

## National Assembly for Wales

### The appointment of the permanent secretary to the Welsh Government August 2012

The paper outlines the current status of the civil service in Wales; the UK Government's proposed reforms; developments in Scotland and the process for appointing the permanent secretary to the Welsh Government.

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## **National Assembly for Wales**

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the Welsh Government  
August 2012

Alys Thomas

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# The appointment of the permanent secretary to the Welsh Government

## 1. Introduction

In June 2012 Dame Gillian Morgan announced her retirement as permanent secretary to the Welsh Government after four years. The appointment of her successor comes at a time when the UK Government is reviewing the civil service, including recommendations for greater ministerial say in appointing permanent secretaries.<sup>1</sup> It also follows changes to the way the permanent secretary to the Scottish Government is appointed, following recommendations in the Calman Commission on Scottish Devolution's Report.

The paper outlines the current status of the civil service in Wales; the UK Government's proposed reforms; developments in Scotland and the process for appointing the permanent secretary to the Welsh Government.

## 2. Devolution and the Civil Service

Civil Servants in Wales and Scotland are part of the UK Civil Service.<sup>2</sup> The permanent secretary to the Welsh Government is appointed (at least formally) by the UK Prime Minister. However, in common with UK Government departments, the Scottish Government and Welsh Government have considerable autonomy in staffing matters, extending to levels of staffing, promotions and grading, and pay settlements. A single framework governing the whole of the Home Civil Service only arises for the highest reaches of the Home Civil Service - the Senior Civil Service.

*The Constitutional Reform and Governance Act 2010*<sup>3</sup> placed the civil service on a statutory basis, an idea first mooted as long ago as 1854, in the Northcote-Trevelyan Report. Part 1 of the Act provides for:

- A power for the Minister for the Civil Service (i.e. the Prime Minister) to manage the civil service, and a parallel power for the Secretary of State in relation to the diplomatic service;
- A requirement for a code of conduct for civil servants which specifically requires civil servants to carry out their duties in accordance with the core civil service values of integrity, honesty, objectivity and impartiality;

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<sup>1</sup> [Guardian Public leaders network, Welsh Permanent Secretary Gillian Morgan to retire, 22 June 2012 \[accessed 1 August 2012\]](#)

<sup>2</sup> Northern Ireland retains its own civil service under the control of the First Minister and Deputy First Minister, but the functions of the Civil Service Commissions for Northern Ireland remain a reserved matter and therefore subject, ultimately, to UK control.

<sup>3</sup> [Constitutional Reform and Governance Act 2010 \(c.25\) \[accessed 1 August 2012\]](#)

- The establishment of a Civil Service Commission with functions in relation to selections for appointments to the civil service and in relation to hearing complaints that the civil service and diplomatic service codes have been breached;
- A requirement for appointments to the civil service to be made on merit on the basis of fair and open competition;
- Requirements as to the appointments of special advisers. The appointments are to be exempt from the fair and open competition principle;
- A requirement for a separate code of conduct for special advisers which provides that special advisers may not authorise the expenditure of public funds, exercise any power in relation to the management of any part of the civil service (except in relation to other special advisers) or otherwise exercise any statutory or prerogative power.

The statutory Civil Service Commission took on the functions of the former Civil Service Commissioners. The Civil Service Commission publishes principles on the application of the fundamental requirement that selections for appointment are made on merit on the basis of fair and open competition, and investigates complaints under the code of conduct for civil servants.

The Act contains provisions which confer functions on Welsh Ministers and affect their responsibilities. Part 1, requires that the First Minister for Wales is consulted about the civil service and special advisers code and requiring the First Minister to lay the codes and the Civil Service Commission's reports before the Assembly.

As far as the Home Civil Service is concerned, one change occasioned by devolution was to amend the Civil Service Code. This now provides that "*civil servants owe their loyalty to the Administrations in which they serve*", Administration meaning the UK Government, Scottish Government or Welsh Government. The Civil Service Code was amended in 2006 and applies to all Home civil servants. However, those working in the Scottish Government and the Welsh Government, and their Agencies, have their own versions of the Code.

The permanent secretary of the Welsh Government is appointed, or approved, by the Prime Minister after consultation with the First Minister. The Prime Minister has this responsibility as he is also Minister for the Civil Service.<sup>4</sup>

The first permanent secretary to the Welsh Government was Sir Jon Shortridge. Already serving within the then Welsh Office, he was appointed in 1999 to replace Rachel Lomax.<sup>5</sup> During the first eight years of the Assembly all officials whether for the Welsh Government or the Assembly were civil servants. This changed

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<sup>4</sup> [BBC Wales News, \*The Hunt for the new Sir Humphrey\*, 21 June 2012 \[accessed 8 August 2012\]](#)

<sup>5</sup> [LGC, \*Top Civil Servant in Welsh Office announced\*, 16 February 1999 \[accessed 3 August 2012\]](#)

when the *Government of Wales Act 2006* came into force and Assembly staff were employed by the Assembly Commission. In 2008 Dame Gillian Morgan took over from Sir Jon Shortridge.

In 2002 a House of Lords report concluded that:

The effects of devolution may in the long term create significant pressures for the ending of a single civil service, with the devolved administrations in Scotland and Wales wanting their own distinct civil services. We recognise that the time may come for change. However, we also recognise the advantages that flow from the retention of a single Home Civil Service. Given the pressures that may result from administrations of different political persuasions existing in the UK, the case for a single civil service has so far, in our view, strengthened rather than weakened.

**We believe that the advantages that flow from having a single Home Civil Service are such as to justify the retention of a single Home Civil Service and we recommend accordingly.<sup>6</sup>**

Some changes have come about since 2002, notably in Scotland.

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<sup>6</sup> [HL, Constitution Committee, \*Devolution in the United Kingdom\*, Second Report, 2002-3, 17 December 2002, Chapter 5 \[accessed 3 August 2012\]](#)

### 3. Changes in Scotland

The appointment of the Permanent Secretary in Scotland had been subject to the scrutiny of the Calman Commission on Scottish Devolution in 2009. Its Report recommended that the Prime Minister delegate his powers of appointment to the Head of the Civil Service with the advice of the Civil Service Commissioners. It stated:

The Commission has, however, considered the unusual arrangement by which the most senior civil service appointments in Scotland supporting Scottish Ministers are made, or approved by, the Prime Minister. This approval is given by the Prime Minister acting as the Minister for the Civil Service. The Commission does not suggest that the appointment of, for example, the Permanent Secretary of the Scottish Government would be made against the wishes of the First Minister or with any political motivation. The purpose of the approval by the Minister for the Civil Service is to ensure the maintenance of the highest standards of the civil service, and is conducted by a Minister to provide Parliamentary accountability. However, there is a problem of perception, and the Commission sees no reason why the Prime Minister could not delegate this function to the Head of the Home Civil Service, acting on the advice of the UK Civil Service Commissioners, in the cases of senior appointments to the Scottish Government. This would remove the anomaly and any associated problem of perception.<sup>7</sup>

It recommended that:

The responsibility for appointing, or approving appointments of, senior civil servants to senior posts in the Scottish Government should be delegated by the Prime Minister to the Head of the Home Civil Service, acting on the advice of the UK Civil Service Commissioners.<sup>8</sup>

When the new Permanent Secretary to the Scottish Government was appointed in May 2010 the Cabinet Office stated that:

The Prime Minister's role in making senior Civil Service appointments in the devolved administrations has been delegated to the Cabinet Secretary. **The PM has confirmed that the only political input into senior Scottish Civil Service appointments should come from the First Minister**, as recommended by the Calman Commission.<sup>9</sup>

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<sup>7</sup> [Serving Scotland Better: Scotland and The United Kingdom in the 21<sup>st</sup> Century, Report of the Calman Commission on Scottish Devolution, June 2009 \[accessed 8 August 2012\]](#)

<sup>8</sup> [Serving Scotland Better: Scotland and The United Kingdom in the 21<sup>st</sup> Century, Report of the Calman Commission on Scottish Devolution, June 2009 \[accessed 8 August 2012\]](#)

<sup>9</sup> [Cabinet Office, New Permanent Secretary for Scottish Government, Press Release, 21 May 2010 \[accessed 8 August 2012\]](#)

## 4. The UK Government's proposals for Civil Service reform

On the 19 June 2012 the UK Government published its Civil Service Reform Plan ("the Plan"), Action 11 of which stated:

**Action 11:** In order to reflect Ministers accountability to Parliament for the performance of their departments, we will strengthen their role in both departmental and Permanent Secretary appointments.<sup>10</sup>

The Plan explains:

The dual leadership of departments by a Secretary of State and a Permanent Secretary makes the relationship between the two crucially important. Allowing Secretaries of State to have greater influence in the appointment of the departmental Permanent Secretary increases the chances of the relationship working successfully.

Given Ministers' direct accountability to Parliament for the performance of their departments and for the implementation of their policy priorities we believe they should have a stronger role in the recruitment of a Permanent Secretary. Lead Non-Executive Directors also have an important role in Permanent Secretary appointments, usually as members of the selection panel, helping to ensure that there is the right focus on leadership, operational and commercial skills. Ministers already have involvement in the recruitment process but we believe there is a case to go further. We will therefore consult the Civil Service Commission on how the role of the Secretary of State can be strengthened in the recruitment process of Permanent Secretaries.<sup>11</sup>

The Cabinet Office Minister, Francis Maude MP, also made a statement to the House of Commons on the UK Government's proposals for reform of the civil service. In it he stated:

We will therefore consult the Civil Service Commission on how to strengthen the role of the Secretary of State in the recruitment process for permanent secretaries. The current system allows the selection panel to submit only a single name to the Secretary of State. At other levels, appointments will normally be made from within the permanent civil service or by open recruitment but, where the expertise does not exist in the Department and it is not practicable to run a full open competition, we are making it clear that, as now, Ministers can ask their permanent secretaries to appoint a limited number of senior officials for specified and time-limited executive/management roles.<sup>12</sup>

On the 1 August 2012 the Minister further stated his intention to commission an external organisation to review how other governments are structured and how they operate. The winning bidder will be asked to make policy recommendations for how these approaches might be applied by the UK and will present these suggestions to the Minister.

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<sup>10</sup> [Cabinet Office, \*Civil Service Reform Plan\*, June 2012 p21 \[accessed 8 August 2012\]](#)

<sup>11</sup> [Cabinet Office, \*Civil Service Reform Plan\*, June 2012 p21 \[accessed 8 August 2012\]](#)

<sup>12</sup> [HC Debates, 19 June 2012 col 745 \[accessed 8 August 2012\]](#)

The review will analyse the structure and operation of governments including those of Australia, Singapore, the United States, France and Sweden - and the balance between impartial bureaucracies and administrations appointed by democratically accountable Ministers. The review will specifically consider the New Zealand model of civil service accountability where there is a contractual relationship between Ministers, who set clear outcomes, and Heads of Departments, who are accountable for delivering them. Recommendations from the review will be considered by Ministers and used to inform the next phase of the Civil Service Reform programme.<sup>13</sup>

These proposals caused some comment in the media, as the French and US civil services tend to be more politicised than the UK. Furthermore, the Australian model requires all permanent secretaries to offer their resignation on the appointment of a new government.<sup>14</sup>

A Q&A document of the Plan explained that:

The UK Civil Service serves three Governments, the national Government in Westminster and the Governments of Scotland and Wales, and it must ensure it meets the needs of each. For this reason, the Governments in Scotland and Wales will have complementary plans, setting out how they are equipping their workforces to meet the challenges we are collectively facing.<sup>15</sup>

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<sup>13</sup> [Cabinet Office, \*Looking abroad for next steps in the civil service reform programme\*, Press Release, 1 August 2012 \[accessed 8 August 2012\]](#)

<sup>14</sup> [Guardian, \*Government looks at options for politicising civil service\*, 1 August 2012 \[accessed 8 August 2012\]](#)

<sup>15</sup> [Civil Service, \*Civil Service Reform Plan Q&A\*, June 2012 \[accessed 8 August 2012\]](#)

## 5. The appointment of the Permanent Secretary to the Welsh Government

Derek Jones' appointment as the new Permanent Secretary was announced on 20 September 2012. The Welsh Government press release stated that:

The Prime Minister's role in making senior Civil Service appointments in the devolved administrations has been delegated to the Head of the Civil Service.

The Prime Minister has confirmed that the only political input into senior Welsh civil service appointments should come from the First Minister.

The selection panel for the appointment was chaired by Sir David Normington, First Civil Service Commissioner and Commissioner for Public Appointments. Panel members were Sir Bob Kerslake, Professor Sir Adrian Webb, Lord David Rowe-Beddoe and Baroness Ilora Finlay.