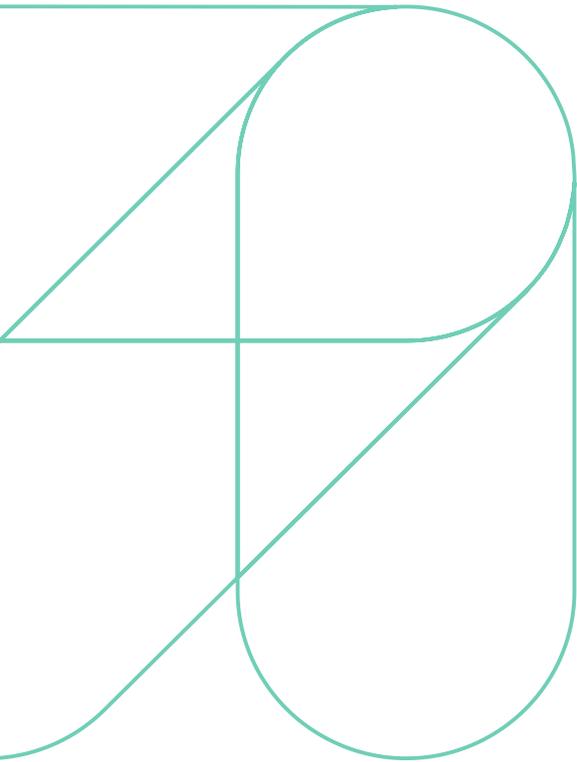


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The Role of Politicians

A discussion paper by Robert Kaye and Paul Richards



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Preface

GovernUp is an independent research project set up in 2014.

GovernUp brings together senior politicians of all parties, former civil servants, Whitehall advisers and business leaders to consider the far-reaching reforms needed in Whitehall and beyond to enable more effective and efficient government.

GovernUp is working to:

- Produce a rigorous body of evidence to identify the strengths and weaknesses of the current system of government;
- Generate radical but workable solutions to the long-term challenges that require reforms; and
- Shape public debate and build a new cross-party consensus on reform, based on the conclusions of our research.

Research projects

GovernUp's research programme is designed to establish an evidence base on the strengths and weaknesses of the current structures of government. Six research projects aim to develop a set of radical, yet workable steps to reform government, driving through the change required to deliver better outcomes for the British public:

- *Repurposing Whitehall* is considering whether the current organisation of central government is fit for purpose, and how to build a more flexible and accountable system;
- *Localism 2.0* is looking at options for the further devolution of power, not just to local government but also in the first instance to citizens and communities;
- *The Role of Politicians* is studying how to make ministers more effective in their roles;
- *Tackling the Skills Gap* is assessing how government can recruit and retain the best talent, and ensure that civil servants have the right skills. Deloitte LLP is contributing to this work;
- *Digital Future* is exploring how new technology and transparency could reshape the relationship between citizens and state; and
- *World Class Government* is examining what can be learnt from successful reform programmes in central and local governments around the world. McKinsey & Company is contributing to this work.

This discussion paper

The policy suggestions in this paper are produced for discussion by the authors as part of the Role of Politicians research project. GovernUp's formal proposals will be produced following feedback and consultation on these ideas. Responses are welcome and should be sent to info@governup.org by Wednesday 11 March 2015.

The authors

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Advisory Board

GovernUp's Advisory Board is co-chaired by Nick Herbert MP and John Healey MP and consists of senior politicians of all parties, former civil servants, Whitehall advisers and business leaders.

Members of the Advisory Board offer their expertise and insight to inform GovernUp's work. They have no responsibility for the project's governance, nor do they necessarily endorse the proposals of GovernUp or its research projects.

GovernUp

Further information about GovernUp, including discussion papers produced by the other research projects and a list of members of the Advisory Board, can be found at www.governup.org.

GovernUp is an initiative of the Project for Modern Democracy, a company limited by guarantee no. 8472163 and a registered charity in England and Wales no.1154924.

1. Introduction

This report is about the role of ministers – those politicians who provide political oversight, legitimacy and accountability to the actions of government; who join the executive to the elected legislature, both through their accountability to Parliament and (usually) their membership of the House of Commons. Particular attention is given to two groups of ministers who often receive less attention than Secretaries of State – junior ministers, especially those at Minister of State level, and ministers outside the House of Commons.

In order to understand the challenges and pressures faced by ministers, we conducted nine in-depth interviews with former ministers (five Labour, four Conservative, one Liberal Democrat), as well as holding a roundtable with Labour special advisers and in-depth interviews with four Coalition special advisers and two civil servants. These interviews were conducted on a non-attributable basis – in quotes below they are identified by their role alone, and some details have been removed to preserve their anonymity.

How The Role of Politicians relates to the other projects

The analysis and proposals in this report need to be read closely alongside the other five reports. In particular:

- The paper complements the *Repurposing Whitehall* report which deals with that part of the administrative executive that is most clearly responsible for implementing ministerial policy;
- The section dealing with how to ensure ministers have the technical understanding, confidence and support to lead departments complements the *Tackling the Skills Gap* paper on how to reskill the civil service; and
- Recommendations in the *World Class Government* paper on the importance of accountability in driving transformation and delivery.

2. Executive summary

Our proposals at a glance

- Opening up policymaking. Each Secretary of State to have a Principal Policy Adviser and a team of policy advisers, politically restricted, but drawn from outside the civil service to provide challenge and expertise. The ability to seek policy advice from outside Whitehall extended;
- Reform of ministerial offices, with an experienced Chief of Staff with a remit to help ministers navigate relationships within Whitehall and facilitate interactions outside it;
- Ministers appointed from outside Parliament, with new methods of accountability to elected MPs. A stronger role for some junior ministers, heading new 'programme ministries'; and
- Stability, coaching and/or mentoring to give ministers the time, skills and confidence they need to be effective.

Politics in the UK remains in the grip of an anti-politics sentiment. However, contrary to the lazy assumption that politicians are a malign influence on government, the overwhelming majority of ministers are driven by a combination of public service ethos, a desire to make change, and to leave a legacy, rather than by status or reward. Their role as elected representatives makes them more effective, by providing a 'reality check' on policy and decision-making. Political leadership within government department represents the crucial element of democracy, which separates government departments from the mere function of administration. The role of ministers, as politicians, is therefore a noble and necessary element of governance.

Politicians can bring a range of skills and attributes to public policy, including decisiveness; ideological cohesiveness; political understanding; leadership; partnership; communication; the ability to balance interests; accountability; legitimacy and insights from their experience as representatives.

However, too often the administrative regime surrounding ministers effectively neuters these advantages.

Ministers are supposed to bring democratic accountability. But in practice being accountable for everything means being accountable for nothing. The constitutional rule meaning that ministers can only speak in their own chamber limits accountability. In particular, MPs cannot hold ministers in the House of Lords to account at Question Time, even when the minister is heading a department. All ministers should be primarily accountable to the elected chamber.

A New Accountability Settlement

- Changes to the Standing Orders of the House of Commons to enable ministers outside the House of Commons to answer oral questions in Westminster Hall; and
- Allowing ministers who are members of neither House, so that ministers appointed from outside Parliament do not need to be given a title and a seat in the Upper House for life.

Second, ministers are supposed to bring their experience and political philosophy to bear on policy. But in practice the Civil Service has a near monopoly on policy advice and too often ministerial involvement is limited to being offered 'pre-cooked' policies at the last minute. In order to encourage a broader range of policy advice, each Secretary of State should have a Principal Policy

Adviser and a team of Policy Advisers, politically restricted, but drawn from outside the Civil Service; open policy commissioning should be extended; and ministers and their special advisers should be free to seek a second opinion on Civil Service advice.

Pluralist policy making

- Each department should have a number of policy advisers (not special advisers) – up to five in smaller departments and up to ten in large departments – drawn from outside the Civil Service, from think tanks, academia, and sometimes from political parties' own policy units. Their job would be to ensure that policy development reflected the thinking of the ministerial team;
- Each ministerial office should include a Principal Policy Adviser who reports direct to the Secretary of State. This person need not be politically unrestricted, but need not be, and in most cases should not be, a career civil servant; and
- The Principal Policy Adviser should be free to commission external advice. Restrictions on contestable policy advice would be relaxed to enable ministers to commission more policy advice from organisations outside the Civil Service. The Principal Policy Adviser should also be free to commission confidential external opinions on civil service advice.

Third, ministers are supposed to bring their broad experience and their knowledge from their role as a constituency MP to bear on public policy issues. But in practice their experiences are limited upon taking up office; their diaries are filled by Civil Servants, and they may lack the time and resources to drive reform.

Strengthened ministerial offices

- Each Secretary of State should be encouraged to appoint a Chief of Staff, who may be politically unrestricted, to help navigate Whitehall relationships, and ensure that the minister has sufficient time to interact with outside organisations;
- Removing the five-year limit on outside adviser appointments in the Private Office, and raising the two-year limit on other specialist advisers;
- Encouraging ministers to appoint a Chief of Staff who may be politically unrestricted to monitor progress on ministerial priorities;
- Amendment of the Civil Service Code to explicitly prohibit delay in the implementation of ministerial policy; and
- Allowing ministers to co-locate their parliamentary offices in their department.

Ministers are supposed to help join up government policy and make it coherent. But too often they become victims of departmental silos. Allowing a much larger role for junior ministers in joining up government policy would address both ministerial overload and departmental silos.

A stronger role for junior ministers

- The Ministerial Code should be amended to require Secretaries of State to consult junior ministers on decisions;

- Some junior ministers to head cross-departmental 'programme ministries', with their own budgets and decision-making powers; and
- Departmental select committees to form ad hoc joint sub-committees to scrutinise the work of programme ministries.

Finally, ministers are supposed to bring strategic oversight of their departments. But too often they lack the time, skills and confidence to do so. In order to address this, ministers should be given sufficient time in post to establish themselves, and coaching and mentoring to help them navigate the complex relationships of Whitehall.

- Prime Ministers should attempt to keep senior ministers in office at least two years. Junior ministers should be allowed to develop in their roles, without the constant threat of upheaval;
- A proper programme of training and development for ministers before and during their time in office should be introduced; and
- The Ministerial Code contain a requirement for ministers to either receive professional coaching or have a counsellor – such as a former minister of considerable experience – who can provide guidance, wisdom and support.

3. The Case for Change

“The politician lives in a world of publicity, calumny, distortion and insult. He is often looked down upon by polite society as being a mere ‘fixer’...”

Bernard Crick, *In Defence of Politics*

Sir Humphrey: I mean it as a compliment, minister. Blurring the issue is one of the basic ministerial skills.

Jim Hacker: What are the others?

Sir Humphrey: Delaying decisions, dodging questions, juggling figures, bending facts and concealing errors.

Jonathan Lynn and Antony Jay, *Yes Minister*

Politics in Britain remains in the grip of an anti-politics sentiment. The combined poll share of the three main parties is at its lowest level ever. Surveys consistently show politicians to be less trusted than estate agents or journalists. Some would say it was ever thus – and point, perhaps, to Hogarth’s 18th century grotesques or the anti-politics of early Victorian socialists.¹ The evidence would appear to suggest that this trend is deepening. In 1986, just 38 per cent of respondents to the British Social Attitudes Survey said that they trusted governments to place the needs of the nation above the interests of their party. But even this low figure is twice as high as that in the most recent survey.² The number of people who say they believe it is their duty to vote falls with each generation.³

Contrary to the lazy assumption that politicians are a malign influence on government, the overwhelming majority of ministers are driven by a combination of public service ethos, a desire to make change, and to leave a legacy, rather than by status or reward. Their role as elected representatives makes them more effective, by providing a 'reality check' on policy and decision-making.

As a recent report by the IFG noted: “Good policies emerge from a combination of the political (mobilising support and managing opposition, presenting a vision, setting strategic objectives) and the technocratic (evidence of what works, robust policy design, realistic implementation plans). The two poles are largely represented by ministers and civil servants.”⁴

However, there is a moral as well as practical argument for political leadership. Political leadership within government department represents the crucial element of democracy, which separates government departments from the mere function of administration. The role of ministers, as politicians, is therefore a noble and necessary element of governance.

The role of a political system is not only to articulate interests, but to aggregate the variety of interests which characterise a modern pluralist society. One difficulty with seeing politicians as

¹ Gregory Claeys, *Citizens and Saints: Politics and Anti-Politics in Early British Socialism*

² <http://bsa-30.natcen.ac.uk/read-the-report/key-findings/trust,-politics-and-institutions.aspx>

³ <http://bsa-30.natcen.ac.uk/read-the-report/key-findings/trust,-politics-and-institutions.aspx>

⁴ Institute for Government, *'Policymaking in the Real World'*, p. 12

acting against the public interest is that in a pluralist society there is no single, identifiable public interest. Rather there are a variety of competing public interests and private interests. Political parties play a necessary role in drawing diverse interests together. And the act of electing politicians is intended to create a communion of interest between the representative and the electorate upon which they rely.

The other major role and justification for politicians in central government is in making decisions or reconciliations between conflicting or competing interests and ultimately being accountable to the public for such decisions. In a previous work, one of the authors argued that there is a proper role for 'politicking' in policymaking; that even 'horse trading' is part of the work of politics by which political bodies aggregate diverse public interests, albeit imperfectly.⁵ The point is made that politicians are better placed to undertake this task of aggregating interests because they are (usually) elected and can (usually) be held to public account for their decisions.

Governing without politics

"People have clocked that in recent years power has been flowing out of Parliament like an ebb tide on the Thames. They have understood that many of the decisions that daily affect their lives are no longer made at Westminster. Their interest rates are set by the Bank of England. Their energy prices are set by world oil prices. Their job security is determined by the vicissitudes of global markets. The fate of their children's schools is decided by independent regulators. Their health care is provided by an NHS no longer run by the Department of Health. Their public services are increasingly delivered by outsourced private companies one step removed from ministerial and Whitehall accountability. The regulations that frame their businesses are established in Brussels. Their online lives are affected by decisions made by internet giants in California. Their criminal-justice system appears bound by foreign judges in Strasbourg. And at the same time, they see a parliament that has lost economic power to banks, financial institutions and global industries."

*James Landale*⁶

Anti-politics sentiment provides a fertile ground for those who would transfer power away from elected politicians and towards unaccountable elites. There can be a tendency among interest groups, particularly those with insider status, and sometimes the public, to see political involvement as negative, as preventing decisions being taken solely with regard to the public interest. Typical of this is a recent article by the Institute of Directors entitled 'Why business leaders not politicians, should lead on workplace skills.'⁷ Similar statements can be found calling for ministers to be excluded from decisions relating to, for instance, legal aid spending⁸ and even devolution.⁹

⁵ Robert Kaye, 'In Defence of Politicking', in Leo Huberts, Jeoren Maesschalk and Carole Jurkiewicz, 'Ethics and Integrity of Governance' (2008)

⁶ James Landale, 'The Future for Our Parliament in an era of anti-politics', <http://www.bbc.co.uk/news/uk-politics-29805829>

⁷ <http://blogs.iod.com/2013/11/20/why-business-leaders-not-politicians-should-lead-on-workplace-skills/>, 20 Nov 2013

⁸ 'Keep Ministers out of Legal Aid decisions', Law Society Gazette, 13 Oct 2011

⁹ Sir Simon Jenkins, 'Post-Scotland vote, a grand convention on devolution is needed – politicians keep out', Guardian, 14 Oct 2014

Bernard Crick, in his classic *In Defence of Politics*, railed against the ‘liberal’ who “piously wishes ... to take the politics out of – oh – local government, the schools, trade unions, business associations, newspaper ownership, churches, indeed pretty well everything except the Parliament.”¹⁰

This group finds common ground with a second identified by Crick: “those who think that administration can always be clearly separated from politics and that if this is done, there is really very little, if anything, that politicians can do that administrators cannot do better.”¹¹

It must be recognised that non-political decision makers can engage a range of drawbacks including ‘capture’; mission creep, institutional biases, internal patronage, and a tendency to grow their own powers and resource demands, precisely because of their independence from the public and lack of accountability.¹² Independent actors are no more neutral just because they are independent of politics. They bring their own biases and interests. They do not necessarily share a communion of interest with those whom their decisions affect.

There are legitimate reasons for the creation of independent bodies with limited accountability. These include:

1. Where the risk of improper political considerations influencing decisions is particularly high: an obvious example is the creation of the Electoral Commission. Others would include the National Audit Office or the UK Statistics Authority;
2. Where there is an important principle of limiting government involvement in individual decisions. For instance block grant research funding for universities and distribution of arts funding are both made on arm’s length basis by HEFCE and the Arts Council respectively in England, and their analogues in the devolved administrations. Ministers remain responsible for overall budgets and strategy, policy framework, and appointments to those bodies. Similar considerations may apply where independence provides market stability by reducing political risk;
3. Where fundamental rights are engaged. The European Convention on Human Rights provides that “in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”. This is most clearly seen in the existence of an independent judiciary, but also in independent tribunals. That is not to say, however, that every decision which raises questions of rights requires a decision by a non-political actor. For instance, planning law recognises that although decisions impact on the individual property rights of individuals, they also engage public interest considerations and therefore applications may be called in for decision by the Secretary of State – sometimes personally – acting in a ‘quasi-judicial’ manner. Decisions of the courts have made clear that in doing so the Secretary of State is entitled to take into account wider interests of public policy;¹³ and
4. Where a role is effectively passive – such as those of inspectorates or advisory bodies – the need for democratic accountability is reduced. However, it remains important that there is accountability for decisions which impact on public body. For instance, numerous advisory

¹⁰ Bernard Crick, *In Defence of Politics*, Bloomsbury, 2013 [1962], p. 103

¹¹ Bernard Crick, *In Defence of Politics*, Bloomsbury, 2013 [1962], p. 84

¹² See for instance James Q Wilson, *Bureaucracy*, 1989; M. Bernstein, ‘Regulating Business by Independent Commission’ (1955); G. Stigler, ‘The Theory of Economic Regulation’, *Bell Journal of Economics and Management Science* (1971); M.E. Levine and J.L. Forrence, ‘Regulatory capture, public interest and the public agenda’. *Journal of Law Economics and Organization*, 1990

¹³ See for instance the comments of Lord Clyde in *R (Alconbury Developments Limited) v Secretary of State for Environment, Transport and the Regions*

bodies exist because they deal in complex matters in which politicians are unlikely to have the required expertise. But they are advisory precisely because although a subject may be complex it does not follow that decisions should be left to experts. The uncertainty over the role of the Advisory Council on the Misuse of Drugs – the House of Lords Science and Technology Committee found a “disconcerting degree of confusion over its role” – which resulted in the dismissal of its Chairman in 2009. The Chairman, Prof David Nutt, said “According to [the Home Secretary] I had crossed the line from science to policy and so he sacked me. I do not know which comments were beyond the line or, indeed, where the line was.”¹⁴ This lack of clarity between technocratic and democratic policymaking is disconcerting.

While power in the UK is relatively centralised geographically, within the centre power is diffuse, with powers frequently exercised by bodies not subject to democratic control.¹⁵

Although the term ‘quango’ was not coined until the 1960s, Britain has a long history both of self-regulation by bodies autonomous of government – including not only the guilds and professions, but more recent creations such as the Takeover Panel – and of independent regulators operating under direct authority from the Crown (rather than through its ministers), such as the great Victorian inspectorates of factories, railways, schools, and constabulary and bodies such as the Charity Commissions.¹⁶ In recent years, many self-regulatory regimes have become either become statutory independent regulation, or some hybrid form, intended to ensure independence from both the regulated and the government.¹⁷

The privatisation of utilities in the 1980s was accompanied by the emergence of independent regulators such as Ofgem and Ofwat - to provide a check on the operations of corporations which enjoyed market dominance, and to encourage the emergence of competition; but also to provide a degree of reassurance to the markets about the limits of government interference in these new markets.¹⁸ A similar logic explains the transfer of interest rate setting powers to the Bank of England, intended in part to alleviate concerns’ about the government’s ability to manipulate interest rates in narrow party political interest; more generously to enable unpopular decisions to be taken on interest rates.¹⁹

More recently still has been seen the creation of independent ‘advocacy’ commissioners such as the Children’s Commissioners, and the Victims Commissioners, whose role is to represent within the political system those whose interests might otherwise not be adequately regulated.

This is not to say that the transfer of powers to independent bodies is always one-way. The Coalition Government committed to a reduction in the number of quangos.²⁰ The capacity of the Cabinet Office Public Bodies Team was increased from 1.5 to 17 full-time staff and a system of triennial reviews was instigated. By the end of 2013 the number of arm’s length bodies had reduced

¹⁴ David Nutt, ‘Penalties for drug use muse reflect harm’, The Times, 2 Nov 2009

¹⁵ Or at least in England – the ongoing process of devolution means increasing numbers of issues are now handled by administrations in Edinburgh, Cardiff and Belfast.

¹⁶ Michael Moran, ‘The British Regulatory State’ (2003)

¹⁷ This includes regimes where self-regulation is subject to a degree of independent oversight, such as in the legal profession and the proposed scheme for recognising a press regulator.

¹⁸ Giandomenico Majone, ‘The Regulatory State and its legitimacy problems’, West European Politics (1999); and ‘The Rise of the Regulatory State in Europe’, West European Politics (1994)

¹⁹ Geoffrey Robinson quotes Federal Reserve Chairman Alan Greenspan as saying it was ‘unfair’ to expect elected politicians to take unpopular decisions on interest rates.

²⁰ The Coalition: Programme for Government, p. 16,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf

by 283. In part this obtained by merging bodies and absorbing their work into other quangos, but in many cases – such as Legal Aid funding – powers were taken back into departments specifically in order to provide greater political accountability and direction.

However, as is discussed later, formally bringing powers into a government department does not itself guarantee ministers can ensure that that function is performed adequately. The scale of government inevitably limits ministers' ability to control decisions and policies made in their name and hold to account those making them.

4. Ministerial roles

Any discussion of ministerial roles needs to recognise that there is no single understanding of what a minister is for; that different ministers will have different priorities; that how they perform their role may change over time and in different circumstances.

One typology of ministerial roles includes the following:

- taking key decisions at the head of Government departments, setting the main policy agenda;
- taking important decisions about the operation, organisation and staffing of their departments;
- performing an increasingly high profile democratic accountability role, defending their policy and department under parliamentary scrutiny - such as at Question Time, in front of Select Committees and in debates...;
- acting as advocates for the detail of legislation brought before the Houses of Parliament;
- playing a lead role in public relations in front of an often critical and sometimes hostile media;
- acting as an advocate for their plans and policies and the expenditure to support it in Cabinet and Cabinet Committees, and in discussion with Treasury Ministers, and where appropriate providing a constructively critical commentary on other ministers' policies and plans;
- taking a lead role in often complex international organisations in Europe and around the world, promoting UK interests, international co-operation and assistance to the developing world;
- dealing with pressure groups, companies, interested parties and individual members of the public who wish to lobby for or against change;
- playing a leading part for their party, both voting in important divisions in Parliament and making speeches at conferences and party functions;
- unless they are members of the House of Lords, playing their full role as constituency MPs;
- being husband/wife/father/mother/partner in what remains of their private lives.²¹

There is an important distinction in this list between the minister's role in policymaking and delivery. In both cases the minister has an important role in taking decisions which are elevated to the ministerial level, and exercising scrutiny over actions taken elsewhere in the department. But in the case of policy, there is an additional consideration. The minister has a personal and inalienable role in setting the policy framework and priorities. While she may become directly involved in delivery of projects, and should provide oversight of delivery, she is the policy lead.

Or as Sir Richard Mottram put it: "big departments should be run on the principle that the Secretary of State is effectively the executive chairman for strategy and policy, and the non-executive chairman for the leadership and management and proper conduct of business of the department".

This 'non-executive' role is especially important in departments with substantial delivery responsibilities. Ministers may lack the skills to actively manage delivery of large government projects, but they remain responsible and accountable for that delivery and therefore need the skills and support to oversee that process.

²¹ Laughrin, 'Swimming for their Lives – Waving or Drowning', Political Quarterly, 2009

However, even this distinction does not clearly delineate how far ministers should involve themselves in decision-making. What exactly are important or key decisions and how much should be left to civil servants?

“Sometimes a minister tells us what he wants and we go away and work out how to do it. But then you come back and he says ‘no, I want you to do X,Y and Z’, ignoring the fact we have fifty years’ experience in how to do it” (Civil Servant)

Politicians bring a variety of skills, experience and characteristics to bear on an issue. Some of the factors which distinguish politicians from other officials do not relate to capabilities (whether innate or learned) but stem directly from the distinct nature of their office. Of course, politicians do not have a monopoly on each of these, and not every politician will bring every factor (in particular, some of these factors are restricted to elected politicians.)

These include:

- being “decisive”;²²
- the ability to bring insights from their political philosophy;²³
- a feel for what is politically necessary, practical, acceptable,²⁴ ‘political understanding’;²⁵
- leadership;²⁶
- partnership;²⁷
- communication;²⁸
- the ability to balance interests (‘balance public needs and ... policy’);²⁹
- accountability;
- legitimacy; and
- insights from their role as an MP, such as case work and constituency encounters.

No one minister can be expected to possess or excel at each of these. However, the successful delivery of public policy and public services depends in part upon the exercise of these skills and therefore it is important to consider not only how to enhance the skills of politicians, but also how to ensure that both the pool from which ministers are drawn and the methods of recruiting and promoting ministers serves this need.

“The best ministers are those who have run something before becoming ministers, whether a council, business or a trade union” (Former minister)

Inevitably the composition of the House of Commons constrains the Prime Minister’s choice of ministers. Changes to the way MPs are selected and elected are outside the scope of this report. However, the ability of Prime Ministers to appoint ministers from outside the House of Commons – currently by appointing the minister to the House of Lords – is one way to bring in a wider range of skills. (The issue may become more account if the size of Parliament is reduced as if the executive

²² D. Marsh et al, (2000) ‘Re-Assessing the Role of Departmental Cabinet Ministers’, *Public Administration*

²³ D. Laughrin, (2009) ‘Swimming for their lives – waving or drowning? A review of the evidence of ministerial overload and of potential remedies for it’, *Political Quarterly*

²⁴ Laughrin, op cit

²⁵ LGA/I&DEA Political skills framework, http://www.local.gov.uk/c/document_library/get_file?uuid=a63fd65c-8ef5-440c-87b7-90df940a1531&groupId=10180

²⁶ LGA/I&DEA

²⁷ LGA/I&DEA

²⁸ LGA/I&DEA

²⁹ LGA/I&DEA

is not to become more dominant within Parliament, the number of ministers who can sit in the House of Commons should be reduced.)

A further issue is that although members of the House of Commons have experience and skills to they can bring to a ministerial role, often there is no relationship between their background experience and whether they are appointed to a ministerial role and to which they are appointed.

Ministers outside the House of Commons

Prime Ministers appoint ministers in the House of Lords for a variety of reasons: a number are needed to represent the government in debates, answer questions take forward legislation in the House of Lords. It may also help make for a more diverse government as Prime Ministers can use this route to bring in groups under-represented in Parliament. In addition, however, the fact that the Prime Minister can appoint peers provides a way to bring in ministers who possess skills or experience not found among the governing party's MPs.

“It definitely does help being able to bring in someone [as a minister] who has experience of large scale delivery of what we're trying to achieve” (Former Cabinet Minister)

In practice, the majority of Lords ministers are drawn from those already in the House of Lords. However, the practice of appointing ministers from outside Parliament and simultaneously ennobling them has become more common. Margaret Thatcher appointed two ministers in this way: Lord Cockfield and Lord Young. Tony Blair appointed at least five – Lords Simon, Sainsbury, Macdonald, Falconer and Adonis. Gordon Brown appointed five upon taking office, and a further five (not including former MP Peter Mandelson) as part of an explicit drive to create a ‘government of all the talents’. These included at least four who had previously shown no degree of political allegiance (indeed one, Digby Jones, Lord Jones of Birmingham, never joined the Labour Party). Since 2010, the Coalition has made at least five such appointments (Lord Hill, Lord Sassoon, Lord Green, Lord Livingston and Lord Deighton).

There are, however, a number of drawbacks. First, the minister has a guaranteed seat in the Lords and a peerage for the remainder of their life even if their ministerial career lasts only one or two years, something the Public Administration Select Committee has criticised as ‘not acceptable.’³⁰

Second, due to the convention that a member of one House can only speak in that House, ministers in the House of Lords heading Government departments are not subject to the scrutiny of MPs at Question Time; nor, due to the nature of questions in the House of Lords, do they face comparable scrutiny there. Concern over this peaked in 2009-10, when both the Department for Business, Innovation and Skills and the Department for Transport were led by Secretaries of State in the House of Lords.

Third, junior ministers in the House of Lords often find that they are their department's only presence in the House, and are required to answer questions across the whole of the department's responsibilities. This requires parliamentary and legislative skills which an outsider brought in for their specialist expertise in the department's subject matter may lack.

Moreover, were a future government to complete the process of Lords reform, the Prime Minister would in all probability lose the ability to bring in outsiders in this way.

³⁰ Public Administration Select Committee, ‘Goats and Tsars: Ministerial and Other Appointments from outside Parliament’, 2010, <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmpublicadm/330/330.pdf>

It is no longer satisfactory that a Cabinet Minister leading a Department cannot be challenged by MPs at Question Time if that person is a peer rather than an MP. The constitutional rule that ministers can only speak in their own House does not apply in Ireland or Canada despite these being Westminster-style Parliaments. The current Speaker of the House of Commons has indicated that there is a case for allowing Question Time to be transferred to Westminster Hall to allow ministers leading departments from the House of Lords to be questioned there.³¹

Allowing ministers from outside the Commons to answer questions in the House then raises the question of whether they need to be members of the House of Lords. Constitutionally, there is no requirement for a minister to be a member of either House, although in practice all recent examples have been of ministers who were appointed and remained in office while awaiting elevation to the House of Lords or seeking re-election to the House of Commons (such as Patrick Gordon-Walker, who was appointed Foreign Secretary in 1964 having shadowed the role in Opposition but having lost his seat at the General Election; Gordon Walker stood in a hastily contrived by-election, but when he narrowly lost the by-election he resigned).

Political accountability of ministers is to Parliament, in particular to the House of Commons, whose confidence they must retain, and only indirectly therefore to voters.

House of Commons Standing Orders should be amended to allow ministers who do not sit in the House to be scrutinised by members of the elected chamber. Should a department be led by a minister from outside the Commons, Question Time for that department could be moved to Westminster Hall.

Ministers in the House of Lords who have been appointed for their expertise in a particular area should not be expected to answer questions across the range of Departmental policy and should not be expected to lead government business in the Lords. In practice, Government whips in the House of Lords frequently answer questions on behalf of the Government, especially where a department does not have its own minister in the Lords.

Junior ministers

A leading study of junior ministers found that their precise role were ‘essentially informal and indeterminate, depending upon personal and political, not statutory, factors.’³² This was confirmed in discussions with former ministers: how decision-making operates within a Department’s ministerial team is a matter of art. Some Secretaries of State grant their junior ministers considerable latitude. Others do not.

“It’s poor leadership where the Secretary of State hogs everything. Although after [a crisis] I wanted to see everything that my junior ministers saw” (Former Cabinet Minister).

Thus Digby Jones, Lord Jones of Birmingham, has described being a junior minister as ‘one of the most dehumanising and depersonalising experiences a human being can have.’³³

The evidence suggests that the main reason that the number of junior ministers has grown is because Prime Ministers have sought to maximise the payroll vote. With both the number of paid ministers and the number of ministers in the House of Commons now capped by statute, Prime Ministers have more recently sought to expand the payroll vote through extending the application of

³¹ Speech to the Hansard Society, ‘Parliamentary Reform: The Route from Here to There’, 24 Sept 2009, <http://www.hansardsociety.org.uk/parliamentary-reform-the-route-from-here-to-there/>

³² Kevin Theakston, *Junior Ministers in British Government* (1987), pp. 93-4

³³ Guardian, 15 January 2009, <http://www.theguardian.com/politics/2009/jan/15/digby-jones-says-halve-civil-service>

collective responsibility to PPSes; increasing the number of PPSes; and introducing a range of other appointments such as tsars and envoys from within Parliament who are considered to be subject to the requirements of collective responsibility.

If the size of the House of Commons is reduced, or if there is substantial devolution of powers from Westminster and Whitehall, there would be a compelling case for reducing the number of ministers accordingly.

The flip-side of having – arguably – too many ministers is that too few have a meaningful role. Civil Servants often complain:

‘There are too many junior ministers... there is an awful lot of make-work for junior ministers’ (Jonathan Powell, Chief of Staff to the Prime Minister, 1997-2002).³⁴

The Ministerial Code provides that “It is desirable that ministers in charge should devolve to their junior ministers responsibility for a defined range of departmental work, particularly in connection with Parliament.”³⁵

Arguably this does not go far enough. If ministers are to be collectively responsible for decisions, then at the very least those with responsibility for a particular area of work should be involved in the development of policy in that area. **The Ministerial Code should make clear that junior ministers responsible for an area of work must be consulted on any decisions relating to that area, including changes of policy and ministerial appointments.**

This section of the Code goes on to say:

“The Permanent Secretary is not subject to the directions of junior ministers. Equally, junior ministers are not subject to the directions of the Permanent Secretary. Any conflict of view between the two can be resolved only by reference to the minister in charge of the department.”³⁶

This phrasing – in particular use of the word ‘equally’ – could be taken to suggest that junior ministers and the permanent secretary occupy an equal status as subordinates of the Secretary of State. **The wording of the Ministerial Code may encourage civil servants, through the Permanent Secretary, to appeal decisions of junior ministers to the Secretary of State, and should be amended.**

In recent years there has been an increased tendency to appoint junior ministers across more than one department. In some cases ministers effectively hold two distinct part-time roles but more frequently they are what the IFG call ‘ministers *sans frontieres* with complementary or overlapping portfolios from two departments.’³⁷ Examples include the Minister for Policing, Criminal Justice and Victims (Home Office and Ministry of Justice); the Minister for Culture, Communications and Creative Industries (BIS and DCMS); Minister for Trade and Investment (FCO and BIS); Minister for Skills and Equalities (BIS and DFE).

However, two challenges faced by bi-departmental ministers are (i) marginalisation, and (ii) inter-departmental tensions. Research on programme ministries in the Netherlands has found that

³⁴ <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmpubadm/330/9101504.htm>

³⁵ Ministerial Code, para. 4.6,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61402/ministerial-code-may-2010.pdf

³⁶ Ministerial Code, para. 4.7,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61402/ministerial-code-may-2010.pdf

³⁷ Institute for Government, *Shaping Up a Whitehall for the Future*, p. 88

successful units rely on ‘a clear mission and strategy, a solid budget, and the political weight of the minister.’³⁸

More use should be made of junior ministers working across departmental boundaries. In particular, there is value in giving a number along the lines of Dutch programme ministries. For instance, one can see a case for a programme ministry concentrating on offender rehabilitation, jointly under the Ministry of Justice, Department of Health, Department of Work and Pensions and Department for Communities and Local Government, with a view to ensuring that upon their release prisoners have access to treatment for dependency; support to secure stable employment; and housing. Likewise, there is a case for drug policy – currently in the Home Office – to be within a programme ministry drawn from both the Home Office and Department of Health.

Both ministers and special advisers agreed that junior ministers should not have special advisers “purely promoting the minister”. Nonetheless, **Ministers of State with substantial briefs should have additional support, including a dedicated senior policy adviser who may be drawn from outside the civil service (but would normally be politically restricted).**

Tackling short-termism

Each interviewee noted that under the Coalition, ministers have been subject to fewer reshuffles than those under Blair and Brown. Broadly, this was seen as a good thing, especially at the senior levels of government. One former minister under Blair felt that his removal sent a signal that ‘competence counts for nothing’.

“It would be good to experience longer periods in office. You are owned by the department while you are trying to learn” (Former minister).

This comment echoes the find of Kakabadse and Kakabadse that the transition to a ministerial role takes between six months and two years before the minister is fully established in office.³⁹

Most of the interviewees moved around government after 12 months or so in post. Some moved after only a few months. None served in their jobs for a parliament. Views were mixed about the benefits of serving a few years in the same job. The disadvantages were the lack of promotion, and the threat of becoming ‘captured’ by the department. Advantages cited were knowing the job, developing relationships over time, seeing policies through to their conclusion and developing confidence in the role.

Prime Ministers should attempt to keep senior ministers in office at least for at least two years. Obviously, the Prime Minister needs to retain the discretion to move or remove a minister if he feels it necessary. Junior ministers should be allowed to develop in their roles, without the constant threat of upheaval, whilst allowing for promotion and career development. This comes down to the leadership of the Prime Minister of the day, rather than something which can be systemised through, for example, fixed terms for Cabinet posts.

³⁸ Netherlands School for Public Administration, ‘Organizing government around problems’ (2010)

³⁹ Andrew Kakabadse and Nada Kakabadse, ‘Eleven sides to the Minister of the Crown’, British Politics (2011)

5. Accountability

“What power have you got? Where did you get it from? In whose interests do you use it? To whom are you accountable? How do we get rid of you?”

‘Five questions to ask of power’, Tony Benn

There has been a long running and frequently fruitless debate about ministerial responsibility. Constitutionally and legally, a minister is responsible for all actions done by his civil servants: departments have no legal personality and a legal fiction maintains that the acts of officials are the exercise of delegated responsibility from the Secretary of State.⁴⁰⁴¹ It has become further complicated by the overlap between the fourth and fifth of Benn’s questions – accountability and the circumstances of ministerial resignation are frequently conflated and the resignation of Sir Thomas Dugdale over Crichel Down casts a long and unfortunate shadow.

On the one hand, this provides legal clarity. On the other, it hampers political accountability. Since the Secretary of State is in theory responsible for everything, but he or she cannot reasonably be held to blame for everything which happens under his authority, what results is an accountability gap where responsibility for failure falls between two stools; a situation which suits some ministers (as they maintain the illusion of control) and civil servants (as they evade responsibility for failure).

A range of developments have challenged this constitutional model of accountability, not least the emergence of department select committees who can take evidence from people other than ministers. There are also a number of carve-outs to the usual principle that ministers are responsible to Parliament:

- Accounting Officers have a personal responsibility to account to Parliament for compliance with the principles governing public expenditure.⁴²
- The introduction of Senior Responsible Officers for major projects. SROs are expected to account for and explain the decisions they have taken to deliver projects for which they have personal responsibility. The Osmotherly rules have been amended to provide that SROs are directly responsible to Parliament for implementation of their projects.⁴³
- The introduction of Next Steps Agencies. These are business units generally focussed on delivering specific output. They are part of the executive, with no distinct legal personality, but their own budgets, targets and reporting, headed by a Chief Executive. In theory, the Chief Executive is responsible to the minister for delivery of agreed objectives, and the minister to Parliament. In practice, however, Chief Executives have been called before Select Committees.

A variety of mechanisms now exist to hold arm’s length bodies to scrutiny, including

- giving evidence to parliamentary committees
- pre- and post-appointment scrutiny hearings
- publishing or laying before Parliament annual reports and accounts
- holding board meetings in public
- media appearances and answering journalists’ questions.⁴⁴

⁴⁰ A.V. Dicey, *The Law of the Constitution* (1982) [1915], p. 210

⁴¹ *Carltona v Commissioner of Works*

⁴² HM Treasury, *Managing Public Money* (2013), para. 3.1-3.9.92

⁴³ The Osmotherly Rules detail how departments should provide evidence and testimony to Select Committees. They provide that civil servants giving evidence do so on behalf of the Minister; and that Ministers may decide who should appear, although they will normally accede to a request for a particular individual to give evidence.

⁴⁴ Public Administration Select Committee, ‘

Whatever the constitutional position, ministers' actual ability to control is restricted by the sheer scale and permanence of their departments.

The IFG found that "ministers feel an imbalance between their accountability and their powers and some have complained that their decisions are deliberately blocked (in a few cases) or frustrated by civil servants resistant to what they want."⁴⁵

Although not universal, some respondents expressed concern about 'Yes, Minister' behaviour from civil servants:

"The Civil Service want to be seen as at the service of the minister. But it's like the Boy Emperor. You're made to believe that you're all-powerful, but the machine carries on like before" (Former Cabinet Minister).

"The way they shaft you is by not telling you things" (Special Adviser).

"You'll never have a 'No, Minister'. They just go slow and hope you forget about it." (Special Adviser).

"You'll find nothing has happened for four months later because the department didn't really want you to do it" (Former Cabinet Minister).

"The Civil Service prides itself on non-responsiveness to ministerial whim" (Special Adviser).

Others had a more benign explanation

"It wasn't that there was deliberate obstruction – they just didn't understand the underlying objectives and were so dysfunctional they couldn't deliver... It helped that the department shrunk and the most obstructive took voluntary redundancy." (Former Cabinet Minister).

The Civil Service Code provides that civil servants must 'serve the government, whatever its political persuasion, to the best of your ability in a way which maintains political impartiality and is in line with the requirements of this code, no matter what your own political beliefs are [and] act in a way which deserves and retains the confidence of ministers, while at the same time ensuring that you will be able to establish the same relationship with those whom you may be required to serve in some future government.'⁴⁶

The Code goes on to state: 'You must not ... frustrate the implementation of policies once decisions are taken by declining to take, or abstaining from, action which flows from those decisions'. It does not explicitly prohibit delaying taken action. **The Civil Service Code should make clear that nor may civil servants delay the implementation of policies.**

On occasion, House of Commons Select Committees have carried out joint investigations. For instance, members of the BIS, Defence, Foreign Affairs and International Development Committees form the Committees on Arms Export Controls. **Departmental select committees should consider forming ad hoc or standing joint sub-committees to oversee the work of bi-departmental junior ministers.**

⁴⁵ Peter Riddell/Institute for Government, 'Ministers and Mandarins: how civil servants and politicians can work better together', p. 3, <http://www.instituteforgovernment.org.uk/sites/default/files/publications/Ministers%20and%20Mandarins%20final.pdf>

⁴⁶ Civil Service Code, para. 1.4-1.5, <http://www.civilservice.gov.uk/wp-content/uploads/2011/09/civil-service-code-2010.pdf1>

One difficulty in establishing clearer lines of responsibility between ministers and Civil Servants is the desire of, especially, civil servants for a surprising degree of informality in the relationship. So for instance, there is a reluctance among senior civil servants to request a ministerial direction where the minister wishes to pursue a policy which the Accounting Officer believes runs contrary to his responsibilities in respect of the management of public money. This is viewed as a 'nuclear option' (the exception appears to be in the run-up to an election, where civil servants might want to make clear to incoming ministers that decisions taken under the previous administration did not reflect their personal choice).

"There is a school of thought among older civil servants [that] the relationship has already broken down to some extent if you have to write it down."⁴⁷

There should be no shame in asking a minister to commit him or herself personally to a decision for which he is personally responsible. **Accountability would be enhanced by a greater willingness among ministers to offer, and civil servants to seek, a formal direction where ministers wish to pursue a policy in the face of civil service advice and are prepared to justify their decision publicly.**

⁴⁷ Lord Hennessy of Nympsfield, quotes in House of Lords Constitution Committee, 'Accountability of Civil Servants to Parliament', para. 50, <http://www.publications.parliament.uk/pa/ld201213/ldselect/ldconst/61/6106.htm>

6. Political and administrative support for ministers

Training, coaching and support

Ministers receive very little training or support before or upon becoming a minister. When current and former ministers were asked what support they had received, answers ranged from ‘no training except for an away day’ to ‘two sessions at the Institute for Government’ and ‘sod all’. Some Labour ministers appointed in 1997 had taken part in a two-day ‘preparing for government’ session at Templeton College. Those appointed after 1997 had had no formal training prior to taking office. Once appointed, some on-the-job training was available in areas such as public finances, the legislative process and media interview training.

For ministers who progress up through the ranks of PPS, PUSS, and Minister of State, this serves as a useful apprenticeship, as can service.

“I served as a PPS [to a Cabinet Minister] learning at the footstool. He made sure I read Cabinet papers... Then [the Minister of State] adopted me” (Former Cabinet Minister).

However, when a party takes power, especially after a long period of opposition, it may not be possible to fill ministerial positions with those with such experience; and serving as a shadow minister within a political party is very different from heading a large government department.

“I’d never been a government minister. It’s very different to the Opposition front-bench. I hadn’t even shadowed the brief except for a few months as a junior shadow minister [seven years before]” (Former Cabinet Minister).

“We didn’t know what a government minister was meant to do. [A junior minister] was the only one of my team who had been a minister and he had forgotten much of how it worked” (Former Cabinet Minister).

“I had no formal preparation or training, but I believe working as a PPS and as a whip gives you an important insight. Ministers are more effective if they’ve been a whip. As a minister, I went to one training thing. I would have liked to training about appearing at the dispatch box” (Former Cabinet Minister).

Respondents, both ex-ministers and advisers, were asked whether some form of coaching or mentoring would prove valuable. While most agreed that some formal training would have been beneficial, there was a feeling that there was a political risk attached to both training and coaching: it could be seen as a sign of weakness.

“I’ve never been too proud. For a lot of the men, though, I suspect it’s not what they would want” (Former Cabinet Minister).

There was also a fear that opposition parties would obtain details of training undertaken through FOI requests and use it to embarrass the minister. One raised the fact that a Secretary of State under Gordon Brown had been criticised in the media having taken a three hours of Spanish lessons at public expense.

A way of neutralising the stigma attached to receiving training and support would be for the Prime Minister to make it mandatory for every minister to undergo **a proper programme of training and development for ministers before and during their time in office. Whoever forms the next government could also instigate a requirement for ministers to either receive professional**

coaching or have a counsellor – effectively a mentor – such as a former minister of considerable experience, from within his or her party, who can provide guidance, wisdom, and support.

Ministers’ private offices, spads and EMOs.

“It is perfectly possible to have a more responsive and ‘personalised’ system, without compromising the independence of the Civil Service. The risk of ‘politicisation’ in current debate has been overplayed.”⁴⁸

Discussions with both former ministers and advisers suggests that ministers need far more support within their private office to link up their executive and administrative responsibilities. It is unfortunate that this debate is too often seen in terms of a politicisation of the Civil Service.

The term politicization has negative connotations. In one sense this is regrettable, for as already noted, in modern democracies political parties play a vital role in articulating and aggregating competing interests. There is however an understandable concern about the possibility of ministers using political power and state resources to advance narrow private party interests.

There is a distinction, however, between politicisation (in its partisan sense) and personalisation – ensuring departments are sensitive to the ‘small-p’ political priorities of their ministers.

Indeed, special advisers – who are politically unrestricted and therefore able to engage in party political activity – argued that they very rarely needed to undertake activity which was explicitly party political. Estimates ranged between 2 per cent and 10 per cent of total workload. They needed to be free of the usual requirement upon civil servants to be neutral and objective, but they rarely needed to engage in party political activity.

Dominic Cummings, a former special adviser to Michael Gove as Education Secretary, has written;

“It is interesting that of the 12 tasks listed in the spad Code of Conduct, the things that took up by far the most of my time do not appear. The Code clearly regards spads as almost 100 per cent party creatures but I spent almost no time on anything to do with party matters... Although I spent a lot of time on policy, none of these categories covers the project management that took up most of my time.”⁴⁹

That is to say, what ministers appear to most need special advisers for relates to personalisation rather than political activity:

“I took my Chief of Staff who knew how I worked. I also had a media spad. I didn’t have a technical spad, and I could have done with one” (Former Cabinet Minister).

It is also the case that many of the functions in the Special Adviser Code of Conduct are necessary, but do not necessarily require to be done by someone politically unrestricted. These include:

- preparing speculative policy papers which can generate long-term policy thinking within the Department;

⁴⁸ IPPR, ‘Accountability and Responsiveness in the Senior Civil Service: Lessons from Overseas’, 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207237/Accountability_and_Responsiveness_in_the_SCS.pdf

⁴⁹ Dominic Cummings, ‘The Hollow Men II: Some reflections on Westminster and Whitehall dysfunction’, <https://dominiccummings.wordpress.com/2014/10/30/the-hollow-men-ii-some-reflections-on-westminster-and-whitehall-dysfunction/>

- contributing to policy planning within the Department, including ideas which extend the existing range of options available to the minister; and
- providing expert advice as a specialist in a particular field.

There is much greater scope for ministers to bring in people from outside – or in some cases from within the Civil Service – to provide a wider range of advice, without necessarily increasing the number of special advisers – i.e. those specifically able to undertake party political activity.

Indeed, while there are many special advisers who are often relatively young, drawn from party headquarters or MPs' parliamentary staff, for whom acting as a special adviser may act as the prelude – and indeed a useful training – for a parliamentary or ministerial career, **there is a case for bringing in more experienced outsiders who can offer both specialist advice from an alternative perspective to that provided by the permanent civil service, and who can help ministers navigate the complexities of Whitehall relationships needed to drive reform.**

It is unlikely that a French-style *cabinet* model could be simply transplanted into British administration. First, French departments are highly segmented.⁵⁰ Second, *cabinets* composed exclusively of political appointees would very likely exacerbate tensions at the interface with the permanent executive – a problem in the UK, where there is a clear demarcation between the political and administrative executive, but less problematic in Napoleonic systems where there is a more porous boundary.⁵¹ Third, it is important that ministers have a strong working relationship with the administrative division who will implement policy.

Rather, what is needed is more on the lines of the Extended Ministerial Office. Introduced in 2013, the EMO model allows ministers to retain direct management of their private office rather than delegating to their Permanent Secretary.

Why have Extended Ministerial Offices not been adopted more widely? First, some respondents indicated that once Cabinet Ministers were offered EMOs, institutional resistance to some internal appointments they were seeking softened. Second, the EMO process requires that the minister's private office includes an official focusing on implementation, reporting jointly to the Cabinet Office Implementation Unit. This role was described by one minister as 'Number 10 nark'. **It is not helpful to have advisers in a minister's private office reporting jointly to a civil servant in an outside department and this reporting line should be removed.** It is still to be expected that the official focused on implementation would work closely with the Implementation Unit. Third, Secretaries of State were dissuaded by the requirement on those adopting an EMO to strengthen the offices of junior ministers of a different party.

As a result some ministers seem to have eschewed the EMO option as they were able to create a more personalised private office without the institutional constraints of the EMO model. Under existing rules, ministers may bring in politically restricted temporary civil servants – specialist advisers – generally with a maximum tenure of two years, and in the case of appointments to EMOs, for a maximum of five years. Some used this provision to bring in advisers who were personally sympathetic to their policy objectives.

The EMO model, with some adjustments, should become the norm for ministers heading departments and, were the proposals for increased responsibilities for some junior ministers to be adopted for these ministers. In order to enable the EMO model properly to work for ministers, some of the current restrictions should be relaxed.

⁵⁰ Constitution Unit, 'Putting Goats Among the Wolves: Appointing Ministers from Outside Parliament' (2011), p. 63

⁵¹ Ben Yong and Robert Hazell, *Special Advisers: Who they are, what they do and why they matter* (2014)

Each office should be headed by a Chief of Staff who may be politically unrestricted. The IfG has suggested that ministers ‘will also need a senior civil servant chief of staff to run the newly expanded offices, someone with considerable experience of Whitehall and the ability to command credibility in the department. This person should be an experienced Whitehall operator, appointed on merit.’⁵² This final clause is highly questionable. While ministers should have a Chief of Staff of considerable experience of Whitehall and the ability to command credibility, and while this is not a job for a party researcher or someone from the MP’s parliamentary office, credibility within the Department does not require a career civil servant. Equally, it is important that the Chief of Staff should be able to scrutinise and challenge civil servants on behalf of the minister. For that reason, **ministers should be free to appoint an outsider to run their office and if the person is drawn from outside the career civil service, the role should be politically unrestricted.**

“Small departments get poached constantly. Civil servants can just disappear instantly. There isn’t any notice. There’s no succession planning” (Former Cabinet Minister).

“Every two years, we lose everybody. The trouble is that the department sees civil servants as functional, not relational” (Special Adviser).

In practice, the regular rotation of civil servants means that both specialist and special advisers can have more experience than career civil servants in the minister’s private office and the rules constraining such appointments therefore serve to remove the most valuable and experienced advisers. They privilege a narrow conception of ‘merit’ above suitability for a particular role. **In order to enable ministers to retain the institutional memory provided by their specialist advisers, the two year limit on the tenure of specialist advisers should be increased to five years and removed altogether for external appointees in Extended Ministerial Offices.**

Because ministers may already make external appointments to their office, and because many of the roles which are currently undertaken by special advisers do not require to be done by someone politically unrestricted, this reform would not require a substantial increase in the number of paid and politically unrestricted special advisers. It would mean some of the functions currently undertaken by ‘spads’ being done by specialist advisers.

In Australia, ministers’ parliamentary teams (who deal with their constituency responsibilities) are co-located in their private offices. The value in this lies in enabling ministers to better identify the practical impacts of government policy, as seen in their casework. **As an experiment, provided suitable protections are put in place to protect government information, ministers should be allowed to co-locate their parliamentary office within the Department.**

⁵² <http://www.instituteforgovernment.org.uk/news/latest/ifg-response-extended-ministerial-offices-announcement-and-civil-service-one-year-report#sthash.zdWT0IFS.dpuf>

7. Policy advice and decision-making

“Advisers advise and ministers decide.” Margaret Thatcher⁵³

As already noted, one key role of a minister is to set her department’s overall policy. The Civil Service has no monopoly of policy analysis and advice⁵⁴. The Code for Special Advisers recognises that political parties, in particular, have a role to play in developing policies which they may then seek to implement in government. But many ministers and advisers complained that in practice the Civil Service not only dominates the policy advice process, but also severely restricts their access to external sources of advice by managing and filtering the policy process.

“They like to keep you in the department. They don’t really understand Parliament and why it’s important that you should go and meet MPs there” (Former Cabinet Minister).

A recent report the Institute for Government noted that “a relatively small proportion of successful innovations are generated from external sources: some ministers felt that civil servants may not be ‘plugged into’ an external network that provides them with the latest, high-quality thinking.”⁵⁵

It goes on to note that “politics is integral to policy making. But most of the existing attempts to improve policy making pay little attention to the role of politics or ministers, and focus on technocratic advances alone. When politics is mentioned, it is presented as something external to the policy process, a ‘context’ that must be ‘understood’ or ‘managed’. Such an attitude grows out of a long tradition of believing that the application of ‘higher’ scientific criteria can answer the questions currently mired in the rather distasteful realm of politics.”⁵⁶

Policy cannot be divorced from politics. Ministers need policy advice that is politically informed. It is questionable whether this can be adequately provided by the permanent civil service alone.

But a plurality of sources of advice is also desirable because the notion that only a permanent civil service can speak truth to power is highly questionable. Quite the opposite: often those whom ministers know to be personally sympathetic can speak more candidly because their advice is seen as coming from a critical friend rather than someone with their own individual or institutional agendas.

“An effective special adviser will tell their minister when they think they are at risk of displaying poor judgement”⁵⁷.

“Senior civil servants were too scared to say what they thought... the only person who could change [the Secretary of State’s] mind was [the special adviser]” (Civil Servant).

Former ministers and Coalition special advisers have claimed that after the resignation of Liam Fox over the activities and interests of his friend and informal adviser Adam Werrity, and the resignation of Adam Smith, special adviser to the Culture Secretary, over contacts with News International, Civil Servants effectively used reporting requirements – properly introduced to guard against impropriety – to ‘close off’ or ‘lock down’ ministers’ contacts with external sources of advice.

⁵³ Hansard, 26 October 1989, col. 1044

⁵⁴ Code of Conduct for Special Advisers, para. 14 (2010), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62451/special-advisers-code-of-conduct.pdf

⁵⁵ Institute for Government, *Policymaking in the Real World*, p. 9

⁵⁶ Institute for Government, *Policymaking in the Real World*, p. 12

⁵⁷ Nick Hillman, *Inside Out*, Institute for Government (2014)

At the same time, however, the Government did introduce new mechanisms explicitly intended to ‘open source’ policy advice. In 2012, Cabinet Office introduced the Contestable Policy Fund, which provides up to £1/2million funding each year for external policy advice. Ministers must submit applications for external advice to Cabinet Office. Projects so far have included Reform of the Local Government Pension Scheme and proposals to improve employment and health outcomes for people with common mental health problems. Particularly significant was the first use of the Fund to commission the IPPR to produce an international study of the accountability of the civil service.⁵⁸ The report led to the creation of Extended Ministerial Offices; Nick Herbert MP and John Healey MP subsequently contended that if the policy had been left to the Civil Service “it would never have seen the light of day”.⁵⁹

However, there was a great degree of scepticism over how the Fund operates, with one adviser describing it as a ‘complete waste of time’. First, think tanks had sought to publish their work for ministers, meaning that not only was the government simply funding the public work of think tanks. Second, it was felt more likely that externally commissioned policy advice would be either leaked or obtained under the Freedom of Information Act. Third, externally commissioned advice was being filtered through civil servants in the minister’s department who had sought to negotiate changes (the situation can be contrasted with advice from permanent civil servants which must be presented without amendment).⁶⁰

The overall result, it was felt, was that what was being commissioned was not policy advice – which is confidential, and has a qualified exemption from disclosure under the Freedom of Information Act – but research (which ministers have long been able to commission).

The IFG has also complained that ministers ‘are often involved in the policy process too late, to be confronted with ‘pre-cooked’ options’⁶¹. One former minister said:

“In the early days I was asked for my view on a policy proposal, which I thought I could take away on my holidays and return with a view. The private secretary, with a pitying look, said the Secretary of State needed it in the morning” (Former Cabinet Minister)

Ministers need to scrutinise policy proposals or they are effectively bounced into making hasty, ill-considered decisions or – more likely – merely rubber-stamping their officials’ preferences. To do this they need adequate time to consider submissions and they need may the ability to seek others’ on the submission. Government secrecy effectively (or at least technically) limits this scrutiny to ministers’ special advisers. Indeed Nick Hillman, a former adviser to David Willetts, claims that when his Department revamped the template for submissions to ministers, the section for special advisers’ views was abolished without their being consulted.⁶²

Ministers should be free, within the bounds of collective responsibility, to seek views on civil service advice. And to do this, ministers need dedicated policy support.

The IFG has found that most government departments have no central policy unit.⁶³ In theory, the lead policy adviser to the Secretary of State is the Permanent Secretary. But in practice Permanent Secretaries’ prime concerns are departmental organisation and strategy.

Each department should have a number of policy advisers (not special advisers) – up to five in smaller departments and up to ten in large departments – drawn from outside the Civil

⁵⁸ Civil service reform: study on international evidence, IPPR, June 2013

⁵⁹ “Let’s reform our antiquated way of governing”, *The Times*, 3 April 2014

⁶⁰ Code of Conduct for Special Advisers

⁶¹ Institute for Government, Policymaking in the real world, p. 13

⁶² Nick Hillman, *Inside Out*, Institute for Government (2014)

⁶³ Institute for Government, Policymaking in the real world, p. 10

Service, from think tanks, academia, and sometimes from political parties' own policy units. They would be politically restricted, but would leave office on a change of government. Their job would be to ensure that policy development reflected the thinking of the ministerial team – to know the mind of the Secretary of State and of junior ministers with responsibility for their particular policy area.

In addition, each ministerial office should include a Principal Policy Adviser who reports direct to the Secretary of State. This person need not be politically unrestricted, but need not be, and in most cases should not be, a career civil servant. The Principal Policy Adviser should be free to commission external advice. Just as civil service advice should be presented to the minister without amendment, the same rule should apply to external advice. The Principal Policy Adviser should also be free to commission confidential external opinions on civil service advice.

A priority of the Principal Policy Adviser and the minister's Chief of Staff should be to facilitate ministerial interaction with outside experts including think tanks and academics. Too often, ministerial interactions with think tanks, universities and other outside bodies is limited to using them for an opportunity for ministers to make public statements but not to listen to evidence. Not uncommonly a minister will turn up, deliver a prepared speech, take a handful of questions, but then leave before the rest of an expert panel discusses policy. It is to be hoped that ministers take a more meaningful approach to interaction with experts outside the civil service.

8. Conclusions

Politicians are a vital component in our democratic system; indeed they and their accountability to Parliament are what makes the executive democratic. They bring a range of skills and characteristics to government.

However, too often the administrative regime surrounding ministers effectively neuters these advantages.

This is not (or least is only rarely) down to bureaucratic obstruction. It is, rather, down to the relative scale of the administrative civil service in contrast to the political component.

Ministers are supposed to bring their experience to bear on policy. But in practice the Civil Service has a near monopoly on policy advice and too often ministerial involvement is limited to being offered 'pre-cooked' policies at the last minute. So each Secretary of State should have a Principal Policy Adviser and a team of Policy Advisers, politically restricted, but drawn from outside the civil service; open policy commissioning should be extended and ministers and their special advisers should be freer to seek a second opinion on civil service advice.

Ministers are supposed to bring their broad experience and their knowledge from their role as a constituency MP to bear on public policy issues. But in practice their experiences are limited upon taking up office; their diaries are filled. So each Secretary of State should have a politically unrestricted Chief of Staff with an explicit remit to ensure that the minister has sufficient time to interact with outside organisations, such as think tanks. And ministers should be able to co-locate their parliamentary staff in the Department.

Ministers are supposed to help join up government policy and make it coherent. But too often they become victims of departmental silos. So more junior ministers should have cross-departmental responsibilities, a small number of whom would head programme ministries with their own support, objectives and budgets.

Ministers are supposed to bring accountability. But in practice being accountable for everything means being accountable for nothing. So ministers and civil servants should be more prepared to formalise directions when a minister wishes to act against the advice of his civil servants, and ministers should be willing to justify those decisions publicly. And ministers outside the House of Commons – including ministers outside Parliament altogether – should be scrutinised by all MPs, not just Select Committee members. Where Departments are headed by ministers outside Parliament, there is a case for moving Question Time to Westminster Hall in order to allow them to be scrutinised like other Secretaries of State.

Finally, ministers are supposed to bring strategic oversight of their departments. But too often they lack the time, skills and confidence to do so. So ministers should be given sufficient time in post to establish themselves, and coaching and mentoring to help them navigate the complex relationships of Whitehall.