



Relationship breakdown

Civil service–ministerial relations: time for a reset

Jill Rutter

IfG–Bennett foreword

In February 2022, the Institute for Government and the Bennett Institute for Public Policy launched a Review of the UK Constitution, to offer an evidence-based and non-partisan analysis of the strengths and weaknesses of the constitution, and where necessary make recommendations for change.

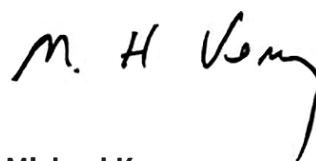
To address the bold scope of this project, we have complemented our own in-depth research with a breadth of perspectives from some of the UK's foremost constitutional experts. In this series of expert guest papers, we publish the views and proposals of academics and practitioners, who take a range of stances from constitutional conservation through to major reform. While these papers respond to the pressing constitutional questions of the day, they all also look to construct long-term solutions that will inform political decision making as well as public debate.

Given the range of views expressed, we do not necessarily endorse all of the ideas found in these papers, but we can commend the rigour with which the arguments have been constructed and sincerely thank the authors for their thoughtful contributions.



Hannah White

Director
Institute for Government



Michael Kenny

Co-director
Bennett Institute for Public Policy

Introduction

In the 2022 series of the cult Danish political drama *Borgen*, a moment comes when a private secretary, troubled by the behaviour of his minister, seeks advice from his permanent secretary. Which should come first when the activities of the minister come into conflict with the interests of the ministry? The permanent secretary's advice is clear: "The ministry, always the ministry."

Borgen is fiction. But in the real world of modern-day British politics, relations between civil servants bound to serve the 'government of the day' and the more enduring values enshrined in the civil service code – honesty, integrity, objectivity and impartiality¹ – seem to be coming increasingly into conflict.

In this paper, I look at whether the current model of the UK civil service, and of relationships between civil servants and ministers, has reached breaking point and ask whether a new one is needed.

The problems

Brexit put relationships under unprecedented strain

There have been strained relations between ministers and civil servants before. When Margaret Thatcher came to power, she was unconvinced that many top civil servants were 'one of us' and as a class thought they were willing to preside over 'managed decline'. The Blair government in 1997 effectively sidelined much of the civil service and in many cases preferred the advice of the network of advisers they had established in opposition.

But since 2010, ministerial–civil service relations have become more difficult.

That year David Cameron, on entering No.10, targeted civil service reform, entrusting the task to his minister for the Cabinet Office, Francis Maude. In 2012 Maude laid out his plans. He tried to bolster ministerial management of departments by bringing in non-executives to the ministerially chaired boards and toyed with creating extended ministerial offices, a cabinet-style arrangement to support ministers. But these changes were taken up in varying degrees of enthusiasm by his ministerial colleagues and did not lead to significant change. Ministers were also given a slightly bigger role in appointing their top civil servants – but in practice appointments changed little as relatively few outside candidates* came through the process (and most savvy ministers already influenced choices they cared about). More importantly, permanent secretaries were put on fixed-term contracts, and a number subsequently found those contracts were not renewed.

* There were exceptions: the appointment of John Manzoni, who after a career in the oil industry went from leading on major projects to his position as 'chief executive' of the civil service; and Sarah Munby and Charles Roxburgh joined the business department and the Treasury respectively from McKinsey. Munby is now permanent secretary and Roxburgh recently retired as second permanent secretary.

But during the Cameron years, the civil service had to navigate two big events that provoked questions about their role. Although the rules for civil service activities during *elections* are well known and generally observed, within the space of two years the civil service had to cope with two *referendums*, which posed challenges to the way the institution works.*

In the run-up to the 2014 Scottish independence referendum the UK civil service in Scotland supported the SNP government's campaign for independence; the same civil service in Whitehall supported the UK government in opposing it. This support for the UK government position became more overt when the Treasury permanent secretary, Nick Macpherson, released his advice to the chancellor pouring cold water on the idea that Scotland could be part of a currency union with the rest of the UK² after a vote for independence. That arguably crossed a rubicon in terms of civil service intervention in a very live political campaign, and after an inquiry the Public Administration Select Committee criticised civil servants in both the UK and Scottish governments for their role in the referendum preparations.³

The 2016 EU referendum would prove more contentious still. Although members of the government were allowed to campaign on either side, the government officially advocated Remain, and the prime minister led the Remain campaign. The Treasury was again at the forefront of controversy with the economic risks of Brexit being central to the Remain case. There were two separate interventions.

In April, the chancellor issued a relatively objective assessment of the varying options for the UK's trade relations with the EU after Brexit. But in presenting it the politicians highlighted a very specific figure for the biggest impact of leaving – that it would “cost British households £4,300 a year”.⁴ Even more controversial and contentious was the decision to publish a Treasury forecast on the immediate consequences of a Leave vote. It said: “The central conclusion of the analysis is that the effect of this profound shock would be to push the UK into recession and lead to a sharp rise in unemployment.”⁵

That opened up the Treasury to the charge that it was an active player in 'Project Fear'. Ministers were instrumentalising civil service objectivity for their own ends and top civil servants at the Treasury should have been able to act (and there should have been an expectation they would act) to protect their department being used by one side in the campaign in this way.

The use (or abuse?) of the Treasury in this way matters because it had consequences that were felt long after the referendum. Many politicians who had supported Leave came into office damning about government forecasts, and suspicious of official analyses. It opened the way to what became a repeat narrative that the civil service was part of a 'Remainer blob' that failed to 'get' the country and was actively thwarting ministers' attempts to deliver 'Brexit benefits'. Some even labelled it a 'deep state' operation.

* There were actually three referendums while David Cameron was prime minister. However, the 2011 referendum on the alternative vote – where the coalition itself was split – raised few problems for the civil service, as the government machine stayed neutral.

But the problems Brexit created for the civil service went well beyond scepticism about the forecasts of the economic consequences. The tortured withdrawal negotiations led to accusations that the civil service was taking control of a weakened prime minister and subverting a 'proper' Brexit. That was compounded by Theresa May's secretive style as prime minister, her early setting of red-line negotiating objectives that proved irreconcilable and undeliverable, and her perceived over-reliance on her civil service chief negotiator, Sir Oliver Robbins. For his part, Robbins became a lightning rod for Eurosceptic criticism of May and her hated deal when at the root of all the problems was the inability of her government to come up with agreed objectives of what Brexit would ideally look like and would be negotiable with the EU.

It was often easier for Conservative critics of May's approach to portray her as the victim of a civil service/Remainer conspiracy than to conclude that she was pursuing the type of Brexit she had concluded was in the UK's best interests. Meanwhile, civil servants were accused of foot dragging on preparations for Brexit and of producing over-cautious assessments of the consequences of a potentially destabilising no deal.

The former Brexit secretary David Davis summed up this scepticism:

"I mean, the difficulty you've got, and we've got to be careful not to be paranoid about this, but the difficulty you've got is that of the maybe 30 permanent secretary rank civil servants, how many do you think voted for Brexit? Something like zero? Do you know what the odds of that are in a random selection? It's a billion to one, two to the 30th. That's just the nature of it."⁶

Somewhat paradoxically for a prime minister whose administration would go on to wage war with the civil service (see for example No.10's 'hard rain' reforms), under the Johnson government tensions between ministers and officials, on Brexit at least, were defused to a great degree. This was in large part because it was much clearer about the type of Brexit it wanted.

The Johnson–Cummings regime espoused a more generalised critique of the civil service

The government of Boris Johnson – particularly with Dominic Cummings as his influential chief adviser in No.10 – came in with its particular critique of the civil service and an agenda for change. Part of that was personal: many permanent secretaries were washed away in the promised 'hard rain'. However, the people they appointed after the localised deluges were for the most part incredibly conventional civil service candidates. Sir Philip Rutnam at the Home Office was replaced by the Department for International Development permanent secretary and long-time diplomat Matthew Rycroft; Simon McDonald was asked to step aside at the Foreign Office, only to be replaced by FCO lifer Sir Philip Barton.

Part, though, was institutional – a feeling that the civil service was smugly complacent, innumerate, unalive to new possibilities and hopelessly London-centric, and out of touch with a nation that had voted for Brexit. Such criticisms⁷ had distinct germs

of justification and would be recognised by many in the civil service itself. But the reformers were much better at developing and promoting their critiques than they were at developing anything more than tokenistic reform programmes that played to populist tropes. They seemed to assume that changing a few personnel in No.10 – bringing in ‘weirdos and misfits’ and disrupting the system – would be enough to secure systemic change. Whether there would have been lasting and useful reform if the proponents had hung around for longer remains hypothetical.

That critique was compounded by the pandemic

The final verdict on the effectiveness of the civil service during the pandemic will have to wait until the public inquiry under Lady Justice Hallett reports – but it appears to have been mixed. An Institute for Government report looking at the civil service’s handling of the pandemic highlighted a lack of planning and slow decision making, but effective implementation in some areas.⁸ Similarly it is unclear how far the civil service should be held responsible for the failure of adequate contingency planning before the pandemic and the assessment in the National Risk Register that a SARS-like virus reaching the UK was relatively low risk.

Cummings was highly critical of the initial flat-footed response at the centre of government and in the Department of Health and Social Care.⁹ But at the same time, the civil service delivered two hugely supportive economic interventions in the furlough scheme, drawn up over 48 hours, and a massive scale up of universal credit. It managed, over time, to set up a testing and tracing regime (though there was widespread criticism of the determination to run a centralised scheme and the failure to work with local government). It supported the Vaccine Taskforce and roll-out, even if outside talent had to be drafted in to drive the vaccine acquisition effort.

But there were decisions that went less well – not least the appalling handling of the 2020 exams fiasco and the failure to make contingency plans for the second school lockdown.¹⁰ The first was career-ending for the Department for Education (DfE) permanent secretary and exams chief regulator – though again it is not clear whether it was their advice that was wrong or what ministers did with it.

The civil service has not distinguished itself in its handling of other crises since the pandemic either. The Foreign Affairs Committee report on the exit from Afghanistan made clear that there was a lack of planning for the eventual, if inevitable, fall of Kabul; a lack of readiness for that fall when it came sooner than expected (while both the foreign secretary and his permanent secretary were on holiday); very unclear decision making at both ministerial and official level, exemplified by the lack of clarity over who authorised the evacuation of staff and animals from the Nowzad charity; and a failure of the civil service’s duty of care to its younger and less experienced staff. While some of the elements of the response, not least on the ground in Afghanistan, were impressive, the overall impression was of poor planning and poor execution in Whitehall for which both ministers and civil servants should have taken responsibility.

The civil service has tried and failed to police 'the boundaries' on ministerial behaviour

The cabinet secretary told the Public Administration and Constitutional Affairs Committee (PACAC) in June that the Johnson government felt "it had a mandate to test the established boundaries"¹¹ of the mess of norms, rules and conventions that make up the UK constitution and set expectations of how ministers and civil servants operate – and that this caused "tension" with the civil service values. The problem for the civil service is that one of its tasks is to patrol those boundaries – and, under the current arrangements, it has very little recourse if ministers simply decide to ignore its warnings.

In the past most ministers, most of the time, would heed the warnings about the potentially damaging consequences of crossing those boundaries, and that allowed the civil service to ensure that propriety rules were observed. Certainly in the Johnson era this was not the case, and the upshot is that the civil service has become collateral damage as ministers refuse to be bound by it.

This was seen perhaps most starkly at the Home Office. When its permanent secretary, Sir Philip Rutnam, resigned in 2020 after his relationship with his secretary of state, Priti Patel, broke down irretrievably he sued the government for unfair dismissal after calling out Patel for bullying, claims vindicated by the findings of the then independent adviser on ministerial interests. However, Johnson simply disregarded his adviser's finding that Patel had broken the ministerial code – a de facto resigning offence – and in the end it was the ministerial adviser who resigned; Patel continued in post until the new Truss cabinet was formed in September 2022. The senior civil service union, the First Division Association, tried to judicially review the prime minister's decision to ignore the advice, the first time a prime minister had done so, but was unsuccessful.¹²

Some incursions across those boundaries were relatively minor, such as ignoring advice on hospitality or travel options, but others more important. These included abusing official communications to put out clearly political, polemicised messages; for example, about the operation of the Northern Ireland protocol, attacking lawyers who defended asylum seekers, or making unsubstantiated claims to parliament and failing to correct them when this was pointed out – as Johnson repeatedly did on employment figures. It is not clear whether civil service objections were overruled – or were not made in anticipation that they would be ignored – but whatever happened, norms and conventions seem to have been increasingly disregarded. Beyond demanding a direction for improper spending, which may seem a nuclear option when the amounts involved are relatively trivial, civil servants have few options to voice concerns outside the normal channels.

But there have been two very egregious examples of testing the boundaries – and the problems the civil service faced in trying to police them. One was 'partygate', when No.10 was accused of holding parties in breach of its own coronavirus lockdown

restrictions. There, it was not just ministers who showed they were happy to play fast and loose with the rules they were imposing on others. The civil service and political advisers were clearly also guilty of disregarding the restrictions the government was imposing on the rest of the country. Sue Gray's report¹³ condemns the failure of official and political leadership at the centre, which allowed the culture of rule breaking to take hold. Ultimately it was one of the factors behind the prime minister losing the support of his MPs – and he paid for it with the end of his tenure at No.10.

But the cabinet secretary should have been able to resist the prime minister's request that the civil service take responsibility for an investigation that could have such drastic consequences for the prime minister's own future¹⁴ – and left it looking severely compromised. And when the report came out, the civil service leadership should have made its own response, owning the failures of some civil servants and making clear that they would have to pay a price for letting down all their colleagues. There was a notable failure to take responsibility by civil service leaders as well as the prime minister.

The second set of boundary policing problems have come from the government's willingness to break the law. Early on in the Johnson administration, after his ability to take the UK out of the EU without a vote had been curbed by the passage of the Benn–Burt Act, No.10 repeatedly briefed that the PM would ignore the requirement to request an extension to the Withdrawal Agreement negotiation period. The then head of the Government Legal Department suggested he would have felt obliged to resign if that had happened.¹⁵ It didn't – but in the run-up to that Brexit deadline, official communications did go ahead asserting that the UK would leave on 31 October, potentially with no deal, even though the government was legally obliged to ask for an extension in those circumstances meaning that communication was at best misleading.

A year later the government did explicitly say it intended to break international law – by threatening to break the provisions of the Withdrawal Agreement it had put into UK law. On the floor of the House the Northern Ireland secretary said that the government would break the law in "limited and specific" ways. That was too much for the aforesaid head of the Government Legal Department, who did then stand down – in what would have been seen as a serious blow to the government in earlier times – and might have provoked it to reconsider. More recently the home secretary, a former attorney general, has found legal advice allowing her to say that the controversial Northern Ireland Protocol Bill is compatible with the UK's legal commitments – despite it being far from clear that this is the assessment of the government's own lawyers. This reflects something of a scene in recent months: in the Truss government, the two 'justice' departments were headed by secretaries of state with dubious pedigrees on their commitment to the rule of law.

There are likely to be other questions emerging about the robustness of civil service advice – and the willingness of ministers to go against it – when the Covid inquiry starts delving into the detail of decision making. For example, it will be interesting to see what

the inquiry makes of the way processes around procurement were short-circuited in the crisis (understandable) in a way that seemed to allow exploitation by well-connected businesses and left the taxpayer with a large bill (unforgivable).

Civil servants are supposed to uphold the law. Working for ministers who themselves show an equivocal approach to doing so puts civil servants supporting them in a hugely difficult position.

The brief Truss administration caused turbulence

Liz Truss was elected as Conservative leader on a promise of taking on the economic orthodoxy that she and her supporters thought had condemned the UK to a future of “low growth declinism”. The civil service, in particular the Treasury, was seen as the embodiment of that mentality – not too distant from the way in which the Thatcher government harrumphed against an establishment in the late 1970s preoccupied with managing decline.

Truss’s first act was to get her chancellor, Kwasi Kwarteng, to sack the long-serving Treasury permanent secretary, Sir Tom Scholar. There then seemed to follow an argument between Truss and Kwarteng about who to appoint next, with the chancellor favouring a civil servant with no prior Treasury experience, but Truss ultimately insisting on the appointment of someone who looked more like a continuity candidate as part of the attempts to reassure the markets in the wake of the disastrous mini-budget. However, the loss of Scholar – which seemed to be motivated in part by personal animosity from Truss’s time at the Treasury and in part by a desire to signal a determination to bury ‘Treasury orthodoxy’ – represented a significant loss of market and crisis management expertise in the heart of government (Scholar was, for example, a key figure in managing the Treasury response to the 2008 financial crisis).

The Truss government also took on the Bank of England and sidelined the Office for Budget Responsibility – the UK’s fiscal forecaster and watchdog – the latter of which proved particularly damaging for its mini-budget. The ironic impact of this has been to make those institutions more important and untouchable than they would have been before the Truss–Kwarteng interlude.

Rishi Sunak seems to have established calmer relations between ministers and civil servants

The new prime minister, Rishi Sunak, has promised a government that offers “integrity, professionalism and accountability at every level of government”. At the Treasury he appeared to work quite well with his civil servants so it will be interesting to see how he manages relations with the civil service from No.10. Even so he appointed two ministers – Suella Braverman, who had been forced to leave the government only the week before over a breach of the ministerial code, and Sir Gavin Williamson, who had been held responsible for a serious leak about national security while in Theresa May’s cabinet – showing that when politics meets standards it is standards that bend.

But whether the Sunak government signals a reduction in tension or not, the experience of the past decade suggests there is a strong case for looking at putting relations between ministers and civil servants on a more solid basis. It is also best done when relations are not in crisis.

Nor would there be any guarantee things would improve with a change of government if that happens in the next few years (even with a government led by a prime minister who unusually was also a former permanent secretary in his capacity as director of public prosecutions). The experience of the advent of the Blair government in 1997 suggests too that if there were a change of government after a general election, a party that had been out of power for a long period would be likely to rely much more on the advisers who had worked with them in opposition than on civil servants who had spent a long time serving a government of a different political colour.

The old settlement – of joint enterprise between ministers and civil servants – does not seem to be working

There were many problems with the conventional model of ministerial–civil service relations. In particular it was based on a fudge: civil servants did not call out ministers for taking forward plans that were unrealistic or over-optimistic; but ministers, not civil servants, paid the political price when those plans fell short or when their departments fell down in other areas of their responsibilities.

Many inside the civil service hanker after the restoration of the former relationship. Some may hope that a Sunak premiership will lead to that (and that this would be confirmed were Labour to enter government). But this would miss an opportunity to properly address the fragility of the current position. It would also fail to learn the lesson of Blair's Labour government¹⁶ – that any opposition taking power after a long period out of office is likely to be close to the advisers they have worked with and suspicious of civil servants who have grown used to working with their predecessors.

Earlier this year an Institute for Government report returned to a perennial theme – that the model of ministerial accountability for what government does needed an overhaul.¹⁷ It suggested that civil servants should be more clearly responsible for the capability of the civil service and to that extent for the implementation of ministerial decisions.

The civil service has done itself no favours with its refusal to accept blame when it is clearly due. The report into Amber Rudd's resignation as home secretary in 2018 found that it was poor advice from her officials that contributed to her misleading the Home Affairs Committee, and two were named in the report into what led to her resignation.¹⁸ Rudd resigned (though she rejoined the cabinet later as work and pensions secretary after the report was published); the civil servants most directly involved were shuffled to other roles with no public acceptance of any responsibility for the failures. Similarly, while Wendy Williams' *Windrush Lessons Learned Review* identified a wide range of institutional failings within the Home Office, which were accepted by the departmental leadership, no civil servant stood up to accept any personal responsibility.

The only occasion when a senior civil servant voluntarily resigned after taking responsibility for a failure was when Sir Paul Gray resigned as chairman of HMRC in 2007 when the department lost a large number of disks containing child benefit records.¹⁹

But there are other areas where ministers are all too willing to blame civil servants when their policies fail. As noted above, the Covid A-level fiasco cost Jonathan Slater at DfE and Sally Collier at Ofqual their jobs, but the education secretary survived. More recently, ministers have claimed that the civil service is frustrating the realisation of the 'opportunities from Brexit' – having earlier claimed that the civil service was standing in the way of making sure that the UK was well prepared for no deal.

Ministers have made civil service work practices a political football

Conservative ministers over the past decade have set out a big programme for civil service reform even though its pursuit has been rather sporadic. Some elements are under way – for example, dispersion of some civil service posts around the country.

In other cases ministers seem to have been using the civil service as another front on which to wage a culture war. Ministers in the Johnson government expressed views on where civil servants should work²⁰ – replacing their prior emphasis on estate rationalisation with a preference for presenteeism in the office. They also announced big cuts without any prior warning to permanent secretaries managing departments and decided to suspend the Fast Stream programme for at least a year.²¹ Ministers have also expressed concerns about some civil service training programmes as part of their more general assault on 'wokeness' in the establishment.²²

Clearly ministers should have views on the cost of the administrative overhead they are prepared to fund to support their government and its programmes. They may want to use the civil service to exemplify some of their policies – to show that they can lead by example – and that can be important. But the risk of the current approach is that the civil service is treated as a scapegoat for government failures some of which are political, at a potential short-term price in terms of morale and with the risk that long-term capability is damaged.

Ministers have refused to let civil servants testify to parliament

Civil servants are always in a difficult position when testifying to parliament. At the Public Accounts Committee, accounting officers are held to personal account for their stewardship of public money, save for the rare instances where they have transferred that accountability to their secretary of state by demanding a 'ministerial direction'²³ before money can be spent.

At select committees, civil servants defend ministerial decisions – as well as their own performance – and can tie themselves in knots doing so. But there are occasions when ministers stop civil servants from testifying altogether even when it is clear that it is the official rather than the minister who is best placed to help parliament. That happened in July 2021 when the then chancellor of the Duchy of Lancaster stopped the former

propriety and ethics chief Sue Gray giving evidence to PACAC's inquiry into Greensill, even though she was clearly better placed than any current minister to shed light on what had happened.²⁴

Civil servants' evidence has suggested that greater clarity on who is responsible for what in terms of policy and implementation would help parliament in its scrutiny function and enable it to have a greater role in holding civil servants to account over their successes and failures, particularly over issues that clearly relate to management rather than policy decisions per se.

The relationship between ministers and civil servants will be severely tested when the Covid inquiry gets into full swing. It could – and should – be incredibly informative about the respective roles of ministers and civil servants. The fact that Johnson is no longer prime minister may reduce the heat around it, although the inquiry is also likely to want to examine the role of the Treasury under Rishi Sunak's leadership. But we have seen with the Grenfell inquiry that civil servants and ministers have differed in their evidence about why building standards were not raised in the light of concerns highlighted by an earlier inquiry.²⁵ Civil servants' evidence showed how a generalised initiative, such as a commitment by the government to deregulate, impacted the policy and operational environment in which they made decisions on an issue regarded as a low departmental priority, without any explicit direction from ministers.

Civil servants are constrained in work they can do on their own authority

There are clear conventions about how the civil service prepares in the run-up to an election, but in all other areas civil servants need ministerial cover for what they do. That allows some flexibility and civil servants certainly continue with work that ministers might deem low or no priority – but the downside of unlimited ministerial accountability is there is limited space for the civil service to do work that ministers would not be happy to answer for. When the civil service is found to be thinking the unthinkable (or even just doing some thinking) it needs to do so in a way that will not embarrass its current bosses. Even externally commissioned research can embarrass ministers – and the simple fact that departments have commissioned research can be as embarrassing as its findings.

This is less constraining in practice than it looks. The ecosystem of think tanks means that such thinking can take place outside government and both the politically aligned and the specialist policy think tanks can produce papers and host events to explore issues that are not yet on ministers' to-do lists. The research community can go beyond the 'areas of research interest' identified by departments and can talk to their government contacts about what is worrying them. But there are downsides too – the think tank world is much better at coming up with eye-catching policy ideas than it is at working through the hard graft of turning a policy idea into something that works when implemented.

But none of these outsiders is a substitute for decent contingency planning inside government. The former Brexit department permanent secretary, Philip Rycroft, explained the state the civil service found itself in straight after the vote to Leave, as a consequence of Cameron's ban on contingency planning that might have made it look as though the government was not convinced it would win:

"What we didn't have was the game plan for taking us out of the EU, self-evidently. What was the legislative programme going to look like? How are we going to negotiate this thing? Who was going to do it? We didn't have a shadow team in place. There was an awful lot of scrabbling around going on, in the two to three weeks after the referendum."²⁶

There are question marks over how much difference contingency planning for a Leave vote would have meant given that it took over five years from the referendum to decide what the vote meant in practice. Oliver Letwin, who was asked by Cameron to kick off Brexit preparations in the immediate aftermath of the referendum, said:

"I don't think it would have made the slightest sense to sit around assuming we're going to be defeated. Obviously, it makes very good sense to plan for contingencies that might hit you suddenly – because you won't have time to do all the planning after they hit you. But if you're doing something that's going to take years and years to unfold, there's plenty of time to deal with it if and when."²⁷

That view notwithstanding, there is a strong case for arguing that the interests of good government suggest that the cabinet secretary should have been able to commission appropriate contingency planning on his own initiative, without it risking any implication that the prime minister was assuming the referendum could go against him.

Similar arguments apply to looking forward to the management of future risks. When Cameron decided to abolish the Strategy Unit that had worked for the New Labour government, former cabinet secretary Lord Heywood set up a small horizon scanning unit in the Cabinet Office to help develop a cross-Whitehall view of potential future challenges but was constrained by what he could do by the limited ministerial patronage.²⁸

Key decisions can be made without civil service input

Civil servants advise and ministers decide. But on some critical recent occasions, ministers have proceeded to make commitments with big consequences without taking too much account of the advice being given. We do not yet know the extent to which cautionary advice was given by the Treasury over the risks inherent in the decision to proceed with Kwarteng's mini-budget – though we do know that the government was wary enough about its impact to decline the offer from the OBR to accompany it with a forecast.

But there are other occasions when big decisions have been made with no civil service input. There is always an issue with party conference speeches and the extent to which the policies announced there have been through normal policy processes. But under

May, critical 'red lines' that determined the trajectory of Brexit were set in her speeches to the Conservative Party conference without prior discussion with key cabinet ministers²⁹ or her lead civil service advisers.³⁰ Some of those have suggested that the prime minister herself failed to appreciate the full implications of what she was saying – both the short-term impact on sterling but also the longer-run de facto commitment to leaving the customs union and the single market.

Anecdotally, some civil servants report that they are not convinced that civil service advice actually makes it through the advisers surrounding ministers to land on their desk. A lot of the key decisions in the Brexit negotiations seemed to be taken in meetings between Johnson and his chief negotiator, Lord Frost, with no officials present – making it unclear whether official advice on the consequences of the Withdrawal Agreement and the Trade and Cooperation Agreement was given to the PM.

There also seems to have been an increasing tendency for ministers to have unrecorded meetings or exchanges³¹ with external interests without civil servants present or notes taken and without the content being reported back in contravention of the ministerial code. Johnson was caught making promises to his long-time backer, the industrialist Sir James Dyson, that he would 'fix' his concerns about the tax system,³² and then the climate and energy minister, Anne-Marie Trevelyan, met three times with representatives from China General Nuclear in 2021 without any notes being taken.³³ The Public Accounts Committee noted the inadequacy of the audit trail in the Department of Health and Social Care on the award of testing contracts to Randox, on whose behalf the former MP Owen Paterson lobbied the then health secretary, Matt Hancock.³⁴

These recent woes have compounded long-standing problems in the civil service

There is a familiar – and in many cases justified – critique of the civil service. It focuses on the problems it often faces in turning policy ideas into deliverable outcomes, on time and on budget, and to the standard expected. Although this may look like a 'delivery failure' for which the civil service should be held responsible, in many cases the origins of the problem lie in the prior policy decisions. Failure is not easily compartmentalised. Dame Kate Bingham's recent description of the challenges she faced in making the Vaccine Taskforce work (by common agreement one of the UK's stand-out pandemic successes) makes clear her frustrations both at civil servants and ministers who stood in the way of her being able to get on with the task she had been brought in to do.³⁵

But the civil service does not help itself. Its internal incentives around pay and advancement (again partly a function of ministerial decisions and influence) encourage churn and discourage the development of deep expertise and experience, which is hard to fit in a system that assumes that anyone can pick up a 'generalist' job.³⁶ The result is that many ministers – who if they last in post become better acquainted with policy areas for which they are responsible than those who are supposed to be advising them – can become sceptical of the value that their civil servants provide.

The civil service makes clear that it values the sort of skills that consultants give their (very similar) new graduate recruits – and is willing often to pay consultants to put them to use in government. But the civil service does not seem to think it necessary to provide similar skills to its own recruits. It is also not clear whether the civil service thinks that some academic disciplines are more valued than others: compared to the position at the time of the Fulton report, some 60 years ago, there are now far more people with economics or social science backgrounds recruited into the civil service, and fewer who have done arts and humanities subjects. The only department that used to prefer a more specialist grounding was the now disbanded Department for International Development. In the *Declaration on Government Reform*³⁷ the civil service does recognise the need for more people with digital, data and commercial skills. It is still not quite clear how to make best use of STEM graduates – and seems to have no corporate view on whether there is any value added from any sort of graduate qualification for any job (despite sponsoring civil servants to do MBAs, running its own executive MPP programme with the LSE).

The civil service has been left unclear on its role and value

Having been undermined by ministers, seen its leaders repeatedly defenestrated, aware of its own leadership's inadequate response to partygate and still struggling to show that it can meet the needs of Britain in the 21st century, the civil service does not bear the hallmarks of a confident institution. As an institution it can explain its status (impartial, non-political) and its values (cited above) but it cannot sufficiently explain why ministers should pay attention to it and take its advice seriously. In particular, where once the civil service could simply rely on monopolising advice to ministers, it now finds itself increasingly bypassed by ministers who prefer to take ideas from their advisers or their favoured think tanks on issues that are important to them (on second order issues the civil service often has the opposite problem – to get any ministerial attention when it is needed).

Openness to a wide range of ideas is good. But as policy professionals who know how to translate ideas into action the civil service ought to have a distinctive value-add compared to those from outside – but that depends on a track record of effectiveness. Too many ministers do not see that track record in their departments and effective implementation remains the Achilles' heel of government. For every well implemented scheme (furlough, vaccines), there seems to be a horror story (early test and trace, exams).

While some groups – lawyers, for instance – are still (just) able to draw on their professional qualifications to demand a hearing, most civil servants struggle to convince sceptical or suspicious ministers of where they add value. That means they tend to second guess ministers, do not challenge, compounding their loss of value.

A way forward

When the old relationship worked well, it could work really well, to the satisfaction of ministers and civil servants alike. This was evident a decade ago when the Institute for Government convened 'policy reunions', bringing back the politicians and officials who had together developed and steered through successful reforms.³⁸

But if the relationship is now fraying, the question is whether to try to put it back together again, while still pursuing other changes to improve skills, capability and working patterns, or whether to move to a new basis, which may provide a different, but more solid foundation for the future.

The aim would be both to strengthen some of the key constitutional safeguards that having a non-partisan civil service provides, working alongside ministers to develop and deliver policies and key government services, while also improving the quality of policy making and implementation.

This is what this section explores. It argues that clearer dividing lines need to be drawn between ministers and civil servants to clarify roles and accountabilities. This greater clarity will both empower the civil service better to police some of the constitutional boundaries ministers may be tempted to transgress while also forcing the civil service to raise its game on the quality of advice it gives to ministers by exposing it to greater external scrutiny.

It does that by building on the Institute for Government's proposal to put the civil service on a statutory basis by giving it a new duty to serve the public interest as well as the government of the day.* It argues there needs to be a new transparency around policy making – and that this would serve to raise the quality of civil service advice (as well as make ministers be much more explicit about why they were overriding it) and that in itself would spur many of the desirable reforms of the civil service that have been long mooted but never quite happened. It then sets out in more detail new duties around contingency, capability and long-term thinking, which they would be able to exercise in consultation with ministers, but under their own authority meaning ministers would not be accountable for them. Finally, it widens the range of propriety duties and gives permanent secretaries a direct line to parliament or to an independent ethics adviser.

The Institute for Government has proposed reforms to address these concerns

The Institute has proposed some solutions both to improve policy making in the civil service³⁹ and address the problems of churn in personnel and policy⁴⁰ – but also to put the civil service on a more robust basis by placing its existing role more firmly into statute, including a requirement for the head of the civil service to maintain the capability of the government.⁴¹ It also thinks that it should be possible (though admittedly not simple) to go some way towards unravelling the current accountability

* This idea has now been picked up by the constitutional review undertaken for the Labour Party by the former prime minister Gordon Brown. The report looks at civil service issues, p. 90, <https://labour.org.uk/wp-content/uploads/2022/12/Commission-on-the-UKs-Future.pdf>

blur by making it clear that ministers are accountable for their policy decisions – and the civil service is there to “implement the policies and programmes of the government of the day”.

The Institute does propose reporting hierarchies, to give the cabinet secretary more authority over their permanent secretary colleagues rather than the current arrangement where the latter’s primary loyalty is to their department and secretary of state. It also proposes new external oversight of the civil service by a new ministerially chaired civil service board, with sub-committees putting the appointment and performance management of the head of the civil service on a clearer footing. As part of this new structure the Institute also recommends giving the civil service leadership a particular responsibility for maintaining and developing long-term capability.

But while radically changing oversight structures and management lines, the Institute for Government does not propose fundamental changes to the relationship with ministers, though it argues that giving the civil service a responsibility for maintaining capability would in practice change things by significantly increasing the leverage of permanent secretaries to build and maintain finance, project management, crisis response and other functions, and by giving the head of the civil service the authority to set standards for these functions.

The question is whether that approach is enough given the pressure that the standard model of ministerial–civil service relations have been under since Brexit. Indeed concerns about the marginalisation of the civil service and its associated loss of confidence date back to well before Brexit – to the era of New Labour, when a new government took power after 18 years in the wilderness, with a top team with virtually no former ministerial experience, close to the advisers they had worked with in opposition and suspicious of senior civil servants who had risen through the ranks serving only Conservative ministers.

Other countries – with not that dissimilar political systems – have different models

As the Institute paper on a new statutory role for the civil service⁴² makes clear, other countries have different models of how they organise and oversee and task their permanent civil services. The US, with its mass turnover of political appointees at each change of administration, is very much at one extreme. That brings with it pluses – in terms of bringing in outside talent committed to the new administration’s programme to make it happen – but also minuses – in terms of a lack of continuity and poor incentives for many permanent civil servants. Many administrations take a long time to get going when the top-level political appointments are unsupported by the next ranks down for a significant amount of time. In Germany the most senior official plays a role that combines some of the roles of the permanent secretary but also with the public role that in the UK system would fall to a senior No.2 minister.

Other Westminster systems seem to have a bigger gap between ministers and their civil servants – whether in terms of the number of advisers who run their offices, or the acceptance of more ‘politicised’ appointments and churn when there is political change at the top.

That is true in Australia, where reshuffling or despatching top civil servants on a change of administration seems to have become relatively routine. In Canada, Australia and New Zealand there is more physical distance between ministers and their permanent officials, and ministerial offices have far more political staff – and civil servants who work in those offices are temporarily relieved of their impartiality obligation. But the UK does also seem to be moving in that direction. Francis Maude proposed ‘extended ministerial offices’, which were adopted by some ministers in the coalition government, and Liz Truss when at the Foreign Office reportedly operated a ‘cabinet-style’ system of political advisers.

In some systems there is also more formal distance between the ministerial head of the department and the official head, who has their own public performance contract. And of course a different model again is local government, where the officers work explicitly for the whole council, not just the party in control, and have some statutory personal responsibilities, though to some extent this can be seen as performing not just civil service functions but also those performed by parliamentary clerks who service scrutiny committees.

The greater distance also allows more transparency on policy advice to ministers. In New Zealand policy advice is published retrospectively. Government departments can undertake and publish policy work on their own account without the need for ministers to take responsibility for it, as well as putting responsibilities on the civil service for long-term capability, as part of the civil service’s ‘stewardship’ role.

A civil service statute should aim to put the relationship between ministers and civil servants on a more robust basis

Arguing that reform is needed does not mean that everything should change. There are clear benefits from a non-partisan professional civil service that offers continuity and a degree of stability. There undoubtedly is a case for wider recruitment of people into specific roles, particularly where they have relevant external expertise. The civil service itself can and should change its internal criteria for promotion and its pay structures, to value expertise and knowledge of specific areas more than it does now, particularly for critical director and director general jobs. Ministers have every right to expect that the civil service is able to give them good advice across the whole range of issues confronting their departments. But the fact that reform is needed does not mean that the model itself is bust.

However, many ministers no longer see the civil service as a source of essential advice – itself a source of tension if civil servants think their input is ignored or unwanted. There is also – as the cabinet secretary, Simon Case, pointed out in his PACAC evidence in June – a tension between serving the government of the day and civil service values, and

the civil service is finding it increasingly hard to reconcile its obligation to service the government of the day and act as part of the constitutional guard rail over propriety and regularity with an administration determined to test limits. The Institute for Government definition of the responsibilities of the civil service, while more firmly entrenching its responsibility for policy advice and implementation, does not impose any ultimate limits on ministerial control, or define a sphere of activity where the civil service can say no to ministerial commands. The risk even with this model, then, is that the trend for the civil service to simply do what ministers and advisers ask and see their advice and input downgraded or indeed self-censor continues to the detriment of ministers, civil servants and the public.

But the civil service has also been able to hide behind ministers and not take responsibility for its failures. That lack of exposure has enabled a culture of amateurism and irresponsibility to grow up. That creates a vicious circle that can justify ministers disregarding civil service input.

So if we are going to put the civil service on a statutory basis, it would be better if that statutory basis put the relationship on to a firmer basis that would work going forward and address some of the current problems. That would mean making more explicit some of the roles and responsibilities that the civil service has.

The civil service should have an additional duty to uphold the public interest

The first duty of the civil service should be, as now, to serve the government of the day. But that should not be its sole duty and indeed that is already made clear in an ad hoc way in the limitations on how the civil service can support the government, by the fact it has its own set of values and where it has special responsibilities apart from ministers.

The aim would be to make this more explicit and wide-ranging by making clear that the civil service also has a duty **to uphold the public interest**. The normal expectation would be that serving the democratically elected government of the day was the route by which the civil service would uphold the long-term public interest. But recent events have suggested that we cannot always rely on that. This additional duty would give the civil service standing to act when ministers were acting contrary to the rules and conventions by which government is supposed to operate and put a bigger onus on them to make what would potentially be a very serious judgment that ministers were undermining the public interest. This would hopefully rarely be called on to be used – but should make ministers warier of overstepping lines.

The addition of 'long-term' would reflect the stewardship role that the New Zealand civil service incorporates in its responsibilities. But it would also break out the tension between things that ministers might do for short-term electoral gain or out of narrow political expediency and give the civil service a locus to challenge when those look to be harmful in the long term.

So any statute should start by setting out more explicitly what 'serving the government of the day' means. As such its first duty should be:

To provide rigorous, high-quality and impartial advice to the government of the day on its policies and on the wider context in which those policies will be implemented.

This would give the civil service a clear statutory locus on policy advice. This would be buttressed by a requirement to publish policy advice retrospectively as in New Zealand (something that has also been proposed by Jonathan Slater,⁴³ the former DfE permanent secretary, as well as by the Institute for Government). As Michael Hallsworth and I proposed for the Institute in 2011,⁴⁴ it could also widen the circumstances where a ministerial direction was needed to those where the civil service felt that a policy decision was not taken on a robust enough basis to justify the expenditure of public or private resources on it. This should be how the existing requirement to ask for a direction on value for money and feasibility is interpreted but in practice it is interpreted quite narrowly, applying only to public spending.

The need to ask for a direction where a policy is not well founded should be extended to all policy decisions. The Treasury has notably recused itself from querying the value for money of tax measures – even the most spending-like – as 'policy'; no direction was sought by the Treasury over the Kwarteng mini-budget despite rumoured warnings it might spook the markets and hence add substantially to the cost of servicing government debt. Similarly the government's energy price guarantee was allowed to proceed without anyone internally raising public concern at the lack of any accompanying measures to reduce demand and boost energy efficiency. And there is no evidence of any direction sought over regulation – a prime case in point being the Retained EU Law Bill, which will use a lot of civil service resource for little proven gain and whose regulatory impact assessment was red-rated.^{*} (The bill itself is so flawed it is difficult to see how it could be anything other than red-rated.)

But this greater transparency and responsibility would bring a secondary benefit of forcing the civil service to raise the quality of its policy advice – which would be aired publicly, removing the opportunity for civil servants to simply blame ministers for not listening to them. Too often civil servants get away with shoddy advice to ministers – something ministers themselves regularly complain about.^{**45} It would force the civil service to invest in and value expertise and sector/issue-specific knowledge and make

* The Regulatory Policy Committee said: 'The IA is not fit for purpose (red-rated); the quality of different analytical areas in the IA are all either weak or very weak, meaning that they provide inadequate support for decision-making. The IA was also red-rated on its assessment of the impacts on small and micro businesses.' Regulatory Policy Committee, Retained EU Law (Revocation & Reform) Bill: RPC Opinion (Red-rated), .GOV.UK, November 2022, www.gov.uk/government/publications/retained-eu-law-revocation-reform-bill-rpc-opinion-red-rated

** In 2014 the Institute for Government asked officials about the operation of the National Economic Council – a cabinet committee established by Gordon Brown to deal with the recovery from the financial crisis. They told us that papers going to the NEC were much better than the average cabinet committee paper because they were first submitted to a committee of permanent secretaries in NEC, see Harris J and Rutter J, *Centre Forward*, Institute for Government, July 2014, www.instituteforgovernment.org.uk/publications/centre-forward

sure it was up to date with the latest thinking. Civil servants at the moment are able to avoid much of that external scrutiny, which would be a powerful incentive to ensure that advice is high quality.

Unless the civil service raised objections to a policy before ministers proceeded with it, it would be clear that ministers, parliament and the public should hold them responsible for its effective implementation.

The second duty would be to recognise that most civil service work is already predetermined by decisions of earlier administrations and ensure that it devotes enough time and attention to how those programmes are operating (unless ministers introduce specific changes). So the second responsibility of the civil service would be:

To manage/oversee management of existing programmes in an efficient and equitable manner, within spending constraints set by ministers.

This would give more status to the management of these core 'licence to operate' functions, which form a major part of the civil service's role, while the efficiency and fairness criteria would give citizens comeback if they felt the civil service was being wasteful or discriminatory. That would be complemented by another responsibility:

To implement new programmes and policies in an efficient and equitable manner, as required by ministers.

This again has a rider about equity and efficiency, but again this should be little more than an articulation of the normal value-for-money responsibilities that accounting officers already have – but it would be a nudge to adopt a more expansive interpretation.

Again this is an area where ministers could overrule officials – but they would have to justify that in a direction. So, for example, in an area like some of the funding pots used to support levelling up, such as the controversial Towns Fund,⁴⁶ the permanent secretary would need to satisfy themselves that the distribution of funding was efficient and equitable – and if they were not, ministers would have to explicitly direct and justify their decision.

The civil service would have additional duties on contingency, capability and long-term thinking, exercised under its own authority in consultation with ministers

Building on the Institute for Government's identification of a separate responsibility to maintain and develop long-term civil service capability, the statute would give the civil service responsibilities for both the capability and contingency planning under its own authority. The former would address the short-termism of ministers whose political deadline is often (understandably) the next election, or indeed their even shorter potential tenure in the role, and who may see little interest in investing for the longer term – whether in internal capability or in researching longer-term threats

and options. The latter would require the civil service to take responsibility for the UK having adequate contingency planning, and to do so without needing to take account of ministerial sensitivities. So those four additional duties would be:

- **To undertake reasonable contingency planning to deal with potential policy changes and emergencies**
- **To maintain and build internal capability to serve current and future governments**
- **To build and maintain expertise and the evidence base for the areas for which the department is responsible**
- **To identify long-term trends and potential future policy options.**

This would give permanent secretaries in charge of departments more scope to devote some limited resource to planning – and for them, rather than ministers, to account to parliament for the quality of preparations. They would also be responsible for building the department’s long-term knowledge base to allow them not just to serve the government of the day’s policy agenda but their successors. This would respond to a repeated criticism from new ministers that the civil service lags even think tanks in being up to date with current thinking and research, let alone anticipating future policy problems, and should act as a positive incentive to active engagement with external sources of advice including think tanks, academia and overseas governments.

The third element – on internal capability – would make the permanent civil service responsible for ensuring that it was capable of meeting the needs not just of the current government, but of future governments. It would make the top of the civil service answerable for its investment in skills and for making sure recruitment, retention and reward (within an envelope agreed by ministers, and subject to any constraints ministers wished to impose for wider policy reasons) were fit for purpose. It would also end the absurdity where ministers would make decisions on whether to suspend the Fast Stream programme or not.

The final element would be on long-term policy development. Contingency planning tends to focus on how to deal with acute emergencies. But many of the problems that beset the UK arise from chronic problems that go unaddressed, or at best under-addressed, by successive governments. Some may be studied by policy think tanks outside government but they can pick and choose what they look at. In other cases academia may study topics; government can indicate that need through their publicly articulated ‘areas of research interest’. But the civil service should – and should be seen to – get to grips with those long-term issues too and be doing thinking about the options future governments might have to address them.

There is already one example in government where this happens – the chief medical officer⁴⁷ at the Department of Health and Social Care has a free rein to highlight issues and to focus on concerns, and ministers only get to see their report shortly before

publication – and it is very clearly the CMO’s report. It has been used to raise concerns about passive smoking⁴⁸ and about antimicrobial resistance.⁴⁹ But there is no real equivalent in other departments.

However, it would be neither sensible nor desirable for ministers to be completely distanced from these decisions. They would still have the power to set staff budgets for departments, which might impede investment in longer-term capability, and ministers might balk at the civil service devoting too much resource to planning and capacity building that will only benefit their successors. So these responsibilities should be carried out in consultation with ministers, and the relevant select committee should be informed of what they have agreed and of any disagreements. Ministers would not, however, be expected to answer for this civil service work to parliament – they should legitimately be able to deny responsibility. Permanent secretaries would answer directly for this work.

Permanent secretaries would be tasked with upholding propriety and have a duty to parliament to fulfil it

The final list of duties would be ones where permanent secretaries have to exercise them in their own right and be accountable to parliament for the way in which they perform them. In the paper titled *Constitutional guardians*,⁵⁰ published as part of the Institute for Government/Bennett Institute ‘Review of the UK Constitution’, accounting officers were classified as “auxiliary guardians”, defined as “actors integrated within the core institutions who act as ‘stewards’ of the constitution, interpreting key texts and principles and advising core institutions and other key actors on the functioning of the UK constitution on a day-to-day basis (including both the written rules as well as the unwritten norms and conventions that underpin them)”.

As three years of the Johnson premiership have shown, it is no longer possible to rely on a few quiet words from the permanent secretary to prevent ministers playing fast and loose with some of the conventions that govern the way in which government behaves – whether that is meeting reporting obligations, ensuring that ministers do not abuse processes, or that government communication departments do not issue unsubstantiated political propaganda.

In the current situation a permanent secretary who tries to rein in his or her minister is as likely to find their career on the line as be lauded for standing up for the public’s and parliament’s right to know.

This could be rectified by adding a set of duties to the existing accounting officer responsibilities and putting them into law – and, as with their responsibilities, give permanent secretaries a duty to report to parliament on concerns they have. If that was deemed to be too political – and liable to risk civil service warnings becoming a political football – an alternative would be to give the civil service a direct line into the institutions designed to police ministerial behaviour. This might be the independent adviser on ministerial interests (if the post is filled as promised by

Rishi Sunak) or another body; Labour has proposed the creation of a new integrity and ethics commission, bringing together the standards regulators and putting them on a statutory footing.

If the civil service fails to act, it would be expected to answer publicly for that failure. That would strengthen its hand against a recalcitrant minister. A non-exhaustive list of some of those propriety duties is set out below:

- **To ensure that the department meets all reporting obligations transparently and in a timely fashion**
- **To advise ministers on requirements under the ministerial code and alert the independent ethics adviser to any concerns**
- **To ensure all official communications meet necessary standards of non-partisanship and do not mislead the public or media**
- **To ensure that the department corrects any factual errors, made either by civil servants or ministers, rapidly**
- **To ensure that the department acts in line with the law and meets any statutory duties placed on it or on the public sector more generally.**

The list is fairly self-explanatory. It makes clear that it is down to permanent secretaries to act as the line of last resort to ensure that government is conducted 'properly' – that parliament and the public have the information they need to hold government to account, and that public funds are not misused to mislead the public. It also makes clear that a permanent secretary can refer concerns to the ministerial adviser – and hopefully their remit will have been updated to allow them to undertake investigations on their own account to ensure that they do not have to wait for the go-ahead from the prime minister.

These also place particular requirements on the use of government communications, which have in recent years strayed from public interest information into politicised propaganda, and would place a heavier burden than now on ensuring that duties were met. This would have, for example, obliged a permanent secretary to raise concerns about the hostile environment policies that led to the Windrush scandal rather than allow both ministers and officials to brush identified concerns aside and proceed anyway.

Conclusion: a new relationship

Taken together these proposals would put relations between ministers and civil servants on a new basis. They proceed from the argument that the relationship has been eroded and fails either to provide sufficient safeguards to the public against ministers who are prepared to take liberties with some of the unwritten rules and norms of the constitution, nor acts as a sufficient guarantee of high-quality government. These combine to undermine public trust in politics and government.

The black box that exists within departments blurs accountability to the detriment of the public but has also contributed to increasingly corrosive mutual recrimination within government itself. That is evident in public ministerial attacks on civil servants framed as acting against the wishes of the government, even the will of the nation, and in a civil service that increasingly resorts to leaking against ministers to undermine their authority. This unhealthy state of affairs needs to end.

But at the same time the civil service should not be in a position where reform and improvement is forced on it by ministers – it should see the need to reform itself. Greater transparency should make clear where the civil service is living up to its claim to be a 'brilliant civil service' – and where it is second rate.

The teasing apart of the current fudged and one-sided relationship between ministers and civil servants would – potentially – put more distance between them, and ministers may respond by bolstering political appointees to their offices. But in truth this is happening anyway, and the new relationship recognises and formalises a distance and separation of ministers from their civil servants.

Putting civil service advice into the open would initially be uncomfortable, particularly in today's toxic and polarised political environment, but it would act as a real incentive on civil servants to demonstrate that their advice was worth taking – and that it would be a foolish or irresponsible minister who bypassed it or dismissed it in favour of the latest think tank notion without deep reflection.

Meanwhile, the role of the civil service as part of the network of 'constitutional guardians' would be more formally recognised, and its authority and duty to police the boundaries of ministerial behaviour and misuse of public resources bolstered. That in turn should improve the overall integrity of the system.

The new disposition also puts more responsibilities on to senior civil servants and forces them to take more public responsibility for their advice and the actions of their departments. But it also bolsters their ability to intervene when they think their ministers are acting contrary to the public interest and undermining some of the processes that are fundamental to parliament's ability to hold government to account. As such the civil service can re-emerge from its battered shell as an important part of the UK constitution.

Jill Rutter is a senior research fellow at UK in a Changing Europe, senior fellow at the Institute for Government and an experienced former senior civil servant. She is writing in a personal capacity.

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 enquiries@instituteforgovernment.org.uk
 +44 (0) 20 7747 0400
 @instituteforgov
**Institute for Government,
2 Carlton Gardens
London SW1Y 5AA,
United Kingdom**

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 +44 (0) 1223 767233
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Alison Richard Building,
7 West Road, Cambridge, CB3 9DT,
United Kingdom**

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