



**Transitions: preparing
for changes of government**

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Preface

This report originated in the belief that changes of government in Britain do not work as well as they should. One of the authors, Peter Riddell, has written as a journalist about three such transitions going back to the 1970s, and has observed the dislocations, and the initial misunderstandings and mistakes, both in policies and people. Some of these errors have had a lasting impact, requiring later ministerial reshuffles and big shifts in policy. So new governments have not maximised their potential. With a general election coming up by June 2010 at the latest, it seemed timely to look back at past transitions and to see how the process could be improved.

Comparatively little has been written specifically about transitions in the UK, apart from passing references in the memoirs of politicians, in historical studies of the origins of Government policy, and in books about Whitehall. The three main exceptions are articles by Peter Catterall, on the origins of the so-called 'Douglas-Home Rules' in 1963-64, and by David Richards, on the 1997 change of government, and some discussion of the issue in a wider analysis of Opposition policy-making by Peter Hennessy. We are indebted to all three for their analyses and for suggesting further lines of inquiry.

The project has involved three stages. First, Catherine Haddon, the other author and a professional historian, has delved into the National Archives and party archives to examine the background of preparations for changes in government by Opposition parties, by the Civil Service, and contacts between the two. Second, interviews have been carried out with more than 30 participants in past transitions: former Cabinet Secretaries, permanent secretaries, chiefs of staff to Leaders of the Opposition, special advisers, as well as current civil servants and politicians. We have also looked at experience away from UK Central Government: in Scotland, Wales, the London Mayor, English Local Government and in comparable parliamentary democracies in Australia, Canada and New Zealand. Third, we have held a number of seminars and workshops to test out our ideas with senior civil servants (both current and past), special advisers, historians and political scientists.

Many people generously gave up their time for interviews and discussions with us, for which we are very grateful. At times, we felt like a social networking site for veterans of past transition planning. We are grateful to three former Cabinet Secretaries, Lords Butler of Brockwell; Wilson of Dinton; and Turnbull of Enfield; as well as to several former Permanent Secretaries: Sir Michael Bichard, also now Executive Director of the Institute for Government; Lord Burns of Pitshanger; Sir Richard Mottram; Sir David Omand; Sir Kevin Tebbit; and Sir Douglas Wass.

Lords Howe of Aberavon and Howell of Guildford gave us the benefit of their unique insights among leading politicians of Opposition preparations dating back to the 1970s and late 1960s respectively. Jack Straw commented on the case study on the Home Office transition in 1997. Sir Adam Ridley, who was both a civil servant and special adviser during the 1970s and 1980s, was extremely helpful in providing us with papers on the preparations of the Conservative Opposition before the 1979 election, as well in giving us a lot of his time in interviews and in written comments on our work. Charles Clarke and Jonathan Powell, chiefs of staff to Neil Kinnock and Tony Blair respectively, were characteristically shrewd in their memories and observations, as was Patricia Hewitt who was closely involved in Labour's preparations before the 1997 election. Conor Ryan, a long-serving former adviser to David Blunkett, was very helpful about the background to the Education and Employment transition in 1997. Thanks also go to the staff at the National Archives in Kew, the Churchill Archives Centre, Churchill College, Cambridge, the Conservative Party Archive at the Bodleian Library, Oxford and the British Cartoon Archive at the University of Kent. Nick Boles, Boris

Johnson's first chief of staff; Anthony Mayer, chief executive of the Greater London Authority; and Tony Travers of the London School Economics and pre-eminent authority on the politics of the capital were candid and stimulating about the mayoral transition in 2008. We learnt much during our inquiry about how local government often prepares for transitions better than central government, notably from Christina Dykes and Joe Simpson of the Leadership Centre for Local Government. We are also grateful to those who have researched this subject in Canada, New Zealand and Australia – references to these studies can be found at the end of our report. Mel Cappe, a former Clerk to the Privy Council and Secretary to the Cabinet in Canada with vast experience of transitions, was also kind enough to review our analysis of that country's procedures.

We discussed our ideas with a number of the people listed above but also with several academic observers of Whitehall - Professor Peter Hennessy, Professor Kevin Theakston and Dr Peter Catterall (not only a pioneering writer about transitions but also an academic with working experience of local government).

We also talked to a sizeable number of serving senior civil servants, politicians and advisers involved in the current preparations for a possible change of government after the next general election. Of course, they wish to remain anonymous but they gave us insights not only into what is happening, but also, significantly, suggestions as to how the process can be improved. We are grateful to all of them. Naturally, however, all the views given here are our own.

To avoid burdening the report with footnotes, we have quoted other published material but not given specific references to interviews. We have referred to people by their descriptions at the time, not to subsequent titles. So it is Sir Robin Butler as he was during the transitions studied, not Lord Butler of Brockwell. Moreover, to protect the anonymity of current civil servants and politicians, we have not identified them even indirectly.

We have throughout been stimulated, and encouraged, by all our colleagues at the Institute for Government, which made this project possible. Sir Michael Bichard, David Halpern, Zoe Gruhn, Nicole Smith and Jill Rutter all made valuable comments on drafts of the report and Suzanne Roy provided invaluable assistance in the production of the report.

This report is certainly not the last word, or even the penultimate chapter, on the subject. Our intention is to stimulate a debate. So any comments are welcome.

Peter Riddell and Catherine Haddon

October 2009

Summary

- A change of administration following a general election tests both the quality and the effectiveness of government. This report examines how such transitions have worked in the United Kingdom (UK) in the past, at different levels of UK government and in comparable parliamentary systems overseas. It then concludes what lessons can be drawn for central government in the UK. The main focus is on elections where a change of government was expected to occur and in most cases, apart from 1992, did so. Our analysis and conclusions apply regardless of the result of the next general election, and, at the time of writing several months before a general election, we do not seek to examine current preparations either by Opposition parties or by Whitehall departments.
- In the UK, the formal handover from one administration to another has generally been relatively smooth and uncontentious for the last century. However, the wider 'transition' covers a much longer period, beginning well before a general election is called, and continuing well into the first few weeks, months and years of a new administration. Unlike other countries, transitions have not previously been studied in depth in the UK.
- There are many ways of measuring the success of a transition, even before subsequent historical assessments of a government's policies. However, for those most closely involved at the heart of government, and for new governments entering office, the main test is effectiveness; how quickly a new government is able to get to grips with office and implement its plans. Good preparation can ensure a new minister and a department work more closely and more harmoniously together than they might otherwise do, and develop a better relationship sooner.
- This study highlights the paradox that – because of the necessary impartiality of the Civil Service and avoidance of politicisation – both an incoming government and the Civil Service prepare largely separately, with minimal contact between them, yet with each second guessing the other.
- For Opposition parties, the longer they are out of power, the harder it is to prepare for office. Fewer spokesmen and advisers have any direct experience of Whitehall and it is difficult to bridge the gaps in knowledge and understanding. Our study examines in detail the preparations ahead of the 1970, 1979 and 1997 elections, showing how oppositions have relied on outside consultants, think tanks and retired civil servants to bridge this gap.
- On the Civil Service side, the prospect of a new administration means potential changes in government machinery, practices and personnel, as well as policy. Unless, and until, a dissolution of Parliament occurs, preparation is constrained both by the requirement to continue to serve the government of the day and by uncertainty about Opposition plans, aggravated by the lack of direct contacts. So the Civil Service has often had to guess what the Opposition proposals mean, or work on the basis of indirect contacts and party statements and manifesto pledges intended as much as for internal party or electoral consumption as a programme for government itself.
- Opposition spokesmen have been able to meet Permanent Secretaries since the late 1960s under the so-called 'Douglas-Home Rules'. This convention allowed contacts up to about six months before an election until 1992, and around 16 months before an election since then. The absence of fixed term parliaments has meant uncertainties over the length of contacts though, in practice, when governments are in trouble, and likely to lose, parliaments have tended to run to nearly five years and this has allowed a reasonable period for contacts.

- The history of the convention on pre-election contacts has been characterised by a degree of 'don't ask, don't tell' complicity as civil servants are caught in the crossfire between loyalty to the incumbent government and a desire to prepare for possible change. So the practice has been a mixture of Feydeau, *Yes Minister* and John Le Carré. The overriding principle is of civil servants listening, not advising. These discussions are restricted to factual background, machinery of government and organisational issues. The inherent ambiguities of the relationship, and uncertainties over the nature and frequency of meetings, have resulted in considerable variations in its operation between departments, depending on the personalities involved.
- The convention was devised in a different era when departments were monolithic and hierarchical. But a wide range of non-departmental public bodies now exist which operate semi-independently of departments by maintaining their own public profiles, including contacts with Opposition parties, effectively outside of the letter, and often the spirit, of the convention.
- Britain is unusual in having an immediate handover on the day after the general election when the incoming Prime Minister and new Cabinet are exhausted from campaigning and election night. At present, governments are formed quickly and the legislative programme has to be decided only a few days after polling day. In this hectic climate, there is a clear advantage in having had extensive prior contacts with the Civil Service and in continuity between Opposition and Government. But in both 1979 and 1997, around two-fifths of the incoming Cabinet had not occupied the same post in Opposition. Moreover, in 1997, and prospectively in 2010 if there is a change of government, most of the new ministers and advisers will have had no experience at all of working at the top of a department.
- The report looks in detail at five case studies: the development of Conservative spending plans before the 1979 general election and their subsequent implementation; the preparations by Gordon Brown's shadow team and the Treasury in 1997; the successful examples of departmental transitions in the Department of Education and Employment and the Home Office in 1997; and the work on the largely new area of constitutional reform in 1997. These studies underline the importance of the individual, and highly personal, interpretation of the convention by both shadow spokesmen and senior civil servants; the desirability of achieving mutual understanding well before an election in order to make a quick start; the key role in each case of special and outsider advisers in developing policies; and the value of having precise plans on paper prepared before election day which can be handed over to civil servants afterwards.
- The unusual nature of transitions in the UK central government is highlighted by looking elsewhere at changes in administration, both within Britain at the Scottish Parliament, Welsh Assembly, the London Mayor and English local government and at comparable parliamentary systems in Australia, Canada and New Zealand. These are mostly characterised by more open procedures set out in public guidelines; a delayed and not immediate handover of power after elections (apart from the London Mayor); and mentoring and training for prospective leaders (in the case of local councils).
- The report concludes that the basic constitutional requirement of a smooth and uncontentious handover of power after a general election has generally worked well. But these formal mechanisms are only a part, a necessary but not a sufficient condition, for a successful transition, as defined by the ability of the incoming government quickly to take up the reins of power.
- There are many strengths in the present system and the inherent ambiguities of the three way nature of pre-election contacts can protect, as well as cause confusion. Nevertheless, we have identified several ways in which transitions could be improved to the benefit of all:
 1. Opposition leaders, while understandably reluctant to appear to be taking the electorate for granted, need to give more attention to what they would do in government. They should consider whether members of their shadow team are going to occupy the same posts in government in view of the strong past experience of the advantages of continuity between the two. Opposition politicians at all levels, including special advisers, need to be given more training and preparation for office, both when an Opposition forms a government and, later, in ministerial reshuffles. In preparing their plans, oppositions should, where possible, develop fully costed, and worked out, policies

on paper which can be taken into departments and presented to the Civil Service after taking office.

2. The present guidelines on contacts between Opposition parties and the Civil Service need to be updated. The emphasis should remain on guidance rather than a formal code to provide flexibility and to protect the impartiality of the Civil Service and to ensure that trust with the incumbent Government is maintained. Among the main points should be:

- Greater clarity on the timing of the start of contacts. In view of the uncertainties produced by the absence of fixed term parliaments, discussions should be permitted three and a half years after the previous general election. This would allow at least six months even if the parliament lasts only four years.
- Both the timing and the process should be under the control of the Cabinet Secretary, rather than the Prime Minister of the day. The Cabinet Office should also take a more active role in co-ordinating, but not controlling, the Whitehall approach on issues cutting across several departments, though this should allow room for flexibility and initiative by departments. This has begun to happen as the lead on transition issues is being taken by a Permanent Secretary in the Cabinet Office.
- Permanent Secretaries should supervise contacts but not be the exclusive channel. Small units should be set up within departments during the formal period of contacts to seek confidential clarification about the plans of Opposition spokesmen. There also needs to be explicit recognition of the important role of non-departmental public bodies, and they should be permitted to hold talks with Opposition spokesmen on the same basis as their sponsoring departments.

3. The formal handover of power should be phased over several days, as in similar parliamentary democracies, to give time for an incoming Prime Minister to recover from the exhaustion of the campaign and to reflect on his or her new administration. Even if the Prime Minister takes office immediately on the Friday after the election, most of the rest of the Cabinet and Government could be appointed the following week.

4. The Queen's Speech could be delayed from the recent usual date of a fortnight after the election to three or four weeks after polling day to allow time for new ministers to get to grips with their departments and to consider their policy priorities as well as longer to agree the legislative programme. The Commons Modernisation Committee has already suggested a delay to the first meeting of the House of Commons to allow time for the induction of new MPs.

5. Incoming Prime Ministers should be wary of machinery of government changes: creating and reshaping departments is inevitably disruptive and expensive, and often counter-productive.

- Many of the lessons of this report apply not just to changes of government after general elections but also to changes of Prime Minister between elections, as in 1976, 1990 and 2007, as well as to more frequent ministerial reshuffles. These all tend to be sudden events with poor prior planning. Many of the challenges for civil servants dealing with a new minister apply as much after reshuffles as after general elections. Moreover, much more thought needs to be given to the development of ministers and advisers. Talents and habits honed in Opposition are not easily transferable to government.
- **There are also wider issues that would aid the transition process:**
 - Many of the difficulties of current transitions could be avoided if there were fixed-term four-year parliaments.
 - New guidelines should be established about the factual and background information to be made available to Opposition parties.
 - All parties aspiring to form a government should have their plans costed by the National Audit Office before a general election campaign starts.

Template for a successful transition

- Start contacts between Opposition parties and Whitehall departments three and a half years after the last general election.
- Both sides work out a programme on phasing and content – gradually increasing the frequency of meetings and moving from getting acquainted to increasingly detailed discussions on policy priorities.
- The Permanent Secretary involves senior officials and heads of executive agencies and non-departmental public bodies. The Shadow Secretary of State brings along junior spokesmen and advisers.
- The Opposition team identifies priorities and a timetable – what will be announced very quickly, what will come later in the first year, and what later. At the same time, MPs and advisers receive advice on what being a minister involves, the nature of large organisations and relations with civil servants from former ministers and officials.
- The Permanent Secretary discusses what will require organisational changes, the creation of new units and the deployment of officials to private offices. A small unit in the Permanent Secretary's office establishes close relations with the shadow team to question and discuss policy statements, but not to offer advice.
- A group of three or four Permanent Secretaries meet three or more Shadows to discuss issues cutting across their departments.
- After the election, the new minister arrives, refreshed from a long weekend's rest after the campaign, with a dossier setting out policy and spending priorities. The team of junior ministers and advisers is largely the same as before the election.
- The Permanent Secretary already has detailed briefs in place on early announcements and legislation, though with less rush than before since the Queen's Speech is a month after the election, not a fortnight.
- The new Secretary of State quickly establishes good relations with the Civil Service and is able to demonstrate a grasp of the issues facing the department, take decisions and plan a programme for four years.
- All should prepare for the unexpected: new ministers who did not previously shadow the post; changes in the machinery of government; emergencies; fiscal problems; and spending cuts.
- Throughout all this the Civil Service must not fall into the trap some civil servants did in 1992 and assume a change is certain. They need to prepare for all contingencies, including the possibility of an election result of no overall control. This may mean preparation for the possibility of an extended transition or the possibility of a different style of government, whether a coalition or minority administration.

Introduction

This report examines what happens when a general election leads to a change of government from one political party to another. Our main aim is to consider how such transitions have worked in the past in central government in the UK; to look at the lessons from the experience of other administrations within the UK and overseas; and to make recommendations about how the process can be improved. The yardstick for judging such transitions is how far both an incoming administration and the Civil Service are prepared for such changes, and how quickly a new government is able to function effectively. This is emphatically not about the Civil Service neutering a new government; rather, it is the reverse, about how a new administration can use the levers of power to implement its programme.



Source: Michael Cummings, *Daily Express*, 21 June 1974. © Express Newspapers, 1974

“
[There needs to be] a much clearer general acceptance than at present that there are State services which need to be run efficiently whichever Party is in power.
”

*Sir William Armstrong to Tony Benn MP,
2 June 1971*

One of the central themes is the knowledge and experience gap between Opposition and Government, which has been reinforced and underlined by the rarity of changes of government over the past three decades. Many of the problems experienced both by the Thatcher and Blair governments in their early years can be traced to insufficient thought about how to prepare for office. But this is not a negative story. There are plenty of positive examples of what works, at Westminster and, particularly, elsewhere.

The focus is primarily on when the party in office changes, but much of the analysis and many of the recommendations have wider implications. Many of the preparations within the Civil Service ahead of an election could apply if the same party remains in power. Similarly, much of the discussion about preparing politicians with no experience of Whitehall for ministerial office is as relevant to the promotion of backbenchers at reshuffles between elections as it is to changes of government at elections. The whole question of ministerial development needs far more attention; how politicians familiar with being selected as candidates and elected as MPs then adapt to the wholly different world of administration and large organisations.

Seventeen general elections have been held in the UK since 1945, of which seven have seen a change of party in office. British general elections involve long-established traditions yet the handover itself – the visit to Buckingham Palace, the immediate move into Downing Street and the appointment of a Cabinet, all within two or three hours – is only part of the process. The wider ‘transition’ can span a year to 18 months before an election, and several months afterwards, involving many activities out of the public eye. Changes of government have often been preceded by preparatory work both by Opposition parties, hoping to get into government, and the permanent Civil Service¹ in Whitehall, in anticipation of a change of government. The amount of preparation done by both has varied considerably from election to election. Much depends on the wider circumstances in which a general election occurs. The economic crises before the February 1974 and March 1979 general elections undermined, and required late changes, in the preparatory work. Moreover, in both of those elections, dissolutions of parliament occurred suddenly.

Opposition parties’ preparations are also dependent upon expectations about the outcome, though the expansion of opinion polling since 1959 has not prevented some surprise results, notably in 1970 and 1992. All involved – Government, Civil Service and Opposition parties – make some judgment about the likelihood of a change, which can lead to embarrassment and rapid backtracking when the expected handover does not occur.

When a change of government happens, the former Leader of the Opposition and his or her new Cabinet will find themselves with not only the political levers of powers but also the guardianship of the full resources of Her Majesty’s Government. A new government, particularly if many of its members have not held ministerial office before, may be getting access to intelligence product for the first time and will have to learn how to use it.

General elections and the constitution

The peaceful and generally accepted handover of power from one party to another following a general election is one of the hallmarks of a democratic system. British general elections, always on a Thursday in modern times, use a first-past-the-post system and the election results come in overnight. The outcome is usually clear by the Friday morning, so that the outgoing Prime Minister is able to resign around, or just after, lunchtime, with the incoming Prime Minister and his staff entering 10 Downing Street for the first time later in the day, often only about 16 or so hours after the polls have closed.²

The formal handover from one party to another following a general election result is defined by the Sovereign’s prerogatives in the dissolution of Parliament and the appointment of a Prime Minister. These are almost the only remaining personal prerogative powers of the Monarch, as opposed to the executive prerogative powers exercised in the Crown’s name by the Prime Minister and Government, such as public appointments and deploying troops in action. In most cases, the Sovereign has merely a formal role after an election since the

¹ And to a lesser extent the Diplomatic and Armed Services and the intelligence agencies, which are also involved in developing briefs.

² An exception in the last half-century was in July 1945 when, because of the large numbers of military voters still overseas, the election results took some weeks. The most recent exception to a new Prime Minister taking over on the day after polling was in March 1974 when the failure of any party to win an overall majority in the Commons led to a weekend-long, but ultimately unsuccessful, attempt by Edward Heath to establish a coalition between his Conservative Government and the Liberals. Harold Wilson was appointed Prime Minister on the Monday.

first-past-the-post system produces a clear-cut result, so there is no dispute either that the losing Prime Minister should resign, or that the Leader of the Opposition should be invited to form the new government. The sole exception since 1945 was the absence of an overall majority after the February 1974 contest, which was resolved by the politicians without involving the Monarch. As noted later in this report, various contingency plans have been discussed about what would happen in a hung parliament when no party has an overall majority. There are now precedents, underpinned by statutory procedures, about the formation of governments in Scotland and Wales where the electoral system (a version of proportional representation) makes a single party administration with an overall majority highly unlikely and negotiations over a coalition the norm. But, in practice, the interplay of politicians determines the outcome rather than the constitutional by-ways of Crown prerogatives.³

Defining the 'transition'

It is possible to identify six phases in a UK government transition.

1. Opposition

Much depends on how long a party has been in Opposition and how quickly its leaders think it will win office again. Parties that have just been in office, such as Labour after losing in 1970 or the Conservatives after 1974, are often only semi-detached from power. Most of their leaders have recently been ministers and they are familiar with the ways of Whitehall and senior civil servants. But when parties have spent a great deal of time out of office, such as Labour in the 1980s and 1990s, and the Conservatives in the early 2000s, an Opposition mindset can become ingrained. Many of their former ministers have left the Commons or gone onto the backbenches, and the new leaders often have little experience of office.

2. Civil Service preparation

This comes in two parts: first, the traditional preparation of briefs on policy for alternative governments; and, second, the contacts with the leading spokesmen of Opposition parties (see point three below). However, any such work has to be balanced against the overriding priority to serve the government of the day. Civil Service preparation is, therefore, far more limited or non-existent until closer to an anticipated election or the election campaign period itself in the event of a sudden election.

3. The start of pre-election contact between the Civil Service and oppositions

The timing has varied from a few months to 16 months before an election. This can be seen as the formal start of preparations for government though oppositions usually start work on policy much earlier. Much depends on what the Opposition party's chance of winning a future election is perceived to be. The timing, nature, content and usefulness of such contacts have varied greatly. Moreover, the conventions for these contacts have been put under a lot of strain by the changing structure of both politics and government. The focus on Permanent Secretary/Shadow Secretary of State contacts is now only a very limited guide to what happens.

4. The election campaign

Politicians focus on winning the election and have little time or appetite for preparations for government. They also fear that any public hint of such preparations will be seen as presumptuous and counter-productive electorally. Normal government business is suspended, though the Civil Service uses the month before the election to prepare in greater detail for possible changes or a continuation of the incumbent government.

5. The election result and the handover

The formal handover of power is straightforward. As discussed above, there is usually a loser and a winner, and the Whitehall machine is adept at handling farewells and arrivals. There have invariably been contacts between the Cabinet Secretary and the 10 Downing Street Principal Private Secretary, and the Chief of Staff of the Leader of the Opposition to discuss the practical arrangements. There are questions, considered later, about the timing of such handovers but the process is smooth and works well.

6. The first few days, weeks and months of a new administration

This is the key period for the success of transitions when new and often inexperienced

³ This whole issue is discussed in Robert Hazell and Akash Paun (editors), *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall* (The Constitution Unit/Institute for Government, forthcoming, December 2009)

ministers and their advisers come to terms with the challenges of office, and the unfamiliar world of Whitehall and the Civil Service. This is when new relationships are created, pre-election policies are tested and a new minister's reputation is established. Our analysis shows clearly that early pre-election preparation pays off and the more continuity of ministers and advisers there is the better.

Who is involved in the transition?

There are three uneasy participants in the marriage – the incumbent Government, the permanent Civil Service, and the Opposition (the government-in-waiting) – with a variety of interested, and vocal, onlookers in the media, think tanks, pressure groups, consultants, business, trade unions, and so on.

The Civil, and other, services are intended to be impartial, yet loyal to the Government of the day. Trust is, therefore, fundamental between current ministers and their senior civil servants. But it has been tested, at times severely, by Civil Service preparations for an alternative government, and any contacts, approved although covert, with the main Opposition party. It is a world of ambiguity and secretiveness rather than clarity and candour.

For incoming governments, one of the greatest problems is inexperience, principally of working in Whitehall. This is even more of an issue today because of the infrequent changes in government since 1979 (only one after three changes in the 1970s – see Figure 1 on page 12). It is just as much a problem for civil servants, fewer of whom will have had much experience of a transition and, for those who joined since 1997, of a government of a different political complexion. That is more important than the political colour of the parties.

Measuring the success of a transition

The effectiveness of transitions can be measured in several ways: are the incoming Government and the Civil Service adequately prepared to be up and running soon; is the new Government able to understand and begin using the levers of power quickly; is there a hiatus as new ministers and the Civil Service take time to get the measure of each other?

Our study identifies some successes (ostensibly, for example, in the Home Office, Education and constitutional reform in 1997), but also some serious weaknesses inherent in the system of preparing for, and implementing, transitions. The 40-plus year old conventions on contacts between the Civil Service and Opposition parties have not fully taken account of changes in the structure of government. Government is no longer as monolithic as when the conventions originated in the 1960s. Permanent secretaries no longer rule all they survey; non-departmental public bodies and all the various bodies coming under the umbrella of quangos can, and do, operate semi-independently and have their own separate relationships with political parties. Some variation in practice is inevitable in view of the ambiguities of the three way relationships, the dependence on individual relationships and the inherent variations between departments. But there are many ways in which the process of transition can be improved.

A central finding of our report is the lack of institutional memory – aggravated by the long periods of one party rule over the past thirty years. We aim to remedy this by looking at the history and origins of the 'Douglas-Home Rules' covering contacts between Opposition parties and Whitehall, preparations by Opposition parties since the early 1960s, and what has happened in practice following general elections. Our research also looks at experience in comparable parliamentary democracies overseas, Scotland and Wales, UK local authorities, and the election of the Mayor of London. The report then goes on to conclude what works, and makes short-term recommendations on improvements in practice and some longer-term reflections on how to improve preparations for changes of government and ministers.

Areas not covered

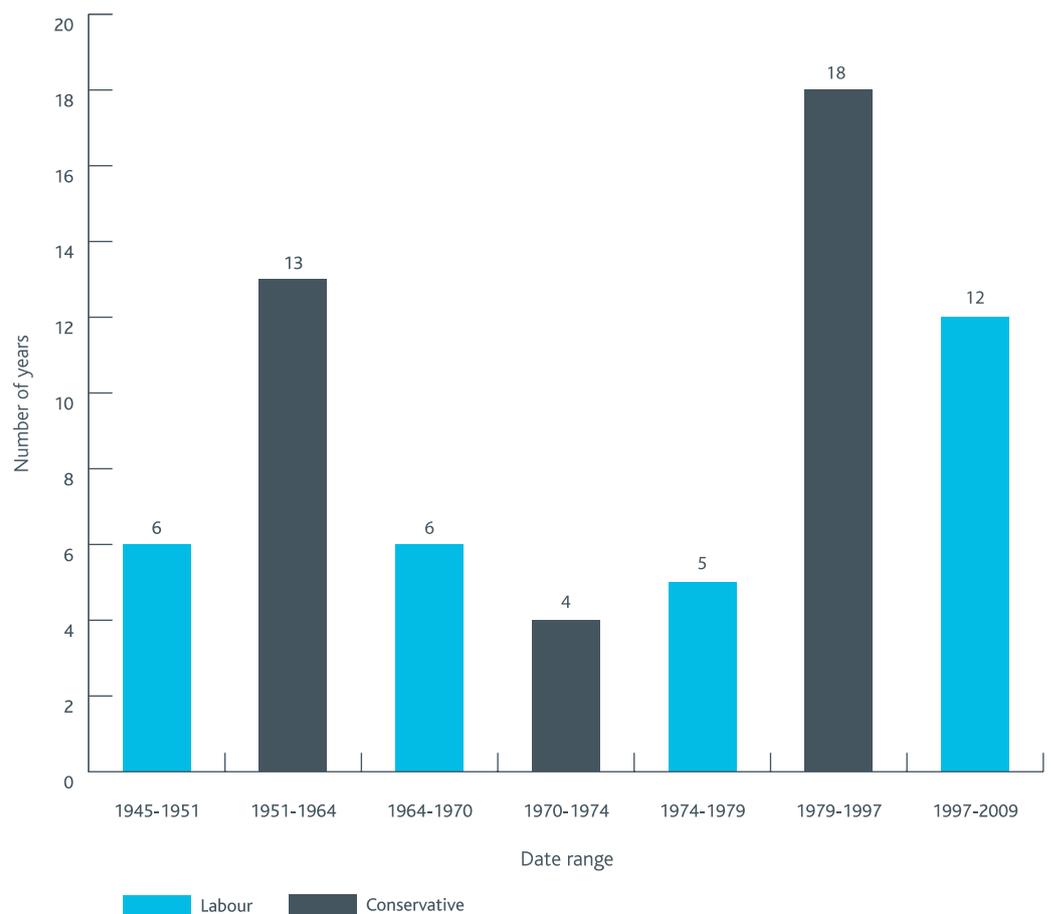
As the report's focus is on changes of government there are a number of areas relating to general elections that either do not appear, or may appear to be under-examined. We do not attempt to examine how parties try to revive and reinvent themselves in Opposition, or to discuss their general policy-making processes. This is not a report on life in Opposition, but specifically on preparing for power. Though the report has been researched and written during an election year, it makes no assumptions about the result. One of the report's messages is the need for comprehensive contingency planning and the need, particularly for the Civil Service, to be flexible and plan for a range of possible outcomes. Furthermore this is, of course, not a narrative on current election preparations.

Most of the evidence comes from looking at the prior work undertaken by oppositions that went on to form new governments. We only refer in passing to Opposition research and policy development and Civil Service preparation ahead of elections – 10 out of the last 17 – when a change in government did not occur, with the significant, and revealing, exception of the widely expected change that did not happen in 1992. The report also focuses on aspects of transitions relating to economic and domestic policy, rather than foreign policy and defence where preparations are different. We do not discuss the very important impact of long periods out of office on the lack of institutional memory over Parliamentary management and the Whips Office.

We also do not discuss the preparations made for changes in government by outside groups – a wide range of organisations including businesses, unions, pressure groups, voluntary bodies and charities – all of which have extensive contact with Opposition parties.

The report naturally concentrates primarily on the two big British political parties in the post-war period, Labour and the Conservatives. There would be much bigger transition issues if we had a 'hung' parliament and minority governments became the norm. The experience in Scotland and Wales since the first devolution elections in 1999, and especially in 2007, provides pointers to what might have to happen at Westminster. Senior civil servants have in the past, notably in 1974 and 1992, prepared contingency plans for such possibilities and will do so to some extent for the next general election.

Figure 1: parties in government since 1945



1. Before the election

This chapter is what happens before elections: the preparations by oppositions and Whitehall departments. This is the crucial time – certainly not during campaigns themselves – when preparations can be made and contacts established. This chapter examines preparations by Opposition parties, by the Civil Service, and then contacts between the two. This is not a study of the experience of Opposition, but solely on when and how preparations are made for government. The focus is primarily historical – to what has happened since the late 1960s, particularly ahead of changes to the party in power. A recurrent theme is addressing the knowledge gap between Opposition and Government. The ability, and desire, to bridge that gap depends on how strong the chances are of an Opposition party returning to government.



Source: Nicholas Garland, *The Daily Telegraph*, 26 April 1979 © Telegraph Media Group

1.1 Opposition party preparations for government

The aim of Opposition parties is to win as many seats as possible at the next general election and to be able to form a government. Everything else is secondary. In practice, the behaviour of Opposition parties depends on the political and electoral circumstances. Some parties have no realistic hope of returning to power in the immediate future: Labour in 1955, 1959, 1983 and 1987; and the Conservatives in 1966, 2001 and 2005. Parties still, however, go through the motions of policy preparations, not least to convey the impression that they are a credible alternative government. But the seriousness and urgency of the work varies depending on whether the party has a realistic chance of winning an election. This chapter concentrates on those situations.

The first modern Opposition exercise was in the late 1960s under Edward Heath. Reflecting his managerial view of government, he ordered a thorough series of reviews of policy, involving outside consultants and the advice of former civil servants and ministers from the previous Conservative Government, in addition to detailed policy work by the Conservative Research Department (CRD). They included papers on machinery of government, Civil Service reform, strengthening the Cabinet Office and how to prepare for government. A series of all-day seminar sessions were held between 15 and 26 September 1969.

“
While many people
(including politicians
and public servants)
do try to make the
distinction between
political aims and
good government
as such, I am not
sure that it is not
part of the political
sophistication of
the people of this
country that they
should be very
suspicious indeed
of the politician who
preaches such a
doctrine!
”

*Sir William Armstrong to Tony Benn MP,
2 June 1971*

These included former civil servants and ministers, journalists, academics, industry and financial experts, representatives from the United States, and members of the shadow cabinet. The seminars covered a range of issues relating to understanding the Government's capacity, the application of corporate managerial methods and policy issues. It also included United States advice on budgetary and delivery questions. All of this preparatory work came to the attention of the Civil Service. The amount of material obtained by the Civil Service, including the programme of seminars and all the reports, shows the degree of effort in identifying Conservative policy and plans. As the historian Professor Peter Hennessy has described, 'it was rather akin to Kremlinology, learning about personality and policies at several stages removed: a paper intelligence for a paper culture'.⁴

The Heath experience can be seen in retrospect as being too detailed and too rigid. David Howell was closely involved as a young MP working with Mark Schreiber in the Public Sector Research Unit under Ernest Marples examining how to improve the structure of government. In office, only some of their ideas were implemented, such as the eventual creation of agencies to deal with employment and defence procurement, but they were often in different forms than had been proposed in Opposition. A Central Policy Review Staff (CPRS) was set up but put in the Cabinet Office, not in 10 Downing Street, on the insistence of Sir Burke Trend, the Cabinet Secretary. As Howell put it, the line from Sir William Armstrong, then Head of the Home Civil Service was 'so glad you have done all the work. We've been thinking similar thoughts and tried some of these ideas which haven't worked'. The embrace of Trend and Armstrong isolated Heath and neutralised some of the proposed changes. This is leaving aside the later u-turns in fiscal and industrial policies.

The Conservatives adopted a very different approach when they were in Opposition again after 1974. A group under Adam Ridley, deputy head of the CRD under Chris Patten, produced a paper entitled 'Preparation for Government'. Its purpose was 'to review the action which a prospective government should take before coming in to power and to identify any problems which might be encountered or advantages gained in the early days in office'. This discussed in detail the machinery of government and how 10 Downing Street should be organised, the future of the Central Policy Review Staff, the organisation of the legislative programme and early priorities. It recommended the preparation of ministerial dossiers and contingency plans in case of a hung parliament. Its work was very much for the eyes of Margaret Thatcher, Sir Keith Joseph and Sir Geoffrey Howe.

Ridley recorded the influence of the 1970 election in his 'Preparation for Government' report:

It is interesting that officials, too, believe it harmful if a party arrives in office with too many detailed commitments such as the Industrial Relations Bill of 1970. They will often be able to improve proposals, if allowed to do so, in ways an Opposition has not the expertise to consider fully. And naturally they see very clearly the political complications which follow from restricting an administration's freedom to negotiate and compromise by firm pledges given in Opposition.⁵

Howell notes that proposals were less detailed, in public, and there was more focus on the battle of ideas. If the fault of the Heath team was being too technocratic and leaving out the politics, the Thatcher team was focused primarily on the politics rather than the managerial

It was the fact that *The Right Approach* [published in 1976] concentrated on the big general arguments, restating what differentiated our approach from that of socialism, that made it the success it was.⁶

This reluctance to get into too much detail was partly because of continuing disagreements within her Shadow Cabinet on issues such as incomes policy and industrial relations law. But the problem of devising policy in detail before entering government was a further reason for her caution about overly-detailed policy commitments ahead of the 1979 election.

However, extensive research and debate over future policy was undertaken even if many of the studies, such as on what later became known as privatisation, remained private. Indeed, there were various groups, both officially under the direction of the Shadow Cabinet by the CRD, and unofficially, under the patronage of Thatcher and Joseph, with the 'Stepping Stones'

⁴ Peter Hennessy, *Whitehall* (London: Pimlico, 2001), p.283

⁵ Churchill Archives Centre (CAC), THCR 2-6-1-194, 'Papers relating to preparations for Government, January 1978-[May] 1979', Adam Ridley, 'Preparation for Government', Spring 1978

⁶ Margaret Thatcher, *The Path to Power* (London: Harper Collins, 1995), p.317

initiative of John Hoskyns, then an unofficial adviser but later head of the Downing Street Policy Unit. Stepping Stones was a plan to reverse Britain's economic and industrial decline, though the main influence of Hoskyns was on the debate about trade union reform. The Centre for Policy Studies, set up by Joseph and Thatcher in 1974 in reaction to the failures of the Heath years, was also influential. The work done on public expenditure planning ahead of 1979 forms one of the case studies in Chapter 3.

When Labour went into Opposition in 1979, its priorities for a long time were survival rather than serious preparations for government. Even in 1987, eight years after losing power, Labour was primarily in a defensive mode, eliminating negatives on Europe, defence policy and the economy, rather than getting ready for office. In the late 1980s, a more serious attempt to produce policy was launched by Labour leader Neil Kinnock, with reviews consisting of leading parliamentarians and trade unionists (including one by Tony Blair on industrial relations law which helped make his name). Future Labour Cabinet ministers, Charles Clarke and Patricia Hewitt, both then on Kinnock's staff, were closely involved. Yet this work was only half-completed by 1992, as both Blair and Brown privately acknowledged at the time. An attempt was made to put Labour policymaking on a professional basis with the foundation and launch in 1988 of the Institute for Public Policy Research (IPPR), though the main fruits only came after the 1992 election, notably in the work of the Gordon Borrie Commission on Social Justice which produced a lot of the ideas for restructuring welfare and social services which were implemented after 1997.

“
Parties come to power with silly, inconsistent and impossible policies because they have spent their whole period in opposition forgetting about the real world, destroying the lessons they learnt in government and clambering slowly back on to the ideological plain where they feel happiest.
”

Sir Adam Ridley, RIPA Report, Winter 1985

One of the biggest changes since the 1970s has been the expansion in the number of think tanks and policy institutes, both non-partisan ones like the Institute for Fiscal Studies and more partisan ones such as the IPPR and Policy Exchange. Each period of Opposition tends to see the foundation of new partisan think tanks with close ties to the 'reforming' leadership of the parties. Some of the staff have had brief experience of government, but seldom at a high level. So while the profusion of policy proposals may have expanded the market-place for ideas, and broken the quasi-monopoly of policy thinking previously enjoyed by Whitehall departments, it has not bridged the knowledge and experience gap. The ideas have not been tested for how, and whether, they would work in practice. More significant in their impact has been the role of management consultants who have worked inside government and the advice of former civil servants.

The involvement of the former permanent secretaries is important but ambiguous. In many cases, such as, say, in the post-2005 'Better Government Initiative' and in the private advice of former cabinet secretaries, their role is primarily altruistic, to help improve the way government operates, not just for the Opposition but generally. This spills into direct advice for Opposition parties, especially when they look like winning the next election. Former permanent secretaries can supply experience and greater candour than current officials (in the limited contacts discussed in section 1.3). But there are risks: defending their own legacies, pushing their own pet views and, of course, they can get out of touch after a few years (also the danger with former chiefs of the defence staff and retired law lords). In general, the involvement of retired senior civil servants is a definite plus, but that is partly because consultations with current civil servants before an election are so limited.

The key stage in Labour preparations occurred from 1992 until 1997. John Smith, the Leader of the Opposition, was cautious about making new policy commitments, though he did inspire most of the main constitutional pledges, as discussed in the later case study in Chapter 3. After Smith's death in 1994, Blair inaugurated a more thorough exercise. The aim was primarily, of course, to make Labour electable again, hence the overtures to business and the media. But, as Labour's electoral prospects began to improve, more outsiders began both to support what became known as New Labour and to be willing to provide help and advice. This helped to bridge the gap but only to a limited extent given the increasing lack of direct familiarity with the workings of Whitehall the longer that Labour was out of office.

Jonathan Powell, a middle ranking diplomat then working in the British Embassy in Washington, was recruited as Chief of Staff, starting in January 1995. Part of his role was to introduce some order and structure for Blair himself. Early in 1996 he talked to Clarke, Hewitt (neither then MPs) and Sir Nicholas Monck, a recently retired Permanent Secretary. They met each month to discuss preparations and from this group came the idea of training shadow ministers. This was to address the problem that virtually no one in the Labour leadership had direct experience of government. Hewitt, former press secretary to Kinnock and briefly at the IPPR, was working at Andersen Consulting, later Accenture. The firm was doing quite a lot of behind the scenes work for Labour – a pattern which would be repeated

amongst consultancy firms after 2005 with the Conservatives. The firm's government practice was keen to get to know those involved and to build relationships with those who were generally expected to be in office soon. Hewitt had discussions with Powell about the need for training, also involving Keith Ruddle, who provided a link between Andersen and the, then, Templeton College at Oxford. This led to a bid and a pilot weekend, with refinements made for later sessions. The planning focused on what would help shadows to understand what it would be like to be a minister wrestling with the system. Hewitt held interviews with members of the Opposition team about their perceptions ahead of the Templeton session in 1996.

The outcome was, however, disappointing. The consultants sought to get across how long everything takes in government: policymaking, consultation both inside and outside Whitehall, then a bill. Then implementation could take another year or two, so the whole process could take close to the length of a whole parliament. The Labour participants, few of whom had ever run anything or worked in a large company or organisation, were sceptical. Their line, based on their largely media-driven experience in Opposition, was 'we make decisions, then it happens'. According to Hewitt, there was one session with a senior private sector businessman who had turned a big company around. He explained about transformational change in big organisations. At the end of the session, one Labour spokesman questioned privately what the point of it all was:

What has the private sector to teach us – what have we as politicians got to do with changing organisations: it is a matter for the permanent secretary and officials to run departments – we decide policy.

At that stage, and in several cases later, these ministers-in-waiting did not see themselves as being in charge of big departments and directing change. This illustrates the big gap in thinking between being a spokesman in Opposition and a minister in Government – and the limits of training beforehand. The aim was to get their minds into gear to understand what being a minister involved. As one close adviser to Blair has remarked:

The sessions were never about training to be good managers; they were more about giving them a bit of a shock about how different it was going to be to run something as opposed to just their mouths.

Two or three other sessions were held, and there was input from former senior civil servants. But the overall conclusion of those involved was that the sessions did not fulfil earlier hopes. Revealingly, neither Blair nor Brown came, and so did not benefit from this particular opportunity to learn about how big organisations work.

A parallel exercise was run by the Fabian Society, more focused on how Whitehall works and involving former permanent secretaries, such as Sir Frank Cooper and Sir Terry Heiser, and close observers such as Peter Hennessy. This covered the nuts and bolts of being a minister, how a private office is run, and the nature of a public spending round. This was more political and based around the themes of Gerald Kaufman's entertaining book, *How to be a Minister*, which originally appeared in 1980, shortly after Labour lost office, but was re-issued in a new edition in 1997.⁷ In a sense, this was an upgraded undergraduate course on politics and the constitution, but again no substitute for direct experience of being a minister, or contact with current participants. Moreover, such acclimatisation/preparatory sessions should not just involve members of the Shadow Cabinet but also more junior spokesmen and special advisers. The role of special advisers is critical. Both then, and more recently, special advisers have come into government to occupy important roles close to ministers, with little prior knowledge of how Whitehall and Parliament works, or even rudimentary preparation.

1.2 Civil Service preparations for a possible change in government

One of the most traditional and unchanging parts of pre-election preparations is by the Civil Service. Towards the end of a parliament (always a matter of guesswork in the absence of fixed terms) permanent secretaries order preparations in case of a change of government. In addition to getting ready for the formal procedures required for an election, the Civil Service have in the past also undertaken two other forms of anticipatory work partially focused on the possibility of a change of government:

⁷ Gerald Kaufman. *How to be a Minister* (London: Sidgwick and Jackson, 1980), and (London: Faber and Faber, 1997)

- The preparation of briefs about departmental activity for either an incoming or returning government and (primarily for a new Prime Minister) significant issues requiring immediate attention – usually of a security, defence and economic nature.
- Work anticipating likely policies of Opposition parties in case of a change of government and possible machinery of government changes.

Briefing papers

In February 1974 the list of briefs for the Prime Minister ran to 15. They were on the Cabinet Office, intelligence arrangements, three foreign policy issues (and two EEC ones separately), defence (including ongoing development on the nuclear deterrent and on Diego Garcia), terrorism, Concorde, and housing. There were also several briefs on issues relating to economic matters which included the 'Return to Normal from the Present Emergency', the economic situation, pay and prices and energy policy. In 1979, there were 12 subject-specific briefing papers prepared for Thatcher which included a paper on the timing of the budget (the election period included April so an interim budget was required) and the continuing crisis resulting from industrial action. In addition, each new Cabinet member received a major brief on their departmental responsibilities.

There is also a paper produced for the Cabinet Secretary to go through with the Prime Minister on the first day (see Panel 3 on page 35). Departments also prepare their own briefing papers, both on the departmental structure and its work; and on specific subjects. The quantity and variety of these papers has varied, particularly depending on the amount of time available. In some cases, such as in February 1974, ministers receive general briefing papers on urgent issues (pay policy and energy). Exactly the same approach has continued since then, our various former permanent secretary interviewees have confirmed, though with some scepticism, as noted in Chapter 2, about whether they have been read by incoming ministers.

Anticipating policies

Preparation based upon attempts to predict the likely policies of a new government has only been undertaken in a more formal manner in the last 40 or so years. In 1964, piecemeal work was undertaken, particularly on possible machinery of government changes such as the creation of a Department for Economic Affairs (DEA). This was partly because of the thirteen years in which Labour had been out of office and the consequences of this in terms of Labour's experience of office, but also because of the change Labour appeared to want to undertake in Whitehall.

In 1964, 1970 and 1974 much of this work was necessarily based on manifestoes, public speeches, newspaper clippings and, quite frequently, internal party documents and copies of reports that civil servants had obtained (as occurred extensively regarding Heath's plans before the 1970 election). Of course civil servants can often interpret the real meaning of public statements of policy, and permanent secretaries have sought out the details of Opposition plans which have not been made public. As Sir Burke Trend informed the Conservatives in the late 1970s, the danger is that material for public consumption, or for electioneering, is taken at face value. From the opposite angle, Powell, as the new Downing Street chief of staff, complained after the 1997 election that civil servants had taken some of Labour's pre-election commitments too literally.

From 1968 Civil Service work on preparing for a change of government was particularly helped by having a body able to focus on such efforts. The Fulton Report on The Civil Service in 1968, led to the creation of the Civil Service Department (CSD),⁸ which was able to focus more resources on preparation for changes of government. This involved coordinating briefs for incoming ministers, developing Civil Service responses to Conservative plans and considering possible machinery of government changes well in advance of the election. The CSD would play a similar role in 1974, self-consciously reflecting upon the quality of their work pre-1970 and undertaking an unambiguous 'lessons-learned' process. The abolition of the CSD in 1981 led to this work being taken on by the Cabinet Office.

In 1979, as before 1970, certain civil servants, particularly in the Treasury, made a deliberate effort to discern Conservative policy and plans but they were often dependent upon public material and informal meetings. Ridley, as a former civil servant, attached specific importance to giving the Civil Service a fuller appreciation of Conservative thinking than just

⁸ Cmnd. 3638, *The Report of the Committee on the Civil Service* (London: HMSO, 1968)

the manifesto. One of the problems is that oppositions have understandably often wanted to keep some of their work and their ideas confidential. In 1979, the Thatcher Government kept secret the details of its detailed proposals to shift taxation from earnings to spending, though, as noted later, Sir Douglas Wass was told during the campaign. In 1997, Labour sought to keep secret its plans to make the Bank of England independent. In both cases, Whitehall departments coped.

Countering this problem was part of the reasoning behind pre-election contacts between oppositions and civil servants (see Panel 1). It was noticeably easier to do this in the 1960s and 1970s when there were frequent changes of party in control and Opposition spokesmen had been ministers only a few years before and were known by civil servants. For instance, Wass, as Treasury Permanent Secretary, had known Howe, the Shadow Chancellor, from the days of the Heath Government only a few years earlier when they had met at Chequers weekends in the planning of incomes policy. When Wass and his senior officials saw Howe, and Conservative spokesmen and advisers at conferences, meetings or social occasions, they were renewing acquaintance rather than introducing themselves for the first time. This was common at the time. Wass had, unusually, expressed obvious scepticism about monetary policy in a public speech, prompting a response from Howe. But following this exchange, Wass and Howe met each other for lunch and, despite their ideological differences, turned, in Howe's words, 'a friendly truce into a potential for working rapport'. This was in contrast to the absence of a working rapport⁹ between Gordon Brown and the Treasury Permanent Secretary, Sir Terry Burns, 18 years later, underlining the importance of personal relationships. The differences of view over policy meant, however, that, as Chancellor, Howe increasingly turned to other officials for advice, notably Peter Middleton and then Burns himself when he became chief economic adviser in 1980.

“
The manifesto is designed to persuade voters to support us, not as a briefing document for the Civil Service. So there are bound to be important gaps in it.
”

Sir Adam Ridley, *Preparation for Government*, 1978

Familiarity has naturally decreased with the recent, much longer, intervals between changes in government. In 1997, few permanent secretaries and senior civil servants had worked with, or knew, members of the Opposition frontbench – and the same applies now. At a social level too, there is less meeting on common ground, at clubs, parties and the like, than in the past. Charles Clarke, the son of a leading civil servant of the post-war era, argued, in a memorandum to the Treasury and the Civil Service Committee's inquiry into the Civil Service in 1993-94, that:

Opposition politicians do not, in general, move in the same circles as senior civil servants. They do not meet socially, they are not members of the same organisations, and the long absence of any professional relationship in government means that there are few continuing personal friendships.¹⁰

There is a gap which requires direct contacts to bridge.

1.3 Contact between oppositions and civil servants

The most sensitive feature of preparations is the contact between Opposition parties and senior civil servants. It is sensitive because of the inherent constitutional ambiguity of civil servants talking to Opposition MPs when their duty is to serve the ministers of the day. So there is bound to be an element of subterfuge and secrecy. That has been both the strength and weakness of the arrangements as they have evolved since the mid-1960s. These, it should be stressed, are completely separate from the occasional meetings on Privy Council terms between the Prime Minister and other senior ministers and the Leader of the Opposition and senior Opposition spokesmen, on defence and security issues (covering, in particular, Northern Ireland and terrorism). Leaders of the Opposition have also been briefed by the chiefs of defence staff and the heads of the intelligence agencies, and have had contacts with Buckingham Palace. But these – and any ministerial briefings between elections – are different in content and form from the pre-election meetings that solely involve civil servants.

Panel 1, on the origins and early development of the 'Douglas-Home Rules', shows that contradictions were built in from the start as the arrangements developed in an ad hoc way relying heavily on individual interpretation by permanent secretaries and shadow ministers rather than any coherent overall strategy. The underlying assumption has been 'don't tell' and 'don't embarrass'. In brief, the convention, as set-out in the 2000 *Directory of Civil Service Guidance*, states that towards the end of a parliament, or when a general

⁹ Geoffrey Howe, *Conflict of Loyalty* (London: Macmillan, 1994), p.109

¹⁰ Treasury and Civil Service Committee, *The Role of the Civil Service* (HC 27-I, 1993-94)

election has been called, the Prime Minister authorises special arrangements under which Opposition spokesmen may have contacts with senior civil servants without ministers having the right to be privy to the content of their discussions.¹¹ These contacts are intended to focus on preparing for major changes in the machinery of government, but shadows may let department officials have some idea of their plans, to enable changes to be made as smoothly as possible if the election results in a change of government. The Cabinet Office has acted as a central information point to which the timing and nature of all contacts should be reported by permanent secretaries.

“
What would be the effect on the morale of the Party if they thought that the Prime Minister was conniving at the Civil Service, preparing the Labour Party for the responsibilities of government? This really is the opposite of ‘justice’: it perhaps ought to be done but it certainly mustn’t be seen to be done.
”

*Tim Bligh to Alec Douglas-Home,
22 April 1964*

Panel 1: contact between oppositions and civil servants: the ‘Douglas-Home Rules’

Leaders of the Opposition and senior opposition MPs elevated to the Privy Council will have some access to, and understanding of, the major defence and security issues of the day. Leaders of the Opposition can also have meetings with the heads of the intelligence agencies and pre-election contacts with Buckingham Palace. Contact meetings between the opposition and senior civil servants prior to an election are also allowed more generally in the run up to an election. The process is initiated by the Leader of the Opposition but has to be approved by the serving Prime Minister and with limits placed on their timing, number and content. The convention for pre-election contacts, ‘the Douglas-Home Rules’, is based on a precedent that occurred in 1964 during the premiership of Sir Alec Douglas-Home and was consequently attributed to him, but it might equally have been credited to the *fait accompli* performed by the Labour Deputy Leader George Brown. The issue arose after Brown had already made several approaches to the Treasury’s two permanent secretaries, Sir Laurence Helsby and Sir William Armstrong, about Labour’s plans for a Department of Economic Affairs. On 22 and 27 April 1964 the Prime Minister’s Private Secretary, Sir Tim Bligh, wrote to Douglas-Home to warn him of these contacts and that:

Brown armed with some papers [...] had a private talk away from Whitehall with Sir William Armstrong. Helsby wanted you to know of this in case you heard a possible exaggerated version from some other source.¹²

Douglas-Home’s views are not in the files, but Bligh seems to have seen the Prime Minister’s approval of the consultations as necessary:

The Civil Service are servants of the Queen and serve the Government of the day. They cannot also serve the Opposition. But there is a real problem here and the Nation’s well-being might be seriously affected and this is because a newly elected Prime Minister has, in practice, very little time to form an administration [...]. There is every possibility of a hasty ill-thought out decision being taken which might, as well as redounding to the discredit of the new administration, do real harm to the country.¹³

There was no specific written approval given by Douglas-Home, but a note by Bligh suggests it was given and specified that they be ‘discreet’ and ‘on a factual basis’. Most importantly, it was noted that the Prime Minister ‘must know nothing whatsoever about this’, despite having already been briefed on it.¹⁴

confidentiality, this last suggestion was because these contacts and Douglas-Home’s approval of them could be misconstrued if they became public. This intentional ignorance was to maintain plausible deniability. Concerns that such contacts would undermine the Civil Service’s impartiality have resurfaced periodically since 1964. The contacts have frequently been viewed as blurring the line between preparing the Civil Service for a change of government, and assisting the opposition in obtaining power in the first place.

There is also little reason to describe the precedent at this stage as a set of ‘rules’. It was only as the issue became more politicised, as Douglas-Home feared, that greater formalisation occurred. When roles were reversed in the run-up to the 1970 election, the Conservatives under Edward Heath sought to remind Prime Minister Harold Wilson of the precedent.

¹¹ Cabinet Office, ‘Directory of Civil Service Guidance. Volume II Collected Guidance’ (Cabinet Office, 2000) http://www.cabinetoffice.gov.uk/media/cabinetoffice/propriety_and_ethics/assets/csg%20vol2.pdf

¹² The National Archives (TNA), PREM 11/4834: Tim Bligh to Alec Douglas-Home, 22 April 1964

¹³ *Ibid.*

¹⁴ *Ibid.*

In April 1970 newspaper reports suggested that Wilson was preventing the Conservatives from meeting with senior civil servants and that this was in direct opposition to the access Douglas-Home had granted. In reality, the problem had arisen over Conservative MP Eldon Griffiths' attempt to meet with senior policemen. The correspondence between Heath, Wilson and Callaghan, the Home Secretary, is greatly revealing, not only of the fevered political atmosphere, but also the way in which the both sides sought to make political capital out of the consultations. Wilson attempted to clarify matters through an announcement in Parliament on 21 April 1970 and subsequent discussion in Cabinet.¹⁵

There was a clear effort, emanating from Wilson, to track all contact and ward against any improper activity, to maintain some control over this process. This was seen in the 23 April Cabinet minutes, and subsequent correspondence whereby senior civil servants detailed all contact between themselves and opposition MPs. As a result, Sir William Armstrong, Head of the Home Civil Service, provided the first guidance on the matter, advice that has been dusted off by cabinet secretaries ever since and which forms the backbone to the latest incarnation. The two main facets of this guidance reflect the main concerns of 1964 and 1970. First, it established responsibility for their authorisation and the ability to track such contacts. Second, it emphasised the distinction between machinery of government consultation, which was allowed, and policy advice, which was not.

The precedent led to the specific idiosyncrasies of 1964 and 1970 becoming ingrained. The limited scope of the talks, the danger of them being viewed with suspicion by members of government, and in this leading civil servants to be extra cautious in their application, has often led to varied perceptions of their usefulness, with some oppositions finding them to be close to useless. Ridley expressed this in a paper prepared for the Conservative opposition in 1978:

Such formal if limited discussions would be of great value as an election approaches and if permission for them can be obtained. But in our view it would be just as valuable to develop informal private contacts with senior civil servants on a strictly confidential basis. An effort should be made to identify key areas where such informal meetings should be promoted.¹⁶

Ridley feared, as was found in 1970 and has been subsequently, that asking for formal contacts could undermine the informal ones that exist as 'in all probability a pretty stiff circular would be issued to all senior officials warning them not to make or respond to any approaches to or from us'.¹⁷

In 1970, the limited contacts that occurred were not as significant as the political fall-out from Heath's initial request for them. This was partly because of continuing informal contacts in other places, and because of the relative experience of Heath's team.

In his note on pre-election contacts in January 2009, Sir Gus O'Donnell, the Cabinet Secretary, stressed that permanent secretaries should be in 'listening mode' and talks should concern 'factual questions of departmental organisation, and to inform senior officials of any organisational changes which would stem from Opposition policies'. Moreover, 'civil servants should not disclose confidential Government policy/plans, discuss current Government policies/plans, or give policy advice to the Opposition. It is an opportunity for Opposition spokesmen to give senior civil servants any information they wish to provide on their policies'. None of these phrases are as straightforward as they might seem and they have, in practice, proved to be inadequate and full of ambiguities.

The key issues are outlined here.

Timing

The absence of fixed term parliaments has meant a very uneven practice about when contacts begin. In 1979 confusion and disruption caused by 'Winter of Discontent' strikes limited contacts ahead of the election. The initial understanding that contacts could start six months before the end of a full five-year parliament meant that, if a general election was held after four years, as in 1983 and 1987, then any meetings would only occur during

¹⁵ House of Commons (1970), *House of Commons Debates*, *House of Commons Weekly Hansard*, 800, 21 April, cc243-54 Deb.; TNA, CAB 128/45, Cabinet conclusions, 23 April 1970

¹⁶ CAC, THCR 2-6-1-194, Ridley, 'Preparation for Government', 1978

¹⁷ *Ibid.*

the campaign after an election was announced. There were virtually no contacts in 1983 and only very limited ones in 1987 – just during the May/June period of the campaign itself. In any case, Labour was seen as having no chance of winning either election. Of course, when the governing party is in trouble, the parliament tends to run to nearly its full five-year length, as in 1959-64, 1987-92, 1992-97 and 2005 to, probably, 2010. Ahead of the 1992 election, there were extensive contacts even under the six-month convention starting in January of that year. But John Major had refused a request from Neil Kinnock for the process to begin earlier in 1991.

Sir Robin Butler, the Cabinet Secretary, was keen to keep in touch with the Labour Shadow Cabinet and briefed them in November 1991 on the 'Next Steps' initiative, which involved the creation of executive agencies. However, a session with Butler did not go quite according to plan thanks to John Prescott having imbibed too much, on his own admission, at the annual Spectator Awards:

It so happened I had to go to a meeting of the Shadow Cabinet being chaired by Kinnock, at which we were going to be addressed by the cabinet permanent secretary. The thinking was that we should know the inner workings of the Cabinet, in case we ever got elected.¹⁸

Kinnock's office tried to sober Prescott up but in he stumbled, only to proclaim:

I know I'm pissed, but I first want to ask one question – why do I want some permanent cabinet secretary telling me things? I'll find out soon enough when we're in government.¹⁹

Prescott was then escorted out, but the episode illustrates, however crudely and unintentionally, the gap in understanding still to be bridged, and in some cases never bridged.

Following the 1992 election Butler suggested that the timetable for pre-election contacts should be relaxed, and after discussions with Kinnock and Clarke, the departing Leader of the Opposition wrote to Major, who agreed that 'confidential exchanges between senior civil servants and Opposition spokesmen' could begin from January 1996, that is 16 months before the end of the parliament. That would have permitted contacts for at least a few months even if the election had occurred after four years in the spring or early summer of 1996. As it was, since the election did not occur until nearly the end of the five years, contacts were long and extensive. The 16-month guideline has continued since then as Blair authorised contacts from January 2001, ahead of the June 2001 election, and from January 2005, ahead of the May 2005 election. In both cases, they were compressed, though, as in the 1980s, neither the Conservative Opposition nor permanent secretaries expected a change of government. In December 2008, Brown agreed to a request from David Cameron, the Conservative Leader, for discussions to take place from January 2009. The Liberal Democrats have also been given the same opportunities. Based on his experience as Kinnock's chief of staff in two elections, Clarke suggested the process of contacts and briefings should start no later than three and a half years after a general election. This would help, though it would leave a very long period if the parliament ran to a full five years. The risk of earlier contacts is a lack of purpose or sense of urgency compared to when an election is nearer at hand. The inherent problems of uncertain timing have not been fully addressed, and perhaps cannot be unless parliaments are given a fixed term.

Authorisation

The decision on whether to authorise talks lies with the Prime Minister of the day following a request from the Leader of the Opposition. While Blair and Brown have followed Major's post-1992 practice, this is, in theory, still discretionary rather than automatic. There is a strong case both for clarifying the timing and for making the Cabinet Secretary responsible for the timing, in order to remove the process even further from the hands of current ministers.

Where and when

The management of contacts depends in part on the attitude of the incumbent secretaries of state. Most take a relaxed view, believing that it was desirable for the main Opposition party to be briefed properly, provided they remain confidential. Michael Portillo, the Defence Shadow, was relaxed about Sir Richard Mottram, his Permanent Secretary, talking to the Labour shadow team. This enabled Mottram to hold meetings over lunch in his Ministry of Defence office, rather than furtively elsewhere. But some ministers are prickly, and worried

¹⁸ John Prescott, *Prezza: My Story – Pulling No Punches* (London: Headline Review: 2008), p.167

¹⁹ *Ibid.*

about being treated as losers on their way out. The legacy of the 'don't tell' origins of the convention still permeates the contacts. The aura of a Feydeau farce and the mysteries of a Le Carre thriller have never been far away. After the early contacts that Butler established with Powell, a dinner was arranged in early 1996 at the home of Roy Jenkins for Blair to meet Butler and some leading permanent secretaries, including the main candidates for the post of Cabinet Secretary. But, in order that they would not be spotted entering the Jenkins home, they were told to arrive at five to ten minute intervals, presumably to confuse any Whitehall-watching paparazzi. So eminent knighted permanent secretaries could be seen wandering the streets of Notting Hill looking at their watches to see when it was the time to enter the Jenkins home, without even the distractions of spotting Julia Roberts or Hugh Grant. It was apparently an awkward occasion, as such inspections can be, which underlined how little Blair knew about the ways of Whitehall.

As part of the 'don't embarrass' policy, meetings between permanent secretaries and Opposition shadows were supposed to be conducted away from the eyes of ministers. This involved a lot of ingenuity and an element of farce. Permanent secretaries have quietly looked at a secretary of state's diary to see when he or she is out of the office to avoid potential embarrassment, and then arranged meetings. Sir Andrew Turnbull, then Permanent Secretary at the Environment Department, had to meet John Prescott away from London in Doncaster to maintain secrecy. Frank Dobson was shadowing Environment but Blair planned a super-ministry, also including Transport, in order to give a big job to Prescott, his deputy. Butler, who, in turn, had heard from Powell in Blair's office, had told Turnbull of this plan. But Turnbull had to go through the charade of meeting Dobson, who anyway had an inkling of what was likely to happen, as well as seeing Prescott. The whole affair was full of problems (how many Cabinet ministers and permanent secretaries should be in the enlarged department?) that were eventually and sensibly sorted out.

There are no guidelines about how many meetings there should be. Butler remembers at the weekly meetings of permanent secretaries how some of his colleagues were disturbed by the variable experience: 'Why is my Shadow not in touch with me?' Others did not take the procedure as seriously. Similarly, Opposition spokesmen vary between the wary and difficult and the eager and assiduous, with one or two infuriating permanent secretaries by their persistence, and lack of understanding of the limits of the convention. In practice, the contacts are more like a slow courtship, an initial 'getting to know you' period, some practicalities about how a minister's life is run, and then, as the election, approaches, more detail. Timing is bound to vary. Some permanent secretaries argue the earlier the better. Others are against premature meetings since Opposition parties do not want to disclose their thinking too early. While much depends on the individuals, and the departments involved, this is again a case where the absence of clarity and co-ordination, on both sides, can create problems and misunderstandings.

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Permanent secretaries agree that they should not be giving advice before an election. But the official focus on the organisation and machinery of government contains ambiguities and is too restrictive. Many new policies, such as the New Deal or human rights legislation, involve organisational changes in departments. Of course, there are ways round; as one former Permanent Secretary put it: 'You can ask questions and lay out five pages of analysis without the final page of conclusions.' There is bound to be a mutual process of education. A consistent theme in conversations with both former and current senior officials is their desire to warn possible future ministers of the pitfalls ahead: about the difference between how initiatives get on to the front page in Opposition, and how policy emerges in government. How, one former official asked, do you convey to a new government that policies developed in Opposition will not work as stated, and need development, without appearing obstructive? Similarly, officials are keen to suggest that the right way to introduce a bold new initiative might be to run a pilot project first. But there are no mechanisms at present to convey such warnings except through retired senior officials, as, in practice, happens.

Permanent secretaries feel the need to say something when an Opposition party is demonstrably going in the wrong direction or, for example, should take legal advice. For example, during the 2005 election, one Permanent Secretary was worried that the Conservative Party's James Review of potential savings in his department had major flaws, which risked creating unrealistic assumptions and would, therefore, restrict the then Conservative shadow if he took office. The Permanent Secretary could not advise him, but he could, and did, raise questions, which allowed the Shadow to work out the implications

on his own. This area of efficiency savings was within the broad scope of departmental organisation, and the discussion was intended to protect him from making false assumptions and narrowing his options.

The pre-election contacts can also be the first time that a Shadow minister and their potential Permanent Secretary meet. Building relationships is an extremely important part of the process; they may find themselves working extremely closely together for some years. There also needs to be an element of good faith and awareness of the need to build trust. Shadow ministers with little or no experience of government may need to ask questions of the most basic kind about how government, the department and their private office will operate.

During pre-election periods, problems have arisen over appointments to chair or run leading public bodies whose terms could easily run several years into the life of a new government. Charles Clarke, Kinnock's Chief of Staff, highlighted the dilemma in his memorandum to the Treasury and Civil Service Committee's inquiry in 1993-94. In some cases, the Prime Minister did speak to the Leader of the Opposition, though the consultations were purely formal since 'because of the requirements of confidentiality, the Leader of the Opposition will normally have no means of assessing (other than through gossip and innuendo) alternative candidates, including the individual whom the Prime Minister intends to appoint'. It is also unclear what would happen if the Leader of the Opposition refused to endorse a particular nominee. Clarke gave the examples of the appointments of a new Lord Chief Justice and a new Permanent Secretary to the Treasury. Consequently, he argued that 'a clear system of criteria for Opposition involvement in senior state appointments needs to be established. In part, this problem has been addressed by the development of the Nolan procedures for making public appointments to a wide range of quangos and the like which require decisions to be taken on a non-partisan basis by independent panels. Meanwhile, the Judicial Appointments Commission now selects judges. Many appointments are also now subject to hearings by Commons select committees, though they do not have a veto. The Commons itself, after formal consultation with the party leaders, makes some appointments, such as the Chair of the Electoral Commission. But an important area remains of appointments made by the Prime Minister in the name of the Crown which could have a big impact on an incoming Government, such as the Cabinet Secretary and Chief of the Defence Staff. A Leader of the Opposition may feel compromised if his or her views/consent are sought, when the power lies with the Prime Minister. All this underlines the need for a review of the whole area of senior public appointments in the six months before an election.

Participants

The official emphasis has always been on permanent secretaries and members of the Shadow Cabinet rather than further down the hierarchy. These have remained the initial points of contact, but increasingly other people have become involved. Permanent secretaries have often included other senior civil servants, while special advisers have accompanied Opposition spokesmen. At one level, it has always been true that successive chiefs of staff to Opposition leaders (Charles Clarke, Jonathan Powell and Ed Llewellyn) have been the main day-to-day links to the Cabinet Secretary. But, as Chapter 3 shows, special advisers who met the relevant permanent secretaries, such as Ed Balls and Michael Barber, have played crucial roles. Their role is not yet properly acknowledged. The official guidance also needs to be re-thought to take account of the need for permanent secretaries to engage other officials and their departments as a whole in the process of change. There are also cases of middle-ranking civil servants developing unofficial and unauthorised contacts with Opposition spokesmen and advisers whom they either know or meet socially. Departments have to do a sudden about turn on the day a new administration takes office and policy changes. In practice, this needs preparation in order to involve more junior officials.

A problem for the Opposition is when the Shadow does not become the Secretary of State, as has happened in two-fifths of cases in both 1979 and 1997. Quite often, there are strong suspicions beforehand that this will happen which affect the usefulness of the contacts. This was true of the Turnbull, Dobson and Prescott contacts discussed above. Sir Richard Mottram faced this dilemma at the Ministry of Defence in 1997. He had a number of exchanges with David Clark, the Defence Shadow, but also with the rest of the Labour frontbench team. Although Clark was not appointed Defence Secretary, and George Robertson was, two of the shadow team did become ministers in the department. In the event, the transition was successful, not least because Robertson was trusted by insiders and knowledgeable on the subject. This might have worked less smoothly with another minister. The lesson is perhaps

that more people on the shadow team should be involved to hedge the risk of late changes. This again requires a re-think of the traditional approach.

The hierarchical model of contacts has been challenged by the fragmentation of government itself with the growing number of semi-independent executive agencies, non-departmental public bodies (NDPBs) and other arms-length bodies, which often have large budgets to administer substantial and sensitive areas of work. This problem has gone largely undiscussed in terms of its impact on the transition period, but is increasingly important. Many larger NDPBs have their own media and public affairs staffs and their own public profiles distinct from, and sometimes in competition with, Whitehall departments. Some NDPBs can be seen as operating like pressure groups and think tanks in lobbying for their interests. This has surfaced over their attendance at the party conferences where these bodies have paid for exhibition stands (which goes directly to the parties) and sponsored fringe meetings and other events, in effect to lobby for their viewpoints. As a consequence O'Donnell wrote in early 2009 to permanent secretaries stating that 'there will be no good reasons for NDPBs to attend party conference in the majority of cases', and any NDPB wishing to do so would require written permission.

In practice, however, permanent secretaries often feel they have little control over the arms length bodies sponsored by their departments and there has been friction over their contacts with Opposition parties. While permanent secretaries cannot discuss policy, NDPBs can, and do (and it is notable that the Cabinet Office guidance is silent on the issue of Opposition contacts with NDPBs). Departments with large numbers of executive agencies and NDPBs operating as delivery agencies are in effect restricted to a narrow space for contacts and discussion with Opposition spokesmen. While contacts with civil servants – including, for example, chief executives of executive agencies – should be only with the approval of the Permanent Secretary, some bodies have acted privately on their own to hold discussions with Opposition parties. On the other side, Opposition spokesmen are frustrated at having to seek approval from a Permanent Secretary for meetings with the heads of these bodies that are often crucial for spending and administration in their areas.

1.4 Assessment

The level, frequency and usefulness of contacts have varied enormously, not just in relation to the electoral cycle but also because of the personalities of those involved. Some of this is inevitable, even desirable. The ambiguities of pre-election contacts require discretion and flexibility. There is also a highly important requirement for senior civil servants not to skip, either psychologically or in planning, to the next administration while the current is still in place, nor to prejudge the election result. The question is more whether the model developed in the 1960s, based on top-level contacts by permanent secretaries and hierarchical, monolithic departments, any longer fits what is now needed. Senior officials have complained that the guidelines on contacts hardly fit in an era of crosscutting programmes, as well as decentralisation of responsibility. There is scope for contacts involving a number of departments on many issues such as youth justice, social exclusion, public health, climate change and Europe. At the time of writing, some meetings were being arranged involving a number of Shadow spokesmen and a number of Permanent Secretaries, starting with health visitors and low carbon issues. But this is only a start and there has been little coordination. The Cabinet Office role is largely recording and restraining, to prevent embarrassment and tension with current ministers. Permanent secretaries keep in touch, with discussions in and around their weekly Wednesday meetings. But this is largely informal and involves sharing experiences, rather than planning a more coordinated approach. There is a strong case for a more active lead from the centre – developing a strategy for contacts with the Opposition parties rather than the present arms-length approach.

Panel 2: the 'Department for the Opposition' question

The knowledge and experience gap between Opposition and Government has led to discussions over Civil Service support for oppositions. In 1971, when Labour was back in Opposition, Tony Benn, who had held ministerial posts in the previous Labour Government, proposed the establishment of a Department for the Opposition. Benn's suggestion, in a draft article he sent to Sir William Armstrong, the Head of the Home Civil Service, was one which has been brought up periodically, and in different guises, since then.

However, Armstrong's response highlighted the intractable nature of certain preparation for government issues, particularly the impact on civil servants and the Civil Service as a whole. Benn proposed that seconded civil servants would work with shadow ministers and then move with them into government, and that outgoing ministers might take other civil servants with them into Opposition. Armstrong acknowledged this would provide an element of continuity in their personal official advisers, but felt it would 'lead to individual civil servants becoming so closely associated with the views and policies of particular politicians as to lead very rapidly towards a totally new concept of the British Civil Service'.²⁰

The issue was re-visited in 1972-3. A lunch held between Kenneth Baker, Parliamentary Secretary for the CSD, and four 'leading Opposition MPs' in November 1972 discussed the 'handicap [...] which oppositions suffer through lack of information and through lack of informed advice about the feasibilities of future policies'.²¹ David Laughrin, Baker's Private Secretary, passed on a note of the meeting to the Conservative Chief Whip and described how the idea of Civil Service assistance had been given 'very short shrift'. The Lord President and Lord Chancellor also rehearsed the pros and cons in correspondence, as did a number of officials. All came to a similar view, that the impartial advice of civil servants was too likely to be undermined. By May 1973, when the subject came up in a parliamentary question, both the Conservative Government and civil servants involved had resolved their view. In Baker's parliamentary written answer the 'major problems' of the proposal focused on the status of the staff involved, the 'nature of the service offered', whether it was 'political or administrative' and what sources and channels of information would be used, and the allocation of resources, including who determined its budget and size.²²

The value of policies developed in opposition without access to the far greater resources of the Civil Service was also discussed by Adam Ridley in 1978. The idea of a Department for the Opposition, or the secondment of civil servants, has been debated several times in the intervening decades. For instance, Ann Taylor floated the idea shortly after she became Leader of the Commons in May 1997, but got nowhere and it was quickly forgotten.

Sir Douglas Wass discussed the proposal in his BBC Reith Lectures in 1983, the year he retired as Treasury Permanent Secretary. Arguing that the principal deficiencies of the official Opposition are those of staff support, he noted:

The Opposition has often formed a new administration before its policies have received the full evaluation which should have preceded the closing of options. But by then the commitments have been made and for the time being, we have been forced to live with the consequences.²³

Wass mentioned the proposal for a Department of the Opposition staffed with people who would be rather like civil servants, and paid out of public funds, but who would be at the service of the frontbench. He talked of perhaps a few dozen policy advisers plus ancillary staff with an annual cost of £1 million. Each shadow minister would have, in effect, a cabinet of officials. Their business would be to keep a close watch on developments in the area of their chief's portfolio. There might also be a handful of co-ordinating officials serving the Shadow Cabinet as a whole.

Wass also identified both political and administrative objections. There would be political objections to providing official funding to a political party. The existence of the Short money to support parties in parliament in part offsets this case, but updating the £1 million of 1983 to current values, and talking of a staff of several dozen, would create a furore in these times of anti-politics. Cutting the cost of politics, in David Cameron's phrase, underlines the political difficulties of introducing such a scheme. On the other side, Wass listed the fears of opposition supporters themselves that an official staff might capture the minds of the frontbench and lead them 'in the direction of pragmatic, non-ideological solutions'. The political system might 'surrender to the middle ground'.²⁴

²⁰ TNA, BA 17/985, Armstrong to Tony Benn, 2 June 1971

²¹ Ibid., David Laughrin to A H Warren, 11 January 1973

²² Ibid., Draft oral answer for 21 May 1973

²³ Sir Douglas Wass, *Government and the Governed* (BBC Reith Lectures, 1983), p75-80

²⁴ Ibid.

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To bring [civil servants who had been seconded to the Opposition] into a department and place in senior administrative positions would be disruptive in much the same way as the filling of administrative posts by political appointees. Moreover, the new staff would be thought of as political appointees, and if there was a further change of government, their position would be insecure. They would be expected to resign with their political chiefs and to serve them again in opposition.

”

Sir Douglas Wass, Government and the Governed, 1983

The most substantial difficulty, in the eyes of Wass, as before with Armstrong, would be the position of the civil servants themselves. What would happen if the Opposition won a majority? Would the staff serve the new Opposition? The real difficulty might lie in the unwillingness of the new government to dispense with its old advisers who would have proved their worth in opposition. These difficulties, Wass suggested, would remain even if ordinary civil servants on secondment staffed the Department of the Opposition. He suggested a limited experiment with the secondment of a small number of civil servants to the Opposition on the basis of a fixed period of not more than five years and on the firm understanding that they would then return to the Civil Service, and given a purely managerial post away from the political stage. He hoped that this would avoid the dangers of politicisation while providing the Opposition with the professional help it needs.

Later cabinet secretaries have been very sceptical about such ideas, fearing that such secondments could put a label around someone's neck. The Opposition might think the person wonderful and would favour them in government. Permanent secretaries would see it as a step towards politicisation. And, even without that preferment, when the official returned to the Civil Service, he or she would have the label of being associated with the Opposition.

So if a Department of the Opposition is not the way to bridge the knowledge and experience gap, are there any alternatives? Closer and more regular contact might help. One suggestion, from a current permanent secretary, is that he and his counterparts should be allowed to set up small Opposition units within their departments and reporting just to them. They would be allowed to have contacts with Opposition spokesmen, not to advise, but to get a better idea about opposition policies.

Of course, Opposition parties receive substantial sums of money from the taxpayer, notably under the Short money, introduced in 1975 at the suggestions of Edward Short, the then Leader of the Commons. This is provided to opposition parties in the Commons to help them discharge their parliamentary duties. In 2009–10, the Conservatives are due to receive £4.76 million and the Liberal Democrats £1.75 million. This money is audited but there is not much information about how it is used. There is little evidence that much goes on preparing for government, which is being elbowed aside by the demand of the everyday work of opposition.

The Committee on Standards in Public Life concluded in its 1998 report that the three main parties spent less than £1.5 million on research in 1997.²⁵ Consequently, the committee recommended the allocation of £2 million a year in a Policy Development Fund with money distributed to opposition parties in relation to the size of their representation in the Commons. These grants, to help parties prepare policies for inclusion in their manifestoes, have been provided since 2002.

Sir Hayden Phillips in his review of party funding argued that it was in the public interest that parties 'prepare robustly researched policies, that they consult widely, and that they train people in the skills needed to be effective in public office'.²⁶ In addition, party spokesmen have received substantial donations from wealthy individuals and business organisations and consultants to support their private offices and their research work. So companies involved in health are financing party health spokesmen. There are major questions about whether this is the right way to produce policies for government.

All these taxpayer and private grants help opposition parties to function, but do not necessarily, or even primarily, help them prepare for government, as opposed to campaigning and winning elections. The problem is separating short-term war fighting against the government of the day from long-term policy development and thinking about preparations for office. In the past, the CRD partly filled that gap for the Conservatives, but the permanent campaign style of politics in recent decades has made such long-term preparations more difficult.

²⁵ Committee on Standards in Public Life, *Fifth Report - The Funding of Political Parties in the United Kingdom* (HMSO, October 1998) http://www.public-standards.gov.uk/Library/OurWork/5thInquiry_FullReport.pdf

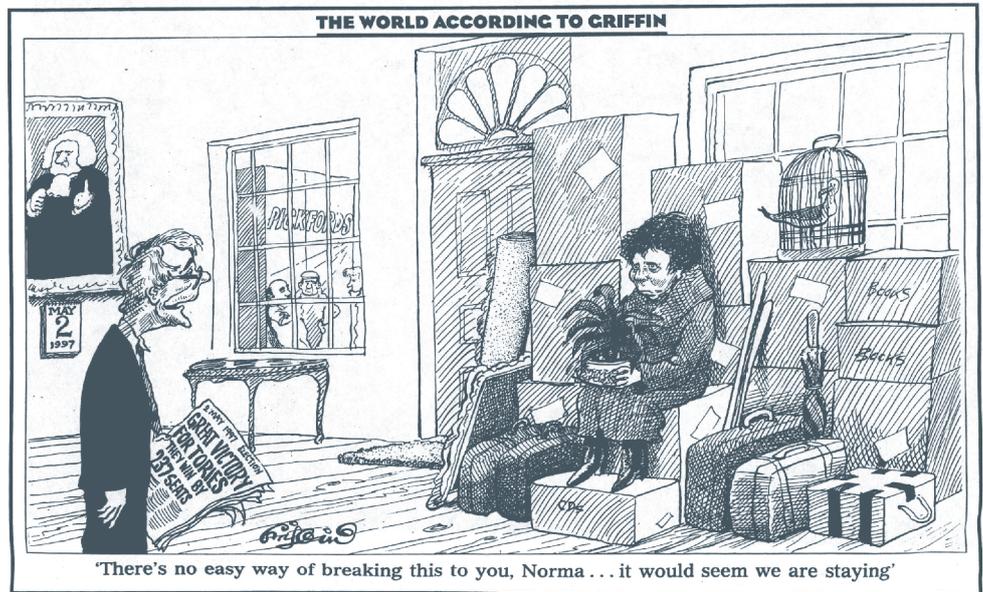
²⁶ Phillips, Sir Hayden, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties*. The Review of the Funding of Political Parties (HMSO, March 2007) http://www.partyfundingreview.gov.uk/files/strengthening_democracy.pdf

2. The election and afterwards

“ During an election campaign, the Government retains its responsibility to govern, and ministers remain in charge of their departments. Essential business must be carried on. However, it is customary for ministers to observe discretion in initiating any new action of a continuing long-term character.

”

Cabinet Office,
General Election Guidance, 2005



Source: Charles Griffin, *The Express*, 25 March 1997. © Express Newspapers, 1997

2.1 The campaign

The four to five week long general election campaign is the most lop-sided part of preparations for changes of government. It is when the Civil Service, free of current ministers who are out on the campaign trail, is at its busiest preparing briefs and refining its plans. Yet both the governing party and the Opposition parties are concentrating on maximising their votes in the coming election and have little time or inclination to think about governing.

The Civil Service can, and usually does, do a lot during the election campaign. This period is defined as from the day on which the election is called to the day after polling day. This is often a week or more longer than the interval between the dissolution of Parliament and polling day. The pre-dissolution period is in order to allow the business of the outgoing Parliament to be completed, a time often called the 'wash-up' when the parties agree which outstanding bills become law in full or in a truncated form. But, in effect, this is all part of the election period for the parties and for Whitehall.

The Cabinet Office sends out guidance to departments on what can and cannot be done. This amounted to a 38 page note in 2005 and shorter, modified versions are sent out ahead of intervening local and European elections. These are similar to the caretaker conventions of many Commonwealth countries, as discussed in Chapter 4. The 2005 note stated that:

In practice, ministers who are seeking re-election to the Commons virtually never come near their departments during a campaign and the Civil Service is very sensitive about avoiding matters of party political controversy on issues such as appointments, statements to the press, handling of statistics and the like, as set out in the guidance note.²⁷

This period allows the Civil Service time to finalise alternative briefs for the Government and the main Opposition parties (a detailed example is given in the case study on the Treasury in 1997 in Chapter 3). This work is done scrupulously, though, at times, it appears more like the writing of an undergraduate essay around a deliberately improbable theme. According to one

²⁷ Cabinet Office, 'General Election Guidance 2005' (Cabinet Office, 5 April 2005)
http://www.cabinetoffice.gov.uk/media/cabinetoffice/propriety_and_ethics/assets/electguide.pdf

“
Decisions on matters of policy on which a new Government might be expected to want the opportunity to take a different view from the present Government should be postponed until after the election, provided that such postponement would not be detrimental to the national interest or wasteful of public money.
”

*Cabinet Office,
General Election Guidance, 2005*

of our interviewees, an official in the Ministry of Defence had to be reassured in the 1983 campaign when he was asked to prepare a brief on how to implement Labour's campaign pledge on unilateral nuclear disarmament, which would have reversed the UK's defence doctrine of the previous three and a half decades.

However, while being strictly non-partisan, the Civil Service follows the opinion polls and concentrates most on the likely new government. There have been relatively few surprises over the past sixty years: leaving aside the complicated stalemate of February 1974, the only unexpected results in terms of the winner, if not the majority, have been 1970 and 1992. As the latter case showed, the result cannot be assumed and embarrassment can result if some civil servants are seen to have prepared mainly for an outcome which does not happen.

Preparations during a campaign take two forms; the practical and the substantive. At a practical level, the Leader of the Opposition's chief of staff maintains continuing contact with the Cabinet Secretary and the Downing Street Principal Private Secretary on the timing and phasing of any handover: when will things happen and who will be involved. A lengthy official brief is prepared, as discussed below, on priorities for an incoming Prime Minister, whom they should see and speak to on the telephone – no text messages or twittering, yet.

The record from the Opposition side is patchier. This is primarily for the psychological reason that the Leader of the Opposition is concentrating entirely on winning the election. This is not just because they do not want to give any public hint that preparations for a transfer are happening for fear of appearing presumptuous. They are also not in the mood for such discussions, no matter how certain their victory looks. This is, perhaps, a welcome democratic uncertainty.

An example of the sensitivities in appearing to prejudge the election result came just before polling day in 1997. Butler gave a briefing to a few newspapers on the practical implications of the election; for example, the Blair family would not live in Islington. The subsequent coverage in the Evening Standard made clear that Butler had done the briefing. Alastair Campbell, Blair's chief spokesman, was furious, as he records in his diaries:

It was [...] deeply unhelpful. What on earth was he [Butler] thinking of? I got Tim [Allan, Campbell's then deputy] to put out a line that it was inaccurate, unhelpful and inappropriate. I would rather at this stage have a row with Butler than a story about TB/CB measuring the curtains.²⁸

The phrase 'measuring the curtains' is often used as a term of nervousness by an Opposition leader for fear of frightening voters. It has re-emerged more recently in Cameron's aversion to any public references to any plans for reorganising Downing Street if he wins the next general election.

In 1997, Blair looked a certainty to win the election, but he showed little interest in what becoming Prime Minister involved. Butler travelled to Blair's then home in Richmond Terrace in Islington on Wednesday, 23 April, eight days before polling day to meet him and Powell, his chief of staff and main link with Whitehall. Butler reports that Blair conveyed the 'clear sense of being fed up throughout the two hours and wanted to get rid of me'. Blair did not want to think about, or discuss detail. Fortunately, a lot was done with Powell. A similar view of the meeting is taken by Powell: Blair was not interested and wanted to concentrate on the election where he had already been flat out on a three-week campaign.

Butler gave Powell a questionnaire for Blair to answer leading up to the election. According to various cabinet secretaries who have prepared such documents, this is to allow the potential incoming Prime Minister to think through the first afternoon, first weekend and so on. It covers questions such as the size of the Cabinet, the order of precedence, the possible structure of Cabinet committees, the nature and size of any policy unit, the number of special advisers, the press operation, as well as more basic questions on where the new Prime Minister and his family want to live. You can easily imagine it as an interactive game of 'form your own Cabinet'. A large folder of briefing papers was also given to Blair on policy priorities, though there was no sign that he had read any of these papers when he entered Downing Street as Prime Minister. Judging by the earlier papers now publicly available, these cover a mixture of domestic and foreign policy and security issues, obviously varying with the circumstances of the time. Most will be obvious, but some, particularly the intelligence briefings, will be less familiar, despite limited pre-election contacts between the heads of the main intelligence agencies and the Leader of the Opposition.

²⁸ Monday, 28 April 1997, Alastair Campbell, *The Blair Years. Extracts from the Alastair Campbell Diaries* (London: Hutchinson, 2007) p.181

Five years earlier, Neil Kinnock had shown a similar reluctance during the campaign to read his briefing papers, also prepared by Butler. But he was persuaded by Charles Clarke, his chief of staff, to finish his questionnaire on polling day itself, working through it like an exam sheet during the afternoon and early evening. Then, barely an hour after the polls closed, came the Conservatives' comfortable victory in Basildon and all the work was wasted.

More sensitive are discussions about substance during the campaign. These occur very secretly to allow the Civil Service not just to step up their preparations ahead of polling day but also to respond quickly on urgent issues, such as handling financial markets. An example of the first occurred in April 1979 when Howe invited Wass, the Treasury Permanent Secretary, to lunch at his Kennington home when he spelt out that the Conservative pledge to shift from 'taxes on earning to taxes on spending' would mean a consolidation of the two rates of value added tax (then 8 and 12.5 per cent) at a single new rate (which became 15 per cent). This was to allow Wass, in strictest secrecy, to brief the heads of the Inland Revenue and HM Customs and Excise so that they could start making preparations for an early Budget and Finance Bill. Similar discussions about tax plans occurred in the middle of the 1997 campaign between Balls, Brown's chief economic adviser, and Burns at the Treasury. However, in 1997, Labour did not reveal its most market sensitive proposal of all in these pre-polling day discussions: the plan to make the Bank of England operationally responsible for setting interest rates - though, as seen in Chapter 3, Burns had guessed Brown's intention at the last minute.

“
TB said of his meeting with Butler that it was obvious that the Civil Service had pretty much given up on the idea of the Tories coming back. There is so much to do the minute we get in, he said, and we'll be knackered, I still didn't want to focus on the day after.
”

Alistair Campbell, Diaries, Wednesday, 23 April 1997

Five years earlier, interest rates and the exchange rate had been a key issue during the 1992 election campaign. Formally, Labour was as committed as the Major Government to remaining within the European exchange rate mechanism (ERM). But the financial markets were nervous. Would a Labour Government devalue? Would interest rates have to be raised? There were tensions between Kinnock and Smith, the Shadow Chancellor. Burns had a meeting with John Eatwell, Kinnock's main economic adviser, on 7 April, two days before polling day, about the ERM. There had been speculation about a possible devaluation or an increase in interest rates. There were discussions about the wording of a statement to be put out on the Friday, if Labour won.

2.2 The handover

The unusual feature of British handovers is their speed. Usually, a new Prime Minister enters 10 Downing Street well under 24 hours after the close of polls, in marked contrast to the practice with other administrations in the UK and comparable parliamentary democracies overseas. The handover is conducted in the full glare of television cameras, and helicopters recording every movement to Buckingham Palace and back to Downing Street. The procedures are choreographed by the triumvirate of the Cabinet Secretary, the Prime Minister's Principal Private Secretary and the Queen's Private Secretary. They co-ordinate with the outgoing and incoming Prime Minister their respective trips to Buckingham Palace. (So closely do the three have to work that the occupants in 1992, now crossbench colleagues in the House of Lords, Lords Butler, Turnbull and Fellowes, initiated an annual golf match which has continued).

The first-past-the-post electoral system normally produces a clear winner and so ensures these procedures are a formality, part of the ritual rather than the substance of politics. Most of the controversies over the appointment of Prime Ministers have occurred in the middle of parliaments rather than after elections. The one exception is when no party obtains an overall majority in the Commons. This occurred in February 1974, and there was speculation that it might happen in 1992. The triumvirate mentioned above did hold extensive discussions ahead of the 1992 election about how to handle such a situation. Their guiding principle was, and is, that it was essentially a matter for the political leaders to sort out, and that the Sovereign should be kept out of it and should not be exposed to party controversy. Political circumstances and pressures have usually sorted out such situations as they did in February/March 1974. That is also explicit in the guidelines of several Commonwealth countries, as discussed in Chapter 4. This is an important subject in its own right, which we only mention to highlight rather than to explore in detail.

There are a number of possible scenarios in a hung parliament for which there might be no clearcut answer, but rather different answers for which there is constitutional authority. The resulting confusion might put the sovereign in a very awkward position about whom to ask to form a government or even whether to allow the incumbent Prime Minister the opportunity to call a second election. Clarke, who as Kinnock's chief of staff in 1992, had

been involved in discussions on these questions in the run-up to the election, later argued that there might have been 'bitter arguments and widespread constitutional outrage which would have the effect of drawing the Queen directly into party politics despite the best efforts of all the party leaders'.²⁹ Consequently, he maintained that 'confidence in the political impartiality of the Monarch's advisers is essential, the principles underlying that advice should be made public, and the identity of her advisers should be known'.³⁰ In the context of this report, this issue is a further illustration of the need for greater candour and transparency about the guidelines for transition.

After appointment a new Prime Minister returns to 10 Downing Street, by which time his family and staff will usually have also arrived. The permanent Downing Street staff then line up to clap in the new Prime Minister before an intensive induction begins. This involves a briefing by the Cabinet Secretary and the Principal Private Secretary (See Panel 1 on page 19). Even at the height of the 'new dawn' euphoria on Friday, 2 May 1997, Campbell records how 'TB went off with Robin Butler to the Cabinet room for a security briefing'.³¹ From that moment on, Blair, like his predecessors, had direct responsibility for Britain's nuclear deterrent, as well as information on both domestic and international intelligence.

Yet these formal introductions into the heavy duties of being a Prime Minister have to be fitted alongside key political decisions on appointing a Cabinet and other ministers, and on setting policy priorities. Normally, at least the top posts are announced by early evening on the Friday, and often the full Cabinet. These positions – Chancellor of the Exchequer, Foreign Secretary, and Home Secretary – have usually, but not always, been decided beforehand (the authorisation and continuity of certain surveillance operations require the Home Secretary's signature, but these can often be a formality). But many of the more junior Cabinet posts have not necessarily been determined beforehand and have to be resolved in a hurry. In virtually every case, mistakes are made which have to be rectified in a later reshuffle, meaning that a year or more can often be wasted before a Prime Minister gets an effective Secretary of State in place. If there had been more time for reflection, would the combustible and self-destructive combination of Harriet Harman and Frank Field have been paired up at Social Security in 1997 – only for both to be sacked a little over a year later?

Any incoming Prime Minister has to decide how far to reshuffle the Shadow team. Shadows do not know what job they might get and many wait expectantly by the phone. Under Labour procedures in 1997, the Prime Minister had to include members of the elected Shadow Cabinet in the Cabinet, though not necessarily in the same posts. Blair did not fully follow this procedure – by, for example, making Michael Meacher a minister of state, but not a full Cabinet minister – yet it undoubtedly constrained his initial choices. Moreover, appointments are made for different reasons in Opposition than in government. Spokesmen can be appointed for their skills as campaigners and as 'attack dogs', rather than their policy expertise and potential in leading a department. However, there are risks in ignoring the future demands of government. There is strong historical evidence in favour of continuity. Heath, with his managerial view, was convinced that future ministers must specialise long before they come into office. There was not a one-for-one movement across after the Conservatives won in June 1970: Joseph moved from shadowing Trade and Industry (to which he returned in 1979) to Health and Social Security; Geoffrey Rippon from Defence to Technology to make way for Lord Carrington; and the appointment of James Prior, a close ally of Heath, at Agriculture rather than Joseph Godber, who eventually got the post in November 1972. But, as noted in Chapter 1, there was a detailed plan for government. Robert Rhodes-James, later a Conservative MP wrote in *Ambitions and Realities* about this period that 'the very beneficial results were seen in the first weeks of the new administration in June-July 1970, when officials started to discover how thoroughly prepared the new ministers were'.³² By cruel chance, these plans were disrupted when the Chancellor, Iain Macleod, died within barely a month of taking office; this had a lasting impact on the balance of the administration.

At each of the last two changes of government, in 1979 and 1997, there were big changes between the shadow teams and the post-election Cabinets (Appendices 1 and 2). In both cases, around two-fifths of the new Cabinet had not occupied the same positions in

“
Imagine preparing
for a new job by
working flat out
travelling the country
for six weeks and
then go a few nights
without sleep.
”

Alistair Campbell, *Diaries, Thursday,*
1 May 1997

²⁹ Charles Clarke, *Sunday Times*, 24 January, 1993

³⁰ Ibid.

³¹ Friday, 2 May 1997, Campbell, *The Blair Years*, p.198

³² Robert Rhodes James, *Ambitions and Realities. British Politics, 1964-1980*, (London: Weidenfeld and Nicolson, 1972) p.135

Opposition. This included the Foreign, Defence, Energy and Northern Ireland Secretaries. Some of these changes did not matter. In both foreign and defence policy, there was substantial continuity with the previous administration and the two new Secretaries of State were highly experienced politicians. However, David Howell admits the big challenges he faced in May 1979. Having been Willie Whitelaw's deputy in the shadow home affairs team, he was pitched in as Energy Secretary with no real idea of what was involved. With insufficient preparation, he quickly had to get to grips with a world energy crisis, and a large nationalised sector. In one sense, of course, no amount of preliminary work could have prevented the challenges involved in dealing with a soaring oil price and the resulting domestic inflationary problems. But the lack of continuity aggravated the inherent difficulties of taking over at such a time.

Again in 1997, about two-fifths of the incoming Cabinet had new portfolios which they had not been shadowing in Opposition. Most important of all was the creation of a new super-ministry incorporating the former Departments of the Environment and Transport. This was specifically designed for John Prescott to give him wider responsibilities along with being Deputy Prime Minister. The problems associated with creating the new department were discussed in Chapter 1. Gavin Strang, having shadowed Agriculture in Opposition, as an elected member of the pre-election shadow cabinet, was now installed as a second cabinet minister in the department responsible for transport. After an unhappy period for all concerned, Strang left the Government a year later. The other main changes compared with the Opposition period were in Agriculture, Defence, Health and Scotland. The appointment of George Robertson, rather than David Clark, at Defence did not cause much of a hiccup because policy changed little compared with the Conservative years and because Robertson was familiar with the issues from his days as a foreign affairs spokesman. There were, however, problems at Health not only because of a lack of sympathy and understanding between Frank Dobson and his advisers and some of the department's officials but also because of the absence of a clearly thought out health policy: in both cases in contrast to the experience at Education. These issues are discussed in more detail in Chapter 3.

The absence of continuity between Opposition and Government was only one factor that caused problems for the transition in 1997. Unlike Thatcher in 1979, Blair in 1997 had few potential ministers with any experience of government. None of the main officers of state (Prime Minister, Chancellor, Foreign Secretary and Home Secretary) had any previous ministerial experience. The first two did not even enter the Commons until four years after Labour had previously held office. This lack of familiarity with Whitehall was at least as important as lack of continuity in creating problems for new ministers coming to terms with office. However, given the unavoidable lack of experience, Blair made the inherent difficulties even greater by shifting people around. There is a striking contrast in longevity in office between those Cabinet ministers who had shadowed the same post in Opposition and those freshly appointed in May 1997. None of the newcomers lasted the whole parliament and all had left the Cabinet or been moved by the autumn of 1999 at the latest.

New Prime Ministers increasingly like to bring in a number of politically appointed advisers with them. The role and number of special advisers is outside the scope of this report, except to say their position can cause misunderstanding and friction when new ministers take office. In 1997, a decade-long controversy was caused when an Order in Council was introduced permitting the appointment of three special advisers in 10 Downing Street with powers to give orders to civil servants. The Order was seen as evidence of politicisation and undermining the neutrality of the Civil Service. One of Brown's first acts on becoming Prime Minister was to annul the Order. The whole fuss was based on an attempt to sort out a longstanding anomaly which was not created in May 1997, but had in fact existed since 1974 when the Policy Unit had been created. This had generally been headed by special advisers, starting with Bernard Donoghue, but civil servants had worked for the unit as subordinates, even though advisers could technically only give advice to ministers and not tell officials what to do. So when Blair announced that Powell and Campbell (the only two to come under the Order) would have an enhanced position in Downing Street, the official advice was that they could only operate if they were employed on a new basis. This led to the unnecessary complication of the Order in Council. Butler subsequently regrets the affair as showing an excess of zeal in trying to tidy up an inherently anomalous situation. Over the same period, Ed Balls was exercising considerable authority within the Treasury, comparable to Powell and Campbell in Number 10, without such an Order.

At the same time, there was also a misunderstanding over whether Powell, as chief of staff, should become Principal Private Secretary. This was strongly resisted by Butler on the grounds that the Principal Private Secretary should be a civil servant and politically neutral since the job involved dealing with Buckingham Palace and with the Opposition parties, as well as various security issues. The issue was not resolved at the meeting between Blair and Butler eight days before the election, when the former was not focused on the matter. So it had to be sorted out later. Powell was never ambitious to have that title and was keen for the job to be done by a civil servant. In the end, Alex Allan stayed on until the summer before he went to Canberra as British High Commissioner. It was an example of Blair's indifference to such a fundamental question of procedure, also shown by his initial lack of interest in having a formal agenda for Cabinet meetings.

These decisions on appointments are taken when a new Prime Minister is exhausted not only from a month long campaign but also from having had virtually no sleep on election night itself. This seems to be the least suitable time for anyone to take far-reaching decisions which will determine the shape of a government. In her memoirs, Thatcher records how she had had 'no more than a couple of hours' sleep, if that', on the Thursday evening of polling day and the Friday turned out to be 'a long one'.³³ Most other countries do not have such hurried timetables. Of course, in many cases delays are the result of a proportional electoral system which invariably involves bargaining over the form of a coalition. But even in broadly comparable systems which usually produce clearcut results such as Australia and Canada, the handover is normally delayed for a few days.

The possibility of a slower handover divides the politicians and current and former civil servants we have interviewed. In general, those with experience outside Whitehall are most relaxed about a possible delay, to allow a few days to catch up on sleep and for reflection before crucial decisions are made. They note that an interval does not cause problems in similar parliamentary democracies. The counter-view, held most strongly by lifetime Whitehall insiders, is that a phased transition will not work. This is partly for constitutional reasons. Once the result of an election is known, the defeated Prime Minister should resign, and the winning party leader should take over. There are also practical considerations in terms of ensuring continuity in defence, intelligence and security issues. For instance, Blair was told in 1997 that he had to appoint a Home Secretary in his first batch of appointments to maintain legal authority over telephone taps, and the like. It is possible, as in Australia and Canada, to devise a generally agreed caretaker convention to cover the handover. The other main objection is political. At one level, this can appear like 'we have always done it this way so we cannot change it'. From this perspective, political and media expectations in the drama of polling day and its aftermath make it impossible to apply a brake. There would be a clamour from the victorious party, and in the media, for the new team to take over immediately. Thatcher wrote:

The press expect the Cabinet of some 22 ministers to be appointed and the list to be published within about 24 hours – otherwise it is taken as a sure sign of some sort of political crisis. My American and other foreign friends are often astonished at the speed with which British Governments are formed and announced.³⁴

One senior official closely involved more recently was doubtful about a cooling-off period between an election and taking office. The adrenalin can keep you going and momentum is built up. There is a real buzz to get on with it. This official was dubious about the benefits of delay. A related argument is that any delay would not work because speculation and manoeuvring among prospective ministers – refusing to take one job and preferring another – would put at risk the trouble-free formation of new Cabinet and Government. In this view, speed is in the interests of a new Prime Minister. These points all have force, but none are totally convincing. In the recommendations, we discuss various compromise proposals for a more measured and less hurried transition.

³³ Margaret Thatcher, *The Downing Street Years* (London: Harper Collins, 1993), p.25

³⁴ *Ibid.*

“
The actions you take during your first three months in a new job will largely determine where you succeed or fail. Transitions are a period of opportunity, a chance to start afresh and to make needed changes in an organisation. But they are also periods of acute vulnerability because you lack established working relationships and a detailed understanding of your new role. If you fail to build momentum during your transition, you will face an uphill battle from that point.
”

Michael Watkins,
The First 90 Days, p. 1

2.3 The 100 days trap

The other timing question concerns the Queen’s Speech and policy. This might seem straightforward. After all, as noted earlier, Opposition parties now apply a lot of effort preparing their alternative policies. Labour spent considerable time before the 1997 election thinking about the first 100 days, and how to make an impact. Powell and David Miliband, Head of Policy, discussed organisation and a draft Queen’s Speech. In the 1997 case, the 100 days was intended to take the new government through the period from polling day until when the holidays start. But there is a big difference between Opposition and translating these ideas into workable policies. There is not much time. Within about a fortnight of the election, there is the State Opening of Parliament involving the announcement of a detailed legislative programme in the Queen’s Speech. The Queen’s Speech has been delivered within 11 to 14 days of the general election in 11 of the last 16 general elections. The interval has only twice exceeded 20 days, in 1966 (it was 21 days) and 1992 (28 days). In both cases, the Easter holidays intervened, and there was no change of party in office. The normal interval means that within just a few days of the government being formed, the Cabinet’s legislative committee will have met to decide what will be included in the Queen’s Speech. Moreover, there are a whole series of pre-planned events, usually a European council of national leaders and the annual G8 summit (with a particularly busy timetable in the summer).

Where there have been fruitful contacts before the election between a shadow spokesman and a department, the new minister can then be presented on arrival as Secretary of State with a detailed list of options and legislative proposals, as happened, for instance, at the Home Office in 1997. In general, this works well. Even Campbell, no fan of Civil Service ways, commented on the Wednesday after the election in his diaries:

The Civil Service had done a not bad job writing the Queen’s Speech based on the advice we had given in advance [regarding] early priorities, but I rewrote it to make it a bit less frumpy and to get in a bit of message.³⁵

Yet is this speed beneficial? Would not even an extra week or two’s interval between polling day and the Queen’s Speech allow time for more reflection on its contents by hurried ministers trying to get to grips with their new departments?

There is a broader underlying problem of adapting from Opposition to Government, and working out policies in detail. However well-prepared an Opposition thinks it is – and all claim to be the best prepared ever – there is an unavoidable gap in knowledge and expertise over implementation and, especially, legislation. Some policies can be brought in quickly, especially when there have been close prior contacts, as discussed in Chapter 3. But many pledges require further discussion. However, new governments have an understandable desire to show that a new team is in charge and a fresh start has been made: that the Seventh Cavalry have arrived. They are keen for ‘quick wins’, in the ghastly management jargon. But does that make good policy? Franklin Roosevelt’s idea of 100 days of action in the spring and early summer of 1933 has been too often copied both in the United States and elsewhere. But it is misleading to transfer the exceptional circumstances of March 1933, when the American banking system was on the verge of collapse and unemployment was soaring, to the normal circumstances of a transition. Very little was prepared before Inauguration Day in 1933; almost all of the measures for which the 100 days are remembered were devised in a confused and hasty way after Roosevelt took office.

Some participants in the 1997 transition, however, see advantages in quick early decisions, and announcements, particularly in trying to change governmental practices. Powell argues that the decision to have one 30-minute session of Prime Minister’s Questions a week, rather than two 15-minute sessions, had to be taken right at the start, before the first Queen’s Speech, when the Government had the momentum of just taking office. At any other time, the move would have been frustrated by the forces of the status quo. This was seen as an important change since it reduced the amount of time spent preparing for PMQs.

The balance between adjusting to the demands of office and the desire to maintain the public momentum of an election victory is hard to maintain. Two voices from an earlier age urge caution, Victor Rothschild, founding head of the Central Policy Review Staff (CPRS) argued in a speech in 1976:

³⁵ Wednesday, 7 May 1997, Campbell, *The Blair Years*, pp.200-201

Something really should be done about this problem of the party's first few months in office, which are without doubt the worst [...]. Apart from their constituency and parliamentary duties and, of course, their ritual appearances at hospitals, new power stations, Strasbourg and the like, new ministers even if they have been in office before should read documents, listen to expert opinion, ask questions and refrain, unless absolutely essential, from taking positive or negative action, activities, which, at the beginning of a new term of office, almost invariably create new problems.³⁶

Similarly, Lord Trend, a former Cabinet Secretary, echoed this view in evidence to the Conservatives' Preparation for Government' group in 1978:

It seemed advisable for incoming governments to freeze action in hand and to take stock of their inheritance. This pre-supposed little urgent and public action in early days. However, it was critical for an incoming government to have reached agreement at Shadow level on its legislative priorities. Inherited work always limited the scope for new action. But certain key items for legislation should be agreed by all colleagues for inclusion in the first Queen's Speech and for legislation in the first session.³⁷

Good preparation and agreement on priorities can help to reconcile these pressures. Immediate initiatives to demonstrate a 'new broom' can co-exist with a more gradual and deliberative approach on trickier longer-term questions. However, there are often tensions and misunderstandings between incoming ministers and the Civil Service. New ministers can suspect the Civil Service of being contaminated from being too closely associated with the outgoing administration. Some ministers, never having worked in government before, seek comfort in remaining close to those they had known in Opposition. That was true of some Labour ministers, such as Dobson in 1997 who, relying on some close aides, found it hard to come to terms with the Civil Service, whom they mistrusted for being allegedly Thatcherite. There is little evidence for the overt, and misleading, charge of outright politicisation. A more pertinent risk is that civil servants can become set in certain modes of thinking and attitudes from working with one group of ministers over the course of a long-serving administration. The Civil Service has been accused of appearing to embrace incoming ministers in order to neutralise them. This view became widespread in the late 1970s and early 1980s following the publication of Richard Crossman's diaries and then the start of the *Yes Minister* television series in which Sir Humphrey Appleby tried to smother any new initiatives from Jim Hacker MP.³⁸

The opposite view is equally persuasive: that senior civil servants become too keen to please their new political masters in order to overcome any doubts about their commitment. They lean over backwards to challenge perceptions that they are attached to the old regime. Senior civil servants with experience of past transitions fear that this can lead to mistakes being made as policies are introduced with insufficient debate about whether they will work. Powell noted that in 1997, the Civil Service had a tendency to over-interpret Labour policy statements and to take its comments made whilst in Opposition too literally, not recognising that pledges in the election manifesto and in earlier documents had been drafted in part for internal party and electoral reasons, and were compromises and deliberately fudged. So Labour ministers and advisers had to tell civil servants what the real priorities were.

Not only do largely inexperienced ministers have to adjust to the unfamiliar ways of government, but civil servants also have to learn how a new team of politicians operate. Just as the arrival of Thatcher caused a profound shock to the system in 1979, so, in a very different way, did the election of New Labour in 1997. It took time for civil servants to understand the central importance of the Blair/Brown relationship, and how some of the traditional structures of Cabinet Government were being by-passed and down-graded. This created dysfunctional relationships between the centre and departments. New ministers, used to the habits and power structures of Opposition, continued to work in the same ways, expecting to be given a lead by 10 Downing Street, often via Powell or Campbell. While ministers, and their special advisers, grasped these relationships, the Civil Service had serious difficulties in understanding them, and spent much of the first term wondering how to deal with them. Some of this is unavoidable on any change of government. But much could be avoided by greater dialogue and better preparations beforehand.

³⁶ Victor Rothschild, *Israel Sieff Memorial Lecture*, 4 May 1976

³⁷ CCA, THCR 2-6-1-194, Ridley, 'Preparations for Government', Spring 1978

³⁸ The first volume of Crossman's Diaries came out in 1975: Richard Crossman, *The Diaries of a Cabinet Minister: Minister of Housing, 1964-66 Vol. 1* (London: Hamish Hamilton, 1975); *Yes Minister*, written by Anthony Jay and Jonathan Lynn, first aired on BBC2 in February 1980.

2.4 Assessment

Those at the top mostly regard recent transitions as successful, perhaps not surprisingly since to say otherwise would be to admit that they had failed. So incoming Prime Ministers and Cabinet have tended to congratulate each other on how well each has done. Their criteria tend to be the immediate procedural ones: a trouble free handover. Then there is a lower key acknowledgement of misunderstandings on both sides: among politicians who thought the Civil Service was out of date; and among civil servants who felt that many incoming ministers and advisers did not sufficiently understand how Whitehall worked. Jonathan Powell, Blair's long-serving chief of staff, argues that Labour was better prepared in 1997 than its predecessors:

It was well worth making the preparations. We got off to a good start. It was by no means perfect. It never is in government.

He points to the difficulties, in particular, of politicians learning to be ministers. Powell highlights various lessons: prepare priorities for organisation, for the Queen's Speech, and for early visits and announcements, well before the election starts since the campaign itself is too late; talk to the Cabinet Secretary in detail about your plans; and think about how your comments and signs will be viewed by the Civil Service since there is a tendency to over-interpret.

However, as this chapter, and the following case studies show, the process is more complicated the further you move away from the centre. In his study of the 1997 transition, David Richards argued that the self-congratulation of ministers and civil servants reflected their desire to sustain 'the view that the seamless web of government remained intact and that constitutional propriety had been upheld'.³⁹ Yet there were variations then in the way that the official guidelines were applied. There were also anomalies because of 'the peculiarity of a system that permits officials to talk to relevant non-governmental organisations about Opposition policy proposals, but not with the actual shadow team'.⁴⁰ Richards concludes:

Nearly all officials felt that a mechanism to enable them to discuss policy with the Opposition would be beneficial. The problem here is the adversarial nature of the Westminster system and the need for Whitehall to maintain an effective working relationship with the incumbent government.⁴¹

He urged, as we do later, a relaxation of 'the existing guidelines to enable officials to question the Opposition over their policy proposals to gain a greater understanding of party thinking and priorities'.⁴²

Panel 3: briefing the Prime Minister – The Cabinet Secretary's checklist

The September 1974 briefing paper prepared for the Cabinet Secretary to go over with the Prime Minister on the first day is a useful checklist of the primary constitutional and operational requirements facing an incoming PM.⁴³

The form of the paper allowed for three contingencies: A – a Labour Government; B – a Conservative Government; or C – a coalition. Accompanying each action point were notes on relevant briefs.

The Cabinet Secretary was given the following instructions.

- 'Discover' the Prime Minister's intentions regarding the size of the Cabinet and the Administration.
- Confirm the Prime Minister's approval of security vetting for parliamentary private secretaries and remind the Prime Minister to 'bear in mind the desirability of satisfying himself that there is no character defect or other circumstance' that would endanger security.

³⁹ David Richards, 'Sustaining the Westminster Model: A Case Study of the Transition in Power between Political Parties in British Government', *Parliamentary Affairs*, 2008, p.18

⁴⁰ *Ibid.*, p.19

⁴¹ *Ibid.*

⁴² *Ibid.*, p.20

⁴³ TNA, CAB164/1305, C.J.S. Brearley to Sir John Hunt, 'Action to be taken following the holding of a general election', 25 September 1974

- Settle the order of precedence of ministers in the new Administration and the seating plan of the Cabinet.
- Arrange for the 'immediate appointment' of committees for the Queen's speech and future legislation.
- (A) Settle any changes to (A), or (B/C) establish, the Cabinet Committee structure and confirm/settle times of meetings.
- (A) Confirm with the Prime Minister any changes to Questions of Procedure for Ministers (QPM – now The Ministerial Code), and Rules of Travel by Ministers, and issue them under a new covering note; or (BC) submit a draft of the two papers to the Prime Minister.
- 'Submit a briefing to the Prime Minister including a note on business requiring immediate attention' and B/C, 'to include note on anti-terrorism and nuclear deterrent'.
- Confirm Prime Minister 'is content with procedures for approving certain intelligence operations and with the arrangements for industrial intelligence' (Point 14).
- (B/C) Brief Prime Minister on 'nuclear release procedures and last resort', and appoint two nuclear deputies; (A) still covers last resort (Point 15).
- Write to new ministers welcoming them and drawing their attentions to QPM, Rules of Travel and a copy of the Official Secrets Acts for them to sign. Also to inform ministers that their permanent secretaries will arrange for briefing by the Security Service and to remind them about vetting for parliamentary private secretaries.
- Obtain assurance about the return of documents by outgoing ministers or that they are taken over by the incoming Minister.

3. Transitions in practice – five case studies

These five cases studies have been chosen to show how extensive preparations in Opposition enabled an incoming government to implement its plans in office more easily. The examples underline both the circumstances when a transition works well, and also some of the problems involved. In general, they show the advantages of detailed preparations, continuity and close contacts: when a shadow spokesman and advisers go on to hold the same posts in government, and the clear mutual benefit when the Civil Service has been able to consider how the Opposition's plans might be implemented. It is revealing that in most cases the Opposition was able to call on expert, as opposed to mainly political, special advisers such as Ridley, Balls, Barber and Norman Warner (adviser to Jack Straw before 1997), with the Constitution Unit acting as unofficial advisers. But the examples also indicate how tricky such pre-election preparations can be and how dependent they are on mutual trust and the relationships between the incumbent ministers, senior civil servants and the Opposition spokesman.

3.1 Conservative public expenditure plans 1979

Events have often rendered plans made in Opposition out-of-date and in need of major revision. Most big public spending reviews have occurred in the middle of a government's life when a financial crisis has occurred forcing a big cut back in spending plans – on a small scale in 1958, in 1967-68, in 1973, in 1975-76 and in 1992-94. Only rarely do oppositions promise, or even undertake, a major spending review ahead of a general election. In 1970, Heath's main emphasis was on restructuring Whitehall and the management of the public sector, the 'quiet revolution', not a big change in levels of public spending.

But in 1977-79, the Conservative Opposition under Thatcher prepared detailed spending options before the election. This section only covers public spending and not the many other preparations which the Conservative Treasury team under Howe made on taxation (notably by advisers Arthur Cockfield and Peter Cropper), deregulation and monetary policy – the broad principles of which were set out in the October 1977 booklet, *The Right Approach to the Economy*, and then developed in a large number of detailed policy papers.⁴⁴

The Conservative Opposition undertook shadow expenditure planning from 1976 onwards. Margaret Thatcher stressed the need to prepare spending plans. This involved a tight discipline on commitments so that what could be announced by Shadow spokesmen was taken very seriously. (This model was followed by Labour in the 1990s, and by the Conservatives again after 2005, though this did not prevent some unofficial raising of expectations by departmental spokesmen). An across-the-board review was not launched properly until after the 1977 spending White Paper (the one following the International Monetary Fund support package of December 1976). This exercise was taken very seriously in 1977-78. There was not only the political problem of getting members of the Shadow Cabinet to make commitments in Opposition, but also the economic difficulty of a moving target of defining expenditures in real, inflation-adjusted terms when inflation was high, and variable, and spending was being limited in cash, or money, terms. The work was complicated during the 'Winter of Discontent' in 1978-79 because strikes disrupted the collection of data. Consequently, by the end of March, the Conservatives knew that all sorts of things were wrong, but they could not make precise expenditure calculations, or conduct a proper 1979 shadow expenditure review.

⁴⁴ *The Right Approach to the Economy: Outline of an Economic Strategy for the Next Conservative Government*, (London: Conservative Central Office, 1977)

This exercise reflected the experience both of the shadow team and of senior advisers, many of whom had worked in government only five years earlier. Ridley, who co-ordinated the spending review, had worked in the Department of Economic Affairs, the Treasury and the Central Policy Review Staff up to 1974. In addition, there were informal contacts with Treasury officials (whom the Tories knew from the 1970-74 period). Most of these secret discussions were at well-below Permanent Secretary level with civil servants who are directly responsible for expenditure and, therefore, most knowledgeable about the details. This was in contrast with the official contacts which were, and are, generally at a higher level with officials not directly involved. These contacts were intended to inform the Treasury about Conservative plans rather than to seek advice.

The Conservatives, then, had their own shadow Civil Service in the form of the CRD of two dozen people. This was just about enough to do detailed work on future policy, including the shadow expenditure review and to support spokesmen in the Commons. The existence of the department, separate from the party organisation and reporting to the leadership, helped to provide more coherent and cohesive policymaking. The aim was to produce a complete dossier for each incoming minister, so that in May 1979 they carried into their departments a ring-binder set outlining options on expenditure, and relevant policy and administrative issues. These went into a considerable amount of detail and covered four years. The impact was reflected in the subsequent, and quickly produced, spending White Paper.⁴⁵ This was easier to agree when the Conservatives were in government because of the earlier commitments made in Opposition. The detailed dossiers for each department on spending cuts amounted to plans for cutbacks below inherited Labour plans amounting to £1.77 billion in 1979-80, the financial year that had started a month before the election. These rose to £3 billion in 1980-81, £4.2 billion in 1981-82 and £6 billion in 1982-83. Around two-fifths of the savings in later years came from cutbacks in housing subsidies and housebuilding.

The incoming Cabinet had to decide how much to do within the financial year 1979-80, which had started in April. Some senior Treasury officials were initially cool about being presented with such detailed plans from outside the department, not least since they were presented by special advisers. After toing and froing between an impatient Thatcher and the Treasury, cutbacks of £1.5 billion (or about 2.2 per cent) were agreed for 1979-80 (below the levels planned by the previous Labour Government) while tight cash limits were intended to squeeze out a further £1 billion by not fully compensating for inflation. This is because, while spending was planned in real or volume terms, departments also had cash limits setting out the amount of money they could spend. So if the increase in cash limits was set at below the rate of inflation there would be a further squeeze, in addition to any change in spending in volume, or real, terms. This was an important constraint when inflation was rising sharply, as in 1979. In late July 1979 the full Cabinet then agreed cutbacks for later years of £3.6 billion, to be announced in November. This was intended 'to stabilise spending for the time being'. This was a holding operation, followed up by a further White Paper in March 1980 which said the Government intended 'to reduce public expenditure in volume terms of the next four years' – by 4 per cent by 1983-84 in volume terms. By 1982-83, the emphasis had shifted to reducing the relative share of spending, rather than its absolute level (though this shift occurred when the latter aim was within reach). In the event, public spending rose by 11 per cent in real terms from 1978-79 until 1984-85. It was only in the mid-1980s that spending trends moved in the right direction. Total spending remained on a plateau in real terms for the next few years. As a share of national income, of GDP, spending rose from 45.1 per cent to a peak of 48.1 per cent in 1982-8, before declining steadily, and then sharply, to below 40 per cent by the end of the decade, partly thanks to an acceleration in economic growth.

In the recent Conservative debate on its spending policies it has been argued, wrongly, that this increase in spending casts doubt on the value of the Thatcher Government's preparations and early decisions: that, in effect, the Tories did not get serious about spending until 1981, and later. This argument is relevant to our report because of the light it throws on the pre-election work. Our study shows that the pre-election work was both extensive and valuable. But, first, external circumstances were far more adverse than assumed before the 1979 election. Inflation rose rapidly in response to the second oil price shock, while the economy moved into recession. These pressures increased spending on welfare benefits; the deficits of the nationalised industries; and the subsidies needed by industries backed

⁴⁵ Cmnd. 7746, Public Expenditure White Paper (HMSO, November 1979)

by government such as British Leyland and shipbuilding. Sharply rising interest rates and higher borrowing pushed up the debt interest bill. Second, the Conservatives had committed themselves to the NATO target of a three per cent annual growth in defence spending and to an increase in health and police budgets. Moreover, during the pressure of the pre-election period, the Conservative Shadow Cabinet promised to honour the Clegg pay comparability awards which ensured that there was a ratchet effect on the public sector pay bill with catching-up payments as price inflation rose. These awards were equivalent to around 1.5 per cent of national income, thus negating much of the agreed short-term cuts in 1979-80.

The Conservatives can be criticised, like most oppositions, for having excessive spending commitments. By accepting the Clegg awards they added to the public sector pay problem. John Biffen, newly appointed as Chief Secretary to the Treasury after the election, was too laid back to be a cutter; the Treasury's bite increased after he was replaced by Leon Brittan in January 1981. But the other main reasons for the pre-election plans being knocked off course were soaring inflation and the economic downturn. So the Treasury was unable to avoid increases in major social programmes, accounting for three-fifths of total spending. These rises were more than could be offset by cuts in other programmes. For the first three to four years, the Thatcher Government was running hard to stand still, and failing. But it would have been much worse without the cuts which were implemented in many non-recession affected programmes, notably housing and other subsidies. If spending on the recession, defence and law and order is excluded, the rest of public spending fell by 3.8 per cent in real terms between 1978-79 and 1982-83. Even if the pre-election assumptions were over-optimistic, without the cuts packages announced in June and November 1979, and March 1980, the position would have been even worse. In 1982-83 spending was more than five per cent less in real terms than the total planned for that year by the Labour Government in January 1979.

It is wrong to argue that the Conservatives only really became serious about public spending in 1981-82. They were serious from the start but they were, initially, overwhelmed by adverse circumstances and some, perhaps, unavoidable policy errors, such as honouring the Clegg pay awards. The initial cuts packages had a favourable long-term impact once the recessionary and inflationary pressures began to recede in the mid-1980s. Moreover, some of the early decisions, such as changing the method of uprating pensions from earnings to prices, only started to produce big savings after several years. The problems of the early years also led, after 1981, to a more radical approach to the nationalised industries, and, in particular, to the privatisation of monopoly utilities in the energy sector in the second and third Conservative terms. The main lessons, relevant at present, are the importance of a clear lead from the top in creating the necessary discipline to achieve agreement in Opposition on spending cuts; the need to avoid too many commitments if you want to contain, or to cut, total spending; the value of both shadow spokesmen and, above all, advisers with experience of government in conducting such reviews; the usefulness of informal contacts, as well as formal ones, to alert the Civil Service to what is planned; and the early start in government which such planning permitted.

3.2 The Treasury 1997

The arrival of Brown as Chancellor of the Exchequer on Friday, 2 May, 1997 was followed four days later by the announcement that the Bank of England was to be given independent powers to set interest rates. This proposal had not featured in pre-election discussions between Brown's team and the Treasury, though Burns, the Treasury Permanent Secretary, had guessed that the proposal would be made on the day of the election. He got Tom Scholar, an up-and-coming official, to work overnight on a paper before Brown and his team arrived at the Treasury with a draft letter to the Governor of the Bank outlining the plan.

This episode can be seen as a classic example of the Brown team concealing their plans from the Treasury, most senior Labour colleagues and, of course, the electorate. Brown and Burns were never close, and their relationship subsequently got worse before Burns departed a year after the election. But the story of the preparations is more complicated, involving extensive parallel work by Brown's team and by the Treasury, and extensive discussions between the two, despite the exclusion of Bank independence. This ensured that the Treasury was well prepared for the new Government's policies, if not perhaps for the style of the new Chancellor and his team.

“During 1996, the Strategy branch in the Treasury produced for senior staff a synopsis of policy statements and summaries of Opposition documents. We discussed contingency plans at a management conference; and as part of our normal budgeting round, we included some estimation of the number of new posts that might be created- an estimate incidentally which so far looks reasonably accurate.”

Burns, Frank Stacy Memorial Lecture, September 1997

Brown and his Shadow team developed their economic plans on their own, which involved not just a broad agenda, but also specific policies and a timetable for their introduction. The key figure was Balls, a former journalist on the Financial Times who became Brown's economic adviser in autumn 1993. His thinking was influenced by the debacle of Black Wednesday and sterling's forced departure from the European ERM (which Brown had previously supported). Balls advocated the creation of an alternative financial framework, underpinned by central bank independence, as advocated by, amongst others, Larry Summers, his former Harvard professor and a senior official in the, then, United States Clinton administration. This idea was not developed in isolation. The adoption by the Major Government of an inflation target and a more transparent system for deciding monetary policy were moves towards a more independent role for the Bank. Brown was also influenced by discussions with Alan Greenspan, Chairman of the US Federal Reserve, in Washington in February 1997. Greenspan was then at the height of his reputation and his stewardship of the independent Fed was seen as one of the main reasons for the strength of the American economy. Balls prepared a secret paper with three part proposals for creating a Monetary Policy Committee of the Bank to set interest rates; for taking financial regulation away from the Bank; and for splitting off gilt sales and management to a separate body.

These plans were kept secret. According to Robinson's account Brown appeared in his Grosvenor House flat on Monday, 28 April, three days before polling day, and said:

Look it's Bank independence. I've come to the conclusion that we should do it straight away.⁴⁶

Balls then turned his paper into the draft letter presented to Treasury officials at 5.30pm on the Friday after the election. Blair and his inner circle were involved, but the new Cabinet were only informed by phone at the last minute, either on the Bank Holiday Monday or the Tuesday morning of the announcement. This shows both the tightness of decision-making by New Labour around Blair and Brown, and their disregard for even the formal rituals of approval by the Cabinet.

The other main plank of Labour's economic plans was on the tax side – not just the pledge against raising the basic and higher rates of income tax but proposals for the windfall tax on utilities, for changing corporate tax and for reforming capital gains tax. Only the former surfaced publicly before the election. All involved bringing in the accountancy firm Arthur Andersen (before the upheavals caused by the involvement of the firm's United States arm with Enron). Arthur Andersen had the resources and expertise to work up the proposals. As with constitutional reform, discussed in a later section of this chapter, this use of outsiders highlights the perennial problems of having sufficient knowledge and expertise in Opposition to prepare detailed policies, which can be implemented quickly. As Robinson records:

It was a research exercise that would have been inconceivable in the cramped conditions, and with the limited resources already stretched to breaking point, of the Shadow Cabinet Treasury team.⁴⁷

Nor would it have been possible to do the work with a group of sympathetic part-timers. The work of the accountants on the windfall levy on the utilities was supplemented by legal advice from leading QCs and draft clauses prepared by retired parliamentary counsel. These became public as part of Labour's propaganda battle before the 1997 election, to show that the windfall tax was workable and legally watertight. While the thrust of proposals was public, many of the details about how the tax would work were unpublished. Meanwhile the Treasury and Inland Revenue officials worked on their own version of the tax during the course of the election campaign. Consequently, on the hectic first weekend of May after the election, the two sets of proposals were compared.

Quite separately, and secretly, Arthur Andersen also worked on plans to reform corporate tax (notably to change the tax credit regime which subsequently had such a big impact on pension funds) and to reform capital gains tax. Robinson noted:

Unlike the windfall tax, neither the Treasury nor the Inland Revenue knew anything about these plans before the election. They were something of a bombshell dropped on officials. The Treasury Permanent Secretary remarked by way of initial reaction to the [Arthur] Andersen calculation that he saw 'some big numbers.'⁴⁸

⁴⁶ Geoffrey Robinson, *The Unconventional Minister* (London: Michael Joseph, 2000), p.34

⁴⁷ *Ibid.*, p.69

⁴⁸ *Ibid.*, p.90

He advised caution: 'I sensed we had caught the Inland Revenue off their guard'.⁴⁹ However, Burns says the Treasury was:

[...] given some sight of the proposals for corporate taxation a week or two before the election; and the background work the day after the election. This enabled us to make rapid progress in the days after the election.⁵⁰

According to Burns' account of the Treasury view of the transition, outlined only four months after the 1997 election, detailed preparations were undertaken in the classic fashion. This is the fullest public statement of a recent transition as seen from the perspective of a Permanent Secretary. It involved what he called 'low key work on what the objectives of the department might look like under a Labour Government, in order to gauge the impact'.⁵¹ Brown's speeches in early 1996, particularly one entitled 'The Treasury's Mission under Labour', provided material for this exercise.⁵²

In election year itself, the Treasury looked again at its likely objectives under a Labour Government and developed a list of likely policy issues, 'most of which we would need to work on intensively during the election period itself'.⁵³ These included: 'how far the emphasis on increasing the rate of sustainable economic growth required a reorganisation of the department; the implications of the creation of a Monetary Policy Committee in the Bank for the monetary policy process; and the implications for the budget timetable of greater external discussion; and how to provide for an audit of the forecasting conventions'.⁵⁴ In February 1997, there was also a discussion of working practices: how advice might need to change its content and approach and 'how we might build space into the timetable for consultation with special advisers and to give advance warning where decisions were needed from ministers. Moreover, in a reference which is equally pertinent today, 'we also did some research into what had gone well or badly the last time there had been a change although there were few staff left in the department with relevant experience!'⁵⁵

Once the election had been announced on 17 March, the Treasury Management Board met the next day to approve guidance on the briefing to cover alternative possible outcomes.

Three days later we met with all of the 60 or so team leaders to set out the issues on which briefing would be needed, the timetable, the emerging findings of our stock-take of working practices and our approach to establishing new posts and moving staff.⁵⁶

There were two-tier briefs, so that new ministers could both skim the summaries of major issues and delve into further material on specific questions 'if they chose to do so'.⁵⁷ This involved a rolling series of meetings through the campaign with parallel preparations and contingency plans on structure, finance and postings. Burns notes that, while new ministers and advisers were the principal target for this effort, its invaluable secondary purpose was to prepare ourselves for a change in government – testing our understanding of the manifesto, its supporting texts and speeches, so that we knew what we knew and equally what we did not know and must soon find out'.⁵⁸ The unknowns turned out to be crucial in the days after Brown arrived at the Treasury on 2 May.

In the weeks running up to the election, Burns had a series of contacts with the Opposition, some with Brown but most with Balls. William Keegan notes in his authoritative study that:

Ed Balls had almost a year of regular meetings with Burns, many of them ostensibly to prepare for a meeting between Brown and Burns, at which many courtesies were exchanged, but little discussion appears to have taken place about actual policy.⁵⁹

Burns, in the end, had a total of three meetings with Brown. Burns stated that 'until very near

⁴⁹ Ibid.

⁵⁰ Sir Terry Burns, 'Preparing the Treasury for the Election', Frank Stacy Memorial Lecture Public Administration Committee, Joint University Council 1997 annual conference. Presented at the Civil Service College, Sunningdale, 1 September 1997, p.12

⁵¹ Ibid., p.9

⁵² Ibid., p.10

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid., p.11

⁵⁷ Ibid.

⁵⁸ Ibid., p.12

⁵⁹ William Keegan, *The Prudence of Mr Gordon Brown*, (London: John Wiley, 2003) p174

the end they were concerned exclusively with what I would call “process of government” questions’.⁶⁰ This covered issues such as the date of the first Budget and associated administrative issues about the timing of the Finance Bill and the introduction of the windfall tax legislation. There was also a lot of discussion about the processes to handle the proposed Comprehensive Spending Review, the Welfare to Work programme and future work on taxes and benefits. This also allowed quick progress after the election. Burns noted:

The issue of the single currency only emerged occasionally. Here the subject for discussion was again one of timetable and when various decisions had to be made or when options would close off.⁶¹

There were also strictly organisational matters such as the location and management of the proposed Enterprise and Growth Unit; space for the special advisers; and staffing issues.

In the event, on the Friday after polling, Brown produced the big surprise of Bank independence. Treasury officials worked throughout the weekend with the Brown team to produce the detailed announcement on the Tuesday morning. This created the impression of a new, decisive Chancellor who was fully in charge and knew what he wanted to do. This was followed by a wide-ranging Budget just nine weeks after the election, which, in its different way, was as significant as Howe’s first Budget 18 years earlier. The Enterprise and Growth Unit and an Council of Economic Advisers, bringing in more specialist advisers, were also established. Alistair Darling, the Chief Secretary, then launched the Comprehensive Spending Review, which reported the following year. So, in one sense, this can be seen as a highly successful transition on both sides.

But this period also included an episode that pointed to tensions ahead. The corollary of Bank control over monetary policy was that financial regulation was removed from the Bank to a new body, the Financial Services Authority. The misunderstandings over the handling of the decision not only severely strained relations with Eddie George, the Bank Governor, who briefly contemplated resignation, but also created tensions with Burns, who sympathised with George. Burns noted dryly in his lecture how the Treasury had prepared in detail for a possible change in financial regulation, so ‘it left us prepared for a range of possibilities and we could respond quickly to the new government’s decision to move quickly on all fronts’.⁶² Moreover, this new regulatory structure was later shown to be seriously flawed during the banking crash of 2007-08. Some critics blamed the way the changes had been pushed through without adequate consultation in 1997, though there is an element of second-guessing in hindsight.

There was a clash of personalities and styles. Brown and Balls were always wary of Burns, whom they associated with the monetarist approach of the Tory years and the failures of the Lawson Chancellorship. But Burns had been responsible for a substantial overhaul of the organisation of the Treasury since the debacle of Black Wednesday in September 1992 and was very receptive to fresh thinking on monetary policy. As Robert Peston wrote in his account:

The policy gap between the Treasury and the New Labour Government was certainly a fraction of what it had been 18 years before when the Tory Government of Margaret Thatcher was elected.⁶³

Yet the personal chemistry was never there and it is possible to argue that the transition was less than successful in terms of Brown’s relationship with his department. Relations between Burns and Brown were further, and irreparably, damaged by a conflict between Burns and Robinson, a Treasury minister responsible for tax, over an investigation of the latter’s position as a potential beneficiary of an offshore trust. Brown also had his own style of operating, working just with longstanding, trusted political advisers, and refused to adapt to the different methods of Whitehall – though, later, a select group of Treasury officials came within his circle. This had a long-term effect on the Treasury staff and their morale. Over the first Bank Holiday weekend, discussions were held among a group of ministers, advisers and Treasury officials around the large conference table in the Chancellor’s then office. These were never repeated, and, revealingly, when the Treasury moved from overlooking Whitehall to overlooking St James’s Park, the Chancellor’s office had a smaller conference table. It was a case of the Treasury having to adapt to a Chancellor’s style developed in Opposition, rather than a Chancellor adapting to the ways of Whitehall.

⁶⁰ Burns, ‘Preparing the Treasury’, p.12

⁶¹ Ibid., p.13

⁶² Ibid., p.15

⁶³ Robert Peston, *Brown’s Britain* (London: Short Books, 2005), p.85

3.3 Education and Employment 1997

The quick start which David Blunkett was able to make at the then Department of Education and Employment in implementing his programme to drive up literacy and numeracy standings and to introduce the New Deal programme for the unemployed has been widely seen as one of the main examples of a successful transition – in marked contrast to other departments such as Social Security and Health. The key was the close personal relationship between Blunkett and Sir Michael Bichard, the Permanent Secretary. There were three central features to the preparations: first, a clear sense of priorities by the Opposition Labour Party; second, a strong Shadow team, including specialist advisers who were respected in their field; and, third, a desire by the department, and especially Bichard, to be ahead of the game, and able to hit the ground running very quickly if there was a change of government, achieving changes on literacy and numeracy and on the New Deal.

Education was repeatedly identified by Blair as one of his top priorities and the appointment of Blunkett as Shadow Secretary of State in 1994 was intended to shift attention to pushing up standards, initially in primary schools. This was meant to signal a change of tone, in which Blair was closely involved, from Labour's approach over the previous few years. This involved moving away from the teaching unions and more towards some head teachers and local officials who favoured change, while also accepting some of the Conservative Government's reforms such as league tables. Blunkett later stressed the importance of the two and a half year run-up in developing policies. Michael Barber, a prominent educationalist, was closely involved, particularly in running a task force developing a literacy strategy. On the Civil Service side, Bichard was an unconventional Permanent Secretary, self-consciously an outsider, having spent most of his career in local government as chief executive of two local authorities before taking over the Benefits Agency and then becoming a Permanent Secretary.

The first formal meeting between Blunkett and Bichard occurred about nine months before the May 1997 general election. Their meetings took place every six weeks or so, usually in the House of Commons, and lasted up to 90 minutes. As with most such contacts, they were initially about the two men getting to know each other, as well as dealing with the particular problem of how the department would deal with Blunkett's blindness on a day-to-day basis. Sir Robin Butler, the Cabinet Secretary, had agreed that the contacts with Blunkett could range beyond just the Permanent Secretary and include at least the Principal Private Secretary in order to plan for the contingency of the first-ever blind Secretary of State. Blunkett and his team, including Conor Ryan, his long-serving adviser, as well as junior spokesmen, also met the department's management board. Blunkett also met Chris Woodhead, the outspoken Chief Inspector of Schools, although that relationship never got beyond the most formal and limited of contacts, even in government.

The main aim, on Bichard's side, was to find out what Blunkett's priorities were, and for Blunkett to explain his ambitions for the department. This was in order to establish an understanding about each other's roles and responsibilities. There was a lack of direct experience at the top level of the department of working in a local educational authority or a school. Barber met Bichard two or three times, notably in February 1997 when Barber went through the report of his literacy task force.

Stephen Pollard wrote in his biography of Blunkett:

Given the purpose of the task force – to work out the specifics of a strategy in Opposition so that Blunkett could begin reforming the system on day one – it was important that the Civil Service knew what it was likely to be implementing. By the time of the election, copies of the report had been sent to every head teacher in the country to prepare them for what was coming.⁶⁴

So, as Barber noted in his own account, 'policy development on school failure and literacy was therefore well advanced by the time of the May 1997 general election'.⁶⁵

Blunkett, with backing from Barber and Bichard, believed that the department 'as then constituted' could not, in Barber's words, 'deliver what the new government would require'.⁶⁶ That led to the creation of the Standards and Effectiveness Unit after the election. Barber was appointed as first head of the unit, despite initial opposition from the top of the Civil Service by Butler. This was partly on the grounds that Barber was classed as an expert

⁶⁴ Stephen Pollard, *David Blunkett* (London: Hodder and Stoughton, 2005), p.222

⁶⁵ Michael Barber, *Instruction to Deliver. Tony Blair, the Public Services and the Challenge of Achieving Targets* (London: Politico's, 2007), p.29

⁶⁶ *Ibid.*, p.30

adviser, and the rules stated that the Secretary of State could only have two special advisers. Blunkett held his ground that Barber was an expert adviser, not a special adviser. In fact, within months, Blunkett had managed to stretch the rules and get four special advisers, in addition to Barber.

The literacy and then numeracy strategies were quickly unveiled. They were seen as among the main first-term successes of the Blair Government in public services. Ryan also played a key part in ensuring that the Civil Service understood what New Labour was all about, not just on the top priority issues such as failing schools and standards, but also on potentially explosive smaller matters. Ryan argues that incoming ministers need to identify two or three priorities and should have a small team at the top to decide, implement and monitor such changes. One of Blunkett's aims was to publish an Education White Paper more quickly than had ever been done before. He was so keen on this that he got civil servants to find out what the target to beat was in terms of the number of days taken to publish a White Paper following a general election.

Bichard has been seen some by his colleagues as stretching the interpretation of the convention to the very limits. They did not state their reservations directly to him at the time, though a number of permanent secretaries have expressed this view privately, in retrospect, when discussing how transitions should be handled. Contacts are intended to concentrate on machinery of government and organisational issues and the creation of the new unit certainly came within this remit. These organisational questions became important as Blunkett was involved in a rearguard action to prevent the department, only two years old at that stage, being broken into its two former parts of Education and Employment. This option was discussed with Bichard and senior officials. Blunkett made the case for maintaining the larger department to Blair, via Jonathan Powell. As a result, the larger department was preserved, though up until the day after the election, officials had expected to have two Cabinet ministers.

Bichard was informed about the Blunkett team's ideas on the literacy strategy and standards, and on the New Deal, but did not offer advice. Bichard's regular contacts with Blunkett were at one end of the spectrum from other departments, which hardly had any contacts at all. Bichard notes the absence of clear guidance on how often they should meet. The frequency was partly justified by the unusual situation of making practical arrangements for the first blind Secretary of State. Bichard does not believe that he crossed the accepted lines. Moreover, he stressed that, ahead of the arrival of the new government in May, he did not at any time offer policy advice. That is the crucial point of principle, which is not in dispute. Equally there is no disagreement that Bichard's approach ensured that the department was able to respond quickly and effectively.

However, relations with Gillian Shephard, the incumbent Secretary of State, were strained. She thought Bichard was too friendly and having too much contact with Blunkett. Shephard noted in her book, *Shephard's Watch*, how awkward this period was for ministers and civil servants, reminding the former of their transient status:

If a government stays in office for a full term of five years, the Official Opposition is entitled to access to civil servants to prepare it for government, should that be the outcome of the election. This must be a difficult period for civil servants, with loyalty to the present incumbents and excitement about who may be the new ones.⁶⁷

But any doubts about the arrangements were not expressed at the time.

One Permanent Secretary later argued that Bichard had 'bet the bank' both that Labour would win the election and that Blunkett would be the Secretary of State – both apparently low risk in view of the opinion polls and Blair's public endorsement of Blunkett as the next Education Secretary. But if it had not worked out that way, as in 1992, trust would have been lost. It would have been hard, if not impossible, for Bichard to remain as Shephard's Permanent Secretary. Another Permanent Secretary noted the paradox that 'stretching the rules' had produced a quick and successful transition, and the questions this posed for the future approach to contacts between Opposition parties and permanent secretaries.

There are lessons both about how a new Secretary of State can hit his stride quickly, working closely with civil servants, and about the need for clearer guidelines and transparency.

⁶⁷ Gillian Shephard, *Shephard's Watch. Illusions of Power in British Politics* (London: Politico's, 2000), p.168

As noted several times above, pre-election contacts are both inherently personal and inherently ambiguous. But there is a case for better guidance about the frequency, attendance and content of meetings so all three groups (incumbent ministers, permanent secretaries and Opposition spokesmen) know where they are.

3.4 The Home Office

A less controversial example in 1997 occurred in the Home Office, fostered by the pre-election contacts between Jack Straw, the Shadow Home Secretary, and Sir Richard Wilson, its Permanent Secretary. Wilson was very different from Bichard in background and style. He was an insider, not an outsider, having spent virtually the whole of his career in the Civil Service. He never sought confrontation, and tried to maximise pre-election preparations while publicly keeping within the conventions. Straw, like virtually all the Blair Shadow Cabinet, and later Cabinet, had no ministerial experience. But he had been a special adviser in the Labour Government of the late 1970s, working for Barbara Castle and then Peter Shore, before becoming an MP at the 1979 election when Labour lost office. His greater understanding of the workings of Whitehall, by comparison with most of his Shadow Cabinet colleagues, was enhanced by the fact that his wife was a senior civil servant, though they were never involved in the same areas, either before or after 1997. Straw already knew Wilson, and they got on. In addition, apart from Ed Owen, a long-standing political adviser, Straw also brought in Norman Warner, a former civil servant and local authority executive with a long involvement in social service and children's issues. Warner later became a Lords minister.

Like Blunkett, and unlike some members of the Shadow Cabinet, Straw had Blair's strong public backing, taking over from Blair as Shadow Home Secretary in 1994. His Home Office proposals were seen as a priority by Blair. Once formal approval had been given for consultations, Straw and Wilson were in touch and a meeting was held, also including Warner and Alun Michael, Straw's deputy in the Commons. This was followed by four or five meetings before the 1997 election. Only a few Home Office civil servants were involved along with Wilson. To avoid any potential awkwardness with Michael Howard, the serving Home Secretary, meetings were arranged when it was known that he would be out of the Home Office on ministerial visits.

Straw knew what he wanted to do in youth justice, one of Labour's five key pledges, and on anti-social behaviour and human rights (part of the much wider constitutional reform agenda, as discussed in section 3.5). The initial focus was on the structure of the department but Straw was ready to raise issues, which went way beyond strictly organisational matters. It is hard to draw a clear line since, for example, the proposals on human rights (to incorporate the European Convention into British law) had implications for the Home Office's organisation. Further talks involved the Home Office's human rights specialist, who raised questions about what Straw's plan might involve. The other main focus was on juvenile crime and streamlining the handling of young offenders. Wilson stressed that civil servants must not give advice, but should give Straw and his colleagues a chance to explain what they wanted to do. But, in Wilson's words, they must not be 'given the fruits of power prior to the election'.

From the Home Office point of view, these talks enabled the Home Office to make preparations ahead of the general election, notably in April 1997 when the campaign was under way and both existing ministers and their shadows were away campaigning. Wilson was able to guide civil servants in their preparatory work on violent crime and youth justice. There was a lack of institutional memory at the Home Office, as elsewhere in Whitehall, as few officials had memories of previous transitions. The work concentrated on what would happen in the first week and month. This is particularly important since the Cabinet committee on legislation meets in the first week to settle the contents of the Queen's Speech, which is delivered only about a fortnight after the general election. So a department that knows what new ministers want to do has an advantage in making bids to secure time in the legislative timetable. This also underlines the importance of continuity, of the Shadow becoming the full Secretary of State, as happened at both the Home Office and Education. Wilson remained to see through the transition before he took over from Butler as Cabinet Secretary and was succeeded at the Home Office by Sir David Omand in early 1998.

Following these extensive preparations, Straw was presented on the day he came into office with three ring-binder files covering the first weeks and months of the administration. He was therefore able to get into his stride quickly, and the Home Office was able to respond, for example, with a team ready to work on what became the Human Rights Act. The preparatory discussions allowed a big legislative programme on home affairs to be pushed through in the first session. This generally harmonious relationship and sense of activity was not shared across Whitehall. Of course, these early initiatives only touched one part of the Home Office and, despite the good start, there were later strong criticisms of the performance and structure of the department, not least by Blunkett when he took over from Straw as Home Secretary in 2001, and then, later, by John Reid.

This case study shows how a new Secretary of State can make an early impact. Because of the extensive pre-election contacts, the Home Office knew what Straw wanted and so was able to deploy officials in the right places and have detailed papers ready for when he arrived. But this was dependent on the good personal relationships built up before the election, and the candour of the discussions. The value of such contacts is underlined by their absence in several other cases, notably Health.

“
Under the present government [the Civil Service] has no remit to consider constitutional questions; and hence no capacity to do anything other than supply defensive briefing about the status quo[...]when pressed into service Whitehall tends to come up with a pragmatic and minimalist response.
”

*'Inquiry into the Implementation of Constitutional Reform',
8 February 1995*

3.5 Constitutional reform 1997

In 1997, the Labour Government introduced a package of constitutional reforms on a scale not seen for 80 to 90 years. This is very different from the earlier case studies since many of the measures were outside the Civil Service's existing remit and experience. The problem of how to prepare was addressed by the creation of a quasi-Civil Service unit outside Whitehall to fill the gap and to provide detailed proposals by the time of the general election.

These constitutional reform proposals had emerged from disparate sources during the Opposition years. Together they represented far greater changes to the government of Britain than had been put forward by any previous Labour administration. They included devolution for Scotland and Wales; removing most of the hereditary peers from the House of Lords; Human Rights legislation; a Freedom of Information Act; a Mayor for London; an Electoral Commission; and controls over party finance. Blair had inherited most of the commitments from John Smith and was determined that what would inevitably be a large number of bills would not clog up his whole legislative programme. He was keen to remove potential problems and streamline the preparation of constitutional legislation.

Translating the broad pledges into detailed, workable plans required greater resources than the Labour Opposition could call upon. A number of outside groups argued the case both for specific changes and constitutional reform in general. In 1993 specialists in the academic, legal and political worlds had identified a 'growing consensus about what measures were required, but very little sense of what practical steps were necessary to achieve them'.⁶⁸ Consequently, in 1995, an 'independent and non-party' body was established within University College London to 'assess the practicalities of these different proposals, to explore the connections between them, and to devise a realistic and coherent legislative programme' on the assumption that 'if constitutional reform is to happen, at present it is Labour which is most likely to bring it about'.⁶⁹ Known as the Constitution Unit, it was, and is, headed by Professor Robert Hazell, a former senior Home Office civil servant who had previously been Director of the Nuffield Foundation.

The work of the Unit overlapped in the crucial pre-election period with the discussions of the Joint Constitutional Committee on Constitutional Reform set up between Labour and the Liberal Democrats under Robin Cook and Robert MacLennan to explore common ground on a legislative programme and how it might be implemented. Negotiations in the Joint Committee were not always easy, especially on the wording of the pledge on electoral reform and on the use of proportional representation for elections to the European Parliament. But sufficient understanding was achieved to produce a clear blueprint for the future legislative programme, which was largely implemented in the 1997-2001 period. This political agreement was underpinned by the detailed work of the Unit.

The background was the failure of earlier Labour governments to make progress on House of Lords reform and on devolution, though, in both cases, the problems were as much political, in terms of the lack of parliamentary and popular support as in design and drafting. However, the founders of the Constitution Unit believed that, without 'sensible' planning and

⁶⁸ British Library (BL), Constitution Unit Archive: Add.MS.87373A Constitution Unit Archive. Vol. i a. Formation of the Unit; Nov.1994-April 1995. (file 101) 'The Constitution Unit', 23 May 1995

⁶⁹ Ibid.; 'Inquiry into the Implementation of Constitutional Reform', 8 February 1995

implementation, something the resources of Labour's research department were unlikely to meet, a repeat attempt could also end 'in a shambles'.⁷⁰ More than this, the Unit believed that leaving the detail of the reforms for the Civil Service to resolve after the election was a mistake because the Civil Service was 'singularly ill equipped' to sort it out then.⁷¹

The Unit concentrated on the practicalities rather than the desirability of reforms, and particularly the hows of implementation. Contacts with the main Labour figures were complicated because the programme cut across several departments. Straw was the lead on all measures except devolution, since the Home Office then had oversight of constitutional issues. On Scotland, Blair delegated much of the discussion to Donald Dewar, his pre-election Chief Whip and later Scottish Secretary and First Minister, and to George Robertson, the Shadow Scottish Secretary. However, Blair's office sought to maintain central control through his senior advisers, Powell, Miliband and Pat McFadden. These three met together, or separately, with Hazell several times.

The firmest commitment was to Scottish devolution, where a detailed plan had already emerged from the Scottish Constitutional Convention, which included Labour, the Liberal Democrats, and representatives of the churches, the professions, local government, business and the unions, but not the Conservatives or the Scottish Nationalists. The creation of a Scottish Parliament was seen by Dewar and the large Scottish group in the Labour leadership as an absolute priority, separate from the rest of the constitutional agenda. By contrast in Wales, there was less agreement either within the Labour Party or more generally, about devolution, so a different approach from Scotland was inevitable. Blair's priority from the beginning was that 'Ron Davies should come up with a document that commands support in Wales'.⁷² Moreover, as David Richards has noted in his study of the 1997 transition, the strong opposition to devolution by William Hague, the Secretary of State for Wales, made it hard for civil servants to prepare options. Richards quoted one official as stating that the 'department was anxious about doing anything internally about the issue or having any contacts with regard to the possibility of devolution'.⁷³

Once the political decision had been taken for House of Lords reform over a number of stages, the main focus was when and how to remove hereditary peers. Straw was aware that removing the hereditaries would 'disturb the pond', but emphasised that they were 'indefensible' and that Labour's manifesto commitment on removing them would be firm.⁷⁴ Miliband expressed Blair's view that the expected press response to constitutional reform as a whole, and especially Lords reform, would be that it was 'a lot more difficult than Labour pretended' and they 'hoped the Unit's overall message would be to show how constitutional reform could be done; and how it could be done gradually'.⁷⁵

In incorporating the European Convention of Human Rights into British law, but not the original idea of a specific British Bill of Rights, the Labour Government opted for something akin to the New Zealand model, with no power for the senior judiciary to strike down legislation. The Unit's work had analysed how the legislation would affect the judiciary. There was, anyway, a widespread debate among lawyers and academics on this issue, particularly as the Major Government came into conflict more often with the judiciary. As noted above, the Home Office was able to make detailed preparation on the Human Rights Bill following talks with Straw and his team.

The Constitution Unit pressed for a non-departmental lead minister on the reforms, especially to handle timetabling and coordination. Hazell saw this as particularly important since no single department, or the Cabinet Office, could itself take ownership of the whole project. In a letter to Powell on 22 April 1997, during the election campaign itself, Hazell, apologising for a 'Parthian shot', argued that if there was not a constitutional suprema, and one in the Commons, there was a danger that Blair would 'continually be dragged in... [and] the constitutional reform programme will quickly become a shambles'.⁷⁶

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² BL, Add.MS.87444 C.U. LXXII Labour Party Correspondence, 'Meeting with J Powell' (R Hazell, P McFadden and D Miliband), 19 Jan 1996

⁷³ Richards, 'Sustaining the Westminster Model', p.9

⁷⁴ BL, Add.MS.87389 C.U. XVII House of Lords Meetings/Correspondence, 'Note of a Meeting with Jack Straw', 23 August 1995

⁷⁵ BL, Add.MS. 87444 C.U. LXXII, Notes of a meeting between Powell, McFadden, Miliband and Hazell, 19 January 1996

⁷⁶ Ibid., Hazell to Powell, 22 April 1997

The Unit attempted to include senior civil servants in the discussions, or at least to keep them abreast of progress. However, they faced the same restrictions that the Civil Service placed on contacts with MPs. In autumn 1995, Hazell sought contact with Sir Richard Wilson, Permanent Secretary at the Home Office, in order to 'pick [Wilson's] brains (on an informal basis) about some of the machinery of government issues'.⁷⁷ Wilson responded, as he felt he must, that he would be:

[...] glad to meet you to clarify matters of fact [...] although I do not think it would be right for me to enter into discussions about the formulation and implementation of reforms which are not part of the Government's policy.⁷⁸

The following year, attempting to update Sir Robin Butler, the Cabinet Secretary, Hazell was more careful in his wording, emphasising that it was 'not so much the individual items which I hope we might discuss, but the implications for the machinery of government (including the Cabinet Office); and how the individual reforms might be brought forward in a coherent legislative programme'.⁷⁹

These preparations – at the various levels of the Scottish Constitutional Convention, the Joint Committee, the contacts between Straw and Wilson and the work of the Constitution Unit – paid off following the election when several major constitutional bills were approved by Parliament in the long first session in 1997-98. The Civil Service responded quickly and implementation was underpinned by the network of Cabinet committees under the chairmanship of Lord Irvine of Lairg, the Lord Chancellor. These ensured coordination and consistency between the very different pieces of legislation. The Constitution Unit played an important role, which the Civil Service could not then do, in preparing detailed proposals, especially on implementation, which could quickly be taken forward. This episode also highlights the problems facing a political party with ambitious proposals but lacking the wherewithal to fully plan for them; the Civil Service's inability either to provide pre-election help or detailed and lengthy analysis; and the consequent reliance on third-party organisations to undertake such work (as Arthur Andersen did on Brown's tax proposals).

⁷⁷ BL, Add. MS.87443 C.U. LXXI Correspondence Multiple Files, Hazell to Wilson, 12 September 1995

⁷⁸ Ibid., Wilson to Hazell, 30 October 1995

⁷⁹ Ibid., Hazell to Butler, 7 October 1996

4. Lessons from elsewhere

The Westminster model of Opposition preparation and contact with the Civil Service, leading up to an immediate handover of power after an election is highly unusual – if compared either with other tiers of government in the UK or with parliamentary systems overseas. Some of the contrast is because the constitutional and electoral systems are different. But there are clear lessons about how transitions could be improved at Westminster even under the present first-past-the-post system, let alone how the arrangements would have to change if there was a shift to a different system, which resulted in no single party having an overall majority and coalitions or minority governments became the norm.



Source: Nicholas Newman, *The Sunday Times*, 4 May 1997 ©

A striking feature is how, in most of these cases, the procedures for handling transitions are more explicit than at Westminster. There are formal caretaker conventions in Australia, Canada and New Zealand that can be read on the government websites, in contrast to the uncoded and ambiguous understandings in Britain. Indeed, most democracies have such explicit conventions. However, there is concern in both Australia and New Zealand that increased codification and prescription brings the risk of reducing flexibility and taking responsibility away from politicians, where it should rest. More generally, there is a much more open debate in these countries about transitions than in the UK.

It is tempting to look at the well-documented and extensive transition process in the United States, which can last for 11 weeks between Election Day on the first Tuesday in November and 20 January (it used to be in March until after Roosevelt's inauguration in 1933). A large and well staffed transitions office sifts through the avalanche of résumés from people eager to occupy one of the several thousand politically appointed posts in a new administration, of whom more than 500 have to be confirmed by the Senate. This process reflects the formal separation of powers under the US constitution and has proved to be extremely cumbersome and inefficient.

Quite frequently, a sizeable number of senior posts are still vacant several months after the new President has taken office because of the long process of vetting required. By the end of August 2009, just 43 per cent of the posts requiring Senate confirmation had been filled even though the same party controls both the White House and the Senate.⁸⁰ That is because the White House has become more cautious after several nominations had to be withdrawn, while the process of vetting has become more cumbersome. Consequently,

⁸⁰ Peter Baker, *New York Times*, 23 August 2009

career civil servants or even holdovers from the Bush administration have filled posts on a temporary basis. The list included the Treasury's assistant secretary for financial markets, the Army Secretary and the head of the Agency for International Development. The constitutional differences between a presidential and a parliamentary system show why the American experience is of limited relevance to the UK.

In other cases, the handover process is more gradual because a different electoral system is used. Most of the many variants of proportional representation lead to bargaining after the elections among possible coalition partners. This can mean that a handover can take a few weeks, rather than a few days. Whatever the strength or weaknesses of such coalition building for effective government, the negotiations inherently involve a different transition process from the familiar one for British central government. That means that most European procedures are different from those in the UK.

The examples that follow include broadly comparable parliamentary systems in the Commonwealth, notably Australia, New Zealand and Canada. The formal codified caretaker rules govern the handover period. The transfer of power is not immediately after the election, but some days later, even when there is a clear-cut result. New Zealand is particularly interesting because of the change in its electoral system from first-past-the-post to a version of proportional representation.

Within the UK, the transitions we consider here are English local government; the Mayor of London; and the devolved legislatures in Scotland and Wales. Each has lessons for UK central government, though both politicians and civil servants have been traditionally averse to looking at how government operates beyond the M25. In Town and County Halls, the law permits regular contacts between all elected members and officers, so that an incoming leader and his/her executive team usually knows more about how the council works than incoming ministers do about Whitehall. There is also a less hurried timetable for handovers even though, like the Commons, elections for English local authorities are also conducted under the first-past-the-post system. An extensive system also exists for preparing likely leaders of councils via training and mentoring sessions. The transition from Ken Livingstone to Boris Johnson as Mayor of London in May 2008 provides several instructive points about how and, particularly, how not to transfer power: notably the patchy nature of preparations ahead of the election, and the failure to vet key appointments.

Scotland and Wales are revealing in showing how different political cultures can produce effective and more gradual transitions. Both administrations are elected under the additional member variant of proportional representation, and so, in one sense, are comparable to continental countries such as Germany. However, they have adapted the Westminster political culture to Edinburgh and Cardiff.

In most of these cases, both in the UK and overseas, the main emphasis is on what happens after an election when governments are being formed, rather than before the election, as at Westminster (though pre-election discussions are held between Opposition parties and the Civil Service in Australia, Canada and New Zealand). This is both because of a less hurried and immediate timetable, and because, outside Westminster, particularly under proportional systems of voting, the election is not necessarily the decisive event over the choice of government, but is often just a preliminary to negotiations over the creation of an administration.

4.1 Local government

Transitions at local government level differ from Westminster in the timing of taking office, the degree of induction provided by different local authorities, the access to officials and information available to oppositions, and in the level of trust between officials, Opposition councillors and the ruling party.

The structure and culture of local government is wholly different even within the post-2000 structure of executive leadership, as location is often crucial. Unlike the physical division between civil servants and elected politicians, between Whitehall and Westminster, officials and elected members work in the same buildings in Town and County Halls. The smaller world means more familiarity and less distance. Councillors' passes give them access to the offices of senior council staff, so that they can go and find the official responsible for a policy or decision. This does not exist in Whitehall where Opposition leaders and MPs generally are treated as much as outsiders as journalists. Similarly, councillors can e-mail officers directly, whereas MPs' correspondence is supposed to go through ministers.

“ [...] having no training or professional standards to fall back on, politicians resort to the only skills they have been able to develop as they battled to be parliamentary candidates. They include posturing, tribalism, and exaggerated promising. When they need it the most as senior politicians, the finer skills, such as leadership development, how to tackle insoluble problems, personal organisation, people management, and complementary team work – are simply missing from their vocabulary and knowledge spectrum. ”

Christina Dykes, *Leadership Centre for Local Government*

Opposition councillors can also gain direct experience of the executive through scrutiny committees, notably on budgetary issues. These can have more impact in driving the policy agenda than similar parliamentary committees which do not include frontbenchers (that is potential ministers). Hence councillors may already know a lot about strategy and the delivery of policies before they take office if their party wins the election. They should be familiar with the allocation of money. This not only eases a transition but it should also make for more effective Opposition.

Moreover, senior council officers often have more experience of different party controls, and shared control in coalitions, than civil servants nationally. This is not only because of changes following local elections but also because most chief executives will have served in a number of local authorities.

In the period before an election, Opposition councillors can not only meet with officers but can even get their entire manifesto or a particular policy costed. A distinction is made between operational and policy advice and officers will use their discretion about what can be discussed and what information imparted. But there is less concealment and greater openness and more trust than at Westminster.

Local government is also very active in preparing councillors for office. At one level, there are induction procedures organised by officers from a local authority about how to manage budgets, sources of revenue, and the organisation of the council, such as the role of scrutiny committees. At another level, the parties have themselves become very active in preparing the potential leaderships of local councils.

Few national politicians are aware of the extensive training for local council leaders, spearheaded by the Leadership Centre for Local Government, a cross-party group involving Joe Simpson on the Labour side and Christina Dykes on the Conservative side. The Centre's publications have no counterpart in the preparations at Westminster (see www.localleadership.gov.uk). For instance, *Preparing for Power* – based on the Conservatives' experience before and after taking power in Merton council in May 2006 after 16 years in Opposition – provides many useful parallels for any national handover.

Councillor David Williams, the Leader of Merton, wrote:

The planning should start as far in advance as possible. If you can begin preparations for taking over the administration a year before the election, do so. If, however, you are reading this only days out from an election, don't panic: anything that you can do now will save you time after the votes are counted and you find yourself busier than you've ever been.⁸¹

The report gives advice on a number of activities that should be underway a year before the election: beginning the research that underlines the policy manifesto; considering finding a mentor to help develop political leadership skills; starting to develop a relationship with the chief executive; and commencing research into best practice at other councils.

The mentoring work by leaders at other councils is an interesting innovation. The Leadership Centre contacts councils when a change of administration is anticipated in order to offer potential new leaders help through the process. This is about the task of leading and running a local authority, such as establishing a good relationship with officers, not party tactics or campaigning. The Centre also runs a 12 month 'Next Generation' programme, organised separately for each of the main parties, aimed at councillors in executive or shadow executive positions who may expect further advancement. This, for example, involves profiling to examine strengths and weaknesses as political leaders. This work is being expanded across leadership teams in councils and with away days when leaders and chief executives can compare experiences, and let off steam.

4.2 Mayor of London

The handover from Ken Livingstone to Boris Johnson as Mayor of London in May 2008 provides an instructive, and cautionary, tale. At one level, the change was a one-off, reflecting both the extraordinary, and very different, personalities of the two mayors, and the unique nature of the post. But there are broader lessons for transitions at Westminster, not least because the transfer of power at City Hall from incumbent to successor is immediate – unlike virtually all the other elections considered in this chapter. Moreover, the problems which very quickly appeared over senior members of the new Mayor's team have been seen

⁸¹ London Borough of Merton, *Preparing for Power*, (Merton: London Borough of Merton, 2006) <http://www.localleadership.gov.uk/images/power.pdf>

as a warning to Cameron about how he should approach the appointment of special advisers if he becomes Prime Minister.

There were no precedents or conventions for a transition. When Livingstone was elected as the first Mayor in 2000, he had two months to set up his team before his formal inauguration. In 2004, his re-election almost looked probable. So 2008 turned out to be the first test of how the system could handle a transition. Fortunately, Anthony Mayer, chief executive of the Greater London Authority, had experience of such changes as a former senior civil servant. He devised procedures – it is probably premature to call them conventions – to handle a possible change. He discussed with Livingstone the questions both of meeting up with Johnson, by then the official Conservative candidate, and of discussing any subject he asked about. Livingstone agreed to both points, and Mayer met Johnson towards the end of 2007, over four months before the election. Livingstone was relaxed about this contact and, as in Whitehall, was not informed about the contents. The main discussion concerned the practicalities about how the Mayor and Assembly worked, and about the functional bodies. Johnson took extensive notes. There were later meetings between Mayer, and full-time officials at City Hall, with Nick Boles, Johnson's chief of staff, and other advisers. The two meetings, in April 2007, during the campaign, were on Mayer's agenda and dealt with practical issues of who was coming in, who the Johnson team wanted out, arrival arrangements, and what decisions had to be taken and people to be met with, in the first week after the election.

Senior officials in the functional bodies, such as Peter Hendy, the Transport Commissioner, met Johnson and his team in the run-up to the election. Sir Ian Blair, the Metropolitan Police Commissioner, met Johnson to discuss the impact of a change of control. However, the position was complicated since some of the heads of these agencies were seen as political allies of Livingstone, though the Police and Fire Commissioners, while answering to authorities partly or wholly appointed by the mayor, were, in practice, more independent. But the precedent was established for such contacts.

There was, however, no discussion at all of policy, as opposed to process. So, unlike Whitehall, officials did not listen to the Opposition candidate's ideas and make preparations. That partly reflected Johnson's personality. Johnson was instinctively disinclined to develop detailed policies. He was on a personal mission – him versus a tarnished Livingstone administration – and he made very few policy pledges. Moreover, Lynton Crosby, his campaign manager, fought against any public talk about what happens after the election. Like Blair before 1997, and Cameron ahead of the 2010 election, he was opposed to the slightest hint of complacency or assuming that the election was as good as won. So virtually nothing happened on implementation, especially after a leak led to Crosby stopping preliminary work.

The election result was not announced until 11.55pm on the Friday evening, nearly 26 hours after the polls closed. The formal announcement was a foregone conclusion since the results in the 14 London super-constituencies became known during the day. Mayer was in the odd position of being both the returning officer for the Mayoral and Assembly elections and the chief executive preparing for the new administration. As in Downing Street, the change was almost immediate. Boles and members of the Johnson team turned up on the Saturday morning to plan for the arrival of the new Mayor which occurred on the Sunday, and were faced with the task of making new appointments quickly.

The early weeks exposed flaws in the arrangements. The model was the American one of a powerful big city leader who brings in their own senior team, often with considerable executive experience, reflecting the large pool of unelected figures that move between the public and private sectors at both federal and local levels. The American system breeds people for such appointments who switch between big law firms or banks and executive roles in the federal, state or city administrations. In New York City, for example, Mayor Michael Bloomberg has seven deputy mayors appointed by him to run major portfolios. He also appoints more than 60 commissioners, chairs and other senior officials to run services. But he has two months between being elected and taking office at the beginning of the following January, two to three weeks shorter than an incoming President.

The Mayor of London is doubly disadvantaged. First, there is no interval between election and taking office, not even the few days or fortnight in local councils or the Scottish and Welsh Governments. There is no time to think or to vet appointees. Second, there is a much more limited pool of potential deputy mayors and senior executives/advisers in Britain even for the much smaller team of nearly a dozen that are appointed in London, and the small

number of commissioners and heads of the functional bodies. This is unlike the Westminster system where senior civil servants are permanent and potential ministers have emerged through election and time in Parliament; so a political and official team is available no matter how inexperienced the incoming ministers may be in running departments.

Johnson had no experience at all, or feel, for such appointments. He knew virtually none of the potential candidates for his top team. That was partly because of his personality. He has, in the words of one former colleague, 'no gang'. He travels alone. While Livingstone is also a loner in relation to other politicians, he did have an inner core of trusted advisers, who shared the same viewpoint, with whom he ran London for eight years. Johnson had to start from scratch. Moreover, many in the Conservative national leadership were highly sceptical about Johnson as a potential Mayor of London, not thinking him a serious candidate, so they believed he would have to be managed and would become a largely ceremonial mayor surrounded by strong deputy mayors. However, that underrated Johnson's abilities and determination to be in charge. It also meant confusion over the remit for the appointees: were they to be advisers or powerful executives? The bones of a team were quickly built but there was no vetting at all of possible appointees, partly reflecting Crosby's ban on any public hint of transition planning. Boles did have informal talks with head-hunters on a personal basis about appointments.

The rapidity of the handover and the absence of planning meant that appointments were not thought through. There was an embarrassingly high failure rate in the early months: both through a failure to check up on problems in appointees' backgrounds (Ray Lewis) or misunderstandings about what jobs involved (Tim Parker). The position stabilised when Kit Malthouse and Sir Simon Milton were appointed, and Harvey McGrath, an experienced City figure, was brought in as chairman of the troubled London Development Agency. Johnson was able to make an impact partly through his personality and different style from Livingstone and by picking on a few symbolic policies, such as banning alcohol on the underground. But the problems establishing a serious, and experienced, team were the main failures of the Johnson transition.

Among the lessons drawn by the Conservatives are that there should be a full-blown implementation plan and process for the three months up to Election Day. It should be staffed separately from the campaign, report to the candidate's chief of staff and would plan priorities, handle the handover (what happens over the first days and weeks), and key appointments. Consultation with the chief executive and officials should be formalised. Moreover, the transition should ideally be over a few weeks – say, up to the end of May – rather than over a weekend. This would allow time for sensible discussions over appointments, and vetting of candidates. This would allow more time both to identify and to talk to people. Above all, there is a need to know what the Mayor wants to do and have clear priorities.

The official analysis was similar – both in stressing the problems over appointments and the importance of having a strategy and a few big ideas. Mayer also emphasises the theme 'trust the bureaucrats' since the permanent officials, as well as politically appointed advisers/executives, are central to success, despite fears that some had become too close to Livingstone. Personality alone is not enough.

4.3 Scotland and Wales

The changes of administration in Edinburgh and Cardiff in 2007 show how transitions have worked under a different constitutional and electoral framework from Westminster. In both cases, the changes following the elections were not immediate but took place 13 days after the election on 16 May in Scotland and 22 days later on 25 May in Wales, following lengthy negotiations between the main parties. In both Edinburgh and Cardiff, the eventual outcomes – a Scottish Nationalist minority government and a Labour/Plaid coalition – did not match any of the possible scenarios worked up by officials beforehand. This is evidence not just of the unpredictability of politics but also of the robustness of the devolution settlement. The political leaders worked out solutions but this was largely because of a constitutional framework and a degree of mutual trust, which permitted such flexibility.

Unlike Westminster, the procedures for the formation of administrations are governed by statute and there are firm deadlines about when a new executive has to be in place, in practice when a First Minister has to be elected, and nomination then formally approved by the Queen. In both Scotland and Wales, the First Minister has to be approved within 28 days

“
The transition of power between administrations places the spotlight on the permanent institutions of the state [...]. The leaders of the permanent public service provide continuity between administrations. Their ability to earn and retain the trust of successive administrations is a critical factor in the smooth transition of power from one group of elected officials to another.
”

Public Policy Forum, 2001, p.27

of an election; otherwise new elections have to be called. In practice, however, this may not be an absolute deadline since contingency plans for the appointment of a caretaker First Minister have been considered in order to avoid fresh elections.

The crucial feature in both Scotland and Wales is that the Parliament and Assembly are elected under versions of the additional member system of proportional representation. This makes it very hard, though not impossible, for a single party to form a majority administration, and usually requires negotiations after every election about coalition building. The intention of the original 1998 acts (modified in 2006 in the case of Wales) was to produce agreement among several parties. So the underlying assumptions are not majoritarian, but pluralist. This has created a very different political culture from Westminster, and the main participants have found it both necessary and natural to maintain close contacts. It is also a culture where the Civil Service plays an active part as a guarantor of the statutory arrangements for the formation of a new administration and the good faith of the process.

In Scotland, the main parties have accepted a strong Civil Service presence underpinning the negotiations, keeping the score of the points made by the various parties. Sir John Elvidge, Permanent Secretary of the Scottish Executive (and from 2007 of the re-titled Scottish Government) had established two small teams of a couple of civil servants to be seconded to the parties involved in any coalition negotiations. This was in no sense akin to secondment prior to an election, as has been suggested, though so far rejected, to aid Opposition policymaking. It is specifically for the purpose of providing coherence to the talks. The key is the trust by politicians in the confidentiality of their relations with the Civil Service, with only the Permanent Secretary seeing the whole picture. The parties accepted a strong Civil Service presence underpinning the negotiations. Scottish officials learnt from the New Zealand experience.

In practice, these preparations for coalition negotiations turned out to be redundant, though Elvidge quickly adapted his proposed advisory teams for the new situation. The election left the Scottish National Party (SNP) with 47 members, up 20 on the previous election, but just one ahead of Labour on 46 and well short of the 65 seats needed for an overall majority. It quickly became clear that a revival of the Labour/Liberal Democrat coalition which had been in office since 1999 would not occur, and not just because the two parties could only muster 63 MSPs. The Liberal Democrats said that only the largest party, that is the SNP, had the moral authority to seek to form a government. At this stage, there were conversations with the parties asking whether they wanted to be players in the process of government. The prospect of a referendum on independence ruled out any Liberal Democrats involvement in a coalition with the SNP and the Greens. So it quickly became clear that, instead of a coalition, there would be a minority government. The Greens, who only had two MSPs, rejected a formal coalition and instead agreed a 'co-operation agreement' with the SNP, involving a commitment to vote for the First Minister in return for commitments on climate change and opposition to building new nuclear power stations. So, in the vote on 16 May, the SNP and Greens combined mustered 49 votes against 46 for the outgoing Labour First Minister, Jack McConnell, with the Conservatives and Liberal Democrats abstaining on the crucial second round vote. Over the fortnight between the election and the formation of the SNP Government, McConnell managed a caretaker administration personally. All work was conducted through him. This proved to be generally acceptable.

The process rested on a degree of trust between all the participants, crucially the SNP, Labour and the Civil Service, which pre-dated the 2007 election campaign. Unlike before the 2003 election, there were formal, and earlier, contacts between the Civil Service and the main non-coalition parties. Elvidge set down guidelines about the way in which the Civil Service could have contacts with the Opposition parties. Elvidge had a conversation with Alex Salmond six months before the election to establish the basis for any later discussions. There were similar talks with the Conservatives. These earlier contacts turned out to be invaluable when the process turned out to be very different from expected. The main focus was on process, on how negotiations would be handled, rather than on the substance of policies. Central to the talks was an emphasis on functions as teams, not loose collections of individuals. There were two key elements. First, the absence of formality enabled all participants to manage an unpredictable process in a flexible way. Second, the 2007 example underlined the importance of robust preparations and mutual trust between civil servants and the parties.

Wales in 2007 had no experience of government transition involving a change in the main party and none of transition over a dissolution period. A problem particular to Wales, but not Scotland, was that, under the original Government of Wales Act 1998, the National Assembly was established as a single corporate body, with secondary legislative powers. But the amending legislation, the Government of Wales Act 2006, introduced a legal separation between the National Assembly and the Welsh Assembly Government, the executive, along the lines of the split in Scotland. This separation between legislature and executive took effect once the First Minister had been appointed following the National Assembly elections in May 2007. So the Assembly was then in transition between the two sets of arrangements. A temporary standing order was agreed by the Assembly in 2007 to allow time for coalition negotiations. However, the First Minister was still required to be in place within 28 days of the election, or else a new election would have been necessary.

Leading up to the 2007 election, the Permanent Secretary wrote to all the party leaders and offered meetings on matters of emerging policy, as well on the implications of the 2006 Act. The response varied between the parties. As in Scotland, government officials worked up a range of possible scenarios. None matched the Labour/Plaid coalition, which eventually emerged. The resulting One Wales Agreement was drafted by the two parties involved, although advice was given on policy issues to the continuing ministers during this process. The First Minister had confirmed that discussions were under way with Plaid, though it would be more complicated if other parties, or leaders, had plausible claims to form an administration.

4.4 Canada

The Canadian system has developed a strong pre- and post-election transition process, and a delayed handover that focuses primarily on the Leader of the Opposition and not other potential ministers. The Canadian electoral system at the federal level is first-past-the-post with some similarities to the UK. Where it differs is in the greater frequency of minority governments. In 2001, the Public Policy Forum undertook an extensive study of the practice of transitions in Canada.⁸²

The role of the Secretary to the Cabinet (also the Clerk of the Privy Council) and the Privy Council Office (PCO) is similar to that of the Cabinet Secretary in the UK. However, there are relatively clear and well defined roles for the PCO, the Secretary to the Cabinet and a specific deputy assigned to transitions that enables them to manage the process in a manner that is sometimes more overt and structured than in Whitehall. Since 1957 the Secretary to the Cabinet has had specific responsibilities regarding transition planning before each anticipated federal election and in the cases of incumbent prime ministers leaving office.

Preparatory work in the months prior to an election campaign is seen as requiring 'a good deal of tact', not least in the use of contacts between Opposition and public service.⁸³ The Prime Minister will authorise the Secretary to the Cabinet to begin the transition preparation some months prior to an expected election and 'ideally' Opposition leaders will be briefed on the general nature of such work. The leader of the Opposition and Secretary to the Cabinet are also able to undertake some additional formal meetings. The incumbent Prime Minister will be informed of any formal meetings between the Leader of the Opposition and the Secretary to the Cabinet, but not their content.

The purpose of such meetings is for the public servants to learn more about the matters that the Leader of the Opposition would expect to be briefed on in the event of having to form an administration.⁸⁴

These contacts bear some similarity to those allowed in the UK, with one crucial difference. In Canada such contacts are not usually permitted between other members of the Opposition and permanent heads of department. Specific departmental matters of concern would go through the Leader of the Opposition, who is allowed to include political advisers in the discussions, and the question of potential ministers getting to know relevant permanent secretaries is not addressed. The intention of this is to 'minimise the opportunity for misunderstanding'.⁸⁵

⁸² Peter E. Larson (ed.), *Changing the Guard: Effective Management of Transitions in Government* (Ottawa: Public Policy Forum, January 2001)

⁸³ *Ibid.*, p.33

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*, p.34

Ministers, in particular, cannot be expected to be at ease with the idea of their officials consorting with the Opposition in the run up to an election. Nor should the possibility be overlooked that senior officials will try to ingratiate themselves with prospective new ministers and their political advisers.⁸⁶

During the election period itself, contact between officials and the Opposition is expressly forbidden without authorisation, which is rare.

Another major difference with the UK is the duration of the handover period, the time between the election and any new government taking office. The Canadian election process allows for a delay of a few days between polling day and a government formally taking office. This period, though 'intensive', with a number of requirements upon a Prime Minister Designate's time, does allow for transition processes to occur, particularly in extensive briefing by the Secretary to the Cabinet and consideration of organisational and resource issues.⁸⁷

The Secretary to the Cabinet coordinates the development of briefing material by departments in the period prior to the election and would usually cover machinery of government, strategic policy development, ministerial mandates and agenda planning. The use of a 'carefully planned briefing', prepared and presented to the Prime Minister Designate during the transition period has occurred systematically since 1974. In that year the briefing papers consisted of approximately 60 pages split into organisation and machinery of government, and policy and operational matters. The amount of briefing materials grew considerably by 1984, at which point it also included a list of key questions similar to the UK Cabinet Secretary's checklist from 1974, but also comparable to Butler's 'questionnaire' of 1997. By 1993, the 'stack of books was reduced from about four feet to four inches', in recognition of the pressures on any incoming Prime Minister.⁸⁸

The existence of a transition period numbering days rather than hours places greater emphasis on the role of the outgoing Prime Minister (in the event of a change in government) in easing the process. It also allows time for the development of relations between an incoming Prime Minister and the Secretary to the Cabinet, and for the briefing process. However, the induction of ministers at that time mostly involves preparation for the swearing-in ceremony, rather than focusing upon individual portfolios or ministerial experience. Thus, though stronger and more structured at the centre, the transition process is therefore minimal at the level of minister-department in comparison to the UK.

4.5. Australia

The practice on caretaker conventions in Australia is similar to both Canada and New Zealand, and, unlike the UK, in its degree of explicitness and detail. The caretaker period is defined as between when the House of Representatives is dissolved and the election result is clear and/or a new government is appointed. During this period the normal business of administration continues, but the incumbent government avoids making major policy decisions that are likely to commit an incoming government; making significant appointments; and entering major contracts or undertakings. This is similar to the Cabinet Office's instructions in the UK to departments on their conduct during election campaigns.

However, there are some significant differences. The Australian convention applies to the timing of the making of decisions, not to their announcement. Hence the *Guidance on Caretaker Conventions* states:

The conventions are not infringed where decisions made before dissolution are announced during the caretaker period. However, where possible, decisions should be announced ahead of dissolution if their announcement is likely to cause controversy which would distract attention from the substantive issues in the campaign.⁸⁹

In the UK, the prohibition covers announcements as well as taking decisions.

There have regularly been arguments in Australia about whether the incumbent Prime Minister is stretching or breaching these conventions. At a state level, both Victoria and Queensland have amended local government legislation to specify caretaker arrangements

⁸⁶ Ibid.

⁸⁷ Ibid., pp.38, 42

⁸⁸ Ibid., pp.31, 43

⁸⁹ Department of the Prime Minister and Cabinet (DPMC), *Guidance on Caretaker Conventions*, (August 2007), p.2 http://www.dPMC.gov.au/guidelines/docs/caretaker_conventions.pdf

during the election period. A controversy over the Tugun bypass scheme during a Queensland state election in February 2004 led to a report by the Queensland Crime and Misconduct Commission, opening the way for more quasi-judicial oversight, affecting the behaviour of officials in particular. A report by Anne Tiernan and Jennifer Menzies, produced in a series for the Australia and New Zealand School of Government, concluded:

Codification and prescription also leads to a focus on interpretation and a loss of flexibility. An emerging concern is that increased prescription will lead to legal sanctions for breaches for the public service. Codification also shifts the responsibility to adhere to the restraints away from politicians and displaces it to the public service. The public sector's tendency to document and regulate might, in the longer-term, transfer the spotlight from political behaviour to bureaucratic interpretation and application.⁹⁰

They argue against increased codification and in favour of returning responsibility to ministers and political leaders to manage:

The trend to increased codification could reflect a diminished understanding of, and experience with, the processes of government. The application of conventions has been, in the past, the province of the most senior bureaucrats. Their long experience and judgement allowed them to make the fine distinctions often required to navigate the political/public service interface.⁹¹

The Australian guidance also covers pre-election consultation with the Opposition, 'to ensure a smooth transition if an election results in a change of government'.⁹² These are broadly in line with the Westminster practice on substance, though not timing, and are less restrictive than the Canadian practice of limiting contacts to the Leader of the Opposition. The Australian guidelines apply as soon as the election for the House of Representatives is announced, or three months before the expiry of the House, whichever occurs first – remembering that Australia holds elections every three years. It does not apply to Senate elections. Under these arrangements, shadow ministers may be given approval to have discussions with officials of Government departments. Party leaders may meet other members of Parliament or have their staff members present. A Departmental Secretary (equivalent to a Permanent Secretary) may have other officials present.

The Australian guidelines say:

Officials will not be authorised to discuss Government policies or to give opinions on matters of a party political nature. The subject matter of the discussions would relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by the non-Government parties. If the Opposition representatives raised matters which, in the judgment of the officials, sought information on Government policies or sought expressions of opinion on alternative policies, the officials would suggest that the matter be raised with the Minister.⁹³

The procedure is initiated when the relevant Opposition spokesperson makes a request of the minister concerned, who, in turn, is to notify the Prime Minister of the request and whether it has been agreed. The discussions will be at the initiative of the non-Government parties, not officials. Officials will inform their ministers when the discussions are taking place.

4.6. New Zealand

New Zealand has proved to be a constitutional 'laboratory' over the past couple of decades – a country in which far-reaching changes in government and politics have been introduced. Consequently, its experience in handling changes of government is subtly and revealingly different from Canada and Australia. All three countries have adopted a formal approach with published guidance on caretaker conventions, unlike the informal understandings usual in the UK. But the adoption of the mixed-member proportional electoral system (MMP) for the 1996 election in New Zealand has produced increased uncertainty and delays in the formation of new governments. This has opened the possibility of extended caretaker periods as government formation can take a much longer time, as the nine weeks after the first MMP election showed. This impasse led to a review of the advice on transitions. However, in

⁹⁰ Anne Tiernan and Jennifer Menzies, *Caretaker Conventions in Australasia: Minding the Shop for Government* (Canberra: ANU E Press, 2007), p.72

⁹¹ *Ibid.*, p.73

⁹² DPMC, *Guidance on Caretaker Conventions*, p.9

⁹³ *Ibid.*

“
Some of the anxiety surrounding caretaker conventions relates to the competitive and intensely partisan environment of contemporary policies. Although we live in the era of the permanent campaign, the period leading up to polling day is especially fraught – ministers and their staff are under intense pressure; Opposition spokespeople are looking to exploit opportunities to secure political advantage; [and] journalists are looking to break controversial stories and to get behind tightly stage-managed run of the mill announcements.
”

Anne Tiernan and Jennifer Menzies,
Caretaker conventions in Australasia,
2007, p.59

Australia the parallel trend towards greater prescription has been driven by a desire for rules and greater certainty about public service behaviour. One difference with Australia is that the full caretaker convention in New Zealand (and the constraints these imply) only formally applies from the date of the general election (unless a confidence vote has been lost), though governments have, in practice, restricted their actions beforehand. Significant public appointments are deferred from a period of up to three months prior to the election, and there has been restraint in government advertising. In Australia the convention applies from the date of the dissolution of the House of Representatives until either a new government is sworn in or it is clear that the existing government will remain in office. The three-month pre-election period, common to New Zealand and Australia, in which Opposition parties can consult civil servants, is partly because of the short, three-year length of parliaments in both countries.

The New Zealand convention, as set out in *The Cabinet Manual*, is clear that the incumbent government is still the lawful executive authority with all the powers and responsibilities that go with office.⁹⁴ When it is known who will form the next government, the outgoing administration is constrained on undertaking any new policy initiatives but should act on the advice of the incoming government on any matters of constitutional, economic or other significance that cannot be delayed until the new government takes office, even if the two disagree over the course of action to take. This convention followed a financial crisis during and after the 1984 election, which had been conducted under the first-past-the-post system. The National Government, which had been in office for nine years, had been defeated by Labour in a landslide. However, there had been considerable pressure on the New Zealand dollar during the election campaign, partly promoted by widespread expectations that Labour would devalue the currency. On the day after the election the Reserve Bank was forced to suspend all foreign exchange dealings in order to halt a run on the currency.

The subsequent events have been described in an article in the Victoria University of Wellington Law Reviews, entitled 'Caretaker Government and the Evolution of Caretaker Conventions' in New Zealand:

In the days immediately following the general election the Reserve Bank advised that urgent government action was required to devalue the New Zealand dollar. Sir Robert Muldoon, the outgoing Prime Minister and Minister of Finance, disagreed with this advice, and initially refused to execute any decisions made by the incoming government – in his view he was still the Prime Minister of the legal government. To complicate matters further, it was not possible for a new government to be sworn in until after the return of the writs, at least ten days later. The situation was resolved three days after the election when Muldoon – under pressure from senior colleagues – relented and agreed to act on the advice of the incoming government.⁹⁵

This dramatic episode led to the creation of an Officials Committee on Constitutional Reform that set out the doctrine of constraints on an outgoing administration in a caretaker period, as described above. As Boston et al argued, this conforms to the “reasonable” or commonsense political practice’ that a government that ‘has clearly lost its electoral mandate should defer to the policy preferences of its soon-to-be appointed successor if urgent decisions are required during any transitional period’.⁹⁶ That is what had happened in Australia a year earlier when Malcolm Fraser, whose party had lost the 1983 election, accepted the request of the incoming, victorious Labour administration to devalue the Australian dollar. These problems can be seen as support for the UK practice of immediate handover on the day after the election when there is a clear-cut result. As noted earlier, there were contingency discussions on Election Day in the UK in 1992 between the Treasury and Labour economic advisers over a statement on the exchange rate and interest rates.

A different challenge to the New Zealand conventions emerged when MMP was adopted. But a foretaste had been given earlier after the initially indecisive 1993 general election when neither of the major parties secured a majority in its own right or was clearly in a position to form a coalition. This led to a refinement of the guidelines that, if the identity of the new government was unclear, a caretaker administration should refrain from significant decisions. If such decisions were urgently needed, the caretaker government should consult the Opposition party leaders. The introduction of MMP led to more explicit principles along

⁹⁴ DPMC, *The Cabinet Manual* (2008) <http://cabinetmanual.cabinetoffice.govt.nz/>

⁹⁵ Jonathan Boston et al, 'Caretaker Government and the Evolution of Caretaker Conventions in New Zealand' *Victoria University of Wellington Law Reviews*, 1998, number 30 <http://austlii.org/nz/journals/VUWLR/1998/30.html>

⁹⁶ *Ibid.*

these lines. These were tested after the first election under the new system on 12 October 1996 failed to produce a clear majority and negotiations on a coalition took two months until 10 December 1996. The delay was partly because the parties then had little experience of coalition negotiations, but also because, unlike Scotland and Wales, there was no legal time constraint on the formation of a new government, though there is a fixed time limit by which Parliament must meet. There were no crises, but there were a series of disputes about what was a new policy initiative or a significant issue. During the negotiations, parties may seek advice from the public service, and there is guidance about access to information and analysis from government departments.

These principles were reiterated by Rebecca Kitteridge, Secretary of the Cabinet and Clerk of the Executive Council, in a circular after the New Zealand elections in November 2008, when it was clear that, following the defeat of the Labour Government under Helen Clark, a new National-led administration would be formed.⁹⁷ But until this was sworn in, incumbent ministers would operate according to the caretaker convention:

- The normal business of government and the day-to-day administration of departments and other agencies in the state sector may continue as usual.
- Decisions taken before the start of the caretaker period may usually be implemented.
- Significant decisions, new policy, or changes to existing policy and actions with long-term implications should be deferred if possible.
- If it is not possible to defer decisions of that nature, the government will handle matters using temporary or holding arrangements that do not commit the government in the longer-term.
- If neither deferral nor temporary arrangements are possible, the government is likely to undertake the political consultation necessary to establish whether the proposed action has the support of a majority of the House.

The process of government formation remains political, arrived at by the politicians with the role of the Governor-General, as representative of the Sovereign, to ascertain where the confidence of the House lies, based on the parties' public statements, so that a government can be appointed. It is not the Governor-General's role to form the government, or to participate in any negotiations. The Cabinet Secretary, as Clerk of the Executive Council, provides official, impartial support to the Governor-General, including liaising with party leaders, and facilitates the transition between administrations if there is a change of government.

One episode from late 1996 in New Zealand has echoes in the UK now. As Boston et al noted:

There were concerns raised by the readiness, if not eagerness, of the boards and senior managers of some Crown companies to lobby the coalition negotiators on behalf of their organizations.⁹⁸

This mirrors current concerns at the top of Whitehall now over the activities of various quangos in seeking contacts with the Opposition.

⁹⁷ Cabinet Office Circular CO(08)8, 'Government decision making during the period of caretaker government' 10 November <http://www.dpmc.govt.nz/cabinet/circulars/co08/COC-08-08.pdf>

⁹⁸ Boston et al, 'Caretaker Government and the Evolution of Caretaker Conventions in New Zealand'

Conclusions



Source: Bill Caldwell, Daily Star, 1 May 1997 ©. Express Newspapers, 1997

This report shows that there are many different ways of preparing for and handling changes of government. There is no single formula for success but there are several ways in which the practice in UK central government can be improved, to help bridge the gap in knowledge and experience between Opposition and Government.

The basic constitutional requirement for a smooth and uncontentious handover of power from one party to another after a general election has generally worked well during the last half century. This is partly because the first-past-the post electoral system tends to produce clearcut majorities, and partly because of conventions accepted by the leading politicians, as well as civil servants. It is in the mutual interests of Opposition leaders and the Civil Service for there to be a rapid and trouble free handover. Handovers under proportional electoral systems tend to be longer, but can work smoothly, as the Scottish and Welsh experience shows. However, the formal mechanisms of the handover are only one aspect; a necessary but not sufficient condition for a successful transition.

Measuring a successful transition

There are different ways of assessing the success of a transition, depending on the perspective of the participant. Obviously, incumbent ministers have a different take from Opposition politicians, and the Civil Service has its own distinct interests.

For a new minister and Government, a successful transition is based on getting the department geared towards doing what was planned in Opposition. But is this a success

if subsequent judgements are that the policies enacted can be regarded as unsuccessful? Likewise, if the transition allows a new minister to introduce new practices or behaviour in a department – or a Prime Minister on the government machine as a whole – is it a success if it is later judged to be unsuccessful? There should also be a distinction between the short and the long-term success of a transition. The main focus in the report is on the former, the immediate aftermath of an election.

Transitions have generally worked well at the centre and in departments when there had been previous contacts, which allowed the Whitehall machine quickly to start implementing a new Secretary of State's priorities. The case studies show the views of those most closely involved in 1997 in the Home Office, the Department for Education and Employment, on constitutional reform and, in part, at the Treasury. The key elements of successful transitions, seen in these cases, include a high degree of mutual confidence, close and regular contacts ahead of the election and, crucially, the shadow being appointed to the post after the election. More often, contacts work best in providing prior warning on policies which will require changes in machinery of government. Such contacts enable a new minister to feel in charge of a department from an early stage, not just in introducing new policies but also in having the confidence and trust to consider longer-term strategy.

Civil Service

The Civil service exists to serve the government of the day – but knows that it will be tested from day one of a new administration keen to hit the ground running – and that failure to be ready to make that change can have long-term implications for policy and relationships. The ability to make a rapid and effective transition is inhibited by the conventions limiting both the extent of direct official contact with opposition politicians and the subject matter. Officials can read the published documents prepared by opposition parties, talk to think tanks and advisers, but not to those directly responsible. This is unlike both local government where officers are statutorily permitted, and required, to talk to non-executive councillors, and the closer relationships that have grown up in the Scottish and Welsh legislatures.

There are a number of ways in which the Civil Service can learn from local government and from the devolved administrations.

Permanent Secretaries – and by extension their departments – face a dilemma: to play by the letter of the rules and risk being underprepared; or they can go as far as possible within the rules but risk their relationship with the current (and potentially returning) Government. It is left to each Permanent Secretary to find that balance. Good government suggests that clearer rules allowing more effective preparation which does not compromise existing relationships are needed – and would also help prepare for other potential changes – of Minister, of policy direction whatever the election outcome.

Opposition

There are many problems of preparation on the Opposition side, including the mindset of politicians who are unfamiliar with government and do not fully engage with pre-election briefings that may prove useful – a weakness of the Templeton-Fabian process before the 1997 election. Local government provides several examples of how prospective leaders can be prepared for office through mentoring and training sessions. A challenge for Opposition politicians is to understand not just the organisation of government, but also how some relationships, notably with the European Union, affect a wide range of decisions in all departments.

Successive Opposition leaders have shown understandable concern not to be seen to be 'measuring the curtains', either in being perceived to be making assumptions about the election result, or simply in tempting fate. Opposition parties are naturally inclined to keep their cards close to their chest on some of their policies, particularly concerning more controversial ideas. Though this can be detrimental, the Civil Service will expect a certain amount of surprise. However, it is useful for both sides to consider how swiftly the Civil Service and public services can adapt and the impact that short notice can have on their ability to advise on the merits of proposals.

Continuity

The long periods of one party being in power over the past 30 years have undermined the institutional memory in both Whitehall and in Opposition parties. There is, therefore, seldom much experience in knowing how to deal with the trickier parts of transitions, nor

in being fully prepared for the possible pitfalls. This has also sometimes made it harder for those involved to establish the new relationships required after a handover. The lack of mutual knowledge and confidence can make it more important for the same people to be responsible for a sustained period before and after a general election. The average tenure for Permanent Secretaries heading major departments, including the Cabinet Secretary, is around 3.5 years (see Appendix 3). Changes of government can require major adjustments for departments and the staff within them.

Similar issues of continuity can be seen as politicians and advisers move from shadow roles to ministerial ones. The ministerial transitions which appear to have worked best in both 1979 and 1997 were when the shadow spokesperson became the minister. Yet both changes of government saw around two-fifths of the shadows not go on to occupy the same posts in government. In some cases, such as the Defence Secretary in both 1979 and 1997, this did not matter too much because there was a continuity of policy and incoming ministers quickly grasped their new briefs. But there are several examples from 1997, such as Health and Transport, where a Secretary of State new to the subject did not get on top of the subject quickly, if ever. As important as continuity is experience of office, and, unlike the elections of the 1970s, almost all the incoming team of ministers in 1997 lacked any direct knowledge of central government.

Pre-election contacts

The key issues are trust, time and ambiguity.

Trust

The clear lesson from both the history of central government transitions and those elsewhere is the importance of trust. Confidence is required between permanent secretaries, Opposition shadows and, above all, current ministers. The latter is as important as the former, and can put civil servants in exposed positions especially if an expected change of government does not occur, as in 1992. In Whitehall, preparations have prospered when the existing minister has taken a relaxed 'don't tell me' attitude and the Permanent Secretary has been tactful. The evidence from English local government, Scotland and Wales is that closer working relationships between politicians and officials before an election can make the transition work better.

Time

Building up relationships before an election is a central element of establishing trust. A shorter period of contacts between senior civil servants and Opposition parties, or none at all, has meant that new ministers have been ill-prepared and often struggled to master their briefs. The Civil Service needs this time to probe the intentions of an opposition party in order to distinguish its real plans from public pledges included in a party document or manifesto that were drafted partly for campaigning and internal party management reasons. The pre-1992 practice of formal contacts only during election campaigns meant that there was inadequate time for these talks to occur. Longer contacts have also allowed time for Opposition politicians to consider what is feasible and how to phase in their proposals.

The instant handover, usually on the day after a general election, has had mixed results. There is what one Permanent Secretary has described as the adrenalin rush of a fresh start. But forming a Cabinet when a Prime Minister and ministers are exhausted from a campaign and from staying up most of the night after polling day has often produced hurried decisions. Apart from the Mayor of London, virtually all other tiers of government in the UK as well as overseas have more gradual handovers over the course of a few days or even three or four weeks, with few adverse results and many benefits. The broadly similar parliamentary systems of Australia, Canada and New Zealand manage these processes well, and in a less furtive and more explicit way.

Ambiguity

Ambiguities in the operation of the conventions can produce misunderstandings because permanent secretaries and Opposition spokesmen have interpreted the guidelines in differing ways. Existing ministers can feel permanent secretaries are too close to their shadows. There have been problems about how often meetings occur, where, who with and about what. These ambiguities are inherent in the three-way nature of the convention, but the present absence of clear guidance has made the difficulties worse. Moreover, as David Richards found, 'almost without exception' civil servants involved in the 1997 transition that he had

interviewed 'found the guidelines prohibiting them from discussing policy too restrictive'.⁹⁸ However, the paradox remains that in certain respects these ambiguities are also one of the most important parts of the current convention.

One of the main weaknesses is that the model for contacts derives from the 1960's structure of Whitehall focusing on the Permanent Secretary as head of a hierarchical department. This is out of date in two ways. First, the growing number of non-departmental public bodies, as distinct from executive agencies, have their own profiles and operate independently from the centre, including in their contacts with Opposition politicians. This can create difficulties for their sponsoring departments. Perversely, the beginning of formal contacts in January 2009 led to a reduction, not an increase, in discussions between the Opposition and some NDPBs that had been extensive beforehand. Second, there is now a greater emphasis in Whitehall on programmes which cut across departmental boundaries. While there has been some informal activity by departments on discussing such cross-cutting issues with Opposition politicians, they are not formally caught by the guidelines for contacts.

In sum, the Whitehall/Westminster system manages political transitions well in achieving swift and uncontentious formal handovers of power. However, below the surface of the formal handover, transitions remain characterised by misunderstandings, uncertainty and a lack of coherence. Nearly all those we spoke to concluded that – at least in retrospect – transitions in UK central government could be improved to the benefit of all.

⁹⁸ Richards, 'Sustaining the Westminster Model', p.17

Recommendations

The present system of preparing for changes of government provides for smooth handovers, but uneven, and often flawed, transitions. The formal transfer of power works well. But this report has identified several ways in which the preparations for changes of government can be improved. This involves the Opposition parties as well as the Civil Service.

Opposition preparations

Opposition leaders need to give more attention to what they would do in government – not just their policies but also their personnel. When they appoint shadow spokesmen, do they want or expect them to hold the same portfolios in government? An effective attack-dog in Opposition might not be the best Secretary of State in a tricky area of policy. Past experience indicates very strongly the advantages of continuity between shadow and ministerial posts to make an early impact. Opposition leaders naturally concentrate on winning an election. A Prime Minister is also often in a stronger political position when forming a government just after winning an election than previously when shuffling a shadow team in Opposition. However, Opposition leaders should consider the impact of wholesale changes in portfolios at the start of an administration, particularly when, historically, so many ministers have changed office within the first two years of an election.

Opposition parties should identify priorities for early announcements and legislation in the first two or three years of a parliament. As far as possible they should put their plans in writing, even though much will remain confidential until polling day. Consequently, when they move into their departments after an election, new ministers should be able to present their civil servants with dossiers setting out their expenditure plans (co-ordinated by the Treasury team) but also related administrative and policy ideas. In Sweden, in 1994, Goran Persson, as incoming Finance Minister, presented officials with detailed plans for spending cuts.

Preparing politicians for office

Many politicians take up office with limited understanding of what is involved and what they need to do to be effective. Few have experience of leading, or even working for, large organisations at a senior level. One symptom has been the false assumption that there is a distinction between policy (the area for politicians) and administration and delivery (that of their civil servants). This applies as much to reshuffles between elections, with backbenchers who are promoted onto the frontbench and junior ministers being promoted to more senior posts, as it does to members of new governments following a general election. It also relates to continuing development of ministers whilst in office. This would range from the formal structure of government and departments ('the hidden wiring'), what a ministerial job entails, to the complicated nature of relationships across the Civil Service and with outside bodies. In addition, politicians need to learn about, and continue to develop, effective organisational leadership and teamwork issues, and how to continue to develop them.

Parties at Westminster should also adopt some of the mentoring and training schemes of local government. This development and preparatory work needs to be much broader than in the past, and go from the top level of Cabinet ministers and shadow spokesmen to include junior ministers and spokesmen, and, in particular, special advisers, who are increasingly important to the work of government. The Institute for Government is currently working with politicians on how to improve the effectiveness of current and prospective ministers.

Preparations in Whitehall

Civil servants undertake detailed analysis during the three to four weeks of an election campaign about the likely policies and direction of the existing or a new government, as well

as about the implications for the Civil Service. Similarly, contingency planning for different outcomes in a general election is already a high priority, not just in planning for a handover of power. This process generally works well. However, a long period of government under one party can lead to ingrained habits of thinking. So the prospect of a change of party in power can create uncertainty. Senior civil servants should actively prepare departments psychologically, as well as practically, for a potential transition. Some civil servants find the pace of change exhilarating, but there are ways in which departments can, and should, gear themselves up, including thinking about the first day, and using the pre-election contacts to establish some preferences both for this handover moment and for initial meetings with staff. There needs to be some flexibility given the inevitable uncertainties until a new government is formed about the likely number and identity of ministers. This affects, for example, the vital task of arranging private secretaries and offices. The Civil Service as a whole need to prepare for the unexpected, and to consider a range of contingencies for a general election.

Joys and limits of ambiguity: suggested new guidance

The lack of clarity in the guidance gives participants room to manoeuvre, and to use their discretion in order to maintain confidence in the three way relationship between current ministers, the Opposition parties and the Civil Service. However, the present system needs updating. Civil servants need clearer guidance in their discussions in order to ensure the impartiality of the Civil Service and to ensure that trust with existing ministers is maintained. The present guidelines, buried in the obscure and unhelpful Cabinet Office website, should be re-examined after discussions between the main parties and civil servants. The aim should not be to produce a formal code but a more explicit and fuller convention, a guide rather than an instruction.

A revised convention/guidelines should take account of the following points:

- **Greater clarity on the initiation of the start of contacts.** Unless the UK moves to fixed term parliaments, the length of a parliament can vary between four and five years. There are risks that lengthy pre-election contacts can be cumbersome and even undermine the authority of the incumbent government. But a very short period of just a few months can also be subsumed by the pressures of campaigning and urgent national issues, as in the winter of 1978-1979. To ensure that there are at least six months of contacts between Opposition parties and Whitehall, the talks should automatically start three and a half years after the previous general election.
- **The process should be under the control of the Cabinet Secretary, rather than the Prime Minister** in order to remove any remaining doubts about the timing and nature of the contacts. The Cabinet Office also needs to take on a more active role in co-ordinating but not controlling the process, rather than primarily being the recorder, and at times discourager, of contacts. This should still allow room for flexibility and initiative by departments. We welcome that the lead on handling cross-Whitehall transition issues is now being taken at Permanent Secretary level in the Cabinet Office. Permanent secretaries collectively need to consider developing an overall strategy for engagement with the Opposition parties – particularly in the handling of cross-cutting issues. Collaborative or joint sessions on major cross-cutting issues should become a normal part of the discussions between departments and shadow spokesmen, building on what is now being started.
- **The guidelines should suggest, rather than prescribe, best practice on frequency and location of contacts.** There are bound to be variations depending on the particular circumstances of a department. But best practice guidelines would be helpful for all involved in view of the lack of institutional memory: suggesting, for instance, that meetings should be arranged so as to avoid embarrassing current ministers, and their timing should be stepped up nearer an election day.
- **Small special units should be set up within departments to handle contacts with Opposition parties.** At present, civil servants can talk to people in think tanks and pressure groups who are briefing Opposition parties but cannot talk to the staff of shadow spokesmen. This should change. One option might be that, during the permitted pre-election period for contacts, permanent secretaries should set up small new central units which are allowed to meet Opposition spokesmen and their advisers in private to discuss, and seek clarification on, their plans in more detail. The guidelines need to allow the Opposition to discuss policy with civil servants. This would still stop short of the

Civil Service offering policy advice to Opposition politicians – a crucial dividing line in order to maintain the trust of existing ministers – but rather that the Civil Service should be able to question, and talk to, Opposition parties about their policy statements.

- **The guidelines should recognise the involvement of non-departmental public bodies (NDPBs) and other arms-length bodies.** Individual permanent secretaries should supervise all contacts within their departments including NDPBs and arms-length bodies. NDPBs should be allowed to have meetings with Opposition spokesmen, but on exactly the same basis as their sponsoring departments. NDPBs should not seek to lobby Opposition parties, or advise them on policy, but should, rather, concentrate on explaining what they do and seek clarification about Opposition plans.

Bridging the gap - a Department of the Opposition and alternatives

This idea of a Department of the Opposition has appeared periodically over the last 40 years and has always run into the objections that it risks politicising the Civil Service. We accept these doubts, but believe that what we have called the knowledge and experience gap needs to be bridged in other ways. The concept of policy development grants, as it has worked since 2002, is a good idea but too limited. Bodies, like the Conservative Research Department in its old form, did help by focusing on longer-term policy thinking as well as day-to-day parliamentary and Opposition battles. We do not want to get into the broader, and still unresolved, argument about state/taxpayer aid for political parties, but there is a strong case for Opposition parties being helped to understand more about how government works, not to hamper or neuter them but to assist them when and if they take office themselves. This could involve either a modest expansion of ring-fenced policy development grants funded by the taxpayer specifically for preparing policies for government and/or an extension of official briefing to Opposition parties on changes in government organisation, like the 1991 briefing by the, then, Cabinet Secretary on executive agencies.

There are advantages and disadvantages in the involvement of retired permanent secretaries, and other former civil servants, as well as ex-ministers (generally underused), think tanks and consultants for research and advice. These groups can make a very useful contribution – provided their diverse motives are understood – but they are no substitute for greater contact with current civil servants with whom Opposition politicians hope to work in government.

Part of the answer may lie in encouraging the development of non-partisan forums where Opposition politicians and Civil Servants can meet informally. These can provide the cover for greater mutual understanding and discussion. Such forums are already well developed in the foreign and defence areas, but less so on domestic issues. Outside bodies, such as the Institute for Fiscal Studies and now the Institute for Government, can help both in this way and by stimulating non-partisan debate.

Timing of handovers

There are advantages in a phased handover over a few days, or even a week, as opposed to the adrenalin and urgency of an overnight change. Experience elsewhere strongly suggests advantages to a staged process. This runs against British traditions, and media and political pressures for instant change. There are two choices. First, the formal, phased caretaker arrangements as in Australia and Canada. Second, a compromise plan of immediate change of Prime Minister, and perhaps a handful of other ministers to ensure continuity on national security and criminal justice, but a delay in the appointment of the rest of the Cabinet and middle-ranking and junior ministers.

The Queen's Speech should be delayed from the recent, usual date of around a fortnight after polling day to three to four weeks after the election. This would allow time for new ministers to get to grips with their departments and to consider their policy priorities, and to plan their legislative programmes. The Commons Modernisation Committee has already suggested a delay in the first formal meeting of Parliament by a few days in order to allow more time for the induction of new MPs.

Longer-term questions

- **Fixed term parliaments.** This report shows that many of the difficulties of current transitions could be avoided if there were fixed term parliaments. This raises many broader constitutional and political questions, but, on the specific grounds of preparing for effective changes in government, a fixed four year term has many attractions.
- **Openness.** Freedom of Information legislation and greater openness in central government has meant that much more information is now in the public domain. There are still many grey areas. The Cabinet Office should establish new, public guidelines about what factual and background information is made available to Opposition parties. Moreover, in many other countries, and in local government, elected politicians from whatever party are allowed to seek factual information, though not advice, from civil servants on a regular basis. This is inevitably a very sensitive area but the present formalities of parliamentary questions and appearances before select committees are too narrow for the proper flow of information.
- **Good government.** This study has raised several broader questions about the nature of government. A smooth handover is only a pre-requisite for effective government. Modern campaigning works against frank and rigorous debate about the alternatives being offered. Sound bites and safety first pledges can mislead voters. All parties aspiring to form a government – thus ruling out smaller parties – should be required to have their plans costed as far as possible by the National Audit Office before the election.
- **Prime Ministerial transitions and reshuffles.** Many of the lessons of this report apply not just to changes of government after general elections but also to changes of Prime Minister between elections, as in 1976, 1990 and 2007, as well as to more frequent ministerial reshuffles. These all tend to be sudden events with poor prior planning. Talents and habits honed in Opposition, or on the backbenches, are not easily transferable and, therefore, much more thought needs to be given to the development of ministers and advisers entering government.

Suggestions for a new Prime Minister

- Do nothing in opposition that would make governing harder – in making shadow appointments and policy commitments. Remember that the public, the media and the Civil Service may take any public comments at face value.
- Trust the Civil Service. Almost all civil servants are non-partisan. Whatever the ingrained habits and thinking of long periods of one party government, most officials will be keen to demonstrate their loyalty – that they can serve you as enthusiastically as the previous government. So tell them your real priorities.
- Despite all the problems of leaks, work out proposals as much as possible in Opposition so that you and your fellow ministers have detailed priorities on paper to take with them into office. That will allow civil servants to get to work quickly.
- Be cautious about creating new departments or merging old ones. Such changes are invariably expensive and disruptive, and seldom work.
- Don't rush. You will be exhausted after the campaign. So take your time forming your government and producing your legislative programme.

Suggestions for the Civil Service

- Consider organisational issues in advance. The possibility of change provides an opportunity to take stock and assess departmental strengths and weaknesses. Such a process can be just as rejuvenating in the event of the return of an incumbent government.
- Prepare departments and staff psychologically for the transition. Whether or not a change of government occurs there is likely to be a sudden change from the inertia of a pre-election incumbent government to the urgency of a new or re-elected government.
- Consider how the Private Office works and pay particular attention to the quality of staff there. They can be the most important link to the rest of the department and are central to maximising the minister's capabilities.
- Consider the preparation of briefs for ministers. It is important to ensure the avoidance of overload on the length or number of briefs. It is also important to establish early on the minister's preferences about briefs to ensure they feel reassured these are what they want.
- Ensure the accommodation of special advisers – both in a practical and general sense. Remember their likelihood to suffer from overload in the initial weeks. Understand how the minister will want to work with special advisers and help them work with the department.
- Show respect to the new team. Don't imagine the ways things have been done is the way a new government will want to work. Be prepared to throw out the received wisdom on 'how things are done' and don't get stuck defending past policies or the status quo. There needs to be a fresh mindset and approach.
- Expect the unexpected. Right up until the final hours of the count you can be hit for six by events. Prepare for different contingencies including the return of current government and the possibility of a hung parliament.

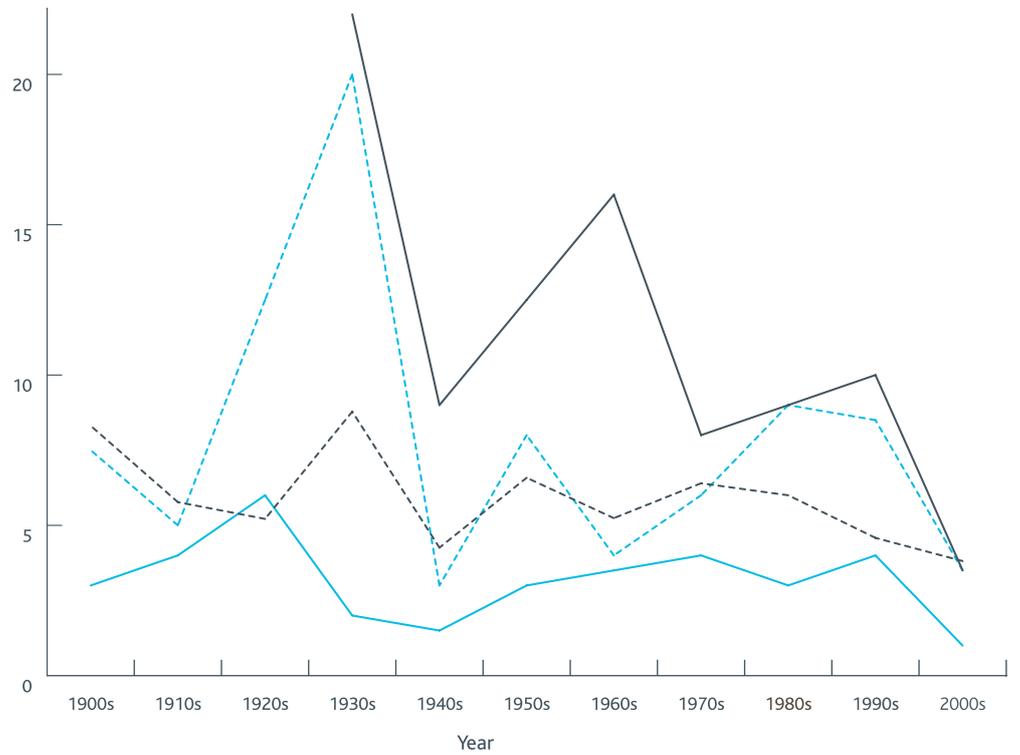
Appendix 1 – Shadow departmental responsibility 1976-1979

May 1979 Ministerial responsibility		Shadow departmental responsibility			
		1978	1977	1976	1975
Prime Minister	Thatcher (1979-1990)	Thatcher	Thatcher	Thatcher	Thatcher
Deputy Prime Minister	Whitelaw (1979-1983)	Whitelaw	Whitelaw	Whitelaw	Whitelaw
Home Affairs	Whitelaw (1979-1983)	Whitelaw	Whitelaw	Whitelaw	Gilmour
Agriculture	Walker (1979-1983)	Peyton	Peyton	Pym	Pym
Chief Secretary to the Treasury	John Biffen (1979-1981)	-	-	-	-
Defence	Pym (1979-1981)	Gilmour	Gilmour	Gilmour	Younger
Education and Science	Carlisle (1979-1981)	Carlisle	St John -Stevas	St John-Stevas	St John-Stevas
Employment	Prior (1979-1981)	Prior	Prior	Prior	Prior
Energy	Howell (1979-1981)	King	King	Biffen	Jenkin
Environment	Heseltine (1979-1983)	Heseltine	Heseltine	Raison	Raison
Foreign and Commonwealth	Carrington (1979-1982)	Pym	Davies	Maudling	Maudling
House of Commons	St John-Stevas (1979-1981)	St John-Stevas	Pym	Peyton	Peyton
Industry	Joseph (1979-1981)	Joseph	Biffin	Heseltine	Heseltine
Lord Privy Seal	Gilmour (1979-1981)	-	-	-	-
Lord Chancellor	Hailsham(1979-1987)	Hailsham	Hailsham	Hailsham	Hailsham
Northern Ireland	Atkins (1979-1981)	Neave	Neave	Neave	Neave
Paymaster-General	Maude (1979-1981)	-	-	-	-
Scotland	Younger (1979-1986)	Taylor	Buchanan-Smith	Buchanan-Smith	Buchanan-Smith
Social Services	Jenkin (1979-1981)	Jenkin	Jenkin	Jenkin	Fowler
Trade	Nott (1979-1981)	Nott	Taylor	-	-
Treasury	Howe (1979-1983)	Howe	Howe	Howe	Howe
Wales	Edwards (1979-1987)	Edwards	Edwards	Edwards	Edwards
Party Chairman	Thorneycroft (1979-1981)	Thorneycroft	Thorneycroft	Thorneycroft	Thorneycroft
Chief Whip (ex officio)	Jopling (1979-1983)	Atkins	Atkins	Atkins	Atkins

Appendix 2 – Shadow departmental responsibility 1994-1997

May 1997 Ministerial responsibility		Shadow departmental responsibility		
		1996	1995	1994
Prime Minister	Blair (1997-2007)	Blair	Blair	Blair
Deputy Prime Minister	Prescott (1997-2007)	Prescott	Prescott	Prescott
Agriculture, Fish. and Food	Cunningham (1997-July 1998)	Strang	Strang	Strang
Chancellor	Brown (1997-2007)	Brown	Brown	Brown
Chancellor of the Duchy of Lancaster	Clark (1997-July 1998)	Foster	Foster	-
Chief Secretary to the Treasury	Darling (1997-July 1998)	Darling	Andrew Smith	Andrew Smith
Culture, Media and sport (formerly National Heritage)	Chris Smith (1997-June 2001)	Cunningham	Cunningham	Chris Smith
Defence	Robertson (1997- Oct 1999)	Clark	Clark	Clark
Health	Dobson (1997-Oct 1999)	Chris Smith	Harman	Beckett
Home Affairs	JStraw (1997-Jun 2001)	Straw	Straw	Straw
Education and Employment	Blunkett (1997-Jun 2001)	Blunkett	Blunkett	Blunkett
Environment (Transport/Regions)	Prescott (1997-June 2001 – department changed)/Meacher (1997 -June 2001)	Dobson	Dobson	Dobson
Foreign and Commonwealth	Cook (1997-Jun 2001)	Cook	Cook	Cook
International Development	Short (1997-May 2003)	Short	Lester	Lester
Leader of the Commons	Taylor (1997-July 1998)	Taylor	Taylor	Taylor
Leader of the Lords	Richard (1997-July 1998)	Richards	Richards	Richards
Lord Chancellor	Irvine (1997-July 1998)	Irvine	Irvine	Irvine
Northern Ireland	Mowlam (1997-Oct 1999)	Mowlam	Mowlam	Mowlam
Scotland	Dewar (1997-May 1999)	Robertson	Robertson	Robertson
Social Security	Harman (1997-July 1998)	Harman	Chris Smith	Dewar
Trade and Industry	Beckett (1997-July 1998)	Beckett	Beckett	Cunningham
Transport (in DETR)	Strang (1997-July 1998)	Andrew Smith	Clare Short	Meacher
Wales	Davies (1997-Oct 1998)	Davies	Davies	Davies

Appendix 3 – Period in post for senior civil servants, 1900-present



- Average tenure of permanent secretaries of major departments moved or retired
- Cabinet Secretary
- - - - - Treasury
- Prime Minister's Principal Private Secretary

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November 2009

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ISBN 978-0-9561197-2-8

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