

CONTINUITY AND CHANGE IN THE HOME OFFICE

David Faulkner

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This paper offers some thoughts on the history of the Home Office, its character as a department, and the issues which we can expect to face during the next few years.

The Home Office began its existence as a separate department of state in 1782, and it is the bicentenary of that event which was celebrated by HM The Queen's visit to the Home Office in April 1982 and by the Commemorative plaque which you see in the main entrance hall in Queen Anne's Gate. But the Office of Secretary of State, originally the King's Secretary, is much older and goes back, according to Sir Frank Newsam's book on the Home Office, to 1377. It was not a particularly distinguished office during the 14th and 15th centuries, but its status and influence rose rapidly in Tudor times. Thomas Cromwell was effectively Henry VIII's chief minister, and it is interesting that one of the issues with which he was concerning himself in 1537 was the organisation of local justice, just as his successors have done from time to time ever since.

The Secretary of State's three main functions eventually came to be recognised as

- providing the main channel of communication between the King and Parliament (still part of the functions of A Division);
- advice to the King on the exercise of the Prerogative, especially the Prerogative of Mercy (still the job of C3 Division);
- Conveying instructions to the King's Officers at home and abroad - usually in earlier times to Lords Lieutenant and Sheriffs rather than Chief Constables, but also to magistrates and local authorities and recognisably the beginning of our present Home Office Circulars.

The Secretary of State was in those early times very much the servant of the Crown, and his association with the political parties and his accountability to Parliament and the Prime Minister only came later, especially after 1688. But it is still worth remembering that the Secretary of State and Home Office officials are first and foremost servants of the Crown, with a duty to the Crown, which transcends party political loyalties. Although this duty is not expressed in statute, and it is not always clear how it can be defined or enforced in practice, the notion of an overriding duty to the Crown, which Ministers and officials share on equal terms, is one which I personally find helpful in giving some coherence and principle to our job as Home Office officials. For practical purposes the official is still of course responsible to the political administration of the day.

The parliamentary and party system had become well established, and the Secretary of State had become firmly associated with the political administration, by 1782 when it was decided that the pressure of work required the office to be split between two Secretaries of State. One of them, Lord Shelburne later the Marquis of Lansdowne, was to administer domestic and colonial affairs, and the other, Charles James Fox, was to be in charge of foreign affairs. Their full titles were Secretary of State for the Home Department and Secretary of State for Foreign Affairs, and these continue to this day. These two Departments, with the Treasury, came to be recognised, and still are recognised, as the three great Departments of State. The Home Office at that time had a staff of two under-secretaries, a chief clerk, 10 other clerks and some domestic staff.

The business of the new Department was already expanding far beyond that of earlier Secretaries of State. There was very quickly a prison crisis, for a time resolved by the development of penal colonies in Australia – those in America being no longer available after American independence; and not long after that an immigration crisis when it became necessary to keep out undesirable aliens at the beginning of the Napoleonic Wars. Public order, criminal law and policing became major themes of Home Office business during the troubled period which followed the Napoleonic Wars, and Robert Peel's Criminal Law and Police Acts, which drastically reduced the number of offences carrying the death penalty and laid the foundations of the modern police service, made the late 1820s one of the most creative periods of our history. These four subjects – prisons, immigration, criminal law and police – have remained at the centre of the Department's business ever since.

The 19th century was also a period in which other subjects came into prominence, and when the Home Office had to take responsibility for coping with the social and environmental effects of the industrial revolution. Child labour and safety in mines and factories, children's homes and reformatories, workmen's compensation and public health were all subjects which needed attention and regulation during that period. The method was usually the setting of standards and their enforcement by statutory inspectorates, providing an interesting link with the current proposals for a Citizen's Charter. This was an important and successful period in our history, but the price of our success was that most of these functions were eventually taken away to become the basis of separate departments – the Ministry of Education as early as 1839, the Ministry of Labour in 1914, and the Ministry of Health in 1919. The process was eventually completed with the loss of the Children's Department to the Department of

Health in 1971, although we have gained other functions since then – Broadcasting in 1974, and the Passport Office in 1984.

Later landmarks include

- the formation of the Prison Commission in 1877;
- the Gladstone Report on prisons in 1895;
- the beginnings of the borstal system in 1900;
- the statutory recognition of the probation service in 1907;
- the police strike in 1918 and its subsequent settlement;
- the public order problems of the 1930s;
- the internment of enemy aliens in the 1940s;
- the end of corporal punishment in 1948, and of capital punishment in 1964 (made permanent in 1969);
- the introduction of controls over immigration from the Commonwealth in 1962;
- the Police Act of 1964; and
- the formation of a separate Northern Ireland Office in 1972.

The landmarks become less distinct as we come closer to our own times. From the 1950s onwards the volume and frequency of legislation and administrative change became so great that it is difficult to pick out at this close distance those events which will prove to have special historical significance. My own list would include

- the development and statutory regulation of a multiracial society;
- changes in police practice as a result of the disturbances in 1981, 1985, and of the Police and Criminal Evidence Act; and
- the increasing influence of the European Court and European Commission of Human rights, and of judicial review in the Domestic courts.

Looking ahead at events which are still unfolding, I hope we shall be able to add

- the formation of the Crown Prosecution Service;
- the Woolf Report;
- the latest Criminal Justice Act;
- the new Royal Commission; and
- the use we make of our position in Europe.

It is revealing to look back not only at landmarks in the shape of new legislation, but also to compare what we can tell of the pattern of ordinary office life with the pattern we know today. One obvious contrast is the short working hours – 10 am to 4 pm, or 10 am to 5 pm – as we learn from the novels of Trollope. But Trollope also gives us a fascinating account of the handling of a miscarriage of justice case in his novel *John Caldigate* which would be entirely recognisable in C3 Division today. Although the formation of the Court of Criminal Appeal in 1907 was still 40 years away, the most striking difference is the high level at which the case was being considered – by the Permanent Secretary himself, without evidence of support from lower down in the office.

In a different area, the relations between Lushington and Troup as Permanent Secretaries, and Du Cane and Ruggles-Brise as Chairmen of the Prison Commission, show that arguments about the role of the Director General and his predecessors, and their relationships with the Home Office and with Ministers, were as alive then as they were when the Prison Commission was dissolved in 1963, or as they are following the Woolf Report and the Brixton escapes today.

One welcome contrast between the present and the past is that the work of the Office, and especially of the Criminal Departments and the Prison Service, is no longer darkened by the shadow of capital punishment. The notorious executions of the '50s and early '60s – Derek Bentley, Ruth Ellis, James Hanratty – affected the whole Department, and there was a universal sense of relief when capital punishment for murder was abolished in 1964 and its abolition was made permanent in 1969.

Just as the Secretary of State was a powerful and sometimes suspicious figure in Tudor England, so the Home Office is a powerful Department in modern Britain, and one which is still sometimes seen with suspicion. Its case-working functions – immigration, prisons, passports, nationality, mental disorder, forensic science, miscarriages of justice – directly affect the lives of hundreds of thousands of people. All these functions involve a balance between the protection of the public and the wider interests of society on the one hand, and the liberty of the subject on the other – the principle of “freedom under the law”. That balance is at the heart of the Department's business, it depends partly on the vision and integrity of the Department's own staff, and partly on the law and administrative procedures within which we operate. These procedures are rightly subject to constant questioning and sometimes revision. Examples include a long line of cases at the European Commission and Court in Strasbourg, the debates on the administration of life sentences during the latest Criminal Justice Act's passage through the House of Lords, and perhaps above all the recent appointment of the

Royal Commission on the criminal justice system following the miscarriages of justice in cases involving Irish terrorism.

The Home Office does not yet have a “mission statement” as such, but there have for a long time been attempts to sum up what we are about in a few well-chosen words. The “Handbook for the Guidance of New Entrants to the Home Department”, produced in 1954 said “... there is no doubt that the maintenance of public order and the liberty and safety of the individual is our main responsibility”. I do not think this is quite enough for a department which now had responsibility for tackling discrimination on grounds of race and gender, and I would see any Home Office mission statement as needing three elements.

- a. to maintain public order and safety, and public confidence in the protection provided;
- b. to preserve the freedom of the individual to the maximum extent that is consistent with a.;
- c. to contribute to a fair and stable society, with proper protection for disadvantaged and minority groups.

The Home Office is never far from the centre of the political scene, and here are a few issues of the moment in which the Home Office does not have some part to play and some contribution to make. The way in which it conducts its business, both through its casework and through legislation and administrative practice, has an important effect on whether people feel that they are being well governed or are safe in the streets and in their homes. Unlike its case-working functions, those wider functions are for the most part carried out by services or agencies which are not themselves part of the Department – police, fire, magistrates’ courts, probation, the broadcasting authorities – or through various regulatory or licensing functions. The Prison and Immigration Services are the main exceptions. This division of responsibility has always seemed to me right – the concentration of power would otherwise be too great for a single government department and perhaps for central government itself – but the relationship between the Home Office and those services and agencies will always be a sensitive matter which goes to the heart of the Department’s business. In particular, it is hard to judge how far the Home Office should try to put itself in a position of leadership with those services; how far it can sustain the credibility to do so; and how it should handle the political and operational pressures which inevitably arise from time to time between the services and the political administration of the day. What is quite clear is that it is not the job of the

Department simply to promote the interests of those services, tempting and comfortable though it may be to do so, but to advance the interests of the Secretary of State in relation to those services in the wider public interest or, putting it another way, on behalf of the Crown.

Seen from outside, the Home Office may, according to your point of view, appear secretive and repressive, always supporting the institutions of power and privilege against the weak and helpless; or irresponsibly liberal in putting the interests of foreigners, deviants, criminals and others before those of honest citizens. If those contrasting views are held in roughly equal proportions, we may be getting the balance about right. Our history does not, I am afraid, give us a tradition of vision or radical reform. There have been exceptions, for example, in the Prison Service of Ruggles-Brise and later Alexander Paterson, but intellectual and moral leadership in matters of penal and social policy has usually come from outside the Department. In earlier times it came from the great figures of the 18th and 19th centuries such as Samuel Romilly, John Howard, Elizabeth Fry and Josephine Butler, whose work the interest groups and voluntary organisations try in their own way to carry on today. More recently it has come from the Royal Commissions and other independent inquiries by committees or individuals. The Home Office role is to recognise and seize the opportunities for reform when they present themselves; but at the same time to keep a practical eye on cost and affordability, and on efficient and effective implementation; to avoid the dangers of political over-reaction or short-term opportunism; and to maintain a consistent sense of direction.

Sir Clive Whitmore's paper on the management of change in the criminal justice system gives some more specific reflections on the work of the Home Office during the three decades before 1990, with the thought that although it has been a period of much energetic activity in introducing new legislation and administrative structures, the actual outcomes have in some respects been disappointing. Similar thoughts could be expressed about other aspects of government business outside the Home Office sphere. The reasons may have included lack of attention to implementation, to making changes happen on the ground; and the continuing habit of thinking too much in terms of functions to be performed and procedures to be carried out, and too little of the results to be achieved. That outlook started to change in the 1980s with the Financial Management Initiative (which itself built on earlier, previously neglected, work in the 1960s); with the subsequent insistence on economy and efficiency; and with the emphasis on personal accountability, freedom to manage, and devolution of responsibility to the lowest possible level which drove the Next Steps initiative and the creation of agencies. A development from these changes

has been the increasing attention paid to effectiveness, as well as to economy and efficiency; and most recently the systematic work on quality of service which has been carried forward both for the Department's internal administration and for our operational services. Similar ideas are reflected in the Citizen's Charter.

These developments provide the administrative background against which the Home Office has to approach its traditional and continuing tasks in relation to police, the criminal law, prisons, immigration and the other matters for which it has responsibility. The last section of this paper considers the nature of that approach, and its implications for the management of the Department, and for its staff themselves.

Our internal working patterns are already changing and are likely to change more rapidly still. Some of us are still coming to terms with open reporting. Many of us still find it difficult to set sensible objectives for our staff, and to relate them to the objectives and aims of the Department as a whole; and we are all finding difficulty in relating the appraisal of performance to performance related pay. More generally, the relationship between managers and managed needs to be more open and confident, with freer communication in both directions. Many of us are unsophisticated, if not illiterate, in our grasp of information technology. We are becoming more aware of our responsibilities for equal opportunities, but some of us need more confidence in translating them into practice, and more imagination in recognising and exploiting the practical advantages and the richness which genuine equality of opportunity can bring to the Department.

Looking beyond the immediate working environment, the character and structure of the Department are changing with the formation of agencies, the devolution of many responsibilities – for budgeting, personnel management and training – away from the centre, and prospective moves of large parts of the Department out of London. Practical issues include the machinery for putting these changes into effect, the consequences for the pattern of Home Office careers, and the procedures for career planning and development. The changes also raise important questions about the Department's procedures for formulating and communicating its corporate plans and collective policies, about the nature of those plans and policies themselves, and indeed about the extent to which the Home Office should attempt to remain a single Department, or to retain a single identity at all. Similar questions are being asked throughout Whitehall.

The external environment in which the Home Office operates is becoming more demanding. The processes of scrutiny and audit are becoming more effective

through the work of Parliamentary Committees and the National Audit Office, and provide a more authoritative base for criticism if it is justified. The Home Office will need to be even more closely involved with its statutory services, and with the judiciary and with local government, in leading and developing joint approaches and programmes in a context of considerable political and professional sensitivity. The Office has much to gain from working more closely with academic institutions, voluntary organisations and interest groups. Home Office officials will need to be more sensitive than ever to the feelings and needs of disadvantaged groups and minorities. Some of us, especially those working in agencies, may need to be in more direct contact with the media. Above all, we shall all need the knowledge and the skills to find our way around the institutions of Europe and to influence them for the country's benefit.

The relationship between Home Office officials and Ministers has always been one of the most important relationships we have to maintain. Its significance varies in different parts of the Office, and the sense of Ministerial presence is stronger in some places than in others. Perhaps from Roy Jenkins's first period as Home Secretary, Home Office Ministers have become much more active as they have themselves had to respond to increasing Parliamentary and other pressures. It is our job to support them in responding to those pressures, whilst stopping short of involving ourselves in party political activity; we must not engage in any public activity in which we know they would disapprove; and if we think they might but ought not to disapprove, we should obtain their clearance in advance. But the official's relationship with Ministers is emphatically not one of passive obedience. It is not the official's job to give Ministers the advice they want to hear, but to make sure that the financial, practical and other consequences of a course of action have been properly worked out, and are firmly in the Minister's minds, before a decision is taken. It is a serious professional failure on our part if we are unprepared, or so anxious to please that we fail to provide properly thought out judgement or advice. The other side of the relationship is that Ministers should respect and expect that advice, even if they decide not to accept it. If that happens, it is the duty of officials to give effect to the decision unless they can be moved to other work, or in an extreme case they are prepared to resign.

The two sides of the formal relationship between officials and Ministers are set out in Sir Robert (now Lord) Armstrong's memorandum of 1 December 1987. While emphasising the civil servant's duty to serve their Ministers with integrity and to the best of their ability, that memorandum concentrates on the passive and negative aspects of our job – to do as we are told, to do it discreetly if not in secret, and avoid acting independently. Most of us joined the civil service in the

expectation that we would have the opportunity to serve the public in a more positive way by developing our own ideas (or just picking up the ideas of others); by arranging them in a coherent order; by carrying them into the decision-making process; and eventually if we persuade Ministers that they are good ideas, by putting them into effect. This is what most of us still hope to do, and what I believe we ought to do. It is our job to see that Ministers have a choice of realistic and properly thought out options available to them, especially at the stage when a new policy is to be introduced. To do that we need to use our judgement and imagination, to create situations in which new ideas can emerge, to test those ideas in discussion with colleagues and professional contacts, and to subject them to research and statistical analysis, often at a stage well before the issue reaches the point of Ministerial decision or engages Ministers' serious attention. It is hard work – it needs space and skill, and it needs persistence and commitment. It involves a considerable degree of openness with those inside and outside the Office, and therefore a certain amount of risk and courage to face it. It is not easy to reconcile with the unrelenting pressure under which most of us have to work, and although procedures like the annual performance review and the strategic planning exercise can and should support it, we have always to make sure that those procedures do not become formalised, inward looking and bureaucratic. The positive and imaginative side of our work also needs recognition and systematic support; and the service we give to Ministers, and the quality of public administration generally, will suffer if it is neglected.

So, pulling all this together, what kind of person is the successful Home Office civil servant of the 1990s or the first part of the 21st century likely to be? He or she will certainly need the traditional skills of drafting, oral communication, political sensitivity, and the ability to gain the confidence of Ministers. But these will not be the only or necessarily the most important skills – the ability to manage change, to lead and motivate staff, to see what needs to be done and how to achieve it, will be equally or more important. He or she will also need to be open to new ideas, accessible to the world outside the office, able to communicate effectively with it, including the world beyond the English Channel, and able to communicate in languages other than English. He or she will be at ease with people whose background and culture may be different from his or her own, and will be confident in dealing with issues of race or gender wherever they may arise. And I hope he or she will have some sense of history of the Department, of its strengths and shortcomings, and of the principle of freedom under the law, which his or her predecessors have in their own way and with greater or less success tried to maintain from the Department's earliest times.