

Fox could have made Werrity a Special Adviser but he chose not to, thereby keeping his role informal and less constrained

On Friday, the Defence Secretary Liam Fox was forced to resign after questions were raised concerning his relationship with Adam Werrity, and his nebulous links to unspecified backers, business contacts and overseas officials. [Andrew Blick](#) looks at the historical roots of the Special Advisor role for explanations of how these situations can come about.



Consideration of the scandal surrounding Liam Fox, involving his use of an informal aide in Adam Werrity, helps illustrate an important pattern of development in administrative history.

A question I have frequently heard asked over the last few days is: why did not Fox, to avoid the propriety concerns that have arisen, appoint his friend to an official post as a special adviser? This job is specifically designed to allow Cabinet ministers to incorporate their personal allies formally, though temporarily, into the Civil Service machine, on the public payroll, while not making them subject to all the usual Whitehall rules of partly political impartiality and objectivity; thereby legitimising their presence in government, but retaining their usefulness to the politicians they serve. A special adviser role might on the surface seem to have been ideal for Werrity.

A superficial response to this question is that Fox had three special advisers, which is already more than the normal maximum of two; and there was consequently not a space for Werrity. But why was Werrity, as important to Fox as he seemed to be, not one of these three? A possible answer can be found partly through reference to an historical process discussed in a recent book by [Professor George Jones](#) and myself.

In our work, [*Premiership: the development, nature and power of the office of the British Prime Minister*](#), we describe two phenomena called 'administrative fusion and fission'. While we discuss them in connection with the UK premiership, they can be used to analyse government institutions more generally, including the office of the Secretary of State for Defence.

The processes of fusion and fission involve powers, functions and staff respectively appearing within and moving away from the ambit of a given institution, at the centre of which lies its political head – such as the office of a Secretary of State, at the core of which is the senior minister at its head. They are interlinked, sometimes causing each-other and often affecting the same institution simultaneously. These phenomena can be observed playing out across many different international cultures and historical periods; they are seemingly universal.

In the post-Conquest mediaeval period in England, for instance, they applied to the monarchy. Sections were established inside the royal household to perform specific functions. In time they became offices of state separate from the household, either gradually or because of intentional intervention by the magnates of the kingdom. With immediate control over these bodies lost, the monarchy deployed new ones, which in turn themselves developed into distinct institutions which had to be bypassed; and so on.

To move forward to more recent times, the introduction of the special adviser to British government at the outset of the Labour leader Harold Wilson's first premiership in 1964 enabled Cabinet ministers to introduce aides of their choosing into Whitehall. From the point of view of the ministers involved, this was an act of administrative fusion: the creation of a new resource, more clearly linked to the particular person holding a ministerial office than were the permanent civil servants staffing the department, who were to some extent in practice a power base in their own right, not dependent upon the success of an individual politician or party in order to retain their position.

But there was a trade-off involved. Ministers always have sources of advice and support drawn from beyond more established bureaucratic channels; but the impact of these aides can be substantially circumscribed if they are not integrated into the administrative machine. Employing these individuals as special advisers could increase their effectiveness through providing them with more legitimate possession of such vital resources as sight of official papers; membership of policy committees; and regular access to the minister.

At the same time, even though some allowances were made for their status as temporary implants, being incorporated into the Civil Service has always involved those who become special advisers being subject to restraints of various kinds, associated with the behavioural norms and practical realities of Whitehall. They could not be *entirely* free agents working on behalf of their ministers, who were themselves, for similar

reasons, limited in the use they could make of the special adviser system. In other words, the administrative fusion that the introduction of these aides entailed was immediately accompanied by countervailing fission.

Special advisers became a fixture of British government, used by successive administrations; and they grew in number (in 1964, less than 10; by the early twenty-first century, reaching the mid-80s). Over time, the role of these aides was steadily more regulated and codified. At the outset in the 1960s there were few clear ground-rules for their operation, beyond some basic Civil Service regulations and conventions. Various principles began to appear in the 1970s, such as there being a general limit of two special advisers per Cabinet-level minister; and in 1978 special advisers were provided with a clear legal basis for the first time, through an Order in Council issued under the Royal Prerogative. In 1991 an Order in Council legally restricted them to the giving of advice to ministers, and by implication not managing career officials.

A document containing various stipulations about ministerial conduct, including the appropriate use of special advisers, *Questions of Procedure for Ministers* (since 1997 entitled the [*Ministerial Code*](#)) was publicly issued in 1992, where previously it had only been circulated internally within government. In 1995 a *Draft Model Letter of Appointment for Special Advisers* was published, supplanted in 1997 by a [*Model Contract for Special Advisers*](#). An accompanying [*Code of Conduct for Special Advisers*](#) followed in 2001. The [*Constitutional Reform and Governance Act 2010*](#) provided for the first time a statutory footing for the Civil Service, including special advisers and their *Code*. These documents became more complex over time, with stipulations often added in response to particular scandals. Information about special advisers, including their names, salaries and who they worked for, was made increasingly readily available.

On the one hand these changes could be seen as involving administrative fusion. They provided formal entrenchment for special advisers as an established source of personal ministerial support.

But on the other hand this process of codification amounted to some extent to administrative fission, through imposing various restrictions upon the activities of special advisers. This increased regulation mattered not only internally in Whitehall, but because it provided a framework within which often-critical public scrutiny of these aides could be conducted. This shift may help explain why ministers might hesitate to employ aides as special advisers, and choose instead to operate them altogether outside existing formal structures. The table below contains a series of excerpts from the current special adviser *Code* that could be seen as relevant to the controversy surrounding Adam Werritty, but which did not apply to him because he was not a special adviser (though if they had applied to him, his behaviour would not necessarily have violated them all).

Table: *Code of Conduct for Special Advisers, June 2010: excerpts*

[Paragraph 4]	As set out in the <i>Ministerial Code</i> , all appointments of special advisers require the prior written approval of the Prime Minister, and no commitments to make such appointments should be entered into in the absence of such approval.
[Paragraph 5]	Special advisers...should not misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others. They should not receive benefits of any kind which others might reasonably see as compromising their personal judgement or integrity. They are required to declare details of gifts and hospitality received in accordance with the rules set out in their departmental staff handbooks. Departments will publish on a quarterly basis, information about gifts and hospitality received by their departmental special advisers. Special advisers should not, without authority, disclose official information which has been communicated in confidence in Government or received in confidence from others.
[Paragraph 6]	Special advisers should not use official resources for party political activity. They are employed to serve the objectives of the Government and the Department in which they work. It is this which justifies their being paid from public funds and being able to use public resources, and explains why their participation in party politics is carefully limited. They should act in a way which upholds the political impartiality of civil servants and does not conflict with the <i>Civil Service Code</i> . They should avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes.

[Paragraph 7]	<p>special advisers should work closely with the ministerial team and with permanent civil servants, and establish relationships of confidence and trust...</p> <p>special advisers must not.....have any involvement in the award of external contracts...[and must not] suppress or supplant the advice being prepared for Ministers by permanent civil servants</p>
['Leaving the Civil Service', Paragraph 24]	<p>Special advisers are subject to the Business Appointment Rules. Under the Rules, they are required to submit an application to the Head of their former Department for any appointments or employment they wish to take up within two years of leaving the Civil Service.</p>
[Paragraph 26]	<p>Under the terms of the <i>Civil Service Code</i>, special advisers must continue to observe their duties of confidentiality after they have left their employment as a special adviser</p>

It might be that Liam Fox, rather than confine Adam Werritty to a more constrained special adviser position, deployed him in a free-floating role, for the same reasons that a mediaeval monarch might seek to circumvent the impositions of the magnates when relying on personal staff rather than public office holders. Perhaps in an earlier less systematised and regulated phase, Fox would have felt more able to employ Werritty in a formal special adviser post (although ultimately difficulties may still have developed for them both).

Fox's decision came at a cost to him, and will have broader consequences for the regulation of government. His use of Werritty must have alienated officials within the Ministry of Defence, some of whom possibly played a part in making details about the aide's role become public. Once this information was in the open, it was sufficient to create concerns about what precisely Werritty was doing – something about which we may never have complete knowledge. The introduction of more rules, probably included in the *Ministerial Code*, prohibiting aides in the Werritty mould will almost inevitably follow. That is to say, Fox's administrative fusion will prompt further fission, a continued unfolding of these interlinked historical processes.