



10 DOWNING STREET

Prime Minister

—

This is a classic
straightforward account
of a civil servant's
duties which should
cause no problems.

Pennington
ms

N. L. W.

5.11

PE.18 with DW



MINISTER OF STATE
PRIVY COUNCIL OFFICE
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- 1 NOV 1985
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1. MINISTER OF STATE, PRIVY COUNCIL OFFICE
2. PRIME MINISTER

Covering note
not yet seen by the
Minister but passed
forward on his
authority in his
absence

Mr Luce knows of,
and recommends the
memorandum

Duties and Responsibilities of Civil Servants
in relation to Ministers

John Fuller
APS/Minister of State
1.11.85

NLW
- 5.4

(attached)

The Treasury and Civil Service Committee have decided to set up a Sub-Committee to inquire into this subject, following the Note which I issued on 25 February 1985, following the Poincaré judgment and of which the Prime Minister informed the House of Commons in a Written Answer on 26 February.

NPO
It will
be a letter
later.

2. The Clerk of the Sub-Committee sent the Cabinet Office (Management and Personnel Office) a list of 22 questions arising out of that Note. We are asked to supply the answers by 6 November. Similar (though not identical) lists of questions have been sent to a number of organisations and people.

--- 3. I attach a draft of the Memorandum which it is proposed that the Cabinet Office should submit in response to that request. The draft Memorandum deals with all the questions but has regrouped them and to some extent reordered them for the sake of making a reasonably coherent and consecutive reply.

4. Paragraph 28 of the draft (on pages 13 and 14) deals with contacts between civil servants and Members of Parliament and Party organisations. At present the rules contain no provision which would explicitly allow civil servants orally to brief backbench MPs of any Party, save for the purpose of overseas travel (see paragraph 28(ii)). Mr Luce has suggested that there are other circumstances in which civil servants should be allowed to brief backbench MPs, with the agreement of the Minister concerned but not necessarily with the Minister present. This would be a change in the rules, and I think that we should consider it as



such. I am not myself convinced that it is desirable explicitly to provide for civil servants from home Departments to brief back-bench MPs, even with the agreement of the Minister concerned; such contacts could all too easily develop in a way which could embarrass either the civil servant or the Minister or both.

I therefore suggest that we should consider this proposal for changing the rules separately, and not in the context of the draft evidence to the TCSC, and that paragraph 28 should be included in the Memorandum as a statement of the existing rules.

5. The Clerk has indicated that the Sub-Committee will wish to take evidence from me during the course of November.

6. By this minute I seek authority for the Cabinet Office to send this Memorandum to the Sub-Committee.

RA

ROBERT ARMSTRONG

1 November 1985

DRAFT of 25 October 1985

Treasury and Civil Service Committee

Sub-Committee Inquiry: Civil Servants and Ministers: Duties and Responsibilities

Memorandum by the Cabinet Office (Management and Personnel Office)

Introduction

1. In February 1985 Sir Robert Armstrong, Head of the Home Civil Service, issued a note of guidance restating the duties and responsibilities of civil servants in relation to Ministers. The purpose of this memorandum by the Cabinet Office (MPO) is to explain the background to Sir Robert's note and to amplify certain points in it. It includes answers to a number of specific questions on which the Sub-Committee has sought information from MPO; these questions have been arranged as far as possible according to their subject.

The Background

2. It had been many years since the underlying principles governing the duties and responsibilities of civil servants in relation to Ministers had been formally stated and promulgated, and recent public discussion had suggested that the time was approaching when it would be useful to restate these principles and to make them readily available to civil servants. It was clearly impossible for such a statement to be published during the trial of Mr Clive Ponting; but the outcome of that trial if anything strengthened the case for a statement. The Prime Minister agreed that Sir Robert should issue his statement, and annexed it to a Written Answer that she gave to Parliament on 26 February 1985 in reply to a Question from Sir Geoffrey Johnson

Smith (Official Report cols 130-132). As some words in the final paragraph were inadvertently omitted from the statement when it was first printed in the Official Report, the full text is --- attached.

3. This note of guidance was not intended to break new ground. Rather it was a restatement of long-standing principles. Nor was it intended that this statement of principles should prescribe in advance for every situation in which a civil servant might feel that his duty as a citizen conflicted with his duty to the Government which he serves. But it offered guidance for a civil servant to follow in certain situations that he might face, in particular making clear that in such situations he should consult his superior officers and does not need to seek a resolution of his dilemma on his own.

4. It is perhaps worth adding by way of introduction that the duty to give loyal and efficient service to, and to keep the confidences of, an employer, and the risk of occasional problems in doing so, are by no means unique to the Civil Service. What is distinctive is the duty of readiness to provide the same standards of service to successive Governments, whose beliefs and policies may differ both from those of their predecessors and from those of the individual civil servant. That is a fundamental element in the duties of a civil servant, and it is part of his professional obligations and equipment that he should be so ready. Those who for whatever reason find it difficult to accept that duty and to conduct themselves accordingly had better not become civil servants. Ministers are entitled to assume that civil servants understand their obligations and, save in the most exceptional circumstances, can operate within them without distress or frequent practical difficulties.

Duties and Responsibilities to Ministers

What is or should be a civil servant's duty when he believes a Minister to be acting in a manner which exceeds his constitutional authority or which avoids his constitutional responsibilities? (Q.4)

What distinction should be made between duty to an individual Minister and to the Government? What should a civil servant do if he believes that he is being asked by his Minister to act in a manner inconsistent with (a) the policy of the Cabinet and (b) the policy of the Prime Minister? (Q.6)

What is the duty of a civil servant if a Minister rejects policy advice and proceeds in a way which he believes may be impracticable or positively harmful? (Q.16)

Can civil servants who disagree with a policy carry it out as effectively as those who believe in it? (Q.17)

5. Within the principle of collective responsibility, it is the Minister in charge of the Department who is responsible, and answerable in Parliament, for the conduct of the Department's affairs and for the Government's policy in the area for which he has departmental responsibility, and it is for him to see that his Department is instructed and managed accordingly. The duty of the civil servant is first and foremost to the Minister in charge of the Department in which he is serving. It is the Minister's responsibility to defend his decisions and to consult his colleagues where appropriate.

6. As advisers to Ministers, civil servants have a duty to give honest and impartial advice without fear or favour. But once a Minister takes a decision, civil servants have a duty to abide by his decision, subject to the law, and to give effect to Government policies as effectively as possible. Their professionalism should

enable them to implement policies effectively whether or not they agree with them. A civil servant who felt that, because of personal moral convictions, he could not carry out a particular policy effectively would have a duty to consult a superior officer in the manner outlined in paragraph 11 of the note of guidance, and a transfer to other work would have to be considered.

7. If a civil servant has sincerely-held doubts about the propriety of a policy or action, he does not need and should not try to carry the burden alone. It should be shared with senior officials, if necessary up to the Permanent Head of the Department. Where appropriate, the Permanent Head of the Department can consult the Head of the Home Civil Service, who has access to the Prime Minister.

What should a civil servant do if he believes that he is being asked by his Civil Service supervisors to act in a manner inconsistent with the policy of (a) departmental Ministers (b) the Government as a whole? (Q.7)

8. A civil servant who believed that senior officials were asking him to act in a manner inconsistent with Ministerial policies should take the matter to higher official levels including, if necessary, the Permanent Head of Department who would be able, if he considered that the situation required it, to seek a ruling from the Minister.

Where does the ultimate responsibility of a civil servant working to a junior Minister lie? What should a civil servant do if he believes that he is being asked by a junior Minister to act in a manner inconsistent with the policy of his Secretary of State? (Q.8)

9. Even where within a Department day-to-day responsibility for certain areas of activity is delegated to a junior Minister, ultimate responsibility nevertheless remains with the Secretary

of State or Minister in charge of the Department. If a civil servant believed that instructions from a junior Minister were inconsistent with the policy of the Ministerial head, the problem should be brought to the attention of the Permanent Head of Department, who is immediately responsible to the Ministerial head.

Other Duties and Responsibilities

The Government's efficiency strategy emphasises increased delegation of responsibilities down the line to Civil Service managers at all levels. What effect will this have on traditional doctrines of Ministerial responsibility and accountability to Parliament for all the actions of their Departments? (Q.15)

10. An important part of the Government's effort to increase efficiency and effectiveness has been a clarification and strengthening of the responsibilities of managers at all levels in the Civil Service. This involves delegation of authority, with managers at each level being held accountable for the performance of the areas under their command, and the efficient and economic use of the resources allocated to them. But these changes are concerned solely with internal or management accountability - that is the definition and exercise of accountabilities within the Department, up the management line through the Permanent Secretary to the Minister. These accountabilities are subject to the overall policy of the Minister, and they do not touch on external accountability - that is accountability to Parliament, which lies solely with the responsible Minister (and, in strictly defined conditions, the Accounting Officer).

11. The changes may well reinforce existing trends for individual managers in the Service, particularly in large executive operations providing services directly to the public, to provide information about and answer questions on the operations which

they direct; and also for civil servants at different levels below Permanent Secretary to appear before Parliamentary Select Committees to answer questions on matters with which they directly deal. But in doing so they are acting as the representatives of Ministers, and they remain accountable to the responsible Minister, to whom Select Committees, Members of Parliament or members of the public may have recourse if they are dissatisfied with any explanations or answers given by civil servants.

12. Thus the more sharply defined responsibilities and accountabilities of managers at different levels resulting from these recent developments in no way diminish the accountability of the responsible Minister to Parliament. On the contrary, with responsibilities and accountabilities of his senior civil servants more clearly defined and more systematic information about their activities and costs available to him through strengthened top management systems, the Minister is better placed to account to Parliament for the performance of his Department.

What are a Department's obligations to its "clients"? Can a civil servant's responsibilities to clients ever override his duty to Ministers? (Q.3)

13. Except in instances where Parliament has expressly placed duties on civil servants directly (for instance, in relation to revenue collection or the exercise of quasi-judicial functions), a civil servant exercises his responsibilities, including responsibilities in the provision of services to the public, on behalf of the Minister. Where, for example, Parliament has vested in a departmental Minister the responsibility for providing a particular service, the Department carries out its duties in this respect, as in others, on the Minister's behalf. There is no separate duty to the recipients of the service: the civil servant is responsible to his Minister for the efficient, effective and economical performance of the service as laid down by Parliament and by the Minister.

Are the viability and status of the Civil Service as an organisation, as distinct from the interests of the Government of the day, legitimate subjects for concern? Who is responsible for these? What should Permanent Secretaries and the Head of the Civil Service do if they believe that the policies of the Government of the day are damaging the Civil Service? Can the Head of the Civil Service adequately perform this role while he is simultaneously Secretary of the Cabinet? (Q.2)

14. The viability and status of the Civil Service are legitimate subjects for concern. Permanent Secretaries, if they believed that Government policies in relation to, or otherwise affecting, the Civil Service were not in the country's best interests, could and indeed should bring the matter to the attention of Ministers; and the Head of the Home Civil Service should, where appropriate, approach the Prime Minister, who is also Minister for the Civil Service. Ministers have the final responsibility for these matters. It is no more difficult for the Head of the Home Civil Service to do this if he is Secretary of the Cabinet than if he is Permanent Secretary in a Department; indeed it may well be easier because of his responsibilities for advising the Prime Minister on the management of Government business and on questions of machinery of government.

Does the convention limiting Ministerial access to papers of previous Administrations indicate a wider responsibility than that to current Ministers? Are there any other such indications? (Q.1)

15. The papers of previous Administrations are the property of the Crown, and the Government of the day is responsible for their custody and for controlling access to them. By convention Ministers of the Crown do not see papers of previous Administrations of a different political party, but Ministers of a

previous Administration may see papers which they saw while in office. Civil servants are responsible for applying the conventions on access to papers of previous Administrations, but they act in this as in other matters under authority delegated by Ministers. The current guidance to civil servants on the application of the conventions was set out by the Prime Minister in a Written Answer on 24 January 1980 (Official Report, cols 305-307).

16. A former Secretary of the Cabinet, Lord Hunt of Tanworth, has commented on the conventions as follows:

"... In law, all Government records - past and present - are the property of the Crown: and since the Crown acts on the advice of the Government of the day, the latter could theoretically dispose at will of the papers of a former Administration, although The Queen could well first exercise her Bagehotian right to "counsel, encourage and warn". The need for the conventions becomes obvious, however, when it is realised that they reconcile two otherwise potentially conflicting requirements. The first is that papers of a previous Government should be preserved to allow continuity of administration, research into the past and eventual release to the Public Record Office ... The second follows from the first. It is the need to avoid new Ministers using such papers to make unfair political capital at the expense of their predecessors". (Public Law, Winter 1982)

Civil Service Appointments, Promotions etc

In what way is the Prime Minister involved in senior Civil Service appointments in their Departments? To what information about civil servants does she have access?
(Q.12)

17. The Prime Minister approves all appointments in Departments at Permanent and Deputy Secretary level, on the recommendation of the Head of the Home Civil Service. The advice she receives is supported by appropriate information on the careers and qualities of those recommended.

In what way are departmental Ministers involved in senior Civil Service appointments in their Departments? To what information about civil servants do they have access? Do they see civil servants' personal files, including annual reports? How far is central guidance on these procedures provided by the Head of the Civil Service or by anybody else?
(Q.11)

18. Departmental Ministers are consulted by their Permanent Secretaries or by the Head of the Home Civil Service before recommendations are made by the Head of the Home Civil Service to the Prime Minister concerning Deputy and Permanent Secretary appointments. Departmental Ministers may also be consulted about other senior appointments in their Departments. Ministers do not see personal files or annual reports in these cases, though they may be given information, for instance about qualifications, experience and qualities, derived from personal files and annual reports.

If a Minister asks that an individual civil servant be transferred/not appointed/appointed, in general or in relation to a specific post, is this information recorded on the latter's personal file? How far would such requests be taken into account in the civil servant's subsequent career?
(Q.13)

19. When departmental Ministers have been consulted about appointments to Permanent and Deputy Secretary posts with a view to recommendations to the Prime Minister, the outcome may or may not be recorded on an individual's personal file, depending on the

particular case. Other instances may arise when it would be appropriate to record the effect of a Minister's wishes, for example that a particular individual should be considered for a post in his Private Office.

To what extent are attitudes of civil servants on major issues of the day, including issues in which they have themselves been professionally involved, systematically recorded or taken into account, and how far are they made known to Ministers or to the Prime Minister? (Q.10)

20. There is no general recording of civil servants' political attitudes on issues of the day, nor are there any arrangements for reporting these to Ministers. Civil servants' views on particular issues may of course become known to Ministers in the course of giving them advice on those issues. They are also, very occasionally, taken into account in making postings, in order to avoid a conflict of conscience for an individual civil servant. They may be made known, in confidence, during inquiries connected with positive vetting. They may also become known to the Department if a civil servant belongs to a category in which departmental permission must be sought to take part in local or national political activities.

Restrictions on Civil Servants

In the light of the Ponting trial is Section 2 of the Official Secrets Act still enforceable? To what extent does paragraph 6 of the memorandum attempt to restore credibility to Section 2? Is a new definition of "secret" needed? (Q.18)

21. The note of guidance did not address section 2 of the Official Secrets Act 1911: paragraph 6 restated the obligation of civil servants to keep confidences "quite apart from liability to prosecution under the Official Secrets Acts". It would not be

appropriate for this Department to express a view on either the form of the Official Secrets legislation or its enforceability. The Attorney General stated in Parliament following the trial of Mr Ponting (Official Report, 12 February 1985, vol 73, col 181) that "I shall continue to apply [section 2 of the Official Secrets Act] as it is, looking at each case on its particular merits".

Are there circumstances when a Minister could require a civil servant to release information in a manner contrary to obligations under the OSA and the memorandum? Have there been examples of such official leaking? (Q.19)

22. Section 2 of the Official Secrets Act 1911 does not prohibit the authorised release of information. Nothing in Section 2 or in the note of guidance prevents the release of information with the responsible Minister's authority.

To what degree should civil servants be able to use their discretion in dealings with Parliament and the press, or are they to be seen as the agents of Ministers? (Q.21)

23. In their day-to-day dealings with Parliamentary Select Committees or the press, civil servants may not have time to consult Ministers and indeed there is often no need for instructions in detail. In this as in other matters, however, civil servants are acting on behalf of Ministers, and are responsible for ensuring that what they say and do is in keeping with the wishes of Ministers.

Should different standards apply to Government press and information officers, and should these be political appointments? Are there wider responsibilities than to Ministers in the presentation of information and in contacts with the media? (Q.5)

24. Government press and information officers are civil servants working to the same standards and having the same responsibilities as other civil servants. Thus information officers are acting on behalf of the responsible Minister, and in the presentation of information and in their contact with the media they need to take care that they do not appear to be expressing personal views. The question of political appointments is one for Ministers.

Should the guidance given to civil servants appearing before Select Committees be altered so as to allow them more freedom to answer questions on policy matters? (Q.20)

25. This issue was addressed in paragraph 9 of Sir Robert Armstrong's note. The guidance to civil servants appearing before Select Committees reflects what are understood to be the existing constitutional conventions.

26. The First Report from the Select Committee on Procedure, Session 1977-78 (588-1) paragraph 7.13, made clear that 'Civil Servants give evidence to [select] committees on behalf of Ministers'. The 'Memorandum of Guidance for Officials Appearing Before Select Committees' (paragraph 29) says that 'Officials should be ready to explain what the existing policies are and the objectives and justification, as the Government sees them, for those policies It is open to officials to make comments which are not politically contentious but they should as far as possible avoid being drawn, without prior Ministerial authority, into the discussion of alternative policy. If official witnesses are pressed by the Committee to go beyond these limits, they should suggest that the questioning be addressed, or referred, to Ministers'.

27. The 'Memorandum of Guidance', in its 1980 edition, was approved by the present Administration, and the 1976 edition

(which was published by the Procedure Committee as Appendix D to their Report), with identical wording as to the passage quoted above, was also approved by Ministers at the time.

What contacts are or should be permitted between civil servants and -

- a. back-bench MPs of the Government Party
- b. any other MPs
- c. the Government's Party organisation
- d. opposition parties? (Q.14)

28. Civil servants may not take part in activities likely to call into question their ability to serve Ministers, or to give rise to criticism that public funds are being used for Party political purposes. Accordingly civil servants should not -

- i. attend either on their own or in the company of Ministers meetings of policy or subject groups of any Parliamentary Party;
- ii. accept invitations to all-Party subject Groups or Committees of Members of Parliament (but where a Minister accepts such an invitation it may be appropriate for an official to be available to brief the Minister and, at the Minister's request, answer questions of a factual or statistical nature). Senior officials are also authorised to brief Members of Parliament in small groups from one, or more than one, Party travelling overseas; and Foreign and Commonwealth Office Heads of Mission have permission to meet the all-Party IPU/CPA Country Groups;
- iii. attend or take part in a Party conference in an official capacity (or, of course, in any other capacity if they are members of the politically restricted group of civil servants);

iv. provide written briefing for back-bench Members of Parliament, except in so far as the information is of a kind that could be made available to Members of any Party and any other bona fide enquirer. If a Minister wishes to brief back-bench Members of Parliament himself, he may of course ask civil servants to provide him with such material as he thinks necessary for the purpose.

29. These general rules do not preclude managers of outstationed offices, with Ministers' approval, from corresponding with Members about problems of individual constituents. There are also well recognised conventions governing contacts between senior civil servants and the leaders of the opposition Parties in the period before a General Election.

What are the current restrictions on political activity by serving civil servants? Have they been amended, in form or in application, in recent years? How many serving civil servants, at different levels -

- a. have stood as candidates in local government elections in each year since 1980;
- b. are at present elected local government members;
- c. are office-holders in political parties?

How many civil servants have been refused permission to take part in such activities? For which other political activities by civil servants is official permission required? Is information about the political activities of civil servants, or about requests to take part in political activities, recorded on their personal files? (Q.9)

30. The rules which govern the political activities of civil servants are contained in the Civil Service Pay and Conditions of Service Code, paragraph 9923-9957 (copy attached as Annex A). A copy of the Code is available in the Library of the House.

31. The rules were revised in September 1984 following the report of the Committee on Political Activities of Civil Servants chaired by the late Sir Arthur Armitage (Cmnd. 7057). The new rules incorporate the majority recommendations of the Armitage Committee.

32. Information about civil servants taking part in political --- activities is given in Annex B.

Retired Civil Servants

What are the responsibilities of retired civil servants who are out of sympathy with a current line of policy being pursued by their old Department? (Q.22)

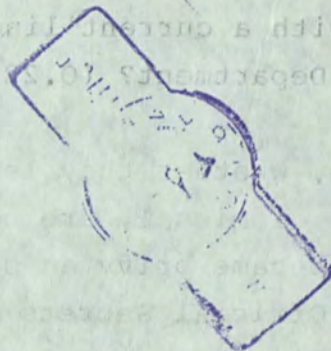
33. Former civil servants, whether they left the Service on retirement, resignation or dismissal, are bound to keep confidences to which they became privy as serving civil servants, and remain subject to the Official Secrets Acts. They are also subject to the same obligations as former Ministers in respect of the publication of memoirs and other works relating to their official experience (Radcliffe Report, Cmnd. 6386: extract at Annex C). Subject to these provisos, they have the same rights as other private citizens to comment on current policies.

Cabinet Office (Management and Personnel Office)

30 October 1985

Civil Service: Long Term

PE-18



THE DUTIES AND RESPONSIBILITIES OF CIVIL SERVANTS
IN RELATION TO MINISTERS

Note by the Head of the Home Civil Service

During the last few months a number of my colleagues have suggested to me that it would be timely to restate the general duties and responsibilities of civil servants in relation to Ministers. Recent events, and the public discussion to which they have given rise, have led me to conclude that the time has come when it would be right for me, as Head of the Home Civil Service, to respond to these suggestions. I am accordingly putting out the guidance in this note. It is issued after consultation with Permanent Secretaries in charge of Departments, and with their agreement.

2. Civil servants are servants of the Crown. For all practical purposes the Crown in this context means and is represented by the Government of the day. There are special cases in which certain functions are conferred by law upon particular members or groups of members of the public service; but in general the executive powers of the Crown are exercised by and on the advice of Her Majesty's Ministers, who are in turn answerable to Parliament. The civil service as such has no constitutional personality or responsibility separate from the duly elected Government of the day. It is there to provide the Government of the day with advice on the formulation of the policies of the Government, to assist in carrying out the decisions of the Government, and to manage and deliver the services for which the Government is responsible. Some civil

servants are also involved, as a proper part of their duties, in the processes of presentation of Government policies and decisions.

3. The civil service serves the Government of the day as a whole, that is to say Her Majesty's Ministers collectively, and the Prime Minister is the Minister for the Civil Service. The duty of the individual civil servant is first and foremost to the Minister of the Crown who is in charge of the Department in which he or she is serving. It is the Minister who is responsible, and answerable in Parliament, for the conduct of the Department's affairs and the management of its business. It is the duty of civil servants to serve their Ministers with integrity and to the best of their ability.

4. The British civil service is a non-political and disciplined career service. Civil servants are required to serve the duly elected Government of the day, of whatever political complexion. It is of the first importance that civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers, and as to be able to establish the same relationship with those whom they may be required to serve in some future Administration. That confidence is the indispensable foundation of a good relationship between Ministers and civil servants. The conduct of civil servants should at all times be such that Ministers and potential future Ministers can be sure that that confidence can be freely given, and that the civil service will at all times conscientiously fulfil its duties and obligations to, and impartially assist, advise and carry out the policies of, the duly elected Government of the day.

5. The determination of policy is the responsibility of the Minister (within the convention of collective responsibility of the whole Government for the decisions and actions of every member of it). In the determination of policy the civil servant

has no constitutional responsibility or role, distinct from that of the Minister. Subject to the conventions limiting the access of Ministers to papers of previous administrations, it is the duty of the civil servant to make available to the Minister all the information and experience at his or her disposal which may have a bearing on the policy decisions to which the Minister is committed or which he is preparing to make, and to give to the Minister honest and impartial advice, without fear or favour, and whether the advice accords with the Minister's view or not. Civil servants are in breach of their duty, and damage their integrity as servants of the Crown, if they deliberately withhold relevant information from their Minister, or if they give their Minister other advice than the best they believe they can give, or if they seek to obstruct or delay a decision simply because they do not agree with it. When, having been given all the relevant information and advice, the Minister has taken a decision, it is the duty of civil servants loyally to carry out that decision with precisely the same energy and good will, whether they agree with it or not.

6. Civil servants are under an obligation to keep the confidences to which they become privy in the course of their official duties; not only the maintenance of trust between Ministers and civil servants but also the efficiency of government depend on their doing so. There is and must be a general duty upon every civil servant, serving or retired, not to disclose, in breach of that obligation, any document or information or detail about the course of business, which has come his or her way in the course of duty as a civil servant. Whether such disclosure is done from political or personal motives, or for pecuniary gain, and quite apart from liability to prosecution under the Official Secrets Acts, the civil servant concerned forfeits the trust that is put in him or her as a servant of the Crown, and may well forfeit the right to continue in the service. He or she also undermines the

confidence that ought to subsist between Ministers and civil servants and thus damages colleagues and the Service as well as him or herself.

7. The previous paragraphs have set out the basic principles which govern civil servants' relations with Ministers. The rest of this note deals with particular aspects of conduct which derive from them, where it may be felt that more detailed guidance would be helpful.

8. A civil servant should not be required to do anything unlawful. In the very unlikely event of a civil servant being asked to do something which he or she believes would put him or her in clear breach of the law, the matter should be reported to a superior officer or to the Principal Establishment Officer, who should if necessary seek the advice of the Legal Adviser to the department. If legal advice confirms that the action would be likely to be held to be unlawful, the matter should be reported in writing to the Permanent Head of the department.

9. Civil servants often find themselves in situations where they are required or expected to give information to a Parliamentary Select Committee, to the media, or to individuals. In doing so they should be guided by the general policy of the Government on evidence to Select Committees and on the disclosure of information, by any specifically departmental policies in relation to departmental information, and by the requirements of security and confidentiality. In this respect, however, as in other respects, the civil servant's first duty is to his or her Minister. Ultimately the responsibility lies with Ministers, and not with civil servants, to decide what information should be made available, and how and when it should be released, whether it is to Parliament, to Select Committees, to the media or to individuals. It is not acceptable for a serving or former civil servant to seek to frustrate policies or

decisions of Ministers by the disclosure outside the Government, in breach of confidence, of information to which he or she has had access as a civil servant.

10. It is Ministers and not civil servants who bear political responsibility. Civil servants should not decline to take, or abstain from taking, an action merely because to do so would conflict with their personal opinions on matters of political choice or judgment between alternative or competing objectives and benefits; they should consider the possibility of declining only if taking or abstaining from the action in question is felt to be directly contrary to deeply held personal conviction on a fundamental issue of conscience.

11. A civil servant who feels that to act or to abstain from acting in a particular way, or to acquiesce in a particular decision or course of action, would raise for him or her a fundamental issue of conscience, or is so profoundly opposed to a policy as to feel unable conscientiously to administer it in accordance with the standards described in this note, should consult a superior officer, or in the last resort the Permanent Head of the department, who can and should if necessary consult the Head of the Home Civil Service. If that does not enable the matter to be resolved on a basis which the civil servant concerned is able to accept, he or she must either carry out his or her instructions or resign from the public service - though even after resignation he or she will still be bound to keep the confidences to which he or she has become privy as a civil servant.

ROBERT ARMSTRONG

Cabinet Office

25 February 1985