

**Report of the  
Independent Panel  
on Strengthening  
Civil Service  
Accountability and  
Performance**

30 May 2014

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## Key Recommendations

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Establish an **Accountability Board for the Civil Service**, chaired by the Taoiseach, with external membership to review and constructively challenge senior management performance and monitor progress in delivery of agreed priorities



Appoint for the first time a **Head of the Civil Service**.

## Other Recommendations



A **performance management system** for Secretaries General.



**Organisation Reviews** to measure the ability of Departments to lead and deliver on their priorities.



Publish **who does what and to whom they are answerable**.



Ensure the **Oireachtas has an important role to play** in an effective accountability system.



Support moves for **greater flexibility in decision making**.

- 
- Continuation of **permanent tenure**.
  - **Wider mobility**.
  - Measures to **tackle poor performance**.
  - **Performance-related pay is considered inappropriate**.

- 
- **Clear policy** on the establishment of agencies.
  - Ensure the governance structure is consistent with their legislative underpinning.

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- **Formal Accountability Code** for Special Advisers.
  - **Mandatory induction training** for Special Advisers.

# Introduction

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## 1. Context and Background

### Independent Panel

The Programme for Government published in 2011 contained a number of specific commitments focused on strengthening accountability and performance in the Civil Service. These issues were explored in a public consultation paper entitled '*Strengthening Civil Service Accountability and Performance*' published by the Minister for Public Expenditure and Reform on 9 January 2014.

The Minister outlined the aim of the consultation paper as informing and promoting public debate both within and outside the Civil Service on the themes, conclusions and options presented in the paper. The text of the consultation paper can be downloaded at [www.per.gov.ie/civil-service-accountability-consultation-process/](http://www.per.gov.ie/civil-service-accountability-consultation-process/)

The Minister appointed Prof. Kevin Rafter (chairperson), Ms Dorothea Dowling and Mr Michael Howard to an Independent Panel to manage the public consultation process. The Panel was also asked to review and examine relevant issues.

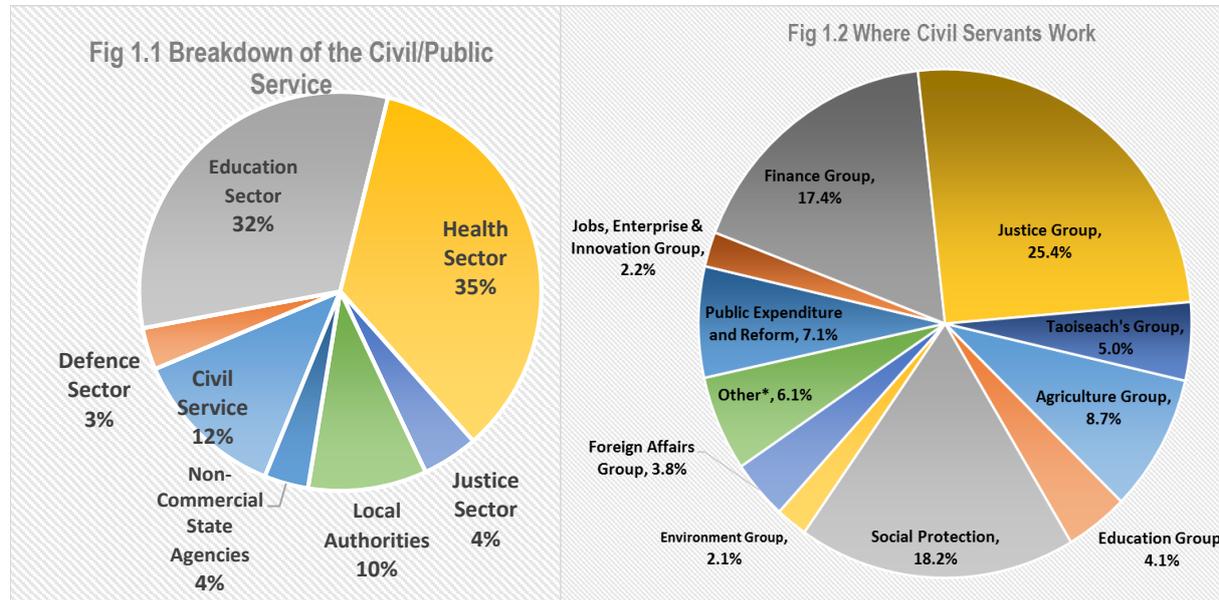
### Work of the Independent Panel

The Independent Panel held its first meeting on 17 January 2014. In its subsequent work, the Panel received submissions through a public consultation process and also held approximately 60 meetings, both formal and informal, with stakeholders and other interested parties. This work, along with a review of relevant academic literature, assisted in informing the Independent Panel members about the range of issues related to accountability and performance in the Civil Service. The Independent Panel heard views on the options outlined in the consultation paper and discussed other ideas on how to further strengthen Civil Service accountability and performance, in particular at a senior level in the administrative system.

A list of meetings held by the Independent Panel and the submissions received are included in Appendix 1 and Appendix 2. The main themes emerging from the meetings and public submissions added to the issues set out in the consultation paper. The Panel's recommendations are underpinned by the evidence gathered from these key inputs.

## 2. Overview of the Civil Service

Over 36,000 people work in the Civil Service representing 12% of total public service employment. Staff are based in 16 Government Departments<sup>1</sup> and certain specified offices<sup>2</sup>.



The work of the Independent Panel was focused on the Civil Service environment in line with the consultation paper.

\*Other includes the following Groups: Children & Youth Affairs, Communications, Energy & Nat Resources, Defence, Health, Transport and Arts, Heritage & the Gaeltacht

Each Department is headed by a Secretary General or equivalent who, in turn, is supported by a small senior management team of Assistant Secretaries. This group comprises the Senior Civil Service. Below this senior level the organisational hierarchy follows a pyramid structure. The senior Civil Service numbers are approximately 240 and there are approximately 1,200 civil servants at Principal Officer level.

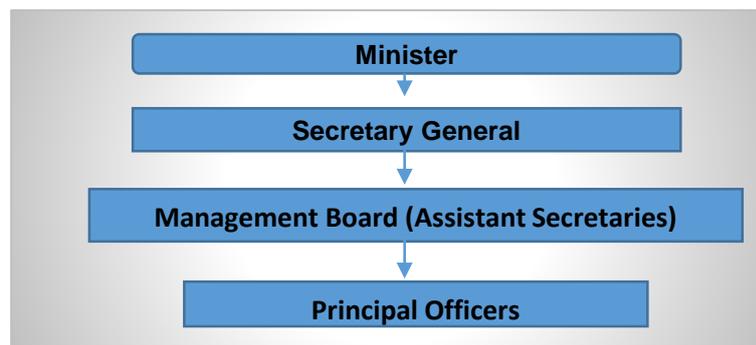


Fig 1.3 Departments' Management Structure

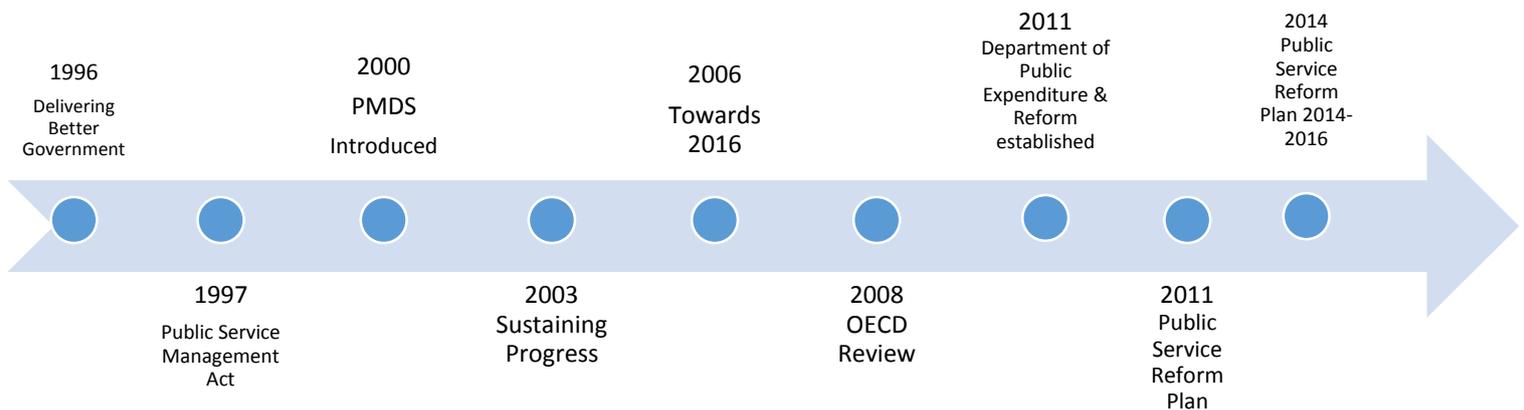
<sup>1</sup> For the purposes of this Report, Department includes Government Departments and Offices.

<sup>2</sup> These Civil Service offices include: the Office of the Revenue Commissioners; the Central Statistics Office; the Office of the Comptroller and Auditor General; the Courts Service of Ireland; the Director of Public Prosecutions; the Office of the Attorney General; the Office of Public Works; the Office of the Houses of the Oireachtas (Parliament); the Office of the Information Commissioner; the Office of the President of Ireland; and the Office of the Ombudsman.

### 3. Previous Reform Programmes

Ireland fails to appear regularly in international literature on Civil Service reform. This absence may be explained in part due to the uneven pace of reform in Ireland and to a time lag between initiatives undertaken elsewhere and any subsequent application in an Irish context.

Fig. 1.4 Recent Reforms and Key Events



In building stronger accountability arrangements lessons can be learned from earlier reform initiatives particularly to determine what proposals were successful and also why some initiatives failed to match expectations. The OECD commented in 2008<sup>3</sup> that Ireland was on a sound trajectory of modernisation but the benefit had not been fully realised.

In arriving at its recommendations the Independent Panel considered a number of lessons from previous reform initiatives as part of its deliberations:

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

<sup>3</sup> OECD (March 2008). Ireland: Towards An Integrated Public Service. OECD Public Management Reviews. Paris: OECD Publishing

## 4. Legal Position

The constitutional and legal position framing the work of the Independent Panel is outlined below.

The **Ministers and Secretaries Act 1924**, as amended, provides that each Minister shall be the responsible head of the Department or Departments under his or her charge and “...shall be individually responsible to Dáil Éireann alone for the administration of the Department or Departments which he is head”.  
That Act also designates a Minister as a corporation sole, that is a perpetual legal entity separate from the individual office holder.

**Article 28.12** of the Constitution refers to Ministers as “in charge of” Departments of State. **Article 28.4.2** of the Constitution provides that the Government shall be collectively responsible for Departments of State “administered” by the Members of the Government

### Public Service Management Act 1997 (PSMA 1997)

Minister	Secretary General
<ul style="list-style-type: none"> <li>➤ responsible for the performance of functions assigned to his/her Department.</li> </ul>	<p>has the authority, responsibility and accountability for:</p> <ul style="list-style-type: none"> <li>➤ managing the Department, implementing &amp; monitoring government policies appropriate to the Department, delivering outputs;</li> <li>➤ preparing and submitting to the Minister a Strategy Statement;</li> <li>➤ assigning responsibility for functions performed on behalf of the Minister, and for the performance of functions for which the Secretary General is responsible;</li> <li>➤ providing advice to the Minister in relation to Departmental expenditure;</li> <li>➤ ensuring arrangements are in place to facilitate an effective response to cross public service matters;</li> <li>➤ ensuring resources are used appropriately;</li> <li>➤ examining and developing means to improve cost effective public services; and</li> <li>➤ managing all matters related to the appointment, performance, discipline and dismissal of staff below the Principal Officer grade.</li> </ul>
	<p><b>Special Adviser</b></p>
	<p>Assist the Minister by:</p> <ul style="list-style-type: none"> <li>○ Providing advice;</li> </ul>

	<ul style="list-style-type: none"> <li>○ Monitoring, facilitating and securing the achievement of Government objectives that relate to the Department;</li> <li>○ Performing such functions as directed by the Minister (and do not involve the exercise of any specific powers conferred on the Minister);</li> </ul> <p>and Accountable to the Minister.</p>
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<b>Exchequer and Audit Departments Act 1866 as amended by the Comptroller and Auditor General (Amendment) Act 1993</b>
<b>Accounting Officer</b>
<ul style="list-style-type: none"> <li>➤ Responsibility is personal to the Secretary General and gives rise to individual responsibility to safeguard the interests of the taxpayer.</li> <li>➤ Personally answerable to the Committee of Public Accounts for regularity, propriety and value for money following rigorous <i>post factum</i> examination of the manner in which Accounting Officers have discharged their responsibilities by means of independent audit and examinations by the Comptroller and Auditor General.</li> <li>➤ Answerable for the economy and efficiency of the Department in the use of its resources and for the systems, procedures and practices employed for evaluating the effectiveness of Departmental operations.</li> <li>➤ Can report a difference of opinion with a Minister in relation to matters within their Accounting Officer responsibilities.</li> </ul>

### **Carltona Doctrine<sup>4</sup>**

The Carltona Doctrine permits a function of the Minister to be carried out by an appropriate official on behalf of the Minister, without any express act of delegation, unless the context makes it clear that this is something that can only be done by the Minister personally. While this power is implicit, a Minister may also direct that certain functions be carried out by particular designated officials with distinct reporting lines.

## **5. Current Reform Agenda**

The debate about Civil Service reform pre-dated the economic crisis but the events since 2008 have raised additional legitimate questions about Civil Service performance and the appropriateness of existing accountability arrangements.

The Department of Public Expenditure and Reform was established in 2011 with a specific remit to place the two important issues of expenditure management and public service reform at the centre of government.

<sup>4</sup> The legal principle underlying this practice was formally established by the UK Courts in 1943 and was ultimately recognised by the Irish Supreme Court in *Tang v Minister for Justice* [1996] 2 ILRM 46 and *Devanney v Sheils* [1998] 2 IR 130

This political and institutional focus on reform has enabled considerable change to take place in the way the Civil Service conducts its business. This reform agenda has been delivered in the context of decreasing budgets, reduced staffing levels and increased demand for many services. In delivering this agenda the considerable strengths of the Civil Service have been evident. The system has shown resilience and flexibility in response to the economic crisis.

Since 2011 the Minister for Public Expenditure and Reform is also progressing a range of legislative measures focused on increased transparency and accountability. These have included strengthening Freedom of Information legislation, introducing protections for whistle-blowers, providing statutory powers of inquiry to the Houses of the Oireachtas, creating a statutory register of lobbying and further developing the ethics frameworks.

## **6. Main Points**

Through its stakeholder meetings and submissions received as part of the public consultation process the Independent Panel was assisted in identifying a number of improvements. These would enable the development of a stronger performing and more accountable Civil Service. Specifically, stakeholders identified the following issues:

- To bring greater clarity to the Ministerial / senior civil service relationship while recognising the complexity involved;
- To address the demand from the public and the political system to know “who does what and to whom they are answerable”;
- To improve the capacity and capability of the system to deal with non-performance and underperformance;
- To empower the Civil Service to ensure that accountability is accompanied by appropriate autonomy and resources;
- To support the senior civil service in terms of strengthening performance and building leadership capacity;
- To bring balance and a more evidence based approach to public discourse on Civil Service performance;
- To protect the long-term public interest;
- To build on the existing strengths of the system.

## **7. Recommendations**

The consultation paper set out a number of specific reform options for consideration by the Independent Panel. The following table indicates how the recommendations of the Independent Panel address these options.

It is the strong view of the Independent Panel that these recommendations should be implemented as an integrated and coherent programme of measures. A piecemeal

implementation would weaken their overall effectiveness and could potentially introduce unintended adverse effects.

Reform Options Presented in Consultation Paper	Independent Panel Recommendations
<p>Enhance the Corporate Centre</p> <p>Establish a robust governance framework</p>	<ul style="list-style-type: none"> <li>• Establish an <b>Accountability Board for the Civil Service.</b></li> <li>• Appoint a full time <b>Head of the Civil Service.</b></li> </ul>
<p>Reform of Legislative Framework</p>	<ul style="list-style-type: none"> <li>• Recommendations can be implemented <b>without the need for legislative change.</b></li> <li>• <b>Fully exploit the potential</b> of the Public Service Management Act 1997.</li> <li>• Proposed <b>corporate centre arrangements may ultimately be underpinned by legislation.</b></li> </ul>
<p>Legislate to change the restrictions on the evidence of civil servants to Oireachtas Committees</p>	<ul style="list-style-type: none"> <li>• This issue is addressed in the <b>Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013.</b></li> </ul>
<p>More Effective Accountability of Senior Civil Service Management</p>	<ul style="list-style-type: none"> <li>• Publish an annual framework of assignments for senior Civil Servants.</li> <li>• Introduce <b>Organisation Reviews.</b></li> <li>• Increase <b>delegation of authority.</b></li> </ul>
<p>Align Recruitment/Promotion practices with HR requirements<sup>5</sup></p>	<ul style="list-style-type: none"> <li>• <b>Continuation of permanent tenure</b> but greater flexibility in employment type.</li> <li>• Encourage <b>wider mobility.</b></li> <li>• Stronger supports to <b>proactively tackle poor performance.</b></li> <li>• <b>Performance-related pay is considered inappropriate.</b></li> </ul>
<p>Enable formal political input into the development of the job specification of</p>	<ul style="list-style-type: none"> <li>• Introduce a <b>performance management system</b> for</li> </ul>

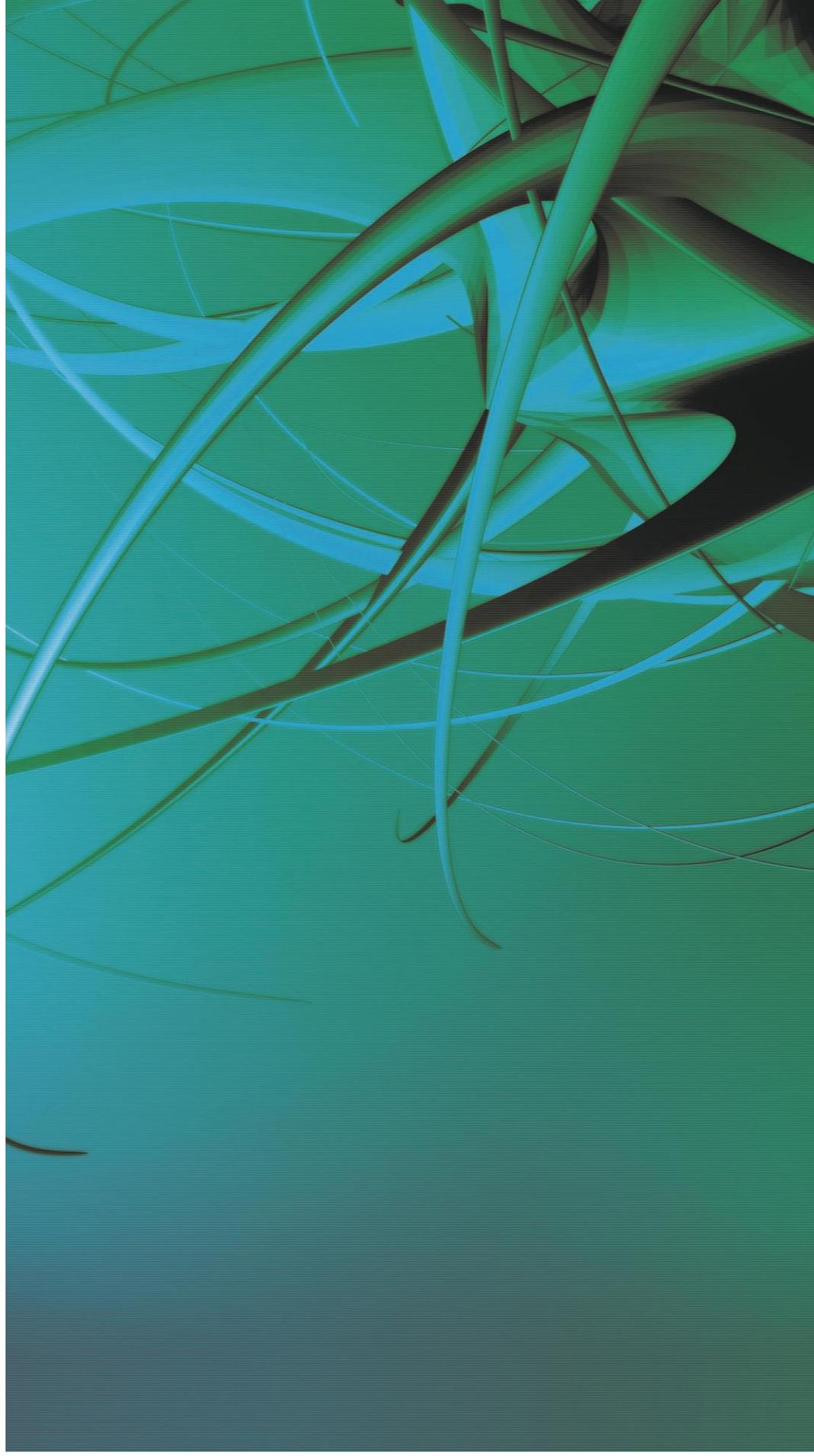
<sup>5</sup> Work is ongoing by an internal Civil Service Task Force on Renewal and Vision in relation to a broader range of HR and related issues.

senior level officials and their performance assessment processes	Secretaries General with appropriate political input.
Reaffirm and reinforce the ethos and values of the Civil Service Vision for the Civil Service <sup>6</sup>	<ul style="list-style-type: none"> <li>• <b>Head of the Civil Service</b> will be a guardian of ethos and values.</li> </ul>
Build structures to underpin effective horizontal governance	<ul style="list-style-type: none"> <li>• Establish an <b>Accountability Board for the Civil Service</b> and appoint a <b>Head of the Civil Service</b>.</li> </ul>
<b>Other Recommendations Arising from Consultation Process</b>	
	<ul style="list-style-type: none"> <li>• Develop a <b>clear policy for establishing new agencies</b>, and ensure corporate governance structures reflect the legal status of agencies in a more coherent manner.</li> </ul>
	<ul style="list-style-type: none"> <li>• Introduce <b>accountability code</b> and <b>mandatory induction training</b> for Special Advisers</li> </ul>

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<sup>6</sup> *Ibid.*

**What changes are needed?**



## 1. Accountability Board for the Civil Service

### Recommendation

- Establish an **Accountability Board for the Civil Service**, chaired by the Taoiseach, with external membership to review and constructively challenge senior management performance and monitor progress in delivery of agreed priorities.

### 1. Why this recommendation?

The Independent Panel is proposing the introduction for the first time of a high-level accountability mechanism with external membership to hold Departments to account for their performance and delivery.

It is intended that this Board would assist in strengthening public trust in the administrative system. The rationale for the Independent Panel's recommendation is to introduce greater rigour to Civil Service accountability and performance, and that having external oversight would offer a greater degree of public assurance. The Board would also have the advantage of providing an additional outward looking focus for the Civil Service. In recommending external membership, the Independent Panel believes that this will bring professional experiences from diverse environments.

The Board would have an overall governance role across the Civil Service with oversight of:

- implementation of agreed cross-cutting policy priorities;
- the capacity and capability of the Civil Service;
- performance management arrangements for Secretaries General.

The Board's annual work plan would concentrate on a limited number of priority items.

In reaching its recommendation on the establishment of the Accountability Board for the Civil Service, the Independent Panel has studied the role of departmental or governance boards in the United Kingdom, Australia and Canada.

### 2. Board membership

Board membership should be balanced with ministerial, civil service and external representation.

<b>Proposed Board Membership</b>		
<b>Political</b>	<b>External</b>	<b>Civil Service</b>
<ul style="list-style-type: none"> <li>• Taoiseach (chair)</li> </ul>	<ul style="list-style-type: none"> <li>• Four independent external members with appropriate expertise including:               <ul style="list-style-type: none"> <li>• Two with significant successful career records.</li> <li>• At least one with significant experience in the public sector or not-for-profit sector.</li> <li>• One from outside the State.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Secretary General, Department of Taoiseach</li> </ul>
<ul style="list-style-type: none"> <li>• Tánaiste (vice-chair)</li> </ul>		<ul style="list-style-type: none"> <li>• Secretary General, Department of Public Expenditure and Reform</li> </ul>
<ul style="list-style-type: none"> <li>• Minister for Public Expenditure and Reform</li> </ul>		<ul style="list-style-type: none"> <li>• One other Secretary General (nominated by the group of Secretaries General)</li> </ul>
		<ul style="list-style-type: none"> <li>• Head of the Civil Service</li> </ul>

The Board should operate according to the principles of best corporate governance including the management of conflict of interest.

### **3. Role of external board members**

The Independent Panel envisages that external board members would bring a number of distinct benefits by:-

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

The Independent Panel expects the external board members to express their views in an open manner and to ask challenging questions of the Civil Service.

One of the four external board members should be identified as the lead independent external board member. This lead external member should meet regularly with the Head of the Civil Service to maximise Board effectiveness and to progress the agenda of the Board. It is recommended that the Accountability Board for the Civil Service should meet quarterly.

#### **4. Profile of external board members**

The external board members should:

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

At least one external board member should have substantial experience in the public sector and/or not-for-profit sector, or would have held a role comparable to the Head of the Civil Service in another jurisdiction.

Consideration should also be given to ensuring that at least one of the external board members is from outside the State. The Chairperson of Top Level Appointments Committee (TLAC)<sup>7</sup> could be considered as one of the four external board members given his/her expertise in relation to the Civil Service environment.

The term of external board members should be five years with phased renewal to ensure continuity. Appointment must be based on merit. The Independent Panel recommends that service on the Board should be on a pro bono basis.

The presentation of the annual report of the Head of the Civil Service to the relevant Oireachtas Committee should be delivered by the Head and the lead external board member.

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<sup>7</sup> The Top Level Appointments Committee (TLAC) has a key role to play in identifying and selecting candidates for the most senior positions throughout the Civil Service.

## 2. Head of the Civil Service

### Recommendation

Appoint for the first time a full-time Head of the Civil Service to provide:

- leadership of the Civil Service;
- oversight of implementation of agreed policy priorities across Departments;
- enhanced capacity and capability including oversight of organisation reviews;
- a performance management system for Secretaries General.

### 1. Why this recommendation?

The Independent Panel believes that the challenges faced by the Civil Service require a formal corporate centre. In its work, the Independent Panel has identified a number of issues including:

- The absence of a formal Head of the Civil Service;
- The need for more robust arrangements for managing cross-cutting issues;
- The need for greater focus on the development of the capacity and capability of the Civil Service;
- The need for performance management arrangements for Secretaries General, and for stronger performance management systems at other senior levels.

A Head of the Civil Service role is in place in several other Westminster-type<sup>8</sup> administrations which are broadly comparable with the system of government in Ireland.

International Experience – Head of the Civil Service	
Country	Model
UK	Head of the Civil Service
New Zealand	Head of the State Services Commission
Australia	Secretary for the Department of Prime Minister and Cabinet
Canada	Clerk of the Privy Council (Head of the Department of the Prime Minister)

The centre in the Irish Civil Service has never been defined formally but is generally seen as encompassing the Department of the Taoiseach, the Department of Finance and the Department of Public Expenditure and Reform. From its analysis of the situation elsewhere and discussions during the consultation process, the Independent

<sup>8</sup> The Westminster system is a democratic parliamentary system of government modelled after the politics of the United Kingdom.

Panel is convinced of the merit in having a dedicated formal Head of the Irish Civil Service.

The Independent Panel believes that the appointment of a full-time Head of the Civil Service would address the issues identified previously. From its work, the Independent Panel is convinced that having this full-time position would lead to faster and more responsive policy delivery across the Civil Service.

## **2. How will it work?**

To be effective, the Head of the Civil Service should have a limited but highly focused and ambitious remit.



### **Leadership & Values**

The Head of the Civil Service should act as a guardian of the ethos and values of the Civil Service.<sup>9</sup> He/she should ensure these values are enshrined in the culture of the Civil Service and that all staff represent these values in the course of their work. The Head of the Civil Service should display these values when recognising successes as well as acknowledging failures. The Head of the Civil Service should also represent the core Civil Service value of speaking ‘truth to power’.

The holder of this position, working with Secretaries General individually and collectively, should provide leadership for the Civil Service. He/she would have an ambassadorial role as a visible leader and would also speak on behalf of the Civil Service.

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<sup>9</sup> Ethos and values of the Civil Service are currently been examined by the Civil Service Task Force on Renewal and Vision.

### **Performance Management**

The Head of the Civil Service would design a performance management system for Secretaries General. This should be submitted for approval to the Accountability Board which would oversee its implementation. The Independent Panel recommends that this performance management system for Secretaries General is introduced by early 2015.

The performance management system should examine both delivery within Departments and contributions to the whole of government agenda. The Head of the Civil Service should be charged with seeking Ministerial input into the performance assessment of Secretaries General but in a manner that safeguards the independence and political impartiality of the Civil Service.

### **Oversight of Implementation of Policy Priorities**

#### **Cross-Cutting Issues**

There are currently arrangements in place for the oversight of cross-cutting priorities with reporting relationships to a number of Cabinet Committees. There are currently 12 Cabinet Committees. However, it is not possible to establish a Cabinet Committee for every policy area. A recurring theme in the consultation process was the need to strengthen cross-cutting arrangements in order to improve delivery on policy priorities.

The Independent Panel envisages an important role for the Head of the Civil Service in driving implementation of a small number of cross-cutting priorities set by Government. No new priorities should be added to the work programme until significant progress has been achieved on the existing list. This proposed new approach would require greater political attention to policy prioritisation. Under this system, Departments would retain ownership of the implementation of issues with an oversight role by the Head of the Civil Service. Working with Departments, the Head of the Civil Service should actively assess and seek to alleviate any obstacles to overall implementation of policy priorities.

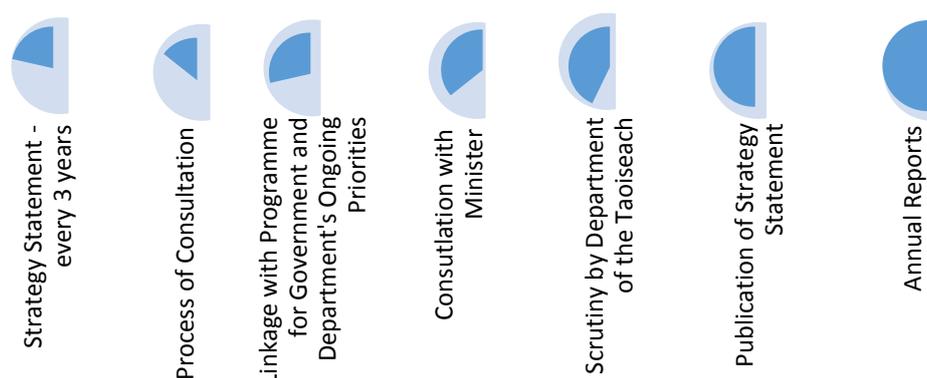
These new arrangements should be designed so as to be administratively efficient. The Independent Panel recommends that the Head of the Civil Service when exercising oversight should focus on the following questions:

- Is the priority being delivered according to the stated plan?
- If not, what needs to be done?

#### **Strategy Statements**

Under the PSMA 1997, Departments are required to produce three-yearly Strategy Statements, and annual reports. In arriving at its recommendations in this area, the Independent Panel has taken into account widespread feedback received as part of its consultations that this process could be strengthened.

Figure 1.5: Current Arrangements – as set out in the PSMA 1997



The Independent Panel is proposing to transform the process for preparing and reviewing Strategy Statements to place them at the centre of the accountability process as envisaged under the PSMA Act 1997.

To achieve this objective, the Head of the Civil Service would work closely with Departments to:

- Strengthen the preparation of Strategy Statements with a particular focus on ensuring clear linkages with commitments in the Programme for Government and explicit identification of cross-cutting issues;
- Challenge Departments on implementation of cross-cutting policy priorities identified by Government which should be reflected in the Strategy Statements.

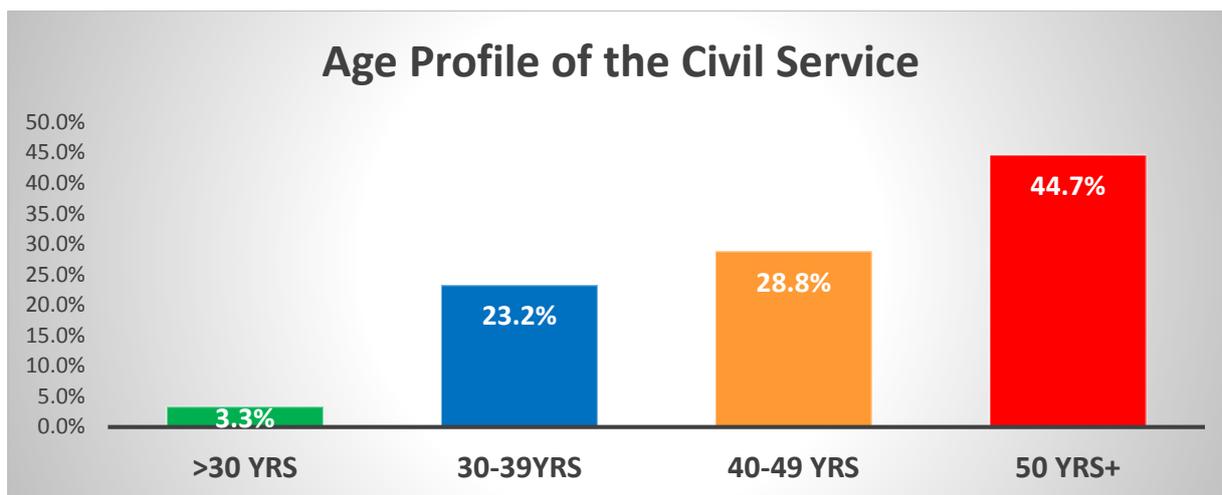
Strategy Statements provide the context for the preparation of Business Plans by Departments. In order to ensure that the Strategy Statement process is more effective and to introduce greater transparency, the Independent Panel suggests the timely publication of Business Plans by each Department. There should be regular online reporting on progress by each Department.

### **Enhancing Capacity & Capability**

#### **Senior Public Service**

The Head of the Civil Service would lead the Senior Public Service (SPS) and chair its Governance Board<sup>10</sup>. He/she should also have responsibility for talent management and strategic succession planning at senior levels. This work is particularly important in light of the current age profile in the Civil Service and its implications for retirements over the next decade.

<sup>10</sup> The Senior Public Service comprises the grades of Secretary General, Assistant Secretary and equivalents and has a Governance Board consisting of a number of Secretaries General.



The Head of the Civil Service would actively liaise in an advisory capacity with the Department of Public Expenditure and Reform, which has responsibility for the wider public service. He/she would be a member of TLAC.

### Organisation Reviews

Capacity gaps and challenges impact negatively on effective delivery of services and objectives. The reviews undertaken between 2008 and 2010<sup>11</sup> were identified in several Departments as having potential to be significant drivers of reform, enhanced capacity and improved performance.<sup>12</sup>

There is now need to build on this experience and to introduce a programme to provide an objective assessment of the capacity and capability of Departments. This mechanism must ensure that the Civil Service is a high-performing organisation capable of meeting complex and demanding challenges.

The Head of the Civil Service would also have responsibility for implementing the programme of Organisation Reviews and for analysis of the outputs with a view to appropriate action.

### 3. Relationship with individual Departments

It is important that the Head of the Civil Service would not take on responsibility for work that would normally be in the domain of individual Departments. The Head of the Civil Service should be seen as a resource to strengthen individual Departments. Individual Secretaries General remain accountable to their Minister and to the Houses of the Oireachtas. The Secretary General remains the chief policy adviser to the Minister. The role and function of the Accounting Officer would also remain unchanged.

<sup>11</sup> Organisational Review Programme

<sup>12</sup> IPA Research Paper No. 3, 'Organisational Capacity in the Irish Civil Service, An Examination of the Organisational Review Programme' (2011).

## **4. Structure**

### **Reporting Relationships**

A number of options are available for the institutional location of the Head of the Civil Service. In other jurisdictions the practice is for the Head of the Civil Service to report directly to the Prime Minister. The Independent Panel envisages that the Head would be independent of the Department of the Taoiseach, the Department of Finance and the Department of Public Expenditure and Reform, but with a direct reporting line to the Taoiseach.

The Independent Panel recommends that the Head of the Civil Service is a full-time position. The rationale for this conclusion is based on the scale of the envisaged role, the importance of having a full-time focus on assigned responsibilities and the already demanding workload of other Secretaries General. As a full-time, stand-alone position the Head of the Civil Service would ensure exclusive attention and focus on a limited number of important priorities, and this role would not be sidelined by other issues.

In its deliberations the Independent Panel examined a number of options. While there is a strong case in principle for combining the role with the position of Secretary General, Department of the Taoiseach, in practice the Independent Panel believes in the current Irish context the workload involved would be excessive. The Secretary General, Department of the Taoiseach, holds an exceptionally onerous position with important duties that cannot be delegated. For the same reason of workload and given the central role of the Department of Public Expenditure and Reform in resource allocation and expenditure negotiations, the Independent Panel is not convinced that it would be appropriate to combine the role with the Secretary General of that Department.

The Head of the Civil Service would attend Cabinet meetings in an observer capacity and also relevant Cabinet Committees, where necessary. The rationale for proposing that the Head attends Cabinet meetings is to ensure that the holder of the position has first-hand exposure to discussions on Programme for Government commitments, is aware of system-wide issues and also cross-cutting issues related to the delivery of policy priorities.

### **Budget and Resources**

The Office of the Head of the Civil Service should be appropriately resourced to fulfil its important functions. The Head of the Civil Service should develop a fully costed budget and structure for the Office within three months of appointment. The Office would need sufficient senior staff with considerable expertise so as to command appropriate authority across the administrative system.

To reflect the importance and authority of this role, and to ensure the position attracts high calibre experienced candidates, the Head of the Civil Service should be appointed as a Secretary General on Band 1 scale (i.e. €185,350). The holder of the position would use the title, Head of the Civil Service, and would also be the Accounting Officer for the Office of the Head of the Civil Service.

The establishment of the Office of the Head of the Civil Service would involve a realignment of some departmental responsibilities. The new structure may ultimately be underpinned by legislation but the Independent Panel does not see any impediment to proceeding to an early establishment of the Office and immediate recruitment of the Head of the Civil Service on an administrative basis.

### 3. Accountability Relationships

#### **Recommendation**

- Publish “who does what and to whom they are answerable”.

#### **Relationship between Ministers and Senior Officials**

The Independent Panel examined options in relation to the legal relationship between Ministers and senior officials. There was a strong consensus from stakeholders during the consultation process on the merits of maintaining a politically impartial Civil Service. The Independent Panel examined the legislative framework in this area and is confident that it does not, of itself, provide obstacles to strengthening accountability relationships and offering greater clarity about who has responsibility for what.

Greater transparency would be achieved through the introduction of a performance management system for Secretaries General, with input from individual Ministers, and oversight of the system by the Accountability Board for the Civil Service. This new system must have a cascading effect on performance throughout the entire Civil Service.

#### **Delegation of Authority within Departments**

One of the central characteristics of effective accountability arrangements is knowing “who does what and to whom they are answerable”.

The PSMA 1997 provides a statutory framework for the assignment of specific functions from the Secretary General to officials within Departments, with accountability flowing upwards to the Secretary General for the performance of those functions.

The PSMA 1997, however, does not require publication of assignments nor does it provide for annual renewal of the framework. In order to ensure greater accountability and transparency, it is essential that:

- Departments publish ‘who does what and to whom they are answerable’ to the level of Assistant Secretary and Principal Officer;
- Assignments should be reviewed annually.

Assignment of responsibility should be part of an annual performance focused dialogue between Secretaries General and senior officials, and more effectively linked to Statements of Strategy and annual Business Plans. This process already takes place in many areas but needs to operate consistently and effectively across the entire Civil Service.

A public and up to date framework of assignments would assist in strengthening accountability and dialogue between officials and Oireachtas Committees.

## 4. Oireachtas Committees

### Recommendation

- Ensure the Oireachtas has an important role to play in an effective accountability system.

The Oireachtas has a crucial role to play in strengthening Civil Service accountability and performance. The appearance of officials at Oireachtas Committee hearings - and their engagement with members - can enhance discussion about the implementation of policy objectives in the Programme for Government and in the Strategy Statements of Departments.

The Independent Panel is conscious that parliamentary reform is not explicitly referenced in the consultation paper. However, during its stakeholder meetings there was repeated questioning about the effectiveness of the role of the Oireachtas in a meaningful accountability regime.

In this regard, the Independent Panel is summarising these contributions in terms of the following observations:

- The quality and depth of discussion at Oireachtas Committees is important in reflecting the seriousness of parliamentary oversight. To be effective, these meetings should be marked by rigorous, meaningful and balanced engagement.
- A stronger research focus would assist in ensuring a more evidence-based interaction with officials on complex policy issues.

Elsewhere in this Report the Independent Panel has made a number of recommendations relevant in this context. These include:

- The Head of the Civil Service should present his/her annual report to the relevant Oireachtas Committee with the lead external member of the Accountability Board.
- To ensure there is appropriate parliamentary oversight, each Secretary General should meet annually with the relevant Oireachtas Committee specifically to discuss progress in delivery of published objectives outlined in the proposed new regime for Departments' Strategy Statements.
- The proposed publication of Department assignments - with greater identification of who is responsible for what - should strengthen accountability and provide enhanced understanding of the work of Departments and the distribution of responsibilities among senior staff.

Such enhanced parliamentary oversight would not affect the role of the Secretary General and his/her existing accountability to the Oireachtas or his/her discretion in relation to which officials attend Oireachtas Committees.

## 5. Flexibility to Manage

### Recommendation

- Support moves for **greater flexibility in decision making.**

### Why this recommendation?

In proposing a more rigorous accountability and performance system the Independent Panel endorses the view strongly articulated in its stakeholder meetings that a revised approach is needed to provide Departments with greater flexibility in matters of staffing and expenditure. This flexibility should be exercised in the context of a robust reporting regime and strict expenditure limits.

The Department of Public Expenditure and Reform has been central to many achievements on both the expenditure and the reform agendas since 2011. The Department is currently examining proposals to allow for greater flexibility in overall payroll and staffing numbers in individual Departments. The Independent Panel welcomes this initiative. These changes would be subject to the Government's budgetary strategy and its obligation to meet defined fiscal responsibilities under the EU's Stability and Growth Pact, the Fiscal Responsibility Act 2012 and the Ministers and Secretaries (Amendment) Act 2013.

A further theme emerging from the stakeholder meetings and from submissions is that decision-making in the Civil Service can frequently be over-centralised. This can have a negative impact on the responsiveness of the administrative system at Departmental level.

One of the hallmarks of an effective system of accountability and performance management is that people have the flexibility to manage within strict expenditure limits. Balanced against cost effectiveness, the Independent Panel would support further moves to provide greater local flexibility. The Independent Panel supports the initiation of a consultation process with senior Civil Service management to identify further scope for development in this area.

## 6. Human Resource Issues

### Recommendations

- Continuation of permanent tenure but greater flexibility in employment arrangements.
- Encourage wider mobility to extend experience.
- Stronger supports to proactively tackle poor performance.
- Performance-related pay is considered inappropriate.

There are a number of Human Resources (HR) issues that impact on the ability of the Civil Service to strengthen its accountability and performance. The issues identified in the consultation paper included recruitment, appointment, promotion, tenure, performance-related contracts and talent management. The Independent Panel has focused on a limited number of issues in this area as these are currently being considered in greater depth by the Civil Service Task Force on Renewal and Vision. The issue of reducing the number of grades in the Civil Service was raised in the consultation process. The Independent Panel understands that the Civil Service Task Force is progressing work in this area.

### Tenure

The Independent Panel endorses the continuation of permanent tenure as a positive attribute in Civil Service employment. Having a 'spine of permanent staff' supports a non-political Civil Service and ensures there is a cadre of personnel taking the longer-term view on policy design.<sup>13</sup>

The Independent Panel also supports a more outward looking Civil Service with an openness to different types of employment status. The Independent Panel welcomes recent moves to introduce greater flexibility in how Civil Service staff are recruited, in particular, where specialist skills are required and also where time-limited contracts are needed for specific projects. These positive changes should be encouraged and developed.

### Mobility

The Independent Panel welcomes recent measures to facilitate greater staff movement across the Civil Service, and between the Civil Service and the wider Public Service.

The Civil Service needs to be more outward looking. In this regard, the Independent Panel recommends further measures to allow staff at all levels to acquire experience outside the Civil Service. Secondments for a period to the private sector and other

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<sup>13</sup> However in the case of Secretaries General are generally appointed for a period of 7 years.

national and international public bodies including frontline agencies should be further encouraged.

### **Performance Management**

The difficulty in managing underperformance and non-performance in the Civil Service was raised regularly in submissions and stakeholder meetings.

While the numbers directly involved are limited, the problem is wider than the individuals concerned as it adversely impacts on the morale of staff who are performing well. It also poses challenges for the delivery and implementation of Department objectives and, as such, impacts negatively on effective accountability and performance.

It is frequently said that the private sector appears more willing to dismiss those who are not performing adequately. However, the private sector is not always subject to the strict financial transparency and constraints that exist in the Civil Service. In this regard, the private sector has more options to deal with poorly performing employees.

Based on the issues raised with the Independent Panel, we are recommending stronger and more robust internal supports for managers dealing with non-performance and underperformance.

Building on current supports HR and legal specialties should be further professionalised and available as an enhanced resource for line managers. Such a development should enable early intervention by managers. It would also assist underperformers, through identification and development measures, in raising their performance to the required level. While there are areas where a significant effort is being made, there is a need for this to be applied consistently and effectively across the system.

These measures would signal a significant cultural change that non-performance and underperformance will be identified and tackled at the earliest opportunity and on a continuous basis across the system.

### **Performance Related Pay**

Performance related pay and bonus systems are used in Civil Service systems in several jurisdictions to reward exceptional achievement and to incentivise senior staff. A system of performance related pay for Assistant Secretary level staff was discontinued due to the economic crisis.

The Independent Panel does not support the introduction of a performance related pay system. Such arrangements may not be appropriate in the Civil Service system where successes are reliant on collegiate relationships and teamwork. There was a strong consensus among stakeholders that performance related pay could be

incompatible with the values and ethos of the Civil Service which should be taking a long-term perspective on the public interest. However, there is need to ensure that opportunities are available to encourage structured career progression.

## 7. Agencies

### Recommendations

- Devise a clear policy on the establishment of agencies.
- The governance structure of agencies should be consistent with their legislative underpinning.

### Why this recommendation?

One of the issues raised during the consultation process was the place of agencies within the administrative system. This is a long-standing and unresolved issue about the role of agencies.

As outlined by the OECD in 2008, “agencification” proceeded with little thought to how the arrangements could be made more systematic or to the issues regarding overall governance. It has therefore led to a diversity of models which have had an impact on the clarity of accountability and performance arrangements.

The Independent Panel is addressing this issue to the extent that it has relevance to the accountability of the Civil Service. However, this obviously also has relevance to the managerial autonomy appropriate to bodies charged with precise objectives performed outside of Government Departments.

In 2011 as part of the Public Service Reform Plan, an agency rationalisation programme was proposed. The majority of the 48 rationalisation measures (involving 100 bodies) have been introduced. The Public Service Reform Plan 2014-2016 includes commitments to complete the rationalisation programme and to develop an updated Code of Practice for the Governance of State Agencies. Despite reforms, the lack of a cohesive policy identified by the OECD remains as to the future of the organisational form of service delivery as a whole. There is a need to determine by objective criteria what functions in principle should remain in enlarged Government departments and what functions should be carried out at arm’s length from the Civil Service.

The Independent Panel recommends that greater clarity would be provided by a precise definition of what is meant by the term “agency” in this context. It would also be helpful if there was a categorisation of agencies according to their statutory basis and funding arrangements. This would reflect the diversity of organisations from quasi-judicial independent agencies to those dealing with the delegation of tasks analogous to outsourcing. Clarification achieved would also have implications for Service Level Agreements in place between Departments and agencies.

The Independent Panel also heard views that there should be greater clarity in the accountability arrangements in place between Departments and agencies consistent with their statutory autonomy.

It would also be useful to examine the most appropriate reporting structure for agencies. In the course of its work, the Independent Panel heard that difficulties arise where there is ambiguity about appropriate reporting relationships.

Our previous observations in relation to the need for flexibility to manage apply also in relation to agencies. As recommended elsewhere in this Report, staff mobility between agencies and individual Departments should be encouraged.

## 8. Special Advisers

### Recommendations

- Introduce an Accountability Code.
- Mandatory induction training upon appointment.

### Why this recommendation?

Special Advisers are appointed under the terms of section 11 of the PSMA 1997. Their duties include providing advice to the Minister as well as monitoring, facilitating and assisting in the delivery of Government objectives relevant to the Minister's Department.

Special Advisers provide political, policy and communication supports to Ministers to whom they are directly accountable. They work to ensure implementation of the Minister's agenda as set down in the Programme for Government. In their work they bring an important political dimension to the advice provided to Ministers that would not be appropriate to expect or demand from an impartial Civil Service.

A theme that emerged in discussions between the Independent Panel and stakeholders was the need for greater clarity about the role of Special Advisers as well as the accountability regime that should apply to the holders of these positions.

As was noted in the 'Travers Report' in 2005, Special Advisers are not part of the line management system of a government department.<sup>14</sup> The same report also concluded that briefings provided by Civil Servants to Special Advisers are not an alternative to a direct briefing of a Minister on important areas of policy and operation.

It is widely accepted that Special Advisers have an important role to play in the administrative system. The interaction between Special Advisers and permanent civil servants can sometimes raise challenges. This situation is not unique to Ireland as similar issues arise in other jurisdictions.

In reaching its recommendations on Special Advisers, the Independent Panel supports strengthening accountability in this area.

### Accountability Code

Special Advisers in Ireland are not subject to a specific code of conduct unlike ministerial staff in other countries including in the United Kingdom and Australia. They

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<sup>14</sup> *Report on certain matters of management and administration in the Department of Health and Children associated with the practice of charges for persons in long-stay care in Health Board Institutions and related matters*, 2005, p.85.

are, however, subject to an accountability regime through the ethics legislation and the Civil Service Code of Standards and Behaviour. Special Advisers are also subject to the Official Secrets Act 1963 and Freedom of Information legislation. The Independent Panel believes that the introduction of an 'Accountability Code' would be beneficial in clarifying the role of the Special Adviser in the administrative system.

Such a code would set out roles and responsibilities, relations with Civil Servants and the standards of conduct expected in the performance of duties.<sup>15</sup> It should be reviewed regularly, ideally at least once in every Dáil cycle.

### **Induction training**

Special Advisers currently receive no formal induction training specific to their position within the administration. Individual departments may provide ad hoc briefings but there is no system-wide approach. The Independent Panel recommends making formal induction training mandatory for all new Special Advisers in order to enhance their understanding of how the Civil Service operates and how it interacts with the political system.

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<sup>15</sup> The UK's *Code of Conduct for Special Advisers* (Cabinet Office, 2010) also offers a template from which an Irish code could be prepared. See: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/62451/special-advisers-code-of-conduct.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62451/special-advisers-code-of-conduct.pdf)

## Appendix 1 – Meetings of Independent Panel

The Independent Panel held its first meeting on 17 January 2014, and in total held seventeen formal meetings of the Independent Panel itself. In addition to its own meetings, the members of the Panel met with a wide range of individuals and organisations (outlined below) to hear their views on the issues set out in the consultation paper.

### Ministers and Ministers of State

Enda Kenny, T.D.	Taoiseach
Frances Fitzgerald T.D	The then Minister for Children and Youth Affairs
Brian Hayes T.D.	Minister of State for Public Service Reform and the Office of Public Works
Brendan Howlin T.D.	Minister for Public Expenditure and Reform <sup>16</sup>
Michael Noonan T.D.	Minister for Finance <sup>17</sup>
Pat Rabbitte T.D.	Minister for Communications, Energy and Natural Resources <sup>18</sup>
Ruairi Quinn T.D.	Minister for Education and Skills
Leo Varadkar T.D.	Minister for Transport, Tourism and Sport

### Secretaries General and Heads of Office

Mr Jim Breslin	Secretary General, D/Children and Youth Affairs
Ms Josephine Feehily	Chairman, Office of the Revenue Commissioners
Mr Martin Fraser	Secretary General, D/Taoiseach
Mr John Moran	Secretary General, D/Finance
Mr Seán O’Foghlú	Secretary General, D/Education and Skills
Mr Tom O’Mahony	Secretary General, Department of Transport, Tourism and Sport
Ms Geraldine Tallon	The then Secretary General, D/Environment Community and Local Government
Mr Robert Watt	Secretary General, D/Public Expenditure and Reform

The Panel also met with the Secretary General Group (which includes the Secretary General or equivalent of each Government Department and Office as well as Second Secretaries General in the Department of the Taoiseach and the Department of Finance).

### Political Parties

Micheál Martin T.D.	Leader, Fianna Fáil
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### Panel visit to United Kingdom

Ms Susan Gray	Director General, Propriety and Ethics Team, Cabinet Office,
Rt. Hon. Margaret Hodge	Chair, Public Accounts Committee
Rt. Hon. Bernard Jenkin	Chair, Commons Public Administration Select Committee
Sir Robert Kerslake	Head of the UK Civil Service
Lord Gus O'Donnell	Former Head of the UK Civil Service
Mr Peter Riddell and Mr Akash Paun	Institute for Government,
Mr Jonathan Stephens	Former Permanent Secretary of Department of Culture, Media and Sport
Mr Stephen Waring	Department of Health

### Other Individuals and Organisations

Association of Assistant Secretaries and Higher Grades  
Association of Chief Executives of State Agencies  
Association of Higher Civil and Public Servants  
Ms Kathleen Barrington, former special advisor  
Mr Gerard Howlin, former special advisor  
Irish Congress of Trade Unions  
Mr Dermot McCarthy, former Secretary General  
Dr Eddie Molloy, Management Consultant  
Ms Emily O'Reilly, former Ombudsman and Information Commissioner  
David Lamberti, UK Cabinet Office

Senior Public Service  
Civil Service Task Force on Renewal and Vision

<sup>16</sup> Accompanied by Mr Ronan O'Brien, Special Adviser.

<sup>17</sup> Accompanied by Mr Eoin Dorgan, Special Adviser

<sup>18</sup> Accompanied by Mr Simon Nugent, Special Adviser, and Mr Finbar O'Malley, Special Adviser.

## Appendix 2 – Submissions Received

Advertisements were placed in national newspapers on 10 and 12 January, 2014 and again on 21 March, 2014 inviting submissions from interested parties on the issues outlined in the consultation paper. These submissions are available on the DPER's website [www.per.gov.ie](http://www.per.gov.ie)

Association of Assistant Secretaries and Higher Grades
Association of Chief Executives of State Agencies
Association of Higher Civil and Public Servants
T. Barrett
Dr Richard Boyle & Dr Muiris MacCarthaigh,
Mr Niall Callan
Department of Children and Youth Affairs
Department of Defence
Department of Finance
Department of Foreign Affairs
Department of Justice and Equality
Mr John Dowds & Mr Allen Morgan
EPS Consulting Ltd
Ms Orla Fay
Mr Peter Fegan
Ms Collette Finn
Mr Frank Fitzpatrick
Mr Con Foley
Mr Maurice Foster
Mr Maurice Goodman
Heads of Internal Audit
IBEC
Institute of Directors
Institute of Innovative Government, Dublin City University
Irish Congress of Trade Unions
Irish Heart Foundation
Mr Neville Keery
Ms Margaret Kennedy
Mr Frank Litton
Loughrea Enterprise Committee
Mr Michael Lynch
Mr James Martin
Mr Alan McCarthy
Mr Emmet McDonagh
Mr Francis McGeough
Mr Des O'Connor
Office of the Attorney General
Office of Public Works
Office of the Revenue Commissioners
One Sigma Ltd.
Mr Robert Rowan
Transparency Ireland
Ms Trisha Venegas

### **Appendix 3 - Terms of Reference of Independent Panel**

The terms of reference of the Independent Panel established to manage and oversee the consultation process on strengthening Civil Service accountability and performance are as follows:-

- To initiate and oversee a broad and inclusive public consultation process. Review submissions received, and engage in public fora and/or in bilateral consultations as appropriate;
- Consult and engage with key stakeholders including Ministers, Secretaries General/Heads of Office, senior civil and public servants;
- Review the assessment and reforms options set out in the consultation paper, '*Strengthening Civil Service Accountability and Performance*';
- Throughout its work, to engage on an on-going basis with the Civil Service Task Force on Renewal and Vision;
- Develop recommendations, including possible reform options, for consideration by the Minister for Public Expenditure and Reform;

The Independent Panel will be supported in their work by the Government Reform Unit, Department of Public Expenditure and Reform.