

SCOTTISH REFERENDUM: GUIDANCE FOR UK GOVERNMENT CIVIL SERVANTS ON THEIR ROLE AND CONDUCT

1. This note provides guidance to civil servants working for the UK Government on their role and conduct during the referendum campaign on Scottish independence. The referendum is on 18 September 2014. **This guidance takes effect on 22 August 2014.** Separate guidance has been issued to civil servants working to the Scottish Government.

Background

2. The referendum campaign on Scottish independence is different from a General Election, in that the UK Government will remain in office whatever the outcome and not only essential business but all the business of the UK Government will need to continue through the period of the campaign. In addition, the referendum is on an issue on which the UK Government has a clear policy position.
3. However, Departments will still need to take particular care in approaching activity during this period and civil servants must 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. In addition, the Scottish Independence Referendum Act 2013 ('the Act') sets out the legal framework for the referendum, including restrictions on Scottish Government publicity. The Act provides a **28-day restricted period from 22 August 2014 to 18 September 2014**. During this period, the Scottish Government and Scottish public authorities will operate under statutory restrictions on the publication of information. Under the Edinburgh Agreement, the UK Government committed to act according to these same restrictions.

Key Considerations

5. During the restricted period, particular care should be taken:
 - with Ministerial and Departmental announcements that could have a bearing on the referendum campaign;
 - in relation to any proposed official visits to Scotland;
 - in respect of publicity campaigns (reflecting restrictions set out in legislation); and
 - to ensure even-handedness in meeting information requests from the different political parties and campaigning groups.

Legislative Restrictions

6. The UK Government has agreed to operate according to statutory restrictions that apply to the Scottish Government during this period. These restrictions relate primarily to publications and announcements and stipulate that no material that:
 - a. provides general information about the referendum,
 - b. deals with any of the issues raised by the referendum question,
 - c. puts any arguments for or against any outcome, or
 - d. is designed to encourage voting at the referendum

should be published by a Minister or a Department during this period. This applies equally to press, publications and social media activity. Therefore, neither the UK Government nor the Scottish Government will be able to publish material or make announcements during this period covering any of the above. Similar rules apply in relation to official support for visits relating to wider UK Government business. Official resources should not be used to support visits relating to the Referendum campaign.

7. Announcements by the UK Government may have a particular impact on the referendum. Ministers will wish to be aware of the potential sensitivities in this regard and might decide, on advice, to bring forward or postpone making certain announcements. Such action needs to be balanced carefully against any implication that deferral itself could influence the outcome, and the need to ensure that the normal business of the UK Government can continue. Each case should be considered on its merits.

Statistical activities

8. Preannounced statistical releases should continue to be published as notified and in line with the Code of Practice for Official Statistics. The SIRA restrictions apply, however, to any commentary accompanying releases. Ad hoc statistical releases should not be published within this referendum period. Where there are any issues of doubt or concern, including on ad hoc releases, Departments should seek the advice of their Head of Profession for Statistics or the National Statistician's Office (01633 455528 or 01633 455889).

Dealing with Enquiries and Requests for Information

9. The UK Government's policy is to maintain the United Kingdom. It is the role of civil servants to support the policies of the elected government of the day. Officials should be ready to explain the Government's position on behalf of Ministers in response to enquiries, including correcting factual inaccuracies. The aim should be to respond as quickly as possible to requests from or on behalf of campaigners. All (written, telephone and e-mail) queries should be dealt with promptly, using factual information or material already in the public domain. Where a request falls to be considered under the Freedom of Information (FOI) Act, the individual should be advised that it may not be possible to get back to the requester prior to the Referendum taking place and they may wish to have their request considered outside of FOI.

Attendance at public or stakeholder events

10. The general principles set out above are particularly important in relation to events where officials are likely to be asked to respond on questions about future government policy during this period or on matters of public controversy. Civil servants should decline such invitations.

Civil servants' participation in the campaign as private individuals

11. Political activity by civil servants 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) and Departmental staff handbooks.

Special Advisers

12. Special advisers will continue to provide advice and support to Ministers, including political advice, in line with the *Code of Conduct for Special Advisers*. Special advisers may not take an active part in campaigning and should not, for example, speak at public meetings, and any special advisers who wish to campaign will need to resign their appointment. Special advisers who resign in these circumstances will not be entitled to a severance payment (or pay in lieu of notice) as the Government will remain in post whatever the outcome of the Referendum. Special advisers who resign will not have preferential access to papers or officials

Non-Departmental Public Bodies and other Arm's Length Bodies

13. NDPBs and other ALBs spend public money and make public announcements and use Government property and this guidance also applies to them.

Working with the Scottish Government

14. The Scottish Government remains an important part of the governance of the United Kingdom, and cooperation between the two administrations will continue. Departments will continue to have productive engagement with Scottish Government colleagues notwithstanding the differing constitutional goals of the two administrations.

Given the unique issues raised by this referendum, where there are any issues of possible concern, departments are asked to consult with the Propriety and Ethics team in the Cabinet Office (proprietyðicsteam@cabinet-office.gsi.gov.uk or 0207 276 2472 or 0207 276 3968).