**Written Evidence from the Better Government Initiative to the Public Administration Select Committee's inquiry into the impartiality of the Civil Service, and compliance with the Civil Service Code, in relation to the independence referendum in Scotland.**

1. The Better Government Initiative is an informal body made up of people with practical experience in government at a very senior level who have no links to particular political parties (www.bettergovernmentinitiative.co.uk).
2. We wish to submit evidence on two issues in connection with the Select Committee’s inquiry into compliance with the Civil Service Code in relation to the referendum on Scottish independence: first, the principles which should inform the conduct of the civil service with regard to the referendum and, second, the accountability of the civil service in Scotland.

Principles

1. As the Civil Service Code says, the function of the civil service is to advise the government of the day on its policies with objectivity and impartiality. The civil service should take no position of its own on any issue which is different from that of the government which it serves. Its task is to provide the information and analysis necessary to enable the government to take decisions, to support ministers in explaining publicly those decisions and the reasons for them and then to implement them, having regard to legality, propriety and value for money.
2. It is legitimate for civil servants to support one approach rather than another in private discussion with ministers in order to help them to reach soundly based decisions, but they should not engage publicly in debate on the merits of policies where the advantages and disadvantages are at issue between the parties. If the civil service is not politically impartial – and seen to be so - it will become impossible for it to serve governments of different political complexions and public confidence will be undermined. (Civil servants charged with delivering settled government policies should of course explain their benefits clearly and effectively.)
3. Governments should not require civil servants to do things that put the impartiality of the civil service at risk. Civil servants should not, for instance, be instructed to produce material of a partisan character on issues which are contested between the parties: such material should be written and published by the parties, not presented as government publications. Nor should the private advice of civil servants to ministers be published. By doing so the civil service is drawn into public debate on political issues.
4. These principles should apply to the whole of the Home Civil Service, both to that part of it that serves the United Kingdom Government and to those parts which serve the devolved administrations.

Accountability of the civil service in Scotland

1. The Scottish Executive version of the Civil Service Code, laid before the UK Parliament and the Scottish Parliament on 11 November 2010 pursuant to section 5 of the Constitutional Reform and Governance Act 2010, states:

“Constitutionally, civil servants are servants of the Crown. The Crown's executive powers are exercised by the UK Government on reserved matters and by Scottish Ministers on devolved matters in Scotland.”

1. Successive Heads of the Home Civil Service have also made clear that those members of the Home Civil Service who are employed by the Scottish Government and its Executive Agencies are responsible to Scottish Ministers, constituted as the Scottish Government (in the language of the Scotland Act 1998, the Scottish Executive). The Scottish Executive version of the Civil Service Code says to civil servants:

“The Civil Service is an integral and key part of the government of the United Kingdom. It supports the UK Government and Devolved Administrations of the day in developing and implementing their policies, and in delivering public services. As a civil servant, you are accountable to Scottish Ministers, who in turn are accountable to the Scottish Parliament.”

1. The Home Civil Service itself is, of course, a reserved matter. This does not however create a direct responsibility of civil servants employed by the Scottish Government and its Executive Agencies to the UK Government. Those civil servants are accountable to the Permanent Secretary to the Scottish Government for their compliance with the Civil Service Code.
2. In turn, the Permanent Secretary to the Scottish Government has a personal accountability to the Head of the Home Civil Service for ensuring compliance with the Civil Service Code laid before the UK and Scottish Parliaments by Scottish Ministers. The holder of that post also has a personal accountability to the Scottish Parliament for the legality, propriety and value for money of expenditure on the administration of the Scottish Government, including the costs of those civil servants employed by the Scottish Government and its Executive Agencies, as part of the general responsibility as Principal Accountable Officer for the totality of the budget voted by the Scottish Parliament to the Scottish Government.

Better Government Initiative

24th March 2014