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Holding to account: Some reflections on civil service reform

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Introduction

I would like to use the space available to me to discuss the work of the Independent Panel on Strengthening Civil Service Accountability and Performance, which I chaired in 2014, and whose recommendations were incorporated into the government’s implementation plan for civil service reform published in October 2014 (Department of Public Expenditure and Reform, 2014).¹

I will explain a little about the background to, and work of, the Independent Panel and provide a sense of the rationale underpinning the main recommendations in the Independent Panel’s report. I will also address where our recommendations were fully accepted and also where others were taken on board but not explicitly as we suggested. By way of background I should explain that I came to this project

¹ For more details on the Independent Panel and its work please see <http://www.per.gov.ie/civil-service-accountability-consultation-process/>

having had two careers: I worked as a political journalist for over twelve years before moving into an academic role in 2008. In my previous media career I obviously dealt with the political and administrative systems on an ongoing basis. As an academic, much of my research, and my research output, is in the area of media and politics. The administrative system or issues around state-sector governance are not central to my research interests but that was not a disadvantage in undertaking this work.

When invited by Minister Brendan Howlin, TD, to take on the role of Chair of the Independent Panel in January 2014 I came to the task with a practical understanding and academic awareness of the general issues involved, but not as someone who permanently furrows in this field. That situation has obviously changed somewhat given the ‘deep dive’ into the literature, issues and personalities of the Irish civil service that took place with the work of the Independent Panel.

When I briefed the Taoiseach on our report and its recommendations I reminded him that we were delivering our report on time – meeting the end of May 2014 deadline set by the government decision that established the Independent Panel. I also reminded Mr Kenny that the Independent Panel was coming in on budget. But then that was not difficult as the three members of the Independent Panel worked pro bono without a budget.² Needless to say, the Taoiseach was happy on both fronts.

In this short paper I would like to provide some background to the Independent Panel and outline the rationale underpinning some of its main recommendations.

Background to the Independent Panel

The context to the establishment of the Independent Panel was the post-2008 economic crisis. The programme for government of the incoming Fine Gael/Labour coalition in 2011 contained a number of specific commitments focused on strengthening accountability and performance in the civil service. These issues were explored in a public consultation paper published by the Minister for Public Expenditure and Reform in January 2014.

That paper contained a lot of ideas – some developed, many much less so. In order to put some sense and structure on these ideas – and ultimately to prepare a coherent plan – the government established an

² The work of the Independent Panel was facilitated by staff from the Government Reform Unit in the Department of Public Expenditure and Reform.

Independent Panel, which I chaired. I was fortunate in this role in working with two other Independent Panel members, Dorothea Dowling and Michael Howard, whose contributions I would like to acknowledge. We worked together at all times to deliver a report and recommendations that would assist the civil service in all our interests.

There was a huge volume of work involved from our first meeting on 17 January 2014. We received submissions through a public consultation process and also held approximately sixty meetings, both formal and informal, with a range of interested parties. We met with current and past secretaries general, as well as current and past ministers. We also met with special advisers, representative bodies and individuals who have an interest in this broad area.

One of the features of these meetings was that only the three Independent Panel members met with the individuals and groups. We took our own notes but no formal record was taken. This changed the dynamic and allowed those attending to speak openly and frankly. And it was very reassuring that they did so.

These meetings, along with the consultation process and a review of relevant academic literature, assisted in informing our recommendations on strengthening accountability and performance in the civil service. Our focus was in particular directed at a senior level in the administrative system.

As a panel, my two colleagues and I had one significant advantage in the task we were asked to undertake. None of us had ‘skin in the game’. Unlike members of previous reform groups, none of us had career paths which might be directly impacted upon by any changes we were likely to propose. And none of us were in the space of doing business with government departments. I believe this ‘outsider role’ – and the fact that we operated pro bono – was important as we reviewed and examined relevant issues ahead of submitting our report at the end of May 2014.

Recommendations of the Independent Panel

What guided our recommendations? As Chair I was keen that we delivered a report which was clear and unambiguous with recommendations that, if accepted, would be implemented quickly. My personal objective was to deliver a practical and pragmatic report that:

- avoided a set of recommendations that required another review process;

- avoided recommendations that would become bogged down in debate about legislative change;
- contained recommendations that would directly address the difficulties and challenges that were identified to us – as the Independent Panel – through the consultation process, the literature review and the stakeholder meetings.

Learning the lessons from earlier civil service reform processes, it was clear to me that reform does not need to be a long-drawn-out process. But our recommendations should not be the end of a process; rather they should be part of a visible and ongoing process of reform. Indeed, it was gratifying that the *Report of the Independent Review Group on the Department of Justice and Equality* was published in July 2014. This independent group endorsed several of our recommendations (Department of Justice and Equality, 2014).

Our recommendations were driven by the need to ensure greater oversight of how the civil service does its business and by the need to ensure clearer ownership of that work. Oversight and ownership are the two words I would use to describe how the Independent Panel sought to strengthen accountability and performance.

In building stronger accountability arrangements, lessons can be learned from earlier reform initiatives, particularly to determine which proposals were successful and also why some initiatives failed to match expectations. During our research work I was struck by a report published in the UK that reviewed civil service reform in a number of Westminster-type systems, including New Zealand, Australia, Canada and the UK itself (Institute for Public Policy Research, 2013). Ireland was absent. Why? Previous reform processes in Ireland had been less than bold. They had also been ‘stop–start’ rather than ongoing and continuous. Ireland was not a place to look for innovation and difference.

In arriving at our recommendations we considered a number of lessons from these previous reform initiatives, in particular:

- changes proposed must be integrated and joined up;
- reforms must be resourced properly if they are to succeed;
- reforms must have clear ownership at both political and administrative levels, and need to be led by both.

The issue of ownership is hugely important. We were intent on recommending a system at a senior level where issues would not fall between the cracks.

We talk about the civil service as a single organisation whereas in fact it is a series of organisations. And therein lies certain difficulties. Many of the controversies in recent times in departments such as Health, Finance and Justice have arisen in part due to a lack of oversight coupled with ownership of that oversight. Our recommendations sought to address this issue.

I do not propose to go through all of our recommendations one by one. I specifically want to focus on the first two – the Accountability Board and the Head of the Civil Service. But I should note that there are other important recommendations, including implementing a programme of organisational capability review and a system of performance management.

Organisational capability review

This recommendation has been accepted by the government. I believe, if delivered upon, these reviews have the potential to much more effectively monitor the work of departments. I am encouraged by the commitment in the government's action plan to involve external reviewers in this process.

Performance management

The Independent Panel's recommendation on performance management also has the potential to be a game changer for the civil service. Again it is welcomed that the government has accepted our recommendation to introduce for the first time a performance management system for secretaries general.

If this is implemented correctly it opens up the potential to cascade a new, effective performance management system throughout the civil service at all levels. Implemented effectively, it can be one of the main mechanisms to tackle underperformance.

For these two issues – organisational capability and performance management – (and, indeed, also the other changes we recommended) to be introduced effectively there must be proper oversight and ownership. We made a number of innovative proposals to more clearly oversee accountability and performance, and to ensure someone in the system was identified with owning this work

The Independent Panel examined options in relation to the legal relationship between ministers and senior officials. We considered in great detail, in particular, the Public Service Management Act, 1997, and earlier legislation. At the heart of the 1997 Act is, what has been

called in a different jurisdiction, ‘the highly contingent and politically contentious character of the working nexus between ministers and chief executives’ (Gregory, 2012).

Amendment of the legislative framework in this area may greater specify the roles and responsibilities of ministers and civil servants. We remained unconvinced, however, that accountability would be enhanced by legislative change without moves towards a fundamental redefinition of the ministerial–official relationship. We also received no proposals in this area, nor did any individual or group argue for specific change. From our work we concluded that the 1997 legislation does not, of itself, provide obstacles to strengthening accountability relationships and offering greater clarity about who has responsibility for what.

The government’s implementation plan published in late 2014 contains twenty-five actions – many arising directly from the recommendations of the Independent Panel. The implementation plan identifies six of those actions for priority attention. It has pledged to have these six actions implemented within 200 days. Five of those six actions arose from the recommendations of the Independent Panel, and four of the five have been accepted without modification:

- establish an Accountability Board;
- introduce performance review process for secretaries general;
- strengthen the disciplinary code to tackle underperformance;
- new recruitment processes.

Even in the instance of one specific recommendation accepted with modification – the Head of the Civil Service – the principles we identified have been fully accepted.

Accountability Board for the Civil Service

The Independent Panel proposed the introduction for the first time of a high-level accountability mechanism with external membership to hold departments to account for their performance and delivery. Our recommendation for an Accountability Board for the Civil Service was the first action in the government’s report published in late 2014, and will hopefully be in place in a matter of months.³ What will this mean?

³ Moves to appoint external members to the Accountability Board commenced in March 2015.

In a sense, the civil service will have at its organisational peak a board of directors. The rationale for this recommendation is that greater rigour will be introduced to civil service accountability and performance, and that having external oversight will offer a greater degree of public assurance.

The board will also have the advantage of providing an additional outward-looking focus for the civil service. In recommending external membership, my colleagues and I on the Independent Panel believe that this will bring professional experiences from diverse environments.

The board will have an overall governance role across the civil service with oversight of:

- implementation of agreed cross-cutting policy priorities;
- the capacity and capability of the civil service;
- performance management arrangements for secretaries general.

The rationale for the board arises from the events since 2008 where questions were correctly raised about civil service performance and the appropriateness of existing accountability arrangements. We are now emerging from the economic crisis but the instability in the national finances and the effective collapse of the banking system have generated legitimate focus on whether the civil service was sufficiently independently minded during a crucial period in recent Irish history. It is my hope that this board of directors will be one of the fora in the future where issues will be reviewed and challenged, and that this review and challenge will be mirrored at other levels in the administrative system.

This is also one of the reasons why the Independent Panel came down in favour of continuing with permanency as a positive feature of civil service employment – alongside much greater flexibility about short-term contracts for specific projects. Having a ‘spine of permanent staff’ supports a non-political civil service and ensures there is a cadre of personnel taking the longer-term view on policy design. That is explicitly saying to civil servants: you are not dependent on your current political masters – use your employment status to challenge and review.

Board membership

We recommended that the Accountability Board have a balance of ministerial, civil service and external representation – four external

members alongside three politicians and four secretaries general. Minister Howlin has said he may look at that balance although I agree with him in rejecting the notion that cabinet members can be lumped in with senior civil servants as ‘insiders’.

What is much more important, however, is the profile of these external individuals and their ability to challenge and review as an oversight mechanism to strengthen accountability and performance. We envisage that external board members will bring a number of distinct benefits by:

- providing the civil service with an outside perspective;
- strengthening public confidence and trust through their participation;
- providing external quality assurance in relation to accountability and performance;
- providing appropriate advice and guidance.

The report of the Independent Panel recommended that these external board members should:

- be exceptionally experienced individuals who have led and managed large complex organisations;
- have an understanding of the challenges involved in civil service management;
- have significant, successful career records.

At least one external board member should have substantial experience in the public sector and/or not-for-profit sector, or should have held a role comparable to the Head of the Civil Service in another jurisdiction. Consideration should also be given to ensuring that at least one of the external board members is from outside the state.

In reaching this recommendation on the establishment of the Accountability Board for the Civil Service, we studied the role of departmental or governance boards in the UK, Australia and Canada. On a personal level I hope that once the overall board for the civil service has proven its value, consideration would be given to mandating all government departments to have an individual board of directors with external members.

The challenge for Minister Howlin and the government is to recruit the right external board members. My view is that the bar for membership needs to be set very high, indeed.

Head of the Civil Service

Over 36,000 people work in the civil service, representing 12 per cent of total public service employment. It is hard to imagine a similarly sized and a similarly complex organisation without a designated chief executive. But that is how the civil service in Ireland has evolved since 1922 – without a formal head.

Indeed, the centre in the Irish civil service has never been defined formally but is generally seen as encompassing the Department of the Taoiseach, the Department of Finance and, more recently, the Department of Public Expenditure and Reform.

From analysis of the situation elsewhere and discussions during the consultation process, the Independent Panel was strongly convinced of the merit in having a dedicated formal Head of the Irish Civil Service. We believe that the challenges faced by the civil service require a formal corporate centre. We argued that the work to be done required full-time attention – this important work is demanding and responsibilities can not be delivered while shared with existing heavy workloads.

In summary – after much deliberation and consultation – we concluded that any move towards greater coordination at the centre required giving ownership to someone for whom this was his/her only job, and someone who could give the civil service full-time attention to ultimately deliver faster and more responsive policy outcomes. The holder of this position, working with secretaries general individually and collectively, would provide leadership for the civil service. There would be a visible leadership.

The Independent Panel recommended that the Head of the Civil Service would have a limited but highly focused and ambitious remit in the areas of performance management; strengthening cross-cutting arrangements in order to improve delivery on policy priorities; and implementing the programme of organisation reviews for analysis of the outputs with a view to appropriate action.

The head – who would have ownership of these issues – would report to the Accountability Board, which would have oversight of progress. With the Accountability Board and the Head of the Civil Service, the ownership deficit that I mentioned previously would have been directly addressed.

It is gratifying that the idea of ‘one civil service’ runs through the government’s implementation plan. Phrases like ‘more unified’ and ‘collective ownership’ are prominent. That the government accepted

our arguments for a more cohesive corporate centre is in itself significant progress. But rather than take the bold step in appointing the first Head of the Civil Service, the government has opted for a different mechanism – namely, a Civil Service Management Board.

I think it is a pity that our more radical innovation will have to wait. I say this because I believe the appointment of a Head of the Civil Service is not just in the interests of the civil service but also in the public interest. The Management Board has essentially been given many of the responsibilities that the Independent Panel proposed for the Head of the Civil Service.

The Management Board seems to me to be a compromise measure. I have concerns that the board will not have the singular focus we envisaged. Everybody on the board has another day job. They are all exceptionally busy people. There are also issues that need clarification about the size of the board's membership, so that it can be effective, and also about how it reports to the Accountability Board, so that its work is reviewed and challenged. I may be proven wrong but I believe the board will be a transition mechanism.

Nevertheless, the issue of a Head of the Civil Service is now a point of discussion that cannot be ignored. Previous civil service reform groups backed away from even proposing a head, in some cases for fear of upsetting incumbents. We had no such concerns. We put considerable thought into the recommendation for the head, the remit of the role and its reporting line to the Accountability Board. In our consultations we heard widespread endorsement for the proposition. I believe the political and administrative system will revisit the issue of a Head of the Civil Service relatively soon.

Conclusion

There are other topics and recommendations in our report that deserve further analysis:

- much greater attention needs to be paid to department strategy statements (and I am not sure the review of these statements undertaken in 2014 in various departments would meet the criteria in our report);
- more focused and regular engagement by Oireachtas committees with departments and their work (not just when the latest controversy arises).

I believe our work has already had a substantial impact on the machinery of the administrative system, and indeed of government. Our work has nudged the implementation plan in a direction the system may not necessarily have gone. And that, I think, is a good initial achievement. We know:

- greater attention will be paid to departments working together as a more cohesive organisational unit to enhance policy delivery;
- from the most senior official downwards a new performance management system will be introduced;
- the focus will be on rooting out underperformance;
- organisational capacity reviews should become the norm; and
- outsiders will oversee, challenge and review how the civil service does its business through membership of the Accountability Board.

No single proposal will transform accountability and performance. But with civil service buy-in – and serious political support – effective implementation of the Independent Panel’s recommendations can deliver the most radical shake-up in how the civil service does its business since 1922. This will produce a more cohesive civil service with absolute awareness for staff that they are part of a single institution with defined objectives to deliver for the public.

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