

Institution: University College London
Unit of Assessment: 21 – Politics and International Studies
Title of case study: UK Cabinet Manual: Codifying the process of government formation
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>Before the UK's 2010 election there were widespread fears that a hung Parliament might lead to political and economic chaos. Research conducted and published by the UCL Constitution Unit showed both the necessity for a Cabinet Manual to guide the process of forming a new government in the event of a hung Parliament, and examined the best models available. Although the full Cabinet Manual was published in 2011, the Cabinet Office published a key chapter (<i>Elections and Government Formation</i>) before the 2010 general election. The chapter, which drew heavily on the insights of and recommendations made in the UCL research, helped ensure in May 2010 an orderly transition to government of the first coalition in 60 years. That transition was also supported by the researchers' use of their findings to enhance understanding among professional, media and public audiences of what would happen in the event of a hung parliament.</p>
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>The Constitution Unit at the UCL School of Public Policy has a long history of research on government in non-majoritarian systems. Between 2000 and 2003, Professor Robert Hazell (Director of the UCL Constitution Unit) and Ben Seyd, Senior Research Fellow at UCL (1997–2005), led a comparative research project, funded by the Nuffield Foundation, that analysed coalition governments in Denmark, Germany, Ireland and New Zealand to provide findings intended to inform the process of coalition formation in Scotland, Wales and Northern Ireland. This line of research was revived in 2009 with the prospect of a hung Parliament in Westminster.</p> <p>The central finding of the 2009 research was the need for a Cabinet Manual to provide guidance in the event of a hung parliament. In line with the Unit's commitment to impact through collaborative research, the project leader Robert Hazell (with Ben Yong and Mark Chalmers at UCL) worked alongside Akash Paun and Catherine Haddon at the Institute for Government (IfG). The research looked at minority and coalition government in Westminster systems, working closely with the Cabinet Office and Buckingham Palace. The research – involving 60 interviews with ministers, politicians, civil servants and experts – established that recent experience in Canada, with its unstable minority governments and constitutional crises, supported a widely held view in Westminster that minority governments are weak, unstable and short-term in approach to policy. In New Zealand and Scotland, however, minority governments were shown to be much more effective, offering lessons on how to facilitate a stable transition. Yong worked on the analysis of the New Zealand experience, and Chalmers on the Canadian, while Paun and Haddon worked on Scotland and the Lib-Lab Pact in 1977–78. Hazell wrote the concluding chapters, on the lessons for Westminster and Whitehall.</p> <p>The report ([a] in section 3) was jointly published by the Constitution Unit and Institute for Government, with five out of the seven chapters written by Hazell, Yong and Chalmers from UCL. The main findings were: (1) Westminster and Whitehall were unprepared for a hung Parliament; (2) the media had very little understanding of the conventions guiding the process of government formation; and (3) guidance needed to be issued before the election. The report identified three matters which required urgent clarification: how the Queen should appoint a Prime Minister in a hung Parliament; what powers could still be exercised by the previous government on a caretaker basis; and how the civil service could better support the process of government formation. It was suggested that a stronger set of guidelines needed development, in the form of a Cabinet Manual modelled on New Zealand's.</p> <p>To ensure impact, the Cabinet Office and the Queen's private secretary were shown a draft of the report in October 2009, and Hazell chaired the UK group at a Ditchley conference in November on</p>

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Managing the Machinery of Government in Periods of Change [c]. In December, Cabinet Office, Ministry of Justice and Palace officials attended the launch of the report. Its conclusions were summarised in an article in the *Political Quarterly* a month before the 2010 election [b], accompanied by comment pieces from Lord Turnbull (former Cabinet Secretary), Sir Alan Beith MP (Chair, Commons Justice Committee), Paul Evans (senior House of Commons clerk) and Michael Crick (then Political Editor, BBC Newsnight).

3. References to the research (indicative maximum of six references)

[a] R. Hazell and A. Paun (eds.), *Making Minority Government Work: Hung Parliaments and the Challenges for Westminster and Whitehall*, Constitution Unit and Institute for Government. 105 pp, 51,500 words. ISBN 978-0-9561197-3-5. Dec 2009. <http://www.ucl.ac.uk/constitution-unit/publications/tabs/unit-publications/147.pdf>

[b] A. Paun and R. Hazell, 'Hung Parliaments and the Challenges for Whitehall and Westminster: How to Make Minority and Multi-Party Governance Work' *Political Quarterly*, Vol. 81, No. 2, April 2010. doi.org/10.1111/j.1467-923X.2010.02082.x

[c] <http://www.ditchley.co.uk/conferences/past-programme/2000-2009/2009/machinery-of-government>

The research was partly supported by a grant of £19k from the Institute for Government.

4. Details of the impact (indicative maximum 750 words)

To resolve the three urgent matters identified by the research (how the Queen should appoint a Prime Minister in a hung Parliament; what powers could be exercised by the previous government; and how the civil service could support the process of government formation), the researchers suggested that a stronger set of guidelines should be developed in the form of a Cabinet Manual modelled on New Zealand's.

Hazell provided copies of the New Zealand Cabinet Manual to the Cabinet Office. He also suggested to the Commons Justice Committee that they hold a quick inquiry into preparations for the next election. In February 2010, Hazell (UCL) and Peter Riddell (IfG) gave oral and written evidence to the Committee, demonstrating the inadequacy of existing Cabinet guidance, based on a comparison of the UK with Australia, Canada, Scotland and New Zealand [see 1 in section 5]. This was followed by the Cabinet Secretary Sir Gus O'Donnell announcing the preparation of a comprehensive Cabinet Manual, and publication of the key chapter on government formation before the 2010 general election [2]. Thus, only ten weeks after the 2009 report appeared, the Cabinet Office published *Elections and Government Formation* as a guide to the process of government formation.

The specific contributions of the chapter published as *Elections and Government Formation* were: to provide essential guidance about the process of government formation in the event of a hung Parliament; to bring together in one place political and administrative guidance for the Cabinet, which the research had shown was non-existent, or fragmented and hard to find; and to codify for the first time the key constitutional conventions on appointing a Prime Minister. The Manual included two innovations which the Constitution Unit report proposed to the Cabinet Office: (1) an extension of the 'caretaker convention' to restrict government decision-making in three different contexts: the run-up to the election, the period of government formation, and a mid-term loss of confidence (paras. 67–71 of the published Cabinet Manual [3]) and (2) provision of civil service support for the political parties negotiating after an election (paras. 51–53).

Until the publication of *Elections and Government Formation* the process of appointing a new Prime Minister had been shrouded in mystery, leading to speculation that an uncertain election result would lead to chaos, or that the Queen herself might be required to choose. There was no agreed understanding that the previous government might continue in office until a new

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government was formed. There had also been nervousness in the financial markets about prolonged uncertainty following the election. Hazell (together with the Institute for Government) spoke at events in the City of London to explain what would happen, for example at the City Corporation on 11 March, and to the London Chamber of Commerce on 23 March. Researchers also briefed the political parties on, among other topics, the constitutional rules of government formation, how the parties would need to negotiate and the caretaker convention.

To enhance the accuracy of media coverage, Hazell spoke at four private briefings for broadcasters (two for the BBC, one at Millbank and one at TV Centre; one big meeting for all ITN and C4 news teams; one for Sky) and for the press and Foreign Press Association arranged in partnership with the Institute of Government. In the run up to the election Hazell also gave 15 interviews to UK and foreign broadcasters. During the 'Five Days in May' he was part of the BBC and ITV election coverage teams, and gave over 25 broadcast interviews to explain the process of government formation in a hung Parliament (eg for ITN on 6 and 7 May; BBC TV News and BBC Politics Show on 8 and 9 May) [4].

These activities to promote research impact were supplemented by activities of broader public engagement. On 9 May 2010 Hazell published 'Keep calm and carry on talking: Whitehall has been preparing for this for months' in *The Sunday Times*. He also provided a YouTube mini-lecture, 'A Hung Parliament Explained' (10 Mar 2010), which at the time of this submission has been viewed more than 97,000 times [5].

The 'Five Days in May' went smoothly. That was not a foregone conclusion. But partly thanks to Constitution Unit briefings, none of the papers declared that Cameron had 'won' the election, nor did they whip up panic amongst the public. The civil service supported the negotiations between the parties, for the first time ever; the old government remained in office for five days during the coalition negotiations; the Queen was not drawn in until it was clear who could command confidence in the new Parliament; the markets remained calm. The wider beneficiaries were the UK electorate, who observed an orderly transition and formation of the first coalition government in 60 years. As the *Guardian* observed in an editorial titled 'In Praise of the Constitution Unit' on 23 July 2010:

Its report last year on minority parliaments shaped the Cabinet Secretary's thinking, and so helped lead to this spring's unexpectedly smooth transition to the coalition [6].

Following the formation of the government, the Cabinet Office began preparing a complete Cabinet Manual explicitly modelled on the New Zealand example, as recommended by UCL researchers. A consultation draft was published in December 2010, and the first full Cabinet Manual was produced in October 2011 [3].

Once again, Robert Hazell was consulted by the Cabinet Office on successive drafts of the Manual during 2010, and had several meetings with Sir Gus O'Donnell to discuss the drafts. When the work in Whitehall was going slowly, UCL's Dr Ben Yong, an expert on the New Zealand Cabinet Manual, was seconded to them for six months (March–September 2010). Hazell and Yong were twice invited to give evidence to the Political and Constitutional Reform Committee [7], and to take part in a private seminar of the Commons Public Administration Committee in March 2011.

At these events, the researchers explained to Committee members the significance of the Cabinet Manual, and sought to allay their fears that it was wrong for the Executive to offer its own interpretation of constitutional conventions, as well as successfully challenging specific statements in the draft that contravened constitutional principles. For example, the draft suggested "whichever party has won the most votes and the most seats, if not an absolute majority, has the first right to seek to govern, either on its own or by reaching out to other parties". Hazell pointed out this was wrong: the constitutional principle was that the Queen should appoint as Prime Minister the person who commanded the confidence of Parliament (who need not necessarily be the leader of the largest party). As acknowledged in the committee's report, the offending passage was deleted on this recommendation [8].

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As a result, as of October 2011, the UK has a published Cabinet Manual which lays out clearly the main laws and processes that govern the conduct and operation of the government, and of government formation. In summer 2013, the new Cabinet Secretary consulted Hazell about Cabinet Office preparations for the next election, and the BBC started consulting him about its election coverage.

5. Sources to corroborate the impact (indicative maximum of 10 references)

[1] R. Hazell and P. Riddell, *Opening the Door to the Secret Garden: A Plea for revised public guidance on how governments are formed and operate*. Justice Select Committee *Constitutional Processes following a General Election*, 16 March 2010, Written Evidence Ev. 28–48, Oral Evidence Ev. 8–15.

<http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/396/396.pdf>

[2] Available at:

<http://webarchive.nationalarchives.gov.uk/20100304110241/http://cabinetoffice.gov.uk/media/343763/election-rules-chapter6-draft.pdf>

[3] The Cabinet Manual, 1st Ed. October 2011.

<https://www.gov.uk/government/publications/cabinet-manual>

[4] The scale of UCL contribution to research and the media engagement may be corroborated by the research partner at the Institute of Government.

[5] Hazell's article 'Keep calm and carry on talking: Whitehall has been preparing for this for months' (<http://www.thesundaytimes.co.uk/sto/news/Election/article284626.ece>) appeared in The Sunday Times on 9 May 2010. YouTube <http://www.youtube.com/watch?v=wJA02BOggWs>

[6] The *Guardian* editorial, 'In Praise of the Constitution Unit' 23 July 2010:

<http://www.guardian.co.uk/commentisfree/2010/jul/23/in-praise-of-constitution-unit>

[7] After the election we gave evidence to two further Select Committees, with this submission to the Commons Political and Constitutional Reform Committee in Oct 2010:

R. Hazell and B. Yong, *Lessons from the process of government formation after the 2010 election*

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpolcon/writev/528/m07.htm>

And this submission to the Political and Constitutional Reform Committee in January 2011:

R. Hazell and B. Yong, *Submission on the Constitutional Implications of the Cabinet Manual*, in Political and Constitutional Reform Committee, *Constitutional Implications of the Cabinet Manual*, March 2011 Oral Evidence at Ev. 1–16, Written Evidence at Ev. 41–51.

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpolcon/734/734.pdf>

[8] House of Commons Political and Constitutional Reform Committee – *Constitutional implications of the Cabinet Manual* – March 2011 covered the conventions on whom to appoint as Prime Minister:

'Professor Hazell told us that [footnote 51 of the Cabinet Manual] should be "struck out": It is not a constitutional principle. The constitutional principle in any newly elected Parliament is that that person who can command the confidence of the House of Commons shall be appointed as Prime Minister, and, as we saw in May of last year, it is up to the political parties to negotiate to try to work out who can command confidence in the new House. But there are no set rules ... about how those negotiations should be initiated or by whom'. (para. 76)

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpolcon/734/734.pdf>

The Committee agreed with Professor Hazell's recommendation (para. 79). The Government's response agreed to delete the offending footnote (at pp. 24–5).