

HOUSE OF LORDS

Select Committee on the Constitution

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6th Report of Session 2021–22

# Revision of the Cabinet Manual

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# Revision of the Cabinet Manual

## Introduction

1. The first edition of the Cabinet Manual was published by the then Government in 2011, as a “guide to the laws, conventions and rules on the operation of government”.<sup>1</sup>
2. Although the first edition is almost ten years old the Government recently confirmed it did not plan to update the Manual in the short term.<sup>2</sup>
3. The Committee therefore decided to conduct a short inquiry to explore whether it needed to be updated, the process for doing so, how Parliament should be involved and what role the Manual should play as a public document.<sup>3</sup>
4. We were grateful to receive a small number of written submissions for this inquiry, and to receive oral evidence from Lord O’Donnell and Lord Sedwill, former Cabinet Secretaries, and Simon Case, the current Cabinet Secretary.<sup>4</sup>

## Background

5. Amidst various allegations of misconduct in public life, the Committee on Standards in Public Life was established by the former prime minister Rt Hon Sir John Major in 1994, to advise on how these standards could be raised. The first Chair of the Committee, the Rt Hon Lord Nolan, outlined the ethical standards those working in the public sector should adhere to—the Seven Principles of Public Life (‘the Nolan Principles’) in 1995.<sup>5</sup> The Nolan Principles and subsequent recommendations by the Committee on Standards in Public Life have continued to influence the standards landscape, within the Government and in both Houses of Parliament.
6. Since the publication of the Nolan Principles there has been a requirement that certain standards in public life will be adhered to by ministers, parliamentarians and officials. These standards began to be articulated and published in various ‘codes’, including the Ministerial Code,<sup>6</sup> the Civil

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1 Cabinet Office, *The Cabinet Manual: a guide to the laws, conventions and rules on the operation of government* (1st edition, October 2011): <https://www.gov.uk/government/publications/cabinet-manual> [accessed 1 July 2021]

2 Correspondence, William Wragg MP, Chair of the Public Administration and Constitutional Affairs Committee, and Simon Case, the Cabinet Secretary, of 22 February and 5 March 2021: <https://committees.parliament.uk/publications/5001/documents/49916/default/>

3 See Appendix 3 for the call for evidence.

4 See Appendix 2 for details.

5 Committee on Standards in Public Life, *Seven Principles of Public Life* (May 1995): <https://www.gov.uk/government/publications/the-7-principles-of-public-life> [accessed 1 July 2021]. The seven principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

6 Cabinet Office, *Ministerial Code* (August 2019): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf) [accessed 1 July 2021]. The Code was first published in 1997 and since September 2010 was updated in October 2015, December 2016, January 2018 and August 2019. The precursor document to the Code, *Questions of Procedure for Ministers*, was first published in 1992, though text with this title was first issued for internal government use in 1945. Precursors to *Questions of Procedure for Ministers* date back as far as January 207, when Sir Maurice Hankey, Secretary to the War Cabinet, produced a document called *Rules of Procedure*, issued to all government ministers. See Andrew Blick, *The Codes of the Constitution* (Bloomsbury, Oxford, 2016), pp 23–27.

Service Code<sup>7</sup> and the Code of Conduct for Special Advisers<sup>8</sup> (‘the Codes’), all of which explicitly incorporated the Nolan Principles. The Codes generally articulate the conduct and standards of behaviour their respective subjects are expected to follow, including enforcement mechanisms should any breaches occur, which generally rest upon ‘soft’ rather than ‘hard’ law remedies.

7. The production of the Cabinet Manual followed the publication of the Codes and was initiated by Rt Hon Gordon Brown and concluded by Rt Hon David Cameron. It was inspired, in part, by the New Zealand Cabinet Manual.<sup>9</sup>
8. A draft of what became chapter 2 of the Manual, on elections and government formation, was published in February 2010. The House of Commons Justice Committee scrutinised this chapter and made recommendations on it in advance of the 2010 general election.<sup>10</sup>
9. The coalition Government then published a full draft of the Manual in December 2010 for public consultation, including engagement with select committees in both Houses which published several reports in response.<sup>11</sup> Our 2011 report acknowledged the Manual’s status as an executive document and made recommendations on its purpose and status, as well as its content. Some of the Committee’s recommendations were reflected in the first edition of the Manual, which was published in October 2011.
10. The Manual was ultimately endorsed by the Cabinet and is intended to provide authoritative guidance to ministers and officials by recording (rather than being the source of) rules and practice on the operation of government.

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7 Civil Service, *Civil Service Code* (16 March 2015): <https://www.gov.uk/government/publications/civil-service-code> [accessed 1 July 2021]. The Code was first published in 1996. Since 2010 it has been issued under the authority of the [Constitutional Reform and Governance Act 2010](#). It was subsequently updated in March 2015.

8 Cabinet Office, *Code of Conduct for Special Advisers* (December 2016): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/832599/201612\\_Code\\_of\\_Conduct\\_for\\_Special\\_Advisers.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/832599/201612_Code_of_Conduct_for_Special_Advisers.pdf) [accessed 1 July 2021]. The Code was first published in 2001; with a further edition in 2005. 2010 it has been issued under the authority of the [Constitutional Reform and Governance Act 2010](#). It was subsequently updated in October 2015, December 2016, September 2019 and August 2020.

9 New Zealand Government, *Cabinet Manual* (2017): <https://dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf> [accessed 1 July 2021]. For similar documents adopted by governments operating on the Westminster model see also Australian Government, *Cabinet Handbook* (14th edition, 2020): <https://pmc.gov.au/sites/default/files/publications/cabinet-handbook-14th-edition.pdf> [accessed 1 July 2021] and Canadian Government, *Open and Accountable Government* (2015): [https://pm.gc.ca/sites/pm/files/inline-files/oag\\_2015\\_english.pdf](https://pm.gc.ca/sites/pm/files/inline-files/oag_2015_english.pdf) [accessed 1 July 2021]

10 Justice Committee, *Constitutional Processes following a General Election* (Fifth Report, Session 2009–10, HC 396). The draft chapter on elections and government formation is in the written evidence: <https://publications.parliament.uk/pa/cm200910/cmselect/cmjust/396/396we01.htm>

11 See Constitution Committee, *The Cabinet Manual* (12th Report, Session 2010–12, HL Paper 107), Political and Constitutional Reform Committee, *Constitutional Implications of the Cabinet Manual* (Sixth Report, Session 2010–12, HC 734) and Public Administration Committee, *Cabinet Manual* (Eight Report, Session 2010–12, HC 900). For the Government’s response to all three reports see HM Government, *Government Response to the House of Lords Constitution Committee, Political and Constitutional Reform Committee and Public Administration Select Committee on the Cabinet Manual Committee Reports of Session 2010–12*, Cm 8213 (October 2011): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60643/govres-holccpcrc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60643/govres-holccpcrc.pdf) [accessed 1 July 2021]. For a summary of the submissions received in response to the public consultation and the Government’s response, see HM Government, *Government response to comments received on the Draft Cabinet Manual* (October 2011): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60642/govres-comments-received-draft-cabinet-manual.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60642/govres-comments-received-draft-cabinet-manual.PDF) [accessed 1 July 2021]

While the Manual broke some new ground in terms of content, particularly regarding elections and government formation, it also drew together existing materials from a variety of sources, including the Codes and relevant statutes, parliamentary materials, and Cabinet Office guidance.

11. The Manual is therefore a guidance document or work of reference rather than a code. The Manual does not require ministers or officials to behave in a particular manner beyond what is already required by the Codes or by law. Accordingly, the Manual does not include enforcement mechanisms. Lord O'Donnell's preface to the first edition said the Manual was not intended "to be legally binding or to set issues in stone".<sup>12</sup>
12. As part of what Simon Case described as "our weird and wonderful constitution"<sup>13</sup> he agreed the Manual and the Codes were important. He told us that: "They set out, in any given moment, the norms by which government operates, the standard expected of ministers and the civil service ... They are important and should be kept in the forefront of people's minds" but if "we end up in a system in which it is only the letter of the law, or of the codes or the guidance that runs, we have missed something. It is about culture and people wanting to uphold those basic principles".<sup>14</sup> **We agree.**

### Status of the Cabinet Manual

13. Lord O'Donnell told us the Manual was a "valuable document ... having one, as long as it is up to date, is very, very important for the business of government". Lord Sedwill said the Manual was a useful document which he referred to as Cabinet Secretary.<sup>15</sup> Lord O'Donnell and Lord Sedwill agreed the Manual should set out the expectations of good government, rather than simply reflecting current practice.<sup>16</sup> Lord O'Donnell emphasised the Manual's status as an executive document,<sup>17</sup> as did Simon Case, who said it: "has to belong to the Prime Minister and Cabinet of the day, to articulate their view of how government should, and can, work".<sup>18</sup>
14. Simon Case said the Manual provided a useful "single reference" which, while not comprehensive, acted as a "gateway" to other documents such as the Ministerial and Civil Service Codes. However, he admitted that, in practice, the Manual "comes up less in conversation than the other codes".<sup>19</sup>
15. Grant Duncan, Associate Professor, Massey University, told us that the authority of the New Zealand Cabinet Manual:
 

"arises from its evolution over time. It has been signed off and updated by successive governments as the 'operating manual'; it's been recognised and cited by members on all sides of the House of Representatives. It therefore has cross-party recognition and political legitimacy."<sup>20</sup>

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12 Cabinet Office, *The Cabinet Manual: a guide to the laws, conventions and rules on the operation of government*, pp iii–v

13 [Q 19](#) (Simon Case)

14 [Q 28](#) (Simon Case)

15 [Q 17](#) (Lord Sedwill)

16 [Q 6](#) (Lord O'Donnell, Lord Sedwill)

17 [QQ 1, 10, 13, 14](#) (Lord O'Donnell)

18 [Q 20](#) (Simon Case)

19 [Q 19](#) (Simon Case)

20 Written evidence from Grant Duncan ([RCM0003](#))

16. Lord O’Donnell and Lord Sedwill did not think that the lack of formal enforcement mechanisms in the Manual rendered it ineffective. The consequences of contravention might be “merely” political, they said, but they remained a powerful means of shaping ministerial behaviour and enhancing scrutiny of executive action.<sup>21</sup> Lord O’Donnell told us:

“if you have an up-to-date Cabinet Manual, the Cabinet Secretary is in a very strong position to go to the Prime Minister and say, ‘Prime Minister, you do understand that if we do this, that will not be what the Cabinet Manual suggests and would therefore possibly be subject to some controversy?’”<sup>22</sup>

17. Lord O’Donnell and Lord Sedwill said that having conventions written down in the Manual meant Parliament could assess and scrutinise ministerial behaviour against this benchmark. If there was a perception the conventions were not being followed, Government could be held to account for its conduct accordingly.<sup>23</sup>
18. Noting the lack of enforcement mechanisms in the Manual, Simon Case emphasised such mechanisms were already set out in “constituent” documents such as the Ministerial and Civil Service Codes.<sup>24</sup> On Parliament’s potential role, Simon Case told us:

“I cannot imagine the Executive being willing to hand over wholesale to Parliament the oversight and enforcement of things, such as the Cabinet Manual, which are rightly a job for the Prime Minister, involving the sovereign and advice under the royal prerogative. But, clearly, Parliament has many mechanisms for holding the Executive to account.”<sup>25</sup>

19. **Given the Cabinet Manual’s role in recording—rather than prescribing—constitutional rules from a number of different sources, it has a different status from documents such as the Ministerial Code and the Civil Service Code, which include their own enforcement mechanisms. As a matter of constitutional principle, ensuring adherence to the content of the Manual, in general terms, will ultimately be a matter for the Prime Minister.**
20. *We recommend that the Prime Minister makes clear, in the foreword to the next edition, the duty on all ministers to adhere to the constitutional principles in the Cabinet Manual.*

### Updating the Cabinet Manual

21. In his preface to the first edition, Lord O’Donnell wrote:

“The content of the Cabinet Manual is not static, and the passage of new legislation, the evolution of conventions or changes to the internal procedures of government will mean that the practices and processes it describes will evolve over time. If the Cabinet Manual is to continue to play a useful role as a guide to the operations and procedures of

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21 [Q 18](#) (Lord O’Donnell, Lord Sedwill)

22 [Q 6](#) (Lord O’Donnell)

23 [QQ 6, 10, 11](#) (Lord O’Donnell, Lord Sedwill)

24 [Q 38](#) (Simon Case)

25 [Q 24](#) (Simon Case)

- government, it will need to be updated periodically to reflect such developments.”<sup>26</sup>
22. In answer to a written question in the House of Lords on 22 May 2018, the then spokesperson for the Cabinet Office said the Government would “undertake an update of the Cabinet Manual once the UK has left the EU.”<sup>27</sup> In response to a report by the Public Administration and Constitutional Affairs Committee in September 2018, the Government said: “The Manual will also need to be revised once the UK leaves the EU, to reflect any changes in the constitutional settlement. At the point at which revisions to the Manual are being actively considered, our expectation is that ministers will want to consider views from Parliament, including relevant committees such as PACAC and the Lords Constitution Committee.”<sup>28</sup>
  23. Since the Manual’s publication in 2011 there have been significant developments in relation to Brexit and devolution, including the response to the COVID-19 pandemic. The Joint Committee on the Fixed-term Parliaments Act (FTPA) reported in March 2021 on its understanding of the conventions on calling of elections and government formation, should the FTPA be repealed and the *status quo ante* return.<sup>29</sup>
  24. Since 2011, the Codes have been updated regularly to reflect changes in practice and of government. Simon Case told us that on taking office a new Prime Minister may decide to make changes to the Ministerial Code.<sup>30</sup>
  25. Most of our witnesses agreed the Manual should be updated, and that it was now overdue. Professor Flinders said that there was no point in setting out rules and procedures if they were allowed to become “outdated”.<sup>31</sup> Dr Blick said allowing the Manual to go out of date would undermine its authority and noted “the desire to avoid difficult issues ... could well be a reason that the executive seems uninterested in producing a revised edition.”<sup>32</sup> Grant Duncan warned that an “out-of-date Cabinet Manual can lead to confusion among members of the public or the media who may read it as authoritative.”<sup>33</sup>
  26. Lord Sedwill said work had begun to update the Manual when he was Cabinet Secretary but had not been completed. In his view, the Manual “clearly should be updated”.<sup>34</sup>

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26 Cabinet Office, *The Cabinet Manual: a guide to the laws, conventions and rules on the operation of government*, pp iv

27 Written Answer [HL7826](#), Session 2017–19

28 Public Administration and Constitutional Affairs Committee, *Ensuring Proper Process for Key Government Decisions: Lessons Still to be Learned from the Chilcot Report: Government response to the Committee’s Fourth Report* (Seventh Special Report, Session 2017–19, HC 1555), p 2

29 Joint Committee on the Fixed-term Parliaments Act, *Report* (Session 2019–21, HC 1046, HL Paper 253), paras 145, 185 and 234, and Box 1. The [Dissolution and Calling of Parliament Bill](#) was introduced to the House of Commons on 12 May 2021 and received its second reading on 6 July.

30 [Q 22](#) (Simon Case)

31 Written evidence from Professor Matthew Flinders ([RCM0001](#))

32 Written evidence from Dr Andrew Blick ([RCM0002](#))

33 Written evidence from Grant Duncan ([RCM0003](#))

34 [Q 2](#) (Lord Sedwill). Lord Sedwill was acting Cabinet Secretary from June to October 2018, then Cabinet Secretary until September 2020. See also Global Government Forum, ‘Ministers must be challenged on misleading statements, says former cabinet secretary’ (17 March 2021): <https://www.globalgovernmentforum.com/ministers-challenged-misleading-statements-former-cabinet-secretary/> [accessed 1 July 2021]. Lord Sedwill said the update had been “crowded out”.

27. Simon Case said the main changes to the Manual would concern Brexit, devolution and the repeal of FTPA subject to the will of Parliament.<sup>35</sup> He said that competing priorities, including the Government’s response to COVID-19, had meant little progress had been made on updating the Manual, because of the resulting lack of “bandwidth” and “capacity”.<sup>36</sup> On the timing of an update to the Manual, he told us:

“There is always a question of timing. There is always an argument for now and an argument for later ... I think that argument is much clearer now that we have left the EU. We talked about the devolution settlements. The repeal of the [FTPA] would strengthen again the argument for doing it in reasonably short order. In my practical experience, it is in the processes of elections and the formation of government that the Cabinet Manual most often comes out and is used. That probably adds to the argument for wanting to update it in the coming period.”<sup>37</sup>

28. Since the first edition of the Manual in 2011, a number of suggested revisions have been made, including by this Committee, committees in the House of Commons, in other parliamentary proceedings and in the evidence received for this inquiry. These suggestions are summarised in Appendix 4.

### Process for updating the Cabinet Manual

29. In our 2011 report, we recommended that the Manual be regularly updated, with any revisions reflected immediately in the online version.<sup>38</sup> The Government’s response at that stage was less committed, saying that “periodic updates” would be made “as and when appropriate”, the timing and process for which would “be considered in light of experience.”<sup>39</sup>
30. Dr Blick told us: “The Government could commence updates of the Manual at the beginning of each Parliament. It could instigate a process of wide consultation, including with committees of the UK Parliament, devolved institutions, the judiciary, and further interested parties, such as academics and other experts.” Dr Blick cautioned against piecemeal updates due to the potential confusion this could cause.<sup>40</sup>
31. Lord O’Donnell and Lord Sedwill suggested a new “convention” should be established, subject to approval by the Prime Minister, that the Manual should be updated at the beginning of a new parliament “as a matter of

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35 [Q 23](#) (Simon Case)

36 [Q 26](#) (Simon Case)

37 *Ibid.*

38 See Constitution Committee, *The Cabinet Manual* (12th Report, Session 2010–12, HL Paper 107), paras 93 and 94. See also Cabinet Office, *The Cabinet Manual–Draft* (December 2010), p 7: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60645/cabinetdraftmanual.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60645/cabinetdraftmanual.pdf) [accessed 1 July 2021]. Lord O’Donnell’s preface said the final version “will be regularly reviewed to reflect the continuing evolution of the way in which Parliament and government operate. We envisage that an updated version will be available on the Cabinet Office website, with an updated hard copy publication at the start of each new Parliament.”

39 HM Government, *Government Response to the House of Lords Constitution Committee, Political and Constitutional Reform Committee and Public Administration Select Committee on the Cabinet Manual Committee Reports of Session 2010–12*, p 17

40 Written evidence from Dr Andrew Blick ([RCM0002](#))

routine”.<sup>41</sup> They said the Cabinet Office could begin the process as the previous Parliament was coming to an end, consulting constitutional experts, Parliament and committees (as was done before the first edition of the Manual was published in 2011), using the election period to refine the input and presenting the outcome to a new or re-elected Prime Minister for approval. Lord Sedwill emphasised that establishing such a process would guard against “now ... never [being] the right time” for subsequent reviews to take place.<sup>42</sup>

32. Simon Case said any update to the Manual was for the Prime Minister to instigate, on the basis of advice from officials, on either a rolling basis or every few years. He anticipated the process for producing the first edition would be followed, including a three-month consultation period with Parliament, academics and the public on the draft changes, before they were finalised. He confirmed there was no target date for revising the Manual and no set process for doing so. He would want “to look at things such as this Committee’s findings before setting out on that path.”<sup>43</sup> However, he did not disagree with his predecessors’ suggested approach for updating the Manual:

“There would be real logic in adopting that automaticity, not necessarily meaning that it had to be updated, but at least a process for asking whether it should be updated at the start of each Parliament ... we adopt this approach for things like the Ministerial Code, which is refreshed at the start of each administration, when a Prime Minister comes in. There would be logic to adopting a similar approach”.<sup>44</sup>

33. The New Zealand Cabinet Manual is reviewed and updated periodically. From time to time the New Zealand Cabinet Office issues Cabinet Office circulars to supplement or update guidance in the Cabinet Manual. A number of bodies are routinely consulted on updates to the New Zealand Manual, including parliamentary counsel, the Clerk of the House of Representatives and the House’s Legislation Design and Advisory Committee.<sup>45</sup>
34. **Much has happened since the first edition of the Cabinet Manual was published in 2011. For the Cabinet Manual to remain useful it needs to be regularly updated. An out-of-date Manual will lack authority, cause confusion about what arrangements apply and risk becoming moribund. Updating the Cabinet Manual is now well overdue.**
35. ***We recommend that a draft update of the Cabinet Manual should be produced as soon as possible, and not later than 12 months from the date of this report.***

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41 [QQ 2, 5](#) (Lord O’Donnell, Lord Sedwill). Professor Flinders and the Law Society of Scotland made a similar suggestion; see written evidence from Professor Matthew Flinders ([RCM0001](#)) and the Law Society of Scotland ([RCM0004](#)). See also Political and Constitutional Reform Committee, *Revisiting the Cabinet Manual* (Fifth Report, Session 2014–15, HC 233), para 50. In evidence, the then Cabinet Secretary, Sir Jeremy Heywood, told the Committee he would “discuss with ministers whether we could, alongside the online version of the Manual, have a list of the issues we already know will need to be taken into account at the next point of updating, without giving people the actual wording.”

42 [QQ 2, 5](#) (Lord O’Donnell, Lord Sedwill)

43 [QQ 21, 22, 26](#) (Simon Case)

44 [Q 22](#) (Simon Case)

45 We were grateful to receive a letter from the deputy secretary to the New Zealand Cabinet describing the procedure for updating the New Zealand Manual in more detail, which is in Appendix 5. Grant Duncan also told us that: “All members of parliament are free to suggest amendments, as are civil servants and members of the public; see written evidence ([RCM0003](#)).

36. *We recommend that thereafter any updates to the Cabinet Manual should as a matter of routine be considered at the beginning of each Parliament and endorsed by the Cabinet. As with the first edition, this process should include consulting parliamentary committees, academics and the public on a draft version.*
37. *We recommend that in between regular updates to the Cabinet Manual any important revisions should be reflected immediately in the online version, as we recommended in our 2011 report.*
38. *We recommend that the next edition of the Cabinet Manual should set out clearly the process for producing subsequent versions.*

### Role of Parliament

39. In 2011, the Constitution Committee and Public Administration Committee recommended that, while Parliament may have a role in scrutinising the draft Manual and future revisions, it should not formally endorse them—the document was for executive use and so should not require Parliament’s approval.<sup>46</sup> In response the Government agreed that the Cabinet should endorse the Manual.<sup>47</sup>
40. In his foreword to the first edition, David Cameron welcomed the role played by select committees in developing the draft. Lord O’Donnell’s preface said the committees’ reports had been “extremely valuable in identifying areas of controversy, errors or omissions, and areas where the draft could be improved.”<sup>48</sup> While the devolved legislatures were not formally consulted on the draft Manual in the same way as UK parliamentary committees, we understand the devolved administrations made submissions in response to the public consultation exercise.<sup>49</sup>
41. In 2015 the Commons Political and Constitutional Reform Committee recommended: “Where revisions touch on Parliament and its relationship with the Executive, we believe that the relevant parliamentary committees should be consulted on proposals for revision.”<sup>50</sup>
42. Our witnesses had mixed views about the role of Parliament in updating the Manual. The Law Society of Scotland and Professor Flinders said that revisions should be scrutinised and approved by Parliament, but Associate Professor Duncan did not consider Parliament should have any formal role in approving the Manual.<sup>51</sup>

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46 See Constitution Committee, *The Cabinet Manual* (12th Report, Session 2010–12, HL Paper 107), paras 8 and 4, and Public Administration Committee, *Cabinet Manual* (Eight Report, Session 2010–12, HC 900), paras 53 and 54. The Political and Constitutional Reform Committee thought that the decision on whether the Manual should be open to amendment and endorsement by Parliament would depend on how its status evolved; see Political and Constitutional Reform Committee, *Constitutional Implications of the Cabinet Manual* (Sixth Report, Session 2010–12, HC 734), para 40

47 HM Government, *Government Response to the House of Lords Constitution Committee, Political and Constitutional Reform Committee and Public Administration Select Committee on the Cabinet Manual Committee Reports of Session 2010-12*

48 Cabinet Office, *The Cabinet Manual: a guide to the laws, conventions and rules on the operation of government*, pp iii–v

49 HM Government, *Government response to comments received on the Draft Cabinet Manual*, p 5

50 Political and Constitutional Reform Committee, *Revisiting the Cabinet Manual* (Fifth Report, Session 2014–15, HC 233)

51 Written evidence from Professor Matthew Flinders ([RCM0001](#)), written evidence from Associate Professor Grant Duncan ([RCM0003](#)) and written evidence from the Law Society of Scotland ([RCM0004](#))

43. While Lord O'Donnell and Lord Sedwill agreed Parliament should be consulted on any updates and could suggest changes, it should not be invited to endorse updates.<sup>52</sup> Simon Case emphasised that, as the Manual concerned the operation of Parliament and the interaction between the executive and Parliament, Parliament should be involved in its revision.<sup>53</sup>
44. **We note the open and constructive engagement which took place between the then Government and parliamentary committees on the first draft of the Cabinet Manual in 2010–11, which resulted in changes to the first edition.**
45. *We recommend that future drafts, including draft individual chapters, should be shared with our Committee and the relevant committee in the House of Commons for comment. This can help to achieve consensus on the text.*
46. *We recommend that the Government formally consults the relevant committees in the devolved legislatures on any revisions to the Cabinet Manual.*

### Public awareness

47. David Cameron's foreword to the first edition said the Manual was invaluable "in ensuring that the workings of government are far more open and accountable."<sup>54</sup>
48. The Law Society of Scotland and Professor Flinders did not consider the Manual to have a significant public profile.<sup>55</sup> Dr Blick told us the Manual's publication demonstrated it was "designed with public consumption in mind ... It can also, in theory, help promote public understanding of and confidence in the constitution."<sup>56</sup>
49. Grant Duncan told us the New Zealand Manual performed a number of valuable public roles, including clarifying constitutional conventions "for the benefit of civil servants, journalists and the public", and providing a "plain-English explanation" of the uncodified New Zealand constitution.<sup>57</sup>
50. Lord O'Donnell and Lord Sedwill said that documents such as the Manual were "very useful ... when you are trying to teach people about constitutional issues in a country that does not have a written constitution."<sup>58</sup> Simon Case agreed it was important for the public to understand how documents such as the Manual work, and the process for updating them.<sup>59</sup>
51. **Understanding of the United Kingdom constitution should not be the sole preserve of those working in the field. Public awareness and acceptance of constitutional arrangements, including as described in the Cabinet Manual, is critical to their legitimacy.**

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52 [Q 13](#) (Lord O'Donnell) and [Q 14](#) (Lord Sedwill)

53 [Q 24](#) (Simon Case)

54 Cabinet Office, *The Cabinet Manual: a guide to the laws, conventions and rules on the operation of government*, p iii

55 Written evidence from the Law Society of Scotland ([RCM0004](#)) and Professor Matthew Flinders ([RCM0001](#))

56 Written evidence from Dr Andrew Blick ([RCM0002](#))

57 Written evidence from Associate Professor Grant Duncan ([RCM0003](#))

58 [QQ 1, 15](#) (Lord O'Donnell, Lord Sedwill)

59 [Q 22](#) (Simon Case)

52. ***We recommend that the Cabinet Manual should continue to be drafted in an accessible and clear style which does not presume detailed knowledge of the United Kingdom constitution and the operation of government.***

### Standards in public life

53. A 2019 report by the Constitution Society, *Good Chaps No More? Safeguarding the Constitution in Stressful Times*, by Lord Hennessy of Nympsfield<sup>60</sup> and Dr Andrew Blick, Head of Department of Political Economy at King’s College London, observed:

“The period since the European Union referendum of June 2016 has seen a series of disputes about whether or not constitutional abuses have taken place. They have touched upon many of the main governmental organs ... Collectively they serve to demonstrate potential weaknesses in the traditional model of constitutional regulation. If general standards of good behaviour among senior UK politicians can no longer be taken for granted, then neither can the sustenance of key constitutional principles.”<sup>61</sup>

54. In our 2020 report on the *United Kingdom Internal Market Bill*, we noted that established conventions, including the requirement for the Government to act in accordance with international law and normally to legislate in devolved areas with the consent of the relevant devolved legislatures, had come under strain.<sup>62</sup> Our inquiry was conducted at the same time as alleged breaches of the Ministerial Code and Civil Service Code.<sup>63</sup> Appendix 6 sets out expectations of ministers, as derived from various codes.
55. Lord O’Donnell has expressed concern about ministers who make misleading statements and rely on inaccurate statistics, as this undermines public trust.<sup>64</sup> However, Lord Sedwill told us that standards in public life coming under strain tended “to go in cycles”.<sup>65</sup>
56. Simon Case emphasised that upholding standards in public life was the “duty of everybody, including all parliamentarians”; his experience confirmed there was a significant commitment among ministers and officials always to operate within the rules.<sup>66</sup> While codes were important in maintaining standards, he did not consider them “sufficient in and of themselves”,

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60 Lord Hennessy of Nympsfield is a member of the Constitution Committee.

61 The Constitution Society, *Good Chaps No More? Safeguarding the Constitution in Stressful Times*, p 3: <https://consoc.org.uk/wp-content/uploads/2019/11/FINAL-Blick-Hennessy-Good-Chaps-No-More.pdf> [accessed 2 July 2022]

62 Constitution Committee, *United Kingdom Internal Market Bill* (17th Report, Session 2019–21, HL Paper 151), paras 50, 72 and 229

63 Examples include the finding by the then Independent Adviser on Ministerial Interests that the Home Secretary, Rt Hon Priti Patel MP, broke the Ministerial Code, which led to the resignation of the independent adviser when the Prime Minister did not accept this finding; investigations into alleged conflicts of interest of ministers and civil servants in their involvement with the financier, Lex Greensill; and investigations into the financial arrangements for refurbishing the Prime Minister’s residential quarters in Downing Street. In December 2020 the Prime Minister nominated Peter Cruddas (now Lord Cruddas) to be a life peer, contrary to the advice of the independent House of Lords Appointments Commission.

64 Global Government Forum, ‘Ministers must be challenged on misleading statements, says former cabinet secretary’ (17 March 2021): <https://www.globalgovernmentforum.com/ministers-challenged-misleading-statements-former-cabinet-secretary/> [accessed 2 July 2021]

65 [Q 18](#) (Lord Sedwill)

66 [Q 27](#) (Simon Case)

saying that an organisation’s “culture is far more important, in the end, than anything that is written in any document.”<sup>67</sup>

57. The Committee on Standards in Public Life is conducting a ‘landscape’ review of the institutions, processes and structures in place to support high standards of conduct. The Committee on Standards in Public Life published its interim report on 14 June 2021 and intends to issue its final report to the Prime Minister in September 2021.<sup>68</sup>
58. **Documents such as the Cabinet Manual, Ministerial Code and Civil Service Code are an important part of the United Kingdom’s constitutional framework. Together with the Nolan Principles, respect for the Manual and Codes is essential for upholding principles of good governance, including adherence to constitutional conventions and the proper conduct of public and political life. They are crucial to the wider national wellbeing as well as to the public’s trust in government. They must never be treated as optional extras to be swept aside or ignored to suit the convenience of the executive.**

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67 [Q 28](#) (Simon Case)

68 Committee on Standards in Public Life, *Standards Matter 2: Committee Findings* (14 June 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/993233/Committee\\_on\\_Standards\\_in\\_Public\\_Life\\_-\\_Standards\\_Matter\\_2\\_-\\_Report\\_of\\_Findings.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/993233/Committee_on_Standards_in_Public_Life_-_Standards_Matter_2_-_Report_of_Findings.pdf) [accessed 2 July 2022]

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

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### Members

Baroness Corston  
Baroness Doocey  
Baroness Drake  
Lord Dunlop  
Lord Faulks  
Baroness Fookes  
Lord Hennessy of Nympsfield  
Lord Hope of Craighead  
Lord Howarth of Newport  
Lord Howell of Guildford  
Lord Sherbourne of Didsbury  
Baroness Suttie  
Baroness Taylor of Bolton (Chair)

### Declarations of interest

Baroness Corston  
*No relevant interests*  
Baroness Doocey  
*No relevant interests*  
Baroness Drake  
*No relevant interests*  
Lord Dunlop  
*No relevant interests*  
Lord Faulks  
*No relevant interests*  
Baroness Fookes  
*No relevant interests*  
Lord Hennessy of Nympsfield  
*No relevant interests*  
Lord Hope of Craighead  
*No relevant interests*  
Lord Howarth of Newport  
*No relevant interests*  
Lord Howell of Guildford  
*No relevant interests*  
Lord Sherbourne of Didsbury  
*No relevant interests*  
Baroness Suttie  
*No relevant interests*  
Baroness Taylor of Bolton (Chair)  
*No relevant interests*

A full list of members' interests can be found in the Register of Lords' Interests: <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>

Professor Jeff King, University College London, and Professor Stephen Tierney, University of Edinburgh, acted as legal advisers to the Committee. They both declared no relevant interests.

## APPENDIX 2: LIST OF WITNESSES

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Evidence is published online at <https://committees.parliament.uk/work/1150/revision-of-the-cabinet-manual/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \* gave both oral evidence and written evidence. Those witnesses marked \*\* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

- |    |   |                          |
|----|---|--------------------------|
| ** | Lord O'Donnell GCB and Lord Sedwill KCMG,<br>former Cabinet Secretaries | <a href="#">QQ 1–18</a>  |
| ** | Simon Case, Cabinet Secretary   | <a href="#">QQ 19–38</a> |

### Alphabetical list of all witnesses

- |    |  |                         |
|----|--|-------------------------|
|    | Dr Andrew Blick, Head of Department of Political<br>Economy, King's College London | <a href="#">RCM0002</a> |
| ** | Simon Case, Cabinet Secretary ( <a href="#">QQ 19–38</a> )                         |                         |
|    | Grant Duncan, Associate Professor, Massey<br>University                            | <a href="#">RCM0003</a> |
|    | Professor Matthew Flinders, Professor of Politics,<br>University of Sheffield      | <a href="#">RCM0001</a> |
|    | The Law Society of Scotland  | <a href="#">RCM0004</a> |
| ** | Lord O'Donnell GCB, former Cabinet Secretary<br>( <a href="#">QQ 1–18</a> )        |                         |
| ** | Lord Sedwill KCMG, former Cabinet Secretary<br>( <a href="#">QQ 1–18</a> )         |                         |

## APPENDIX 3: CALL FOR EVIDENCE

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The House of Lords Constitution Committee, chaired by Baroness Taylor of Bolton, is conducting a short inquiry into the revision of the Cabinet Manual. The inquiry will focus on whether the Manual needs to be updated and what role it should play as a public facing document.

The Committee invites interested organisations and individuals to submit written evidence to the inquiry.

The deadline for written evidence submissions is 5pm on Wednesday 14 April. A small number of public hearings will be held during April. The Committee intends to report to the House early in the next parliamentary session.

### Background

The first edition of the Cabinet Manual was published in October 2011 and was inspired, in part, by the New Zealand Cabinet Manual. The Manual provides authoritative guidance to ministers and officials by recording (rather than prescribing) rules and practice relating to the operation of government. The Manual also ensures these arrangements are open and transparent to the public.

Before the first edition was published the Government published a draft version in December 2010 and conducted a public consultation, including engagement with select committees in both Houses who published a number of reports in response. The Constitution Committee's report acknowledged the Manual's status as an Executive document and made a number of recommendations regarding its purpose and status, as well as its content. Some of the Committee's recommendations were reflected in the final version of the Manual.

The Manual is not intended to be a fixed text and is expected to adapt to legislative and constitutional developments. The preface to the Manual states that new legislation, the evolution of conventions and procedural change means that the Manual will need to be "updated periodically". Select committees in both Houses have recommended that the Manual be updated regularly but the Government do not appear to have any intention of updating the Manual in the short-term.

### Questions

The Committee welcomes written submissions on any aspect of this topic, and particularly on the following questions.

The Committee is not considering the merits, or otherwise, of introducing a codified constitution as part of its inquiry.

- (1) What role does, and should, the Cabinet Manual play as a public facing document?
- (2) Should the Cabinet Manual be updated and, if so, what changes are required?
- (3) What approach should the Government adopt to ensuring the Cabinet Manual is kept up to date?
- (4) Recognising the Cabinet Manual is an Executive document, what role, if any, should Parliament have regarding its revision?
- (5) Can any lessons be learned, or adopted, from other jurisdictions without a codified constitution?

## APPENDIX 4: SUGGESTED UPDATES TO THE CABINET MANUAL

This appendix summarises suggested updates to the Cabinet Manual which have been made by various individuals and bodies, including select committees. We include these suggestions as indicative of the changes which might be considered; it is not comprehensive and inclusion in this list does not imply our endorsement of a suggestion. The source of each suggestion is in the footnote.

### Chapter Two: Elections and government formation

- Various paras: revise following anticipated repeal of the Fixed-term Parliaments Act 2011 and include a clearer articulation of the Monarch’s role in the process.<sup>69</sup>
- Para 2.10: clarify that incumbent governments should remain in office until the Monarch invites a new government to be formed.<sup>70</sup>
- Para 2.21: make provision for a 12-month pre-election contact period between opposition parties and the civil service,<sup>71</sup> and add arrangements for pre-election contact between ministers (including in a coalition government) and the civil service.<sup>72</sup>
- Paras 2.27–2.31: differentiate more clearly between the rationales for restrictions on normal government activity during a ‘purdah’ period before an election and a ‘caretaker’ period afterwards.<sup>73</sup>
- Refer to circumstances when a referendum may be required.<sup>74</sup>

### Chapter Three: The Executive—the Prime Minister, ministers and the structure of government

- Para 3.20: refer to introduction of maternity pay for Cabinet ministers.<sup>75</sup>

69 [Q 7](#), Lord O’Donnell and Lord Sedwill both thought reflecting the repeal of the Act in a revised Manual should be straightforward, and [Q 2](#), Simon Case considered it potentially being a return “to old arrangements, by and large.” See also written evidence from Dr Andrew Blick ([RCM0002](#)) and recommendations by the Joint Committee on the Fixed-Term Parliaments Act, [Report](#) (Session 2019–21, HC 1046, HL Paper 253), paras 145, 185, 234 and Box 1.

70 Constitution Committee, [A Question of Confidence? The Fixed-term Parliaments Act 2011](#) (12th Report, Session 2019–21, HL Paper 121), para 106. The Government’s response did not address the Committee’s recommendation, see HM Government, [Government Response to the Lord’s Constitution Committee report - A Question of Confidence? The Fixed-term Parliaments Act 2011](#): <https://committees.parliament.uk/publications/3841/documents/38846/default/>. See also Political and Constitutional Reform Committee, [Government formation post-election](#) (Tenth Report, Session 2014–15, HC 1023), para 33. The Government does not appear to have responded to this report.

71 Political and Constitutional Reform Committee, [Revisiting the Cabinet Manual](#) (Fifth Report, Session 2014–15, HC 233), para 66. The Government does not appear to have responded to this report.

72 Constitution Committee, [Constitutional Implications of Coalition Government](#) (5th Report, Session 2013–14, HL Paper 130), paras 31 and 109. The Government’s response did not accept the Committee’s recommendations. HM Government, [Government response to the House of Lords Constitution Committee report: Constitutional implications of coalition government](#): <https://old.parliament.uk/documents/lords-committees/constitution/coalitiongovernment/CC141528%20Govt%20response%20to%20Lords%20Con%20Ctte%20report%20on%20coalition%20govt%20%20%20%20Nov%202014.pdf>

73 Political and Constitutional Reform Committee, [Government formation post-election](#) (Tenth Report, Session 2014–15, HC 1023), paras 26–28. The Government does not appear to have responded to this report.

74 Written evidence from Dr Andrew Blick ([RCM0002](#)). See also Constitution Committee, [Referendums in the United Kingdom](#) (12th Report, Session 2009–10, HL Paper 99). While expressing reservations about the use of referendums, the report suggests some “fundamental constitutional issues” on which it may be appropriate to hold a referendum (para 94), including the principles that should apply.

75 [Q 7](#) (Lord O’Donnell), [Q 23](#) (Simon Case). See also [Ministerial and other Maternity Allowances Act 2021](#).

- Paras 3.25 and 3.37: expand description of emergency arrangements in light of the COVID-19 pandemic.<sup>76</sup>
- Para 3.31: articulate the principles and practices governing pre-emption and stop using the ‘Ram doctrine’ as a misleading and inaccurate concept.<sup>77</sup>
- Paras 3.33–3.38: assess impact of Supreme Court rulings in *Miller* judgments on the exercise of prerogative powers.<sup>78</sup>
- Paras 3.40–3.44: assess impact of Supreme Court ruling in *R v Adams (Appellant) (Northern Ireland)*<sup>79</sup> on the Carltona principle.<sup>80</sup>
- Para 3.46: Emphasise obligation to comply with international obligations, and in what circumstances it is permissible not to do so.<sup>81</sup>

#### Chapter Four: Collective Cabinet decision-making

- Paras 4.16 and 4.17: expand principles on what requires collective agreement.<sup>82</sup>

#### Chapter Five: The Executive and Parliament

- Para 5.1: describe Prime Minister’s role in appointing members of the House of Lords, subject to vetting by the House of Lords Appointment Commission.<sup>83</sup>
- Para 5.15: strengthen reference to important announcements of government policy being made to Parliament in the first instance.<sup>84</sup>

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76 Written evidence from Professor Matthew Flinders ([RCM0001](#)). See also Constitution Committee, *COVID-19 and the use and scrutiny of emergency powers* (3rd Report, Session 2021–22, HL Paper 15).

77 Written evidence from Dr Andrew Blick ([RCM0002](#)). See also Constitution Committee, *The pre-emption of Parliament* (13th Report, Session 2012–13, HL Paper 165), paras 48 and 60. The Government’s response accepted the Committee’s recommendations in part, see HM Government, Government Response on the pre-emption of parliament: <https://old.parliament.uk/documents/lords-committees/constitution/GovernmentResponse/Government%20response%20-%20report%20on%20pre-emption%20of%20parliament.pdf>. ‘Pre-emption’ is when, in the interests of efficient and cost-effective public administration, the government pre-empts Parliament by undertaking preparatory work in anticipation of a bill becoming law. The ‘Ram doctrine’ has been described as “the fact that ministers can do anything a natural person can do, unless limited by legislation”.

78 Written evidence from Dr Andrew Blick ([RCM0002](#)) and written evidence from the Law Society of Scotland ([RCM0004](#)). See also *R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant)*, [2017] UKSC 5, and *R (on the application of Miller) (Appellant) v The Prime Minister (Respondent)*, [2019] UKSC 41

79 *R v Adams (Appellant) (Northern Ireland)* UKSC 2018/0104

80 Written Answer, 2 July 2020, [68439](#), Session 2019–21. The Carltona principle is that, in law, the acts of government department officials are synonymous with the actions of the minister in charge of that department.

81 Written evidence from Dr Andrew Blick ([RCM0002](#)) and written evidence from the Law Society of Scotland ([RCM0004](#)). See also Constitution Committee, *United Kingdom Internal Market Bill* (17th Report, Session 2019–21, HL Paper 151), para 201. The Cabinet Manual says “Ministers are under an overarching duty to comply with the law, including international law and treaty obligations”. This reference was also included in an earlier version of the Ministerial Code but does not form part of the current edition.

82 Public Administration and Constitutional Affairs Committee, *Ensuring Proper Process for Key Government Decisions: Lessons still to be Learned from the Chilcot Report* (Fourth Report, Session 2017–19, HC 854), paras 49 and 51. The Government’s response does not address these recommendations but commits to consulting committees of both Houses when the Manual is revised. See Public Administration and Constitutional Affairs Committee, *Ensuring Proper Process for Key Government Decisions: Lessons Still to be Learned from the Chilcot Report: Government Response to the Committee’s Fourth Report*

83 Written evidence from Professor Matthew Flinders ([RCM0001](#)). See also Public Administration and Constitutional Affairs Committee, *A smaller House of Lords: The report of the Lord Speaker’s committee on the size of the House* (Thirteenth Report, Session 2017–19, HC 662), para 36. The report proposes including a commitment by the Prime Minister to a cap on appointments.

84 Constitution Committee, *COVID-19 and Parliament* (1st Report, Session 2021–22, HL Paper 4), para 45

- Paras 5.36–5.38: review and update to reflect more accurately instances where the convention on consulting the House of Commons before deciding to commit armed forces overseas has operated, including the exceptions to those conventions and identifying the requisite authorities and precedents.<sup>85</sup> Update in light of the ‘Armed Forces Update’ written statement by the then Defence Secretary on 18 April 2016.<sup>86</sup> Include reference to the Government’s internal arrangements for advising and deciding on the use of armed force,<sup>87</sup> and to the Chilcot Checklist.<sup>88</sup>
- Refer to use of humble addresses by the House of Commons to require the publication of documentation.<sup>89</sup>

## Chapter Six: The Executive and the law

- Para 6.4: clarify that the Lord Chancellor also has a duty to respect the rule of law, which extends beyond the policy remit of his or her department, requiring them to seek uphold the rule of law within Cabinet and across Government.<sup>90</sup>
- Paras 6.10–6.13: reflect any changes to judicial review arising from forthcoming legislation.<sup>91</sup>
- Paras 6.28–6.31: reflect any changes to Human Rights Act 1998 arising from the Independent Human Rights Act Review.<sup>92</sup>
- Para 6.40: add footnote reference to the *Guide to Judicial Conduct*, from which some of this paragraph is derived.<sup>93</sup>

85 [Q 7](#) (Lord O’Donnell, Lord Sedwill). See Public Administration and Constitutional Affairs Committee, *The Role of Parliament in the UK Constitution: Authorising the Use of Military Force* (Twentieth Report, Session 2017–19, HC 1891), paras 41, 67 and 68. The Government’s response does not directly address the Committee’s recommendations, see Public Administration and Constitutional Affairs Committee, Government Response to the Committee’s 20th Report of Session 2017–19 (First Special Report, Session 2019, HC 251): <https://publications.parliament.uk/pa/cm201919/cmselect/cmpublicadm/251/251.pdf>. See also Political and Constitutional Reform Committee, *Revisiting the Cabinet Manual* (5th Report, Session 2014–15, HC 233), para 70. The rejection of military intervention in Syria by the House of Commons on 29 August 2013 is one clear instance.

86 Written Statement, 18 April 2016, [HCWS678](#), Session 2015–16. See [Q 7](#) (Lord Sedwill)

87 Constitution Committee, *Constitutional arrangements for the use of armed force* (2nd Report, Session 2013–14, HL Paper 46), para 35. The Government’s response accepted the Committee’s recommendation, see HM Government, Response to the report of the lords Constitution Committee into constitutional arrangements for the use of armed force: <https://old.parliament.uk/documents/lords-committees/constitution/armedforce/gov-response-to-armed-force-report.pdf>

88 HL Deb, 22 May 2018, [HL7826](#). The question was asked by Lord Hennessy of Nympsfield. See Ministry of Defence, *The Good Operation: A handbook for those involved in operational policy and its implementation* (January 2018): <https://www.gov.uk/government/publications/the-good-operation> [accessed 2 July 2021]

89 [Q 7](#), [Q 14](#) (Lord O’Donnell, Lord Sedwill)

90 Constitution Committee, *The office of Lord Chancellor* (6th Report, Session 2014–15, HL Paper 75), para 50. The Government’s response disagreed with the Committee’s recommendation, see Lord Chancellor and Secretary of State for Justice, The Office of Lord Chancellor: <https://old.parliament.uk/documents/lords-committees/constitution/GovernmentResponse/CC56GovtresponseOLC260215.pdf>

91 Written evidence from Professor Matthew Flinders ([RCM0001](#)). A ‘judicial review bill’ was announced in the 2021 Queen’s Speech but has not yet been introduced. See Ministry of Justice, *Judicial Review Reform: The Government Response to the Independent Review of Administrative Law* (March 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/975301/judicial-review-reform-consultation-document.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/975301/judicial-review-reform-consultation-document.pdf) [accessed 2 July 2021].

92 See Ministry of Justice, *Independent Human Rights Act Review* (December 2020): <https://www.gov.uk/guidance/independent-human-rights-act-review> [accessed 2 July 2021]. The Review intends to submit its report to the Government by summer 2021.

93 See Courts and Tribunals Judiciary, *Guide to Judicial Conduct* (March 2020): <https://www.judiciary.uk/wp-content/uploads/2020/03/Amended-Guide-to-Judicial-Conduct-revision-Final-v002.-March-2020.pdf> [accessed 2 July 2021]

- Include greater detail on the role of the security and intelligence agencies, including authorisation and oversight arrangements, as per the Intelligence Services Act 1994.<sup>94</sup>

### Chapter Seven: Ministers and the Civil Service

- Paras 7.11–7.13: update to reflect changing role of special advisers.<sup>95</sup>

### Chapter Eight: Relations with the Devolved Administrations and local government

- Paras 8.17–8.23: reflect forthcoming changes to intergovernmental relations, once agreed by UK Government and devolved administrations.<sup>96</sup>
- Refer to common framework arrangements.<sup>97</sup>

### Chapter Nine: Relations with the European Union and other international institutions

- Paras 9.15–9.17: update to reflect UK’s post-Brexit relationship with the EU, as per the terms of the Withdrawal Agreement and the Trade and Cooperation Agreement, and related statutes.<sup>98</sup>

### Chapter Eleven: Official information

- Refer to principle that official conversations should always be on the record.<sup>99</sup>

### General

- Refer to process for significant constitutional change.<sup>100</sup>

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94 IPPR, *The Cabinet Manual and the working of the British Constitution: The Hidden Wiring Emerges* (August 2011), p 3: [https://www.ippr.org/files/images/media/files/publication/2011/08/hiddenwiring\\_emerges\\_Aug2011\\_7911.pdf](https://www.ippr.org/files/images/media/files/publication/2011/08/hiddenwiring_emerges_Aug2011_7911.pdf) [accessed 2 July 2021]

95 **Q 12** (Lord O’Donnell, Lord Sedwill). See also Institute for Government, ‘The Cabinet Manual’ (18 August 2020): <https://www.instituteforgovernment.org.uk/explainers/cabinet-manual> [accessed 2 July 2021]

96 **Q 7** (Lord O’Donnell, Lord Sedwill), **Q 23** (Simon Case) and written evidence from the Law Society of Scotland (**RCM0004**). See also Cabinet Office, *The Dunlop Review into UK Government Union capability* (24 March 2021), pp 17–18: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/972987/Lord\\_Dunlop\\_s\\_review\\_into\\_UK\\_Government\\_Union\\_Capability.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972987/Lord_Dunlop_s_review_into_UK_Government_Union_Capability.pdf); and Cabinet Office, *Progress update on the review of intergovernmental relations* (24 March 2021): <https://www.gov.uk/government/publications/progress-update-on-the-review-of-intergovernmental-relations> [accessed 2 July 2021]

97 **Q 8** (Lord O’Donnell, Lord Sedwill)

98 **Q 7** (Lord O’Donnell, Lord Sedwill), **Q 23** (Simon Case), written evidence from Dr Andrew Blick (**RCM0002**), written evidence from Professor Matthew Flinders (**RCM0001**) and written evidence from the Law Society of Scotland (**RCM0004**)

99 **Q 9** (Lord O’Donnell, Lord Sedwill)

100 Constitution Committee, *The Process of Constitutional Change* (15th Report, Session 2010–12, HL Paper 177), para 34. The Government’s response said “if a clearly defined process for constitutional reform is agreed it would be included in the manual, but it should not set out new requirements in the absence of a consensus”, see HM Government, Response to the Constitution Committee Report ‘The Process of Constitutional Change’, Cm 8181: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/238144/8181.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/238144/8181.pdf) [accessed 2 July 2021]

## APPENDIX 5: LETTER FROM THE DEPUTY SECRETARY OF THE NEW ZEALAND CABINET

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Thank you for contacting the New Zealand Cabinet Office regarding the process of updating New Zealand's Cabinet Manual. Michael Webster, the Secretary of the Cabinet, has asked me to respond to your letter. We trust the information below will be of use to the Committee.

New Zealand's Cabinet Manual was first published in 1979. It has been reviewed and updated on a number of occasions since then.

The most recent edition was published in 2017, updating the previous 2008 edition. The current version of the New Zealand Cabinet Manual is available at <https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual>. The 2017 edition is also available in hard copy.

Whenever the Cabinet Manual is reviewed, the focus is on responding to and reflecting changes and developments in political, legislative, administrative, and constitutional arrangements and language.

The Cabinet Office commenced the review of the Cabinet Manual in 2016, with the Prime Minister's agreement. All government departments and Ministers' offices were invited to provide comments on the 2008 Manual, and to make suggestions for changes they considered necessary. The text was also updated to reflect legislative developments since 2008, and to incorporate guidance issued by Cabinet minutes or Cabinet Office circulars. The revised text also included guidance on some matters about which the Cabinet Office had provided advice since 2008.

Other agencies were consulted on particular chapters of the Manual, including the Parliamentary Counsel Office, Office of the Clerk of the House of Representatives, the Legislation Design and Advisory Committee, the Office of the Privacy Commissioner, the Office of the Ombudsmen, the Department of Internal Affairs, and the Parliamentary Service.

The revised text was reviewed by an interdepartmental group comprising senior representatives of the Department of the Prime Minister and Cabinet, the State Services Commission (now the Public Service Commission), the Treasury, the Crown Law Office, and the Ministry of Justice.

The text of the revised Manual was provided for comment to a ministerial reference group. This was an important step in the process, as it gave Ministers an opportunity to test the changes we were suggesting, and to suggest some additional matters for inclusion.

The final step was for Cabinet to consider and approve the text. The authority of the Cabinet Manual derives from its adoption by Cabinet at the beginning of each new administration—it is "Cabinet's manual". So, this final step was a key part of the process, as Cabinet had to be satisfied that the guidance in the Manual was well-founded and was clear in terms of its implications.

The Prime Minister authorised the publication of the material that went to Cabinet for this purpose—a Cabinet paper with a revision-tracked version of the 2008 Manual showing the proposed changes for the 2017 edition, and the resulting minute confirming Cabinet's agreement to the new Manual. These are

all published at <https://dpmc.govt.nz/publications/approval-revised-text-cabinet-manual-2017>.

The Committee may also be interested in the text of a speech given by the Secretary of the Cabinet following the launch of the last edition. This speech covers the history of the Cabinet Manual in New Zealand, the process that was followed in the most recent update, and highlights some of the more significant changes in the edition. The text of the speech can be found at <https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/history-cabinet-manual>.

For completeness I note that the Cabinet Office also produces and maintains CabGuide, an online guide providing practical information and advice for public servants and Ministers' offices on the procedures and operation of the New Zealand Cabinet, Cabinet committees, and the Executive Council. The information on CabGuide is intended to complement the procedural information available in the Cabinet Manual, and in Cabinet Office circulars and notices. CabGuide is updated on a regular basis, whereas the electronic version of the 2017 Cabinet Manual is simply an online version of the 2017 hard copy.

## APPENDIX 6: EXPECTATIONS OF MINISTERS

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This appendix sets out the expectations of ministers, as derived from various codes.

### The Seven Principles of Public Life (1995)

**Selflessness:** Holders of public office should act solely in terms of the public interest.

**Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability:** Holders of public office are accountable for their decisions and actions and must submit themselves to whatever scrutiny necessary to ensure this.

**Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

**Honesty:** Holders of public office should be truthful.

**Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

### Cabinet Manual (2011)

16 ... Civil servants, ministers and, in particular, the Lord Chancellor are under a duty to uphold the continued independence of the judiciary, and must not seek to influence particular judicial decisions ... .

3.46 ... Ministers are under an overarching duty to comply with the law, including international law and treaty obligations, uphold the administration of justice and protect the integrity of public life. They are expected to observe the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

### Civil Service Code (2015)

Civil servants are accountable to ministers, who in turn are accountable to Parliament.

### Ministerial Code (2019)

#### 1 MINISTERS OF THE CROWN

1.1 Ministers of the Crown are expected to maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety.

1.2 Ministers should be professional in all their dealings and treat all those with whom they come into contact with consideration and respect. Working relationships, including with civil servants, ministerial and parliamentary

colleagues and parliamentary staff should be proper and appropriate. Harassing, bullying or other inappropriate or discriminating behaviour wherever it takes place is not consistent with the Ministerial Code and will not be tolerated.

1.3 The Ministerial Code should be read against the background of the overarching duty on Ministers to comply with the law and to protect the integrity of public life. They are expected to observe the Seven Principles of Public Life ... and the following principles of Ministerial conduct:

- (a) The principle of collective responsibility applies to all Government Ministers;
- (b) Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their departments and agencies;
- (c) It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;
- (d) Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the Freedom of Information Act 2000;
- (e) Ministers should similarly require civil servants who give evidence before Parliamentary Committees on their behalf and under their direction to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the Civil Service Code;
- (f) Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;
- (g) Ministers should not accept any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation;
- (h) Ministers in the House of Commons must keep separate their roles as Minister and constituency Member;
- (i) Ministers must not use government resources for Party political purposes; and
- (j) Ministers must uphold the political impartiality of the Civil Service and not ask civil servants to act in any way which would conflict with the Civil Service Code as set out in the Constitutional Reform and Governance Act 2010.<sup>101</sup>

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<sup>101</sup> Paras (b) to (e) of the Ministerial Code are derived from resolutions of both Houses. See HC Deb, 19 March 1997, [cols 1046–47](#) and HL Deb, 20 March 1997, [col 1057](#)