

**CIVIL SERVICE
ACCOUNTABILITY:
CHALLENGE AND
CHANGE**

accountability

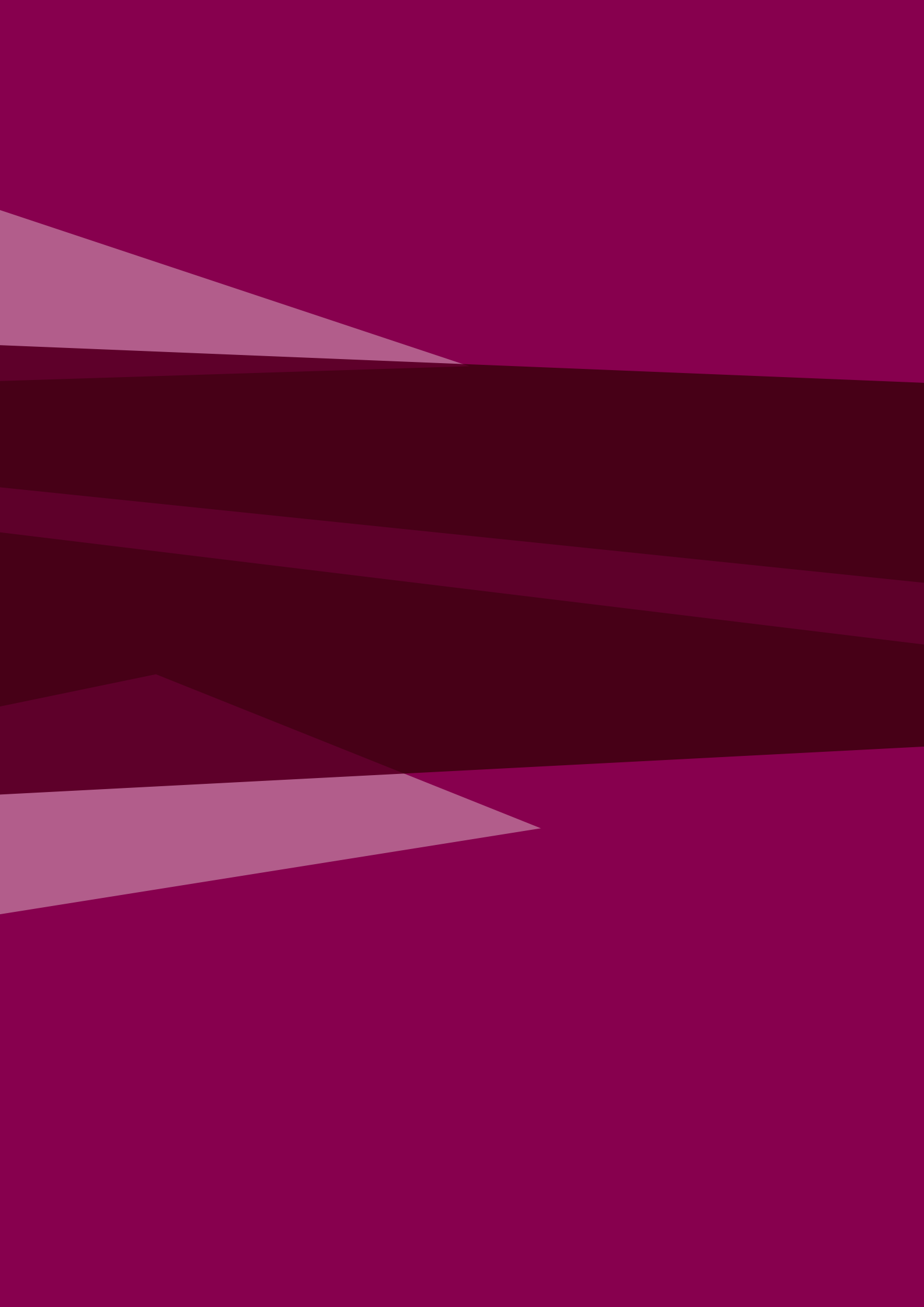


- n.
1. the state of being accountable, liable, or answerable.
 2. where a public official explains his or her conduct to a forum, the forum makes a judgement, and the official may face consequences.

STATE OF THE PUBLIC SERVICE SERIES | JANUARY 2014

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RESEARCH PAPER | NO 12



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FOREWORD

This report is somewhat different in nature to other reports in the *State of the Public Service* research series in that it includes a response to the discussion paper *Strengthening Civil Service Accountability and Performance* published by the Government Reform Unit of the Department of Public Expenditure and Reform. The intention is to add to and inform the consultation process started by the production of the discussion paper. The report brings evidence to bear on this crucial subject of accountability from both international and national practice. It addresses questions raised in the discussion paper and suggests ways of enhancing accountability whilst being aware of the dangers of accountability overload.

In the *State of the Public Service* research series, we seek to provide evidence-informed research and commentary on key aspects of contemporary Irish public administration. The authors of these reports bring their considerable expertise and practical knowledge to the topics selected so as to provide evidence, insights and recommendations to support future development. Our aim is that these reports will not only inform, but also challenge current thinking about how the Irish public service performs. It is intended that these short research reports will be of relevance and use not only to public servants, but also to policy makers and the wider public.

We welcome any comments or feedback you might have on the report.

Brian Cawley
Director General
Institute of Public Administration

1. INTRODUCTION

Accountability deficits have been identified as the root cause of many failings within the Irish system of public governance, particularly in the context of the financial and economic crisis. It is important at the start of any discussion on accountability to recognise that no system of accountability, for the civil service or otherwise, can guarantee against future failure or crisis. There is however an important learning dimension to accountability that seeks to reduce the possibility of accountability failure, and democratic systems of government evolve most successfully on the basis of such learning.

Why is accountability important? It is argued that deficits in the Irish system of public governance serve not only to undermine public trust in the institutions of state, but provide opportunity for underperformance at best and outright corruption at worst. But improving accountability arrangements is not a straightforward task. More accountability of the wrong type can bring its own problems. Flinders (2012) points out that despite a considerable increase in accountability mechanisms, there has been decreasing levels of public confidence in politics. Baroness Onora O'Neill also made similar observations when she proposed that the 'quest' for greater accountability is in fact undermining the sense of trust in government and society (2002). There is no clear positive relationship between increased levels of accountability and trust. The reverse is not the case, however, and the absence of accountability is a prime cause of mistrust in public governance.

What do we mean by accountability? Contemporary public interpretations of accountability tend to understand accountability as more than mere responsibility to perform a function, or simple answerability in the sense of presenting an account of action or inaction. Instead, these interpretations include the capacity for sanction, so that those responsible for actions and inactions can be punished if necessary. It is the apparent absence of punishment in the forms of sackings and resignations that leads to the observation that accountability is deficient or non-existent, and thus reformers seek to create new accountability systems by way of resolution.

The relative absence of political and administrative resignations or termination of employment is also pointed to as evidence of weak sanctions such that 'no one is responsible for anything' (O'Brien 2012). Conceived in this manner, however, accountability becomes a very broad and contestable concept, as there is no general agreement concerning the standards for accountable behaviour or to determine when resignations and dismissals are warranted.

The purpose of this *State of the Public Service Series* paper is to consider aspects of civil service accountability, and particularly to address the questions of what we mean by accountability and how accountability might be improved. In the light of the policy paper *Strengthening Civil Service Accountability and Performance* published by the Government Reform Unit of the Department of Public Expenditure and Reform in January 2014 it is also intended to engage in discussion on the proposals put forward in the discussion paper to strengthen accountability.

After the Introduction, Chapter 2 of the paper considers what is meant by accountability and how it can be operationalised. It also addresses the question of why accountability matters.

In Chapter 3, the context and reasons for the concerns about civil service accountability in Ireland are explored. Particular attention is given to the multiple accountability mechanisms that exist, and to the minister – senior civil servant accountability relationship.

In Chapter 4 the paper looks at the ten accountability options outlined in *Strengthening Civil Service Accountability and Performance* and suggests some means of tackling accountability dilemmas associated with the options.

2. WHAT IS ACCOUNTABILITY?

While the term is used extensively, accountability remains a deeply contested concept not just within the disciplines of political science and public administration, but in the public domain and contemporary political discourse where perceived accountability deficits are regularly identified as the root cause of management and administration failures. Much of the analysis about political accountability has tended to focus on the issue of legislative-executive relations (MacCarthaigh 2005, Hardiman 2012) as well as the ability of citizens to 'throw out' government and the effect this has on executive behaviour. In this paper we are concerned with the accountability not of the political sphere per se however, but rather primarily with the administrative apparatus of the state.

In this context accountability is one of the 'magic concepts' identified by Pollitt and Hupe (2011) that dominates current academic and practitioner discourse in public management. Such concepts are broad in scope, difficult to oppose and have global appeal. It is, as Bovens (2007: 448) points out, hard to be against accountability but its multiple interpretations make it an elusive concept. Several scholars (Behn 2001; Mulgan 2003; Dubnick 2005) have questioned the loose and widespread manner in which accountability is used in current literature, and the growing number of accountability dimensions and relationships that students of government seek to explore. While many scholars and practitioners lament this complexity, others seek to understand and demonstrate the utility of more network forms of accountability (Scott 2006; Hodge and Coghill 2007).

It is significant that much of the literature on contemporary accountability arrangements is concerned with principal-agent relationship models. In these models, tasks and duties are delegated by one actor (a principal) to another (an agent), and the principal must protect their interests by finding a means to ensure that the agent is not undermining them. Much of this is based on low-trust scenarios, as when trust is high between actors, the need for accountability measures diminishes.

Conflicting views on holding civil servants to account

The conflicting views as to how best civil servants can be held accountable can be found in the famous Friedrich-Finer debate of the 1940s (Jackson, 2009). Then, Samuel Finer argued that accountability could only be guaranteed by maintaining hard external constraints, whereas Carl Friedrich argued that self-control is feasible based on a broad array of internal norms and values. Today we find both forms of accountability in operation with civil servants facing numerous external accountability forums as well as internal management and professional accountability standards.

Given the variety of interpretations of accountability, a wide number of definitions have emerged to describe its implementation. In its examination of the accountability of regulators, the House of Lords notes that accountability is 'a generic term, the precise definition of which depends on the circumstances' (2004, para. 48). The report goes on to explore three elements which it believes constitute an accountability relationship: 1) the duty to explain, 2) exposure to scrutiny and 3) the possibility of independent review (para. 9). Adopting a different perspective, Mulgan states that accountability relationships (or mechanisms) are normally external, involve social interaction and exchange, and involve rights of authority between those being held to account and those holding to account (2003).

Combining these views and adopting Bovens (2007) widely used terms, we can conceive of an accountability relationship as one:

...between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgements, and the actor may face consequences.

It should be noted, however, that Philp (2009) argues against a relatively linear interpretation of accountability, noting the existence of multiple accountability agents in his definition of accountability that: 'A is accountable with respect to M when some individual, body or institution Y, can require A to inform and explain/justify his or her conduct with respect to M.'

Recognition that multiple accountability relationships co-exist and can therefore conflict have gathered pace since the 1980s, best exemplified by Romzek and Dubnick's (1987) seminal work examining accountability for the space shuttle Challenger tragedy in the USA. Since then, a growing number of scholars and works have used variations on a 'multiple accountabilities' framework to explain administrative failures (Table 1). The meaning of accountability has also been subjected to increased scrutiny.

TABLE 1: MULTIPLE ACCOUNTABILITY DIMENSIONS

Author(s)	Dimensions of Accountability				
Romzek & Dubnick (1987)	Bureaucratic	Legal	Political	Professional	
Boyle (1998)	Political	Managerial	Citizen		
Flinders (2001)	Parliamentary	Judicial	Managerial		
Dowdle (2006)	Elections	Bureaucracy	Judiciary	Transparency	Market
Hodge & Coghill (2007)	Legal	Market sanctions	Informal environmental influences	Socially generated behaviours	

What is common is that in all cases accountability is a relational concept, i.e. it exists when one actor is accountable to another (an individual or an institution). Secondly, it involves presenting an account of actions, or inactions. Finally, accountability is deemed to involve some form of sanctioning behaviour. The implementation of this latter dimension is arguably at the root of many disputes concerning the practice of accountability within government.

Why does accountability matter?

Bovens (2007) proposes that political or public accountability in a democracy has three core functions:

- To provide for democratic control (democratic role)
- To prevent corruption and abuse of power (constitutional role)
- To enhance efficiency and effectiveness (learning role)

Peters and Pierre (2010) agree that accountability has democratic and constitutional functions, but argue that the third function is that of ensuring performance (rather than learning), and note that good performance cannot absolve public authorities from their duties to respect the first two function. And in his major work on democratic accountability, Behn (2001) argues that accountability matters for ensuring financial probity, fairness and performance. However, he notes that there are regularly tensions in achieving these values, reflecting a long-standing concern over the trade-off between accountability and efficiency.

Functions of the political-administrative accountability relationship

Within the political-administrative relationship, there are several reasons as to why effective accountability arrangements are necessary:

- Robust accountability arrangements provide motivation to achieve desired outcomes
- Accountability arrangements are a means of transferring values, i.e. what is deemed to be acceptable activity and behaviour, and what is not
- Accountability mechanisms contribute to assurance and shared understandings

Accountability is often noted for its absence rather than its presence. Accountability deficits or gaps are routinely identified as the primary or contributory factor in policy failures, inactions or inappropriate behaviours and activities. And the need for greater or stronger accountability is commonly prescribed as the remedy for solving many of the perceived ills of modern government (Mulgan 2003; Kettl 2009).

But as use of the term has flourished and come to dominate much of current thinking about government and its reform, it has become increasingly difficult to find agreement on its meaning. Terms such as transparency, oversight, responsibility, stewardship and scrutiny are also interchanged with accountability though each carries different meaning and purpose. What constitutes a robust accountability system is vigorously contested. Few commentators are prepared to say where the threshold lies between an accountability deficit and sufficient accountability; and when does too much accountability become a problem, if at all? There has been a qualitative shift from a linear or two dimensional perspective based on superior-subordinate relationships, to more complex or pluralist accountability designs within which each actor has multiple accountability relationships (Behn 2001).

3. CIVIL SERVICE ACCOUNTABILITY IN IRELAND

The Irish system of government and public administration is based on the Westminster model (Rhodes, Wanna and Weller 2009). It depends on a number of what Roy defines as 'central, relational compacts' (2008: 544-5). These he describes as:

1. Representative democracy as the compact between the public and parliamentarians
2. Ministerial accountability as the compact between parliamentarians and the government on the one hand, and the public service on the other hand; and,
3. Hierarchy and loyalty as the main organising principles within the public service for assuring that government plans and policies are executed and implemented

In all cases, however, we find that the complexities and pressures of modern democratic government put each compact under strain. Competitive elections and representative parliaments and councils are challenged by frequent, direct and participative forms of citizen engagement in decision-making (Litton and MacCarthaigh 2007). These in turn have consequences for hierarchy and loyalty as key organising principles when multiple avenues for direct public access to decision-making now exist. Within representative democracy the notion that politicians, or more specifically members of the political executive, are ultimately accountable for what happens across the public sector holds strong.

Multiple accountability mechanisms are the norm

The reality of contemporary policy making, involving as it does both state and non-state actors in increasingly complex policies, makes the simple hierarchical accountability model around which democratic government is built appear increasingly inadequate. For civil servants in Ireland, as elsewhere, a plurality of accountability relationships has been overlaid on the traditional hierarchical understanding (though hierarchy remains an important organising principle in the Irish public service). Civil servants are increasingly 'answerable', if not formally accountable, to a wide variety of organisations and bodies.

From the point of view of civil servants, their accountability requirements are many, with each requiring a particular set of requirements and related values. Table 2 below identifies some of these various accountability requirements.

Form of Accountability	Internal	External	Core associated values
Financial	Internal Audit National Procurement Guidelines	C&AG Committee of Public Accounts EU Procurement Guidelines	Probity, Honesty
Managerial	PMDS MAC Department Strategy/ Annual Business Plan/ Annual Report	Minister/Cabinet Public Service Management Act EU Open Method of Coordination	Efficiency, Service, Effectiveness
Political	Minister/Cabinet Ministers and Secretaries Acts	Oireachtas Committees	Impartiality, neutrality

Professional	Civil Service Code of Standards and Behaviour	Standards in Public Office Commission (& Ethics and Standards in Public Office Acts)	Equity, collegiality
Public	Customer Charters	Ombudsman Freedom of Information Act Office of the Freedom of Information Commissioner	Fairness, Transparency,
Judicial		Courts	Legality

The multiple accountability mechanisms applying to the Irish civil service can also be seen as comprising top-down, horizontal and bottom-up elements. The top-down pressures are defined as those where government or the legislature is required to implement new accountability structures, for example because of EU Treaty obligations or the incorporation of the European Convention on Human Rights into domestic law.

Horizontal pressures include elements such as the establishment of the public sector ombudsman offices and the passage of freedom of information legislation, and can also involve policy learning from the experience of other jurisdictions. The EU plays a role here in encouraging peer-review type practices such as the Open Method of Co-ordination (OMC) to encourage the identification and adoption of good practice rather than relying on binding EU legislation. This latter approach can be seen as an example of promoting a 'soft' form of accountability rather than the 'hard' form of legislation.

Finally, bottom-up reforms are conceived as responses to policy problems, often common with other jurisdictions, but where the response is distinctive, shaped by particular institutional configurations. For example, the considerable dependence placed in Ireland on the establishment of ad hoc tribunals to investigate matters of political corruption can be compared with the use of more permanent anti-corruptions bodies in some other jurisdictions.

Multiple accountabilities are routinely presented as problematic and the demand to fulfil various accountability requirements perceived to consume an ever-greater portion of civil servants time. Civil servants routinely (and usually privately) complain that the accumulation of accountability arrangements has created an accountability regime that is of questionable value (see Bovens et al 2008), and with frequent changes to 'the rules of the game'. However, realistically multiple accountabilities are here to stay. Indeed, multiple accountabilities are necessary in practice, and can indeed be desirable as they give citizens a choice of means to hold the public administration to account for the use of public resources. They also provide multiple means for individuals to exert influences on decision-making.

Ministerial and senior civil servant accountability relationships

Of particular interest to this paper is the accountability relationship between ministers and top civil servants. This issue is captured in a speech by the Minister for Communications, Energy and Natural Resources Pat Rabbitte TD:

As a minister, I value the relationship between the civil service and the minister. This key relationship is built largely on trust but it is also by its nature ambiguous and lacking in clarity as to the specific roles of the players. Ambiguity is defended on the basis that it supports a flexible and collaborative public service, where the elasticity of individual roles allows for a quick response to changing demands. But ambiguity also allows for vagueness as to who is responsible for what and to whom are they accountable (Rabbitte 2012)

The accountability of ministers, which operates through the convention of ministerial responsibility, underpins the Westminster and hence Irish system of government. It provides the rationale for the institutional structure of government and the basis for political relationships. The strength of the doctrine lies in its theoretical contribution to the democratic process, whereby it provides for the public accountability of the activities of the civil service. Its weakness lies in the execution of the theory however, in the gap between the expectation of accountable government and the reality of a dominant executive able to impose its own limitations upon what accountability is to mean.

In defence of ambiguity

The 'ambiguous' nature of the accountability relationship between ministers and civil servants is a regular source of criticism. However, in defence of the ambiguity it may be argued that it is an inevitable feature of governing and public administration, and a more contractual-type relationship does not necessarily resolve the issue. Indeed, the complexity of contemporary governing would result in contracts being continually renegotiated and updated as new issues arose. We return to this issue in Chapter 4.

Commenting on the Irish case, O'Malley and Martin (2009: 302-3) suggest that there are three principles to the political dimension of ministerial responsibility - confidence, unanimity and confidentiality. The first, confidence, determines that ministers must maintain the confidence of the Dáil. This principle is vital to the second doctrine of Irish government - the 'collective responsibility' of the government to parliament for the work of the public administration. Reflecting the necessarily collective nature of government decision-making, the unanimity principle ensures that all ministers support decisions taken at Cabinet, regardless of whether they personally agree or not. The confidentiality principle ensures that discussions at Cabinet are not divulged, only decisions.

As well as its political importance, the doctrine also holds a significant administrative dimension as not only does it provide a means for parliamentary oversight of the executive, it also underpins the power of ministers over their departments. Commenting on this, Sutherland notes that:

Having to account in Parliament strengthens his [a minister's] control over the department, since the issues that arise in Parliament focus his attention on specific topics inside his department. Politics, like lightning can strike anywhere, and thus in a random manner the spotlight of Parliamentary concern can alert the minister to where he should be directing his gaze within the department. It keeps not only him but also his civil servants on their toes (1991: 118)

Ministerial responsibility therefore determines that, in theory at least, the minister is politically responsible to parliament for all that occurs within his or her department and related agencies. This departmental focus has often been pointed to as the main reason why joined-up government initiatives tend not to succeed - ministers have little incentive to take responsibility for matters outside of their direct control. Also, until recently, it meant that apart from the Committee of Public Accounts which has a special function in respect of financial accountability, parliament only heard from the minister in relation to administrative matters within their department.

Changes to accountability requirements in Ireland

The Public Service Management Act of 1997 attempted to establish more clarity around the respective roles of ministers and secretaries-general. The Act envisaged that responsibility for policy objectives and agreeing necessary results lies with ministers, while secretaries general advise ministers and ensure their department produces the

necessary results. The managerial role of secretaries general was made more explicit as a result of the Act which delegated, for the first time, all power and responsibility to the secretary general of a department with respect to appointments, dismissals, performance and discipline (up to the grade of assistant principal).

While the doctrine of ministerial accountability to the Dáil remained, the 1997 Act provided that the traditional role of senior civil servants as policy advisers would be complemented by an enhanced role as managers of that service. Thus the secretary general of a department was given the authority, responsibility, and accountability for managing their department, implementing government policies and delivering outputs as determined by their three-year strategy statement.

The Act did not fully delineate the respective accountabilities of ministers and civil servants however, and a Working Group of Secretaries-General was created a few years later to examine the issue further. The final report of the Working Group on the Accountability of Secretaries General and Accounting Officers (the 'Mullarkey Report', 2002) sought to clarify the 'systems of accountability of Secretaries General and Accounting Officers', but still failed to identify how it might work in practice. Reflecting their necessarily close relationship, it has been suggested that this was because failure to deliver on a departmental strategy could not be attributed to the administrative side of government departments without implicating the responsible minister also (Molloy 2010).

It was in this context that the Programme for Government (2011) set out as one of the Government's objectives that:

We will legislate for a reformulated code of laws, replacing both the Ministers and Secretaries Acts and the Public Service Management Act, which will spell out the legal relationship between Ministers and their civil servants and their legal accountability for decisions and for management of Departments.

The policy paper *Strengthening Civil Service Accountability and Performance* (Government Reform Unit, 2014) sets out the Government's intentions to progress the accountability agenda through examining options for the reform of the legal and administrative accountability framework.

4. REFORMING ACCOUNTABILITY RELATIONSHIPS: ISSUES ARISING FROM THE POLICY PAPER *STRENGTHENING CIVIL SERVICE ACCOUNTABILITY AND PERFORMANCE*

While no perfect system exists anywhere for civil service accountability, there are a number of issues which should be borne in mind when considering the reformulation of accountability relationships. These are set out below by way of responses to the ten reform options set out in the policy paper *Strengthening Civil Service Accountability and Performance* published by the Government Reform Unit in January 2014. Abstracts from the options set out in *Strengthening Civil Service Accountability and Performance* are shown in italics, with the response following.

Reform of legislative framework

The main aim of any reform of the overall legislative framework within which the civil service currently operates (i.e. the Ministers and Secretaries Act and the Public Service Management Act) would be to seek to provide greater clarity and certainty as to the respective roles and responsibilities of ministers and civil servants respectively (Government Reform Unit, 2014: 43).

As a starting point it should be noted that the dilemma of trying to bring greater clarity to accountability relationships through legislative frameworks is not unique to Ireland. Only recently has there been the first statutory recognition of the British civil service by virtue of the Constitutional Reform and Governance Act in 2010, a development which had actually been recommended in the Northcote-Trevelyan Report of 1854 (often regarded as the foundation of the modern civil service). This 2010 Act also created a Minister for the Civil Service to 'manage' the civil service.

In New Zealand, Gregory (2012: 116) notes the limits of legislative accountability reforms:

At one extreme, which is what New Zealand's earlier reforms moved decisively towards, attempts are made to specify respective roles and responsibilities with greater precision and specificity. Anything that happens, for better or for worse, can be sheeted home to some individual, whether a politician or an official. The problem with this, as argued, is that it hardly ever works. The real world is much more uncertain and complex. The opposite extreme would be characterised by a form of laissez-faire accountability, in which it would be every person for himself – 'dog-eat-dog and the devil take the hindmost'. There would be little, if any, assignment of individual roles and responsibilities. This would constitute a form of political and administrative anarchy, hardly well suited to the concept of 'representative and responsible government'.

Experience from countries such as the UK and New Zealand would tend to suggest that it is likely that any reformulation of the legal framework that tries to over specify in formal 'contractual' terms the responsibilities of ministers and civil servants will fail. But at the same time, the current situation is insufficiently clear about roles and responsibilities. It should be possible to further specify the responsibilities of senior civil servants for the delivery of better results and value-for-money, including requirements to collaborate. But it needs to be remembered that too much accountability of the wrong sort can be as damaging as too little accountability. Enhancing clarity where possible as to what public servants are accountable for is a challenge that needs continuing and careful attention. It is likely that some further degree of clarity can be achieved through legislative change. But to think that responsibility in all cases can be clearly apportioned between ministers and civil servants would be to ignore the evidence of international experience.

Enhance the corporate centre

A strong corporate centre could encompass establishing the overall strategic direction of the civil service, setting standards, supervising the division of responsibilities between the political and the administrative level, strengthening civil service leadership and management, operating effective and robust performance management systems and overseeing appointments to that cadre ... In Ireland the Senior Public Service (SPS) may provide a platform for the development of a structure which would have the potential to discharge these type of key functions for the senior civil service in Ireland. The extent to which the creation of a Head of Civil Service could discharge a key role in enhancing the capacity of the senior level civil service also warrants detailed consideration (Government Reform Unit, 2014: 44).

The Senior Public Service (SPS) is recently established in Ireland. Intended to apply eventually across the public service, it is at present limited to secretaries general and assistant secretaries general and equivalent grades in the civil service. While the SPS could be envisaged as part of the corporate centre dealing with issues such as appointments, performance management and standard setting, it is unlikely it could alone fill that role. In most countries that have a SPS, the management of the SPS is often shared between the line ministry in charge of public service (in Ireland's case the Department of Public Expenditure and Reform), which is in charge of SPS's personnel management, and an independent, arms-length body such as a public service commission, which ensures good governance in that management.

In developing the role of the corporate centre there is merit in reviewing the roles and remit of not only the SPS, but also the Department of Public Expenditure and Reform, the Department of Finance and the Department of the Taoiseach. The possibility of establishing an equivalent of the State Service Commission in New Zealand or Public Service Commission in Australia should also be examined.

The idea of designating a head of civil service is one worth more detailed examination. Several countries have such a position, for example in Canada the Clerk of the Privy Council, in Australia the Secretary for the Department of the Prime Minister and Cabinet, and in New Zealand the State Service Commissioner. In the case of New Zealand this position is set out in statute in the State Sector Amendment Act 2013. In coming to the conclusion that the State Service Commissioner should be formally designated as the head of state services accountable for overall performance of the state services, an advisory group noted that previously the responsibility for leadership of the state services overall had been loosely 'and somewhat jointly' held by the three central agencies, and the group viewed this as a key system leadership issue (New Zealand Government, 2011).

In the UK, in 2011 the government split the position of cabinet secretary (traditionally seen as the head of the civil service) and head of the civil service, appointing as head of the civil service someone who combined that role with that of permanent secretary of a government department. This split has met with widespread criticism and recommendations for a full-time appointment of head of the civil service have been made by the Public Administration Committee (2012).

A head of civil service role or some broadly equivalent central role could be particularly important if ministers are given more input into the assessment of the performance of secretaries general. In such a context, the head of the civil service could act as an important safeguard for the independence of the civil service from potential inappropriate political interventions. The need for such a role is highlighted by experience in the UK over political criticism of a permanent secretary which prompted an intervention by the cabinet secretary¹.

¹ <http://www.independent.co.uk/news/uk/politics/exclusive-top-mandarin-hits-back-at-iaian-duncan-smith-over-universal-credit-smears-8960874.html>

More effective accountability of senior civil service management

Legislative reform could help put in place a framework enabling clearer personal accountability for the delivery of specific governmental objectives and priorities delegated or assigned to the administrative level ... The experience from other jurisdictions highlights the benefit of focusing on a limited number of key deliverables which are afforded a particular priority by political leadership as well as the importance of regular engagement on performance and crucially for that process to be well-informed. These would be published and reviewed periodically (Government Reform Unit, 2014: 45).

The focus on a limited number of priority deliverables is to be welcomed, and as noted, in line with best international practice. Crucial, too, if this process is to be effective, is regular structured review and feedback of results, and this should be built into any new accountability arrangements. In the USA, for example, the Government Performance and Results Modernization Act of 2010 requires the head of each agency to identify agency priority goals from among the agency's performance goals, with a general expectation that the total number of federal goals will not exceed 100 and agency goals will not exceed five per agency. Agencies must report performance data on a quarterly basis, and hold data-driven quarterly reviews of agency priority goals. For each agency priority goal, the head of the agency and the chief operating officer, with the support of the agency performance improvement officer, reviews the progress achieved during the most recent quarter and the likelihood of meeting the performance target. The reviews include the designated leader for each agency priority goal (known as a 'goal leader'), and relevant personnel both within and outside the agency. The reviews also highlight high risk areas, where there is the greatest risk of not meeting a priority goal. OMB is expected to identify goals agencies fail to achieve, and to require remedial action.

Another important aspect of more effective accountability is the individual performance accountability of secretaries general. Here experience from other countries offers some useful pointers. In Canada, there are four basic elements in the review of deputy minister (equivalent to secretary general) performance:

- Self-appraisal: deputy ministers are required to evaluate their own performance against the objectives and performance measures set out in their performance agreement. In addition, a retired deputy minister meets individual deputy ministers to discuss their self-appraisal, seek the views of selected colleagues, and provide this perspective on each deputy minister and associate deputy minister to the peer review committee (see below).
- Management assessments: Management Accountability Framework² assessments are provided by the Treasury Board Secretariat for each deputy minister and are the mainstay of evaluating management performance in departments/agencies.
- Peer review: a committee of senior officials, composed of deputy ministers and chaired by the Clerk of the Privy Council, reviews all evaluation input and provides its own comments on the individual performance of all deputy ministers and associate deputy ministers. The Clerk of the Privy Council also seeks the views of others, including the appropriate minister.
- Feedback: following this peer review, the Clerk of the Privy Council (the formal assessor of the deputy minister) and associate secretary meet with all deputy ministers to provide structured, 45-minute feedback on their evaluations, with a clear identification of strengths and weaknesses and suggestions for learning. The associate secretary provides similar feedback to all associate deputy ministers.

² The Management Accountability framework (MAF) is a tool used to clarify management expectations of deputy ministers and support dialogue on management priorities with their executive team and the Treasury Board Secretariat, using 10 high-level management expectations of deputy ministers (<http://www.tbs-sct.gc.ca/maf-crg/index-eng.asp>).

In New Zealand, performance expectations are developed through the annual performance assessment of chief executives, which includes a 'Letter of Expectations' from the minister outlining the chief executive's objectives that year. Responsibility for the assessment of the performance of chief executives rests with the State Service Commissioner, the head of the State Services Commission. Ministers are formally consulted and asked to express their views in respect of how they believe chief executives have performed against agreed objectives (the minister for the state services is also involved) (IPPR, 2013: 81). In Australia, the performance of secretaries is assessed annually by the Secretary of the Department of the Prime Minister and Cabinet (PM&C) and the Public Service Commissioner (PSC). The annual performance review is a statutory requirement as of the Public Service Amendment Act 2013.

The basic components of individual performance management for secretaries general are, therefore, fairly well established and defined. Any development of performance management for secretaries general in Ireland should include the following elements: a written statement of performance expectations focused on a small number of priority goals, self-appraisal, peer and ministerial review, and feedback. However, experience from the UK warns of the danger of applying the process in an overly simplistic or mechanistic manner. Personal performance objectives for all permanent secretaries were published for the first time in December 2012. But research carried out by the Institute for Government (2013: 43) indicates some of the challenges:

... in the course of our interviews we encountered significant scepticism about the effectiveness of this system. One permanent secretary noted that their list of objectives was too long to be meaningful as a prioritising mechanism, so each permanent secretary had to decide their own priorities themselves. It was also pointed out that the objectives published in December 2012 were for the 2012-13 financial year, meaning they had been agreed more than half way through the year. Another permanent secretary agreed that the process of agreeing the objectives had been badly handled last year ... Overall, the message we heard was that performance management within departments, for which permanent secretaries are responsible, is far stronger than management of permanent secretaries by the centre.

The corporate centre has an important role to play in determining a workable means of performance management for secretaries general, particularly in terms of providing a formal reporting line for secretaries general.

Align recruitment/promotion practices with HR requirements

In order to attract and retain external talent and build internal capability remaining restrictive recruitment and promotion practices would be eliminated. Realisation of this goal would also help secure some of the benefits of a unified public service system. There would be a further shift towards open recruitment for all civil service grades ... the case for replacing permanent tenure for newly-appointed senior departmental officials and replacing it with fixed-term performance related contracts would be reviewed in the course of the consultation process (Government Reform Unit, 2014: 46).

Of prime interest here is the appointment and terms of employment of senior civil servants, as those with most direct relationships with ministers and associated accountability requirements. Terms of appointment vary across countries, though several countries are now increasingly opening up senior positions to competition from the wider public service and private sector. The proposed continuation of this move in Ireland would seem a sensible development. With regard to security of tenure, in some countries staff retain permanent appointment as civil servants but can gain a fixed term appointment for a specific senior public service (SPS) position. In Belgium, managers receive a temporary mandate of six years. In the Netherlands, members of the top management group

are appointed for a term of five years, and they can prolong this period twice for the duration of one year each time, after which they must be transferred; the general government service appoints other senior public service members to positions for a period from 3 to 7 years without mandatory transfer. SPSs are often targeted for special mobility programmes to develop a stable elite cadre with a whole of government perspective (Lafuente, Manning and Watkins, 2012).

One potential danger to be aware of when opening up recruitment with an emphasis on the private sector in particular is the impact this can have on turnover at top levels. Either because they find the challenges of working in a public sector environment different to what was expected or because of the opportunities to move back out, turnover can be much higher. In the UK, for example, where there has been a high level of private sector recruits at the senior civil service levels in recent years, a review found that 'the rate of turnover in some parts of the civil service among the senior grades is now at unsustainable levels; in the Treasury it has reached an annual rate of about 30 per cent. This leaves many departments with a serious deficit in the knowledge and skills gained over the years by operational experience and careful succession planning' (Better Government Initiative, 2012: 5). It will be important in progressing recruitment practices to monitor issues such as turnover to ensure that any problems arising can be dealt with expeditiously and departments maintain their capacity to deliver.

Enable formal political input into the development of the job specification of senior level officials and their performance assessment processes

The option of devising structured mechanisms to allow ministers to formally contribute to the specification of requirements/appropriate recruitment criteria for senior level posts in their departments would be examined during the consultation to assess whether it would be feasible without creating any risk of politicisation ... The corporate centre for the civil service in place in some other countries allows for formal structured input by ministers into the performance assessment of their top officials.

By way of introduction it should be noted that with regard to involvement in the appointment of senior civil servants, ministers in Ireland already have a higher level of formal involvement than in many other countries. For appointment to secretary general level the Top Level Appointments Committee (TLAC) recommends up to three candidates, if found suitable, for posts at this level. The government appoints the secretary general from among the recommended candidates. It is more commonplace in countries with Westminster-style governments, such as the UK, for one name only to be put forward to the prime minister, or where multiple names are put forward for them to be placed in order of merit.

In a recent study of civil service accountability for the Institute of Government in the UK, Paun and Harris note the increased desire of ministers to be given 'the tools to tackle the problems [for which they are] held responsible' (2012: 3). Such tools include the possibility of more direct involvement in the appointment and management of top officials. Paun and Harris draw on the experiences in Australia and New Zealand as possible options for remodelling the British system. Experiences there suggest that it is possible to increase the openness of government whilst retaining ministerial accountability to parliament.

It is important that the issue of the independence of civil servants and their ability to 'speak truth to power' should not be compromised by any arrangements that might facilitate further political input to appointment and performance assessment processes for senior civil servants. In Australia, where there is direct political involvement in the recruitment process, Paun and Harris (2012: 11) note that '...there are those who today criticise the public service for being too responsive to ministers, at the expense of providing robust challenge to the political masters'.

In Ireland, the independent review of the Department of Finance (Report of the Independent Review Panel, commonly known as the Wright report), commissioned to examine the role of the Department of Finance in the banking and economic crisis, provides an illustration of both the need for and the limits of independence. The report recognised that the department did provide warnings on pro-cyclical fiscal policy and expressed concern about the risks of an overheated construction sector. However, the report went on to say (2010: 6) that the department 'should have adapted its advice in tone and urgency after a number of years of fiscal complacency. It should have been more sensitive to and provided specific advice on broader macroeconomic risks. And it should have shown more initiative in making these points and in its advice on the construction sector, and tax policy generally'. In other words, it should have been stronger in speaking truth to power. Whatever chance there might be of this happening with an independent civil service, the chances of even the level of advice actually provided by the department would likely be diminished in a situation where the senior level appointments are more directly politically influenced to advance the agenda of the governing party or parties.

As noted above when discussing the accountability of senior civil servants, one area where other countries have more formal ministerial involvement is in having an input to the assessment of secretary general performance. This seems to operate effectively, with ministers being given a formal opportunity to provide their views on performance, within a process operated and overseen by the corporate centre.

In general, it would seem wise to be cautious about moves to further develop formal political input to appointments and performance assessment, though there is scope with regard to a more formal input regarding performance assessment, as part of a wider approach to the performance management of secretaries general. The role of the corporate centre would be even more important if moves are made in this direction, to act as a guardian of independence, with a key role in ensuring that the ability of civil servants to provide frank and fearless advice is not compromised.

Legislate to change the restrictions on the evidence of civil servants to Oireachtas Committees

Civil service accountability can also be sharpened by enhancing the legislature's ability to hold senior civil servants to account (Government Reform Unit, 2014: 47).

With increased levels of responsibility being devolved to senior and middle-ranking civil servants, not least arising from the Public Service Management Act 1997, the requirement for individual civil servants to appear before parliament has increased. Oireachtas committees have provided the most suitable means for allowing parliamentarians to engage directly with civil servants. This has in turn raised new questions about the accountability of civil servants to parliament. In particular it raises an accountability dilemma – should a person or group (civil servants) be held to account by a forum (parliamentary committee) which has no direct involvement in their appointment or setting of their tasks? And if so, how is this accountability to be operationalised?

In theory, policy matters remain the responsibility of the minister but in practice the policy-administration divide is difficult to determine in many instances and civil servants are often found unsure of where the 'boundary' lies. As noted above, accountability relationships are normally conceived in the principal-agent context, but members of Oireachtas committees do not employ civil servants (rather it is the Minister for Finance) and civil servants are bound not to discuss the merits or otherwise of policy decisions taken by their ministers and the government as a collective.

The Programme for Government set out by the coalition in early 2011 committed the government to address the issue. It stated that:

Restrictions on the nature and extent of evidence by civil servants to Oireachtas committees will be scrapped and replaced with new guidelines for civil servants that reflect the reality of the authority delegated to them and their personal accountability for the way in which it is exercised.

(Government of Ireland 2011)

In early 2012 the British House of Lords' Select Committee on the Constitution also sought to explore the accountability of civil servants in more detail. Particular emphasis was given to the issue of the efficacy of the 'Osmotherly rules', which were originally designed to guide civil servants in what they could and could not say at parliamentary committees. The rules set out the principle of ministerial accountability and the accountability of civil servants to ministers, an accountability relationship that had come under increased strain. In setting out the problem, the Committee explained:

The government's position on the relationship between the civil service and select committees is contained in the document Departmental Evidence and Response to Select Committees (known as the "Osmotherly Rules"). These are, and always have been, drafted by and for the executive, without parliamentary input or express approval.

This convention has become subject to a number of criticisms, generally on the grounds that it is no longer an effective means of holding the government fully to account, and that it does not adequately reflect the distribution of power and responsibility between ministers, civil servants and special advisers.

<http://www.parliament.uk/documents/lords-committees/constitution/CivilServ/ACScfe.pdf>

In commenting on the accountability of civil servants to the UK parliament, Talbot (2012) notes:

In most other democracies the permanent civil service is much more accountable to both the legislature and the executive branch of government. Britain, or rather Whitehall, lies at one (extreme) end of a spectrum of such relationships, with accountability of the Civil Service to Parliament being very weak in comparison ... The big barrier and challenge was then, and remains now, breaking down the mythical status of the 'Armstrong Doctrine' and the 'Osmotherly Rules' and consigning them to a museum, which is where they belong in a democracy.

The necessity of the national representative assembly being able to perform its oversight and scrutiny function adequately is self-evident. However, rather than attempting to recast the accountability relationship along one dimension, it may be more fruitful to conceive of the parliamentary element of executive accountability as part of a more integrated accountability network. The convention of ministerial accountability should not necessarily inhibit the development and strengthening of other means of providing for public accountability of the administrative system.

In particular it would seem reasonable that in any new arrangements committees should expect accounting officers and other senior officials to give evidence about current performance and major planned programmes and projects. As noted in a UK review of practice, civil servants in such circumstances 'should take responsibility for the quality of the advice given by their departments on the key approaches considered and assumptions used in the appraisals, any inadequacies in the evidence relied on, perhaps due to an absence of evaluations of past

projects or of pilots of new ones' (Better Government Initiative, 2012: 39). Such a development, and associated scrutiny of spending proposals, would require the Oireachtas to have the capacity to make sound judgements on the information provided. In the United States, the Congressional Budget Office, attached to the legislature, plays a key role in producing independent analyses of budgetary and economic issues to support the Congressional budget process. A similar arrangement could be needed in Ireland if the Oireachtas and its committees are to be effective in their scrutiny role.

It has been identified above that civil servants are already subject to a variety of accountability demands, one that is in many respects fragmented and leaving gaps which can lead to public perceptions of incompetence. A systemic review of existing accountability relationships, and the adoption of a more networked approach to civil service accountability that involves parliament and its committees at the apex, would involve other forums and actors. These would include public bodies such as Ombudsman and audit offices at local and national levels, but could involve non-public actors also. The central issue would be strong co-ordination of what is an otherwise fragmented system. A more networked approach to the pursuit of civil service accountability would also reflect the reality of contemporary policy making and implementation, which is multi-actor and poly-centric and which does not lend itself to simple approaches. As the Report of the Commission of Investigation into the Banking Sector in Ireland (the Nyberg report) identifies: 'While accountability requires clarity on who makes a decision, the need for good decisions would seem to require regular, open, professional and constructive discussion among all relevant institutions. (2011: x)

Reaffirm and reinforce the ethos and values of the civil service

It is timely and opportune to review what the main values of the contemporary civil service are; how these values are currently being inculcated, and the extent that these values coincide with or diverge from the conventional or traditional statement of such values (Government Reform Unit, 2014: 48).

As noted earlier in this paper, accountability is characterised by the use of multiple typologies which delineate between different accountability dimensions. However these various dimensions require the application of different value sets, which may come into conflict in the context of competing accountability requirements. Thus for example an emphasis on being held to account for efficiency in the use of public funds may promote behaviours which are inimical to other public service values such as impartiality. Similarly, if one is to be held to account for probity and efficiency in the use of public funds, it may act as a disincentive to innovation in attempting to use such funds in new ways. A review of the main values, and the tensions associated with making those values real, would seem a sensible step in the light of the development of new accountability relationships.

Build structures to underpin effective horizontal governance

A major effort is essential to tackle serious problems associated with pervasive and damaging 'departmentalism' between, and 'siloesation' within, government departments. This fragmentation runs strongly counter to the need to adopt a coherent and cohesive approach across multiple government departments/agencies to resolve complex public policy challenges (Government Reform Unit, 2014: 48).

Accountability arrangements are certainly a central element in helping or hindering horizontal governance in practice. Boyle (2013) notes that New Zealand in recent years has put particular emphasis on the management of performance that cuts across organisations. Ministers must agree and align around a small number of critical, measureable sector-wide results, reflecting their priorities, and mandate the appointment of chief executives to lead

sectors in delivering these results. The State Services Commissioner and the chief executive of the Department of the Prime Minister and Cabinet are required to bring together more closely the government's overall priorities with the levers to make change happen. The lead chief executive in each sector is required to organise themselves in the way that will best deliver results, including working with the State Services Commission, the Department of the Prime Minister and Cabinet, and the Treasury on any enabling, system-wide changes needed. The lead chief executives in each sector must identify a small number of critical, measurable results that reflect ministers' priorities, and produce results action plans, with formal, public and regular reporting of progress against these plans. Changes are planned to the State Sector Act 1988 to rebalance the accountability of public service chief executives more towards the delivery of better results and value-for-money, including requirements to collaborate where necessary, and away from the independent management and operation of departments.

Scotland has also been active in promoting cross-cutting performance management, using an outcomes-based national performance framework (NPF) to underpin the delivery of its agenda. The NPF is composed of a number of elements including specified national outcomes and indicators and associated measurement actions (Scottish Parliament Information Centre, 2012). Underpinning this performance framework, a process is in place overseen by the Scottish Government's strategic board - the civil service 'top table' for the organisation - consisting of the permanent secretary (chair), six director generals (DGs), the chief scientific advisor, the chief economic advisor, the chief executive of the Crown Office and Procurator Fiscal Service, together with three non-executive directors. The strategic board normally meets on a monthly basis. The role of the non-executive directors is to support the permanent secretary and DGs in their role as accountable officers, in ensuring that systems, processes and resources are fit for purpose.

These examples suggest that as a starting point for new horizontal governance arrangements, it is important that the government identify a small number of priority outcome focused goals. Associated with these goals, structures and processes such as senior responsible officers, and review and reporting mechanisms will be needed to ensure implementation and accountability for achievement.

Establish a robust governance framework

A detailed and comprehensive governance framework for civil service departments should be developed and put into operation in each government department (Government Reform Unit, 2014: 49).

As noted above, bureaucracies must deal with many different and often conflicting expectations, which lead to complex overlapping accountability relationships. In this context accountability overload becomes a possibility. Bovens et al (2008: 229) point to the characteristics which constitute an accountability regime which they determine contributes to 'accountability overload' for civil servants, namely (1) one which imposes extraordinarily high demands on their limited time and energy; (2) contains a comparatively large number of mutually contradictory evaluation criteria; (3) contains performance standards that extend way beyond both their own and comparable authorities' good practices; and (4) contains performance standards that seem particularly conducive to goal displacement or subversive behaviour. They argue that the more of these characteristics an accountability regime can be said to possess, the higher the likelihood that it defeats its purposes. Flinders (2012) even suggests that the quest for more and better forms of accountability has gone too far. In this context, it is important that any governance frameworks established have a role in reviewing the operation of accountability relationships, reporting back any significant overload problems to the corporate centre for attention.

Vision for the Civil Service

... there appears to be an urgent and essential requirement to initiate a process to renew and refresh the civil service's mission with a view to ensuring that it has the integrity, capacity, professional capability, commitment and appetite to successfully meet the serious challenges it currently faces (Government Reform Unit, 2014: 49).

Periodic scrutiny of the vision of any entity or organisation is worthwhile. A vision sets out a realistic and positive future state, one to which to collectively strive towards over a prescribed time period. As such, it is important to periodically re-visit the vision for the civil service to ensure that it remains relevant and achievable. Reform of accountability mechanisms should be developed in the context of seeking to achieve the common vision, and preventing activities that undermine or inhibit this endeavor.

Conclusions

A number of specific issues and actions have been identified in this response to the issues raised in *Strengthening Civil Service Accountability and Performance*. These are summarised below:

- It is likely that some further degree of clarity can be achieved through legislative change. But to think that responsibility in all cases can be clearly apportioned between ministers and civil servants would be to ignore the evidence of international experience.
- In developing the role of the corporate centre there is merit in reviewing the roles and remit of not only the senior public service (SPS), but also the Department of Public Expenditure and Reform, the Department of Finance and the Department of the Taoiseach. The possibility of establishing an equivalent of the State Service Commission in New Zealand or Public Service Commission in Australia should also be examined.
- The idea of designating a head of civil service is one worth further detailed examination. A head of civil service role could be particularly important if ministers are given more input into the assessment of the performance of secretaries general. In such a context, the head of the civil service could act as an important safeguard for the independence of the civil service from potential inappropriate political interventions.
- The focus on identifying a limited number of priority deliverables with regard to accountability for results achieved is to be welcomed, and in line with best international practice. Crucial, too, if this process is to be effective, will be the introduction of regular structured review and feedback of results, and this should be built into any new accountability arrangements.
- Any development of performance management for secretaries general in Ireland should include the following elements: a written statement of performance expectations focused on a small number of priority goals, self-appraisal, peer and ministerial review, and feedback. The corporate centre has an important role to play in determining a workable means of performance management for secretaries general, particularly in terms of providing a formal reporting line for secretaries general.
- Several countries are now increasingly opening up senior positions to competition from the wider public service and private sector. The proposed continuation of this move in Ireland would seem a sensible development. One potential danger to be aware of when opening up recruitment with an emphasis on the private sector in particular is the impact this can have on turnover at top levels. It will be important in progressing recruitment practices to monitor issues such as turnover to ensure that any problems arising can be dealt with expeditiously and departments maintain their capacity to deliver. Positions in the senior public service (SPS) should be filled on the basis of fixed-term performance-related appointments, with possible re-appointment at the end of the first term.

- It would seem wise to be cautious about moves to further develop formal political input to appointments and performance assessment, though there is scope with regard to a more formal input regarding performance assessment, as part of a wider approach to the performance management of secretaries general. The role of the corporate centre would be even more important if moves are made in this direction, to act as a guardian of independence, with a key role in ensuring that the ability of civil servants to provide frank and fearless advice is not compromised.
- In any new legislation with regard to senior officials reporting to parliamentary committees, committees should expect accounting officers and senior officials to give evidence about the quality of advice given, current performance and major planned programmes and projects.
- A review of the main values and ethos of the civil service, and the tensions associated with making those values real, would seem a sensible step in the light of the development of new accountability relationships.
- As a starting point for new horizontal governance arrangements, it is important that the government identify a small number of priority outcome focused goals. Associated with these goals, structures and processes such as senior responsible officers, and review and reporting mechanisms will be needed to ensure implementation and accountability for achievement.
- It is important that any governance frameworks established in departments have a role in reviewing the operation of accountability relationships, reporting back any significant overload problems to the corporate centre for attention.
- Reform of accountability mechanisms should be developed in the context of seeking to achieve the common vision of the civil service, and preventing activities that undermine or inhibit this endeavor.

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