

Ref. A085/541

PRIME MINISTER

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Duties and Responsibilities of Civil Servants in Relation to Ministers

Mr Butler's minute of 13 February conveyed your comments on my minute of 12 February (A085/474) and on the draft note of guidance attached to it.

2. I have now recast the note of guidance in the light of comments from Permanent Secretaries (including the Treasury Solicitor).

--- I attach a revised draft accordingly.

3. I have also cleared the references to the Crown with Sir Philip Moore.

4. I think, and my Permanent Secretary colleagues agree, that, now that the Ponting trial and the Parliamentary debate are out of the way, the note should be issued as soon as possible. If you are content with it, I therefore propose as follows:

1. On Monday 25 February I should send advance copies to all Cabinet Ministers, letting them know that I had informed you that I proposed to issue the note, and that you had told me that you were content for me to do so and agreed with what it said.

2. On Tuesday 26 February:

a. I should write formally to Permanent Secretaries sending the note and inviting them to disseminate it;

b. you should answer the arranged Question;

c. I should send the Clerk of the Treasury and Civil Service Committee copies of the note;

d. the Cabinet Office (MPO) Press Office should give copies of the note to interested journalists.

--- 5. I attach a draft Written Question and Answer. You will see that I suggest that you should make it clear that the initiative comes from me, and that you are content that I should put the note out and you agree with what it says. I also suggest that you might say something about the responsibilities of Ministers in relation to civil servants. If you felt able to say something like this, it would help to counter the impression given in recent television and radio programmes that some Ministers are apt to disregard advice which they do not want to hear, and perhaps even to penalise those who give it. And, as a counterpart to my own note, I believe that it would be a tremendous boost to the morale of the higher Civil Service. I know that I speak for all my Permanent Secretary colleagues in expressing the strong hope that you will feel able to say something on these lines.

6. I am sending copies of this minute and the annexes to the Lord President, the Chancellor of the Exchequer, the Secretary of State for Defence, the Lord Privy Seal, the Chancellor of the Duchy of Lancaster and the Attorney General.

ROBERT ARMSTRONG

22 February 1985

DRAFT OF 22 FEBRUARY 1985

THE DUTIES AND RESPONSIBILITIES OF CIVIL SERVANTS  
IN RELATION TO MINISTERS

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Note by the Head of the Home Civil Service

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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

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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

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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.

DRAFT PARLIAMENTARY QUESTION AND ANSWER

To ask the Prime Minister, what further guidance is being given to civil servants about their duties and responsibilities in relation to Ministers.

DRAFT ANSWER

A fortnight ago the Head of the Home Civil Service told me that he had in mind, once the Ponting case was no longer sub judice, to issue a note of guidance restating the duties and responsibilities of civil servants in relation to Ministers. I told him that I should be content for him to do so, and that I agreed with what he was intending to say. He has issued his note today; a --- copy of it is annexed to this answer.

The note is about the duties and responsibilities of civil servants in relation to Ministers. What it does not and cannot discuss are the responsibilities which Ministers have in relation to civil servants. Civil servants who carry out their duties and responsibilities in the manner described in the note by the Head of the

Home Civil Service are entitled to the trust, respect and support of Ministers. Ministers have a responsibility to take due account of information and advice given to them by their civil servants in good faith, and not to find fault with an adviser for giving honest and impartial advice just because it happens not to coincide with their own views. In the end, of course, it is for Ministers, who carry the responsibility, to make up their own minds, and they are free to act otherwise than advised if they think it right to do so. But no responsible and competent Minister wants his civil servants to be yes-men, or to tailor their advice to what they think the Minister wants to hear. Indeed, my colleagues and I greatly value the general quality of the advice and service we receive from the civil service.