



House of Commons
Political and Constitutional
Reform Committee

**Revisiting the Cabinet
Manual**

Fifth Report of Session 2014–15

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to the report*

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Summary

The Committee has followed up on its initial inquiry into the constitutional implications of the Cabinet Manual, in which it considered that status of the Manual, then in draft form only, and its implications for the UK's uncodified constitution. In this follow-up inquiry we have examined how the first edition of the Manual, issued in October 2011, is being used in practice, and what additions and changes might be needed when it is next revised.

We report good progress on a number of issues identified in our earlier report on the draft Manual. The published draft of the Manual did not acknowledge sufficiently areas where there was disagreement over certain conventions, but in the first edition such disagreements and areas of uncertainty appear to be acknowledged more clearly. We have recommended that, since the manual is said to be in the collective ownership of the Government, responsibility for it ought to be assigned to a specific Ministerial portfolio. Should the Manual develop to be more than a guide to the operation of the Executive, and begin to be treated as part of the UK's constitutional arrangements, we recommend that it should be treated as a document in the joint ownership of the cabinet and the relevant Parliamentary committees.

We find no compelling case for statutory recognition of the Manual: any such recognition might be an unsatisfactory halfway house to full constitutional codification. The Government should be alert to any attempt by the courts to interpret the Manual, and should intervene in such cases to set out its view of the Manual's constitutional position.

We have welcomed the release of the 1954 and 1978 Precedent Books and the work being undertaken to place the remaining two books in the public domain. However, the arrangements for recording the corporate memory of Government and the Cabinet Office are now unclear, and we have asked the Government to set out the process whereby precedents which inform its understanding of how the constitution operates are captured and retained.

On balance we do not believe that two versions of the Manual—one for Government and one for use by the public—should be produced, as this would detract from the overall authority of the document. But the Manual must be made accessible to all, as the document which pulls together in one place 'the rules of the game', and the lack of evidence of public engagement with the Manual and its contents to date is disappointing. In the run up to the 2015 election the public is entitled to clear, objective and unambiguous information about the process whereby administrations are formed. We have recommended that the Cabinet Office plan for an enhanced programme of public engagement with the contents of the Manual after the 2015 election. Before its next revision, we also recommend that the Government commission an internal assessment of how useful the Manual is to Ministers.

Revision of the Manual is important: a document which is not regularly updated to reflect relevant developments will lack authority. We believe the Manual should be revised at least every Parliament, and especially on the arrival of a new administration. The Cabinet Office

should publish, and keep updated, a list of matters which need to be amended when the Manual is next revised, and should mark up the online version of the Manual at places where revisions are expected. 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.

We make three specific suggestions for revision of the Manual:

- It is vital that there should be a clear and shared understanding of the conventions governing the position of an incumbent Prime Minister who may not be able to command the confidence of the House of Commons after a general election: the principle that there must always be a government, and the Sovereign must always have a principal constitutional adviser in the form of a Prime Minister, is unambiguous and ought to be made clear;
- In the new era of fixed-term Parliaments, it is in the interests of good government for pre-election contacts between the opposition parties and the Civil Service to be authorised to begin 12 months out from a general election as a matter of course, and
- Any revision to the Manual must reflect the present scope of uncertainty over the use of the convention regarding consultation of the House of Commons before UK armed forces are committed to military action overseas.

1 Background

Our inquiry

1. This Committee first undertook scrutiny of the Cabinet Manual in 2010, following the publication of the draft Manual for public consultation. In our report on that exercise, published in March 2011, we considered the status of the Manual and the implications it might have for the United Kingdom’s uncodified constitution. We indicated our intention “to monitor closely how the Cabinet Manual develops, and how it is used both within and beyond Government during the life of this Parliament.”¹

2. In February 2014 we launched a follow-up inquiry to examine how the Manual was being used in practice and to consider what additions and changes might be necessary at its revision. The full terms of reference for the inquiry were:

- To what extent were the concerns raised in the Committee’s original report on the Cabinet Manual addressed when the final version of the Manual was published in October 2011?
- How is the Cabinet Manual being used, both within and outside Government?
- The Gov.uk website states: “The Manual is primarily intended to provide a guide for members of Cabinet, other Ministers and civil servants in the carrying out of government business, but will also serve to bring about greater transparency about the mechanisms of government.” How well is the Manual achieving these aims?
- How often should the Cabinet Manual be revised?
- What should be the process for revising the Cabinet Manual, and what should be the role of Parliament in this process?
- Which, if any, parts of the current Manual need revising?
- What, if any, new material should be included in the next edition of the Cabinet Manual?

1 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734, para 41

Origins of the Cabinet Manual

3. In February 2010 the then Prime Minister, Rt Hon Gordon Brown MP, announced a project “to consolidate the existing unwritten, piecemeal conventions that govern much of the way central government operates under our existing constitution into a single written document”.² That document is the Cabinet Manual.

4. Professor Robert Hazell, from University College London, who had been involved in the Cabinet Manual project from its origin, explained to us some of the reasoning behind Gordon Brown’s decision: it had been apparent before the 2010 General Election that there was an “urgent need for better public guidance on what would happen in the event of a hung Parliament.”³ A draft of what is now Chapter 2 of the Manual, dealing with elections and government formation, was published in February 2010. The Justice Committee of the House of Commons was given the opportunity to scrutinise this chapter and make recommendations on its content in advance of the General Election to be held later in 2010.⁴

5. Following the General Election of May 2010 the Cabinet Office published a full draft version of the Cabinet Manual. The then Cabinet Secretary Sir Gus O’Donnell (now Lord O’Donnell) stated in the foreword to the draft that:

The Cabinet Manual is intended to be a source of information on the UK’s law, conventions and rules, including those of a constitutional nature, that affect the operation and procedures of government.⁵

A public consultation was launched on the draft, and scrutiny of the draft document was undertaken by three Parliamentary committees, including by this Committee. Our earlier report, *Constitutional Implications of the Cabinet Manual*,⁶ focused on the status of the Manual and its implications for the UK’s un-codified constitution.

6. The first edition of the Manual was published in October 2011.⁷ In his preface to the document, the then Cabinet Secretary acknowledged the contribution of the three Parliamentary committees, as well as constitutional experts, interest groups and members of the public, to the editorial process behind the first edition: the process had been “extremely valuable in identifying areas of controversy, errors or omissions, and areas

2 Rt Hon Gordon Brown MP, “[Towards a new politics](#)”, speech to the Institute for Public Policy research, 2 February 2010

3 Q38

4 Justice Committee, Fifth Report of Session 2009-10, [Constitutional Processes following a General Election](#), HC 396

5 [Draft Cabinet Manual](#), December 2010, Foreword

6 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734

7 [Cabinet Manual](#), First Edition, October 2011

where the draft could be improved. On the whole, the process also demonstrated general support for the principle of the Cabinet Manual and the contents of the draft.”⁸

7. In the preface, Sir Gus O’Donnell stated that the revised text incorporated “important changes to aid understanding of the contents—in particular extensive references and links to more detailed guidance, and a glossary.”⁹ The first edition of the Manual was intended “primarily as a guide for those working in government, recording the current position rather than driving change. It is not intended to be legally binding or to set issues in stone. The Cabinet Manual records rules and practices, but is not intended to be the source of any rule.”¹⁰ We comment further on the purpose of the Manual and its intended use and audience below.

8 *Ibid.*, Preface

9 *Ibid.*

10 *Ibid.*

2 Progress since the Committee's earlier report

Ambiguity and complexity

8. The report of our earlier inquiry criticised the draft Cabinet Manual for failing to acknowledge sufficiently the fact that some conventions listed in the Manual were the subject of disagreement. In that report we recommended that

Where there is the potential for disagreement or uncertainty, as there so often is on the meaning of unwritten constitutional conventions, it is important that the Cabinet Manual should signal the existence of this uncertainty.¹¹

In its response the Government noted that

where there are different views expressed in relation to a convention, the Cabinet Manual makes this clear or states the Executive's own understanding of the position. The Cabinet Manual is not binding and others are entitled to take a different view on the operation or extent of a particular convention.¹²

9. We heard from a number of witnesses that the first edition of the Cabinet Manual does now acknowledge much more clearly areas where there had been considered to be uncertainty. Professor Ian Cram, of the University of Leeds, noted the improvements made in the first edition:

The Cabinet Secretary and others took on board the criticism that where there were differences of opinion it was right to say, "Here is an area of disagreement among the scholars and politicians," with a footnote reference to this view and that view. That happens in several places through the manual.¹³

One example he gave of an improvement on the initial draft was in the field of government formation:

One example was the inclusion in the original of the view [...] that in a hung Parliament the party with the most votes and the most seats should have the

11 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734, para 22

12 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, p. 18

13 Q13

first go at forming the Administration. That now has been put to rest, after the raising of queries, academic commentaries and other comments.¹⁴

Although Professor Cram still had reservations about omissions from the document, he considered that in the first edition “we have moved to a better, more accurate document, reflecting, and within the framework of, an executive understanding of the constitution.”¹⁵ Professor Hazell shared Professor Cram’s view: “I think in the consultation and subsequent revisions the drafters of the Cabinet Manual did their very best, when there was some disagreement or uncertainty, to make that clear.”¹⁶

10. We note with approval that the first edition of the Cabinet Manual appears to acknowledge more clearly instances where there is disagreement or uncertainty about a convention.

Ownership

11. We examined who, in practical terms, had ownership of the Cabinet Manual and had responsibility for updating it. In our earlier report we said that we expected to “engage on ongoing dialogue about the Cabinet Manual and its contents.”¹⁷ We also concluded that, should the Cabinet Manual become the “basis for a shared understanding beyond the Executive of important parts of the United Kingdom’s previously uncodified constitution”,¹⁸ Parliamentary intervention in respect of the Manual’s contents would be entirely appropriate. In this inquiry we have considered whether this is in fact the case.

12. The Cabinet is said to own the Cabinet Manual. Sir Jeremy Heywood, the Cabinet Secretary, told us that “it is owned by the Cabinet. It is a politically owned document rather than one owned by me.”¹⁹ We found one immediate practical difficulty arising from this doctrine of collective ownership: when seeking to invite a Minister to give oral evidence to this inquiry, we experienced great difficulty in confirming a date for any Minister to appear to explain to us the Government’s policy on the Manual. We therefore resolved, with some reluctance, to proceed to make this report without the benefit of a Ministerial view on behalf of the Government.

13. Given that ownership of the Cabinet Manual is said to be in the collective hands of the Cabinet, and not the Cabinet Secretary, it appears odd that no Minister could be identified to take on the task of explaining to us the Government’s policy on ownership of the Manual and its revision. We recommend that the Prime Minister, on behalf of the

14 Q13

15 Q13

16 Q57

17 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734, para 37

18 *Ibid.*, para 41

19 Q89

Cabinet, assign policy responsibility for the content and currency of the Cabinet Manual to a specific Ministerial portfolio.

14. The doctrine of collective Cabinet ownership must be taken to mean that the Cabinet has sole responsibility for updating the Cabinet Manual, an issue which we discuss further below. In considering ownership of the document, we examined its relevance in explaining the role Parliament plays in the UK's constitution.

15. Professor John McEldowney, of the University of Warwick, did not think there should be a significant role for Parliament in updating the Cabinet Manual:

[T]he role of Parliament is rather limited. It is appropriate that both Houses, through the appropriate Select Committee should be informed and deliberate on the working of the Manual. A clear distinction needs to be maintained between the Cabinet Manual as a guide to the working of government published by the Cabinet Office rather than a parliamentary guide published and drafted by Parliament.²⁰

Professor Ian Cram took the contrary view: he considered that a “large number of the sections of the CM relate directly to Parliament”²¹ and he has identified all but one chapter (chapter 4) as having content which related to Parliament. He concluded that “given the extent of material that does concern Parliament, it would seem appropriate to seek to reflect joint (Executive & Legislature) understanding of these matters.”²²

16. While the current Cabinet Manual is said to be owned by the Cabinet, we consider that Parliament has a significant stake in its contents and should at the very least be consulted on any future revision. *Should the Cabinet Manual evolve to become more than a guide to the operation of the Executive, to the extent where it is considered part of the constitutional arrangements for the UK, we recommend that it should be treated as a document in the joint ownership of the Cabinet and of the relevant Parliamentary committees.*

Legal status

17. In our previous report we concluded it was unlikely that the Manual would feature in court proceedings, though we did not rule out the possibility completely. During the course of this inquiry we revisited this issue. In this context it was useful for us to consider what had happened with regard to the New Zealand Cabinet Manual, which is much more developed than the UK manual.

20 Professor John McEldowney ([RCM 006](#))

21 Professor Ian Cram ([RCM 002](#)). Chapter 4 is considered to be the chapter with no explicit Parliamentary relevance.

22 *Ibid.*

18. Sir Gus O'Donnell, in his preface to the first edition of the Manual, stated that the Manual was “not intended to be legally binding”²³ and that it “records rules and practices, but is not intended to be the source of any rule.”²⁴ This purpose is similar to that of the New Zealand Cabinet Manual, on which the UK version is said to be based.

19. Professor Cram indicated that there were a number of instances in which the New Zealand Cabinet Manual had been cited by the courts in that country.²⁵ The New Zealand Manual had been used “in a number of circumstances ... to confirm the court’s understanding of various constitutional arrangements,”²⁶ and he believed that it was “not far-fetched to suggest that, in time, we might find our Cabinet Manual being prayed in support of a judicial decision that in some way engages constitutional issues.”²⁷ Dr Andrew Blick, of King’s College London, suggested to us that given the importance that the Government itself had given the Cabinet Manual, some sort of statutory underpinning might be appropriate: “If the principles contained in the document are as important to the Government as the manual itself claims, then a limited degree of legal enrichment for them might be seen as appropriate.”²⁸

20. We have considered whether the Manual should therefore have some legal basis, regardless of whether it would be likely to feature in court proceedings. To place the document on a statutory footing could provide greater certainty about the terms on which the courts might engage with the Manual and its contents. Statutory underpinning of the Manual’s status would also give Parliament an explicit role in the endorsement of its contents.

21. We have already stated in terms that the Cabinet Manual “is not itself a written constitution: no one has claimed that it is, none of our witnesses has suggested that it is, and many have been explicit that it is not.”²⁹ We did conclude that the Manual has “considerable overlap with what might be expected of a constitution.” It has been suggested to us that it would be the most likely starting point for any attempt to produce a written constitution, though that suggestion predated the blueprints for constitutional codification published in our recent report *A new Magna Carta?*³⁰

22. While giving the Manual a basis in statute might appear attractive, not least to those who advocate constitutional codification, we are concerned that to give it a statutory basis might create an unsatisfactory halfway house to full codification of the

23 [Cabinet Manual](#), First Edition, October 2011, Preface

24 *Ibid.*

25 Q15

26 *Ibid.*

27 *Ibid.*

28 Dr Andrew Blick ([RCM 005](#)), para 8

29 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734 ,para 45

30 Political and Constitutional Reform Committee, Second Report of Session 2014-15, [A new Magna Carta?](#), HC 463

constitution. We do not consider that at present there is any compelling case for statutory recognition of the Cabinet Manual.

23. While it is unlikely that the Cabinet Manual, as presently conceived, will feature extensively in court proceedings, the experience in New Zealand shows the Cabinet Manual could in future be regarded as part of the UK's accepted constitutional arrangements, meaning that it could acquire a legal status more significant than that originally intended. It would in our view be undesirable for the courts to seek to write the Manual into constitutional law without the process of public deliberation and debate which we believe is essential to any codification exercise. Should the courts seek to interpret the Manual in cases of constitutional significance, the Government must be prepared to intervene in such cases to set out its view of the Manual's constitutional position.

Precedent Books

24. During our earlier inquiry we learned that the Government kept a precedent book in which were recorded the events which were the basis for its operational understandings and its conventions. We recommended publication of this information at the earliest opportunity, acknowledging the necessity of redaction of confidential or sensitive information or personal data: we argued that this would give those outside the Executive a more informed opportunity to judge whether the then draft Manual accurately reflected the conventions on which it claimed to be based.

25. Professor Hazell did not in fact believe that it was particularly important to know what the Precedent Book contained:

I don't know what is in the Precedent Book but I am not desperately curious to know. I think the Cabinet Manual does contain everything that we need to know. The Precedent Book will be interesting to historians and to my good friend Peter Hennessy but I don't think it is going to tell us anything that might make for more effective government.³¹

26. In its response to our 2011 report the Government indicated that the 1954 version of the Precedent Book had been placed in the National Archives in 2006. Sir Jeremy Heywood told us that a redacted version of the 1978 Precedent Book had since been placed in the National Archives, and that the Cabinet Office was working hard to "try to get the two remaining precedent books published as soon as possible."³² The National Archives has now sent us a copy of the 1978 book, for which we are grateful.

31 Q58

32 Q112

27. Sir Jeremy also indicated that since 1992 no formal precedent book had been kept, and that the Cabinet Office now relied on a more nebulous concept of unwritten corporate memory:

How we deal with these issues now is on the basis of experience of how the ministerial code, for example, has been interpreted in the past, what the recent precedents have been, but we don't collect those together into something called the precedent book. In a sense, the corporate memory is there in the Cabinet Office and in my office but we have not gone to the trouble of bringing all of those individual cases together into a new version of the precedent book.³³

It is not clear to us whether there is any formal mechanism, in the absence of a precedent book, to record the experience of interpretation of constitutional precedents.

28. We welcome the release of the 1954 and 1978 Precedent Books, and we commend the work being undertaken to place the remaining two precedent books into the public domain. We nevertheless note with concern that the use of a precedent book as a means of recording the events which form the basis of precedents used for the Cabinet Manual has lapsed. The arrangements for recording the corporate memory of Government and the Cabinet Office in a form which can inform future editions of the Cabinet Manual are now unclear. *We recommend that in its response to this report the Government set out the process whereby the precedents which inform its understanding of the operation of the constitution are captured and retained.*

3 Use of the Cabinet Manual

Audience

29. At the launch of the draft Cabinet Manual in February 2011, the then Cabinet Secretary, Sir Gus O’Donnell, stated that he hoped the final version of the Manual would

help the public better understand how our democracy works. I want it to bring the inner workings of government out in the open and shed more light on how government relates to the other branches of state.³⁴

During this inquiry we examined the present use of the Manual, and questioned whether the Manual as presently conceived could effectively serve the purpose of a handbook for Ministers and a guide for the public.

Public use of the Cabinet Manual

30. Professor Ian Cram told us that the Manual had not been widely used by the public:

I am not sure that it has a very high level of visibility in the public domain. I did a search of various media organisations’ websites—*The Guardian*, *The Independent* and *The Telegraph*—to see how the Cabinet manual is referenced, and it comes up very rarely indeed. What features more is the ministerial code, which you probably would expect, because it has been out there in the public domain. It is being referenced more. The Cabinet manual, by contrast, does not have that level of visibility.³⁵

31. Even if it is the case that the Cabinet Manual has thus far not been widely referred to in the press and visible in the public domain, we recognise its potential importance in cases where constitutional conventions are contested or where rare or novel situations arise. One such situation, relatively novel in 2010, is the process to be followed in the event of a hung Parliament and any hiatus in the formation of a new administration. In this connection Professor Hazell told us:

for me the most important chapter and the chapter that does matter for the public is chapter 2, on elections and government formation. ... that crucially, for the first time set out the key conventions that operate to guide the Sovereign in choosing whom to appoint as a new Prime Minister and to guide everyone involved in a new Parliament, especially if the election outcome has been uncertain in terms of producing no overall winner.³⁶

34 Sir Gus O’Donnell, [Speech to Constitution Unit public seminar on the Cabinet Manual](#), 24 February 2011

35 Q6

36 Q39

He went on to explain why he considered it important for the public to be aware of this chapter:

I felt—and I was not alone—that it was terribly important that the media, who are the main communicators of this information to the public, as well as the public, should clearly understand what the rules of the game would be after the election. Before the election I, together with Peter Riddell of the Institute for Government, did lots of briefings for different sections of the media and also, because of the nervousness of the markets, to different audiences in the City to explain to them what would happen if there were a hung Parliament. So I think chapter 2 is directed, importantly, to the public and the media as well as the insiders.³⁷

32. Sir Jeremy Heywood indicated the work the Cabinet Office had undertaken in promoting public engagement with the Manual and its contents:

I think it is probably a work in progress. There has not been a huge pick-up of public interest in it. I think it was primarily intended as a guide to Ministers and civil servants and for those working closely with Government rather than for the general public. I think I am right in saying that we have had something like 5,000 hits on the website, if that is one measure of the degree of public interest. But I think this will build over time as the thing gets established, and it has only been in place for a few years.³⁸

Use by Ministers

33. When they appeared before us in September 2014 to discuss the work of the Deputy Prime Minister on political reform, the Deputy Prime Minister, Rt Hon Nick Clegg MP, and the Minister of State for Universities, Science and Cities, Rt Hon Greg Clark MP, both indicated the importance of the Cabinet Manual to Ministers in the coalition.³⁹ The Cabinet Secretary indicated the use made of the Manual by Ministers and departments, though he could not quantify or illustrate the particular use to which the Manual was put:

Copies of the Manual were sent to all Cabinet Ministers and Permanent Secretaries on publication and I would expect Departments to use the document as a guide to the operations and procedures that it covers. I know that colleagues across the Cabinet Office and the wider civil service find it a useful guide and reference tool and it is being used in that way.⁴⁰

No detailed analysis has been done on exactly how Departments are using the document, so I am unable to provide more specific information on that

37 Q39

38 Q77

39 Oral evidence on *The work of the Deputy Prime Minister in 2014* taken on [9 September 2014](#), HC 464, QQ20, 38

40 Sir Jeremy Heywood ([RCM 007](#))

point, but I hope the relevance of the Manual continues to be reflected in the evidence you receive to your Inquiry.⁴¹

Two versions of the Manual?

34. In the light of the apparently low level of public awareness of the Cabinet Manual, Professor Ian Cram suggested that two different versions of the Cabinet Manual might be created, one for the general public and one for Ministers and Departments, each tailored to the respective needs of each audience:

I do not think that is very successful within a single document. For example, you could argue that it contains too much detail at times in terms of what an interested member of the public might want to see. There are details, for example, on Cabinet Committee structures that seem to be way in excess of what might be needed if you were an interested member of the public. The document, I think, currently extends to over 100 pages, and it is asking an awful lot of ordinary members of the public, in their busy lives, to find the time to go through that.⁴²

35. Sir Jeremy Heywood disagreed with the idea of having two different versions:

I don't really support that, to be honest. I think that this needs to be established as the manual and I hope over time there will be more awareness of it, but I don't think that greater public awareness of it would be helped if there were two different versions. I personally would prefer to have just one document.⁴³

36. While we appreciate that having two different versions of the Cabinet Manual, one aimed at the public and one aimed at Government Ministers might encourage more use of the document by the general public, we are concerned that this may lead to inconsistencies between the two documents and take away from the overall authority of the document as a whole. ***We do not recommend that a separate version of the Cabinet Manual be produced for use by the general public.***

Conclusions on use of the Manual

37. We are disappointed to observe the apparently limited interest in the Cabinet Manual, its purpose and its contents from the general public. We agree with Professor Hazell that it is important that the public and political commentators should be aware “what the rules of the game would be after the election”.⁴⁴ More fundamentally, it is vital that the general

41 *Ibid.*

42 Q2

43 Q81

44 Q39

public is as well informed as possible about the basic functioning of the institutions at the heart of government.

38. Insofar as the Cabinet Manual describes ‘the rules of the game’, its contents must be made more accessible to all. It is surely vital to a properly-functioning democracy that the public has access to clear, objective and unambiguous information about the process whereby administrations are formed and the roles of the key players. In the run-up to the dissolution of Parliament and the 2015 general election, there is now clearly no time to undertake an effective programme of public engagement on this process. *We recommend that the Cabinet Office plan for an enhanced programme of public engagement on the contents of the Cabinet Manual following the 2015 General Election.*

39. We are similarly disappointed that no more detailed analysis has been done to assess how useful the Cabinet Manual has been to Ministers, especially given that we have been told that it is “primarily intended as a guide to Ministers and civil servants and for those working closely with Government rather than for the general public.”⁴⁵ ***We recommend that the Government commission an internal assessment of the usefulness of the Cabinet Manual to Ministers and Departments to inform its next revision.***

4 Future revision

Purpose and limitations of the Cabinet Manual

40. The Cabinet Manual, based as it is on practice and precedent, is not conceived as a prescriptive guide to the operation of government in every political climate. While the Manual sets out an agreed framework for the operation of government, allowing a necessary flexibility of practice, users of the Manual ought to be aware of the limitations of the document as a guide to how to handle future unforeseen circumstances.

41. In his preface to the first edition of the Manual, Sir Gus (now Lord) O'Donnell stated that “[t]his updated text [of the Manual] remains true to its original purpose. It is primarily a guide for those working in government, recording the current position rather than driving change. [...] 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 government, it will need to be updated periodically to reflect such developments.”⁴⁶ As the Prime Minister pointed out in his foreword to the first edition, “the manual sets out the laws, conventions and rules that do not change from one administration to the next but also how the current coalition Government operates and recent changes to legislation such as the establishment of fixed-term Parliaments.”⁴⁷

42. Users of the Cabinet Manual must bear in mind its stated purpose, which is as a guide to the current practice of government. The precedents the Manual cites may be helpful in guiding a response to future political circumstances, but it should not be seen as a rulebook full of out-of-date prescriptions which are inadequate to address fresh challenges. Regular updating of the Manual to reflect the current agreed practice of Government is therefore vital.

How often should the Manual be revised?

43. In our earlier report on the draft Cabinet Manual we recommended that “there needs to be a clear and published process, agreed with [this Committee], for updating the Cabinet Manual once it has been finalised.”⁴⁸ In response to this recommendation the Government stated that “the current intention is to make periodic updates to the Manual as and when appropriate. However we do not believe the Government should at this stage set out

46 [Cabinet Manual](#), First Edition, October 2011, Preface, p. iv

47 *Ibid.*, p. iii

48 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734, para 90

precisely when and how this should happen.”⁴⁹ We found this response unsatisfactory, and therefore revisited the issue of revision during this inquiry.

44. We received different views on the desirable frequency of updates to the Manual. Professor Ian Cram wrote:

It is difficult...to see why a commitment to outlining a schedule and process for periodic updates should pose an insurmountable difficulty for the government. At the start of each parliamentary session, the government could produce a list of changes to the CM and allocate time for parliamentary debate/approval. Yearly updates and debates would allow for timely responses to recent developments.⁵⁰

45. Professor John McEldowney thought that the Manual should be updated annually to reflect any changes:

The process of annual review also provides a useful health check on how things have been done and how practices may diverge. A written document, if left unrevised on a regular basis, may simply fail to be of much use and this would be a pity as the Cabinet Manual is good practice and its existence should not be allowed to depreciate over time.⁵¹

46. Professor Robert Hazell and Dr Ben Yong argued that the Cabinet Manual should be updated less frequently, and should only have to be approved by each incoming Government. This process might involve no changes at all to the Manual:

The Cabinet Manual needs to be approved by each administration. Its authority derives from the decision taken by Cabinet to follow its guidance and procedures. Each new Cabinet needs to renew that authority. The Prime Minister may invite Cabinet to adopt the Cabinet Manual with no revisions, or with minor revisions, or to commission a wider review.⁵²

Professor Hazell explained what he would expect to happen in relation to the Cabinet Manual after a general election:

I would expect soon after the next election the Cabinet Secretary, as one of the many pieces of initial business, will say to whoever the new Prime Minister is, “Prime Minister, the last Government introduced the Cabinet Manual. Would you like your Administration also to be guided by a Cabinet Manual and are you content with the Cabinet Manual as it is or would you

49 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

50 Professor Ian Cram ([RCM.002](#))

51 Professor John McEldowney ([RCM.006](#))

52 Professor Robert Hazell and Dr Ben Yong ([RCM.001](#))

like to see any revisions?” ... The Prime Minister might say, “Are any revisions necessary?” and the Cabinet Secretary might have prepared for that question and have a little list.⁵³

47. The Cabinet Secretary told us that he did have a list ready for a future revision, to be used when called upon to do so. He stated:

We keep a running tally in the Cabinet Office of various detailed areas that might need updating or do need updating, so if there is any ministerial appetite to engage on that subject then we will be ready to provide advice.⁵⁴

Accuracy

48. We were concerned about the currency and accuracy of the published Cabinet Manual, recognising the danger that a document which is not seen to be regularly updated to reflect relevant developments may lack authority. We therefore examined how the manual might reflect constitutional changes which happened during a Parliament, without the need for a full revision. Professor Hazell, reflecting on the practice in New Zealand, made the following suggestion:

The New Zealand Cabinet Manual ... also appears in hard copy but recently they have started doing minor updates online, so the electronic version is updated in that way. For us, that also could be a halfway house: that the Cabinet Office could do minor revisions in that and publish and keep a list so people know what little changes have been made before from time to time going through a more formal updating and revising process.⁵⁵

49. Sir Jeremy Heywood did not agree that this would be a good way to reflect changes, reiterating the point that two different versions of the Manual—one offline and one online—could lead to conflict. He nevertheless recognised the issue which arose if the Manual was not seen to accurately reflect recent changes. He offered the following alternative suggestion:

I will [...] 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.⁵⁶

This proposal has some merit, insofar as it enables recent changes in practice to be identified and earmarked for inclusion in the next edition of the Manual.

53 Q47

54 Q93

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56 Q94

50. We consider that it is important that the Cabinet Manual is kept up to date. We believe the Manual should be revised every Parliament as a bare minimum, especially on the arrival of a new administration, to ensure that it accurately reflects the current Government's understanding. We endorse the proposal from the Cabinet Secretary that the Cabinet Office should produce a running list of matters which will require attention at the Manual's next revision. *We recommend that the Cabinet Office publish, as soon as possible, a list of matters in the Cabinet Manual which will require amendment at its next revision. At the same time the current online edition of the Manual, which is accessible to the public, should be marked up at each point where future revision is envisaged.*

What is the role of Parliament in its revision?

51. As we discussed above, the Cabinet Manual is said to be in the collective ownership of the Cabinet, which asserts the sole power to amend it. In its response to our earlier report, the Government stated that “The Cabinet Manual is drafted by the Executive, for the Executive. It sets out the Executive’s understanding of laws, conventions and rules on the operation of government. The Government considers that it would not be appropriate for Parliament to decide its content.”⁵⁷

52. As we have argued both above and in our earlier report, the purpose of the Cabinet Manual must be in part to inform the public about the operation of government: “The Manual, however, [...] might become, whatever the intention [...] the basis for a shared understanding beyond the Executive of important parts of the United Kingdom’s previously uncodified constitution. Parliamentary intervention would be entirely appropriate in such circumstances.”⁵⁸

53. The potential role of Parliament in any such revision remains to be established. Professor Hazell and Dr Yong advocated a limited role for Parliament in revising the Cabinet Manual:

It is open to Parliament to scrutinise the process and the result, just as it is open to Parliament to scrutinise any actions or policies of the Executive. But it is not necessary for Parliament to be involved: the authority of the Cabinet Manual derives from Cabinet, and not from Parliament.⁵⁹

Drawing on the experience in New Zealand, which has a longer-established Cabinet Manual, they stated:

57 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, p21

58 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734, para 41

59 Professor Robert Hazell and Dr Ben Yong ([RCM.001](#))

There [in New Zealand] Parliament plays no role. Within government, the process of revising the Cabinet Manual is a continuous process, with users of the Manual notifying Cabinet Office whenever they find a passage which needs clarifying or updating.⁶⁰

Professor John McEldowney largely agreed with this view:

the role of Parliament is rather limited. It is appropriate that both Houses, through the appropriate Select Committee should be informed and deliberate on the working of the Manual. A clear distinction needs to be maintained between the Cabinet Manual as a guide to the working of government published by the Cabinet in Office rather than a parliamentary guide published and drafted by Parliament.⁶¹

54. In our earlier report we expressed the hope that our Committee would be able to engage in an “ongoing dialogue with the Government about the Cabinet Manual and its contents”⁶², and to this end the Committee has regularly made suggestions on what should be included in the Manual. Despite its restrictive view on ownership of the Cabinet Manual, we expect the Government to give serious consideration to any proposals for revision of the Manual which are made by Parliamentary committees.

55. Undoubtedly the Cabinet Manual is a significant document. In the absence of widespread public engagement with its contents, its main use hitherto has been as a guide for the Executive on the operation of government. Given the fact that most chapters relate to, and have a direct impact on, the work of Parliament and the relationship between Parliament and the Executive, we consider that Parliament, through the relevant select committees of each House, should be consulted on all proposed revisions to the Manual which relate to Parliament and its relationship with the Executive.

Specific suggestions for revision

56. This Committee made some specific suggestions for revision of the Manual in our earlier report. We discuss these below, together with additional issues which have emerged during our most recent inquiry.

Duty on incumbent Prime Minister to remain in office

57. After the 2010 General Election, the incumbent Prime Minister, Rt Hon Gordon Brown MP, remained in office until it was clear that the current Coalition parties were in a

60 *Ibid.*

61 Professor John McEldowney ([RCM.006](#))

62 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734, para 37

position to be invited by the Sovereign to form an administration. In our previous report we acknowledged that

there is a continuing dispute over the extent to which a Prime Minister has a duty to remain in office when it is unclear who else might be best placed to lead an alternative government. The Cabinet Manual needs to give clarity to the extent of this uncertainty, rather than to attempt to resolve the argument.⁶³

58. In its response, the Government indicated that the text of the first edition of the Manual relating to the position of the Prime Minister in office in such circumstances had been amended.⁶⁴ The relevant text in the first edition of the Manual now reads:

Recent examples suggest that previous Prime Ministers have not offered their resignations until there was a situation in which clear advice could be given to the Sovereign on who should be asked to form a government. It remains to be seen whether or not these examples will be regarded in future as having established a constitutional convention.⁶⁵

59. At the time of our earlier report we were content to accept there were differing views on this issue. Professor Hazell highlighted to us why it is important, especially for the public and the media, to have a clear idea of what should happen after the General Election:

it is important for people to understand that we must always have a Government, especially at times immediately after an election when it is not yet clear who can command confidence in the new Parliament. We still have a Government; it is the previously existing Government; and we must always have a Government in office because there might be a natural disaster or another meltdown in the eurozone or some foreign policy or military emergency in the Balkans or the Middle East where we need a Government that can act. That is why I think it is important that people understand that the incumbent Prime Minister must remain in office until it is clear who can command confidence in the new Parliament and the Queen can then confidently invite that person to form the next Government.⁶⁶

60. We acknowledge the amendment of the Cabinet Manual in order to reflect the extent of uncertainty over whether a constitutional convention has been established on the resignation of a Prime Minister after a general election. We also consider that the public is entitled to as clear a picture as possible of the procedures to be followed in forming a

63 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734, para 74

64 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

65 [Cabinet Manual](#), First Edition, October 2011, para 2.10

66 Q54

government after a general election, especially if there is uncertainty as to what the composition of the next Government will be. **While the Cabinet Manual reflects current uncertainty over the constitutional obligations on a sitting Prime Minister who does not expect to be able to form an administration after a general election, the principle that there must always be a government, and that the Sovereign must always have an adviser in the form of a Prime Minister, is unambiguous. We recommend that, for the benefit of the media and the general public, the Cabinet Secretary should set out clearly, and well in advance of the forthcoming general election, the Government's view of the constitutional principles which underpin the continuance in office or otherwise of administrations following a general election.**

Pre-election contacts

61. The convention that opposition parties are entitled to enter into confidential discussions with senior civil servants in the run-up to a general election is long established. Whilst these discussions must be sanctioned by the Prime Minister of the day, they are intended primarily to allow opposition spokespersons to familiarise themselves with aspects of departmental organisation. In April 2014, it became known the current Prime Minister had written to the Leader of the Opposition to inform him that pre-election contacts between the Opposition and the Civil Service would be authorised from October 2014, 7 months prior to the May 2015 general election.

62. The first edition of the Cabinet Manual, citing the *Directory of Civil Service Guidance*, has this to say about the authorisation of pre-election contact with Opposition parties:

At an appropriate time towards the end of any Parliament, as the next general election approaches, the Prime Minister writes to the leaders of the main opposition parties to authorise pre-election contacts with the Civil Service.⁶⁷

63. In our report on *Fixed-term Parliaments: the final year of the Parliament*, we noted that it was “disappointing that the Prime Minister has decided to limit pre-election contacts to the final seven months of this Parliament”⁶⁸ and stated that:

In light of the greater certainty provided by the Fixed-term Parliaments Act 2011 about the date of the next general election, we recommend that the arrangements for pre-election contacts between the Civil Service and Opposition ahead of a general election be formalised. After 2015 these contacts should be permitted automatically in the last year of a Parliament, and the Cabinet Manual should be updated to this effect.⁶⁹

67 [Cabinet Manual](#), First Edition, October 2011, para 2.21

68 Political and Constitutional Reform Committee, Thirteenth Report of Session 2013–14, [Fixed-term Parliaments: the final year of the Parliament](#), HC 967, para 64

69 *Ibid.*, para 65

Professor Hazell and Dr Yong agreed:

Now that we have fixed term parliaments it should be possible to normalise the time when pre-election contacts are authorised, and not leave it to the whim of the Prime Minister. It is in the interest of good government—regardless of party complexion—that the main opposition parties be able to discuss their plans for government with the Civil Service candidly and in good time. Lord O’Donnell has argued for a 12 month period to be formalised and put into the Cabinet Manual. We strongly agree.⁷⁰

64. In its response to our report the Government argued that the 2011 Act only fixed the date of general elections, and “did not otherwise affect the customary privileges and powers of the Prime Minister.”⁷¹ The Government asserted that there had not been a standard length of time for pre-election contacts since their inception in 1964: the convention that contacts be authorised up to 16 months before the latest possible date for a general election, established in 1995, reflected the need to account for early general elections, a need dispensed with following the entry into force of the 2011 Act.⁷² The Prime Minister is said to have decided on seven months as “an appropriate length of time for effective and meaningful contact [...] in line with previous practice.”

65. The Government has made clear that it considers the direction of the Civil Service in this regard is solely a matter for the Prime Minister and not an issue for Parliament. It has indicated that the Cabinet Manual may in due course be updated, along with the authority for the Manual—in this case the *Directory of Civil Service Guidance*—once a full fixed-term Parliament has run its course.

66. We maintain that the advent of fixed-term Parliaments, and the certainty they bring to the political process, should be reflected more widely in those elements of the political cycle which remain within the power of the Prime Minister to determine. We do not believe that there is a compelling case for the Prime Minister alone to determine when it is appropriate for pre-election contact to be authorised. It is manifestly in the interests of good government for pre-election contacts between the Civil Service and Opposition parties to be authorised as a matter of course 12 months before each general election held in accordance with section 1 of the Fixed-term Parliaments Act 2011. We recommend that the *Directory of Civil Service Guidance* be amended to provide for a standard 12-month pre-election contact period, and that at its next revision the *Cabinet Manual* be amended accordingly.

70 Professor Robert Hazell and Dr Ben Yong ([RCM 001](#))

71 Political and Constitutional Reform Committee, Third Special Report of Session 2014–15, [Fixed-term Parliaments: the final year of a Parliament: Government Response to the Committee's Thirteenth Report of Session 2013-14](#), HC 874, Appendix, para 25

72 *Ibid.*

War powers

67. In our earlier report on the Cabinet Manual we raised concerns that the convention on consulting Parliament before committing UK armed forces to action overseas had been omitted from the draft version:

a surprising omission from the draft [...] is the convention, acknowledged by the Government, that Parliament should have the opportunity to debate decisions to commit troops to armed conflict, and that the debate should take place before the troops are committed, except in emergency situations.⁷³

The Government agreed to rectify the omission. The first edition of the Cabinet Manual now acknowledges that a “convention had developed in Parliament that before troops were committed the House of Commons should have an opportunity to debate the matter”.⁷⁴ In March 2014 we recommended in our report on *Parliament’s role in conflict decisions: a way forward*

that the Cabinet Manual be updated to include a reference to the events in the House of Commons on 29 August 2013, that being the most recent occasion where the House of Commons has been consulted on the possibility of military action.⁷⁵

68. Responding to the Westminster Hall debate on our report on 19 June 2014 the Cabinet Office Minister, Rt Hon Greg Clark MP, agreed with the Committee’s recommendation. He stated:

The Committee makes a reasonable point in suggesting that that [the Cabinet Manual] should be updated to reinforce the importance and value of that convention by reference to the events of 29 August. The Government accept the recommendation. We will respond in due course to the other recommendations, but it seems reasonable to tell the House today that we will change the Cabinet manual at the time of the next major revision.⁷⁶

69. In his evidence to us the Cabinet Secretary, Sir Jeremy Heywood, acknowledged that the Cabinet Manual already reflects the fact that Parliament has a role when deciding to commit armed forces. He suggested that a solution on how to reflect this would be forthcoming shortly:

I think the issue is one of whether to and how best to codify what that role is by resolution, legislation or whatever, and there are some arguments in

73 Political and Constitutional Reform Committee, Sixth Report of Session 2010-11, [Constitutional Implications of the Cabinet Manual](#), HC 734, para 61

74 [Cabinet Manual](#), First Edition, October 2011, para 5.38

75 Political and Constitutional Reform Committee, Twelfth Report of Session 2013-14, [Parliament’s role in conflict decisions: a way forward](#), HC 892, para 7. The convention has most recently been invoked on 26 September 2014: HC Deb, 26 September 2014, [cols 1255-1268](#).

76 HC Deb, 19 June 2014, [col 158WH](#)

favour of that and some arguments against. I think the Deputy Prime Minister himself has acknowledged there is a range of different views on that. We are still working through those but hopefully we will be able to get to a decision fairly soon without using the Dyno-Rod.⁷⁷

70. While we welcome the commitment to update the Cabinet Manual to reflect recent instances where the convention on consulting Parliament before deciding to commit armed forces overseas has operated, such a commitment is meaningless without a clear and published plan for revision of the Manual. Since the Manual is acknowledged to be a ‘guide to the rules’, and not the source of any rule, any update to the Manual should fully and unambiguously reflect the scope of uncertainty over the use of the convention, and take into account the issues on the use of the convention raised by this Committee on behalf of the House.

Conclusions and recommendations

Progress since the Committee's earlier report

1. We note with approval that the first edition of the Cabinet Manual appears to acknowledge more clearly instances where there is disagreement or uncertainty about a convention. (Paragraph 10)
2. Given that ownership of the Cabinet Manual is said to be in the collective hands of the Cabinet, and not the Cabinet Secretary, it appears odd that no Minister could be identified to take on the task of explaining to us the Government's policy on ownership of the Manual and its revision. *We recommend that the Prime Minister, on behalf of the Cabinet, assign policy responsibility for the content and currency of the Cabinet Manual to a specific Ministerial portfolio.* (Paragraph 13)
3. While the current Cabinet Manual is said to be owned by the Cabinet, we consider that Parliament has a significant stake in its contents and should at the very least be consulted on any future revision. *Should the Cabinet Manual evolve to become more than a guide to the operation of the Executive, to the extent where it is considered part of the constitutional arrangements for the UK, we recommend that it should be treated as a document in the joint ownership of the Cabinet and of the relevant Parliamentary committees.* (Paragraph 16)
4. While giving the Manual a basis in statute might appear attractive, not least to those who advocate constitutional codification, we are concerned that to give it a statutory basis might create an unsatisfactory halfway house to full codification of the constitution. We do not consider that at present there is any compelling case for statutory recognition of the Cabinet Manual. (Paragraph 22)
5. While it is unlikely that the Cabinet Manual, as presently conceived, will feature extensively in court proceedings, the experience in New Zealand shows the Cabinet Manual could in future be regarded as part of the UK's accepted constitutional arrangements, meaning that it could acquire a legal status more significant than that originally intended. It would in our view be undesirable for the courts to seek to write the Manual into constitutional law without the process of public deliberation and debate which we believe is essential to any codification exercise. Should the courts seek to interpret the Manual in cases of constitutional significance, the Government must be prepared to intervene in such cases to set out its view of the Manual's constitutional position. (Paragraph 23)
6. We welcome the release of the 1954 and 1978 Precedent Books, and we commend the work being undertaken to place the remaining two precedent books into the public domain. We nevertheless note with concern that the use of a precedent book as a means of recording the events which form the basis of precedents used for the Cabinet Manual has lapsed. The arrangements for recording the corporate memory of Government and the Cabinet Office in a form which can inform future editions of

the Cabinet Manual are now unclear. *We recommend that in its response to this report the Government set out the process whereby the precedents which inform its understanding of the operation of the constitution are captured and retained.* (Paragraph 28)

Use of the Cabinet Manual

7. *We do not recommend that a separate version of the Cabinet Manual be produced for use by the general public* (Paragraph 36)
8. Insofar as the Cabinet Manual describes ‘the rules of the game’, its contents must be made more accessible to all. It is surely vital to a properly-functioning democracy that the public has access to clear, objective and unambiguous information about the process whereby administrations are formed and the roles of the key players. In the run-up to the dissolution of Parliament and the 2015 general election, there is now clearly no time to undertake an effective programme of public engagement on this process. *We recommend that the Cabinet Office plan for an enhanced programme of public engagement on the contents of the Cabinet Manual following the 2015 General Election.* (Paragraph 38)
9. *We recommend that the Government commission an internal assessment of the usefulness of the Cabinet Manual to Ministers and Departments to inform its next revision.* (Paragraph 39)

Future revision

10. Users of the Cabinet Manual must bear in mind its stated purpose, which is as a guide to the current practice of government. The precedents the Manual cites may be helpful in guiding a response to future political circumstances, but it should not be seen as a rulebook full of out-of-date prescriptions which are inadequate to address fresh challenges. Regular updating of the Manual to reflect the current agreed practice of Government is therefore vital. (Paragraph 42)
11. We consider that it is important that the Cabinet Manual is kept up to date. We believe the Manual should be revised every Parliament as a bare minimum, especially on the arrival of a new administration, to ensure that it accurately reflects the current Government’s understanding. We endorse the proposal from the Cabinet Secretary that the Cabinet Office should produce a running list of matters which will require attention at the Manual’s next revision. *We recommend that the Cabinet Office publish, as soon as possible, a list of matters in the Cabinet Manual which will require amendment at its next revision. At the same time the current online edition of the Manual, which is accessible to the public, should be marked up at each point where future revision is envisaged.* (Paragraph 50)
12. Undoubtedly the Cabinet Manual is a significant document. In the absence of widespread public engagement with its contents, its main use hitherto has been as a guide for the Executive on the operation of government. *Given the fact that most chapters relate to, and have a direct impact on, the work of Parliament and the*

relationship between Parliament and the Executive, we consider that Parliament, through the relevant select committees of each House, should be consulted on all proposed revisions to the Manual which relate to Parliament and its relationship with the Executive. (Paragraph 55)

13. While the Cabinet Manual reflects current uncertainty over the constitutional obligations on a sitting Prime Minister who does not expect to be able to form an administration after a general election, the principle that there must always be a government, and that the Sovereign must always have an adviser in the form of a Prime Minister, is unambiguous. *We recommend that, for the benefit of the media and the general public, the Cabinet Secretary should set out clearly, and well in advance of the forthcoming general election, the Government's view of the constitutional principles which underpin the continuance in office or otherwise of administrations following a general election. (Paragraph 60)*
14. We maintain that the advent of fixed-term Parliaments, and the certainty they bring to the political process, should be reflected more widely in those elements of the political cycle which remain within the power of the Prime Minister to determine. We do not believe that there is a compelling case for the Prime Minister alone to determine when it is appropriate for pre-election contact to be authorised. It is manifestly in the interests of good government for pre-election contacts between the Civil Service and Opposition parties to be authorised as a matter of course 12 months before each general election held in accordance with section 1 of the Fixed-term Parliaments Act 2011. *We recommend that the Directory of Civil Service Guidance be amended to provide for a standard 12-month pre-election contact period, and that at its next revision the Cabinet Manual be amended accordingly. (Paragraph 66)*
15. While we welcome the commitment to update the Cabinet Manual to reflect recent instances where the convention on consulting Parliament before deciding to commit armed forces overseas has operated, such a commitment is meaningless without a clear and published plan for revision of the Manual. Since the Manual is acknowledged to be a 'guide to the rules', and not the source of any rule, any update to the Manual should fully and unambiguously reflect the scope of uncertainty over the use of the convention, and take into account the issues on the use of the convention raised by this Committee on behalf of the House. (Paragraph 70)

Formal Minutes

Monday 26 January 2015

Members present:

Mr Graham Allen, in the Chair

Paul Flynn
Duncan Hames

Mr Andrew Turner

Draft Report (*Revisiting the Cabinet Manual*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 70 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fifth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Monday 2 February at 5.00 pm]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page at <http://www.parliament.uk/PCRC-revisiting-the-cabinet-manual>

Thursday 12 June 2014

Question number

Professor Ian Cram, University of Leeds

[Q1-36](#)

Thursday 26 June 2014

Professor Robert Hazell, University College London

[Q37-61](#)

Thursday 17 July 2014

Sir Jeremy Heywood KCB CVO, Cabinet Secretary

[Q62-124](#)

Published written evidence

The following written evidence was received and can be viewed on the Committee's inquiry web page at <http://www.parliament.uk/PCRC-revisiting-the-cabinet-manual>. INQ numbers are generated by the evidence processing system and so may not be complete.

- 1 Sir Jeremy Heywood KCB, CVO, Secretary to the Cabinet ([RCM 07](#))
- 2 Professor Robert Hazell, Constitution Unit, School of Public Policy, UCL and Dr Ben Yong, Department of Law, Queen Mary University of London ([RCM 01](#))
- 3 Professor Ian Cram, University of Leeds ([RCM 02](#))
- 4 Mark Ryan, Senior Lecturer in Constitutional and Administrative Law at Coventry University ([RCM 04](#))
- 5 Dr Andrew Blick ([RCM 05](#))
- 6 Professor John McEldowney, School of Law, University of Warwick ([RCM 06](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee's website at:

<http://www.parliament.uk/PCRC-publications>

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–12

First Report	Parliamentary Voting System and Constituencies Bill	HC 422
Second Report	Fixed-term Parliaments Bill	HC 436 (Cm 7951)
Third Report	Parliamentary Voting System and Constituencies Bill	HC 437 (Cm 7997)
Fourth Report	Lessons from the process of Government formation after the 2010 General Election	HC 528 (HC 866)
Fifth Report	Voting by convicted prisoners: Summary of evidence	HC 776
Sixth Report	Constitutional implications of the Cabinet Manual	HC 734 (Cm 8213)
Seventh Report	Seminar on the House of Lords: Outcomes	HC 961
Eighth Report	Parliament's role in conflict decisions	HC 923 (HC 1477)
Ninth Report	Parliament's role in conflict decisions: Government Response to the Committee's Eighth Report of Session 2010-12	HC 1477 (HC 1673)
Tenth Report	Individual Electoral Registration and Electoral Administration	HC 1463 (Cm 8177)
Eleventh Report	Rules of Royal Succession	HC 1615 (HC 586)
Twelfth Report	Parliament's role in conflict decisions—further Government Response: Government Response to the Committee's Ninth Report of Session 2010-12	HC 1673
Thirteenth Report	Political party finance	HC 1763

Session 2012–13

First Report	Recall of MPs	HC 373 (HC 646)
Second Report	Introducing a statutory register of lobbyists	HC 153 (HC 593)
Third Report	Prospects for codifying the relationship between central and local government	HC 656(Cm 8623)
Fourth Report	Do we need a constitutional convention for the UK?	HC 371

Session 2013-14

First Report	Ensuring standards in the quality of legislation	HC 85 (HC 611)
Second Report	The impact and effectiveness of ministerial reshuffles	HC 255 (1258)
Third Report	Revisiting Rebuilding the House: the impact of the Wright reforms	HC 82 (HC 910)
Fourth Report	The role and powers of the Prime Minister: the impact of the Fixed-term Parliaments Act 2011 on	HC 440 (HC 1079)

	Government	
Fifth Report	Pre-appointment hearing: The Chair of the House of Lords Appointments Commission	HC 600
Sixth Report	Introducing a statutory register of lobbyists: Government Response to the Committee's Second Report of Session 2012-13	HC 593
Seventh Report	The Government's lobbying Bill	HC 601 (801)
Eighth Report	Parliament's role in conflict decisions: an update	HC 649
Ninth Report	House of Lords reform: what next?	HC 251 (1079)
Tenth Report	The Government's lobbying Bill: follow up	HC 891 (HC 535)
Eleventh Report	Impact of Queen's and Prince's consent on the legislative process	HC 784 (HC 224)
Twelfth Report	Parliament's role in conflict decisions: a way forward	HC 892
Thirteenth Report	Fixed-term Parliaments: the final year of a Parliament	HC 976 (HC 874)
Fourteenth Report	Constitutional role of the judiciary if there was a codified constitution	HC 802
Session 2014-15		
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