



RESEARCH PAPER 03/49
20 MAY 2003

Whither the Civil Service?

‘It was too notorious that the Civil Service was filled by the family fools of the aristocracy and middle classes, and that any family who had no fool to send, sent in lieu thereof some invalid past hope. Thus the service had become a hospital for incurables and idiots.’ Anthony Trollope, *The Three Clerks* 1858

‘The Home Civil Service today is still fundamentally the product of the 19th century philosophy of the Northcote-Trevelyan Report. The problems it faces are those of the second half of the 20th century. In spite of its many strengths, it is inadequate...for the most efficient discharge of the present system and prospective responsibilities of government.’ Fulton Report 1968

‘If a country’s problems require radical remedies, you need a radical government. But how can you have a radical government without radically-minded officials? Difficult problems are only solved ...by people who desperately want to solve them: not by people who had been fully prepared until polling day to make those self-same problems worse, rather than better.’ Sir John Hoskyns, October 1982

‘We need urgent change if we are to respond effectively to new problems and the expectations of service users. This may mean facing some uncomfortable issues, such as whether we are sufficiently customer-focused, and whether we are sufficiently insistent on evidence-based policy.’ Sir Andrew Turnbull, March 2003

Ruth Winstone

PARLIAMENT AND CONSTITUTION CENTRE

HOUSE OF COMMONS LIBRARY

Recent Library Research Papers include:

03/31	The <i>Crime (International Cooperation) Bill [HL]: 'Hot Surveillance'</i> [Bill 78 of 2002-03]	28.03.03
03/32	Parliamentary Questions, Debate Contributions and Participation in Commons Divisions	31.03.03
03/33	Economic Indicators [includes article: Changes to National Insurance Contributions, April 2003]	01.04.03
03/34	The <i>Anti-Social Behaviour Bill</i> [Bill 83 of 2002-03]	04.04.03
03/35	Direct taxes: rates and allowances 2003-04-11	10.04.03
03/36	Unemployment by Constituency, March 2003	17.04.03
03/37	Economic Indicators [includes article: The current WTO trade round]	01.05.03
03/38	NHS Foundation Trusts in the <i>Health and Social Care</i> (<i>Community Health and Standards</i>) <i>Bill</i> [Bill 70 of 2002-03]	01.05.03
03/39	Social Care Aspects of the <i>Health and Social Care (Community Health</i> <i>and Standards Bill)</i> [Bill 70 of 2002-03]	02.05.03
03/40	Social Indicators	06.05.03
03/41	The <i>Health and Social Care (Community Health and Standards)</i> <i>Bill</i> : Health aspects <u>other than</u> NHS Foundation Trusts [Bill 70 of 2002-03]	06.05.03
03/42	The <i>Fire Services Bill</i> [Bill 81 of 2002-03]	07.05.03
03/43	The <i>Northern Ireland (Elections and Periods of Suspension) Bill</i> [Bill 104 of 2002-03]	09.05.03

Research Papers are available as PDF files:

- *to members of the general public on the Parliamentary web site,*
URL: <http://www.parliament.uk>
- *within Parliament to users of the Parliamentary Intranet,*
URL: <http://hcl1.hclibrary.parliament.uk>

Library Research Papers are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public. Any comments on Research Papers should be sent to the Research Publications Officer, Room 407, 1 Derby Gate, London, SW1A 2DG or e-mailed to PAPERS@parliament.uk

Summary of main points

In recent years there have been growing calls for a Civil Service Act, not least from senior civil servants. The 'non-political' nature of the Civil Service has been under scrutiny in the light of a number of associated developments: the increasing employment of Special Advisers, the use of exceptions to the Civil Service Commissioners' principles of openness, fairness and selection on merit to recruit staff; and the role of the Crown Prerogative in making significant appointments or changes to recruitment practices via Orders in Council.

The proposed content of a Civil Service Bill has tended to be modest: confirming the impartiality of the Civil Service, defining the powers of the Commissioners; placing limits on the numbers and powers of special advisers, and incorporating existing Codes of Conduct into law.

Changes within the Civil Service over the past thirty years have left the majority of civil servants working in 'Next Steps' type agencies rather than for Departments direct; and the recruitment, pay and conditions of most civil servants has been delegated to departments or agencies themselves. This has led to much questioning of the meaning of 'core values' and the 'public ethos' and indeed of the existence of a conventional home Civil Service at all.

The case for and against a 'non-political' service, and the debate over Civil Service reform, is nothing new. But the internal reform programme of the Civil Service and the public services reform agenda have been given fresh impetus by the Head of the Home Civil Service and Cabinet Secretary, Sir Andrew Turnbull, while a Civil Service Act has become a lesser priority.

CONTENTS

I	Introduction	7
II	Political impartiality and objectivity	8
III	From Civil Service Reform to Public Service Delivery	15
	A. A Civil Service Act?	15
	B. Reform from within	19
	Appendix A: Chronology of Civil Service Reform	28
	Appendix B: <i>Defining the Boundaries within the Executive: Ministers, Special Advisers and the Permanent Civil Service</i>	30
	Appendix C: Special Advisers in the Prime Minister's Office 2003	31
	Appendix D: Civil Service Staff in post 1 October 2002	32

I Introduction

In his novel *Little Dorrit* Dickens used the ‘Circumlocution Office’ to illustrate the stifling effects of nepotism and patronage on the Civil Service, whereby all attempts at innovation or imagination were crushed, while in *The Three Clerks*, Trollope distilled his first-hand knowledge as surveyor of the General Post Office to write an ironic account of the reforms promised by ‘that great modern scheme for competitive examinations’.¹

That ‘great modern scheme’ was the controversial Northcote-Trevelyan report on *The Organisation of the Permanent Civil Service* of 1854.² By the time its recommendations had taken effect, implemented as they were in a partial and piece-meal way, the Report had however been overtaken, to some extent, by significant developments in the early 20th century including the doubling of the Civil Service under the Liberal Governments after 1906. But it is generally accepted that the reforms laid the basis for the development of

[...] a classical Weberian (Civil Service) in the sense that the presumption would be that it would faithfully carry out the preferred policies of the Government of the day irrespective of that Government's political complexion. It is also a Civil Service which would have an independence based on the continuity that resulted from a career commitment on the part of the overwhelming majority of civil servants.³

Northcote-Trevelyan recommended dividing posts into ‘mechanical’ and ‘intellectual’, recruitment by competitive exam, service-wide classification of staff and internal promotion on merit. To this day the Civil Service retains the distinction between industrial and non-industrial posts. Since the ground-breaking work of Stafford Northcote and Charles Trevelyan, given impetus by Gladstone as Chancellor of the Exchequer, the Civil Service has been the object of periodic reform, often motivated by the desire of a newly elected government to expedite a radical programme. Sir Geoffrey Fry has identified three traditions over the years: ‘economic liberalism’, ‘Fabian reformism’ and reform emerging from within the Civil Service itself.⁴ It is the latter that has predominated in recent years.

By the mid-1990s when the programme and expansion of ‘Next Steps’ executive agencies were well-established, and when over three quarters of Civil Service employees were working in executive agencies, the concept of a unified Civil Service was itself being questioned. One observer has even suggested that the Next Steps and associated

¹ Published in 1856 and 1858 respectively

² Parliamentary Papers Volume XXVII p 1, 1854

³ Geoffrey Fry, paper presented on *Civil Service Systems in Comparative Perspective*, Indiana University, April, 1997.

⁴ Evidence to the Treasury and Civil Service Select Committee, *The role of the Civil Service*, HC27-1 1993-94

programmes, and market-testing, had led ultimately to the ‘fragmentation of the public service, the privatisation of whole swathes of previously public business’.⁵

The Lords Committee on the Public Service looked in depth at the structural changes that had taken place over thirty years and their effect on the Civil Service. It concluded that:

On balance the Committee accepts that the creation of executive agencies has not, in a constitutional sense, recast the architecture of the state-so long but only so long as accountability of Ministers to Parliament for the work of executive agencies remains the same as their accountability for any other aspect of their Departments' work.

Nevertheless, the creation of the agencies has, in the Committee's view, contributed to some structural division of the Civil Service. There is firm evidence that the devolution to executive agencies of responsibility for pay and conditions of work is contributing to a sense of disunity in the Civil Service, and whatever the overall cost, the personnel management cost is bound to be higher. The fact that the agencies' budgets are subject to overall Treasury control means that in practice it is unlikely that very significant differences can develop between agencies, but the differences which already do exist contribute to a sense of cultural fragmentation, and we believe that such differences will continue to constitute a threat to the unity of the Civil Service. Devolved responsibility for pay and conditions has not fragmented the Civil Service yet: but there is a need to take care to ensure that the new arrangements do not fragment the service in the future.⁶

This paper looks mainly at the developments in Civil Service reform since 1997, but the key moments in the reform chronology as summarised in *The Evolving Civil Service*⁷ are given at Appendix A. The recommendations and proposals cited there were not necessarily endorsed or implemented at the time.

II Political impartiality and objectivity

As did other industrialising democracies, Britain developed what Peter Hennessy described as ‘the greatest single governing gift of the nineteenth to the twentieth century: a politically disinterested and permanent Civil Service with core values of integrity, propriety, objectivity and appointment on merit, able to transfer its loyalty and expertise from one elected government to the next’⁸

It was envisaged by Northcote-Trevelyan that the Commission would be a statutory body. But since no legislation ensued, the Civil Service Commissioners who emerged from Northcote-Trevelyan to oversee the new system of selection by public examination were,

⁵ Barry O’Toole, Reader in Politics at Glasgow University: written evidence to the House of Lords Select Committee on the Public Service Special Report, HL 68, 1996-97

⁶ House of Lords Committee on the Public Service, HL55, 1997-98

⁷ Robert Pyper, *The Evolving Civil Service*, 1991

⁸ Professor Peter Hennessy, Founder’s Day address, Hawarden Castle 8 July 1999

and still are, appointed by the Crown under the Prerogative. Civil Service ‘Orders in Council’ have been used periodically by governments ever since to make significant appointments or changes to recruitment practices. The use of the Crown prerogative in this way to organise and regulate the Civil Service has been identified as one of the factors contributing to the present debate over the Civil Service and accusations in some quarters of ‘politicisation’ of the Service. The Ninth Wicks Report, referred to above, summarises the argument:

At present the organisation and regulation of the Executive is set out in Orders in Council, a mechanism by which the Crown exercises the Royal Prerogative.⁷ Orders in Council have the force of law but are not normally scrutinised by Parliament. Furthermore they can be changed by the Council without reference to Parliament. In practice, therefore, Orders in Council allow the Executive to exercise authority largely without direct constraint. This has been identified as a cause for concern by a number of individuals as it relates to the regulation of the Executive, and especially to the Civil Service.

The Committee agrees that the use of Orders in Council in this context is inherently unsatisfactory. It facilitates an approach which may be, or may be seen to be, lacking in accountability. We consider it crucial, in a democracy where the Executive is accountable to Parliament, that the procedures for sustaining the fundamental principles identified throughout this report should be subject to Parliamentary scrutiny and decision. This, we believe, is the most certain and effective way of delivering the necessary public and Parliamentary confidence that the constitutional boundaries are being maintained effectively.

The Civil Service Commissioners’ website⁹ describes the development, and the main Orders in Council and amendments affecting the Civil Service:

The years 1870 to 1920 saw the steady extension of the Commissioners' powers to cover virtually all appointments. Until the 1939-45 War, selection was mainly by specially prepared written examinations. Thereafter methods such as interview of those possessing appropriate academic qualifications, psychometric testing, and assessment centres were introduced to supplement or replace the traditional examination. The Civil Service Commission retained its independent existence as a government department until 1968 when, on the recommendation of the Fulton Committee Report on the Civil Service, it was merged with the personnel management divisions of the Treasury to form the Civil Service Department.

In 1982 the Civil Service Order in Council was changed so as to divide responsibility for selection between the Civil Service Commissioners on one hand and Ministers on the other. The Commissioners retained responsibility for the selection of middle and senior level staff - about 15% of the Civil Service. On behalf of their Ministers, departments assumed full responsibility for selection at junior levels, constituting the majority of recruitment, subject to central regulation by the Minister for the Civil Service in support of the policy of selection on merit on the basis of fair and open competition.

In 1991 two new Orders in Council were made (one for the Home Civil Service and one for the

⁹ <http://www.civilservicecommissioners.gov.uk/>

Diplomatic Service with parallel provisions as appropriate). These extended departments' and agencies' area of responsibility to over 95% of recruitment to the Service, subject to observance of the Minister's rules on selection made on the advice of the Commissioners. At the same time the Civil Service Commission was replaced by two discrete organisations:

- an Office of the Civil Service Commissioners to support the Commissioners, which for resource purposes now forms part of the Cabinet Office; and
- Recruitment and Assessment Services (RAS), an Agency independent of the Commissioners set up under the Next Steps initiative to provide recruitment, consultancy and related services to departments and agencies and other public sector bodies on a full repayment basis. RAS became a private sector organisation under Capita Group plc on 1 October 1996.

In 1995 the two 1991 Orders in Council were changed so as to return to the Commissioners alone the responsibility for interpreting the principle of selection on merit on the basis of fair and open competition for all Civil Service recruitment, including the circumstances in which exceptions can be made within the parameters of the Order. The Commissioners retained direct responsibility for approving appointments of recruits to the most senior posts only, but provision was made for them to audit the recruitment systems of departments and agencies for compliance with their Recruitment Code.

From 1996 the Commissioners were given a new further role to hear and determine appeals in cases of concerns about propriety and conscience raised by civil servants under the Civil Service Code which cannot be resolved through internal procedures and to report on such appeals made to them.

The Orders in Council together with the *Civil Service Code*, the *Civil Service Management Code*, the *Ministerial Code* and *Code of Conduct* and *Contract for Special Advisers* constitute the framework for maintaining the standards expected of civil servants, permanent and temporary, and ring-fencing the particular role of the ministerial advisers.

The Committee on Standards in Public Life, under Lord Neill of Bladen, had considered the 'politicisation' of civil servants in its Sixth Report, in January 2000. This report, too, concluded that there was a danger to the Civil Service that its professional advice to Ministers would be 'marginalised' by a significant increase of external advice.¹⁰

The Committee suggested that the reforms of the Civil Service under the 1997 Labour Government required legislation as the best safeguard of its core values, pending which it recommended a number of measures to control special advisers' powers and numbers. (The issue of Special Advisers is discussed in detail in Library Research Paper 'Special Advisers' RP00/42.¹¹)

The Government acted upon the Neill recommendations and a new *Code of Conduct* and an updated model *Contract for Special Advisers* were published in July 2001; paragraph 50 of the *Ministerial Code* was revised to clarify the rules on the appointments of special

¹⁰ Committee on Standards in Public Life, *Reinforcing Standards*, Sixth Report, Cm 4557, 2000

¹¹ <http://hcl1.hclibrary.parliament.uk/rp2000/rp00-042.pdf>

advisers and included a commitment to explain publicly any departure from the rule of two special advisers per Cabinet Minister.

The desirability of a ‘non-political Civil Service’ has not been without its detractors. One influential critic who has questioned that premise is Sir John Hoskyns who argued in the early 1980s that it placed an unnatural and fundamental brake on government activity.¹²

I am suggesting that the concept of political neutrality puts senior civil servants in an impossible position where they have to become passive, doing what they are told but no more, just when a supreme effort or will and imagination is called for.... If a country’s problems require radical remedies you need a radical government. But how can you have a radical government, without radically-minded officials? Difficult problems are solved – if they can be solved at all – by people who desperately want to solve them: not by the people who had been fully prepared, until polling day, to make those self-same problems worse, rather than better. The commitment, the urgency and energy must be provided by just ninety odd ministers and a handful of special advisers – about a dozen in this government and between thirty and forty in the last. The latter figure is less I am told than the number of people employed in storing and changing the pictures in ministers’ offices.

The argument is sometimes advanced that the career civil servant can hold the balance between otherwise extreme policies of left or right. This argument seems to me to be quite fallacious because it grants to officials the right to define and defend what they see as the centre ground. But that is certainly not a politically neutral role.

Sir John concluded that the system of ‘career politicians served by career officials’ had failed, and that:

...we need to replace a large number of senior civil servants with politically appointed officials on contract, at proper market rates, so that experienced top quality people would be available... Some of them would fill senior positions in the department. Others might work as policy advisers to the Cabinet minister concerned. There is no reason why, in some cases, the Permanent Secretary should not be an outsider with a career official as Second Permanent Secretary responsible for the day to day running of the department.

The so-called ‘spoils system’ advocated by Sir John had few open supporters; but it is argued that Conservative governments, and in particular Margaret Thatcher as Prime Minister, benefited from the fortuitous retirement of a large number of permanent and deputy secretaries (180) between 1979 and 1985, and by their replacement by ‘sympathetic’ officials.

¹² Sir John Hoskyns, ‘An Outsider’s View: Whitehall and Westminster’ October 1982, reproduced in *Parliamentary Affairs* Vol 36, 1983

Unlike most premiers Mrs Thatcher made it her business to know the people at the top levels of the Civil Service and she was, in consequence, well placed to oversee the promotion of those who met with her approval. The Whitehall grapevine had it that the vital question being asked about the potential appointees was ‘Is he one of us?’ This was taken to imply a commitment to the can-do ethos of Thatcherism rather than any obvious affiliation to the Conservative Party.¹³

By the mid to late 1980s the case was gaining adherents for a more fundamental opening up of the Civil Service at the top, by whatever means. A House of Commons Treasury and Civil Service Select Committee Report¹⁴ recommended pilot ‘project teams’ for ministers along European lines; a similar idea had been discussed in the Fulton Report of 1968 in which outsiders on secondment or short-term contracts would be responsible for long-term policy planning, under a senior policy adviser. Edward Heath’s ‘Businessmen’s Team’ supported this idea a few years later.¹⁵ Resistance to such a concept from within the Civil Service may have been one factor which led to the increasing use of special advisers in the 1974 Labour Government (38 were appointed immediately post-election). The use of special advisers – whether technical or political, paid or unpaid – has persisted since they became well-established in 1974. In early 1997 there were again 38 in post and by March 2003 the number had reached 81.

The Report *Special Advisers: Boon or Bane?* looked in depth in 2001 at the issues posed by the employment of special advisers. However the Government in December 2001 rejected most of the recommendations though it did accept that future legislation should put a limit on the number of special advisers.¹⁶ These recommendations appeared before the highly public row within the Department of Transport, Local Government and the Regions which led eventually to the departure of the Secretary of State, his special adviser and his director of communications.¹⁷ But conflicts of interest between civil servants and ‘outsiders’ brought into Departments by Ministers had been considered in several parliamentary Reports. For example Christopher Foster and Francis Plowden in evidence to the Lords Committee on the Public Service five years before stated that:

One can already see civil servants being drawn into developing news-handling as their primary function and their presentational skills as most likely to earn them ministerial respect. It is in this area that the dangers of the future politicisation of the Civil Service are greatest.¹⁸

The Public Administration Select Committee, which investigated and reported on the DTLR affair in July 2002, concluded that:

¹³ Robert Pyper, above

¹⁴ *Civil Servants and Ministers: Duties and Responsibilities*, HC 92, 1985-6

¹⁵ according to Christopher Pollitt, *Manipulating the Machine*, 1984

¹⁶ Public Administration Committee, *Special Advisers: Boon or Bane?* HC463, 13 Dec 2001 2000-01

¹⁷ See Public Administration Committee Eighth Report: *These Unfortunate Events: Lessons of Recent Events at the Former Department for Transport, Local Government and the Regions* HC 303 2001-02

¹⁸ Memorandum to House of Lords Committee on the Public Service: Special Report HC 68, 1996-97

The employment of politically-appointed special advisers has always contained the potential to cause problems. Where special advisers can appeal above the head of the permanent secretary to the Secretary of State, they are enjoying privileges that are not available to other civil servants. Rightly or wrongly, there can be a damaging perception that there is one law for special advisers and one law for the rest.¹⁹

The Government, however, rejected the Committee's recommendation that staff working in the area of communications and the media should not be classified as special advisers. Its view was that:

Successive administrations have used special advisers to brief the media. Special advisers are required to conduct themselves in accordance with the Civil Service Code except for those provisions relating to impartiality and objectivity. They are able to represent Ministers' views on Government policy to the media with a degree of political commitment that would not be possible for the permanent Civil Service...the *Code of Conduct for Special Advisers* includes a section on contacts with the media. This makes it clear that special advisers' contacts with the media should be conducted in accordance with the *Guidance on the Work of the Government Information Service*. The Government continues to believe that the current arrangements are working satisfactorily...²⁰

This potential to cause problems arises from the peculiar position of politically-appointed special advisers, who are temporary civil servants appointed under Civil Service Orders in Council; governed by most aspects of the *Civil Service Code*; by the *Ministerial Code* and by their own *Code of Conduct* and Contract.²¹ The *Ministerial Code* sets out that:

The employment of special advisers on the one hand adds a political dimension to the advice available to ministers, and on the other provides them with the direct advice of distinguished experts in their professional field, while reinforcing the political impartiality of the permanent Civil Service by distinguishing the source of advice and support.²²

The *Code of Conduct* gives detailed guidance on what they can and cannot do. Appointment of special advisers requires written approval by the Prime Minister. Unpaid advisers however are not subject to the same regulation and enter into *no* contractual relationship, and are appointed by the Minister concerned. The use of unpaid advisers and

¹⁹ Public Administration Select Committee, HC 303 2001-02

²⁰ Government response to Public Administration Select Committee Fourth Report: *Special Advisers: Boon or Bane?* HC463 2000-01

²¹ *Ministerial Code: A code of conduct and guidance to procedures for Ministers*, Cabinet Office July 2001; *Code of Conduct for Special Advisers*, Cabinet Office, July 2001

²² *Ministerial Code*, above

their status and conditions of appointment has been questioned in the Wicks Committee's 2003 report *Defining the Boundaries*. It recommends amending the Ministerial Code to make clear that Ministers are personally accountable for the management and discipline of their unpaid advisers in respect of their governmental responsibilities to the Prime Minister and to Parliament, and annual statement to Parliament stating:

- (i) the total number of unpaid special advisers employed in the year;
- (ii) their names;
- (iii) the Ministers for whom they work or have worked;
- (iv) their particular roles and areas of responsibility;
- (v) comparison figures for earlier years.

In addition the Report recommends that

An unpaid adviser should be defined in the Ministerial Code as anyone who provides, on an unpaid basis, advice to any Minister or represents any Minister in this country or abroad on a recurring or continuous basis.

The requirement to uphold the political impartiality of civil servants and the requirement not to use official resources for party political activity, contained in the Code of Conduct for Special Advisers, should be included in the letter of appointment for every unpaid adviser.

The recruitment principles of the Civil Service, which the Commission applies and interprets,²³ are laid out in a Recruitment Code under the 1995 Order in Council. These principles became necessary after the many changes to recruitment that resulted from the Executive Agency developments, devolution to Scotland and Wales and delegation of staff pay and conditions to departments and agencies. In practice, since the recruitment of staff to departments and agencies has been delegated to the individual body, the Code is largely concerned with *exceptions* to the recruitment principles of fairness, openness and merit. These exceptions are:²⁴

- short-term appointments:
 - appointments to the Senior Civil Service up to 12 months, and extensions for further period up to a maximum of 24 months do not need Commission approval
 - recurrent short term appointments of no more than six months in any twelve for up to five years
 - candidates with specialist skills
 - conversion of short term appointments to permanency
 - appointments to assist the long term unemployed
- secondments
- reappointments of former civil servants

²³ <http://www.civilservicecommissioners.gov.uk/documents/csr99.pdf>

²⁴ *Civil Service Commissioners' Recruitment Code*, 4th edition, April 1999

- transfers into the Civil Service government by *Transfer of Undertakings (Protection of Employment) Regulations*
- disabled candidates
- shortage of acceptable candidates
- exceptional reasons for appointment of person of proven distinction (at Commissioners' discretion)
- appointment of candidate after fair and open competition but no in order of merit (at Commissioners' discretion)

These exceptions provide flexibility to governments to override the normal criteria of fairness, openness and merit in appointing particular staff. The Labour Government elected in 1997 adopted a policy of increasing the intake of people from outside the Civil Service, and made greater use of short-term contracts and secondments between the public and private sectors.²⁵ The number of seconded staff rose from about 600 before the 1997 election to 1,317 in 2002.²⁶ In addition, in 1997 executive powers were assumed by certain appointees in the Prime Minister's office²⁷. This overt policy of opening up the Service, concerns about the encroachment of individually appointed Ministerial Advisers within departments on the permanent Civil Service, and worries about the impact of public service reform combined into a concerted demand for a Civil Service Act.

III From Civil Service Reform to Public Service Delivery

A. A Civil Service Act?

Until May 2002 there was a presumption that there would be a Civil Service Act in the lifetime of the present government. The Joint Consultative Committee on Constitutional Reform,²⁸ published before the 1997 General Election, contained a statement that 'both parties [Labour Party and the Liberal Democrats] agree that there should be a Civil Service Act to give legal force to the Code which should be tightened up to underline the political neutrality of the Civil Service...'. It is referred to as a matter of course in several recent documents and articles which have considered the issue of the Civil Service.²⁹ Sir

²⁵ *Modernising Government*, Cabinet Office, Cm 4310, March 1999

²⁶ Robert Neild, *Public Corruption: The Dark side of Social Evolution* 2002

²⁷ In 1997 an amendment to the Civil Service Order allowed three special advisers in the Prime Minister's office to hold executive powers: two, Alastair Campbell and Jonathan Powell, were given these powers

²⁸ Report of the Consultative Committee on Constitutional Reform 1997

²⁹ For example the Treasury and Civil Service Select Committee Report, *The role of the Civil Service*, HC27-I 1993-94; House of Lords Select Committee Report on the Public Service, HL55, 19 January 1998, 1997-98, Public Administration Select Committee Report, *The Public Service Ethos*, HC263 13 June 2002 2001-02; Committee on Standards in Public Life Sixth Report, Cm 4557, January 2000, and its Issues and Questions Paper *Defining the Boundaries*, February 2002.

Robin Mountfield wrote in March 2002 that the essential feature of an Act would be to entrench the non-political status of the Civil Service:

Both the main parties are committed to a Civil Service Act. The last Conservative Government gave such a commitment before the 1997 election, and the Labour Party endorsed the principle at that time. The present government has repeated its intention to introduce such an Act, and has reaffirmed that intention quite recently.³⁰

The appointment of Special Advisers who are civil servants but who can act in a way that is at variance with the defining characteristics of the Civil Service, had become, as Sir Robin put it, a way of 'nibbling away' at the non-political status and 'overlaying external talent on the permanent machine', a machine which successive governments believed had proved unsatisfactory in performance and delivery.

But wider concerns were emerging about the structural changes that had been imposed on the Civil Service as a result of Executive Agencies, the delegation of personnel matters to individual departments and the increasing encroachment on traditional Civil Service work patterns, for example short-term contracts and secondments.

The extensive review conducted by the Lords Select Committee into the Public Service concluded in 1998 that:

The Committee recognises that the modern Civil Service is a profession of people who will not necessarily stay there for the whole of their careers. In a country where officials "carry around the constitution in their own minds" a strong element of continuity is, however, highly desirable in the Civil Service. This continuity may be threatened by over-use of recruitment from outside and the use of fixed term contracts. The Committee therefore considers it to be essential for Government, in pursuing these policies, to look to the future, and to have regard to the impact of them on the morale of Civil Servants, the collective memory of the Senior Civil Service, and the political impartiality of Senior Civil Servants.

...a Civil Service Act should include a requirement for the Government to report annually to Parliament on the recent and proposed structural changes to the Civil Service. We further recommend that whenever such a report is received, it should be referred to a Select Committee set up for the purpose of considering it. We think it desirable that the Government's Report, together with the Committee's Report on it, should then be published together with a recommendation as to whether the Committee's Report is made for information or debate.³¹

Sir Richard Wilson, who retired as Cabinet Secretary and Head of the Home Civil Service in 2002, was another keen protagonist of a Civil Service Act. Sir Richard had launched

³⁰ 'Content of a Civil Service Act', a Note by Sir Robin Mountfield, (Permanent Secretary, Cabinet Office 1998-99), for the Constitution Unit, University College London, March 2002

³¹ House of Lords Select Committee Report on the Public Service, HL55, 19 January 1998, 1997-98

the programme of Civil Service Reform, in 1999, ‘on his watch’ and alongside that programme of reforms to the public services he envisaged an Act which would:

...provide a forward-looking framework for the continued development of the Civil Service. Ministers and the public are entitled to expect that the Service has the people and the culture to perform at a high level of effectiveness. Recruitment, and the role of the Civil Service Commissioners who oversee the principles of recruitment, is at the heart of this. The Act would put the Commissioners onto a statutory basis, as the Government has promised.

The process of change occasionally throws up issues about the conventions which underpin the Civil Service, not just under this government but previously. These issues are many and varied: they concern for instance the role of special advisers, the role of Ministers in management matters, the principles governing Government communications and publications, opening up the Civil Service to outsiders, modernising recruitment, structures, ways of working, and so on.

Very often these issues are about boundaries, the boundaries between what is and is not acceptable, the boundaries between Government and party, grey areas where judgements are difficult and different people acting in good faith may properly come to different conclusions.

There is a danger that if we continue to leave these issues unattended they will fester. They could increasingly become rubbing points, matters of political controversy used to embarrass governments, damaging the Civil Service and perversely making it more difficult to bring about the changes which are needed.

A Civil Service Act could play a positive role in providing a framework for clarifying the boundaries, easing the rubbing points and providing a confident basis for accepting the kind of modernisation I have described without the fear that something important was being lost. Finally, an Act would bring the Civil Service more directly under the oversight of Parliament.

What would the Act cover?

First, it should take power by regulation to define the Civil Service. At present there is no definition of a civil servant.

Second, it should recognise on its face the fundamental principles of selection and promotion on merit and the political impartiality of the Service.

Third, it should provide for the Civil Service Code and the Special Advisers’ Code to be given legal force by regulation subject to the approval of Parliament.

Fourth, it should put the role of the Civil Service Commissioners onto a statutory footing, both as guardians of the principles governing recruitment and in relation to grievances under the Codes, as I mentioned earlier, making their annual report to Parliament.

Finally, it would implement the Government’s commitment to the regulation by Parliament of the number and the role of special advisers.

...But in essence the Act would bring together and codify a great deal of work which has already been done in these areas, not least by the Cabinet Office on the two Codes and by the Civil Service Commissioners on recruitment.

It would be an Act rooted in the need to serve present and future governments and the public, and not a vehicle for vested interests or nostalgia.

It would be based on a broad consensus of cross-party support and informed opinion, and not become a political football.

It would be framed in a way which supported the modernisation of the Civil Service without making its management rigid or inflexible.

If we can meet these requirements - and I think we can - it would be another building block in our ambitions to modernise the Civil Service.³²

The Wicks Committee in 2002 revisited the lack of progress on Civil Service legislation.³³ Sir Nigel Wicks had invited staff from the Prime Minister's office (Alastair Campbell, Jonathan Powell, Andrew Adonis and Michael Barber) to give evidence in public to his enquiry. On their behalf, Sir Richard Wilson declined the invitation.

The Committee's eventual report on the boundaries within the executive, published in April 2003, reiterated its long-held view that an Act was an imperative part of any reform programme.³⁴

We heard evidence from some witnesses who believed that the incoming administration in 1997 did not find a Civil Service that was fit for its purpose. The present Government has been seeking reforms of the Civil Service to secure better delivery of its policies and better performance of its public services in general. We heard nothing in our evidence to suggest that specific aspects of these reforms necessarily risked undermining the core values. But we did hear concerns that insufficient attention was being paid to the overall effect of change.

We concluded that there is a need to put the Civil Service on a statutory footing and that there should be reinforcement of independent scrutiny of the maintenance of the core values, by giving the Civil Service Commissioners power to investigate on their own initiative. We also concluded that there is no conflict between the principle of selection on merit and the need for the Civil Service to be fit for purpose.

...We recommend that our key recommendations on the Civil Service and special advisers should be given statutory effect and that the Government should begin an early process of public consultation on the contents of a draft Bill.³⁵

There has, however, been notable dissent from the consensus for an Act. Lord Nolan for example said:

I tend to feel more and more we have quite enough Acts, and possibly rather too many, and that we are dealing here with a subject of great sensitivity which it is extremely difficult to frame in legislation. ..

³² Sir Richard Wilson, *Portrait of a Profession Revisited*, March 2002

³³ Committee on Standards in Public Life: *Defining the Boundaries within the Executive: Ministers, Special Advisers and the permanent Civil Service* (Issues and Questions Paper) July 2001

³⁴ Committee on Standards in Public Life, Ninth Report, *Defining the Boundaries within the Civil Service: Ministers, Special Advisers and the Permanent Civil Service*, Cm 5775, 8 April 2003

³⁵ See Appendix A for the recommendations of the Committee on Standards in Public Life for inclusion in a Civil Service Act.

...I think the more time we have spent studying different kinds of bodies throughout this country, the more we have become convinced that good standards come from within the ethos of the organisation and independent scrutiny and that at any rate in this country with the strength of the voluntary system I would hope that we can do without the legislation which so many other countries have introduced.³⁶

Another dissenter, who however proposes a much fundamental reorganisation of the executive, is Graham Allen MP, who argues that the United Kingdom already has a de facto presidency and that this situation should be recognised through the introduction of a formal UK presidency and a Civil Service appointed by the President.

The Civil Service machine is traditionally suspected by politicians of all parties of having its own agenda. Yet it only really puts forth that agenda in the absence of clear political leadership. It could be argued that politicians in the past have been all too easy to seduce, allowing the machine to run its own faultless way rather than seize the agenda and redirect that machine...

It was... Mrs Thatcher who cranked up the presidency and shredded another informal part of the unwritten constitution by becoming the first modern Prime Minister to reassert loudly and publicly the primacy of politics and make it crystal clear that the Civil Service was there to serve. This should have been welcome not just because of its honesty but because it reasserted the fundamental principle that politics should be in control.³⁷

B. Reform from within

The Conservative Government in 1994 was not convinced of the case for an Act, but it did endorse a wide notion of Civil Service reform which had gathered force by 1995, and produced its 1995 Command paper *The Civil Service: taking Forward Continuity and Change*,³⁸ which affirmed the need for

- A new Civil Service Code
- Enhancement of the role of the Civil Service Commission and greater powers for First Civil Service Commissioner
- Delegation of pay and grading below senior level to departments
- New Senior Civil Service arrangements and management reviews in all departments

³⁶ House of Lords Select Committee on the Public Service, HL 55-I, January 1998 1997-98

³⁷ Graham Allen, *The Last Prime Minister*, 2001

³⁸ Cm 2748, January 1995

Over the next six years this programme was implemented, while the demand continued to grow for legislation to enshrine the *Civil Service Code* and the obligations of the *Ministerial Code* in statute, and to regulate the powers, numbers and pay of Special Advisors.

But in parallel with such publications as the white paper *Modernising Government*³⁹ in March 1999 and with the Civil Service Reform Programme launched in December 1999, the emphasis of the reform drive has been on fundamental changes to the Civil Service culture, and increasingly the *public* service culture.

The framework of the CSRP was agreed by the Civil Service Management Board (the permanent secretaries of government departments) in 1999. Key features of the programme were: leadership, business planning, performance management, diversity and more open competition were the key features of the programme. The Annual Report 2000⁴⁰:gave a progress report on the action plan within each broad area, for example:

- definition of leadership qualities among the top 3000 Civil Service Managers (the Senior Civil Service)
- feedback on strengths and weaknesses throughout the Senior Civil Service ('360 degree feedback')
- public service leaders' scheme to train and develop 100 best non-Fast Stream managers
- business planning: key targets embodied in Public Service Agreements in each department
- performance management and pay and appraisal systems for civil servants
- flexibility on retirement and flexible working arrangements
- 'Investors in People' recognition
- departmental diversity targets
- open competition to senior management posts
- increase in high-quality staff seconded to key posts

Departmental 'Change Programmes' were also introduced internally into each government department in 1999 as part of the 'culture-changing' efforts of the reform programme, although in the words of Cabinet Secretary Andrew Turnbull 'with varying degrees of success'.⁴¹

³⁹ *Modernising Government*, Cabinet Office, March 1999, Cm 4310

⁴⁰ The Civil Service Reform Programme Annual Report 2000, Cabinet Office, Dec 2000

⁴¹ *PSM*, the magazine of the First Division Association, March 2003

Alongside the Civil Service Reform Programme was a review announced in February 2000 of Audit and Accountability in Central Government led by Lord Sharman. It was to recommend suitable audit arrangements for central government in the 21st century, and to cover issues raised by the Public Accounts Committee concerning the roles and powers of the Comptroller and Auditor General. Although the Sharman review is outside the scope of this paper, its report did highlight the broader concerns about incentives and penalties within the public sector.

Several people suggested that the rewards for successful innovation by public sector employees are either non-existent or very small, whereas the perceived penalties for failed projects – in terms of damage to career prospects and censure in public – are real. Others suggested that many aspects of the way in which the Civil Service operated...all worked against risk-taking. The issue of rewards and performance management are currently being examined as part of the Civil Service Reform Programme.⁴²

By 2002 reform had been gathering pace to such an extent that the ‘public service’ had replaced the Civil Service in the extensive publicity given to the programme and the two terms had become interchangeable.

In June 2002 the Public Administration Select Committee reported its findings into the public service ethos. In its summary it wrote:

In this Report, the Committee examines the principles which underpin the Government's programme of public service reform, and in particular the idea of the public service ethos. This ethos, we believe, should be the fundamental reference point for everything else in the reform programme.

When someone describes him or herself as a 'public servant' it is testimony to the power of the ethos. Yet a gap seems today to be opening up between the traditional theory of public service and the reality on the ground. Sometimes public services, and those who work in them, fall short of the ideal. And the involvement of the private sector raises questions about possible threats to the ethos. The boundaries between public and private services are increasingly difficult to define, and the picture is also confused by the emergence of new types of partnerships.

We reject two rival myths about public service, one suggesting that only the public sector can properly deliver public services, the other implying that there is nothing special that distinguishes public services from private services. We conclude that, in the mixed economy of public service, it is possible for private and voluntary sector bodies and people to uphold the public service ethos, although the profit motive may put it under strain.

⁴² Lord Sharman of Redlynch, *Holding to Account: The Review of Audit and Accountability for Central Government*, February 2001

The public service ethos cannot be taken for granted; it needs to be renewed and strengthened to set out clearly society's aspirations for its public services. While the Government is making some welcome progress towards explaining its vision of reform, it has not yet provided a coherent framework for action.

In uncertain times for public service, a clearer and more explicit way of explaining its values is needed. The ethos needs to be nourished and cultivated. We recommend that the most important values should be set out in a Public Service Code, to be approved by Parliament and adopted by all bodies providing those services. It should include the standards to be reached in ethical behaviour, service delivery, administrative competence and democratic accountability. The Code should be included in invitations to tender and as a contract clause for public service contracts, including employment contracts.⁴³

The Report added in a modest reference to possible Civil Service legislation, that:

[A public Service Code] should also be considered for inclusion in the proposed Civil Service Bill. Vigorous efforts should be made to cultivate the right values among public servants, including the establishment of a Public Service Academy.

This shift of emphasis to the wider public service was reflected in a range of publications commenting on or contributing to the Civil Service Reform programme. For example, Lynton Barker of PriceWaterhouseCoopers produced a report in November 2001 for the Public Services Productivity Panel called *Customer-Focused Government: From policy to delivery*. It offered 'high level ideas and guidance to help transform public service delivery. It asks politicians and civil servants to base their policies and operations around the needs of customers...'⁴⁴

It went on to identify and describe types of customers:

For some public services it is difficult to consider the end-users as target customers, eg prisoners and children, but it is important to include those who do not necessarily request the services themselves. By this definition, prisoners are target customers, specifically of rehabilitation services, as defined in the Home Office (and they are also customers of basic services such as sanitation and food in line with human rights). The public would also be considered as target customers with an interest in a service which protects them.

This new emphasis was also acknowledged by David Faulkner of St John's College Oxford, who submitted written evidence to the Lords Select Committee on the Public Service. (The enquiry covered much the same the territory as the Public Administration Committee Report of 2002.) Faulkner recommended wide-ranging legislation to take account of these changing features of the Civil Service, to include

⁴³ Public Administration Select Committee Seventh Report, *The Public Service Ethos*, HC 263, June 2002, 2001-02

⁴⁴ Lynton Barker, *Customer-Focused Government*, Public Services Productivity Panel, November 2001

- a Public Service Act, specifying the responsibilities and duties of public servants and the mechanisms for their accountability to ministers and local communities and members of the public
- similar Acts for particular services involving special relationships of authority influence or confidentiality, eg the police
- statutory structures for consultation on areas of public policy and service
- and an independent statutory Public Service Commission to oversee matters of appointment and professional conduct

Faulkner concluded that

The process of constructing this legislative framework would resolve, or more probably provide the means for resolving, any distinction which need to be made between ‘policy’ and ‘operations’, between matters which are political and those which are administrative, and between functions which should be retained in government departments and those which can be contracted out or privatised. Distinctions such as these cannot be made definitely, or have any universal or permanent application, in circumstances which are both changing and complex; but some general principles and a shared understanding are needed when they are required in day-to-day situations.⁴⁵

In May 2002, the notion that reform of the Public Service went hand in hand with a Civil Service Act was played down by the new head of the Civil Service, Sir Andrew Turnbull, who in an interview with *The Times* indicated that an Act was not a Government priority.⁴⁶ Just under a year later, in an article for *PSM* magazine, Sir Andrew set out his personal vision and Civil Service agenda for a ‘collective approach to embedding a delivery culture’. Change within the service had hitherto had been insufficient, and ‘the pace, urgency and ambition of reform must accelerate,’ he wrote. No mention was made in the article of an Act.⁴⁷

Public services are under pressure. We need urgent change if we are to respond effectively to new problems and the expectations of service users. We must be more ambitious and radical in finding solutions to the demands that face us. This may mean facing some uncomfortable issues such as whether we are customer-focused and whether we are sufficiently insistent on evidence-based policy. The Civil Service has a reputation for skilled policy analysis but this is no longer enough to keep us in business; it must also become more skilled in service delivery. Reforms initiated by Richard Wilson in 1999 have had notable success in bringing in talent and professional skills and broadening the diversity of our leadership. Linking performance to reward has refocused personal objectives on the aims and priorities of our organisation. ... But we are still a long way on both counts from where we want to be.

⁴⁵ House of Lords Committee on the Public Service, HL55, January 1998, 1997-98

⁴⁶ Peter Riddell and Jill Sherman, ‘Mandarin from the Treasury plans a small revolution’, *Times* 1 May 2002

⁴⁷ *PSM*, the magazine of the First Division Association, March 2003

[...]The single overall aim of the Civil Service within the next three years must be to transform the public services by improving relationships with delivery partners in the wider public, private and voluntary sectors. This will be undertaken in the framework of the Prime Minister's four principles of public service reform:

high national standards and clear accountability
devolved decision-making to the front-line
flexibility in how and when services are provided
greater consumer choice of services and providers

In the same month that Sir Andrew set out his vision for reform in the *PSM Magazine*, he also answered questions from members of the Public Administration Select Committee.⁴⁸

Sir Andrew began by describing the changes at 'the Centre', the structure of the Delivery and Reform Team within the Cabinet Office and the new performance partnerships to drive forward the departmental change programmes:

First of all, I am starting by sorting out the Cabinet Office, which is, in a sense, the instrument, and I have brought the six units that were there, largely operating separately, into a single command. We meet regularly now, we plan work jointly, we share projects and we have tried to avoid that sense for departments that they are being bombarded by a whole series of conflicting initiatives; therefore there is a much greater sense of purpose.

The second thing I have taken further is that each of the permanent secretaries, as part of their performance arrangements, leading ultimately to the Permanent Secretary Remuneration Committee, produces a performance plan. This is in two parts, their main delivery objectives and, secondly, what they are doing to develop the capacity of their organisations and their own personal capacity, I have agreed these with all permanent secretaries, that was done in September, October. We will come back to that, probably May, June, when they write up what actually they have achieved. So a performance management system for permanent secretaries is being given more substance, more form. But we are going on to develop that for departments as a whole.

We are engaging now as a group in the Cabinet Office to develop an agreement, a departmental change programme, "performance partnerships" is the name we have given to it. What are the five or six things that are a priority for that department, starting with, have they got the right people at the top, have they got the right structures, have they got the right capability to deliver projects, is there a relationship with the various delivery agents they work with, whether it is the police, local government, quangos, or whatever. Are those things in good working order. I have done quite a lot of work on revamping the number of senior teams, Home Office, Lord Chancellor's Department, Office of the Deputy Prime Minister, DEFRA. Also, we have done quite a lot of work on what we need to do to improve our success rate on major projects. Probably about three-quarters of

⁴⁸ Sir Andrew Turnbull evidence to Public Administration Select Committee on the Cabinet Office Annual Report, 13 March 2003, HC536i

the major projects actually are IT projects, but some of them are construction projects. We have agreed a set of principles that people should follow, and we have undertaken quite a lot of work to bring in or develop people with the skills to take those major projects forward...

The other thing I would indicate is, we have continued with the programme of recruiting talented people from outside. The open competitions are running at a rate of about 200 a year, and about 120 of those, i.e. about 60% of those 200, have gone to outsiders, and about 40 have been won by existing civil servants. There is more I could say, but that is a flavour.

Sir Andrew confirmed that a Civil Service Bill was still a commitment, but not a priority, and he spelled out the relationship between public service and Civil Service reform:

...I do not talk in terms of reform of the Civil Service, actually. I talk in terms of reforming public services, because many of the services that, the Government is committed to improving, ultimately are delivered by a front line which is not even in the Civil Service. And so you have to look at the total process, right from the genesis of the policy in Whitehall through to how it is delivered by the police, in schools, GP practices; therefore it is transforming the public services, rather than reform of the Civil Service, as an institution, which is properly the focus of my work.

The six units of the Delivery and Reform team to which Sir Andrew referred are

- Strategy Unit (Geoff Mulgan): carrying out strategic views, and working with departments to improve policy:
- Delivery Unit (Michael Barber): Ensuring that the government achieves its delivery priorities across the key areas of public service
- e-Transformation Unit (Andrew Pinder): focusing government around the customer through electronic delivery
- Corporate Development Group (Alice Perkins): Bringing in more talent and managing and developing people better
- Office of Public Service Reform (Wendy Thomson): Identifying and promoting best practice and resolving pay and recruitment problems.
- Reform Strategy team (Paul Kirby) responsible for defining the overall reform strategy for the service

In addition there is the Office of Government Commerce under Peter Gershon (not part of the Delivery and Reform team and located in the Treasury), which offers support on improving the Civil Service's capability to commission and delivery major projects.

Twenty years after Sir John Hoskyns, in his unorthodox critique of the Civil Service, advocated a small new department of outsiders and officials responsible for total government strategy across Whitehall, it could be argued that the Delivery and Reform team appears to fulfil that role.

On 1 May 2002, the House of Lords debated the need for a Civil Service Act, in the light of the reforms of the previous five years and the slippage of an Act down the list of legislative priorities. Lord Holme gave his reasons for believing an Act to be still essential:

The first reason why we need a Civil Service Act is to make sure that, in the face of the pressures and amid a torrent of understandable change, the well-established virtues of impartiality—or objectivity, as the Committee on Standards in Public Life prefers to call it—political neutrality, promotion by merit and not through patronage and ethical or professional standards of behaviour are not swept away. Rather, they should be entrenched throughout Whitehall and the executive agencies, with a proper process for dealing with any fall from grace. We need a fixed point of reference in a fast-changing world.

The second, related reason for an Act is less well understood.... By passing such an Act, we shall ensure that the ultimate accountability of the Civil Service for propriety and process is to Parliament, not to the executive. That is a constitutional development of the first importance. The Hansard Society Commission on Scrutiny, chaired by the noble Lord, Lord Newton of Braintree, said that Parliament should be the "apex of accountability". So, alongside a Minister's responsibility for the performance of his or her department, such an Act would create a parallel and clear accountability for the way in which the Civil Service carries out its important functions. That accountability would be to Parliament.⁴⁹

In the same month, the chairman of the Public Administration Committee announced that in the absence of a government bill, his Committee would be drafting its own Civil Service Bill.

This is a highly unusual move, but the situation merits it. Our draft would enshrine the core values of public service such as fairness and impartiality; it would set out how Parliament would protect those values and it would give greater clarity to the constitutional position of civil servants. We do not envisage a lengthy Bill, or one that would stifle innovation or reform.⁵⁰

The Committee in May announced a forthcoming Issues and Questions paper on its bill; and Lord Lester of Herne Hill has also indicated that he intends to present a bill incorporating provisions for reform of the Civil Service and of the royal prerogative in the 2003-04 session.⁵¹

⁴⁹ HL Deb 1 May 2002

⁵⁰ Public Administration Select Committee Press Notice, 12 May 2002

⁵¹ Evidence to Public Administration Select Committee (uncorrected), 8 May 2003. See <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmpubadm/uc642-ii/uc64202.htm>

There are those, of whom Robert Neild is one, who consider that there is a fundamental irreconcilability between the traditional ethos of the Civil Service and the nature of the current reforms to the public service. Professor Neild, once an economic advisor to the Treasury and member of the Fulton Committee, summarised his view of the changes to the Civil Service over the past twenty years in his book *Public Corruption*:

I cannot think of another instance where a modern democracy has systematically undone the system by which uncorrupt public services were brought into being. One can see why it happened. The administrative elite with Victorian values...became like other elites self-perpetuating; in the 1960s it was criticised by the Fulton Committee for having failed to develop modern technocratic and managerial expertise; it has been perceived by the Thatcher government and its successors to be dedicated to obsolete values and incapable of producing the results that the government wants. Whether the new regime has increased the efficiency of the public services, or that of economy, it is impossible to judge now.⁵²

⁵² Robert Neild, *Public Corruption: The Dark Side of Social Evolution*, 2002

APPENDIX A

CHRONOLOGY OF CIVIL SERVICE REFORM

- 1854** Sir Stafford Northcote and Sir Charles Trevelyan *Report on the Organisation of the Permanent Civil Service*
- 1870** (4 June) Civil Service Order in Council: ensured the Commission would oversee a genuinely competitive examination system (except in the Home and Foreign Offices)
- 1875-1886** The Playfair and Ridley Reports endorsed transfers within departments and reform of the grading structure
- 1912-14** The MacDonnell Royal Commission proposed central management of the Civil Service
- 1918** The Haldane Report called for rationalisation of departmental responsibilities
- 1919** The Bradbury Report resulted in new Establishments branch of the Treasury to oversee Civil Service organisation and pay
- 1919-39** Warren Fisher was Permanent Secretary to the Treasury and Head of the Civil Service⁵³
- 1919** Establishment of Whitley Councils
- 1920** (22 July) Order in Council formally confirmed Civil Service management and personnel issues under Treasury control
- 1930** The Tomlin Royal Commission
- 1961** The Plowden Report argued that Civil Service needed to professionalize its management systems and behaviour
- 1968** The Fulton Report recommended:
- Civil Service Department comprising Civil Service Commission and management divisions of Treasury
 - a Civil Service College
 - special assistants and senior policy advisers to Ministers
 - integration of specialists and generalists
 - hiving of some departmental functions to agencies
 -
- 1969** Civil Service Order in Council: set out criteria for employment of outsiders
- 1969** Richard Meyjes from Shell seconded to advise Opposition on reform of Whitehall
- 1970-72** Derek Rayner seconded from Marks & Spencer to set up Defence Procurement Executive
- 1970** Central Policy Review Staff (CPRS) set up, headed by Lord Rothschild, followed by Kenneth Berrill, Robin Ibbs, John Sparrow
- 1973** The Hardman Report suggested between 50,000 and 150,000 jobs could be dispersed outside London: (by early 1990s approximately 20 per cent of 'non-industrial' staff work in Whitehall)
- 1974** Policy Unit set up in No. 10, headed by Bernard Donoughue followed by John Hoskyns, Ferdinand Mount, John Redwood, Brian Griffiths, Sarah Hogg, David Miliband
- 1974** Guidelines on Special Advisers issued by Harold Wilson
- 1979** Efficiency Unit set in the Cabinet Office headed by Sir Derek Rayner, staffed by civil servants and consultants
- 1981** Civil Service strike
- 1981** Civil Service Department abolished

⁵³ Fisher's era is considered to have caused the Civil Service to stagnate by the outbreak of the Second War. Peter Hennessy in *Whitehall* (1989) said 'By the late 1930s the Civil Service was a staid organisation at every level... a service in which the clerks were drawn from secondary schools, the executive officers from the grammar schools and the administrators from the universities – careers for life with very precious little movement from grade to grade.....Orthodoxy and hierarchy became entrenched in Warren Fisher's Whitehall – with the expert caged and the generalist roaming free...'

- 1982** Civil Service Order in Council amended: Commission's responsibilities for staff limited to top 15 civil servants
- 1983** CPRS abolished by Margaret Thatcher
- 1983** Cassells Report: reviewed personnel management in the Civil Service and measures introduced to increase attractiveness of Civil Service to potential recruits
- 1985-6** House of Commons Treasury and Civil Service Select Committee Report⁵⁴ proposes 'ministers policy units' concept.
- 1986** Civil Service Order in Council: time limits on appointment of advisers and new guidelines for appointment of senior Civil Servants from outside
- 1987** *Improving Management in Government: the Next Steps* report (the Ibbs report): recommended radical extension of executive agencies
- 1987** Office of the Minister for the Civil Service created: Peter Kemp appointed 'Project Manager'
- 1987** *Working Patterns* by Anne Mueller proposed core civil and peripheral Civil Service with latter comprising wide range of conditions of employment
- 1988** Government responds to Treasury and Civil Service Committee report: Next Steps Agency Chief Executive Officers to be accountable to Public Accounts Committee
- 1991** Civil Service Order in Council extended departmental and agency responsibilities for staff to 95 per cent of recruitment; limits set on role of special advisers
- 1992** *Civil Service (Management Functions) Act* gives delegated authorities to Agencies and office holders in charge of departments
- 1995** Abolition of Senior Appointments Selection Committee and replacement with Civil Service Commissioners ; Senior Civil Service established
- 1995** Civil Service Order in Council: Civil Service Commission assumes responsibility for interpreting recruitment principles; exceptions to principles established in Civil Service Recruitment Code
- 1997** Amendment to Civil Service Order in Council to allow three special advisers in Prime Minister's office to hold executive authority over civil servants
- 1999** Civil Service Order in Council (Amendment) Order: appointment of Special Advisers to members of Scottish Parliament and National Assembly for Wales
- 1999** Civil Service Reform Programme launched
- 1999** Civil Service College joins Centre for Management and Policy Studies within Cabinet Office
- 2002** Order in Council giving Civil Service Commissioners powers of approval, to the top 600+ posts (Pay Band 2 and above) in the Senior Civil Service

⁵⁴ *Civil Servants and Ministers: Duties and Responsibilities*, HC 92 1985-6

APPENDIX B

The recommendations of the Committee on Standards in Public Life Ninth Report *Defining the Boundaries with the Executive: Ministers, Special Advisers and the Permanent Civil Service* (Cm 5775, 2003):

R33 The Government should begin an early process of public consultation on the contents of a draft Bill. The Bill should receive pre-legislative scrutiny by a Joint Committee of both Houses of Parliament.

R34. There should be a short Act to cover the Civil Service and special advisers. In particular, this should:

- (a) define the status of the Civil Service;
- (b) include a statutory obligation on Ministers to uphold the impartiality of the Civil Service;
- (c) set out the responsibility of the Civil Service Commissioners for ensuring that the principle of selection on merit is properly applied, together with the ability to make exceptions from that principle;
- (d) set out the Civil Service core values, including the overriding principle of selection on merit;
- (e) grant powers for the Civil Service Commissioners to investigate, on their own initiative, and to report on the operation of the Civil Service recruitment system as it concerns the application of the principle of selection on merit;
- (f) provide for the First Civil Service Commissioner to be appointed after consultation with opposition leaders;
- (g) define the status of special advisers as a category of government servant distinct from the Civil Service;
- (h) state what special advisers cannot do;
- (i) include power for the Civil Service Code and the Code of Conduct for Special Advisers to be given effect as statutory instruments requiring the approval of both Houses of Parliament and amendable by the same procedure;
- (j) state the total number of special advisers, with an upper limit subject to alteration by resolution approved by both Houses of Parliament;
- (k) provide for two special adviser posts in the Prime Minister's Office with "executive powers";
- (l) define special advisers with executive powers by derogation from the restrictions on what other special advisers can do;
- (m) require an annual statement to Parliament on paid and unpaid special advisers.

APPENDIX C

Special Advisors in the Prime Minister's Office as at 28 Mar 2003⁵⁵

Andrew Adonis
Arnab Banerji
Phil Bassett
David Bradshaw
Alastair Campbell
Hilary Coffman
Patrick Diamond
Matthew Elson
Kate Garvey
Sarah Hunter
Peter Hyman
Katie Kay
Roger Liddle
Liz Lloyd
Chris McShane
Fiona Millar
Sally Morgan
Joanna Nadin
Geoff Norris
Carey Oppenheim
Jonathan Powell
Catherine Rimmer
Justin Russell
Derek Scott
Carl Shoben
Simon Stevens

⁵⁵ HC Deb 31 Mar 2003 526W

Appendix D**CIVIL SERVICE STAFF IN POST Summary Table at 1 October 2002⁵⁶**

	Total (Full-time equivalents)	Non-Industrial	Industrial
ALL DEPARTMENTS AND AGENCIES	499,630	472,930	26,700
Of Whom: EXECUTIVE AGENCIES	270,220	253,320	16,900
CUSTOMS AND EXCISE	21,820	21,820	0
INLAND REVENUE	70,180	70,180	0
CROWN PROSECUTION SERVICE	6,660	6,660	0
SERIOUS FRAUD OFFICE	230	230	0
TOTAL ON NEXT STEPS LINES	369,110	352,210	16,900

⁵⁶ http://www.civil-service.gov.uk/statistics/documents/pdf/staffing_03.pdf