



BUNREACT NA ÉIREANN
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Oireachtas

**An Comhchoiste um Airgeadas, Caiteachas Poiblí agus
Athchóiriú, agus an Taoiseach**

Tuarascáil maidir leis an Acht Airí agus Rúnaithe, 1924
Nollaig 2023

**Joint Committee on Finance, Public Expenditure and
Reform, and Taoiseach**






Report on the Ministers and Secretaries Act, 1924
December 2023

Membership of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach

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Membership History:

- Mick Barry, Sep 2020 – May 2023
- Michael D'Arcy, Sep 2020 – Sep 2020
- Mairéad Farrell, Sep 2020 – April 2023
- Neale Richmond, Sep 2020 – Jan 2023

Cathaoirleach's Foreword



The relationship between Ministers and the most senior of Civil Servants, the Secretary General is one which is constantly changing with the question of to whom Secretaries-General are responsible arising frequently.

The Ministers and Secretaries Act 1924 is the main piece of legislation which governs this relationship. This almost 100-year-old Act sets out the role and status of Ministers with regard to their departments, their responsibility to Dáil Éireann and the role of Secretary General. There is no doubt but the legislation requires to be updated and modernised.

Fundamentally, Ministers are responsible for the operation of their Departments under the Act. This entails a comprehensive level of accountability and responsibility. The role of Secretary General is particularly demanding, with those in office regularly charged with reconciling conflicting demands. However, there is an undeniable difference in the scrutiny experienced by Ministers in terms of the Oireachtas and the electorate when compared to administrative accountability.

The Joint Committee set out to examine the Ministers and Secretaries Act with a view to assessing whether the current oversight process of Secretaries-General requires further consideration. It is clear that the role of the Comptroller and Auditor General and the Public Accounts Committee needs to be considerably enhanced and there is an urgent need for a Secretary General to oversee all Secretaries-General and Assistants. The power to hire or fire and impose sanctions must be vested in this person.

The Committee held a series of public engagements throughout 2022 and 2023, meeting with senior officials and Ministers from the Departments of Public Expenditure, NDP Delivery and Reform, and Health. The Committee would like to thank all those who provided the Committee with submissions and attended meetings, for their input to the examination of this topic.

A handwritten signature in black ink, reading 'John McGuinness', written over a horizontal line.

John McGuinness T.D.
Cathaoirleach
6 Nollaig 2023

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Executive Summary

The role of the Secretary General is of great significance within the Civil Service and central to the administration of public services. The Oireachtas and Oireachtas Committees have a responsibility in providing oversight of Departments, with the Public Accounts Committee providing ex-ante scrutiny of Departmental spending and sectoral Committee providing oversight of Departmental policy. However, it is the Minister who is responsible for the performance and actions of his or her Secretary General.

The inter-dependent nature of the relationship between a Minister and a Secretary General is complex and has become increasingly ambiguous as the role and responsibility of the civil service has evolved significantly. Given the unique relationship and the evolution of remit, it is therefore reasonable to assess whether the current oversight process of Secretaries-General requires further consideration.

The Ministers and Secretaries Act 1924 sets out the role and status of Ministers with regard to Departments and their responsibility to Dáil Éireann and the role of Secretary General. A series of additional legislation and regulations provide further guidelines with regard to Secretaries-General.

The Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach set out to examine this topic through a series of meetings throughout 2022 and 2023. The Committee engaged with stakeholders such as the Minister for Health, the Secretary General of the Department of Public Expenditure, NDP Delivery and Reform, and the Secretary General of Health.

In its examination, the Joint Committee also examined the proposed secondment of the former Chief Medical Officer to Trinity College Dublin. These meetings highlighted a series of difficulties in providing oversight including the complexity in assessing the role and responsibility of the Secretary General, a lack of effective process and procedures in secondment guidelines, and further difficulties experienced by the Joint Committee in examining the topic.

Section 1 of the report provides a background to the Ministers and Secretaries Act, sets out the Joint Committee's Remit in this area and details the meetings and evidence considered.

Section 2 of the report examines the Ministers and Secretaries Act 1924, including the accountability of Secretaries-General (Section 2.1), the delegation of powers between Ministers and Secretaries-General (Section 2.2) and developments in the Act (section 2.3). The Joint Committee takes the view that if the practice of extending the term of Secretary General by three years is to continue, that it should be based on an independent analysis of performance.

Section 3 of the report examines the Civil Service within the context of the role of the Secretaries-General. In reality, regulations which administer the oversight of Secretaries-General include a wide range of regulations, many of which are governed by Civil Service regulations. These are examined in section 3.1. The Joint Committee believes that the Civil Service Accountability Board should be re-established and that the Board should review the performance management process for Secretaries-General and oversight of such processes.

The issues regarding secondments of civil servants, especially those to roles outside of the public sectors are discussed in section 3.2. The Joint Committee welcomes and endorses the Report of the External Review of the Proposed Secondment of the Chief Medical Officer and urges the immediate implementation of the recommendations therein.

Section 4 examines international examples with regard to the accountability of Secretaries-General.

Section 5 outlines the conclusions and findings of the Joint Committee following its examination of this topic.

RECOMMENDATIONS

Recommendation 1

The Joint Committee is of the strong belief that an independent analysis of performance should be undertaken when considering if a three-year extension should be granted to a Secretary General. This analysis should be carried out by the newly constituted Accountability Board who can make recommendations to the relevant Minister.

Recommendation 2

The Joint Committee recommends the re-establishment of the Civil Service Accountability Board and the re-establishment of the Performance Review Group to review the performance management process for Secretaries General and oversight of such processes. Members of both groups should be independent of the Civil and public service.

Recommendation 3

The Joint Committee recommends that the Department of Public Expenditure, NDP Delivery and Reform provide a report to the Joint Committee within six months on its initial plans and timeline to re-establish the Board.

Recommendation 4

The Joint Committee recommends that the Civil Service Accountability Board examine the performance review process for Secretaries-General with a view to recommending new guidelines. These guidelines should be forwarded to the Joint Committee for review.

Recommendation 5

All Departments should immediately set out about accrediting IT systems of management to ensure the very best systems are available to monitor performance in areas such as finance, management, HR, etc. This system should be integrated across all Departments.

Recommendation 6

The Joint Committee recommends that up-to-date, real-time performance data is provided on a Department-by-Department basis and that such data is publicly available. This data would allow Ministers to provide more efficient and effective oversight of Secretaries-General and allow the Oireachtas to assess the performance of Departments more effectively.

Recommendation 7

The Joint Committee welcomes the Report of the External Review of the Proposed Secondment of the Chief Medical Officer and recommends that all recommendations and actions in the Report are implemented without delay.

Regular progress reports should be provided to the Joint Committee on a quarterly basis.

Recommendation 8

The Joint Committee recommends that the Department of Public Expenditure, NPD Delivery and Reform report to the Joint Committee on the progress of implementing the recommendations of the External Review of the Proposed Secondment of the Chief Medical Officer within nine months of the publication of this report.

Recommendation 9

The Joint Committee recommends that Independent Review Panel review the Senior Public Service Recruitment and Pay Process and that the review is provided to the Joint Committee and the Oireachtas.

Recommendation 10

The Joint Committee recommends the introduction of a Secretary General who would have oversight of day-to-day administrative matters, as distinct from policy matters, with the Government maintaining political responsibility for the regulation and control of the Civil Service.

1. Introduction

1.1 Background

The Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach, agreed in March 2022, to undertake an examination of the Ministers and Secretaries Act 1924, with regard to the evolution of the Act and those responsible for ensuring its implementation.

The Committee placed focus on the delegation of responsibility under the Act in the context of the Minister of the relevant Department having sole ultimate responsibility and whether there are any plans to amend the legislation to bring Secretaries-General and other senior civil and public servants under its aegis.

The Joint Committee notes that the Ministers and Secretaries Act has been the primary tool which establishes the relationship between Ministers, their departments, and the statutory duties of Secretaries-General. However, the Ministers and Secretaries Act is now almost 100 years old and the ‘doctrine’ from which it originates is much older.

In Ireland, and in other countries considered to come under the Westminster tradition of public administration, Ministers’ accountability to parliament operates politically through a doctrine of individual ministerial responsibility; parliament holds civil servants to account through the Minister who is responsible for the actions of his or her department. The foundations of the doctrine lie in nineteenth century reform efforts to make requirements of an emerging democratic government compatible with a salaried bureaucracy that was not accountable to the people. In essence, parliament would delegate the accountability of agencies (civil service) to Ministers who would be fully answerable to parliament for the actions of such agents.¹ This doctrine was given a legal framework through the 1924 Ministers and Secretaries Act.

¹ 2006 Bernadette Connaughton Reform of Politico-administrative Relations in the Irish System: Clarifying or Complicating the Doct (tandfonline.com)

Since the enacting of the Act, Government, Departments and the Civil Service has undertaken substantial change. It is therefore appropriate that the provisions within the Act and subsequent regulations are examined to establish their appropriateness and effectiveness with regard to the role of the Secretary General. As noted by the submission of Scott and MacCarthaigh:

“...accountability demands and relationships at the most senior level of government are affected by historical design, as well as by changes in the range and type of responsibilities in question, the prominence of the policy issue, and the capacity of both Ministers and Secretaries”.

Scott and MacCarthaigh further note certain informal arrangements within political-administrative relationships:

“Essentially, security of tenure and remuneration sufficient to guard against inducements or bribes are given in return for loyalty and competency. Furthermore, in return for politicians forfeiting the right to appoint, hire and unfairly change terms and conditions of employment, civil servants accept anonymity and forfeit the right to blame or express opposition to government policy. Ministers take credit when government works well but are expected to accept blame and defend their department when problems occur”.

It is acknowledged that additional legislation and regulations, such as the 1956 Civil Service Regulation Act and the 1997 Public Service Management Act, have further supplemented these provisions and clarified the role of each agent. However, as further noted by Scott and MacCarthaigh² the Public Service Management Act *“did not fully resolve the issue of the accountability of Secretaries-General and Accounting Officers”*. Section 2 of the report examines the Ministers and Secretaries Act in further detail.

² [Submission to the Joint Committee p.3](#)

Links to Relevant Acts

[Ministers and Secretaries Act, 1924 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/1924/act/1/enacted/en/html)

[Civil Service Regulation Act, 1956 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/1956/act/1/enacted/en/html)

[Public Service Management Act, 1997 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/1997/act/1/enacted/en/html)

1.2 Remit

The Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach has an extensive remit and, under Dáil Standing Order 95 (1) (a) (i) state that the Joint Committee may report on matters relating to the legislation, policy, governance, expenditure, and administration of Government Departments.

The Department of Public Expenditure, NDP Delivery and Reform is one of three Departments which is scrutinised by the Joint Committee. The Department was established in July 2011 and took over the functions of Public Expenditure from the Department of Finance. Following the Global Financial Crash, a series of public sector reforms have also been introduced with the Department assuming these functions.

The Department of Public Expenditure, NDP Delivery and Reform also has responsibility in statute for functions relating to superannuation, remuneration (including allowances and expenses), appointment and terms and conditions of services of members of staff of public sectors bodies and has generated Circular 27/2021 – Secondment Policy for the Civil Service.

1.3 Examination

The Joint Committee has examined the Ministers and Secretaries Act in a series of meetings. Further details, including links to opening statements are available in Appendix D.

- On 15 June 2022, Secretary General to the Department of Public Expenditure, NDP Delivery and Reform, Mr David Moloney attended a meeting of the Joint Committee to discuss Civil Service Secondment Policy.
- On 12 October 2022, Secretary General to the Department of Public Expenditure, NDP Delivery and Reform, Mr David Moloney attended a meeting of the Joint Committee to discuss the Ministers and Secretaries Act, 1924.
- On 19 April 2023, the Joint Committee held a further meeting with Secretary General to the Department of Health, Mr Robert Watt to discuss the issue of public service secondments in the context of the proposed secondment of the former Chief Medical Officer to Trinity College Dublin (TCD)
- On 22 June 2023, the Joint Committee met with the Minister for Health to further discuss public service secondments in the context of the proposed secondment of the former Chief Medical Officer to TCD

In addition to the public engagements the Joint Committee received the following written submissions and correspondence from stakeholders. Further details are available in Appendix E.

- Upon, invitation the Joint Committee received a written submission from Professor Colin Scott, University College Dublin and Professor Muris MacCarthaigh, Queen's University Belfast on the topic of the Ministers and Secretaries Act. This is viewable [here](#).
- The Joint Committee received correspondence
 - JCFPERT-R-07190-2022 – Letter from the Secretary General, DPER, to Joint Committee, 9 June 2022 re Secondments
 - JCFPERT-R-0673-2022 – Letter from the Secretary General, DPER, to Joint Committee, 9 June 2022 re Governance and Accountability Framework.

2. The Ministers and Secretaries Act, 1924

2.1 Accountability of Secretaries-General

The relationship between Ministers and Secretaries-General is one which is constantly changing, and the question of to whom Secretaries-General are accountable has arisen frequently. Scott & MacCarthaigh note in their submission that the comparisons between CEO and Chairperson do not adequately capture the distinctive nature of the relationship.

The Ministers and Secretaries Act 1924 sets out the role and status of Ministers with regard to Departments and their responsibility to Dáil Éireann, providing two distinct functions:

1. To provide a legal basis for the civil service, outlining the structure and organisation of central administration and defining ministerial responsibility.
2. To establish the departments of state, their remits and the distribution of associated public activities.

In addition to the abovementioned functions, this Act also provides that the Government, on the recommendation of the Minister, appoint the “Principal Officer” (now known as Secretary General) to the Department.

Secretaries-General are appointed by Government for a seven-year term, which is traditionally extended by three years. This means that the term of a Secretary General is not tied into an electoral cycle or change of Government. Thus, the expectation is that Secretaries-General will impartially and objectively advise on and implement Government policy regardless. The Joint Committee is of the strong belief that if the three-year extension is to be granted, it must be based on independent analysis of performance. This should be carried out by the newly constituted Accountability Board who can make recommendations to the relevant Minister.

Recommendation 1

The Joint Committee is of the strong belief that an independent analysis of performance should be undertaken when considering if a three-year extension should be granted to a Secretary General. This analysis should be carried out by the newly constituted Accountability Board who can make recommendations to the relevant Minister.

The Public Services Management Act, 1997 sought to provide more autonomy to senior civil servants in managing the performance of their departments by separating Ministerial responsibility for policy objectives and results from the advisory and administrative roles of Secretaries-General in achieving those objectives.

2.2 The basis of delegation of power and responsibility between Ministers and Secretaries-General

Under Section 2(3) of the Ministers and Secretaries Act 1924, the Minister for Finance was assigned the function of prescribing the terms and conditions of appointments for civil servants. Upon the establishment of the Department of Public Expenditure and Reform in 2011, these functions were transferred to the Minister for Public Expenditure and Reform.

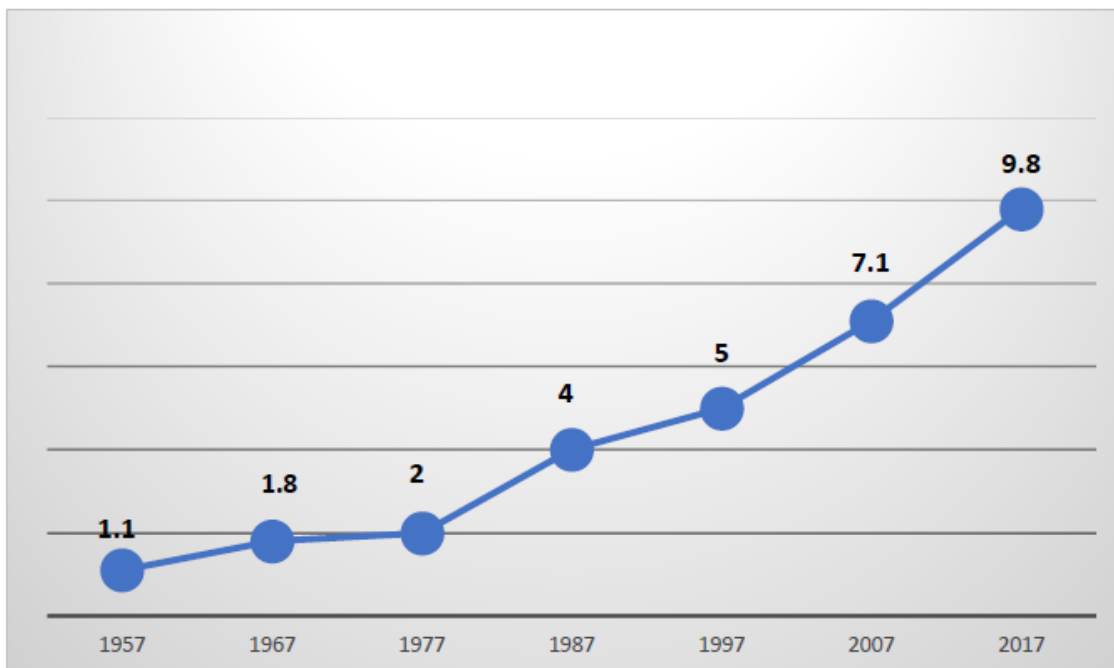
Recognising the wide and varied role and duties of a Minister, the Carltona Doctrine is the concept that in the day-to-day operations of a department a civil servant may carry out functions on behalf of the Minister, acting in their stead. The Minister is a ‘corporation sole’³ and the Department as a whole performs functions on their behalf. This does not require an express act of delegation; it is set out either in legislation or by precedent, that certain functions cannot be carried out except by the Minister e.g. certain orders may only be signed by the Minister. The written submission from Scott & MacCarthaigh refers to a complex and informal ‘black box’ existing in most states

³ Corporation sole determines that the Minister is responsible to parliament for the affairs of his or her department and the civil service and public administration is directly responsible to the Minister and *indirectly responsible* to the Department through the Minister.

within which government decisions are arrived at by Ministers and senior civil servants, with an understanding that while the Minister maintains the final decision, there is an inherent interdependence in the relationship.

The submission from Scott & MacCarthaigh draws attention to the fact that the 1924 Act created 11 'Departments of State' and assigned powers, duties and functions of the new state apparatus to them. In the years since, the number of departments has expanded with the current number at 18. Alongside this expansion, is the corresponding increase in the range of responsibilities which each department must manage and coordinate. There is also an increase in the number of non-departmental or 'arm's length' agencies for which departments, and Ministers, have oversight responsibilities. As a result, there has been a necessary increase in the number of senior civil servants and the percentage of civil servants employed at higher grades as illustrated in the figure below.

Figure 3: Percentage of civil servants employed at higher grades (i.e. from Assistant Principal grade)



Updated from MacCarthaigh 2021, p. 53

2.3 Developments in the Act with regard to the relationship between Ministers and Secretaries General

As above, the role of Departments and Ministers is set up under the Constitution and provided for in the 1924 Act. The Public Service Management Act 1997 (PSMA) sought to provide clarity around the separation of those responsibilities within the overall context of the delegation of authority, notwithstanding the Carltona principle.

That is, the 1997 Act sought to give more autonomy to senior civil servants and to separate Ministerial responsibility for policy objectives and results from the advisory and managerial roles of Secretaries-General in their achievement. Further, there would be greater use of performance management tools and increased public accountability of officials, which would transform the traditional role of senior civil servant.

In addition to assigning to Secretaries-General the authority, responsibility and accountability for set functions, section 10 of the 1997 Act set out that Secretaries-General (or an officer delegated by the Secretary General) shall appear before Oireachtas Committees to answer questions around matters of policy implementation.⁴ This was considered a significant development; prior to this only Ministers could answer questions before a Committee, as Secretaries-General are responsible to the Dáil through the Minister.

Section 4 of the PSMA 1997 specifically sets out that among the functions delegated to the Secretary General is “to ensure the resources of the Department are used in a manner that is in accordance with the [Comptroller and Auditor General \(Amendment\) Act, 1993](#).” This draws attention to the distinction between capacities in which a Secretary General discharges their functions:

1. Secretary General of a Department **on behalf of** the Minister – places certain constraints on what can be commented on e.g. in this capacity the Secretary General cannot comment on the merits or demerits of Government policy.

⁴ As set out in a Statement of Strategy laid before the Houses.

2. Accounting Officer of Department – when appearing before the PAC in capacity as accounting officer the Secretary General speaks *in their own capacity*.

The role of Secretary General involves implementing the policies of the Minister in the Department, reporting to the Minister and the appropriate authority is the Government.

With regard to the role of Accounting Officer, this entails a separate body of legislation and the Secretary General reports in a personal capacity, a function which cannot be delegated. This is a separate duty to the duty in respect of the Minister, with the Secretary General reporting to the Committee of Public Accounts, and the Comptroller and Auditor General (C&AG) audits.

It was outlined that accountability to the Oireachtas is structured such that the C&AG produces an audit report. The Secretary General is then questioned on that at an appearance before the PAC, who then report to the Dáil on its findings. There is no associated civil service disciplinary process.

3. Civil Service

“Although it is often argued that the role of politicians is to make policy and public servants to implement it, in practice it is impossible to delineate between where politics ends and administration begins, particularly at the top level of government.”⁵

The role of Secretary General is particularly demanding, with those in office regularly charged with reconciling conflicting demands. This can be particularly challenging as on the one hand they must demonstrate loyalty to their Minister and Government, while also maintaining responsibility to the citizen and the common good. They must implement policy decisions of the Minister, while also personally accountable for the finances involved in the implementation of that policy. Further, they must manage their own department and at the same time, ensure cognisance of system-wide policy developments.

⁵ Scott & MacCarthaigh written submission p.1

3.1 Oversight of Civil Servants

The Civil Service Disciplinary Code⁶ sets out a multistage process with different sanctions and appropriate authorities, depending on the grade held. A Minister may issue initial and subsequent written or verbal warnings to a Secretary General in line with the disciplinary code. There are a range of sanctions available to Ministers, without the need to seek Government support or approval.

The measures that may be taken prior to going to Government are as follows: the issuing of a level 1 verbal warning, followed by a written warning, a level 3 written warning, extension of the period of validity of the warning, deferral of an increment, debarment from competitions and promotions, withdrawal of concessions and reassignment to a different location or duties.⁷

The Civil Service Regulation (Amendment) Act of 2005⁸ expanded the remit of the disciplinary process, bringing Secretaries-General somewhat under the umbrella of the process. However, the extent to which they are under the remit is limited due to the nature of appointment by the Government which precludes certain steps.⁹ The elements which are not available to the Minister in respect of a Secretary General are lower-rate remuneration, reduction to a lower grade and suspension without pay. The final level of sanction is dismissal, which would be a matter for Government.

The Committee heard that the Civil Service Regulation (Amendment) Act 2005 is currently under examination with regard to how disciplinary matters operate broadly within the civil service although at present, there is no intention to address Secretaries-General.

The Department of Public Expenditure Secretary General described the occurrence of an issue arising between a Secretary General and a Minister as one comparable to a conflict between a CEO and a board, telling the Committee that it is ‘a more complex issue than other disciplinary issues within an organisation.’ With this in

⁶ [Civil Service Disciplinary Code \(circulars.gov.ie\)](https://circulars.gov.ie/Civil-Service-Disciplinary-Code)

⁷ [Civil Service Disciplinary Code \(circulars.gov.ie\)](https://circulars.gov.ie/Civil-Service-Disciplinary-Code) p.18

⁸ [Revised Acts \(lawreform.ie\)](https://lawreform.ie/Revised-Acts)

⁹ Under section 10(6) of the 2005 Act any civil servant who holds a position to which he was appointed by Government, is precluded from certain disciplinary measures.

mind, the way in which the Government may seek to discharge its powers in relation to this as the appropriate authority would be dependent upon the case and its circumstances. The Department of Public Expenditure Secretary General told the Joint Committee that ‘as things stand, the expectation is that they would be dealt with on a case-by-case basis.’¹⁰

There are some employment laws that may be relevant, although not all employment law applies to Secretaries-General. The Secretary General advised that there is need for process and ‘given the seniority involved and the circumstances, that a bespoke response would likely be required.’

The Government of 2011-2016 made efforts to address issues around accountability, with the 2011 Programme for Government committing to introduce legislative reform as follows:

*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.*¹¹

The 2014 publication of the Civil Service Renewal Plan¹² saw the creation of two new non-statutory fora:

1. A ‘Civil Service Management Board’ to manage the performance and operation of the civil service, support the government on the implementation of cross-departmental policy initiatives, identify and manage strategic and operational risks and lead implementation of the Civil Service Renewal Plan.
2. A ‘Civil Service Accountability Board’¹³, to be chaired by the Taoiseach and to maintain oversight of the implementation of cross-cutting priorities set by the government; the capacity and capability of the civil service; and a performance management process for Secretaries-General.

¹⁰ Mr David Moloney, Secretary General, DPER, JCPERT Transcript p.12 18.10.22

¹¹ [2011 Programme for Government Statement of Common Purpose](#) p.3

¹² gov.ie - Civil Service Renewal (www.gov.ie)

¹³ Membership and Terms of Reference can be found at Appendices A and B

The Accountability Board has met four times to date, in July and November of 2015 and July and December of 2016. Part of the work undertaken by the Board was to review proposals for a new performance review process for Secretaries-General which was initiated in 2016, with agreement from the outset that there was a ‘need to adapt and review the process in light of experience.’¹⁴

This was to consist of a three-stage process involving each Secretary General agreeing priority objectives for the year ahead with the relevant Minister, reviewing progress at the mid-year point and again at year end. The Annual Report of the Board states that the emphasis was to be ‘on behaviours and how objectives were achieved, not just on what was achieved.’ This process was to be overseen by a Performance Review Group with a review of 2016 and of the 2017 goal setting process to be undertaken in Q1 2017.

The focus of reform since 2014 has been on internal civil service renewal processes through the Civil Service Renewal Plan (2014-2018) and its successor, the Civil Service Renewal Strategy 2023 published by DPER in November 2021¹⁵. While this strategy contains a continued role for the Civil Service Management Board, the Civil Service Accountability Board is absent from the strategy.

Recommendation 2

The Joint Committee recommends the re-establishment of the Civil Service Accountability Board and the re-establishment of the Performance Review Group to review the performance management process for Secretaries General and oversight of such processes. Members of both groups should be independent of the Civil and public service.

¹⁴ [*Accountability Board annual report 2016.pdf](#) p.5

¹⁵ [Civil Service Renewal 2023 Strategy ‘Building on our Strengths’](#)

Recommendation 3

The Joint Committee recommends that the Department of Public Expenditure, NDP Delivery, and Reform provide a report within six months on its initial plans and timeline to re-establish the Board.

Recommendation 4

The Joint Committee recommends that the Civil Service Accountability Board examine the performance review process for Secretaries-General with a view to recommending new guidelines. These guidelines should be forwarded to the Joint Committee for review.

3.2 Performance Reviews and Access to Performance data

The Joint Committee acknowledges the importance of performance management process as an effective oversight tool in assessing the performance of Secretaries-General and other high-level Civil servants. This process would allow oversight relating to performance of results. However, there remains a lack of open and up-to-date performance data which impedes oversight by the Oireachtas.

The OECD's Public Management Review of Ireland in 2008 noted that:

*“the current disconnects between the central Civil Service and the broader Public service need to be addressed, particularly between departments and agencies, for increased sharing and expertise and to put in place improved dialogue to reach shared agreement on performance targets and to hold each party accountable for the realisation of those targets”.*¹⁶

While it is acknowledged that reform has been implemented into the Civil Service since 2008, there remains a deficiency of open public performance data of

¹⁶ [9789264043268-2-en.pdf \(oecd-ilibrary.org\)](https://www.oecd-ilibrary.org/publications/9789264043268-2-en.pdf)

Departmental output. While the Public Service Performance Report provides some information, this is only produced within a single report each year.

The Committee on Budgetary Oversight further highlighted the needs for such data to be made available when it highlighted a recommendation of the 2016 OECD review was to develop, re-purpose and re-brand the IrelandStat website¹⁷ to realise its potential as a national performance portal. The Committee noted the development of the Where Your Money Goes website which sets out visual displays of public spending since 2011. The Committee further noted that there was a distance to be travelled to fully realise the aspiration of the OECD recommendation referenced above. Performance data, including both target and outturn/outcome, would be a welcome addition and could enhance both scrutiny by Parliament, and by wider stakeholders¹⁸

The Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach believes that such information will allow for better oversight of Secretaries-General in terms of the performance of their duties.

Recommendation 5

All Departments should immediately set out about accrediting IT systems of management to ensure the very best systems are available to monitor performance in areas such as finance, management, HR, etc. This system should be integrated across all Departments.

Recommendation 6

The Joint Committee recommends that up-to-date, real-time performance data is provided on a Department-by-Department basis and that such data is publicly available. This data would allow Ministers to provide more efficient and effective

¹⁷ [Ireland stats IrelandStats.com](https://irelandstats.com)

¹⁸ [Houses of the Oireachtas - Final Report on the framework for parliamentary engagement throughout the course of the budgetary cycle - February 2021](#)

oversight of Secretaries-General and allow the Oireachtas to assess the performance of Departments more effectively.

3.3 Secondment policy in the Civil Service

Secondment policy allows staff within the civil service to broaden their skills and continue their professional and personal development while retaining the right to return to their substantive post at the end of the secondment. Secondments within the civil service are generally governed by Circular 27/2021 – Secondment Policy for the Civil Service¹⁹, which outlines the broad guiding key principles. Among those principles are that all secondments are temporary in nature, in general lasting for a period of 6 months to 5 years. Further, all secondment advertisements must be cleared by the Department of Public Expenditure, NDP Delivery and Reform.

The Top Level Appointments Committee (TLAC) was established in 1984 and is responsible for recommending candidates to Ministers and Government for the most senior positions in the Civil Service – at Assistant Secretary level and upwards. TLAC Retirement Terms²⁰ allow for an alternative appointment in the Civil or Public Service, on the same salary, for newly appointed Secretaries-General, on condition that they do not have 40 years' service and that they have not reached the applicable minimum pension age.

In light of the Committee's examination of the Ministers and Secretaries Act, the Department of Health Secretary General was invited to appear before the Committee to discuss the proposed secondment of former Chief Medical Officer (CMO) Dr Tony Holohan to the position of Professor of Public Health Leadership and Strategy at Trinity College Dublin under the general principle of enhancing public health research, following the Covid-19 pandemic.

The evidence heard from the Secretary General on 19 April suggests that the terms of this proposed secondment would have been similar to those of two former Secretaries-General who are currently on secondment to higher education

¹⁹ [Circular 27/2021 - Secondment Policy for the Civil Service](#)

²⁰ See Appendix C

institutions. This would appear to indicate that the terms of the proposed secondment for Dr Holohan were based on the TLAC Retirement Terms, which are specific to Secretaries-General and separate to those which apply to civil servants below that grade (circular 27/2021²¹). The position of Chief Medical Officer is equivalent to the grade of Deputy Secretary General.

The questions surrounding whether open-ended secondment arrangements such as the one proposed in this case, are appropriate or standard practice, seem to hinge on the intended duration of the secondment in accordance with the number of years left in the career i.e., up to retirement. In this instance, Dr. Holohan had some 10 years before he would be due to retire.

According to point one of circular 27/2021 all secondments are to be temporary in nature and in general will be for a period of six months to 5 years. However, Top Level Appointment Committee Retirement Terms are conditional upon the individual having not yet reached 40 years of service and as such, it may be assumed that such a period i.e. up to 10 years may be permissible, under TLAC terms.

This raises the question as to whether the correct governing process was applied to the proposed secondment, in light of the Chief Medical Officer position being equivalent to the grade of Deputy Secretary General.

On 22 June, officials from the HR unit in the Department of Health told the Committee that ‘there is no requirement currently that secondments should be no more than five years in duration.’²² Further, figures were supplied to the Committee outlining that there a number of secondments which are in excess of five years duration, with officials again telling the Committee that ‘there is no policy or guide that suggests that we cannot have secondments greater than five years.’

The evidence heard during two separate hearings of the Joint Committee with officials from the Department of Health seems to suggest that there are varying interpretations and understanding of the guidance.

²¹ [Circular 27/2021 - Secondment Policy for the Civil Service](#)

²² [JCFPERT Transcript 22.06.23 p.9](#)

Questions have also been raised regarding the financial aspects of the proposed secondment, with particular focus given to the intended allocation of a significant amount of money which appears to have been arrived at without sanction from the Department of Public Expenditure, NDP Delivery and Reform.

The Secretary General of the Department of Health told the Committee, that the intent behind the proposed secondment was to give effect to Government policy to provide enhanced funding for public health research. The Committee heard that this policy decision can be evidenced in the increased allocation to the Health Research Board (HRB) funding in Budget 2023. With the money allocated to the HRB it was then intended that the fund would be disbursed via competitive allocation by the HRB for public health research. Within this fund there would be a ring-fenced amount of €2 million per annum which would include Dr Holohan's salary.

During the meeting of 19 April, Members drew attention to the protocols for HRB funding which are 'subject to international peer review' and state that 'the outcome of any application process is never predetermined'²³, asserting that in this case – as a certain amount was allocated within the funding for Dr Holohan's salary - it would appear as though a portion of the funding was predetermined, suggesting that in line with the findings of the External Review of the Proposed Secondment of the Chief Medical Officer,

The proposed funding of €2 million a year committed to by the Secretary General, Department of Health, in the letter of intent to Trinity College Dublin (to include University Departments of Health and others) until the retirement of the Chief Medical Officer, was a very significant commitment which by-passed all of the accepted protocols for research funding and was atypically linked to one named individual.²⁴

During the meeting held on 22 June, the Minister for Health told the Committee that "it is worth stating that the €2 million had not been committed to...I would need to agree

²³ [JCFPERT Transcript 19.04.23 p.46](#)

²⁴ [External review of the Proposed Secondment of the Chief Medical Officer P.22](#)

with it and I have no doubt I would need to put it through the Estimates process. Obviously that did not happen.”²⁵

Also of note, is that the proposed secondment would have seen the individual in question move from a civil service role to a public service role, raising further questions around the appropriate guidelines under which to manage this move.

During the meeting of 19 April, an apparent distinction was drawn by the Department of Health Secretary General between civil-to-civil service secondments and civil-to-public service secondments, with the implication that this proposed secondment did not require Department of Public Expenditure, NDP Delivery and Reform clearance (per point two of circular 27/2021) as that circular specifically ‘relates to secondments within the civil service’²⁶, while the proposed secondment in question was a civil-to-public service move.

According to then Minister for Finance, Pascal Donohoe, T.D., in response to a Parliamentary Question (PQ) on 26 April 2022²⁷ “this Secondment Policy (27/2021) also provides that the same principles may be applied to secondment arrangements between a parent department and a non-civil service body within its sector.”

The above response heard by the Committee and the answer given by the Minister to the PQ raised the question as to whether there is a separate process for civil-to-public service secondments as distinct from the regulations as laid out by 27/2021.

Correspondence from the Department of Health Secretary General dated 8 June 2023 addressed to the PAC and subsequently received by the Joint Committee states ‘while arrangements for secondments within the Civil Service are set out in Circular 27/2021, there is no single policy for secondments between civil service and public sector bodies. In that regard there are a variety of ways in which secondments out of my Department arise.’

²⁵ [JCFPERT Transcript 22.06.23](#)

²⁶ [JCFPERT Transcript 19.04.23 p 4, p.21-22](#)

²⁷ [Departmental Staff – Tuesday, 26 Apr 2022 – Parliamentary Questions \(33rd Dáil\) – Houses of the Oireachtas](#)

During his June 22 appearance before the Committee on this matter, the Minister for Health told the Committee that his understanding is that circular 27/2021 applies to civil -to-civil service secondments of staff, rather than secondments which see staff move from a public-to-civil service role or vice versa. The Committee also heard that at present, there is no circular which governs this type of secondment. The Minister for Health told the Committee that he has written to the Minister for Public Expenditure, NDP Delivery and Reform regarding the development of these guidelines.

The response from the Minister for Health seems to provide clarity on the question of guidelines specific to the secondment of staff from civil-to-public service roles. However, the varying responses received suggest the following:

- The Department of Health Secretary General seemed of the opinion on 22 April, that as circular 27/2021 applied specifically to ‘secondments within the civil service’ the proposed secondment did not require approval from the Department of Public Expenditure, NDP Delivery and Reform, and he was acting within his remit.
- The Minister of Department of Public Expenditure, NDP Delivery and Reform appeared to take the view that the guidelines were applicable regardless of whether a civil-to-civil service secondment or civil-to-public service, and so would require financial sanction by DPER to progress.

This situation illustrates the need for clarity around the roles and responsibilities of Ministers and senior civil servants. It is of note that such senior figures could hold varying interpretations of the guidance to apply and where responsibility resides. This is reminiscent of the issues which the 2011 Programme for Government sought to address by committing to introduce legislative reform of the Ministers and Secretaries Act and the Public Service Management Act in order to provide much needed clarity and prevent instances such as this from arising.

What remains unclear following the meetings held on this matter, is whether the principles from circular 27/2021 or the Top Level Appointment Committee Retirement Terms, were applied to the proposed secondment discussed above. Clarity is also

required with regard to whether the TLAC guidelines are applicable to civil-to-public service moves and vice versa. Finally, the question regarding the financial sanction of the proposed secondment remains unanswered.

The Joint Committee notes the difficulties faced in examining the proposed secondment. While acknowledging the role of each sectoral Committee and their remit, the Department of Public Expenditure, NDP Delivery and Reform has responsibility relating to superannuation, remuneration and the appointment and terms and conditions of service of members of staff to public service bodies. The Committee on Finance, Public Expenditure and Reform, and Taoiseach has therefore a clear and important role in examining the Secondments of civil servants across departments.

The Joint Committee experienced significant difficulties and frustrations in examining the topic and in meeting with Secretaries-General across Departments in order to obtain evidence required in its examination. The Joint Committee had particular difficulty in obtaining necessary evidence from the Secretary General in the Department of Health. While acknowledging that evidence was provided to the Committee on Health, further evidence was required to assist the Joint Committee on Finance's examination of the topic. The Joint Committee is disappointed that additional efforts were warranted to obtain the necessary evidence.

The Joint Committee believes that these issues further highlight the difficulties and ambiguity with regard to the role of Secretary General and the oversight process.

The Joint Committee welcomes the report of the External Review of the Proposed Secondment of the Chief Medical Officer²⁸ in examining the process relating to the proposed secondment to Trinity College Dublin. The Joint Committee endorses the recommendations within the report and is grateful to Ms Maura Quinn for her work.

²⁸ [External Review of the Proposed Secondment of the Chief Medical Officer](#)

Recommendation 7

The Joint Committee welcomes the Report of the External Review of the Proposed Secondment of the Chief Medical Officer and recommends that all recommendations and actions in the Report are implemented without delay. Regular progress reports should be provided to the Joint Committee on a quarterly basis.

Recommendation 8

The Joint Committee recommends that the Department of Public Expenditure, NPD Delivery, and Reform report to the Joint Committee on the progress of implementing the recommendations of the External Review of the Proposed Secondment of the Chief Medical Officer within nine months of the publication of this report.

4. International comparison

The Committee heard from the Secretary General to the Department of Public Expenditure, NDP Delivery and Reform, that the issue of who the most senior civil servants are accountable to has arisen in the context of both the Mullarkey report and the Rafter report. In effect, the arrangements remain as set out in the Ministers and Secretaries Act 1924, the Civil Service Regulation Act 1942 and the Public Service Management Act 1997. The decision, as expressed in legislation is that the appropriate authority is the Government. In other jurisdictions, the appropriate authority may be different.

In many countries (including Ireland) there has been a trend in recent decades towards the creation of executive agencies to which core functions are delegated. The importance of agencies to government policy and delivery creates a further challenge to accountability for Ministers and senior civil servants. The submission from Scott & MacCarthaigh notes that the delegation of functions to agencies has been a key aspect of “new public management” (NPM) in the UK, New Zealand and Australia, involving changes in financial management frameworks and accountability structures.

The ‘rise of the regulatory state’, and the assignment of tasks to regulatory bodies – some a requirement of EU legislation and policy – has been a key aspect of growing delegation to independent agencies. Whilst Ireland has not placed the same dependence on such agencies for policy delivery as other countries have, agencies are a key part of the Irish landscape in functions beyond regulation.

Scott & MacCarthaigh note that even with the existence of agencies, the reality of politics is such that Ministers must frequently account for the actions they set in train through agencies and therefore, a greater interest in the day-to-day activities than might be anticipated by the establishing legislation. It is suggested that the creation of capacity for systemic financial and performance monitoring, as in New Zealand and Australia, is more transparent and efficient, than *ad hoc* interventions by Ministers in agency responsibilities.

The submission further notes that the fact of a small State can foster difficulties in delegating political accountability, particularly via arms-length bodies. International experience has sought to address such issues via systematic monitoring of performance for both departments and agency activities. The submission highlights the 'challenges faced by the existing system in Ireland, and the scale of changes to the administrative system' and raises the question as to whether in light of this, a more detailed study of current accountability practices may be warranted.

The Committee heard from Department of Public Expenditure, NDP Delivery and Reform Secretary General, that international experience aligns with the issues under discussion, with reference made to OECD material which underlines the idea that these issues cause consternation across jurisdictions. In terms of the work of the OECD in this area, there does not appear to be one ideal solution but the work does point to the importance of culture and values, and of a co-operative arrangement and relationship of trust between heads of the Civil Service and their respective Ministers and the Government as a whole.

5. Conclusions / Findings

The Committee heard that the clarification of concepts of accountability and responsibility with regard to Ministers and Secretaries-General is complex owing to the different blocks of governing legislation. The Department of Public Expenditure, NDP Delivery and Reform Secretary General advised that, in particular, the interaction between the 1924 Act and the 1997 Act is ‘capable of causing some confusion.’

Fundamentally, Ministers are responsible for the operation of their Departments under the Ministers and Secretaries Act. This necessarily entails a comprehensive level of accountability and responsibility. There is an undeniable difference between political accountability and scrutiny in terms of the Oireachtas and the electorate when compared to administrative accountability.

The Public Services Management Act 1997 sought to introduce a distinction between this high-level accountability and the day-to-day operations of the Department, by referring to Secretaries-General and designating responsibilities at this level. However, this then raises the question as to where the line is drawn, that is, when does responsibility move from one agent to the other? It is in this context that the OECD recommends building a relationship of trust and an open dialogue between the administrative and political levels²⁹ in order that there is a shared understanding of where the responsibilities lie.

As described by Scott & MacCarthaigh, the 1997 Act intended that the Minister would remain ultimately accountable to Parliament while legally delegating certain functions to senior civil servants. However, in their view, the Act did not fully resolve the issue of accountability and the subsequent Mullarkey report³⁰ focused on the internal risk audit but failed to determine how Secretaries-General would be held to account for their performance. In 2014, the Report of the Independent Panel on Strengthening Civil Service Accountability and Performance³¹ (commonly known as

²⁹ [OECD-LEGAL-0445-en-78a4f6c4a8534fc39723f1ee8974bb86](#)

³⁰ [Working Group on the Accountability of Secretaries-General and Accounting Officers](#) (popularly known as the Mullarkey Report)

³¹ [Strengthening Civil Service Accountability and Performance \(scsa.ie\)](#)

the Rafter Report) was published, which focused on the interaction between Ministers and Secretaries, the operation of the different roles and how accountability and performance could be strengthened.

In response to questions around whether consideration has been given to amending the 1924 and 1997 Acts to provide clarification in relation to the issues under discussion, the Secretary General to the Department of Public Expenditure, NDP Delivery and Reform told the Committee that there has been an Independent Review Panel established to review Senior Public Service Recruitment and Pay Processes³² who are currently examining the November 2021 JCFPERT report on the Processes and Procedures Applying to the Appointment of Senior Executives in the Public Service³³ in terms of certain senior pay issues, and will also look at other relevant issues.

The interaction between the kinds of accountability issues raised – the method and the means by which senior civil servants are appointed and remunerated - are an interlinked set of issues. To substantively restructure them would require a root-and-branch examination of the three pieces of legislation. The Committee heard that these issues are recognised and that following the finalisation of the independent review panel, consideration will be given to the issues raised and that in due course proposals may be brought to the Minister in this regard.

Recommendation 9

The Joint Committee recommends that Independent Review Panel review the Senior Public Service Recruitment and Pay Process and that the review is provided to the Joint Committee and the Oireachtas.

³² [Terms of Reference of the Independent Review Panel established to review Senior Public Service Recruitment and Pay Processes](#)

³³ [2021-11-18 report-on-the-processes-and-procedures-applying-to-the-appointment-of-senior-executives-in-the-public-service_en.pdf \(oireachtas.ie\)](#)

An additional change to the relationship between Ministers and Secretaries-General, which ought to be noted, is the growth of political advisors working with Ministers. The submission from Scott & MacCarthaigh references Connaughton (2015) who suggests that the growth of the use of advisors has at least three distinct sets of motivations for Ministers:

1. Asserting greater political control of policy making
2. Protecting an apolitical civil service from the necessary actions to build and sustain political support for policy
3. To 'drive the machinery of government to secure policy outputs'

The authors note that such a significant change must affect the accountability of senior civil servants, since Ministers have a reduced dependency and greater knowledge and capacity for day-to-day forms of accountability with respect to senior civil servants.

During the course of the meetings held, questions were also raised regarding the possibility of the introduction of an overarching Secretary General, who would have responsibility for oversight/management of administrative issues at a senior level, as distinct from policy issues. The submission from Scott and MacCarthaigh touches on this question, noting that significant changes have occurred since the publication of the Mullarkey Report in 2002. There have been major technological innovations and both politicians and senior civil servants are subject to public scrutiny of their decisions. Further, the proportion of civil servants in senior roles has increased.

It should be noted that the Rafter Report made a similar recommendation which would see the creation of a Head of the Civil Service who 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." This recommendation was not accepted, and instead created the aforementioned Civil Service Management Board, which was assigned some of the roles recommended by the Panel.

The Committee heard from the Secretary General to the Department of Public Expenditure, NDP Delivery and Reform, that section 17 of the Civil Service Regulation Act³⁴ is central to that question, due to the fact that it places the Minister for Public Expenditure, NDP Delivery and Reform as the person politically responsible for the regulation and control of the Civil Service and all that flows from that. The Committee were reminded to be cognisant of the point about the appropriate authority, with the Government holding this role in respect of Secretaries-General, as also set out in the Civil Service Regulation Act.

The Joint Committee takes the view that it would be possible to introduce an overarching Secretary General who would hold responsibility for oversight/management of administrative issues as distinct from policy issues. This new Secretary General could assume oversight of the day-to-day administrative matters, with the Government maintaining political responsibility for the regulation and control of the Civil Service.

Recommendation 10

The Joint Committee recommends the introduction of a Secretary General who would have oversight of day-to-day administrative matters, as distinct from policy matters, with the Government maintaining political responsibility for the regulation and control of the Civil Service.

During his 22 June appearance before the Committee, the Minister for Health remarked that ‘if the cost of making a mistake is so high, people will just stop making decisions. It is incumbent upon us in the Oireachtas to try to find the right balance that says there must be total transparency...and there must be accountability. We have to get the balance right because if we do not, what will happen is people will stop making decisions.’³⁵

³⁴ [Civil Service Regulation Act, 1956, Section 17 \(civilservicebook.ie\)](http://civilservicebook.ie/CivilServiceRegulationAct1956/Section17)

³⁵ [JCFPERT Transcript 22.06.23 p.29](http://www.jcfpert.ie/transcript/22.06.23/p.29)

In response, Members expressed an acceptance around the fact ‘that risks will have to be taken to achieve something and that if something goes wrong, we as public representatives have to understand that but when we are not being told and when what happened is being hidden from clear sight, that is what annoys people...this is about a growing up between the public, private and political systems here in trying to get the best for the people we represent.’³⁶

This point is particularly pertinent with regard to the issues raised around accountability and oversight. The example of the ambiguity in policy around the proposed secondment raised in this report provides a clear illustration of the difficulty that is encountered in performing the role of Secretary General in accordance with the obligations of the legislation governing the role. Decisions must be made but efforts are now required to ensure that those charged with making decisions – both in Government and senior civil servants - are in no doubt about where the responsibility resides. As such, it is vital that there are mechanisms in place to ensure accountability from those who are charged with decision making at this level.

Attempts have been made in the past to address the types of issues raised during the course of these meetings. However, bearing in mind the significant changes that have occurred since the publication of the Mullarkey report and the subsequent Rafter report, it may now be timely to consider a similar review which could examine the differences in environment and operation of the Civil Service in the intervening years with the aim of examining the following matters:

- Does the fact of an increased proportion of civil servants at a senior level lend itself to a need for a separate oversight / management body to oversee administration issues at a senior level as separate to policy decisions?
- How to determine where the line is drawn between administration and policy issues and how to account for or define extraordinary circumstances

³⁶ [JCFPERT Transcript 22.06.23 p.30](#)

Appendices

APPENDIX A – Membership of the Civil Service Accountability Board

- The Taoiseach
- The Tánaiste
- Minister for Public Expenditure and Reform
- Minister for Children and Youth Affairs
- Secretary General, Department of the Taoiseach
- Secretary General Department of Public Expenditure and Reform
- Secretary General, Department of Education and Skills
- Chairman of the Revenue Commissioner
- External Member
- External Member
- External Member
- External Member

APPENDIX B – Terms of Reference of Civil Service Accountability Board

- to have an overall governance role across the Civil Service and advise on and support the development of the capacity and capability of the Civil Service; to provide oversight and review of proposals for a new performance management system for Secretaries General and the effective implementation and operation of the system across the Civil Service;
- to provide oversight and review of the programme of Organisational Capability Reviews including implementation of recommendations arising out of them; and
- to oversee Civil Service capability in implementing cross-cutting priorities set by Government or other system wide issues; this may involve considering individual case studies to promote learning and highlight best practice.

APPENDIX C – Top Level Appointments Committee (TLAC) Retirement Terms as applicable to Secretaries General

Top Level Appointments Committee (TLAC) Retirement Terms which apply to appointments to Secretary General posts and certain equivalent posts in the civil service (e.g. Chairman of the Revenue Commissioners, Director General of the Office of the Attorney General).

The terms that apply to appointments to these posts since October 2011 are as follows:

- (i) Newly appointed Secretaries General may at the end of their term of office be offered an alternative appointment in the Civil or Public Service on the same salary, if they were recruited from the Civil or Public Service, on condition that they do not have 40 years' service and that they have not reached the applicable minimum pension age. Those recruited from outside the Civil or Public Service will not be made such an offer, but will be covered by paragraph (ii) below.
- (ii) If the person is not offered a post as in paragraph (i) above, and has not reached preserved pension age, he/she may be offered severance of 1 year's salary (or salary to preserved pension age if less), with pension payable on reaching preserved pension age. For those who have reached the applicable minimum pension age, superannuation benefits are payable immediately, with no additional benefits and no severance payment.
- (iii) Where an alternative appointment is offered, as in paragraph (i) above, but is not accepted, no severance is payable, and pension is payable at the applicable minimum pension age, with no additional pension benefits. Similar arrangements apply where a Secretary General is given an alternative appointment and later retires.
- (iv) Pension benefits of Secretaries General who are members of the new Single Pension Scheme will be based on career-average rather than final salary, and no enhancements.

The terms that applied to appointments prior to the introduction of revised terms in 2011 are as follows:

(i) Secretaries General may at the end of their term of office be offered an alternative public service post, or a position in an international institution, if the individual is under age 60 on the expiry of their term of office

(ii) If no alternative post is offered or if the individual is over 60 on the expiry of their term the following may be provided:

- Immediate payment of pension and lump sum, without any actuarial reduction
- Added notional service up to a maximum of 10 years or balance of service to age 65 (subject to a cap)
- Severance payment of 6 months' salary.

The pension entitlements for those recruited to these positions depend on a range of factors including career history, pay point, date of entry and age of retirement. The value attaching to these terms also will vary from case to case depending on the specific circumstances applying at each retirement. For example, the pension entitlements of an individual who joined the civil service for the first time after 2013 would be based on membership of the Single Public Service Pension Scheme i.e. career average earnings for the calculation of pension benefits depending on years of service, payable from State Pension Age. An individual with no prior service now joining the civil service on foot of a TLAC competition for the position of Secretary General would similarly become members of the Single Public Service Pension Scheme.

APPENDIX D – Public Engagements

Date	Topic of discussion	Witness Opening Statement and Meeting Transcript
15 June 2022	Civil Service Secondment Policy	Secretary General to the Department of Public Expenditure, NDP Delivery and Reform, Mr David Moloney
12 October 2022	Ministers and Secretaries Act, 1924	Secretary General to the Department of Public Expenditure, NDP Delivery and Reform, Mr David Moloney Opening Statement Meeting Transcript
19 April 2023	The issue of public service secondments in the context of the proposed secondment of the former Chief Medical Officer to TCD	Secretary General to the Department of Health, Mr Robert Watt
22 June 2023	The issue of public service secondments in the context of the proposed secondment of the former Chief Medical Officer to TCD	Minister for Health, Stephen Donnelly T.D. Opening Statement Meeting Transcript

APPENDIX E – Additional Correspondence

1. Letter from Secretary General, Department of Public Expenditure and Reform re: the Ministers and Secretaries Act

An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform

28 April 2022

Mr. John McGuinness, T.D.,
Cathaoirleach to the
Committee

Joint Committee on Finance, Public Expenditure and Reform, and
Taoiseach Leinster House

Dublin 2

D02 XR20

Dear Cathaoirleach

I refer to your correspondence (ref. above) of 3 March 2022 regarding the Ministers and Secretaries Act, 1924 and related issues.

I attach for the information of the Joint Committee a note on the Governance and Accountability Framework in the Civil Service. This note sets out the position in relation to the matters in question and, in particular, the Public Service Management Act, 1997, which builds and expands on the Ministers and Secretaries Acts.

I trust that this information will be of assistance to the Joint Committee.



Yours Sincerely

David Moloney

Secretary General

2. Note on Governance and Accountability Framework in the Civil Service

Note on Governance and Accountability Framework in the Civil Service

Key Points

- Secretaries General are employees and are covered by existing employment legislation and the Civil Service Regulation Acts 1956 to 2005.
- The Public Service Management Act 1997 sets out roles and responsibilities of the Minister and Secretary General of a Department. It builds and expands on the Ministers and Secretaries Acts.
- The Public Service Management Act 1997, and the Comptroller and Auditor General (Amendment) Act 1998, creates a framework whereby the Minister has overall responsibility for the performance of functions that are assigned by law to his/her Department and, that within this framework, the Secretary General is given authority, responsibility and accountability for a range of tasks, specifically including in relation to management of the Department.
- The Secretary General of a Department acts as Accounting Officer, and is accountable to the Oireachtas for the use of the Department's resources, and for the annual Appropriation Account statement which is audited by the Comptroller and Auditor General. A memo outlining the role and responsibilities of the Accounting Officer, and in particular in the overall accountability framework for public funds, is provided to each Accounting Officer on their appointment.
- Under Section 4 of the Public Service Management Act 1997, each Secretary General has the authority, responsibility and accountability for the carrying out of the range of tasks identified in the 1997 Act. The Secretary General reports to the Minister of the Government having charge of the relevant Department in discharging his or her duties. Annual Reports and Statements of Strategy are considered by Government.
- Generally the management of staff is assigned to the line manager, who is responsible for making civil servants aware of the acceptable standards of attendance, work performance and conduct expected from them and for dealing with shortcomings promptly and fairly.
- Where disciplinary matters arise, managers use the Civil Service Disciplinary Code to manage such issues. Each Department or Office may determine who the relevant manager is in respect of disciplinary matters and may issue appropriate guidance on such matters.
- There is an annual performance review process in place intended to support the performance of Secretaries General where there is provision for engagement by

Ministers. The formal process may include the following steps:

- Objective setting – Minister and Secretary General agree objectives for year ahead;
 - Mid-Year Review – SG meets with Minister to review and revise objectives as necessary;
 - End-Year Review – SG meets with Minister to review performance. SG also meets with the Performance Review Group to discuss performance and professional development.
- Ultimately, under the Civil Service Regulation Acts 1956 to 2005, the Government is generally the appropriate authority in relation to any disciplinary issues relating to Secretaries General.

**Department of Public Expenditure and
Reform April 2022**

3. Response from Secretary General, Department of Public Expenditure and Reform

An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform

09 June 2022

Mr. John McGuinness, T.D.
Cathaoirleach,

Joint Committee on Finance,
Public Expenditure and
Reform, and Taoiseach
Leinster House,

Kildare Street, Dublin 2
D02 XR20

Dear Cathaoirleach,

I refer to your correspondence of 29 April and subsequent invitation of 01 June (ref: above) to appear at a meeting of the Joint Committee on 15 June to discuss the matter of secondment policy and recent secondments to the third-level educational institutions.

Set out below is information as requested in your correspondence of 29 April, and I am happy to confirm acceptance of the invitation to the meeting on 15 June to answer further questions the Committee may have on these issues.

The Civil Service Secondment Policy and associated terms introduced in December 2021 were designed to complement the Civil Service Mobility scheme (which is for permanent moves between Civil Service organisations), in that it enables the filling of positions concurrent with a strategic project/placement that require specialist knowledge and skillset for a defined period of time. There is no mobility scheme in place across the Public Service.

A copy of the Civil Service Secondment Policy Circular Letter and the Guidance and FAQs are available at <https://hr.per.gov.ie/en/corporate-pages/career/mobility/secondment/#article-section-policy-guidance-and-faqs-for-civil-service-organisations>.

The Secondment Policy for the Civil Service provides guidance including that secondments will be temporary in nature, and in general will be for a period of six months up to a maximum of five years.

The Secondment Policy also provides that the same principles and guidance may be applied to secondment arrangements between a parent Department and a non-civil service body. It is not a requirement for Public Service bodies, as distinct from Civil Service organisations, to seek sanction from the Department of Public Expenditure and Reform to fill a position through secondment. This is a matter between the Public Service body and its parent Department. The Department of Public Expenditure and Reform does not hold details of secondments across the Public Service.

In respect of the recent secondments of two former Secretaries General to posts third-level institutions, these appointments were in line with Government Decisions regarding the offer of an alternative position in the Civil/Public Service (or an international institution) at a salary equivalent to Secretary General until preserved pension age and that retirement before that age would not be the norm.

These terms are reflected in the advertisement booklets for these posts. Both secondments are time- limited, for periods less than 5 years, in line with the principles and guidance that apply in the Civil Service.

Responsibility for third-level institutions is a matter the Department of Further and Higher Education, Research, Innovation, and Science in the first instance. More generally however, the Department of Public Expenditure and Reform is involved in a number of ongoing cross-sectoral initiatives which aim to strengthen links between the Civil Service and the University Sector in the area of Public Policy Development.

On the matter of the proposed secondment of the Chief Medical Officer (CMO) at the Department of Health to Trinity College Dublin, the Department of Public Expenditure and Reform received a sanction request from the Department of Health for the filling of the role of CMO in that Department on Thursday 31st March.

As part of this request, the Department of Health indicated that the outgoing CMO would be moving to Trinity College to take up a professorship on a long-term secondment at the end of June and that it was expected that the secondment would be until his retirement. No further detail or material was provided in relation to this proposed secondment. As is usual with such requests, there was subsequent engagement at official level between the Department of Public Expenditure and Reform and the Department of Health in relation to the sanction request and in relation to the funding arrangements in respect of the secondment.

Following the announcement by the CMO of his intention to retire, the proposed secondment and associated arrangements were not of relevance to the sanction request for a replacement CMO. A letter of sanction for the post of the CMO issued from the Department of Public Expenditure and Reform on the 21st April 2022.

Regarding the review commissioned by the Minister for Health into the process related to the proposed secondment of the CMO and the associated research proposal, this is a matter for the Department of Health.

I look forward to the opportunity for further discussion with the Committee during my appearance on 15 June.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'DMoloney', with a long horizontal flourish extending to the right.

David Moloney
Secretary
General

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