

ELECTIONS TO THE SCOTTISH PARLIAMENT, THE NATIONAL ASSEMBLY FOR WALES, THE NORTHERN IRELAND ASSEMBLY AND TO LOCAL AUTHORITIES IN ENGLAND AND NORTHERN IRELAND, AND REFERENDUM ON THE VOTING SYSTEM FOR THE UK PARLIAMENT

GUIDANCE ON CONDUCT

1. On 5 May 2011, elections will be taking place for the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly and some local authorities. There will also be a referendum for the voting system for the UK Parliament on 5 May. This note provides guidance to civil servants in UK Government departments and to NDPBs on their role and conduct during the forthcoming election and referendum campaigns.
2. **The period of sensitivity preceding local elections is not fixed to any particular date, but the general convention is that particular care should be taken in the three weeks preceding the elections – in this case from 14 April 2011. Special care will need to be exercised in relation to the devolved administrations from 25 March for the elections to the Scottish Parliament and the Northern Ireland Assembly and from 1 April for the National Assembly for Wales. The restricted period for the referendum starts on 7 April.**
3. The elections and referendum are different from a UK General Election. The UK Government will remain in office whatever the outcome of the elections/referendum. Ministers will continue to carry out their functions in the usual way. UK civil servants will continue to support their Ministers in their work.
4. However, it needs to be borne in mind that the activities of the UK Government could have a bearing on the election and referendum campaigns. Particular care will need to be taken during these periods to ensure that civil servants conduct themselves in accordance with the requirements of the *Civil Service Code*. Care also needs to be taken in relation to the announcement of UK Government decisions which could have a bearing on the elections and referendum. In particular, civil servants are under an obligation:

- to ensure that public resources are not used for party political purposes; and
 - not to undertake any activity which could call into question their political impartiality.
5. The Political Parties, Elections and Referendums Act 2000 (PPERA) applies in relation to the referendum. In particular, for 28 days immediately before the referendum, tight restrictions will apply to Government publicity as set out in Section 125 of the PERA – see Annex A.

General Principles

6. The following general principles should be observed by all civil servants, including special advisers:
- a) particular care should be taken over official support, and the use of public resources, including publicity, for Ministerial or official announcements which could have a bearing on matters relevant to the elections and referendum. In some cases it may be better to defer an announcement until after the elections/referendum but this would need to be balanced carefully against any implication that deferral could itself influence the political outcome – each case should be considered on its merits;
 - b) care should also be taken in relation to proposed visits;
 - c) special care should be taken in respect of paid publicity campaigns and to ensure that publicity is not open to the criticism that it is being undertaken for party political purposes;
 - d) There should be even-handedness in meeting information requests from the different political parties and campaigning groups.
 - e) officials should not be asked to provide new arguments for use in election/referendum campaign debates.
7. As with all UK Government Ministers, the Secretaries of State for Northern Ireland, Scotland and Wales will continue to be in charge of their respective departments, and civil servants should continue to support them. In doing so, civil servants will

wish to be aware of the need to avoid any action which is, or could be construed as being, party political or otherwise controversial in the context of the elections/referendum.

8. All discussions between the Devolved Administrations and the UK Government during the campaign periods should be conducted in accordance with the principles laid down in this guidance.

Handling of requests for information

9. There should be even handedness in meeting information requests from candidates from the different political parties. The aim should be to respond to requests from candidates and campaigners as soon as possible.
10. Where it is clear that a candidate's request is an FOI request it must be handled in accordance with the Freedom of Information Act 2000. The Act requires public authorities to respond to requests promptly and in any event not later than 20 working days after the date of receipt. Where it is clear that it will not be possible to provide a quick response the candidate should be given the opportunity to refine the request if they wish so that it can be responded to more quickly.
11. Enquiries from the media should be handled by Departmental Press Officers.

Ministerial Visits

12. In the pre-election periods, particular care should be taken in respect of proposed visits to areas holding elections. The territorial Secretaries of State (and their junior Ministers) will need to continue to carry out their Ministerial duties in the countries concerned. However, in doing this the basic test of whether the visit is for government or party/electoral purposes must be satisfied. Official support must not be given to visits and events with a party political or campaigning purpose. In cases of doubt, further guidance should be sought from your Permanent Secretary's Office or the Propriety and Ethics Team in the Cabinet Office.

Announcements

13. Similarly, announcements by the UK Government may have a particular impact on the elections/referendum. Ministers will wish to be aware of the potential sensitivities in this regard and might decide, on advice, to postpone making certain announcements until after the elections/referendum. Obviously, this needs to be balanced carefully against any implication that deferral itself could influence the political outcome. Each case should be considered on its merits. Again, in cases of doubt further advice should be sought.

14. In relation to the referendum, during the period between the announcement of the referendum and the start of the 28 day campaign period, the Political Parties, Elections and Referendums Act imposes restrictions on expenditure of the political parties or others campaigning on the referendum. It is important therefore that during this period, civil servants take particular care relating to ministerial announcements and paid publicity to avoid any criticism that official resources are being used for party political purposes.

Public Consultations

15. Public consultations with a particular emphasis on local or devolved issues should generally not be launched during the relevant election periods. If there are exceptional circumstances where launching a consultation is considered **essential** (for example, for safeguarding public health), advice should be sought from the Propriety and Ethics Team in the Cabinet Office. If a consultation is ongoing during this period, it should continue as normal. However, Departments should avoid taking action which will compete with candidates for the attention of the public. This effectively means not undertaking publicity or consultation events for those consultations that are still in progress. During this period, departments may continue to receive and analyse responses.

Communication Activities

16. Government communicators should apply the principles set out in paragraphs 6-8 above when planning and delivering communications activities which will take place during this period. Additional care should therefore be taken around press and marketing activity concerning local or devolved issues.
17. In relation to the referendum, there are very tight restrictions on Government publicity during this period – see Annex A (also see paragraph 14 above). Essentially, Government Departments, local authorities and NDPBs are prohibited from publishing material about a referendum in the 28 day period ending with the date of the poll. During this period the Electoral Commission will be running a campaign to encourage people to vote. Political parties will have to observe financial limits imposed on their total referendum campaigning expenditure, and of course the usual rules about not using official resources for party political purposes apply.
18. It is also important to take care with official websites which will be scrutinised closely by the news media and the political parties during the election/referendum periods. In cases of doubt, guidance should be sought from the Government Communications Team at the Cabinet Office on 020 7276 2710.

Legislation

19. UK Departments should carefully consider the handling of primary legislation which includes provisions on devolved matters during the election period. For Scotland, Wales and Northern Ireland it is not possible for the respective executives to seek their legislature's consent for provisions in UK Bills that require Legislative Consent Motions once the Assemblies/Parliament have been dissolved. This is also likely to be the case for a number of weeks after the elections. Departments with Bills containing provisions that may impact on the Devolved Administrations or require Legislative Consent Motions should therefore discuss the position with the Legislation Secretariat in the Cabinet Office, the Territorial Offices, and their policy contacts in the relevant executives. Further guidance may be sought from the

Legislation Secretariat in the Cabinet Office on 020 7276 0135 and the Constitutional Policy Team in the Scotland Office (020 7270 6802), Wales Office (020 7270 0562) and Northern Ireland Office (020 7210 6576).

Use of Government Property

20. Government property should not be used by Ministers or candidates for electioneering purposes.

21. In the case of NHS property, decisions are for the relevant NHS Trust but should visits be permitted to, for example, hospitals, it should be on the basis that there is no disruption to services and that the same facilities are available to all candidates. Care should also be taken to avoid any intrusion into the lives of individuals using the services. The decisions on the use of schools and other local authority properties should be for those legally responsible for the premises. Where it is decided to agree to such visits, the key principle is that the same facilities should be available to all candidates, and that there is no disruption to services.

Statistical and Social Research Activities

22. During the election periods, statistical activities should continue to be conducted in accordance with the Code of Practice for Official Statistics and the Pre-release Access to Official Statistics Order 2008 which should be read as though it is part of that Code. Social research activities should be in accordance with the GSR Code and supplementary guidance, including the GSR Publication Guidance. Researchers should also adhere to local arrangements for pre-announcement of research. Requests for information should be handled in accordance with the principles set out in paragraphs 6-15 of this note and with the Code of Practice for Official Statistics.

23. In cases of doubt you should consult your departmental Head of Profession for Statistics or your departmental Head of Profession for Social Research. Further advice can be sought from the National Statistician's Office (01633 455528 (Newport) and the Government Social and Economic Research team on 020 7270 5331).

Public Appointments

24. Public appointments made by UK Ministers, or UK senior civil service appointments could have an effect on the devolved Administrations, for example where the remit of the body concerned is UK wide. Particular care should be taken in relation to any such appointments and consideration given to postponing the appointment process where it has the potential to be controversial.

Political activities

25. Political activity connected with the devolved Parliamentary elections and the referendum falls within the definition of national political activity. Political activity connected with the local elections falls within the definition of local political activity.

26. 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/Assets/civil-service-management-code-2011_tcm6-3222.doc) (http://www.civilservice.gov.uk/Assets/civil-service-management-code-2011_tcm6-3222.doc) and Departmental staff handbooks.

Special advisers

Devolved elections and the referendum

27. For the **devolved elections and the referendum**, special advisers who wish to take part in the campaigns must first resign their appointment. Special advisers who wish to speak or campaign in public on the subject matter of the referendum; express views on it in letters to the press, or in books, articles or leaflets; or canvass voters in person, will need to resign their appointment. Special advisers who resign in these circumstances will not be entitled to severance pay as their resignation is voluntary.

28. However, in the individual's own time, outside of office hours and not on Government property, special advisers may provide support activities such as stuffing envelopes, liaison with the Party and contributing to the drafting of

speeches. The key principle in considering whether specific activity would be appropriate is to avoid a special adviser being publicly identifiable in the campaign.

Local elections

29. Special advisers planning to help with the **local elections** should note that any help on campaigning must be done in their own time either outside office hours or while on leave from their Departments.
30. Official resources such as telephones, computers, fax machines, official stationery and departmental administrative support must not be used in support of these elections.
31. Further guidance is set out in the *[Code of Conduct for Special Advisers](http://www.cabinetoffice.gov.uk/sites/default/files/resources/special-advisers-code-of-conduct.pdf)*. (<http://www.cabinetoffice.gov.uk/sites/default/files/resources/special-advisers-code-of-conduct.pdf>)

Further advice

32. In cases of doubt, in the first instance you should consult your Permanent Secretary's Office who may consult the Propriety and Ethics Team in the Cabinet Office on 020 7276 1898/2472/2471 (e-mail electionqueries@cabinet-office.x.gsi.gov.uk)
33. Separate and more detailed guidance on the elections has been issued to civil servants (including special advisers) working for the Northern Ireland administration and Departments, the Scottish Executive and the Welsh Assembly Government. NDPBs spend public money and make public announcements, use Government property and can employ civil servants. This guidance therefore also applies to their activities. Sponsor departments should ensure that their NDPBs are aware of it.

ANNEX A

EXTRACT FROM THE POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT

Chapter III

Controls on publications

125.(1) This section applies to any material which –

- (a) provides general information about a referendum to which this Part applies;
- (b) deals with any of the issues raised by any questions on which such a referendum is being held;
- (c) puts any arguments for or against any particular answer to any such question; or
- (d) is designed to encourage voting at such a referendum.

(2) Subject to subsection (3), no material to which this section applies shall be published during the relevant period by or on behalf of –

- (a) any Minister of the Crown, government department or local authority; or
- (b) any other person or body whose expenses are defrayed wholly or mainly out of public funds or by any local authority.

(3) Subsection (2) does not apply to –

- (a) material made available to persons in response to specific requests for information or to persons specifically seeking access to it;
- (b) anything done by or on behalf of the Commission or a person or body designated under section 108 (designation of organisations to whom assistance is available);
- (c) the publication of information relating to the holding of the poll; or
- (d) the issue of press notices;

and subsection (2)(b) shall not be taken as applying to the British Broadcasting Corporation or Sianel Pedwar Cymru.

(4) In this section –

- (a) “publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means (and “publication”

shall be construed accordingly);

- (b) “the relevant period”, in relation to a referendum, means the period of 28 days ending with the date of the poll.