Public Sector Reform cannot be left to the Department of Finance

Part 1

While much remains hidden and may never be known about the root causes of what NESC calls "Ireland's Five-Part Crisis" (i.e. Banking, Public Finances, National Reputation, Competitiveness and Social fabric, with nearly half a million unemployed) there are two documents on the Department of Finance website that are a must-read for anyone interested in what went wrong.

The first of these documents, the **Annual Outputs Statement for 2009** sets out the Department's "**central role** in the economic and financial management of the State and the overall management and development of the public sector". They define five **High Level Goals** and corresponding **Impact Indicators** as follows:

1. An efficient, high performing public service and improved levels of service to the public.
2. Value for money from public expenditure and improvements in public capital investment and infrastructure.
3. A regulatory structure securing public confidence, financial stability and a viable and globally competitive financial services sector in Dublin.
4. Continued effective functioning of the banking system and supply of credit to business and personal customers.
5. Budgetary Sustainability. . a price environment consistent with competitiveness, and a climate conducive to employment growth, combined with a fair, efficient broadly-based taxation system, yielding receipts that are sufficient to meet the Government's budgetary plans.

If anyone wanted a comprehensive, succinct list of everything that has catastrophically gone wrong you have it there.

The **Annual Outputs Statement for 2009** then goes on in Section 4 proudly to declare the Department's **Outputs** with regard to each of these matters of truly vital national importance. According to the Department's own self-assessment of their performance, they "Delivered" on every item. The outputs column on page 12 says they "Delivered", "Delivered", "Delivered", "Delivered" - - - on economic growth, sustainable employment levels, Ireland's competitiveness and so forth. Where they cannot be so succinct they qualify the statement with pages of explanation. The bottom line, however, is that in so far as the DOF had anything to do with it, they delivered.

Anyone who doubts that this is how they evaluate their own performance may read it for themselves – but read it very carefully because one word on the top left-hand corner of page 12 clarifies what they really mean. The Department of Finance delivered the "**advice"** to Government. If that is all they are claiming to have delivered, i.e. the advice, then it begs the question about the quality of their advice and another question about whether the Government acted on their advice.

The Taoiseach helpfully answered the second question some weeks ago in a television interview when he was pressed by Brian Dobson to apologise for his part in creating the financial and other crises: "I acted on the best advice", he said, that is the advice delivered by the Department of Finance. He adopted the same defence when challenged regarding his role in the Dublin Docklands Development Authority scandal and his decision to include Anglo Irish Bank in the bank guarantee, "I acted on the recommendations of my officials."

The Department of Finance which, in addition to its failures in regard to the public finances, competitiveness, taxation and banking also hosts the Personnel directorate for the whole Public Service. In this role they have provided "best advice" over the past decade which has delivered the bloating of Public Service staffing; the creation of unsustainable pay and pension levels; massive upward grade drift; system-wide rigidities, abuse of flexitime, high rates of absenteeism and weak management; the degradation of the capacity of the Public Service through Decentralisation, which against all reason they are still pushing through; utter failure to deliver on the long-promised reform of the Public Service; a set of guidelines which provided cover for the scandalous exit package for Roddy Molloy; and most recently the ill-advised reversal of pay cuts for Assistant Secretary grades.

As the 'Corporate Finance' function of the Public Service the DOF has presided over a situation where there is a chronic shortage of economics and financial accounting expertise throughout the whole Public Service, including the DOF itself. The annual reports of the C. & A. G., reveal a litany of waste and financial mismanagement on a vast scale. Some SME's making widgets on industrial estates around the country have more highly qualified finance functions and are subject to tighter financial controls than Government Departments and Agencies with multi-billion euro budgets. The Department of Finance is ultimately responsible for this scandalous skills deficit and absence of financial discipline.

In summary, the Department of Finance has abjectly failed in the performance of its vital national mission, in its "central role in the economic and financial management of the State and the overall management and development of the public sector".. It has failed more than any bank, more than FAS, more than the much maligned HSE and more than the Central Bank, and because of its "central role" the consequences will blight the lives of every citizen for at least a generation.

However, having determined to their own satisfaction that they have delivered on all fronts in 2008-09 what's next on their agenda? Well, according to the **Capacity Review, July 2009**, which is also on the DOF website, the Department sets out its own view about what should happen. They should be given primary responsibility for modernisation of the Public Service; leading e-Government; coordinating the State's response to all spending proposals emerging from Social Partnership; supporting the development of a modern and sustainable pension system; ensuring the maintenance of financial stability and long-term viability of the banking system; the reform of financial regulation; and so forth.

The **Executive Summary** of the **Capacity Review**, which was also carried out by the Department on itself, says "The Department is widely acknowledged to be a professional and effective organisation with dedicated and highly skilled staff". To coin a phrase, 'the fundamentals of the DOF are sound'.

In a powerful address to the McGill Summer School this year Brendan Tuohy, a former Secretary General of a Department, quoted the Bible, "You can't put new wine into old wineskins", to make the point that reform cannot be led and achieved through the structures and senior people who have been central to causing the problems in the first place. In his **Renewing the Republic** piece in the Irish Times (March 29th) Tuohy calls for a full cabinet ministry for the Public Service Reform.

Any hope of self-renewal was jeopardised when the Secretary General, David Doyle retired over Christmas only to be replaced in a seamless handover to the next in line insider, Kevin Cardiff. Just compare the deafening silence about this succession process with the weeks of media outrage and heated debate in the Dáil when it became clear that AIB was about to appoint an insider, Colm Doherty, to replace Eugene Sheehy as CEO.

The concern was not so much that Mr. Doherty might lack the technical competence to run the bank but that 'he was there' when the bank was lending wildly to developers; he shared **collective responsibility** for the catastrophic failure of the bank. A related concern was that as an insider he would oversee the continuity of the senior management culture of AIB which for decades has thrown up one scandal after another. Did he, to quote Bishop Moriarty on his resignation, "challenge the prevailing culture at the time"?

Of course, conscientious objectors get sent to jail or shot. In 2006 – 07 the Boards of the main banks were urging their senior executives to 'increase their risk appetite' to stop Anglo 'eating our lunch'; they feared a takeover by Anglo. Any CEO who refused to follow the crowd would have been fired and so they were under severe personal pressure to follow what Warren Buffet calls "the institutional imperative - - the mindless imitation of industry peers who are rushing lemming-like assuredly to the sea".

Senior civil servants do not face the ultimate sanction of losing their livelihood if they conscientiously object. Their almost absolute job security is designed to facilitate independent thinking and to pre-empt collusion with mad and bad political directives.

The Dept. of Finance, with its embedded senior management culture, is incapable of leading reform of the Public Service. More than any other Department or Agency it needs to be radically reformed itself.

Like the Catholic Church the problem is deep and goes right to the top. The dominant culture among high priesthood of the Civil Service has its own moral code and an even greater facility than any Bishop or Cardinal for using mental reservations to obscure the truth. Tragically, they are all intelligent and genuinely decent people, as are the bishops, but they are trapped in a disastrously dysfunctional bubble blind to their own shortcomings and failures. A wider tragedy is the tainting and demoralisation of the many thousands of staff who do a good job conscientiously day in day out.

The various enquiries into the collapse of the banking system and any other investigations into the causes of Ireland's Five-Part Crisis must look closely at the role of the Department of Finance. Quite apart from its role in causing these crises this Department sets the standard for corporate accountability and governance in the Civil Service – and the OECD has pointed out the pervasive weakness of these systems, as just illustrated with the Department's meaningless **Annual Outputs Statement 2009**. Measured on **outcomes**, which is the proper standard, their performance had been disastrous.

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Part 2

Implications for Public Service Reform

The comprehensive failure of the Department of Finance to deliver on its central role in the economy and public service has a number of important implications for that Department and the wider Public Service, which must be central to any reform programme.

1. **Transparent Accountability:**

Either the "best advice" of the DOF was bad advice or the advice they provided was good advice, but was not acted on by the Minister. A third possibility is that, against their own better judgement, they provided the 'advice' to fit a prior political decision – somewhat like the civil servants in Britain and the U.S. who provided the evidence to support the invasion of Iraq. Just for example, did the DOF really advise the Government to extend the tax breaks for the already over-subscribed hotel sector? When the Central Bank was advising the DOF and the nation in 2005 that property was over-valued by between 15% and 50%, depending on location, were the DOF party to the official policy around the expansion of lending by all banks?

The fact of the matter is we don't know what transpires in the advice-giving exchanges between senior Civil Servants and Ministers. And we need to know.

Towards this end the rules must be changed to allow senior officials to comment on policy advice when they appear before Dáil Committees. In circumstances where things have gone wrong the advice should be published. Such transparency is precisely what we are entitled to in regard to the fateful night of the bank guarantee.

In the same vein, the anonymity of senior officials must be lifted. For example, in the spate of reports into institutional child abuse and other public service failures the reports refer to "the Department of Education" and so forth. But **who** in the Department frustrated Judge Laffoy for example? The practice of publishing reports with the names of officials blacked-out is unacceptable, such as the Monageer Report into the tragic case of the Dunne family which has page after page crudely obscured with a black felt pen. It is a physically disgusting document, quite apart from its tragic subject matter.

It is time to put an end to the game whereby Ministers can say "I acted on the best advice" and senior public servants take the blame but remain anonymous. The public have a right to know about the advice and officials who have failed should be named and held accountable, just like errant bankers.

2. **Independent, External Scrutiny:**

If we have learned anything in recent years is it that self-regulation does not work. While every other Department is being subjected to an **Organisational Review** by the Dept of An Taoiseach, the DOF reviewed itself and concluded that "the Department is widely acknowledged to be a professional and effective organisation with dedicated and highly skilled staff".

Reviews by the OECD are not much more objective than self-reviews because such reports, as we have seen, clearly pull their punches. There is a long history of external reports that have been got at and sanitised before the public gets to see them.

Matthew Elderfield, the new Financial Regulator has said that his regulatory regime will have two characteristics – "invasive scrutiny and effective sanctions". This must become the new norm for assessing the performance and capability of public bodies, instead of self-serving, anodyne, carefully spun internal reports or reports by biddable external bodies or consultants.

3. **Effective Sanctions: Accountability with Consequences:**

Many commentators have summed up the root cause of the catastrophic institutional failure of recent years as a "failure of accountability".

I was a member of the group led by Paddy Mullarkey in 2003 which updated the Systems of Accountability of Secretaries General and Accounting Officers and after twelve months of very detailed discussion there was an unsatisfactory resolution of one vital question: 'how do we hold secretaries general accountable for delivering (or not) on their published strategies'?

In the end we could not arrive at a clear, water-tight, challenging system of accountability, for the unspoken reason that if the performance turned out to be poor, if they had failed to deliver, then this could be embarrassing to the Minister.

There is a large crack, therefore, at the very apex of the whole system of accountability, and as one moves down through the layers of the hierarchy the crack gets wider.

Accountability is not just about reporting on ones stewardship or of saying, as Ministers frequently do, "I accept that I am ultimately accountable". Behaviour is a function of consequences, which means that if there are no "effective sanctions" for personal failure then the problem will persist. The C. + A.G's annual litany of **repeated** mismanagement and waste is testimony to this fact of life.

4. **Abandon the Belief in Gifted Generalists:**

The Department of Finance does not have the deep, professional skills in economics, banking, accounting, human resource management or large-scale institutional change to carry out its mission. Other Departments, particularly policy-making departments such as the Department of Health and Children, do not have sufficient staff with the post-graduate levels of expertise that are needed for policy-making. They have several hundred 'general staff grades' and because of the random scattering of people caused by Decentralisation large amounts of the accumulated, on-the-job-expertise was lost. One senior official told me how his department had lost over 40 key people through Decentralisation who were "replaced by people who know nothing about (our area) and who are at a stage in their career where they have no interest in learning anything about it".

General grade staff move in and out of support functions like Human Resources Management, Finance, Economics, Corporate Services, Operations Management and even I.T., as if anyone can do this stuff. There is a need to establish attractive career paths for these and other specialisms.

The Top Level Appointments (TLAC) process, which if effectively controlled by the Department of Finance, now allows for the appointment of people from outside the civil service to senior positions, but this provision has rarely been used. New blood is needed at senior levels. The Financial Regulator has indicated that he needs up to 100 new highly qualified people in order to deliver on his remit. How many does the Department of Finance need, given that it has a much wider remit than the Regulator?

5. **Establish the Managerial Role throughout the Civil Service:**

A couple of years ago a person appointed to the position of Secretary General of a large Department remarked to me: "I have never received one day's training in management". In another case I overheard a newly-appointed Asst. Secretary General say: "It's great, it's a relief that I will no longer have to deal with staff".

Levels of training in management and the quality of management practice across the Public Service ranges from excellent to abysmal. The most basic management disciplines, like setting explicit goals and reviewing performance are absent in many places. The track record in policy execution – even when the money is available – has been described by one senior official as a pervasive "implementation deficit disorder". The performance management system, PMDS, is widely regarded as a meaningless process. The weaknesses in local financial management are exposed annually by the C. + A.G.

These management weaknesses constitute the main risk to any prospect of actually implementing the public sector reforms recently negotiated.

6. **Restore the Capacity and Powers of the Civil Service to Act as a Bulwark against Reckless Political Decisions:**

When the madness of Decentralisation was unfolding about 6 years ago Minister Harney rebuked those who spoke out against it, saying: "The Government runs the country, not Public Servants".

The Government does indeed "run the country", but not without some constraints. The recent intervention in the 'Lost at Sea' matter by the Ombudsman, Emily O'Reilly, illustrated one such constraint. The system of accountability established by the Mullarkey Group included the requirement that assessments be carried out of the "strategic, operational, financial and reputational" risks of policies. The system also provided senior officials with instruments to contest what they consider to be political decisions that lack "integrity", "regularity", or "propriety". In such cases they can insist on receiving the Minister's instructions in writing and on receipt of the written instructions they immediately send the papers to the Comptroller and Auditor General.

In regard to Decentralisation few **authentic**, **thorough** risk assessments were carried out and it is patently clear that proper risk management by the Dept. of Finance has been non-existent.

The provision whereby instructions are sought in writing has not been used to anywhere near the extent that senior officials should have used this device to protect the public interest.

The net effect of senior public servants carrying out political instructions that they know to contain unacceptable risk or that they deem to be improper, is that these officials have failed in their duty to the public. To the degree that this is the road they have taken, then they have chosen to place the political needs of the incumbent government ahead of the public good. They have become politicised.

In saying this, I am well aware that we live in a democracy and that the civil service is obliged to carry out the instructions of the elected government. However, in other democracies there is more 'distance' between minsters and their officials. This issue, the need to reconcile the prerogatives of ministers with the duty of civil servants to act ultimately in the public interest, 'speaking truth to power', is a matter of fundamental importance. Other countries have managed to get the balance right and we need to learn from them.

Such a system should ensure that the public record shows the many instances where the sound advice of officials was rejected for party political reasons.

We need a system where conscientious objectors are not shot and where whistleblowers are protected.

At a deep level there is an urgent need for leaders, Whittaker-like figures, to emerge within the public service who will put in place a programme designed to reappropriate the foundational values of the public service and breathe new life into them. The ethos or culture of the public service needs reform.

7. **Establish a Full Cabinet Ministry Responsible for Public Service Reform**

As mentioned, 'you cannot put new wine into old wineskins'. Reform from within is extremely rare. Figures like Pope John XXIII or Gorbachev in Russia rose to the top of their respective institutions and although there were formed man and boy by these institutions they had the vision and courage to confront their own and lead transformational change. At a local level Finbar Flood and others who had worked all their lives in Guinness were still able to lead radical change. Ken Whittaker was such a figure in the Civil Service and Dr. Diarmuid Martin in the Catholic Church

Apart from these exceptions we have seen how difficult it is to bring about change from within. Embedded cultures, such as illustrated in the case of the senior echelons of the Catholic Church or AIB, are tenacious. The public sector reforms repeatedly promised and paid for have never been delivered. The renewal of long-standing institutions, especially 'closed system' where people who reach the top are 'lifers', invariably requires external intervention. The palpable relief at the appointments of Professor Patrick Honohan and Matthew Elderfield was because they have no baggage, think differently and are expected to show courage in taking the necessary remedial action. People are already wincing at the latter's insistence that banks raise their liquidity ratios.

One of the best examples of large-scale institutional reform is the R.U.C. Among the keys to this success were a thoroughly objective external review by Chris Patten and the establishment of external oversight bodies like the Nuala O'Loan-led Ombudsman's Office.

Conclusion

In its **Capacity Review 2009** the Department of Finance, which believes it has delivered on its vital national role and that it is widely perceived as a highly professional, effective body, makes a bid to be given unequivocal (meaning no blurring with the Dept. of An Taoiseach) responsibility for public service reform.

It is time to name this, the biggest ‘elephant in the room’. The Department of Finance has failed abysmally in fulfilling its absolutely pivotal national mandate, and as such it should be first on the list for root and branch reform. It is **not** widely respected. The Department of Finance is widely **feared**.

The huge 10-year task of reform should be assigned to a newly-formed full cabinet Ministry of Public Sector and Oireachtas Reform to be staffed by hand-picked senior officials and experienced external people. It should have an advisory board comprised of people of demonstrated competence and moral courage – such as Niall Fitzgerald, Dan O’Brien, Jim O’Leary and Emily O’Reilly.

Senior people everywhere are now being called to account and heads are rolling in the Church, FAS and the Banks, but life goes on in the Department of Finance as if they had no hand, act or part in creating the national crisis. Is there anything more absurd then the idea of giving them even more responsibility for putting things right? What does Minister Lenihan think?

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