

J. Improving Departmental Management

1. The Purpose of Departmental Administration

The previous nine Jury Team Governance Proposals have dealt with the need to get better legislation enacted by a higher calibre and less conflicted group of MPs, together with giving the public a direct say. However a further key element of the political system is the management and administration of the laws which have been passed. The 6+ million people employed by the Government have the task of implementing this legislation whether in health, education, the armed forces, the emergency services, tax collection, social security or the many other tasks given to the Government machine by Parliament.

It is said that *"To every complex problem there is a simple solution....., but it is usually wrong"*. The simple solutions of party political philosophy are insufficient for the complex problems now faced by the developed world. The *"devil is in the detail"* both of policy and especially of delivery as is known by anyone who has run a complex organisation such as Lord Sainsbury of Preston Candover who famously said *"retail is detail"*.

It is essential that we have a steady but responsive system for running the Government machine which is led by the 20+ departments of state. Their administration oversees, allows or limits all of the administrative tasks which impact citizens such as the school choice available to a child, the health provision for an elderly relative, the combat equipment protection for those on active service, the management of immigration, investment in infrastructure or the way in which subsidies are managed.

Expect the best, Prepare for the worst.
~ Muhammad Ali Jinnah

Departments do not have as their prime purpose the development of ideology. They are there to administer the current laws. Butler said of Gaitskell (who served as Chancellor immediately before him): *"We both spoke the language of Keynes, but with different accents"*.

Governments are largely judged on their managerial competence but short political timescales prevent the long term development of effective organisations. This was commented on by Peter Riddell in The Times in May 2008:

"He noted the analysis of Sir Antony Jay, co-author of Yes Minister, about how companies in trouble engage in selective panic and produce lots of little measures that result in chaos. This 'displacement activity for the disturbed', as Professor Hennessy calls it, has clearly been visible in Whitehall for the past six months, as Mr Brown has believed that the vitality of his Government is shown by unveiling masses of new initiatives, often to little effect."

2. The Current Leadership of Departments

The Prime Minister is the person who can command majority support in the House of Commons. He or she then appoints ministers to oversee the departments of state. The function of departments is now technocratic-managerial as they are required to operate as efficiently and effectively as possible within the legal framework set down by Parliament.

Ministers are however not usually appointed by the Prime Minister for reasons of trying to achieve the best management and administration of the department. The normal purpose is party political convenience, whether to seek balance between left and right or north and south or to bring somebody into the tent rather than having them being difficult outside.

This often leads to ministers from very different ideological backgrounds succeeding each other and directing that completely different sets of priorities be followed by the department at which they have newly arrived. The appointment of ministers by Downing Street is almost never because the Minister has any expertise in the particular activities of the department concerned.

In addition the senior minister in the department has little or no influence on which junior ministers will be appointed to serve under him or her as these appointments are made independently by the Prime Minister. Similarly ministers are moved from department to department, or are relegated to the back benches, almost entirely for reasons of party political

presentation and image rather than because it will improve the operation of the relevant departments.

This erratic and unpredictable system leads to confused and ever changing management as each newly appointed minister brings to the department their own personal prejudices and policies. They seek to make their political mark in the comparatively short time that they will have in office, almost certainly a lesser time than it will take any of their initiatives fully to be implemented.

In the early Victorian era, ministers were equally drawn from the House of Lords and the House of Commons. However they are now predominantly professional MPs who increasingly have little experience of running any organisation. For instance the members of the first Blair Cabinet in 1997, although marketed as a fresh start, had spent an average of 18 previous years in Parliament with essentially no normal management responsibilities.

By the end of the Parliament in 2005 only six ministers survived from the original 1997 Cabinet of 22. These were Tony Blair, Gordon Brown, John Prescott, Margaret Beckett, Jack Straw and Alistair Darling. Only three are still in the Cabinet in 2009.

The speed with which ministers move can be seen from considering over the last 20 years the Secretaries of State for Work and Pensions (formerly Social Security) and for Education (now Children, Schools and Families), areas where careful and consistent long-term leadership is particularly important. However in the twenty year period 1988 to 2008 the Department of Work and Pensions and the Department of Education each had 11 Secretaries of State:

<u>Work and Pensions</u>	<u>Education</u>
John Moore (July 25, 1988 - July 23, 1989)	Kenneth Baker (May 21, 1986 - July 24, 1989)
Tony Newton (July 23, 1989 - April 10, 1992)	John MacGregor (July 24, 1989 - Nov 2, 1990)
Peter Lilley (April 10, 1992 - May 2, 1997)	Kenneth Clarke (Nov 2, 1990 - April 10, 1992)
Harriet Harman (May 3, 1997 - July 27, 1998)	John Patten (April 10, 1992 - July 20, 1994)
Alistair Darling (July 27, 1998 - May 29, 2002)	Gillian Shepherd (July 20, 1994 - May 2, 1997)
Andrew Smith (May 29, 2002 - Sep 8, 2004)	David Blunkett (May 2, 1997 - June 8, 2001)
Alan Johnson (Sep 8, 2004 - May 6, 2005)	Estelle Morris (June 8, 2001 - Oct 24, 2002)
David Blunkett (May 6, 2005 - Nov 2, 2005)	Charles Clarke (Oct 24, 2002 - Dec 15, 2004)
John Hutton (Nov 2, 2005 - June 27, 2007)	Ruth Kelly (Dec 15, 2004 - May 5, 2006)
Peter Hain (June 28, 2007 - Jan 24, 2008)	Alan Johnson (May 5, 2006 - June 27, 2007)
James Purnell (Jan 24, 2008 - present)	Ed Balls (June 28, 2007 - present)

The average incumbency of these 22 appointments was therefore less than 22 months each. Indeed if Peter Lilley's five years at Social Security and David Blunkett's four years at Education are removed, the average incumbency of the other 20 appointments was only 18 months. Four of the eleven Secretaries of State at Work and Pensions served for less than a year and five of the eleven Secretaries of State for Education for less than two years.

Moving ministers at this rate means that they cannot properly develop any significant policy agenda and then oversee its implementation in the complex world beyond Whitehall. The system benefits the political party in power rather than the children, workers and pensioners that it is meant to be serving.

3. The Consequences of the Numbers of Ministers

The UK has more Government ministers than almost any other country. The Cabinet Office website lists 119 "Ministers, Government whips and spokespersons in the House of Lords" of which 76 are Ministers in the House of Commons and 19 are Ministers in the House of Lords (the other 24 are the whips: 16 in the Commons and 8 in the Lords).

As an example of the growth in ministerial numbers, following the split of the Department of Education and Skills in June 2007 into the new Department for Children, Schools and Families and the new Department for Innovation, Universities and Skills, there are now a total of ten ministers covering the Education brief (five at DCSF and five at DIUS).

At each of these departments, and at many others, five ministers are therefore in place all trying to have good ideas and to develop initiatives which they can announce, driving the civil service machine increasingly to short-term and desperate measures to deliver.

Matthew Parris described this in an article in The Times in July 2008:

"The Government is drowning in shallow water. Ministers flail around in an alphabet soup of piddling little initiatives. Each time the clock strikes, a new idea of breathtaking triviality is press-released. With the morning papers come endless "clear messages" "sent out", pointing in all directions and none. And in this frenzy of dots, nothing joins up. Seldom has so much activity combined to produce so dismal an impression of stalemate.

We could get the above into perspective if we had a philosophical string on which to thread these coloured beads. In its place, communications gurus assure vacant-minded ministers that, because an insatiable media machine of 24-hour rolling news must be fed, they've got to keep those initiatives - any initiatives - coming.

The truth is otherwise. From a confidently led party with a coherent political philosophy, quite long periods of calm inactivity, even silence, are perfectly well understood by the voters. Voters hear tone more than they count words and measures. Babbling and tinkering inspire the opposite of confidence: they look desperate."

In addition to the ten ministers at DCSF and DIUS, there are two Parliamentary Private Secretaries (PPSs) at each department. In total there are now 45 Government PPSs in the House of Commons.

Although not paid any salary other than as an MP, PPSs are expected to vote with the Government and cannot, for example, be a member of a Select Committee or table an amendment to a Government bill. The total of 137 MPs on the "payroll vote" in the House of Commons, being 76 Ministers and 16 Whips together with the 45 PPSs, make up 39% of all Labour MPs.

In Parliament this large number of appointments helps the party in power because it means that they are a substantial part of Parliament which is necessarily pledged to support the Government and it also increases the patronage options for the party leadership.

During a Conservative Opposition Day debate on the relationship between Parliament and the executive in July 2000, Charles Kennedy said that there were too many people on the payroll vote:

"Secondly, far too many people are on the payroll in the House. The Government are too big. There are too many Parliamentary private secretaries and too many people are beholden to the Executive interests of the day. Not enough Members feel free to express independent interests from a Back-Bench point of view. It is telling that there is a genuinely held respect and affection in this place for individuals in all parties, some of whom are described by the press as "maverick", some of whom are called "independently minded" and some "troublemakers". The truth is that we all know that most Members do not have either the guts or the opportunity to be like that because those who sit on the Treasury Bench and who control the Executive have far more power than is healthy for the House."

In its report, *Strengthening Parliament*, the Norton Commission, established by William Hague when he was Leader of the Conservative Party, recommended a reduction in the size of Government:

- *The size of the Cabinet should be capped at 20.*

- *The number of junior ministers should be capped at 50.*
- *There should be only one Parliamentary private secretary per department, responsible to the Cabinet minister.*

A similar view was expressed by the House of Commons Modernisation Committee in its June 2007 report entitled *Revitalising the Chamber*:

Another reform, which directly affects the relationship of backbench MPs with the Executive, relates to the number of MPs on the payroll vote. The Hansard Society has argued that the number of MPs on the payroll vote weakens Parliament's ability to carry out its collective functions and is a mechanism by which Government exercises a specific form of control. The Commission on Parliamentary Scrutiny recommend that each Government department should have only one Parliamentary Private Secretary (PPS), although it recognised that a few larger departments might require more than one. Nonetheless, it proposed that the number of PPSs should be significantly reduced.

In the 1999/2000 session Iain Duncan Smith introduced a Private Member's Bill, *The Government Powers (Limitations) Bill* and John Bercow, another Conservative, introduced a similar Private Member's Bill in 2002/03. These Bills would have introduced an absolute limit of 82 Ministers, whether paid or not with not more than 63 being Ministers of State or Parliamentary Secretaries. They also introduced the concept that a Minister's appointment should lapse after a period of three months unless it had been approved by the relevant Select Committee of the House of Commons. Both Bills were dropped before Second Reading.

In June 2006, Jeremy Browne, the Liberal Democrat MP, introduced a Private Member's Bill entitled the *Ministerial and Other Salaries (Amendment) Bill*. The Bill similarly sought to reduce the maximum number of Ministerial salaries payable from 83 to 60 and the Bill was again dropped before Second Reading.

Despite the opportunities presented by these Private Member's Bills, the Government has taken no steps to curb its influence over Parliament by adopting any of these proposals.

Although ministers should have collective responsibility for the policies for which they are responsible, blind obedience to a party line cannot be in the interests of the country or of the MP's constituents. The hierarchy of responsibility for an MP who becomes a minister must still in voting be firstly for the benefit of the country as a whole, secondly for their constituents and only thirdly for the government.

Jury Team members of a government would be expected to vote independently according to their best judgment on all issues. However if they were in a position of responsibility as a minister in putting a proposal for regulation or legislation to Parliament for a vote then they would obviously be expected to vote for that option as it would clearly be wrong to submit a proposal to Parliament and then to oppose it.

It would be assumed that the members of the Cabinet would vote for all proposals put to Parliament as the Cabinet should take responsibility for the submission of all such proposals. However Junior Ministers would be assumed only to have a position of responsibility for the proposals put forward by their own department. This mirrors the position in life outside Parliament where people only have collective responsibility for the decisions of the Boards/Committees on which they actually sit. Junior Ministers and PPSs would therefore be free to vote as they saw fit on measures outside of their own department.

In the event that a Minister, whether at Cabinet level or at a more junior level, disagreed with a proposal put forward to Parliament by a Board of which he or she was a member then they would have to resign from the position which led to the clash.

These principles, which are how other parts of society work, would therefore mean that the payroll vote would become much less overwhelming of Parliament.

4. The Management of Departments

The basis for our system of Government administration was set out in the 1854 Northcote-Trevelyan report. The famous second paragraph stated:

"It may safely be asserted that, as matters now stand, the Government of the country could not be carried on without the aid of an efficient body of permanent officers, occupying a position duly subordinate to that of the ministers who are directly responsible to the Crown and to Parliament, yet possessing sufficient independence, character, ability and experience to be able to advise, assist, and to some extent, influence those who are from time to time set over them".

When the Northcote-Trevelyan report was published in 1854, the total employment of all central Government departments was around 40,000, the largest group being involved in tax collection. Civil servants administered very small departments and Government was only involved in comparatively simple and limited issues. Both Whitehall and Westminster were based on the culture and practice of the gentleman's club and the country house. However as Government expanded, J. D. Gregory commented that a Government department could no longer be seen as a "small family party" and was now like a "large insurance office or, in times of stress, a central railway station on a bank holiday". More recently Peter Hennessy commented: "The hierarchical chain became just too long for a ministry to be run on the private country house model."

The 1968 Fulton Report began with the statement: "The home civil service today is still fundamentally the product of the 19th-century philosophy of the Northcote-Trevelyan report". With the further expansion of the state, by the mid-1970s it was clear that Government could not operate the many industries it had nationalised especially finding that it was lobbied to give more weight to the producer interest rather than to the consumer interest.

Since that time the state has been reduced in some ways through privatisation but as at the end of 2008 the UK Government employs 6 million people, over a fifth of all UK employees. There are 1.5 million in the health service, 1.4 million in education, 1.2 million in administration, 0.5 million in the armed forces and the police, 0.4 million in social care and 1.0 million in other public sector areas, now including financial services. This is the largest Government payroll since the 1970s.

The UK civil service is regarded as one of the least corrupt public service systems in the world. It has also managed to adapt to substantial changes over the last 20 years with such elements as the creation of "Next Steps" agencies, Freedom of Information and the erosion of the lifelong career path. The civil service is one of the key elements of the country, described by both Anthony Verrier, of the University of Essex, and Jim Hacker, of the BBC comedy series *Yes Minister*, as "the permanent Government".

5. Reconciling Leadership and Management

Anthony Seldon, Tony Blair's biographer, stated that the Prime Minister was "much more interested in - and better at - politics than management". Blair himself admitted that he had to "learn to be Prime Minister". In 2001 Blair told his Cabinet Secretary Sir Richard Wilson that he had "managed the Labour Party" but Wilson replied that Blair "never managed them, you merely led them. There's a big difference".

Ministers leading departments should fulfill essentially not political but management roles. Their leadership needs to be sensitive to political considerations but must also provide steady management and continuity if the people in the organisations are to give of their best. Unfortunately the current combination of political interference in departments combined with senior civil service staff of a very different background and outlook means that UK Government outcomes are often internationally uncompetitive and sometimes stark in their failures.

John Reid MP, a former Home Secretary, who himself had eight ministerial jobs in ten years, stated:

"Our system is not fit for purpose. It is inadequate in terms of its scope."

The issues relating to the clash between the short-term ministerial political culture and the longer-term civil service management culture were graphically described by Sir John Bourn, the former Comptroller and Auditor General in charge of the National Audit Office, in an article in *The Financial Times* in May 2007:

"The whole culture of the senior civil service needs to be changed. The top jobs should go to those who have successfully managed programmes and projects – in health, social welfare and taxation as well as in construction and defence. At the moment they are given to those best at helping their ministers to get through the political week.

Projects and programmes should be designed to produce good results. Too many schemes today are like the structures children build with toy bricks – unbalanced, constantly wobbling, complicated to shore up and only too likely to come tumbling down – as in the arrangements for child support, and in the recent ill thought-out schemes for capital gains tax and the taxation of non-domiciled residents, which had to be amended even before they were put into operation

The machinery of government is in constant turmoil – new departments and authorities being set up and older ones shut down or amalgamated. Such churning costs millions of pounds and is largely irrelevant to the programmes and projects that have to be implemented. It should be stopped."

The interaction of the civil servants with ministers was not considered in the Northcote-Trevelyan report. This has become a major dysfunction in the operation of the Government machine as ministers have increasingly shorter careers and have become more involved with defending their own political party than with progressing sound governance. This was brought to life in *Yes Minister* which has been attested to by Prime Ministers from Margaret Thatcher onwards as realistically portraying the view that many ministers are out of their depth with their departmental briefs and are mainly interested in the image which they can portray to the public and especially to their party leadership.

Peter Hennessy commented on how the Northcote-Trevelyan report had left a shadow over Government administration because of the unintended consequence of lifetime civil servants trying to administer departments which were theoretically the responsibility of increasingly short-term ministers. He said:

"Only when Trevelyan's ideal had been achieved for several decades did it become apparent to more than a handful that those with 'sufficient independence, character, ability and experience' would very often be in a position to do more, much more, than 'advise, assist and to some extent influence' ministers set over them."

On this divergence between the ability, background, culture and outlook of ministers and civil servants, Peter Hennessy continued:

"But if ministers are not top-flight themselves in intelligence, character and independence of spirit they are in constant danger of being overawed by the dozen to two dozen Northcote-Trevelyan types in their departments on whom they very largely rely for day-to-day survival and long-term succour. The seeds of Yes, Minister were planted in that second paragraph of the Northcote-Trevelyan Report".

Departmental governance has been further damaged in the last twenty years by the rise of the "special adviser" who is a political appointee normally working more closely with the minister than do any of the civil servants. The Prime Minister now has 18 of these and there are a further 48 working for other ministers. Their power and influence has also grown as shown most graphically by the fact that Jonathan Powell and Alistair Campbell in Tony Blair's office were specifically given the authority by Order in Council to give instructions to civil servants. The heritage, culture and experience of modern senior civil servants makes it increasingly difficult for them to stand up for proper and well thought out management processes against the normally short-term media imperatives of the combination of minister and special adviser.

All of these problems with ministerial appointments come back to the fact that they are based on party politics:

- As a result of the adversarial nature of the House of Commons the Prime Minister can only choose ministers from his own party which normally limits his choice to less than three-fifths of the available MPs (even if all were suitable for and interested in ministerial office). Similarly in the House of Lords he is limited to less than a third of its members.

- The Prime Minister makes ministerial appointments on a party political basis by trying to balance the various wings of the party and satisfying any potential areas of discontent without any real consideration of what is suitable for the department concerned.
- With only 20% of MPs having five or more years experience of management, most ministers have little idea how to run a department. Politics has now moved away from ideology towards delivery but most ministers have a background in media imagery rather than in policy implementation on the scale required at the Government level.
- Ministers are frequently reshuffled in order to give the appearance of action or renewal solely to boost party poll ratings rather than to improve the management of the departments. As was said by Caius Petronius, Roman Consul, in 66 A.D.:

"We trained hard, but it seemed that every time we were beginning to form up into teams we would be reorganised. I was to learn later in life that we tend to meet any new situation by reorganising; and a wonderful method it can be for creating the illusion of progress, while producing confusion, inefficiency and demoralisation."

- As an extension of prime ministerial patronage and as a useful mechanism for ensuring Parliamentary loyalty within the party, the number of ministers and Parliamentary Private Secretaries has massively increased over the last four decades. This leads to hyper-activism by ministers wishing to impress and to consequent confusion within departments.
- With the increased importance of the media to party politics, ministers now give this much greater attention with their special advisers. These exacerbate party political differences, increase the prevalence of adversarial politics and make it even harder to find the best management solutions to the issues facing departments.

These factors demonstrate that the huge increase in Governmental involvement and the changes in society mean that what may have been right in the eyes of Northcote and Trevelyan in 1854 is no longer a way to run an effective society.

There have been many studies and reports confirming this since before the First World War. However there has been no improvement in the situation and no real change in the relationship between the Sir Humphreys and the Jim Hackers throughout that period. The key reason for this is because of the temporary nature of political appointment which means that ministers are not in office long enough, and are often overawed by their sudden elevation, to be able to do anything about the obvious problems.

6. The Modern Approach to Organisational Governance

Modern governance requires that people appointed to senior office have the appropriate credentials for the role with relevant experience and a suitable track record. Whether being appointed as a charity trustee or to run a major company there will be a careful process to choose the person with the best fit for the job. However as the structure of Westminster/Whitehall has been unchanged for over 150 years, the appointment of ministers does not normally relate either to their knowledge of management or to their experience of a particular department.

There is now only a small difference on the key issues between the stated intentions of the major parties and most of their policy statements relate to how they would "*better manage*" the particular issue. This focus on delivery however makes ministers into managers which is a function for which they are normally peculiarly unsuited with no training either formally or in terms of their previous career.

Minette Martin described this in The Sunday Times in July 2008:

"Government, particularly a dirigiste and micromanaging one like ours, is a matter of management. "Delivering on" depends on competent management. Yet, incredibly, almost no one in government has any experience of management at all. None of the present cabinet has experience of managing a large business. The supposedly heavy hitters Brown, Darling, Straw, Smith, Johnson, Hutton and Balls have no management experience at all, according to the TaxPayers' Alliance."

It has to be recognised that both civil servants, as professional managers and increasingly with specific expertise, and ministers, as representatives of the democratic will of the people, each have their role to play. The key issue is however the brutal interface between the two groups with their hugely different backgrounds and agendas.

Organisations such as departments of state are only effective if they develop a culture which is responsive to their "customers". This culture has to be established by design rather than from the whim of a particular Secretary of State. In order for such a culture to become embedded the agreed strategy and purpose of the department in serving its customers must remain central and not be overshadowed or diverted by short-term party politically driven initiatives. Departments should be judged not on their published intentions but on their actual behaviour in effectively and efficiently delivering on their purpose.

Away from Westminster and Whitehall, the principles of governance have developed greatly since the 1850s when it was common for all organisations to appoint people on the basis of their family connections, their local city or county allegiance or as a result of the benefit of a conflict of interest. In both the charitable and the corporate sector the way in which organisations should best be led and managed has now hugely changed and is well established. It must be implemented within Government.

The dichotomy between civil servants and ministers is one which also occurs in other fields and mechanisms have therefore been developed to deal with this. It is now well recognised that corporate governance cannot allow a chief executive just to operate on their own if they are using other people's resources. Various structural checks and balances have therefore been developed.

For instance the Combined Code on Corporate Governance adopted by the London Stock Exchange requires that for larger companies *"at least half the board, excluding the chairman, should comprise non-executive directors determined by the board to be independent."*

In a charity the chief executive and his or her staff will normally be professionals who are very competent managers and who have substantial experience in the area which the charity addresses, just like civil servants. The way in which a charity chief executive is held to account is through having a board of charity trustees. Its members are there to provide their own background expertise which might be in the particular area of the charity's activities but also might be in legal, commercial, social or other relevant areas. This ensures an independent review of the chief executive's proposals and actions.

Charities are set up, like Government departments, for the public benefit. The well rehearsed charity model of governance is therefore the one, rather than that of companies, which is most appropriate for Government departments. The Board of a Government department should act like the trustees of a charity to ensure that the executive management is acting ethically, effectively, efficiently and economically in line with the agreed strategies and priorities, normally the laws which have been laid down by Parliament.

An essential difference between the current structure of a Government department and the way in which all other organisations are run is that the Secretary of State in a department is both chairman and chief executive. The idea that one person should fulfill both of these roles has been squeezed out of all other aspects of UK governance. In the charity sector it is illegal for the paid chief executive also to be the chairman (and under the Combined Code for companies it is only in exceptional circumstances that the two roles can be combined, this being the case for less than 1% of the top 500 companies in the country).

In order to bridge the gap between ministers and civil servants it is therefore key that fully responsible departmental Boards be established. They would consist of the ministers in the department plus independent Board members as described below. The Boards would be chaired by the Secretary of State. As chair, the Secretary of State would represent the Department externally, as happens with charities and companies, including answering questions in Parliament. The other ministers in the department would as appropriate represent the Board's views both in Parliament and elsewhere within their own sphere of responsibility. The Permanent Secretary (the senior civil servant) would normally attend as the chief executive together with any of his or her staff who were relevant to the particular discussion.

It is therefore proposed that rather than the Secretary of State being the legal persona of the Department this should change to being the Board of the department. It would be the Board rather than the individual minister, in line with the position in every charity, company and association in the country, who would have the authority to make any pronouncement on behalf of the Department, which the Secretary of State could then communicate. This would give much greater stability and continuity to management and would mean that even when ministers were reshuffled there would not necessarily be a substantial change in direction or priority.

All pronouncements and other policy matters would therefore be issued in the name of the Board rather than of the Secretary of State or of an individual junior minister. This would lead to a massive improvement in management and a reduction in spin.

The development of new legislation would be controlled, as now, by the network of Cabinet Committees reporting into the Cabinet itself. The membership of these would be solely of ministers, as currently. The proposals actually to be put to Parliament for new legislation in the Queen's Speech or by other routes would also be decided, as now, by the Cabinet

There would therefore be a clear distinction between the administration of current laws and regulations and the proposal of new ones. The departmental boards, with their independent directors, would be responsible for administering all of the existing framework. Proposals for new laws and regulations would have to be approved by the relevant Cabinet Committee consisting solely of ministers. The main check and balance on those proposals would of course be the independent Select Committees and other MPs in the House of Commons.

7. The Appointment of Independent Directors

The appointment of "non-executives" is well established in other parts of the public sector. For instance on the Monetary Policy Committee, which sets interest rates, there is the Governor of the Bank of England plus the two Deputy Governors, the Bank's Chief Economist and the Executive Director for Markets together with four external members appointed directly by the Chancellor. The Monetary Policy Committee states that: "*The appointment of external members is designed to ensure that the MPC benefits from thinking and expertise in addition to that gained inside the Bank of England.*"

Most other public bodies have a majority of non-executives on the board. This is the normal format of most NHS and school governing bodies with it being the board, rather than any individual person, which is the legal persona. Similarly many Government agencies, especially those whose credibility and independence is paramount, have a requirement for a majority of non-executive directors. For instance the United Kingdom Accreditation Service, the sole national accreditation body recognised by Government to assess, against internationally agreed standards, organisations that provide certification, testing, inspection and calibration services, has four executive directors and five non-executive directors. Similarly the statute governing the London Development Agency requires that at least half of the Board must have had the experience of running a business.

The appointment of outsiders is now also recognised in the so-called "Next Steps" agencies which employ over 70% of civil servants and some of which have budgets much larger than some departments. Their senior official is often appointed by competitive recruitment from outside the civil service and they frequently also have boards which are much more like those of charities and companies.

Given all of these precedents, there is no reason why departments of state should not follow the governance principles that they mandate for others.

Many departments have established supposed boards of management during the last few years. However these have purely an administrative role and look at matters such as budgets and headcount and do not have any real authority over policy. They are chaired by the Permanent Secretary and ministers are not present. They do not have any legal persona and are purely advisory in relation to departmental policy. Their advice is only very rarely critical as the members of the boards are mainly the senior civil servants who work together on a daily basis anyway. They typically only have a minority of two or three non-executive directors who depend for their remuneration and status on the goodwill of the Department. The boards were a response to the need for better departmental governance but have been a serious disappointment to anyone who

might optimistically have expected that they would change ministerial behaviour. For instance the Cabinet Office Board, which stands at the centre of the Whitehall machine, just has the following restricted remit:

- *To recommend a business plan and resource allocation, and strategy for achieving the Department's business objectives to ministers*
- *Monitor and improve the Department's performance against these*
- *Ensure that risks are identified and effectively managed*
- *Oversee the Better Cabinet Office programme*
- *Ensure that standards and values within the Cabinet Office support the aims of the Department, and good Government more generally*
- *Safeguard and enhance the Department's standards and values.*

Ministers have resisted any proposals to reduce their own power and to give this to less political boards. For instance given the constant change in direction in the National Health Service as a result of different ministerial initiatives there has been strong support by health professionals for the establishment of a Board of Health to oversee the NHS. However a Department of Health Permanent Secretary recently said privately that his Secretary of State did not want any such body as: *"He enjoys playing with his train set, especially as it is the biggest one in Whitehall"*. It is essential that we stop this *"toys for boys"* attitude by ministers to the administration of massive organisations.

The appointment and composition of the new departmental boards is therefore vital. In order to replicate the accepted model of governance in all other fields, there would need to be a number of independent directors, with the Combined Code requiring that they make up at least one third of the board and recommending that they should be around two thirds.

In order to ensure that this is achieved, it is proposed that six independent members would be appointed to each Departmental Board. As established in both the corporate and charity worlds, each member would normally serve for up to three periods of three years in order to provide continuity over changes in Government and to ensure that there is a corporate memory on the board (subject to initial transitional arrangements during which the terms will be staggered so that two members retire each year). It is expected that the Boards will normally meet monthly and will consider all of the policy and administrative issues facing the department.

The proper and independent appointment of these directors is clearly key to their effectiveness. It would obviously not be sensible for the department itself to appoint the Board members (as currently happens with the ineffective departmental boards which currently exist). It is therefore proposed that for each department, building upon the UK's rich heritage of civil society, seven relevant NGOs will be designated by the Office of the Commissioner for Public Appointments, subject to Parliamentary approval, to form an appointments panel to select the independent Board members. These NGOs would represent consumer as well as producer interests for each department. Each year one of the seven organisations would stand down from the appointments panel (as determined by lot in the first six years) with a new one chosen by the Commissioner in its place. The NGOs would be paid a small fee for providing their panel member.

The appointment panels would each undertake an annual assessment of the workings of the Board with which they were involved and would review the attendance and contribution of each of the Board members in line with best practice in the charitable and commercial sectors. They would decide whether to reappoint a member after each three year term or whether to seek new applicants for the role. In extreme cases they would also have the power to remove a Board member.

The job roles to be members of the Board itself will be extensively advertised by the Commissioner for Public Appointments. The appointment panels, with suitable support from the Commissioner's staff, will then meet to select the Board members from those applicants.

The Commissioner for Public Appointments would consult widely on appropriate organisations to form the appointments panels. However potential examples of suitable NGOs each to nominate one member of the seven person appointment panels, which in turn would interview and appoint applicants for Board membership, are:

- Department for International Development: Oxfam, World Wildlife Fund, Voluntary Service Overseas, Fair Trade Foundation, BOND (British Overseas NGOs for Development), Overseas Development Institute and the Institute of Development Engineering
- Ministry of Defence: Royal United Services Institute, International Institute for Strategic Studies, Royal British Legion, Royal National Lifeboat Institute, Defence Manufacturers Association, Defence Surveyors Association and the Public & Commercial Services Union
- Foreign and Commonwealth Office: Royal Institute of International Affairs, Royal Commonwealth Society, Royal African Society, Royal Asiatic Society, Middle East Association, British North American Research Association and The Anglo Latin American Foundation
- HM Treasury: Royal Economic Society, Chartered Institute of Public Finance and Accountancy, Chartered Institute of Taxation, Securities and Investment Institute, Joseph Rowntree Trust, Institute of Directors and the Consumers Association
- Home Office: Prison Reform Trust, Association of Chief Police Officers, Liberty, Childline, Mind, Crime Concern and Migration Watch UK
- Department of Health: Academy of Medical Royal Colleges, Royal College of Nursing, UNISON, Medical Protection Society, Mencap, Age Concern England and the Family Planning Association
- Department for Children, Schools and Families: Barnado's, National Confederation of Parent Teacher Associations, National Governors Association, NASUWT (National Association of Schoolmasters and Union of Women Teachers), National Association of Head Teachers, Citizens Advice Bureau, and the Chartered Institute of Personnel and Development.
- Department for Culture, Media and Sport: National Trust, British Hospitality Association, Museums Association, Royal Television Society, Equity, British Olympic Association and UK Sport.
- Department for Environment, Food and Rural Affairs: Royal Society for the Protection of Birds, Royal Institute of Chartered Surveyors, National Farmers Union, Country Land and Business Association, Greenpeace, Food and Drink Federation and the British Marine Federation.

The Governance Proposals therefore include:

Departments will be run by a Board chaired by the senior departmental minister but on which at least half of the directors would be appointed by a panel of designated NGOs and other stakeholders relevant to consumer and producer interests in that sector.