

**REFERENDUM ON EXTENDING THE LAW-MAKING POWERS OF  
THE NATIONAL ASSEMBLY FOR WALES: GUIDANCE FOR UK  
CIVIL SERVANTS ON THEIR ROLE AND CONDUCT**

1. This note provides guidance to UK civil servants on their role and conduct during the referendum campaign for extending the law-making powers of the National Assembly for Wales. The referendum is on 3 March 2011 and this guidance takes effect on 4 February.
2. The referendum campaign for extending the law-making powers of the National Assembly for Wales is different from a General Election in that the Government will remain in office whatever the outcome and it is not only essential business but also all the business of Government which will continue.
3. However, it is important civil servants take particular care during this period to ensure that they conduct themselves in accordance with the requirements of the *Civil Service Code*. In particular, civil servants are under an obligation:
  - not to undertake any activity which could call into question their political impartiality; and,
  - to ensure that public resources are not used for party political purposes.
4. The Political Parties, Elections and Referendums Act 2000 (PPERA) will apply. In particular, for 28 days immediately before the poll, tight restrictions will apply as set out in Section 125 of the PERA – see annex A.
5. This note draws attention to the areas where sensitive issues might arise.

## **General Principles**

6. During the referendum period, the following general principles should be observed:
  - a) particular care should be taken over the use of official resources, including publicity, relating to ministerial and departmental announcements which could have a bearing on the referendum campaign;
  - b) Special care should be taken in respect of paid publicity campaigns, as tight restrictions will apply as set out in PPERA; and,
  - c) There should be even-handedness in meeting information requests from the different political parties and campaigning groups.

## **REFERENDUM CAMPAIGN**

### **Dealing with Enquiries and Requests for Information**

7. Officials should be ready to explain the Government's position on behalf of Ministers in response to enquiries. Requests from or on behalf of campaigners should be treated urgently – the aim should be to respond as quickly as possible. Essentially this means that all (written, telephone and e-mail) queries should be dealt with promptly, using wherever possible, factual information or material already in the public domain. In line with the Government's position of neutrality on this issue, no view should be offered on the merits of different positions being taken by others in the campaign.
8. Enquiries from the media should be handled by Departmental Press Officers.

### **Official Information**

9. Those with a vote in the referendum should have access to accurate information explaining the proposals on which they are being asked to decide.

## **Support to Ministers**

10. Civil servants should continue to provide support – briefing and speeches - to Ministers for any official visits or attendance at conferences etc. Civil servants should, in the normal way, take care not to act in a way which risks calling into question their political impartiality.

## **Period between the announcement of the Welsh referendum and the start of the 28 day campaign period**

11. During this 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.
12. During this period civil servants who work for the Welsh Assembly Government will be following further restrictions on their activities, in line with those outlined below for UK Civil Servants during the 28 day campaign period.

## **During the 28 day campaign period**

13. There are very tight restrictions on Government publicity during this period – see annex A. Essentially, Government Departments, local authorities and NDPBs are prohibited from publishing material about the 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. There are no restrictions on the freedom of speech of Ministers in this period, but political parties have to observe financial limits imposed on their total referendum campaigning expenditure.

## **Civil servants' participation in the campaign as private individuals**

14. Political activity associated with this referendum campaign falls within the definition of national political activity. Separate guidance at annex B sets out the key principles to be observed by those civil servants who have been given permission to participate – in a private capacity – in political activities in support of these elections.

## **Special Advisers**

15. Special advisers will continue to provide advice and support to Ministers, including political advice, in line with *Code of Conduct for Special Advisers*. They may not take an active part in the referendum campaign while remaining in post and should not, for example, speak at public meetings or accompany Ministers to engagements which are related to the referendum campaign. They must not use official resources, including their own time at work, on referendum related activity. 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.
16. 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 as supporting a particular position in the campaign.
17. Further guidance is set out in the *Code of Conduct for Special Advisers*.

## **Non-Departmental Public Bodies**

18. NDPBs spend public money and make public announcements, use Government property and can employ civil servants. They shall therefore observe this guidance during the Referendum campaign.

CABINET OFFICE

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## 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.

## **ANNEX B**

### **REFERENDUM ON EXTENDING THE LAW-MAKING POWERS OF THE NATIONAL ASSEMBLY FOR WALES: GUIDANCE FOR CIVIL SERVANTS, INCLUDING SPECIAL ADVISERS, ON THEIR INVOLVEMENT IN POLITICAL ACTIVITIES**

#### **Purpose**

1. This note provides guidance to civil servants, including special advisers, on involvement – in a private capacity – in political activities relating to the referendum on extending the law-making powers of the National Assembly for Wales. This guidance also applies to those employed in NDPBs.
2. Civil servants wishing to take part in a private capacity in political activities associated with this referendum will need to take special care to avoid being dragged into party political controversy, which could call their future impartiality – or the impartiality of the Civil Service – into question.

#### **The Rules**

##### **Civil Servants' participation in the Referendum Campaign for extending the law-making powers of the National Assembly for Wales**

3. For the purposes of these rules the Civil Service is divided into three groups:
  - (i) the “politically free” – industrial and non-office grades;
  - (ii) the “politically restricted” – members of the Senior Civil Service, civil servants in Grades 6 and 7 (or departmental equivalents) plus members of the Fast Stream Development Programme; and,
  - (iii) the “intermediate group” – all other civil servants.
4. Civil servants in the politically restricted group are not permitted to take part in campaigning for extending the law-making powers of the National Assembly for Wales. Civil servants in the intermediate group must seek permission to participate in such activities unless they are in a grade or areas of work that has already been given permission to do so by way of a specific mandate from their department or agency. If in any doubt, please contact your Personnel Officer. Civil Servants in the politically free group do not need to seek permission to participate in campaigning.
5. In deciding whether or not to grant staff in the politically restricted or intermediate group permission to take part in political activities relating to the referendum campaign for extending the law-making powers of the National Assembly for Wales, Departments and Agencies must apply the following guidelines. Permission should normally be:

(a) refused only where civil servants are employed in sensitive areas where the political impartiality of the Civil Service must be beyond question; and

(b) granted in all other circumstances. Departments and agencies must ensure that the civil servants concerned are aware of the need to observe the standards of conduct set out in [section 4.4. and 4.4 Annex A of the Civil Service Management Code](#).

6. Departments and agencies must give civil servants who are refused permission to take part in political activities, or who have their permission to do so withdrawn a full explanation of the reasons for the decision, and inform them of their right of appeal to the Civil Service Appeal Board (see section 12.1 of the Civil Service Management Code).

### **Standards of Conduct**

7. Civil servants participating in political activities should avoid acting in ways which would enable members of the public to associate their campaigning activities with the Civil Service and so put its impartiality at risk.
8. They must take particular care to express comment with moderation, particularly about matters for which their own Ministers are responsible; to avoid comment altogether about matters of political controversy affecting the responsibility of their own Ministers, and to avoid personal attacks. They must also take care to avoid any embarrassment to Ministers or to their department or agency which would result, inadvertently or not, from bringing themselves prominently to public notice, as civil servants, in party political controversy.

### **Further advice/clarification**

9. Staff who are uncertain whether, and on what basis they may participate in the referendum campaign(s) should consult their line managers who in turn should consult their Personnel Units. The Propriety and Ethics Team in the Cabinet Office (020 7276 1898/2471) are also happy to provide advice.