

# Finance and Public Administration Committee

## Inquiry into effective Scottish Government decision-making

### Summary note of discussions with former Ministers, former special advisers and former civil servants – 28 February 2023

On 28 February the members of the Finance and Public Administration Committee met with 11 participants who, between them, had experience of working in the Scottish Government since 1999, with some also having experience of working in the civil service pre devolution. These participants had either previously been Ministers, special advisers or civil servants and included Helen Chambers, Sarah Davidson, Iain Gray, Paul Gray, Alastair Merrill and Eleanor Ryan.

Following introductory remarks from the Convener, the participants and Committee members met in two groups and the following summarises those discussions.

#### Group 1

##### Personal relationships are key to decision-making

The discussion throughout was dominated by the idea that key to effective decision-making was personal relationships. This is not something that can really be “legislated for” – it comes down to personalities of those involved.

The quality of relationships between ministers and the civil service is critical, and key to the quality of decision-making. Civil servants need to feel confident that the Minister has their back and will treat them with empathy and fairness. In turn, Ministers benefit from feeling that officials will “run through walls for them”. It was noted that “the quality of decision-making is dependent on the quality of Ministers and how they are served by civil servants”.

##### Challenge

Challenge was considered by all participants to be central to effective decision-making.

- Officials need to feel confident they can say what they think, and not just be ‘yes’ people.
- Decisions are better when people feel they have the space to say what they think, where people feel empowered to speak up – to “stand up to the personality of the minister.” The example was given of civil servants pointing out flaws in manifesto commitments which result in them not being delivered.

Much depends upon the personality of the Cabinet Secretary and their relationship with their civil servants - some invited challenge and gave staff the freedom to challenge.

- Whether organisations depending on public money would feel able to criticise government policy, for fear of losing funding, was raised as a potential issue. Similar challenges also exist for academics, who may not feel comfortable speaking out on issues. Some considered this to be a real issue within the academic community.
- The group agreed that there is a greater need to develop safe spaces for people to speak out.
- External challenge (or lack thereof) brought the discussion to the Yes/No binary nature of Scottish politics, and people feeling inhibited about speaking on certain issues in case they are “branded” a “unionist” or “nationalist” (this issue is discussed more below).
- Some cited examples of safe spaces where they considered that challenge was encouraged such as in the development of policy/understanding around the “Historic” concordat with Local Government.

## Importance of good quality information and expertise within the civil service

There was agreement around the importance of good quality information and civil service expertise. In relation to the movement of civil servants between jobs, whilst recognising that it is helpful to give staff a range of experiences in different jobs, this can come at the expense of “institutional memory” and expertise.

- Sometimes the development and provision of expertise is thwarted by people being moved around after they have started to develop a specialism in an area.
- The moving of staff can become a problem in providing continuity of good advice for ministers.
- Staff are not able to become experts if they are moved around and treated as “generic” civil servants rather than experts.
- There was agreement that in some areas (particularly technical in nature) there is a need for greater continuity in the civil service – rather than moving staff around every 2/3 years.
- Whilst freshening things up can be advantageous, there needs to be a better balance between continuity and change.

## Culture

In relation to the culture of the civil service, there was a view expressed that sometimes there is a bit of a “cover your own back” culture, which can result in inertia and an over-cautious culture.

- One example was that sometimes staff would copy Special Advisers (SPADs) into every email. This was a distraction for SPADs and resulted in decision-

making constantly being pushed up as staff didn't feel empowered to make decisions.

- How SPADs are perceived by the civil service was also dependent upon personal relationships.
- One participant said that devolution made the culture of the civil service and ministerial offices better. In a smaller civil service than the UK, officials in Scotland perhaps felt closer to ministers (and vice versa) and were therefore better able to take decisions or at least influence policy – “breaking that hierarchy of the UK civil service.”
- Culture is also influenced by the modern day 24-hour news cycle and chasing headlines/avoiding bad headlines
- In terms of how staff are trained in decision-making it was suggested that more coaching in how to take decisions was needed. That said, the Minister needs to set the tone by giving a clear instruction around policy direction and what they need to do their job. It was considered that clear ministerial direction empowers the appropriate civil servant to make decisions and steer policy.
  - The Minister, therefore, has the key role in setting the culture of an office.
  - When this happens, private offices are more empowered in deciding what goes and does not go to Ministers – which is generally what leads to more efficiency.
- In relation to whether a reactive/news obsessed culture has developed to the detriment of thought-through, strategic decision-making, participants agreed that over the last 2 decades a culture of firefighting had developed, rather than thinking strategically.

## Delivery

In relation to the delivery of government policy, it was often frustrating for Ministers that policy delivery on the ground was not always progressed in a way that the Minister would want. This can be due to the complexity and the myriad set of players involved in policy delivery. Getting things changed can be very difficult.

- For example, whilst a Finance Minister can practically make change by providing more or less resource to a particular area, in an area like education it is much more challenging for a Minister to influence. This is because policy delivery is dependent on many different players making the change, and there can often be resistance to that which the Minister has difficulty in countering.
- “History is littered with policy being announced and nothing happening.” The example was given of an infrastructure document which was very clear and broadly welcomed. But, ultimately delivery of the projects was poor because nobody in government had the job of progressing the various projects. “There was a failure to see things through.”
- It was noted that the civil service can be good at developing policy, but often doesn't have experience of implementation. Ministers can be same in this regard -announcing policies but not necessary following through to ensure delivery. One reason for this could be because nobody was tasked with being responsible for taking policy implementation forward.

- It was noted that SPADs could be quite effective at translating the politics into policy and vice versa. They could point out where policy proposals might be politically problematic – something they bring to the table as political (as opposed to impartial) appointments.
- In relation to the issues of departmental “silos” and a lack of collaborative thinking across departments, there was agreement that silos are an issue and work against the so-called cross-cutting nature of policy. There was also a concern that ‘Groupthink was creeping into government’.
- In this regard, it was felt that Scotland’s civil service is better than Whitehall as it is smaller and therefore more nimble, but it was still challenging to achieve change.
- Often delivery involves too many different bodies/organisations.
- Another potential barrier to delivery is the “politics” of different players, and perhaps key players not having the time and space to look at the bigger picture.

## Difference between minority and majority governments

Questions were raised around the difference between governing in majority/minority contexts:

- Some participants said there were differences, others said no real difference as, in both scenarios, governments have to make deals/coalitions, just differently and with different actors.
- Divisive political culture was cited as more of a challenge than the composition of government. The Scottish Parliament came from a binary Westminster system and has been replaced with a constitutional binary divide around the yes/no approach to the issue of Scottish independence.
- There was a feeling that the yes/no divide has become worse in recent years with new MSPs more partisan– for example, providing opposition to policies for opposition’s sake/political polarisation.

## The sophistication of decision-making process

In considering whether Ministerial decisions are weighted because of evidence, or instinct/politics, it was considered a mix of approaches. There are some areas which are more technical and can be weighted and some which are more instinctive:

- For example, Transport decisions could have technical, objective cost/benefits attached to them whereas other policy areas are less weighted – for example, Justice, where it could be a more instinctive policy area.
- In relation to Cabinet decision-making it was felt that decisions worked best when people felt able to converse and the policy outcome was not pre-determined. “The best cabinets were when decisions emerged following a discussion of pros and cons.”
- Decision-making can get complicated by review groups and consultations with the suggestion that reviews can be set up “to avoid taking a decision.” This, however, presents a bit of a catch 22 - if governments just take decisions without consulting they get criticised, but also get criticised for not taking decisions and instead seeking views.

- There can sometimes be very effective pro/cons advice set out for Ministers by the civil service which works well for giving greater clarity to the decision taker. Eg if you do x, y will happen and that the “Civil service are good at boiling things down.”

## Group 2

### Decision-making processes

It was highlighted how decision-making in reality was different compared with models of decision-making. Defining what a good decision is for the Scottish Government is important in understanding what effective decision-making should be. Based on evidence and experience participants highlighted that:

- Decision-making processes across the Scottish Government were generally not consistent as was the use of business cases and appraisals. The process was generally unclear and unstructured.
- In spite of this, there were thousands of decisions taken by the Scottish Government and most worked perfectly well and “We generally only hear about the ones where there were difficulties”.
- The challenge was often finding the most appropriate decision-making tool for the type of decision being faced– experience was that some staff didn’t know of the tools available to support them or were using tools they didn’t fully understand. In some cases they understood one tool and would then ‘over’ use that.
- Decision-making processes which were related to delivery, especially where a financial limit is involved, were much clearer in comparison to social policy decision-making which was more fluid, relying on common sense.
- Similarly, there are differences in decision-making when starting from an already decided Ministerial policy to then be implemented (such as a Manifesto commitment) compared with starting from the position of seeking to achieve a particular outcome.
- That said, even clear financial rules and delegations were not always implemented fully across the SG, because sometimes it was seen as bureaucratic or as optional. The example was also given in relation to requirements for equality assessments of the budget – a process well understood by a few teams but not understood by some others (when, for example, they were undertaken at the end of the budget process or became a tick box exercise). More realism was needed about the time necessary to prepare a budget (although as a predictable annual cycle it shouldn’t need to be rushed) as well as what can be achieved in the time available. Without this, the ability to deliver good outcomes can be compromised as soon as the policy hits the real world. It was felt by some that the pace of decision-making was directing things. The framework was there but speed up decision-making and it impacts on the ability to interact with different parts of the organisation and record those interactions.
- The role of public bodies and their role in decision-making was also important – especially clarity over whose role it is to take decisions.
- There were some examples and experiences of good practice. These were seen to arise largely because of the leadership approach and attitude taken both at senior civil service and Ministerial level. Leadership responsibility for embedding requirements (such as equality assessments for the budget) was key – in that regard there is layering of such requirements into decision-making that is necessary.

- Another positive highlighted was that the civil service itself did not have a culture of fraud or nepotism. It was also highlighted that there is a lot of good practice happening (“most of the stuff works most of the time”) so it’s important not to undermine that.

## Culture

It was suggested that Scottish civil service was built on the more traditional relationship between civil servant and Minister.

- Now, however, there are more special advisers and a bigger network of influential voices, so that old managerial approach is continuously buffeted by a wider range of actors. As a result, the civil service now needs to think politically in a way not envisaged in 1999. The relationship between politicians and civil servants has not been fully worked through and occasionally junior Ministers have similar levels of responsibility as junior officials (“unfinished business from devolution”). Special advisers now play an important role in decision-making.
- It was suggested that there are differences between Whitehall and the Scottish Government in who external stakeholders approached to discuss issues. At Whitehall it was likely to be civil servants, whilst at the Scottish Government it was more likely to be Ministers who external stakeholders’ approach or those with the right political affiliation as that is how advice is sometimes provided.
- There was discussion about how policy development, which would have taken months to develop early into devolution, could now be expected to take days or weeks, sometimes on the back of Ministerial announcements. This increased pace of decision-making limits the opportunity for review afterwards (for example subsequently evaluating the impact of the budget on equalities in comparison to the original equality assessment).
- Without a policy framework in place, when the policy process gets quicker, there is an impact on recording information and the organisation becomes compromised. Previous systems had not always kept up to date with this change in operating context.
- In a discussion about advice provided in writing, there was a sense that Freedom of Information legislation had had a negative effect on how advice was provided. Experience from pre or early devolution was that advice to Ministers was very frank (“jaw-dropping frankness”) and received without offence. There was a suggestion that advice may be narrower in focus since FOI. This potentially created a twin track in decision-making – what advice was documented compared with what was said. This approach also could result in far fewer views being provided (as you had to speak to the Minister or staff may not feel comfortable providing challenging advice to Ministers). One solution proposed to this issue was routine transparency over the advice provided (by publishing it retrospectively) which would take the heat out of advice over time as publication become more routine. It was suggested that the discipline of publishing advice might enhance standards as it imposed a discipline on ensuring that you included the relevant information since it would be made public in your name.

- Other approaches such as PPM project management and those used with implementing big policies such as social security had good audit trails for decision-making. Other more 'abstract' policy development might be more challenging to document.

## Challenge

- There was agreement that there are big differences between policy development and policy implementation/operation – and it was suggested that there are three core skills: 1. Policy development, 2. policy implementation and 3. policy operation and evaluation. During development civil servants can say when the policy may not work (for example based on previous experience) but it's too late once you get to implementation. All three skills are needed at all stages.
- Good relationships between the civil servants and minister are needed to provide challenging advice – and this is a clear role for senior civil servants. Sometimes, however, because of specialist knowledge or personal rapport, Ministers may actively seek advice from more junior civil servants who don't feel able to provide such challenging advice. It is important to recognise the hierarchical structure of the civil service.
- One of the challenges for improved decision-making is in addressing cultures and behaviours to provide for radical policy making. Part of the reason that it may not happen is political given for example Governments are still wedded to the number of nurses rather than outcomes.
- It's important that the challenge role of civil servants (especially senior staff) is recognised. The example was given of the role of Accountable Officer (AO) which has clear consequences should Ministers act against AO advice. For an AO there are 3 key tests that they must consider as being met in undertaking their role: 1 – Is it affordable (and will it provide value for money)?; 2. Is it legal (or at least testable)?; 3. Is it deliverable? It was suggested that the Scottish Parliament should focus its scrutiny more on those three questions. It was noted that without such an 'official' designation to challenge or test decisions it can be harder to push back when there are concerns about Ministers' proposed approaches. The role of the accountable officer should be refreshed, taking a wider view and reinforcing expectations.
- There was general agreement that Scotland had “forgotten how to disagree” and that civil servants and Ministers had perhaps lost the value of this when giving and receiving advice - “it's OK to express opinions”.

## People

- Another change highlighted was that civil service used to be a long term career whereas now people move more quickly into and out of the civil service perhaps impacting on the skills they brought with them and developed over time.
- The culture of moving staff across different areas was also highlighted. There are some great analysts with good political antennae, but the same people may not be good at implementation and you can't change your team as you go. Maybe you can skill up, but it is not the same as drawing on experience.



For example, experience matters in relation with due diligence regarding procurement.

- There was general agreement that subject expertise was much more quickly gained when civil servants move posts than were the skills at implementing policy.
- Over the past decade there has been a focus on professional skills such as leadership and commercial nous. But it has come at the expense of a core set of civil service skills, such as how to address the three key AO questions (above) and how to frame advice etc. That kind of professional training could be a bulwark against the problems of providing challenging advice. It could also provide confidence in understanding your role and you would be supported by that framework. It was questioned whether there was a now a need for some form of administrative and managerial body to ensure the professionalism of the Scottish civil service? In addition is there a need for better public understanding of role of the civil service (e.g. serves the government of the day)?
- It was also highlighted that there was an unreasonable assumption that Ministers already had all the decision-making skills (and understanding of the civil service role) necessary to do their job once they were appointed.

## Managing information

How advice is provided to Ministers and how decisions are documented was also discussed:

- It was explained that advice is provided to ministers with all the relevant information to take a decision but that there were a variety of ways that that information was drawn together.
- One issue explored was whether the approach to documenting information to provide advice had fully caught up with electronic working and the prevalence of email. It was suggested it was not always clear what gets considered a record or gets saved nor who should take such decisions.

## Final comments

Following the group discussions, participants and Committee members were invited to make any final remarks or observations:

- A key learning was that there is huge variety in decision-making approaches, not all of it clear or structured. There is also lack of structure and consistency in relation to policy development and testing. Different modes of civil service leadership and Ministerial approaches have a big impact on how advice is provided and the decisions made (including challenge). A safe space is needed to challenge decision-making. Policy development in general is messy (even more so when it's cross cutting) and there generally isn't clear linear accountability.
- Provision of advice has evolved particularly in response to FOI. There needs to be a focus on the competence of the civil service with a big difference in the

skill sets needed for policy development and for implementation. The announcement of a policy is easier than its delivery and implementation.

- Also there needs to be greater understanding of the role of the civil service and its limits as well as on the legitimate role of Ministers' decision-making. There is a role for civil servants to support Ministers to be as good as they can be given it isn't reasonable to assume Ministers who are appointed automatically have all the skills they need.
- Culture is a key aspect of decision-making and the policy of moving civil servants can be an issue in relation to developing expertise. There remains a challenge of civil servants moving on having developed expertise (and developed relationships with stakeholders) or not moving on and Ministers becoming unreasonably reliant on them for advice.
- Decision-making was different under a coalition government when there was a necessity for advice to be shared with the other party, providing greater transparency. The increasingly binary nature of politics in Scotland is an issue impacting on effective decision-making.