



BIROn - Birkbeck Institutional Research Online

Mabbett, Deborah (2024) Lessons from the COVID-19 Inquiry for the Civil Service. [Editorial/Introduction]

Downloaded from: <https://eprints.bbk.ac.uk/id/eprint/52981/>

Usage Guidelines:

Please refer to usage guidelines at <https://eprints.bbk.ac.uk/policies.html>
contact lib-eprints@bbk.ac.uk.

or alternatively

Commentary

Lessons from the Covid-19 Inquiry for the Civil Service

IF WE DIDN'T KNOW it before, the Covid-19 inquiry has made it abundantly clear that the UK entered the pandemic with a Prime Minister and a special adviser who were so unsuited to their roles that they made literally a lethal combination. However, it would be a shame if all that is learned is that you don't want to be relying on Boris Johnson and Dominic Cummings in an emergency. Beneath the #***!# of the WhatsApp messages lie other potentially more significant and enduring lessons, particularly about the state of the Civil Service. The Covid-19 inquiry offers compelling evidence that the working relationship between ministers and civil servants has become dysfunctional. Ministers are often disappointed with the quality of Civil Service advice and distrustful of officials' intentions. Civil servants, for their part, are unable to stand up to behaviour by ministers that breaches established standards of propriety and codes of conduct.

There's a temptation to blame the hapless Simon Case, the Cabinet Secretary, for the issues that arose during the Covid crisis. Case was obviously chosen for his malleability, and his cringe-making desire to be mates with the powerful figures around him is all too evident in the WhatsApp messages. He wilts in comparison with previous occupants of the post, such as Robin Butler or Gus O'Donnell. But even they would have been severely challenged by the Johnson government, particularly given the distrust between the government and the Civil Service created by Brexit. Believing the Civil Service to be packed with Remain supporters, the government got into the habit of ignoring their advice in favour of its own magical thinking about how to achieve its goals.

But alarm about the condition of the Civil Service predates Brexit. Successive reports of the Public Administration Select Committee

in the early 2010s drew attention to pervasive distrust between ministers and civil servants and argued for a fundamental reassessment led by a parliamentary commission. The approach taken by the government of the time, with Francis Maude in the lead, was to make it easier for ministers to influence the appointment of permanent secretaries. Since 2013, new appointments have been on five-year terms. Neither Johnson nor Truss showed any inclination to wait these out; conflicts have led quickly to the departure of the offending civil servant. Senior officials have rotated as fast as ministers in the turmoil of recent years.

Many worthy people have lamented this politicisation of the Civil Service. They fear that honest officials, willing to speak truth to power, have been superseded by yea-sayers and courtiers. But the reality is that civil servants are in a competition to be heard. If civil servants are not trusted, ministers can turn to their own advisers, who are actually better placed to give unwelcome advice, because they cannot so easily be ignored with the convenient assumption that they are not politically aligned. To compete with advisers, civil servants have too often become compliant, failing to warn of disasters ahead. They have gained nothing from this: instead, the charge of incompetence is laid alongside the assumption of disloyalty.

Faced with this competition, civil servants have to think about how they might win it rather than suppress it. Their comparative advantage lies in operational knowledge and institutional memory. They should be able to tell ministers what is needed to make a policy work with more authority than any outsider. To beat off critics who claim that they are inefficient and unwilling, they must become good managers, and be able to demonstrate this. This

means using the tools of formal monitoring and accepting the scrutiny which comes with them.

The senior echelons of the UK Civil Service are notoriously more interested in policy (giving advice) than administration (particularly if it is called 'management'). One side-effect of this is their failure to embrace reform of the principle of ministerial responsibility, whereby the minister is supposed to be held accountable for everything that goes on in the department. Everyone knows that the principle is unworkable and nowadays the likelihood of a minister resigning because of a departmental failure is small. Furthermore, ministerial responsibility provides a pretext for political interference in Civil Service appointments. Ministers can argue that, given that they are held responsible, they should be able to replace officials who are, in their view, not performing adequately. Officials, in their turn, 'delegate upwards' far too much, overloading ministers with decisions.

Accountability for senior civil servants would invite them to exercise judgment and leadership, knowing that they will have to answer for failures. They have repeatedly rejected this, preferring to inhabit a shadowy world of intimacy with ministers. Both sides embrace secrecy: that's one thing they can agree on. Rarely can the public find out who decided what and how. Accountability would have to mean publicity, acknowledging administrative failures, but also identifying when policy decisions made by ministers have produced bad outcomes. Hearings before parliamentary select committees would not be subject to the deliberate opacity of the Osmotherly Rules. This is likely to mean that relationships between ministers and civil servants are sometimes tense and distant. Civil servants will demand clear statements of expectations and the opportunity to place on record their reservations. We see this occasionally now when permanent secretaries request ministerial directions in the exercise of their accounting officer functions; these telling exchanges of letters could become more frequent.

Formality and publicity are an unpleasant prospect for many incumbents. But the current arrangements are no match for a future Johnson or Cummings. The Armstrong memorandum states that 'civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers', but the *Civil Service*

Code requires that they should behave with integrity and honesty.¹ There is no route to resolving contradictions between these demands except appeal up the hierarchy and ultimately resignation. According to Oliver Letwin, speaking to the Institute for Government in 2012, the Civil Service is a bulwark against tyranny: a safeguard against politicians using the machinery of state for personal or party-political advantage.² But again to quote Armstrong, 'the civil service as such has no constitutional personality or responsibility separate from the duly elected Government of the day.' In other words, there is nowhere to go in cases of ministerial malfeasance except through the Cabinet Secretary to the Prime Minister. During the darkest days of Johnson's premiership, civil servants discussed approaching the Queen with their concerns. The constitution is indeed in a desperate condition when the weekly chat between monarch and PM is seriously thought to be the way to uphold codes of conduct and counter unlawful abuses of due process.

Change will come soon with a Labour government. Sue Gray has kept her own counsel, but there are some things that are almost certain to happen. Labour will bring in its own policy advisers and they will make extensive use of policy ideas coming from outside the Civil Service. Civil servants will struggle to be heard, not least because many of them are so recently in post that they lack close knowledge of the departments they are leading. Indeed, Labour has recruited a number of former civil servants, killing off much of the residual comparative advantage of incumbents. No doubt critics will argue that the role of the impartial Civil Service has been downgraded in favour of 'politicisation'. But the claim that the Civil Service gives superior

¹See Box 1: 'Key principles of the Armstrong memorandum' in the House of Lords Select Committee on the Constitution, *Permanent Secretaries: Their Appointment and Removal*, 17th Report of Session 2022–23, HL Paper 258, 20 October 2023; <https://publications.parliament.uk/pa/ld5803/ldselect/ldconst/258/25802.htm>

²House of Commons Public Administration Select Committee (PASC), *Truth to Power: How Civil Service Reform Can Succeed*, Eighth Report of Session 2013–14, HC 74, 3 September 2013, p. 5.

policy advice across all dimensions is not founded in reality. Certainly, advice which is primarily oriented to the public interest is needed, as is advice which takes the long view, unencumbered by immediate political constraints. But the idea that the Civil Service is equipped to provide this advice flies in the face of the facts, and other sources are available—from the Office for Budget Responsibility to the Climate Change Committee.

Labour could make some changes that would be positive for the Civil Service, particularly for those who do not aspire to be closeted with ministers. To counter high turnover, competent officials should be offered posts leading projects where they have job security, subject to a managerial, rather than a political, assessment of their performance. To entrench change, Labour should strengthen the Civil Service Commission so that it is the employer of civil servants, not the Prime Minister of the day. The head of the Civil Service should be located in the Commission, and ideally appointed by Parliament for a term that does not coincide with election periods. The Commission will have to navigate ministerial discontents, but it should seek to resolve these with agreed statements of expectations rather than dismissals. It should also provide a venue where civil servants can take their concerns about malfeasance by ministers. A Civil Service

reformed in this way would resemble those found in several countries that score better than the UK on public trust in the probity of government.³

Under current arrangements, ministers can respond to conflict with civil servants by claiming that the working relationship has broken down and pressing for the dismissal of the offending official. Their willingness to do this is surely central to the culture of weaselly compliance that the Covid enquiry has exposed. But to regain job security, civil servants will have to accept formal accountability. This is the price that must be paid to combat the real danger presented by politicisation. Civil servants must be able to act lawfully without political interference in a host of administrative processes, from deciding who should be awarded a contract to ensuring that money is spent in accordance with the budget approved by Parliament. Political interference in these processes is a path to corruption and the waste of public money. It used to be thought, rather complacently, that corruption and cronyism were not signal problems of British government, but no one can think that now. These are the challenges that reform of the Civil Service must address.

Deborah Mabbett
d.mabbett@bbk.ac.uk

³Institute for Public Policy Research, *Accountability and Responsiveness in the Senior Civil Service*, 17 June 2013; <https://www.gov.uk/government/publications/accountability-and-responsiveness-in-the-senior-civil-service>