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Parliamentary Scrutiny of the Administration

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Introduction

As well as their representative and legislative functions, a core function of parliaments as rule-making organisations is ensuring that the executive acts in a manner consistent with its wishes. To this end, legislators face considerable challenges in attempting to ensure that the rules they have decided upon on are faithfully implemented by public organizations over which they exert little direct control. In this chapter, the challenge of conducting parliamentary scrutiny is addressed. The focus of the analysis is on the administrative apparatus of central government and, specifically, the ministerial departments and those public organisations or agencies under their aegis. Also, while Manning identifies the role of the Seanad in relation to scrutinising the work of the executive, the chapter is principally concerned with the scrutiny role played by Dáil Éireann.

Why parliamentary scrutiny?

Put simply, parliamentary scrutiny involves the critical analysis of the outputs and outcomes of government work. The organisation, comprehensiveness, speed and quality of the scrutiny process in different parliamentary regimes will vary considerably in line with the legislature's institutional design (Norton 1990; Döring 1995) and nature of political engagement (Ljphart 1999). Within the Westminster tradition, the concept has its origins in the great struggles of the sixteenth and seventeenth century British parliament as it sought to curb the power and prerogative of the monarch and to punish royal officials who abused the tax collection system. As executives gained power and influence, scrutiny by the legislature emerged to become a defining characteristic of parliamentary government. So important did it become that by the mid-nineteenth century, in his seminal work on representative government, John Stuart Mill was inclined to propose that parliaments should delegate much of their work to governments and suggested that 'instead of the function of governing, for which it is radically unfit, the proper office of a representative assembly is to watch and control the government' (Mill 1984: 258). Mill's suggestion retains considerable merit, and ensuring parliaments and parliamentarians are adequately resourced to oversee and pass judgement on large

bureaucracies is regularly identified as the premise for parliamentary reform. Others argue that parliaments are not designed to have proactive scrutiny roles in relation to the whole bureaucracy; rather the role takes form when failures are identified by other scrutiny mechanisms, such as audits by the Comptroller and Auditor-General (Flinders 2008: 188).

Before proceeding, it is necessary to distinguish parliamentary scrutiny from the closely related concepts of parliamentary accountability and parliamentary oversight. In relation to the former, the development of parliamentary accountability in the Oireachtas and consequences of its ineffective application have been considered elsewhere (MacCarthaigh 2005). Scrutiny and accountability are closely related. Scrutiny of government is an important part of the process of holding government to account. As Giddings and Irwin propose in distinguishing between the two concepts, scrutiny is to review, not control; to comment, not countermand; and to invite to reflect, not command (2005: 67). Unlike accountability, scrutiny is not concerned with the imposition of sanctions as a response to deviation by an agent from the wishes of its principal – rather it is concerned with discovering and shedding light on the actions of the agent. In a parliamentary context, this means legislators individually and collectively examining the many strands of government activity or inactivity. Thus 'the object of scrutiny is to require explanation, to expose that explanation to cross-examination and, by virtue of that process to achieve a beneficial consequence in terms of the quality of government and administration' (Giddings and Irwin 2005: 69).

A common characteristic of public service reforms within the OECD over the last two to three decades has been the devolution of managerial responsibility from politicians to administrators (including agencies). While ministers retain ultimately responsibility to parliament, many duties such as personnel, procurement and in some cases budgetary controls have been assumed by senior administrators. It is therefore increasingly necessary to make a distinction between political responsibility and administrative accountability (Christensen et al 2002: 57). The former implies that those to whom authority is delegated should be made answer to parliament and engage in debate about

what course of action should be taken. Thus it makes the government systematically responsive to public opinion as expressed through parliament. The latter is a more neutral and technical exercise, in which the use of resources and the quality of services is examined and set against predetermined objectives. While the complexity of modern government and administration makes such distinctions attractive, they are inextricably bound. As all administrative activity involves to some degree the allocation of values, it is inherently political and thus subject to scrutiny in a political forum such as a parliament. The accountability of individual administrators for their work is increasingly a feature of the parliamentary scrutiny process.

Turning to the latter concept of parliamentary oversight, though the two are often interchanged, it is interpreted here as an ex ante or 'before the event' activity, while scrutiny is normally an ex post or 'after the event' concern. One important deviation from this interpretation is in relation to the development of legislation. The involvement of non-government members in the process of debating the contents of proposed legislation is regularly referred to as 'legislative scrutiny' and is in effect an ex ante process. The legislative scrutiny process can continue once law is formally passed, however, as the implementation of its provisions must be checked.

Why is parliamentary scrutiny important?

Strøm, Müller and Bergman (2003) conceptualise parliamentary democracy as a chain of delegation and accountability between principals and agents of various types i.e. voters and elected representatives, legislators and ministers, and ministers and civil servants. In this model, every link in the chain of delegation runs the risk of the agent not performing to the expectations of the principal (due to, for example, conflicts of interest). In such circumstances, various *ex-ante* and *ex-post* accountability mechanisms are necessary to ensure compliance. Parliamentary scrutiny of the executive is one of the most important of these mechanisms.

Parliamentary scrutiny therefore forms part of the accountability chain that stretches from street-level bureaucrats to the citizen, via central government. In this respect it is a core

part of representative democracy insofar as it contributes to public trust in the institutions of government. Failures of parliamentary scrutiny can have serious political and financial consequences, and undermine public confidence in the political system. Another central reason for parliamentary scrutiny is that being subjected to it provides considerable legitimacy for the activities of a public (or non-public) organisation, assuming that such scrutiny does not uncover serious malpractice.

The growth of the modern Irish state bureaucracy coupled with greater demands for 'oversight, transparency and accountability' has determined that the Oireachtas now engages in more scrutiny work than ever before, and over a greater range of issues and number of organisations. A major source of difficulty for parliament, however, lies in managing to keep pace with the complex manner in which public money is allocated, spent and accounted for. In theory, expenditure follows policy and administration. As policy making and administration become more complex and technical, the oversight and scrutiny of public funds becomes a considerable task and legislators are regularly challenged in trying to comprehend how the executive apparatus of state is working and allocating resources.

Scrutiny of legislation, financial estimates, reports and government proposals consumes a considerable portion of parliamentary time. Parliamentary scrutiny of the executive necessitates considerable information transfer and requires mechanisms for filtering and managing the information provided, as well as means of cross-examination and verification. Information is supplied actively, through the government informing the parliament of events and decisions, or passively through the release of information in response to questions from parliamentarians. At its most basic level, the effectiveness of the scrutiny function and the organisational arrangements that facilitate its practice play a considerable role in determining the public perception of parliament and the role of parliamentarians, and is therefore worthy of ongoing examination.

What influences parliamentary scrutiny?

As the earlier chapter by MacCarthaigh identifies, the relationship between legislative and executive powers will vary according to their constitutional arrangements, procedural norms and politico-administrative cultures. It stands to reason that the process of parliamentary scrutiny, which forms a core part of the relationship between the two pillars of state, will therefore also vary according to these factors. In particular, the use of formal opportunities provided to members in plenary and committee sessions to interrogate those responsible directly or indirectly about the various tasks of the public service can play an important role in determining the activities of public organisations. In other words, knowing that their actions can be publicly scrutinised by parliament acts as a strong, but not complete, deterrent to malpractice and maladministration within public bodies.

Crucially, the effectiveness of scrutiny mechanisms is also dependent on the political environment in which they are utilised. For example, multiparty coalition governments increase the complexity of control systems both within the parliament and within the executive. The size of the polity and consequently the number of institutional actors within the governing system and at each stage of the delegation chain from citizen to bureaucrat will play a role. So too will overlapping memberships across different stages of that chain e.g. between executive and the legislature (Dumont and Varone 2006). Electoral systems that provide for strong personal votes will also reduce agency loss between voters and their elected representatives. In fact, in smaller democracies governments (and particularly coalition governments) may be more attuned to electoral concerns than in larger systems, resulting in such governments bypassing parliaments in order to respond directly to public demands. Citizens may also bypass parliament *and* government in their scrutiny of the administrative system, through such instruments as access to information laws and ombudsman offices.

Parliamentary mechanisms alone are arguably not sufficient for the consistent and comprehensive scrutiny of an increasingly complex and large bureaucracy, and there is considerable reliance on extra-parliamentary forms of bureaucratic accountability. This

was recognised in a report by government produced in response to the OECD review of the Irish public service in 2008, and which noted that:

> The invigilation role of the Oireachtas is supported by the work of:
> - The Comptroller and Auditor General;
> - The Office of the Ombudsman;
> - The Office of the Information Commissioner;
> - The Commission for Public Service Appointments;
> - The Standards in Public Office Commission; and
> - The sectoral committees which oversee the performance of policy and administration across the system.'
>
> (Department of the Taoiseach 2008: 43)

This fragmentation of accountability across different oversight and scrutiny institutions has uncertain consequences however (MacCarthaigh and Scott 2009: 16-7, OECD 2008: 264). In practice, considerable emphasis is placed on the scrutiny role of Oireachtas committees, a matter returned to below. Also, while the focus here is on parliamentary mechanisms and procedures, some of the extra-parliamentary mechanisms noted above are also utilised by parliamentarians as a means of circumventing traditional parliamentary means of scrutiny. Chief amongst these are the provisions of the Freedom of Information Acts 1997 and 2003 which allow members of parliament to access information on the activities of government departments and many (but not all) public organisations. Freedom of Information requests can be made on behalf of constituents or also a means to elicit information which can be used to challenge government policy and resource allocations. While no analysis of the extent of this work has been published, anecdotal evidence as well as several public incidents in recent years arising from FOI requests suggest it is used extensively by some members from both Houses.

How is parliamentary scrutiny pursued in the Oireachtas?

As has been well established in earlier chapters, the Irish system of parliamentary government has its genetic identity in the Westminster tradition, and in particular, the

'efficient' Cabinet form of government as described by Bagehot (1867/1963: 14). The reality of parliamentary government as party government means that governments need only concern themselves with maintaining the support of their backbenchers (and hence a majority of the chamber) rather than the whole House to ensure their survival. This in turn determines that opposition parties adopt the role of the electorate's check over government, using whatever means they can to scrutinise its work.

A defining feature of the Westminster system on which Irish parliamentary politics is based is the use of elaborate conventions in the conduct of parliamentary business (Gamble 1990: 407). In the Dáil, the principal such conventions are codified in the Standing Orders (see Caffrey, this volume), which play a considerable role in determining the capacity of opposition members to scrutinise government. For the purposes of executive scrutiny, the most important of these rules are those relating to debates and motions, parliamentary questions and the operation of the committee system. To whom are these scrutiny mechanisms normally applied by parliamentarians? For the purposes of a more comprehensive understanding of the process of executive scrutiny, a distinction must be made here between the central government departments under the immediate control of Minsters (and collectively the Cabinet) and those public organisations or 'agencies' which have a variety of 'arms length' relationships to those departments.

Ministerial departments are the principal organisational units through which the administrative system operates. While there is a constitutional limit of fifteen applied to the number of Ministers (including the Taoiseach) in government, there is no limit on the number of departments over which a Minister can exercise responsibility. For example, the Fianna Fáil minority government of 1987-9 employed seventeen departments with both the Taoiseach and one Minster presiding over two departments each. Alongside the departments, a number of core civil service 'offices' exist, including the Office of the Revenue Commissioners, the Office of the Attorney-General and the Office of Public Works. Within the machinery of government, these offices are distinguished from the departments in not having a Minister directly at their head, but they are recognised as

central institutions at the heart of government. A small number of other organisations, such as the Comptroller and Auditor General and various Ombudsman offices are accountable directly to the legislature.

Supplementing the work of Ministries in Ireland are a wide variety of public sector bodies or agencies[1]. Agencies have always formed an integral part of the executive apparatus of the Irish state[2] but in recent years their number has expanded, due in large part to changes and reforms in the public service and its relationship to its political masters. While this is consistent with an international tend (Pollitt et al. 2004), the Irish experience of 'agencification' has been particularly pronounced. The advantage of agencification is that by putting a greater distance between agencies and the political leadership of Ministers, it provides these agencies with the necessary insulation and discretion for the performance of their technical tasks. From a democratic perspective, the criticism of this distance from political scrutiny is obvious, and the belief that Ministers will act as strategic goal providers for agencies is rarely borne out in reality.

In the absence of a standard legal, functional or administrative framework for the classification of different forms of public organisation, as well as the ad-hoc nature of their creation, however, categorizing Irish agencies is inherently problematic (Hardiman and Scott 2009). Most (but not all) public organisations in Ireland are created by government on a statutory basis and provided with various degrees of public authority, ranging from those which are explicitly independent of Ministerial influence to those which operate with some autonomy inside a departmental structure. The legal form of the state's ownership can, however, vary quite considerably and ranges from those agencies created on a statutory basis (with or without corporate form), to those incorporated under company legislation. These are also differences in the the type of legislation used to create agencies, including primary or secondary legislation, or administrative circular. Personnel arrangements also differ with agencies staffed by either civil servants, public servants, or both. Even a simple commercial or non-

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[1] See also MacCarthaigh 2008: 86-97
[2] For more on agencies and Irish agencies in comparative perspective see Verhoest et al. 2010

commercial binary is inadequate given the reality of public service obligations for commercial state-owned enterprises and the considerable self-financing activities undertaken by many non-commercial bodies.

Equally, understanding the myriad of accountability relationships between public organisations and their parent departments is problematic given the variety of reporting, communication and formal and informal contacts that exist (McGauran et al.: 67-123; OECD 2008: 171-4). While parliamentary scrutiny of public organisations has always been an issue identified as being in need of reform by opposition parliamentarians, the rapid acceleration in the number of public organisations created over the last two decades (as Table 1 demonstrates) has made the issue even more pronounced. While numbers are disputed, taking a broad and inclusive interpretation of what constitutes a public service 'agency'[3] (but excluding such bodies such as public hospitals and schools), a detailed research project on this matter (Hardiman et al 2009) has identified approximately 340 public organisations in existence as of mid-2009. Many of these are companies and as such are subject to the legal provisions of the Companies Acts. For all public organisations, the *Code of Practice for the Governance of State Bodies*, revised and republished in 2009 by the Department of Finance, applies. Indeed, many public bodies are now subjected to more accountability requirement than their parent Departments, which undermines somewhat the rationale of delegation to agencies for the purposes of efficiency

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[3] For more on this see Hardiman, N. and Scott, C. 2008.

Table 1: Rate of agency creation in Ireland over the last century
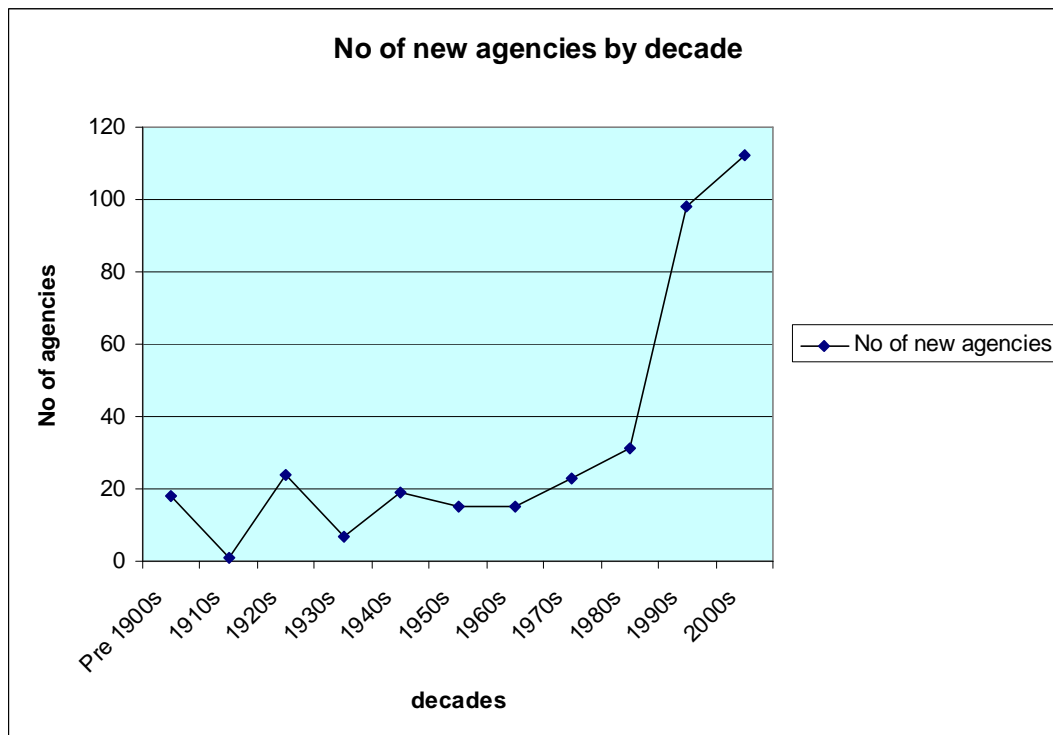
With one important exception, (the role of accounting officer- below) the Oireachtas has no direct constitutional linkage to the civil or wider public service. Instead, the accountability of the public service is channelled through Ministers who are 'responsible' for their departments and the agencies under the aegis of those departments. In relation to agencies, Ministers have a number of means for influencing the work of agencies. For those agencies with Boards, Ministers can appoint a certain number of persons of their choosing (including in some cases civil servants) who will represent their views. The Minister's views may also be communicated to the management of an agency through the senior management of his or her department. Where legislation exists for establishing an agency, it is also common for the Minister to be provided with a power to issue policy directions to that agency. Ministers also approve agency budgetary allocations. Figure 1 below identifies a number of typical interdependencies in the relationship between the Oireachtas, Ministers and agencies under the remit of departments.

Figure 1: Typical reporting and scrutiny relationship between Oireachtas, Ministers and public organisations

Dail

Minister

Agency

Board

Oireachtas Committees

Department

Seanad

Secretaty General & Manage-ment

CEO
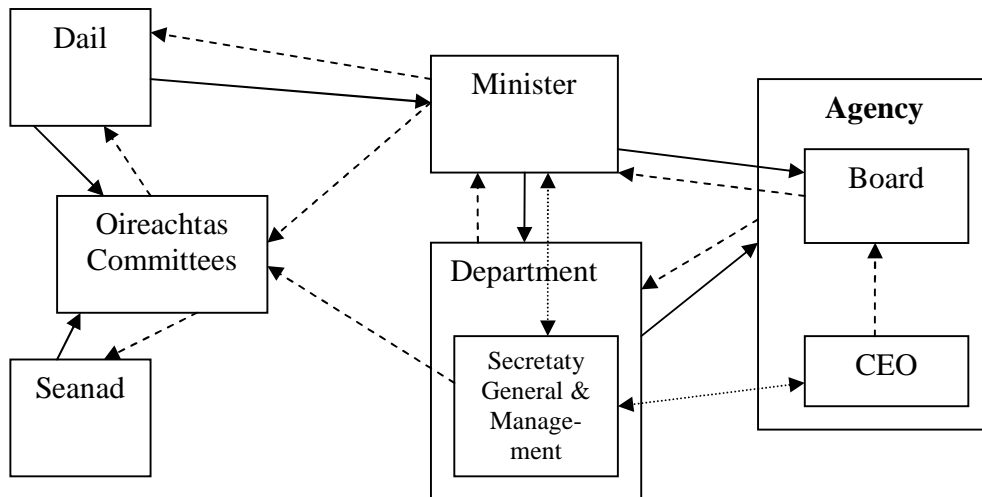
Legend:

Reports to ------ ▶

Directs: ———▶

Communicates: ◀·······▶

Ministerial responsibility

The key foundation on which parliamentary accountability is built is ministerial responsibility. This doctrine determines that all the activities of government departments are conducted in the name of their respective ministers, who are the legal embodiment of their departments. Though subject to consistent criticism and frequently identified as being outmoded and ineffective given the nature of modern government and politics and the role of senior civil servants in policy, it remains the central accountability link between executive and legislature.

O'Malley and Martin (2009: 302-3) identify usefully three principles to the political dimension of ministerial responsibility - confidence, unanimity and confidentiality. The confidence principles provides that ministers must maintain the confidence of the Dáil. It thus follows that the government is 'collectively responsible' for the work of the public administration to parliament. In other words not only does the doctrine ensure a form of 'vertical' hierarchical coordination, so too does it provide for collective 'horizontal' coordination of policy. Finally, unanimity ensures that all Ministers support decisions taken at Cabinet, regardless of whether they hold personal opposition to such decisions. Confidentiality is closely related to unanimity and ensures that 'what happens at Cabinet stays at Cabinet'.

The doctrine also has a significant administrative dimension as not only does it provide a focus for scrutiny of the executive by the Dáil, it also underpins the power of Ministers over their departments. Commenting on this, Sutherlands notes that,

> Having to account in Parliament strengthens his [a minister's] control over the department, since the issues that arise in Parliament focus his attention on specific topics inside his department. Politics, like lightning can strike anywhere, and thus in a random manner the spotlight of Parliamentary concern can alert the minister to where he should be directing his gaze within the department. It keeps not only him but also his civil servants on their toes (1991: 118)

Thus, in theory at least, ministerial responsibility determines that the minister is politically responsible to the chamber for all that occurs within his or her department and related agencies. Until recently, it meant that apart from the Committee on Public Accounts, the legislature only heard from the Minister in relation to administrative matters within their department. This has proved problematic as increased responsibilities have been devolved to senior civil servants and the heads of public sector organisations. As a result, a recent development has been the use of sectoral committees to allow parliamentarians to engage directly with the public service (below). In theory,

policy matters remain the responsibility of the Minister but in practice the policy-administration dichotomy is difficult to determine in many instances (and particularly in relation to EU matters).

In practice, ministerial (and collective) responsibility can be both contingent and relational. In other words, ministerial or government resignations based on ministerial or collective responsibility are often determined by the standing of the minister in question and the judgement of the prime minister (Rhodes 2006: 331). In this respect, forces external to parliament (and particularly the media) play an important role and ministerial resignations can result more commonly for personal improprieties than for actual portfolio mismanagement or maladministration.

In more recent years, Ministers of State have adopted more prominent roles in representing parts of the public service to the Oireachtas. A particular innovation has been the Office of the Minister for Children which represents an amalgam of sections from three government departments and under the political control of a Minister of State. As the organisational complexity of the state has intensified, however, the distinction between matters of policy and of administration and the location of responsibility for each has become even harder to discern. This in turn has resulted to regular opposition party claims that they cannot access the information they seek or that Ministers are using agencies as a means of avoiding answering questions on policy. Before considering these issues in more detail, it is necessary to identify the methods employed to scrutinise departments and agencies in the Oireachtas.

Debates, motions on policy and reports
As identified by MacCarthaigh and Caffrey (this volume), parliament spends considerable time deliberating on matters of public policy which inevitably involve judgements on the role and efficacy of public organisations involved in different policy fields such as health, education or the environment. Members of the opposition may also seek to table a motion concerning a particular agency or group of agencies. The Houses of the Oireachtas and its committees and members are also presented with a wide range

of reports, and in many cases these reports (and accounts – below) form the principal vehicles of parliamentary scrutiny. Traditionally these included annual or special reports (some of which had been commissioned by the committees themselves) but public service reforms have resulted in a number of new documents. These include value-for-money reviews by the Comptroller and Auditor-General, output statements which detail the results achieved by public bodies in the previous year and their relationship to that body's strategy; and the reports of the organisational review programme. This latter report was initiated in three government departments in 2008 and sought to evaluate the capacity of the departments to perform their work. It is intended that the programme be extended to all departments and public bodies. In the main these reports are referred to the various sectoral committees (below). Another recent initiative is the proposed production by regulatory bodies of annual 'public interest statements', alongside annual reports (Department of the Taoiseach 2009: 5).

Budgets, Estimates and Accounts

Apart from day-to-day debates and motions, the annual budgetary process and the provision of estimates for public expenditure by Ministers also offer opportunities for members of the opposition to critically analyse the government's management of the bureaucracy (Hamell, this volume). Government expenditure is divided into a 15 'vote groups' – one per department – which in most (but not all) cases also delineate the allocations to agencies within each department. The vast majority of state agencies and enterprises are also required to present their annual accounts to the Houses, as well as the responsible Minister.

Financial scrutiny: The Accounting Officer role

Within the hierarchy of the civil service grading structure, the most senior position is that of Secretary-General. As well as their administrative roles, incumbents are also 'Accounting Officers' in respect of the management of financial affairs within their departments. This dual role, which predates the state[4], emerged as holders of this

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[4] The Accounting Officer role was provided for in the Exchequer and Audit Departments Act, 1866

position 'alone had sufficient authority within the Department to discharge the responsibilities attaching to the role' (Department of Finance 2002: Section 18).

In their capacity as Accounting Officers, each Secretary-General must appear before the Committee of Public Accounts (a committee with particular political gravitas and commonly known as the Public Accounts Committee of PAC) on an annual basis to provide evidence and answer questions on their department's budgetary performance and their *personal stewardship* of public funds. In other words, the Minister could not prevent their appearance before the Committee. This personal aspect of the role is an important distinction as it is in contrast to the Secretary General's other functions which are carried out in the name of the Minister. The role of Accounting Officer has been extended beyond Secretaries-General and a number of Chief Executive Officers (CEOs) of state agencies also have this personal duty e.g. the CEO of the Health Service Executive. Adding to the inconsistency pertaining to the accountability arrangements for state agency arrangments, however, many agency CEOS are not accounting officers, considering themselves instead to be *accountable* officers but not holding personal liability.

As the oldest committee of the Dáil, the Committee of Public Accounts is in effect delegated the task of financial scrutiny of the bureaucracy on behalf of the Oireachtas and it is to this committee that accounting officers normally present evidence and defend their actions. In this role, the Committee draws on the support of the constitutional office of the Comptroller and Auditor-General. While the Comptroller and Auditor-General's office performs a vital role, a peer review of the office of the C&AG published in 2008 found that within the public service, the Office's annual audit was 'regarded more as a 'necessary evil', than as a process which can add value to the client' (2008: 4). It also reported that the Office was performing its role in the accountability of the Executive to Dáil Éirann [sic] as well as it might – partly because of its own practices, but primarily because of limitations on the mandate of the Auditor General ' (2008: 5).

Amongst these limitations, it included:

- the Auditor General's lack of autonomy in resourcing the Office, flowing from the Office's being part of the civil service;

- his restricted mandate to carry out value for money audits – in particular, the very limited mandate to examine the effectiveness of public expenditure;

- the limited extent to which, and process by which, the Auditor General can report on the financial and value for money audits of entities other than departments;

- the absence of a follow-up mechanism for audit findings; and

- the the limited extent to which the Auditor General can 'follow' public money into the hands of a recipient who is a non-government organisation.

The report also suggested that the 'Auditor General's support of the accountability of the Executive to Dáil Éirann [sic] could be enhanced if he were to audit output statements delivered by departments' (2008: 5)

Parliamentary Questions

As the chapter by Caffrey (this volume) identifies, there are a variety of types of parliamentary question. Due to the convention of ministerial responsibility, the vast majority of questions are normally put by members of the opposition to the Minister. As Gallagher (2009: 217-8) and MacCarthaigh (2005: 119-22) identify, however, there have been several high profile incidents whereby the responses to questions were deemed inadequate or even misleading.

The state of affairs in relation to parliamentary questions pertaining to public organisations is increasingly problematic. With the rapid growth in the number of agencies employed by government, not alone has the issue of the capacity of the Oireachtas to scrutinise their work arisen, but so too has the ability of the Oireachtas to question Ministers about agencies. For their part Ministers will claim that they are not responsible for the day-to-day operations of agencies while opposition members point to Ministers using this explanation as a means of avoiding answering potentially uncomfortable questions and point out that they have no means of putting questions to

agencies. In fact, it is not in the interest of agencies to avoid providing responses to questions and in practice, though not formally required of them, many do so.

As areas of high public visibility political sensitivity, the performance of public health and social services organisations have always attracted large numbers of parliamentary questions. In 2005, a new and very large agency was created - the Health Services Executive (HSE) – into which almost all pre-existing health and social service provision organisations were merged. The HSE was given responsibility for the management and administration of health and social services with responsibility for policy remaining with the Department of Health and Children. Significantly, a Parliamentary Affairs Division was created within the new agency but the relationship between it and members of the Oireachtas has frequently proved contentious. Specifically, concerns expressed by TDs that PQs submitted to the HSE were taking too long to be replied to resulted in the adoption by the HSE in early 2008 of a policy of no more than fifteen working days for responses to PQs. The volume of such questions received by the Division from the Parliamentary Affairs Section of the Department of Health and Children has been considerable, with over 2700 questions received in 2007 increasing to over 3500 in 2008.

Committees

The Irish committee system has developed only comparatively recently (see Martin, this volume). It has provided for a sharp increase in the processing of parliamentary business, including examination of estimates, reports and strategic plans presented by departments and agencies. It also provides a 'pressure valve' by allowing interest and civil society groups to make their case directly to parliamentarians rather than through the civil service. Of particular importance to this chapter is the opportunity provided to parliamentarians in committees to directly question civil servants and the heads of public organisations about their work.

As with PQs, appearances before committees provide a means for TDs (and Senators) to elicit information on the work of the bureaucracy and equally to serve as an incentive for probity and good practice within the public service. Though Ministers may also answer

questions and discuss matters pertaining to the role in committees, unlike PQs, committees allow for parliamentarians to interrogate officials directly. Reports on public service reform (e.g. OECD 2008, Department of the Taoiseach 2008) place considerable emphasis on this administrative scrutiny role of committees. By way of example, the report of the recent Task Force on the Public Service recommended that:

> All public bodies (Departments and agencies) should be required to provide an integrated Annual Report covering both input usage (expenditure) and output delivery with a focus on the achievements of the organisation. These reports would provide the basis for a comprehensive Oireachtas scrutiny i.e. moving away from the present focus on audited reports of input use alone. This will have legislative and operational implications for Oireachtas Committees, Ministers, and Accounting Officers, arising from new oversight arrangements for Departments. (Department of the Taoiseach 2008: 11)

The scrutiny expectations on parliamentary committees in relation to public organisations are significant, as committees are viewed as providing the central legitimising link between political authority and administrative action. This has clear resource and capacity implications, and, notwithstanding the increase in the budgetary allocation of the Oireachtas and its committees in recent years (see Coughlan, this volume), challenges remain. For example, a review in 2009 of various regulatory agencies in Ireland found that 'the ability of Oireachtas committees effectively to hold regulators to account [appeared] to be limited because they lack the specialist knowledge to do so' (Economist Intelligence Unit 2009: 54).

Governments also influence agencies through the process of Board appointments to state agencies and commercial state enterprises. Such appointments are normally within the gift of the relevant Minister but others may require Cabinet (or in particular the Taoiseach's) approval, or at a minimum they will be informed of the imminent appointments. By contrast such appointments do not require the approval of either Dáil or Seanad. A major departure in the process of Ministerial appointments, however, was the provision in the Broadcasting Bill 2008 to allow four of nine board members of the newly proposed Broadcasting Authority of Ireland to be recommended by the Oireachtas

Joint Committee on Communications, with similar provisions for the Boards of the commercial state enterprises RTÉ and TG4.

As the expanded committee system becomes embedded within the parliamentary structure, committee chairs are increasingly sought out for their views on matters relating to departments covered by their committee's remit. Also, media coverage of committee work, though still at a low level, has increased and it is not unusual to see committee proceedings on the news. However, while the committee system has evolved considerably, there are limits to its resources and staffing, and political factors such as the role of the chair and the maintenance of government majorities will limit their capacity to develop in a manner that could fundamentally undermine executive authority.

Conclusions: Parliament as a scrutiny 'apex'

Notwithstanding enhanced funding and resourcing for the Oireachtas, growth in the state's capacity and the fragmentation of the public service has continued to challenge the capacity of the Oireachtas to comprehend, yet alone scrutinize, the extension of public authority within and beyond departments and core government offices and agencies. While the devolution of state power to agencies and non-public actors (including for example religious orders in key areas of social provision) is not a new phenomenon in Irish public life, the scale has altered dramatically in recent years. Rather than being 'rolled back' or 'hollowed out', the manner in which the state conducts its work has been transformed. As well as new structures, there are new modes of governance and also new means of service delivery involving the state and market, including Public-Private Partnerships and the contracting out of services.

While committees have added an extra dimension to the scrutiny capacity of the Oireachtas, there remain considerable gaps in the scrutiny process that are further hindered by the reality of partisan politics and the absence of common scrutiny objectives. This does not mean that parliamentary scrutiny has failed, and claims that parliamentary scrutiny of public bodies and agencies is non-existence clearly do not hold water. The considerable increase in the sitting and volume of evidence presented to

Oireachtas committees indicates greater engagement by parliamentarians. In 2008, for example, over 1300 witnesses, many of whom were civil and public servants, provided evidence to almost 600 Oireachtas committee sittings. Rather, the issues are the extent of its coverage (given the size of the bureaucracy), incentives for parliamentarians to be 'scrutinizers', and the link between scrutiny findings and subsequent action.

As indicated from the outset of this volume, a core function of the Oireachtas is to provide a central scrutiny function for the work of the executive pillar of state and its administrative apparatus. While other accountability mechanisms have particular roles to play, they cannot replace the Oireachtas as the ultimate arbiter on the use of executive power. In this respect, parliament's role should be at the apex of an accountability system that goes beyond scrutiny of the immediate confines of Ministerial departments. In the words of Uhr (1999: 102; as quoted in Behn 2001: 41),

> The central arena of accountability is the political assembly, which exists to provide the community with a *public* accounting of public officials. The political assembly is the filtering institution between community and government, and public accountability is at base a filtering exercise in which the assembly 'audits' (literally, listens to) the accounts by responsible ministers and officials of the use of public offices and funds.

In the search for a more effective culture of scrutiny, it is instructive to reflect on the deliberations of the European Convention's Working Group on National Parliaments, which considered the factors conducive to effective scrutiny of EU affairs within national parliaments (2002). These included, the timeliness, scope and quality of information received, the active involvement of sectoral/standing committees in the scrutiny process, and the availability of supporting staff. While most agencies report to parliament via their Minister, ongoing engagement between the CEOs of state agencies and Oireachtas committees is also a central part of administrative scrutiny. Also, greater awareness of administrative practice, reforms and innovations amongst members of parliament would contribute significantly to the scrutiny process.

As the Irish public service embarks on a series of reforms to provide for greater integration and 'joined-up' policy, it will be necessary for parliament to align its scrutiny function to match the cross-departmental and cross-sectoral nature of public administration. This will undoubtedly prove problematic for political accountability given that Ministers are not incentivized to answer to parliament for departments other than their own. To compensate for this, there will need to be more co-operation between Oireachtas committees as well as scrutiny of Ministers of State who normally have cross-departmental or cross-sectoral functions. For all this, the greatest impediment to comprehensive scrutiny of the executive's administrative apparatus is political partisanship. Party loyalty, though providing for cohesion and discipline within the Oireachtas, is inimical to developing a shared purpose amongst parliamentarians on scrutiny issues and particularly in respect of matters of potential or actual political sensitivity.

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