

## CARIBBEAN BEST PRACTICES

IN

## PUBLIC SERVICE POLITICAL DIRECTORATE INTERFACE

SALUTATIONS.....

I have been asked to examine the experiences of the region in the relationship between the political leaders and the civil servants/public servants in the daily conduct of public services, no doubt seeking to identify where we have gone wrong and how to improve that synergy between the policy makers and the implementers.

Given my audience, being primarily made up of the public officers some of whom are pretty young and new to the art of delivery of public services, I have chosen to highlight what ought to be, rather than dwelling on the bad and unwelcomed past that some of you would have experienced in this relationship. I strongly contend that if we don't have a working understanding of what is required of all the actors in the process then we are not going to be able to discern right from wrong.

To begin with, we must appreciate the form and model of Government that the respective territories operate – the roles and responsibilities of the politicians and those of the bureaucrats and technocrats. For the most part, the Caribbean operates the Westminster/Whitehall model of Government, which is defined as “*a democratic parliamentary system of Government modelled after the politics of the United Kingdom*” it derives from the Palace of Westminster, the seat of Parliament of the UK. The System is a series of procedures for operating a Legislature and is /or was used in the Legislatures of most Commonwealth Countries. The Whitehall side of the model is what is commonly referred to as the bureaucracy and gets its name from the street that houses the offices of Government in the UK.

Some of the countries that have adopted some variation (commonly called the Export Model) include Antigua-Barbuda, Bahamas, Barbados, Belize, Canada, Australia, Dominica, Grenada, India, Jamaica, Trinidad and Tobago, St. Vincent and the Grenadines, Bermuda, Pakistan, Malaysia, Ireland.

### **The Westminster Model**

Government in the United Kingdom (the UK) is built on the assumption of Parliamentary Sovereignty; all key decisions are made by Parliamentarians and there is no higher authority. Legitimacy and democracy are maintained because Ministers are answerable to Parliament, and the House of Commons is elected by the people. Decisions are taken by Ministers (and if necessary by the whole Cabinet) and implemented by a neutral civil service.

Another important feature of the model (drawing on the teaching of 18th Century philosopher Edmund Burke) is that Members of Parliament (MPs) are representatives, not delegates. In other words, they should act in what they judge to be the public interest - not as advocates for the interests of their constituents and therefore not necessarily in the way that their constituents would expect them to vote, nor even necessarily in the interest of their own constituency.

### **Thinking behind the model**

Since each Minister is responsible to Parliament for the conduct of his Department, and for the actions carried out by his Department in pursuit of Government policies or in the discharge of responsibilities laid upon him as a Minister, the civil servant, who must support the implementation of the policies, become responsible to their Ministers for their actions and conduct. It is the duty of civil servants to serve their Ministers with integrity and to the best of their ability. In their dealings with the public, civil servants should always bear in mind that people have a right to expect that their affairs will be dealt with sympathetically, efficiently and promptly.

Like the British Civil Service, those of the Caribbean are non-political and professional career service, and are subject to a code of rules and disciplines. Civil servants are required to serve the duly constituted Government of the day, of whatever political complexion. It is of the first importance that civil servants conduct themselves in such a way as to deserve and retain the confidence of Ministers, and to be able to establish the same relationship with those whom they may be required to serve in some future Administration. That confidence is the indispensable foundation of a good relationship between Ministers and civil servants. The conduct of civil servants should at all times be such that Ministers and potential future Ministers can be sure that confidence can be freely given, and that the Civil Service will at all times conscientiously fulfil its duties and obligations to, and impartially assist, advise and carry out the policies of, the duly constituted Government of the day.

The determination of policy is the responsibility of the Minister (within the convention of collective responsibility of the whole Government for the decisions and actions of every member of it). In the determination of policy the civil servant has no constitutional responsibility or role distinct from that of the Minister. Subject to the conventions limiting the access of Ministers to papers of previous Administrations, it is the duty of the civil servant to make available to the Minister all the information and experience at his or her disposal which may have a bearing on the policy decisions to which the Minister is committed or which he is preparing to make, and to give to the Minister honest and impartial advice, without fear or favour, and whether the advice accords with the Minister's view or not. Civil servants are in breach of their duty, and damage their integrity as servants of the Crown, if they deliberately withhold relevant information from their Minister, or if they give their Minister other advice than the best they believe they can give, or if they seek to obstruct or delay a decision simply because they do not agree with it. When, having been given all the relevant information and advice, the Minister has taken a decision, it is the duty of civil servants, loyally to carry out that decision with precisely the same energy and good will, whether they agree with it or not.

Civil servants are under an obligation to keep the confidences to which they become privy in the course of their work; not only the maintenance of the trust between Ministers and civil servants but also the efficiency of government depend on their doing so. There is and must be a general duty upon every civil

servant, serving or retired, to not make disclosures which breach that obligation, unless expressly authorized to do so. This duty applies to any document or information or knowledge of the course of business, which has come to a civil servant in confidence in the course of duty. Any such unauthorised disclosures, whether for political or personal motives, or for pecuniary gain, and quite apart from liability to prosecution under the Official Secrets Acts, result in the civil servant concerned forfeiting the trust that is put in him or her as an employee, and making him or her liable to disciplinary action including the possibility of dismissal, or to civil law proceedings. He or she also undermines the trust that ought to subsist between Ministers and civil servants and thus damages colleagues and the Service, as well as, him or herself.

Civil servants often find themselves in situations where they are required or expected to give information to a Parliamentary Select Committee, to the media, or to individuals. In doing so, they should be guided by the policy of the Government on evidence to Select Committees and by the requirements of security and confidentiality. In this respect, however, as in other respects, the civil servant's first duty is to his or her Minister. Thus, when a civil servant gives evidence to a Select Committee on the policies or actions of his or her Department, he or she does so as the representative of the Minister in charge of the Ministry and subject to the Minister's instructions, and is accountable to the Minister for the evidence which he or she gives. The ultimate responsibility lies with Ministers, and not with civil servants, to decide what information should be made available, and how and when it should be released, whether it is to Parliament, to Select Committees, to the media or to individuals. It is not acceptable for a serving or former civil servant to seek to frustrate policies or decisions of Ministers by the disclosure, outside the Government, of information to which he or she has had access to as a civil servant. (Note: A Permanent Secretary giving evidence to the Public Accounts Committee does so by virtue of his duties and responsibilities as an Accounting Officer as defined in the Financial Administration and Audit Act (FAA Act) on The Responsibilities of an Accounting Officer, but this is without prejudice to the Minister's responsibility and accountability to Parliament in respect of the policies, actions and conduct of his Department.)

Civil servants who believe that they are being asked to act in a way which would breach the Civil Service Code or in a way which raises a fundamental issue of conscience for them should proceed in accordance with procedures laid down in departmental guidance or rules of conduct. They may also report other breaches of the Code of which they become aware and should report to the appropriate authorities evidence of criminal or unlawful activity. (Whistleblower Legislation)

### **Relationship between civil servants and Ministers**

A number of factors affect the relationship between ministers and civil servants. Firstly, ministers have limited information (information asymmetry), as they are not supplied with the papers of their predecessors and may not be in possession of all relevant information, on taking up a new post. Ministers are only supplied with a briefing document by their officials. There is, as a result of this, a chance for civil servants to shape the way in which ministers view their job.

Secondly, Ministers have other commitments in Parliament and in their constituencies. Therefore, they have less time to devote to decision making than their full time civil servants. Often, this advice is shaped by the internal culture of the department. Senior civil servants will often have been steeped into this internal culture for many years. Some permanent secretaries say that many ministers rarely make even a minor contribution to policy.

The ideal relationship between ministers and civil servants is that civil servants brief ministers impartially and objectively. Ministers listen carefully to what their civil servants have to say and make informed decisions on the basis of this advice. Civil servants expect the minister in charge of their department to fight for funds during the annual budget exercise and to defend the actions of their department when faced with media and public scrutiny. Ministers expect to be kept informed of what is happening in their department. Also, they expect civil servants to implement decisions with which they disagree. Although ministers are members of certain political parties, they should never expect civil servants to undertake party political matters. Similarly, civil servants are asked to never act in a partisan manner. (cite the tv comedy Yes Minister and Yes Prime Minister)

### **Ministerial responsibility**

**Ministerial responsibility** or **Individual ministerial responsibility** is a constitutional convention in governments using the Westminster System that a cabinet minister bears the ultimate responsibility for the actions of their ministry or department. Individual ministerial responsibility is not the same as cabinet collective responsibility, which states that members of the cabinet must approve publicly of its collective decisions or resign. This means that a motion for a vote of “no confidence” in a Parliament is not in order, should the actions of an organ of Government fail in the proper discharge of their responsibilities. Where there is ministerial responsibility, the accountable Minister is expected to take the blame, and ultimately resign. But the majority or coalition within Parliament of which the Minister is part, is not held to be answerable for that Minister’s failure.

This means that if waste, corruption, or any other misbehaviour is found to have occurred within a ministry, the Minister is responsible even if the Minister had no knowledge of the actions. A Minister is ultimately responsible for all actions by a ministry. Even without knowledge of an infraction by subordinates, the Minister approved the hiring and continued employment of those civil servants. If misdeeds are found to have occurred in a ministry the minister is expected to resign. It is also possible for a minister to face criminal charges for malfeasance under their watch.

The principle is considered essential as it is seen to guarantee that an elected official is answerable for every single government decision. It is also important to motivate ministers to closely scrutinize the activities within their departments. One rule coming from this principle is that each cabinet member answers for their own ministry in Question Time in the Parliament. The reverse of ministerial responsibility is that civil servants are not supposed to take credit for the successes of their department, allowing the government to claim them.

In recent years, some commentators have argued that the notion of ministerial responsibility has been eroded in many Commonwealth Countries. While the doctrine is a constitutional convention there is no formal mechanism for enforcing the rule. Today ministers frequently use ignorance of misbehaviour as an argument for lack of culpability. While opposition parties rarely accept this

argument, the electorate is often more accepting. Courts of the United Kingdom have become less likely to find ministers guilty when their individual knowledge of or involvement in a crime cannot be proved. In most other Commonwealth Countries such cases are today, hardly ever brought to trial.

### **How to be a good civil servant**

Building on Burke, the nineteenth century idealist T H Green helped provide the ethical framework through which civil servants could achieve integrity in their work. As politicians are inevitably subject to short term and selfish pressures, there needs to be a unified administration in which officials ensure the common good or public interest. To do this, they must be politically neutral and must demonstrate pecuniary and moral integrity. They must not be motivated by the desire to make money and should adopt as their core values the principles of:

- Integrity
- Honesty
- Objectivity and
- Impartiality – including political impartiality.

The relationship between civil servants and Ministers ought to be one of mutual interdependence, with Ministers providing authority and officials providing expertise. It is a fact that in the Caribbean, civil servants has an indivisible relationship with their political bosses, quite different to many other models of government around the world, which are often based on separation of powers.

### **Commentary**

It should be noted that the Westminster Model is predicated on the view that 'Government knows best'. It assumes that the public does not have the information necessary to make the right decisions. Some commentators go further and argue that the political elite regard secrecy as the best means of ensuring that the right decisions are made in the interests of the people. A responsible government is accordingly able to take strong decisive action, even when opposed by a majority of the population. This is a leadership rather than

participatory view of democracy, but it is legitimised by regular democratic elections, when representatives can be held to account for their decisions.

This model of democratic government encourages concentration of power at heart of our political system and "Government by the elite". This concentration of power, together with the interdependence of Ministers and officials, means that senior civil servants can be quite powerful whilst simultaneously maintaining the polite fiction that they are "only advisers". And politicians can, at the same time, continue to maintain that they are really taking all the decisions. In practice, of course, the relative power and influence of senior officials varies very much from Government to Government, and with the characters and experience of the officials and their Ministers. But critics argue that the Westminster model is in effect a facade which works to the benefit of both politicians and civil servants, but which disguises the truth from the population at large.

Both parts of the model are, however, being increasingly tested by modern developments, including more assertive citizens, less deferential media, and "Freedom of Information".

As public sector trade unions the question to us must be whether we are comfortable with this construction of government and governance. If yes, why are we not seeking to make it work, and if not, what do we propose to do about it.

Thank you all!

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