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22 June 2020

William Wragg MP
Chair
Public Administration and Constitutional Affairs Committee
House of Commons
London SW1A 0AA

Dear William

Role of Special Advisers

I am writing to request that the Public Administration and Constitutional Affairs Committee consider an inquiry into the role of Special Advisers.

PACAC's predecessor committee, PASC, conducted an inquiry 'Special Advisers in the Thick of It' in September 2012. That report, conducted in the wake of concerns over ministerial 'responsibility' for the conduct of their Special Advisers, concluded that they perform a vital role in Government, supporting ministers and protecting the political impartiality of civil servants.

The report recognised that:

Special Advisers are a fixture of British political life, and offer clear benefits to Government by increasing ministerial capacity, protecting civil service impartiality and offering perspectives and insights from outside the policy machine. Their position is, however, a sensitive one, heavily dependent on trust between themselves, their ministers and their permanent secretaries.

The FDA has always supported the role of Special Advisers and indeed, we have always offered membership to the cadre. Whilst 'The Thick of it' series - which inspired the previous report's title - may have done for Special Advisers what 'Yes Minister' did for Permanent Secretaries, the reality is they perform a vital task and are valued and trusted by civil servants.

If Ministers are to operate effectively, they need trusted political advice alongside the impartial and professional advice of civil servants. Good Special Advisers are able to support the work of civil servants in a department, providing an invaluable role in contextualising priorities and decisions, as well as being a trusted channel of communication and source of information. Good Ministers, supported by good Special Advisers, provide clarity of objectives and decision-making for civil

servants. This leads to stronger, more capable Ministers and ultimately supports robust Cabinet government.

Since your predecessor committee reported, little has changed. Whilst individual Special Advisers or Ministers may at times be the focus of attention for how they operate in a department, fundamentally, the role of Special Advisers remained the same. That is, until the current Prime Minister took over in summer 2019.

As has now become clear through a series of events and decisions since that date, the direct line of accountability between Ministers and Special Advisers is at best blurred and at worst dysfunctional.

It has always been the case that Special Advisers require the approval of the Prime Minister for their appointment. There has indeed always been potential tension between the role of supporting individual Ministers and the objectives of the government more widely. This was specifically recognised in the 2012 report, as was the appetite for control from No.10.

The committee concluded that:

Special Advisers have an entirely legitimate role in helping to co-ordinate policy across Government and to resolve political differences between departments in order to deliver the objectives of the Government as a whole.

However, the lines of accountability must remain clear: Ministers are responsible for the management and conduct of their Special Advisers, who act in their name. It would not be appropriate for Number 10 or the Cabinet Office to have an explicit role in directing or appraising Special Advisers appointed by Ministers of other departments. In particular, Ministers should expect to confide in their Special Advisers without fearing that every conversation will be reported back to Number 10.

I now want to come on to the events which have led us to the conclusion that the role of Special Advisers is changing and warrants examination by your committee. Following the appointment of the Prime Minister's de facto Chief of Staff, reports emerged of weekly meetings with Special Advisers in No.10. Whilst dismissed as business as usual (previous PMs have had similar arrangements) the reports increasingly suggested that the nature of these meetings was very different in tone and function. These are of course media reports, but there was a consistent message that Special Advisers were being directed in their work and essentially centrally run. The conduct of these meetings was also criticised as being overly confrontational.

In August, the Chancellor's special adviser Sonia Khan was dismissed, without his prior knowledge. Whilst the Prime Minister must consent to all Special Adviser appointments and can therefore withdraw that consent, to do so without the prior consent of the appointing Minister is quite frankly unparalleled.

In September, the Cabinet Office required Special Advisers to sign new contracts, which provided that responsibility for their conduct and discipline would be jointly held between the appointing Minister and the Prime Minister's Chief of staff. At the time, we raised concern over whether this arrangement was either welcome or constitutionally appropriate, given that the Prime Minister's Chief of Staff is himself a Special Adviser. I attach our letter for ease of reference.

Following the election, it has become apparent that Special Advisers are being treated as a central resource, deployed between different Ministers. Following the reshuffle in February, it became clear that not only was there an issue related to the appointment of the Chancellor's Special Advisers, on which he resigned, but that other Ministers were essentially told that their Special Advisers would be changing. This resulted in some Special Advisers being left without posts, and concern that the process for determining who stayed, moved or left not only lacked transparency, but was being used to exert control and dilute the relationship between minister and adviser.

Special Advisers' contracts, by their very nature, provide little by way of certainty. The current model contract states:

you will be dismissed if the Prime Minister withdraws [his/her] consent or the Minister who selected you for appointment no longer wishes you to continue in the role.

Your employment will automatically terminate not later than:

- i. when [name of appointing Minister] ceases to hold the ministerial office in relation to which you were appointed to assist him/her; or*
- ii. if earlier, the end of the day after the day of the UK parliamentary general election following your appointment*

Our concern is that, as was envisaged by the previous report, we have a cadre of Special Advisers with little security of employment and who are being directly managed by No.10 through the PM's Chief of Staff. Even without the concern over how this power over employment is being deployed, it is clear that there is a deliberate approach from No.10 to fundamentally change the nature of the role.

If special advisers are no longer appointed to serve a single minister, then how can the accountability and responsibility outlined in the Ministerial code be enforced? If a minister is allocated a Special Adviser from a pool, they have not appointed them as envisaged under section 15 of the Constitution, Reform and Governance Act 2010. Indeed the current model could potentially result in only the Prime Minister being constitutionally and legally responsible for their employment and conduct.

These changes clearly dilute the special relationship between Ministers and their Special Advisers, including the responsibility they have for their conduct and create a series of constitutional contradictions.

Giving evidence to the PASC for its previous report, the Rt Hon Harriet Harman QC MP noted that:

“If Special Advisers were directly accountable to Number 10, it would undermine the basis of their role with their Secretary of State, it would undermine their value in their department as a counterpoint to the power of Number 10 and it would dilute their singular accountability to their Secretary of State. It would mean less supervision of Special Advisers if Number 10 was responsible for all of them.”

We strongly believe that Harriet Harman’s prediction has indeed come to pass. Whilst it may well be within the gift of the Prime Minister to make these fundamental changes, we believe it should be done with appropriate scrutiny and transparency. Whilst there are concerns around how the power over appointment is being used and the impact on individuals, there are also fundamental concerns on whether this centralised approach makes for effective Government.

Control - whether that is over individuals, Ministers or the machinery of government - comes with responsibility. That responsibility is not only about how power is exercised in relation to individuals, but also whether it is in the broader interests of effective and transparent Government.

I would welcome the opportunity to expand on our concerns if you would find it helpful. Meantime I would be grateful if you would let me know whether the you believe the issues I have raised warrant an inquiry from your committee.

Yours sincerely

