

**Consultation Paper on  
Strengthening Civil Service Accountability  
and Performance**

**Submission of the  
Association of Higher Civil and Public Servants**

**31 March 2014**



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## **Executive Summary**

The Association supports the Paper's ambition to enhance the quality of accountability in Irish government, and to examine the respective roles of the political and administrative systems with a view to ensuring shared understandings of accountability expectations, and improving performance.

The Association has however some serious concerns surrounding a number of the Consultation's paper's proposals and understandings. In particular, any perception that the Civil Service is somehow unaccountable or is underachieving is in our view very much misplaced and does not reflect the reality of our members work and commitment to public service. Irish civil servants are already held to account through a range of legislative provisions, conventions and forums and the Association's members are keenly aware of the high level of public accountability expected of them in the conduct of their duties and the use of public resources.

There is grave unease that the ability of the Associations members to provide impartial and frank advice to Ministers could be undermined in any way by new reforms or changes to existing terms and conditions of employment. Rather, we would like to see this vital role maintained and strengthened into the future.

The Association would demand and expect that any reforms to existing accountability arrangements are balanced such that reforms to civil service accountability are matched by reforms in the political sphere. The 1997 Public Service Management Act contained progressive ideas in this regard and the Association believes that the Act continues to provide the basis for advancing a shared understanding of accountability arrangements between the civil service and the elected government of the day.

We believe that any new system of accountability should not undermine the bond of trust that links the civil service with the government and citizens. Rather it should be defined by clarity of roles and expectations, recognising that the work of the civil service and its relationship

with the political system is complex, and should be developed on the basis of the civil service's desire to serve the public interest

It must be ensured that any reforms arising from this process cohere with parallel reform initiatives currently underway. In particular, the Association seeks consistency with the current work seeking a new vision for the Irish civil and public service.

The Association would like to draw attention to previous work conducted on the capacity of the Civil Service in the form of the Organisational Review Programmes (ORPs), and suggests that the findings of this process are revisited.

The Consultation Paper seeks to enhance performance and accountability, but there must be recognition that the two are not necessarily aligned, and increased accountability requirements for civil servants may in fact reduce the time available to perform their other work.

In relation to international trends, the Association notes the international shift towards more position-based forms of public service employment, and fixed-term contracts. While this has brought certain benefits and advancements, it must be recognised that such developments also bring with them particular challenges to the motivation and values of public service employees. These include poorly defined responsibilities, high costs of employing contract-based personnel and enabling mobility, as well as difficulties in monitoring employees and their adherence to contract commitments. Where employment reforms have been successfully introduced, it has been associated with gradual and consistent implementation of the reforms.

Reforms in the UK and elsewhere designed to introduce more formal methods of appointment and performance measurement have yielded quite mixed results, including high staff turnover, institutional memory loss and criticism of the methods of performance assessment.

The Association would strongly counsel that the results and outcomes as detailed earlier in Section 3 'Lessons from Elsewhere' need to be critically examined and given due cognisance in the shaping of any proposed reforms. We have summarised below for emphasis the key impacts on the respective services of the reform programmes in these jurisdictions,

**New Zealand**, reforms designed to pinpoint accountability across the public service led to greater use of contracting and a perceived fragmentation of the public service, and some loss of responsibility for achieving wider government objectives. More recent reforms have tried to establish more collaborative working between departments.

**Australia**, reforms in the 1990s giving the Prime Minister the power to appoint and dismiss departmental secretaries has not led to a politicisation of the senior civil service as the tradition of an impartial administrative system is quite embedded. Recent reforms have centred on strengthening performance management processes, and the role of the Australian Public Service Commissioner in developing management capability and strategic leadership across government is being augmented. Other reforms included talent management programmes and reform of legislation to more clearly recognise the roles and responsibilities of departmental secretaries.

**Canada**, all senior positions are open to external candidates. Performance management programmes were introduced in 1999 to increase the focus on results and to enable payment of bonuses linked to meeting targets. A review of these programmes noted a number of problems emerging, including a failure to ‘cascade’ performance objectives, agreements not being signed off in a timely manner, team efforts not being recognised and issues over the performance ratings used. On the positive side, such agreements make expectations clearer and improve job satisfaction. An Accountability Act in 2006 made top civil servants accountable for program integrity, the organisation of internal audit activities, and ongoing evaluation of grants and contributions programs.

**Belgium**, limited term contracts have been introduced for senior civil servants. There are also both departmental and individual performance agreements in the Belgian Civil Service, including key policy objectives and a time plan. There have been difficulties in practice in motivating ministers to evaluate their most senior civil servants. There is no link between performance and pay. However, if the performance objectives are not achieved, the individual may be released from their position. In practice the vast majority of senior civil servants have their contract renewed. The principal of ministerial accountability is still prominent as a result of Belgian reforms, and transparency has improved due to the increased publication of management plans.

**Netherlands**, members of the top management group in the public service are appointed for contracts of 5-7 years, and then must find a new position in the administration. Objectives and targets for agencies and departments are set out annually and individual performance is appraised annually. While ministers all have political assistants, the political role of top civil servants is regarded as having increased.

**Denmark**, all high ranking managers have individually negotiated fixed term contracts with performance related pay of between 1% and 10%. However, there is no recruitment from the private sector. Decisions concerning performance pay are not based on specific performance criteria, but rather are based upon a general assessment of the relative workload of permanent secretaries over the past year.

**France**, performance based arrangements have been in place since 2006, and senior civil service performance is assessed annually, tied to performance related pay. Political affiliation is very important as politicians have the ability to dismiss nominated officials. Historically, French senior civil servants have been more policy advisors than managers, and there remains a strong emphasis on traditional French civil service values than individual performance bonuses which are believed to undermine group solidarity and collective action.

**Portugal**, reform to the performance appraisal system for senior civil servants began in 2004, and included three year terms for top managers, who are political appointees. While flexibility and personnel management have improved due to these changes, there is ongoing concern about the consequences of such political influence over the appointment of senior managers in relation to public confidence in the administrative system.

## **Introduction**

The Association of Higher Civil and Public Servants (AHCPS, hereafter ‘the Association’), is pleased to make this submission containing its views on the Consultation Paper on ‘Strengthening Civil Service Accountability and Performance’ published by the Minister for Public Expenditure and Reform on 9 January 2014.

The Association supports the Paper’s ambition to enhance the quality of accountability in Irish government, and to examine the respective roles of the political and administrative systems with a view to ensuring shared understandings of accountability expectations, improving performance. However, based on consultations with its members and evidence from international experience presented here in our submission, the Association is also concerned about some of the proposals and understandings contained within the Paper.

Section 2 of our submission sets out some context, concerns and general suggestions arising from the issues presented in the Consultation Paper. Following this, Section 3 identifies some developments in other states which are extremely relevant to the matters under consideration and which the Association believes holds very important lessons for any equivalent proposed reforms in Ireland. Section 4 details the summary/conclusions of the Association. Section 5 presents the detailed responses of the Association to the questions posed in the Consultation Paper. Section 6 contains the bibliography/reference material

The structure of this submission is such that it addresses directly only those questions posed in the Consultation Paper where the Association wishes to make its views and concerns known. Therefore, of the 20 questions, this submission speaks to 17 of them.

## **1) Our submission in context**

On behalf of its members, the AHCPs welcomes the opportunity to contribute to the Consultation paper on ‘Strengthening Civil Service Accountability and Performance’. The Association recognises that it has a distinctive and pivotal role in delivering the various elements of the Programme for Government, and as a conduit between the institutions of government and wider public service. The Association fully recognizes the role its members have to play individually and collectively in supporting the work of the elected government, in addressing the economic and social challenges currently facing our State, and ensuring that our citizens receive public services that are of the highest quality possible. Its contribution to this consultation process is made with a view to supporting efforts to ensure that there is equitable, proper and commonly understood accountability arrangements in place across the political and public service domains, and with a view to constantly seeking better performance.

The Association has, however, some concern that an underlying premise of the current proposal is that the Civil Service is somehow unaccountable or underachieving. This would be a misrepresentation of the conditions under which our members work, the advances in performance in recent years notwithstanding the considerable reduction in resources, as well as their constant commitment to serving the government, Oireachtas and the public. The Association’s membership is also concerned that their ability to provide independent, impartial and frank advice to Ministers would be undermined in any way by new reforms or changes to existing terms and conditions of employment, and would support reforms that maintain and strengthen this vital public role into the future.

A major concern is that any proposed reforms to existing accountability arrangements take into account the effect on the relationship between Ministers and civil servants, the strength of which has been a defining feature of Irish government. Reforms to civil service accountability will inevitably mean reform to accountability arrangements in the political sphere, and a balance must be struck that does not damage or undermine the bonds of trust and commitment to common purpose that have been developed thus far.

The Association believes that the 1997 Public Services Management Act contained some very progressive ideas for reforming accountability arrangements, and the Association believes that



the Act continues to provide the basis for advancing a shared understanding of accountability arrangements between the civil service and elected government of the day.

The Association is also cognisant that a number of parallel reform initiatives are underway affecting its members, and is concerned that there is not inconsistency or duplication between these reforms and any outcomes arising from this consultation process. In particular, the Association is most keen to ensure that any reforms arising from the ideas in this Consultation paper are consistent with the current work seeking a new vision for the Irish civil and public service. Other developments currently underway which the Association strongly endorses include statutory protection for ‘whistleblowers’ and greater regulation of lobbying in public life.

The Consultation Paper seeks a more dynamic civil service, and one which will achieve greater performance, but it is not clear how this can be achieved effectively through reformed accountability systems. Increasing accountability requirements may in fact reduce the ability of civil servants to perform to the best of their ability. Thus some careful thought must be given to the tradeoff between increased accountability requirements and the need for greater performance.

The Association also wishes to draw attention to previous work concerning the role and capacity of the Civil Service in the form of the Organisational Review Programmes (ORPs) carried out between 2006 and 2011. The resulting reports contained many good suggestions for developing the civil service in respect of leadership, management, HRM and evaluation which we believe provide the basis for future reform efforts. The Association would encourage the Department of Expenditure and reform to revisit the proposals arising from the ORP.

The Association supports efforts to adapt and reform existing work practices and arrangements to meet the needs of modern government and in line with best international practice.

Our members are also aware of the value many of our existing traditions and work practices bring to the government of the Irish state which we must be careful not to undervalue or undermine. Traditionally, there has been a tendency to follow developments in Whitehall when seeking to reform aspects of the Irish public service, and while there are obvious

rationales and advantages to this, the Association wishes to also benefit from good practice elsewhere. This view informs the basis of the following section concerning lessons from other states which the Association would like to highlight.

## **2) Civil service accountability and performance:**

### **Lessons from elsewhere**

#### **2.1 Introduction**

In this section, the Association wishes to draw attention to the experiences of other states which have undertaken similar or related reforms to those proposed in the Consultation Paper.

Traditionally, civil service systems are divided into those that are ‘career’ based and those that are ‘position’ based.

In career based systems training and development initiatives can be provided with a long term development focus, mobility is possible for the development of staff, and opportunities are available (if there is no embargo) for advancement and growth. It is also possible to have a common understanding of vision, mission and values and the building of networks in order to carry out work that is common.

Position based systems, in contrast, are quite different. In the extreme examples there is little or no mobility and staff are appointed on the basis of a particular skill set – for example accountancy, law, economics or statistics. There is limited opportunity or possibility for career progression, and training is only provided for the current role. Motivating staff in this environment is more difficult because of the narrow focus of some jobs and the absence of career opportunities.

It is clear that for some years, most countries in the OECD have operated with a hybrid of career and position-based roles (Bourgon 2008, p.4). Many have also utilised individual performance assessment mechanisms, and introduced more contract-based forms of employment. However, while proponents of such HR reforms suggest that fixed-term contracts and performance contracts lead to greater flexibility and mobility as well as a more result-oriented service, such initiatives are also associated with increased politicisation of public service employment and system fragmentation (Civinskas 2011, p. 158), and should be developed with due caution. Other difficulties include poorly defined responsibilities, costs of employing contract-based personnel and enabling mobility, as well as problems in monitoring employees and their adherence to contract commitments.

Where employment reforms have been successfully introduced, it has been associated with gradual and consistent implementation of the reforms.

The consultation paper suggests that fixed-term performance contracts might be made more widely available in the Irish Civil Service. The Association is concerned that if introduced, this approach would seriously undermine the guiding principles of the Civil Service. Fixed term contracts can have negative consequences because they can have:

- A short rather than a long term focus and can therefore avoid major change management issues.
- A long lead in time before being effective in the role.
- A probability of using a “command and control” style of management to show results, which leads to de-motivation and poor performance of staff being managed.
- A reluctance to raise controversial issues with more senior management.
- Those on such contracts are focused on the next position in the closing period of the contract.
- A de-motivational impact on permanent staff.

In terms of costs it could be much more expensive to have fixed term contracts when compared to tenured positions.

We turn here to look at some case-studies.

## **2.2. Lessons from other OECD states**

Presented below are findings from recent reforms in other OECD states.

### ***United Kingdom***

In the United Kingdom, a core feature of the British civil service has been that ministers are accountable to Parliament, and civil servants are granted permanence and anonymity in exchange for serial loyalty to ministers (Van Dorpe and Horton 2011, p.234-5). Appointments are normally apolitical and there is traditionally no link between performance and pay or tenure.

The creation of the Senior Civil Service centred on four changes:

- 1) Formal, time-specific written contracts for all senior civil servants with their respective department or agency
- 2) Centrally determined terms and conditions (including pay)
- 3) Common competency framework and job evaluation system
- 4) Common performance management system

Combined, this approach was designed to make them more mobile and accountable. In 2007 performance assessment was revised so that negative reviews could lead to pay freeze or ultimately dismissal. While there is technically no job security for senior civil servants on fixed-term contracts, in practice dismissals are extremely rare. There is however a high voluntary staff turnover from external recruits. There is also now less guarantee of career progression due to opening posts to external candidates, so it is more individualistic and competitive.

Van Dorpe and Horton (2011) propose that senior civil servants' policy advisory role has decreased and their managerial and entrepreneurial role has increased as a result of these reforms. Mobility is encouraged to build a wider skills base, but the consequence is a short average time in office, with only 8% of senior civil servants remaining in the post for over 5 years, and a related loss of institutional memory.

As head of departments, permanent secretaries are now subject to greater accountability through various Public Service Agreements. However Van Dorpe and Horton note that a complaint was filed by the FDA (the sister union of the AHCPS in the UK which represents senior civil servants) in 2006 concerning the use of senior civil servants as scapegoats for faults committed by politicians' (2011, p.246-247).

In a recent study, Paun, Harris & Magee (2013) identify that the Government's 2012 Civil Service Reform Plan calls for greater ministerial influence over high level appointments and greater levels of external recruitment. The recommended method for increasing ministerial influence over appointments involves a shortlist of candidates. However they note that ministers already have unofficial influence (in addition to a formal veto on such appointments)

insofar as selection panels try to avoid the possibility of a veto being exercised by recommending a candidate not likely to be opposed by the minister.

The current law (Constitutional Reform and Governance Act 2010) specifies that the ultimate authority for appointing civil servants is the Prime Minister, but also specifies that there must be 'fair and open competition' run by the Civil Service Commission (although it doesn't specify the form of that competition). The Commission's recruitment principles declare that a position should be given to the best candidate, a statement that would preclude shortlisting and ministerial selection.

Personal performance objectives for all permanent secretaries were published for the first time in December 2012, but Paun et al note that some dissatisfaction among permanent secretaries with the performance management system, specifically that the list of objectives is too long, objectives are decided too late, and that there is no clear link between performance against published objectives and performance related pay (2012, p.43).

### *New Zealand*

In New Zealand, the State Services Commission has sole responsibility for improving public service capability and performance management. Chief Executives (the most senior civil servant grade), are appointed and employed by the state services commissioner, normally for a period of five years. These Chief Executives, not ministers, are responsible for the day-to-day management of their departments, and since reforms in the 1980s, all are appointed by renewable fixed-term contracts. Paun and Harris (2012, p. 4) propose that this practice 'sharpens the personal accountability felt by chief executives', and that Chief Executives have a correspondingly greater public profile in New Zealand. Policy advice from departments to ministers also is often published. There is a formal appraisal each year based on annually-agreed performance expectations. Ministers are consulted during the process. Ministers are located in the Executive wing of the Parliament building (the Beehive) and not in their individual Departments.

A review published in 1998 of reforms designed to provide for more direct principal-agent responsibility found that there had been some important consequences arising from the attempts to pinpoint accountability, namely the increase in contracting and fragmentation of the public service.

Compliance with specified contracts was deemed to result in the loss of responsibility for wider government objectives (State Service Commission 1996). Since then, and in the context of contractual relationships between ministers and chief executives which creates strong incentives for departments to focus on delivery of their specified outputs, reforms in New Zealand have sought to establish more collaborative working between departments (Paun and Harris 2012, p.4).

### *Australia*

In Australia, reforms in the early 1980s gave the power to appoint and dismiss departmental secretaries (the most senior civil rank) to the Prime Minister, and Ministers do not have a formal veto power on such appointments. This change has not led to a politicisation of the senior civil service however, and most departmental secretaries are career civil servants. Departmental secretaries are appointed for five year terms, and are in turn responsible for appointments within their departments.

Paun and Harris (2012, p.5) note that the tradition of an impartial administrative system is quite embedded in Australia and more recent reforms have centred on strengthening performance management processes rather than any concerns over undue political interference in the administrative system. Following a landmark report in 2010 titled ‘Ahead of the Game’ (Advisory Group on Reform of Australian Government Administration 2010) the role of the Australian Public Service Commissioner in developing management capability and strategic leadership across government is also being augmented. Other reforms recommended under this plan included talent management programmes and reform of legislation to more clearly recognise the roles and responsibilities of departmental secretaries.

### *Canada*

Both internal and external candidates can be recruited for senior positions in the Canadian public service. Performance management programmes were introduced in 1999 to increase the focus on results and to enable payment of bonuses linked to meeting targets. Performance agreements include ongoing and key commitments, as well as performance measures for commitments and leadership competencies. Reviews take place every six months, with performances rated 0-4 with 4 being ‘Exceeded’.

Underperforming senior civil servants can be dismissed or removed from their positions, but the appeals procedure means that termination is a lengthy and complex process.

Reviews carried out by the Association of Professional Executives of the Public Service of Canada (APEX) in 2000 and 2001 found that senior public service managers identified a number of disadvantages. These disadvantages were that line managers do not readily share their agreements, hampering a ‘cascading’ of performance objectives; agreements are not signed off until late in the financial year such that commitments were in some cases already met, team efforts were not recognised; and ratings of performance were not clear. On the positive side, such agreements make expectations clearer, and consequently senior civil servants are happier with their work (Ketelaar at al. 2007, p. 40).

In their review of the Canadian reforms, Bourgault & Van Dorpe (2011) found that many top public servants (known as deputy Ministers) now only serve an average of six years, half the average term before the introduction of reforms. It also took about a year for new appointees to gain the required knowledge of a department’s operations and become an integral part of their peers’ circle of influence. Since 2000 the value of individual bonuses has increased, and there is now a greater emphasis on managerial skills, and there seems to be a greater level of political loyalty and dependency. Bourgault (2011) also found that senior managers had become more entrepreneurial, but were not free agents and remained accountable to the central departments. An Accountability Act in 2006 made deputy ministers accountable for program integrity, the organization of internal audit activities and ongoing evaluation of grants and contributions programs.

### ***Belgium***

The Belgian civil service underwent a series of reforms in 2000, including the introduction of limited term contracts for senior civil servants, known as mandates. Mandate holders fill the four most senior levels of the civil service and are appointed for 6 year terms, during which they undergo performance evaluation at regular intervals. At the end of their terms, they can apply for a renewal. Mandate holders can be recruited externally (the two highest levels, N and N1 only) or from the pool of existing career civil servants (N, N1, N2, and N3). If a career civil servant’s mandate is not renewed and their performance was not unsatisfactory, they return to their previous position with a ‘reintegration allowance’ to cover the difference in salary.



There are both departmental and individual performance agreements, including key policy objectives and a time plan.

In regard to departmental agreements, 'It is reported that, in practice, management plans are rarely used after they have been written and adopted by the minister.' (Ketelaar et al. 2007, p. 30).

For the individual plans, the most senior civil servant (*Voorzitter*) must develop a plan within six months of appointment, and the plans for individuals in the grades below are based on that plan. Elements of the plan may include project sheets with performance indicators, what personnel will be necessary, and financial plans. Assessment of performance is carried out by the line manager and the manager's manager, and in the case of the most senior grade, the assessor is the minister supported by an external agency, though there have been difficulties in practice in motivating ministers to evaluate their most senior civil servants. There is no link between performance and pay; however, if the performance objectives are not achieved, the individual may be released from the mandated position.

Ketelaar et al (2007: 31) suggest that although there is no data to confirm this, it is thought that the introduction of performance arrangements, and in particular performance-based contracts, has somewhat decreased the loyalty of civil servants to the civil service as a whole. This was a particular concern in Wallonia, resulting in performance-based contracts being abolished in that region. By way of response to the perceived diminishing of public service loyalty, some senior director functions were due to be reintegrated into the career civil service instead of being subject to mandates (Ketelaar et al. 2007, p. 31).

In 2011, the Belgian Science Policy Office published the results of a study it commissioned titled 'The Mandate System in Federal Government in an International Perspective' (DeVisscher et al. 2011) which looked at the results of the changes. Part of the analysis considered change across a number of 'identity' variables, including personal and role identities. For personal identity, they identified very little change, taking into consideration age, gender and education. Role identity was expected to have changed considerably, with more value being placed on a mandate holder's role as a manager and leader, and less as a general bureaucrat. However, they discovered less evidence for this shift than expected, and scores for the bureaucrat identity remained high while managerial identity was mixed.

Externally recruited senior civil servants did have a different role identity than career senior civil servants, and saw themselves more as managers and leaders.

The study also looked at institutional relations between senior civil servants, ministers, and ministerial staff who are politically appointed. It was expected that the performance agreements would lead to a more horizontal working structure, but it was found that in fact allocation of tasks remained in a hierarchical structure. In addition, they 'found no evidence of an increased accountability directly to parliament amongst the mandate group of Belgian senior civil servants. The principle of ministerial accountability is still practiced' (DeVisscher et al. 2011, p.8). However, they indicate that transparency had increased due to the increased publication of management plans.

A final issue of relevance within the study concerns performance management, and a greater use of plans and output/outcome indicators, than on input and process indicators. However, to what extent performance measures are used depended on the initiative of the senior civil servants and the minister's staff. Also, some concern arises about the objectivity in the mandate evaluation phase and the issuing of new mandates insofar as 82.5% of mandate holders received a grade of 'very good' in 2009. A 'very good' rating means that the mandate holder can have their mandate renewed automatically, rather than having to re-apply.

### *Netherlands*

Senior civil servants in the Netherlands belong to the Algemene Bestuursdienst (ABD) which has an office to develop their competencies and coordinate their career development. Recruitment in the senior civil service is open to both internal and external candidates. Members of the top management group are appointed for contracts of 5-7 years, and then must find a new position. If after the completion of the contract no new position has been found, they can go on a waiting list for up to two years, after which they can be released from the civil service if a new position has not been found (Ketelaar et al. 2007, p. 44). Objectives and targets for agencies and departments are set out annually. However, Ketelaar et al report that 'performance based arrangements for individuals tend to be flexible and informal, with soft links to termination, promotion and pay rewards' (2007, p. 45). Individual performance is appraised annually.

Bourgault & Van Dorpe (2011) identify that one of the aims of the reforms was to decrease departmentalism by making senior civil servants more mobile.

There were some performance-related bonuses introduced, but this has been cut back since the financial crisis, and as in Belgium, there has been an increased emphasis on the delivery of results. There has also been some indication that shared political loyalty between ministers and senior civil servants has become more important under the new system. Steen & Van der Meer (2011) predicted that the introduction of the ABD system would make recruitment and selection procedures less prone to party political intervention, and make top civil servants less subject to general public criticism, but this did not fully materialise in practice.

While ministers all now have political assistants, the political role of the top civil servants has increased, and Steen & Van der Meer propose that while top civil servants never fully develop into political advisors, they risk losing their identity as neutral, professional managers' (2011, p.221). They also found that most senior civil servants are openly affiliated to a political party and in practice more secretaries general have the same affiliation as the minister they serve than was the case in the late 1980s.

### ***Denmark***

In the case of Denmark, Hansen and Salomonson (2011) identify that fixed term contracts for senior civil servants were possible since the 1970s but rare until the 1990s. Now almost all high ranking managers have individually negotiated fixed term contracts with performance related pay of between 1% and 10%. For permanent secretaries, changes in recruiting practices mean that only 21% were recruited from their own department in 2009, down from 80% in 1950. However, there are no recruitments from the private sector. Appointments are not formally politicised, but there is generally a political element when a top level manager is removed from office. Decisions concerning performance pay are not based on specific, 'objective' or transparent performance criteria, but rather based upon a general assessment of the relative workload of permanent secretaries over the past year.

### ***France***

In France, performance based arrangements have been in place since 2006, and are tied to 'Result Oriented Budgeting'. Senior civil service performance is assessed annually, and tied to performance related pay. Poor performance can result in removal from the position through

ending a secondment or non-renewal at the end of a term. Ferraz (2009) identifies that senior civil servants can be recruited internally or externally, and political affiliation is very important as politicians have the ability to dismiss nominated officials.

Rouban (2008) points out that historically, French senior civil servants have been more policy advisors than managers, and there remains a strong emphasis on traditional French civil service values than individual performance bonuses which can feed conflicts that undermine group solidarity and collective action.

### ***Portugal***

In Portugal, Corte-Reale (2008) identifies that reform to the performance appraisal system for senior civil servants began in 2004. Reform to the senior civil service recruitment mechanism primarily occurred following a law passed in 2005 which set three year terms for top managers, who are appointed politically (their terms end when a new government takes office). Management training became a requirement for those who accept management responsibilities. While flexibility and personnel management have improved due to these changes, political influence over the appointment of senior managers 'creates mistrust and a lack of confidence in the public administration and a lack of credibility on the part of the reform process' (Corte-Reale 2008, p.222).

## **Conclusion**

The Association and its members are and always have been advocates of change where it is warranted and where there are demonstrable benefits accruing from such change in terms of efficiencies, effectiveness, and governance in the performance of their functions which further enhance and improve the level of service to the citizens of the state and the government of the day.

The considered responses of the Association to the questions posed by the Consultation Paper are detailed in the next section. These responses also serve to elaborate on the points above and should be read in full.

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## APPENDIX 1

### Responses to the questions posed by the Consultation Paper

*Q1. What are the hallmarks of a system of effective civil service accountability? What would such a system look like?*

The Civil Service plays a distinctive and vital role in Irish life, and has always sought to ensure its work is achieved to the highest standards of accountability expected by citizens, the Oireachtas and government. The Association believes that any new system of accountability should not undermine the bond of trust that links the civil service with the government and citizens. Rather it should be defined by clarity of roles and expectations, recognising that the work of the civil service and its relationship with the political system is complex, and should be developed on the basis of the civil service's desire to serve the public interest.

*Q2. Do you think civil servants are sufficiently accountable?*

The Association believes that civil servants are already held to account by a range of legislative provisions, conventions and forums, as identified in Table 1 of the consultation paper. Its members are also keenly aware of the high level of public accountability expected of them in the conduct of their duties and the use of public resources, and are keen that any new accountability provisions would be proportionate and not unduly add to the accountability requirements already in place.

Irish Presidencies of the Council of the EU are recognised as being one of the best in Europe. These achievements, as well as the successful management of the IMF-EU-ECB loan programme, demonstrate that the civil service can perform to exceptionally high standards. These were cross-system initiatives and involved all Departments working together to achieve important national objectives. From these examples, the Association wishes to emphasise that excellent performance is not solely related to accountability.

The Association believes that the characteristics leading to these achievements should be examined in order to distil the nature of excellence and what can be learned from these experiences for the future management of the Irish civil service, rather than assuming



improved accountability and imitation of reforms elsewhere will provide a substantial improvement on existing practice. The undoubted strengths of the system – and not just those referred to as the “traditional” strengths of the civil service - could be identified through such an examination and, more importantly, the factors which resulted in the successes identified. This type of research would greatly help the design of appropriate accountability systems.

***If not, what are the main weaknesses in the system? To whom should civil servants be directly accountable and what form should this accountability take?***

While recognising that there are a number of alternative routes for civil servants to be held to account (such as, for example, the Office of the Ombudsman), the Association is of the opinion that civil service accountability is most effectively pursued and given meaning by individual line managers, upwards to the Secretary General, and then to the relevant Minister and Cabinet.

***Q3. To what extent do current arrangements for civil service accountability meet the following four principles of accountability?***

***clarity of accountability;***

The Association believes that the accountability arrangements for the civil service were much improved by the Public Service Management Act, 1997. Under this Act, Secretaries-General can delegate responsibility to certain designated officials. The Act also introduced Strategy Statements for Departments, Business Planning processes and individual role profile forms that have been very influential in modernising the work of the civil service. The Act continues to provide the basis for advancing a shared understanding of accountability arrangements between the civil service and elected government of the day.

***sufficiency of control;***

The Association would like to see greater strengthening of the provisions for civil servants to raise concerns about any possible undue political interference in their work or to express their reservations about initiatives they feel are contrary to the public good. There is much scope for greater clarity concerning the role and accountability of Government advisors.

***clarity of consequences;***

The Association’s members are keen that there be greater clarity surrounding the expectations on civil servants in the performance of their duties. Currently, there is no mechanism for

ensuring that civil servants are protected from undue blame being attributed to them. Equally, credit for high achievement is rarely given to officials.

□ *sufficiency of information?*

As above, the Association would support greater elaboration of the respective roles of Ministers and civil servants, though again recognising that both parties must operate closely and manage complex policy issues.

***Q4. How could civil service accountability be strengthened? Could such mechanisms be expected to lead to a significant improvement in civil service performance or are there additional measures that would be more effective in achieving this goal?***

While accountability is an integral element of the performance of the civil and public service, the Association is concerned that the two concepts are not conflated. There already exists a robust system of performance management in the Civil Service. As noted above, all civil servants are aware of their accountability expectations, and the Association is concerned that increasing the accountability burden by means of new rules or regulations will lead to a decline in motivation, performance and delivery of organizational objectives and quality services for citizens.

The type of measures traditionally envisaged as part of an accountability system include

- Taking a historical perspective
- Doing things right
- Comparing planned outcomes to actual
- Using hard data
- Thinking inside the box

By way of contrast, the type of measures used in systems focused on improving performance are conceptualised as including:

- A future perspective
- Doing the right things

- Experimentation and innovation
- Hard and soft data as required
- Thinking outside the box

Therefore, it is the type of measures used for accountability that will have an impact on performance. Using the wrong type of measures will lead to underperformance. As can be seen, there is a tension between measures to achieve accountability and measures to achieve effective performance as both promote different types of behaviour. The traditional accountability measures cited above promote conformity and maintenance of the status quo whereas the performance measures cited promote creativity, motivation and change.

***Q5. What could be the likely impact, including the practical changes, in strengthening civil service accountability? What could be the impact on the civil service, Ministers, the overall political system, and on individual civil servants? Consideration could be given to any possible unintended consequences.***

The Civil Service is comprised of very dedicated and highly skilled individuals who are committed to providing a high quality service to the public and advancing the state's interests. Civil servants currently operate in an exceptionally challenging environment of diminishing resources, radical change and reduced pay levels. The Association is therefore concerned that any reform of the accountability arrangements would not increase the burden on civil servants or de-motivate them. The international experiences outlined in Chapter 2, for example, identify that there are some negative consequences associated with over-contractualisation and greater political involvement in the appointment of Civil Servants.

***Q6. What, if any, are the implications of the measures proposed in this Paper for traditional civil service values such as honesty, impartiality and integrity? Are there other measures that could usefully be taken to reinforce such values?***

The Association believes that honesty, impartiality and integrity remain at the heart of the work of the Civil Service and any reform should not erode these values. The work of the Irish Civil Service should not be influenced by political allegiances or undue influence in order that advice presented to government is objective and presents true reflections of costs, evidence and options available. Trust between Civil Servants, the Government they serve and the

Oireachtas is critical for the effective working of Government and a healthy democracy. Ministers should be in a position to take decisions on the basis of the best impartial evidence available, and as full awareness as possible of the risks and benefits involved. The Association is concerned that a shift to shorter-term contractual employment in the Civil Service would undermine the medium to long-term perspective necessary for national policy-making, as well as the integrity of a career structure for civil servants committed to national service. Section 2 of this submission has elaborated on some of the international experiences in this domain that we would like to draw attention to.

***Q7. What are the main advantages and the main disadvantages of the specific reform options set out in Section 11 of this Paper? What options merit further consideration and what options could be discounted? How would the different elements of the reform options be likely to influence each other?***

***Q8. What elements of the Public Service Management Act 1997 have been successful and what elements have not been?***

The introduction of Strategy Statements, Business Planning procedures and individual role profiles and the clear relationship between the three has been a welcome and important development in modernising the work of the Civil Service.

***Has this had an impact on the performance of Government Departments?***

These developments have helped to clarify roles and responsibilities and the Association believes it has had a positive effect on enhancing performance. The introduction of Management Advisory Committees (MACs) in Departments has also led to better quality decision-making.

***What are the practical steps that need to be taken to ensure the sound and effective implementation of legislative measures in place?***

The Association believes that more can be done to give effect to the provisions of the 1997 Act in respect of the delegation of responsibilities within government departments, and that

fuller implementation of this element of the legislation would provide for greater clarity surrounding the allocation of accountability between Ministers and civil servants.

***Q9. Would legislative change, in particular to the Ministers and Secretaries Act 1924 and the Public Service Management Act 1997, be an effective way to strengthen the accountability of civil servants?***

***Q10. What is the appropriate balance between the accountability of civil servants and the maintenance of the traditional doctrine of ministerial responsibility?***

The Association believes that greater consideration could usefully be given to distinguishing between routine administrative tasks and decisions on the allocation of resources. An example of this would be Ministers having to regularly answer parliamentary questions concerning individual citizens. Such cases should be the responsibility of designated officials in the first instance. Ministers should also have a national policy focus at all times.

***Q11. Has the assessment contained in the 2002 Report of the Working Group on the Accountability of Secretaries General and Accounting Officers stood the test of time? In what specific respects may the analysis, conclusions and recommendations in the report need to be updated?***

It is the view of the Association that the independence of the office of Secretary General has been eroded over the years. The fixed-term nature of Secretary General contracts has resulted in greater politicisation of the role. In addition, the expertise of a Secretary General whose contract has expired is frequently lost to the system, and the Association would welcome a mechanism to allow Secretaries General to continue to make a contribution to the civil service after their term of office and before retirement. The experience of the Netherlands (above) is instructive in this regard.

***Q12. Is there any scope for extending the accountability model for Accounting Officers to other aspects of the role of Secretaries General and also to other senior-level civil service personnel?***

The Association believes that there is no reason why this could not be considered subject to discussions.

***Q13. Are there factors specific to the Irish political and administrative context that need to be considered when addressing the issue of civil service accountability and performance?***

As the consultation paper identifies, there continues to be problems concerning the allocation of accountability for failures in Irish public policy and the Association welcomes the efforts to provide for greater clarity on this issue. There are very few examples of political accountability being enforced where there have been major and avoidable policy failures in this country. However, given the vast range of tasks undertaken by the Civil Service, it is also essential that there is greater appreciation of the complexity of modern government and the reality that not all policies will succeed. In part, accountability means assuming responsibility for failure, but it also means quickly understanding and addressing such failure where it occurs, and providing remedial action. The international experiences outlined in Chapter 2 identify that there are no ‘silver bullets’ for successful reform in this regard.

Excellent performance has been found in research to be related to three things:

- Being clear about the purpose or goal to be achieved,
- Having the right skills and capability to perform the required tasks, and
- Having appropriate autonomy.

From this perspective, the consultation paper is helpful in that it promotes clarity of roles and greater emphasis on strengthening leadership capacities. It also suggests a greater role for the centre in leading and developing the Civil Service which the Association supports.

We would further suggest that any approach to civil service accountability that involves the use of external or independent third parties should be guided by the requirement to follow due process, apply fair procedures and have due regard to the need to avoid defamation and unjustified reputational damage to individuals. It is vitally important that any enquiries are conducted in a professional, fair and cohesive manner, that provide all parties a full opportunity to defend and explain their position in an environment that does not prejudge the outcome.

***Q14. What are the main lessons to be learned from the international experience of civil service reform? What international reforms are believed to be most relevant to civil service reform in Ireland (evidence from non-Westminster models will be appropriate)? What elements of civil service reforms undertaken or envisaged in other jurisdictions are not believed to be appropriate to the civil service and Ireland?***

As noted in Sections 1 and 2 of this paper, it is important to look beyond the traditional focus of the Westminster model of government, and this submission has sought to broaden the international context with a view to supporting effective reforms.

***Q15. What are the lessons to be learned from the experience and practices of accountability and corporate governance in the private sector that could be examined and considered?***

The sectors are necessarily different and should be treated as such. The private sector is guided primarily by a profit motive, whereas public service organisations and staff are motivated by a requirement to serve and advance the public good. While there are lessons to be learned from the private sector in terms of modernisation of work practices and new skills, equally the Association believes that there are distinctive characteristics and values within the public service that any reform should not undermine.

***Q16. If delegating greater individual accountability to civil servants, does the delegation of greater authority also need to be considered?***

Yes, the Association believes that greater accountability should involve the delegation of greater authority.

***To what extent could this involve changes in the current allocation of decision making authority between ministers and civil servants and/or between individual departments and those departments exercising central controls?***

As well as advocating for greater delegation of responsibility to civil servants, the Association is keen to ensure that there is distribution of authority and responsibility between central and

line government Departments, which respects the various roles each has to play in Irish government.

***Q17. Should differentiated accountability arrangements apply depending on a civil servant's role e.g. providing advice to a Minister, execution of agreed policies and programmes etc.? If so, in what way?***

The Association believes that this would not be a welcome development given the potential for greater confusion and duplication of roles.

***Q18. What aspects of previous reform elements were successful and what were not? What lessons can be learnt from these reform experiences?***

As noted above, the Association believes the introduction of Strategy Statements, Business Planning procedures, individual role profiles and the creation of Management Advisory Committees were all important developments. It is also clear from the consultation paper that there are other elements of the Public Service Management Act which were not followed through on.

***Q19. Does the summary assessment of the legal / constitutional basis to the doctrine of ministerial responsibility presented in this Paper encompass all relevant considerations?***

***Q20. What organisational and operational reforms would be necessary – including additional supports to ministers and civil servants and safeguards - to ensure the effective implementation of the reform options set out in this Paper (see Section 11), if they were to be adopted?***

The Association believes that there are two areas where the Civil Service could make a greater impact. The first concerns the absence of a recognised head of the civil service, while the second is a lack of sufficient focus on talent management and development policies to ensure that the necessary skills and competencies for effective leadership are identified, promoted and maintained.



The lack of a designated head of the Civil Service has meant that Secretaries General are not held to account for the lack of implementation of service wide initiatives. They are also not held to account for the leadership of their Departments. Some recent reforms in Canada (above) have yielded some success and might be worth exploring further. The second area relates to a clear focus on staff development – for example, a mandatory staff mobility system to ensure that future senior managers are equipped for leadership roles should also be examined further.

