will lead to a waste of time and effort, and there is no point in holding an elaborate Competition if the result is already pre-ordained.
- 4.22 **Sufficient desk research, third-party independent referencing and potentially face to face contact with the candidate should always take place to ensure that anyone short-listed for a post is, at least on paper, potentially appointable.**
- 4.23 In order to preserve the accountability of management, departments should be in charge of their own competitions but any competition is only as good as the competitors taking part and the final decision-making process. Not all departments, particularly the smaller ones, will have the expertise necessary to design and conduct a satisfactory Open Competition. The Cabinet Office already assists in this area but this capability should be further developed.
- 4.24 **There should be a small enhanced Recruitment Centre of Excellence based in the Cabinet Office to support departments and to provide constructive challenge, covering such matters as whether the job description has been properly thought through, whether the proposed salary-range is likely to attract appropriate candidates, the best way to publicise the Competition and whether or not head-hunters should be employed and, if so, what type.**
- 4.25 **This Centre of Excellence should have within it staff on secondment from outside the Civil Service able to supplement internal skills and to provide insights on the external market.**
- 4.26 At present the Civil Service Commission puts enormous effort into chairing Open Competitions at Permanent Secretary and Director General level. It is the aspect of work which Commissioners enjoy the most and where they clearly feel they add value. It is open to Commissioners to take a close interest in the design of the Competition leading up to the climax of the selection panel. Many certainly do this and have the skills to do so but there is a sense of frustration that the timescales of Competitions sometimes does not allow this to be done effectively. The Commissioners act with the best of intentions but it is always important to ensure that regulators don't get too close to the process that they are regulating to avoid the risk of regulatory capture. As experience in Northern Ireland shows, even more important than

chairing Competitions is ensuring that strict criteria are employed at all stages of the recruitment and selection process.

- 4.27 Such criteria may involve assuring that the Short Listing has been effective and that all available information, including past appraisal data, has been assembled to assist the final decision. It is not appropriate just to rely on a completed application form, references from referees supplied by the candidates themselves, and a short psychometric test. A panel chaired by a Commissioner may be the optimum way to bring the process to a conclusion but it is the circumstances of the individual competition rather than the requirements of a process that should determine this.
- 4.28 **Recruitment and selection processes should not be so standardised so as to militate against diversity and the best candidates being selected.**
- 4.29 **In its role as regulator, the Commission should monitor closely all Open Competitions within the SCS to ensure they are fit for purpose and to certify that appointments have been made on merit, on the basis of fair and open competition. The Commission's monitoring may include chairing Open Competitions, attending as an observer, or overseeing an appropriate due diligence process. It should not feel that it has to chair all Competitions other than the most senior.**

#### **Role of Non-Executive Directors**

- 4.30 An important development in recent years has been the creation of Departmental Boards, chaired by the Secretary of State, who have on them experienced non-executives from the private sector. Because of the differing natures of departments, and the personalities involved, the Boards differ in the way they carry out their business but there is a common theme – the injection of independent high-quality expertise right into the heart of Whitehall. The non-executives are capable of providing independent judgments and are knowledgeable about their department and its requirements.
- 4.31 **Departmental Non-Executives are a valuable resource and should have an important role in selecting and appointing senior staff. They should be involved in both Open and Internal Competitions for SCS pay band 2 posts and above where appropriate including chairing panels. Their involvement should help provide a better accountability to the Board overseeing the department and through their membership of the Whitehall Non-Executive Directors network, help facilitate good practice being transmitted across departments.**

#### **Permanent Secretary Appointments**

- 4.32 Choosing a Permanent Secretary is the most important of all appointments and akin to choosing a Chief Executive Officer (CEO) for a very large business. Because of the closeness which Permanent Secretaries work with Ministers and their importance in delivering the Government's objectives, it is understandable and appropriate that the Prime Minister and Ministers wish to be involved.

- 4.33 The Commission has agreed with the Minister for the Cabinet Office that the Commission's role in such appointments should be to conduct a Competition that places before the Prime Minister a short list of names selected by a fair and open competition with merit at its heart from which the Prime Minister will make the final choice.
- 4.34 **The First Civil Service Commissioner should certify at the conclusion of each Competition to appoint a Permanent Secretary that the process has been carried out with integrity on the basis of a fair and open competition.**

### **Internal Competitions**

- 4.35 Holding management accountable for their actions is an important feature of governance and leads to better decision-making and clearer accountability. It is important that the role of management is clearly distinguished from the role of the regulator. At present, the Commission chairs Internal Competitions at Permanent Secretary and Director General level. Going forward, Permanent Secretary appointments, whether Open or Internal, will follow the protocol recently agreed between the Commission and the Government and there will be a continued involvement for the Commission.
- 4.36 **Responsibility for Internal Competitions within the SCS other than Permanent Secretary appointments should clearly rest with the Civil Service's senior management. The Commission should monitor the robustness and effectiveness of these Internal Competitions; there is no need for the Commission to have a continuing role in chairing internal DG appointments *unless the permanent secretary or the Secretary of State wishes to use their expertise in a specific case.***

### **The Health of the Civil Service**

- 4.37 The challenges faced by today's Civil Service are complex and wide-ranging. Because of its importance to the Nation, the health of the Civil Service should rightly be a matter of public concern. This review has shown that the senior management of the Civil Service takes its responsibilities very seriously and has made great progress in recent years in improving practices and governance in the areas covered by this review. However, much of what is done is dealt with through internal processes without the checks and balances that are commonplace in the private sector. Parliamentary scrutiny is important but is an ineffective substitute.
- 4.38 Within its area of competence, the Civil Service Commission is ideally placed to be part of a better governance structure for the Civil Service. In some areas, this review has recommended that the Commission should pull back from activity that is better left to the internal management of the Civil Service. But in an important area, as an independent regulator, it should do more.
- 4.39 **The Commission should engage actively with Ministers and the senior management of the Civil Service to improve the Civil Service's effectiveness.**

**4.40 The Commission should be empowered to conduct thematic reviews of matters within its competence, including, for example, topics such as the Civil Service's ability to attract quality recruits, whether the onboarding of senior staff recruited from outside maximises their utility and retention, the effectiveness of the Recruitment Principles and of the Civil Service Code, the credibility and robustness of internal HR processes including the quality of performance appraisal and talent management, the conduct of Competitions, and the attention paid to diversity. Based on such work, the Commission's Annual Report should be an authoritative guide to the health of the Civil Service, and a source of relevant data. This would both improve transparency and raise standards through aiding the sharing of best practice across departments.**

## Annex A – Key characteristics of an Executive Non Departmental Public Body

The key characteristics of an executive NDPB<sup>14</sup> are:

- i. Executive NDPBs are usually established in bespoke legislation or under the Companies Act. A small number of NDPBs have been established by Royal Charter. They are (with a couple of exceptions) not part of The Crown but have their own legal personality.
- ii. They carry out a wide range of administrative, commercial, executive and regulatory or technical functions which are considered to be better delivered at arm's length from Ministers.
- iii. They have a regional or national remit. Bodies which operate at a local or international level are rarely NDPBs. They have varying degrees of operational autonomy and independence from Ministers and the sponsoring department - but all work within a strategic framework set by Ministers.
- iv. They are directly accountable to Ministers who, in turn, are ultimately accountable to Parliament and the public for the performance of their NDPBs and their continued existence.
- v. They are headed by boards (or occasionally office-holders) comprising of an independent, non-executive chair and a majority of non-executive members. Board members are usually appointed by Ministers or by the Queen on the advice of Ministers.
- vi. Generally, the board will appoint a CEO with day-to-day responsibility for managing the body. The CEO and staff are not usually civil servants. In most cases the CEO would be designated as the Accounting Officer for the NDPB and the sponsor department's Permanent Secretary, as Principal Accounting Officer, would usually be involved in the designation.
- vii. They do not have their own Estimate; they are instead funded within the Estimate of their sponsor department. This is usually delivered through a grant or grant-in-aid, although many executive NDPBs also generate additional income through other sources. Some are funded by levies on particular sectors and receive no central funding.
- viii. They are accountable for their own budget and publish their own annual report and accounts. Each will have a sponsor department with whose accounts the NDPB's will be consolidated (as they are considered as central government for ONS purposes). The Comptroller & Auditor General is normally the external auditor.

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## **Annex B - Civil Service Commissioners' Biographies**

### **Sir David Normington GCB**

David was Permanent Secretary at the Home Office from January 2006 to December 2010. His early career in the Civil Service involved a range of jobs in the fields of employment, training and industrial relations, and included a time as Principal Private Secretary to the Secretary of State for Employment.

As Regional Director for Employment Services for London and the South East he was responsible for 500 offices and 10,000 staff. He moved through a series of senior positions in the Department for Education, and the Department for Education and Employment, including Director for Personnel and Corporate Services, and Director General for Schools. In 2001 he was appointed Permanent Secretary at the Department for Education and Skills, a post he held until the end of 2005 when he joined the Home Office.

As Permanent Secretary, David made a particular specialism of senior leadership development and human resources. In 2008 he chaired a special steering group that reported to the Cabinet Secretary on workforce and reward strategy for the Senior Civil Service. He is a Fellow of the Chartered Institute of Personnel and Development.

David was appointed as First Civil Service Commissioner, and the Commissioner for Public Appointments, on 1 April 2011.

### **Jonathan Baume**

Jonathan is a member of the Board of the Health & Safety Executive, serves on the ACAS Council and is a non-executive director of the Office of Nuclear Regulation. He was General Secretary of the FDA, a professional association and union for the UK's senior public servants and professionals, for sixteen years until October 2012. He joined the FDA as Deputy General Secretary in 1989, previously having worked at the TUC specialising in employment law and equality issues. After studying politics, philosophy and economics at Keble College Oxford, he joined Oxfordshire County Council in 1974 as a graduate trainee, and entered the Department of Employment Group in 1977, leaving for the TUC in 1986.

Jonathan was appointed as a Civil Service Commissioner on 1 November 2012.

### **Kathryn Bishop**

Kathryn is an Associate Fellow at the University of Oxford's Saïd Business School. She has worked as a management consultant at Accenture and as an independent practitioner, and was formerly HR Development Director at Allied Dunbar and Business Transformation Director at Zurich Financial Services. She has held appointments as a non-executive director at the UK Intellectual Property Office, at the UK Border Agency and with the Welsh Government. She is also a Trustee of an educational charity, and a Governor of a Gloucestershire primary school.

Kathryn was appointed as a Civil Service Commissioner on 1 April 2012.

### **Adele Biss**

Adele has a degree in economics (UCL). She has been a non-executive director of various companies, most recently of Eurostar International Limited and of Engine Group. Her career has included founding and running a PR business and, later, a Public Affairs consultancy. She has been chairman of the British Tourist Authority and English Tourist Board, a governor of Middlesex University and a Council Member of University College London (UCL). Her early experience was in brand marketing at Unilever and in marketing and communications at Thomson Holidays.

Adele was appointed as a Civil Service Commissioner on 1 April 2010.

### **Peter Blausten**

Peter is Group Human Resources Director of Morgan Crucible plc. Previously, he was an independent consultant advising on private equity acquisitions, and on organisation development. He was Group HR Director of BAA plc, and held senior roles with US broker Charles Schwab & Co, British Airways plc, and Ford Motor Company. He was a research associate at Ashridge Business School and a member of the CBI's Employment Policy Committee. He is a Council member of the Institute of Employment Studies and a senior consultant at the Senior Directors' Unit.

Peter was appointed as a Civil Service Commissioner on 1 April 2010.

### **Andrew Flanagan**

Andrew stood down from his previous role as Chief Executive of the NSPCC, the child protection charity, in March 2013. Prior to this, over a period of twelve years, he was Finance Director and then Chief Executive of the Scottish Media Group. A chartered accountant by profession, Andrew has also worked for various American and European telecoms and accounting companies. Andrew qualified as a Bachelor of Accountancy at Glasgow University and then qualified at the Institute of Chartered Accountants of Scotland. He has also held a number of non-executive roles including Chairman of the Heritage House Group and as a non-executive director for Phonepay Plus and the Scottish Rugby Union.

Andrew was appointed as a Civil Service Commissioner on 8 July 2013.

### **Dame Moira Gibb**

Moira was Chief Executive of Camden Council from 2003 to 2011. She chairs the Social Work Reform Board implementing the recommendations of the Social Work Task Force, which she also chaired, having previously been President of the Association of Directors of Social Services. She also serves on the Board of the UK Statistics Authority, and was a Director of the London Marathon from 2005. Moira has taught nationally and internationally, at school and university level.

Moira was appointed as a Civil Service Commissioner on 1 April 2012.

### **Wanda Goldwag**

Wanda is an adviser to Smedvig Venture Capital and Non-Executive Director of the Performing Right Society, International Copyright Enterprise, True North Human Capital and Surelaw. She had a 25 year career in marketing and her last corporate role was as Managing Director of British Airways owned AIR MILES. Wanda is also Treasurer of Eaves Housing for Women.

Wanda was appointed as a Civil Service Commissioner on 1 April 2012.

### **Eliza Hermann**

Eliza's career in the private sector, includes a variety of global commercial and human resources leadership roles in the international energy business. First with Amoco and then BP, she developed expertise in strategic planning and development, emerging market entry including cross border mergers and acquisitions, and human resources including senior executive recruitment, development, and remuneration. At BP she served as Vice President Human Resources from 2001 until 2008. Eliza is a Commissioner on the Marshall Aid Commemoration Commission and she has also served for 10 years as a main board non-executive director at Brightpoint Inc – a Fortune 500 global distributor of wireless devices, and for 5 years at the NHS Hertfordshire.

Eliza was appointed as a Civil Service Commissioner on 1 April 2010.

### **Angela Sarkis**

Angela is a charity management consultant. She is a Member of the Youth Justice Board, an adviser to the Street Pastor's Initiative of the Ascension Trust and Future First, and Secretary to Forest United Youth Football Club. Angela spent several years working for the Probation Service, Family Service Units; and is a former Chief Executive to the DIVERT Trust, the Church Urban Fund, YMCA England and the Nurture Group Network. She was a founding member of the Social Exclusion Unit in the Cabinet Office, a member of the Home Office Correctional Services Board, the House of Lords Appointments Commission, and adviser to the Department for Education and Skills. Angela is a former Governor of the BBC and has recently served on the Board of Capacity Builders.

Angela was appointed as a Civil Service Commissioner on 1 April 2012.