

SCOTLAND REFERENDUM

GUIDANCE TO DEPARTMENTS ON CONDUCT

Introduction

1. The UK and Scottish Governments have both said that there should be a referendum on Scottish independence in this Parliament and consultations have been held on how that referendum should be framed. The purpose of this guidance note is to provide an overarching framework and a set of principles for officials working in support of UK Ministers. Separate guidance has been issued to civil servants working in support of the Scottish Government
2. As yet, no date has been set for the referendum so this guidance applies until further notice. A revised set of guidance on conduct during the legal referendum period, will be issued closer to the time once the date and campaigning periods have been confirmed. Until then, this guidance applies to civil servants and special advisers working to UK Ministers, as well as to the military and Non Departmental Public Bodies.

Key principles

3. The UK Government's policy is to maintain the United Kingdom. It is therefore both legitimate and necessary for civil servants to support Ministers as fully as possible in pursuit of those objectives. The key principles set out in the *Civil Service Code*, the *Code of Conduct for Special Advisers* and the *Ministerial Code* continue to govern conduct on Scottish constitutional issues during this period.
4. In the context of Scottish constitutional policy these principles mean:
 - a) The Civil Service supports the Government of the day in developing, implementing and communicating its policies, including on maintaining the UK and issues that affect Scotland. Civil servants' work should be to the highest standards of honesty, objectivity, impartiality and integrity as required by the *Civil Service Code* and must comply with any restrictions that have been laid down in their political activities.
 - b) Civil servants must act in a way that retains the confidence of Ministers. For their part, Ministers must uphold the political impartiality of the Civil Service and not ask civil servants to act in any way which would conflict with the *Civil Service Code*.
 - c) The Scottish Government remains an important part of the governance of the United Kingdom, and cooperation between the two administrations must continue. Departments should continue to have productive engagement with Scottish Government colleagues notwithstanding the differing constitutional goals of the two administrations.
 - d) Formal arrangements have been in place since 1999 to facilitate the exchange of information relevant to the work of the devolved administrations between the UK Government and the administrations in Scotland, Wales and Northern Ireland.

These arrangements, which contain safeguards for information of particular sensitivity, continue to operate.¹ For information requests not covered by these arrangements, departments should endeavour to provide what factual information is generally available. In cases of doubt departments should consult the Cabinet Office.

- e) Political activity by civil servants, including special advisers connected with the referendum will fall within the definition of national political activity outlined in the Civil Service Management Code. Detailed guidance on the restrictions on civil servants' involvement in political activities is set out in Section 4.4 of the Civil Service Management Code (<http://www.civilservice.gov.uk/about/resources/csmc/CSMC-4.aspx>) and Departmental staff handbooks. Guidance for special advisers is set out in the *Code of Conduct for Special Advisers*. Further guidance is in paragraphs 8 and 9 below.

Briefing and other support for Ministers

5. Civil servants should provide support in the normal way to Ministers – this may include participation in meetings on Government business, ministerial visits and attendance at external events relating to Government policy, which may include events organised by groups campaigning for a particular referendum outcome. Civil servants may accompany Ministers to these events, draft ministerial speeches, provide briefing and, at Ministers' request, respond to factual questions.
6. Beyond these circumstances however, Civil Servants should not attend or be used to support political campaign events. Civil servants should not work directly on or for political campaigns or attend campaign meetings if Ministers are not present. Guidance on special advisers' activity is set out in paragraphs 8 and 9 below. More detailed guidance on civil servants' attendance and briefing for events run by organisations with party political links is set out in the *Directory of Civil Service Guidance*.

Communications

7. During this period, civil servants can continue to communicate Government policy on behalf of Ministers through, for example, Government press officers, appearances at select committees, seminars etc. As with communication activity at other times, the requirements of the Civil Service Code apply and civil servants must be careful to remain impartial at all times. Government press officers and other civil servants should not use campaign slogans or endorse comments by specific groups.

Special Advisers

8. Special advisers must conduct themselves in accordance with the requirements of their Code of Conduct. They can provide a channel of communication between the Government and outside interest groups with which the governing parties may be associated, including groups formed to campaign for a particular outcome in the

¹ See *Memorandum of Understanding and Supplementary Agreements*, March 2010, paragraphs 10-12

referendum. They may provide such groups with publicly available information and attend meetings and events held by these groups in support of or on behalf of Ministers.

9. However, such work should not extend to leading a non-Governmental campaigning organisation, and special advisers should avoid anything which might reasonably lead to criticism that people paid from public funds are being used for national political activity. Further guidance is set out in the Code of Conduct for Special Advisers. (<http://download.cabinetoffice.gov.uk/special-advisers/code-of-conduct.pdf>)

Ministerial visits

10. It is a requirement of the Ministerial Code that Ministers planning to make an official visit must inform in advance the MPs whose constituencies are to be included within the itinerary. Similar courtesies should be extended when UK Ministers are visiting the constituencies of members of the Scottish Parliament and the Secretary of State for Scotland should also be informed. Officials should support Ministers in the conduct of visits (or parts of visits) to carry out government business in the normal way, but official support should not be given to visits and events that are party political in nature as part of the pro-UK campaign.

Any queries on this Guidance should be referred to the Cabinet Office Propriety and Ethics team (proprietyðicsteam@cabinet-office.gsi.gov.uk).