

MAY 2019 ELECTIONS FOR THE EUROPEAN PARLIAMENT: GUIDANCE ON CONDUCT

1. It remains the Government's objective to leave the European Union in an orderly manner before the need to hold elections for the European Parliament in the United Kingdom. The Government is however undertaking the lawful and responsible preparations for the contingency of holding these elections. In the event the UK has not withdrawn from the EU before Thursday 23 May 2019, elections will take place on that date.
2. This note forms part of preparations for the contingency of holding the elections. It provides guidance to civil servants in UK government departments, and the staff and members of non-departmental public bodies (NDPBs) and other arm's-length bodies (ALBs) on their role and conduct during the forthcoming election campaign. It is for individual public bodies to apply this pre-election guidance within their own organisations, but in doing so they should not go beyond the principles set out in this guidance. Separate conduct guidance has been circulated to Scottish Government and Welsh Government civil servants.
3. **The period of sensitivity preceding elections for the European Parliament 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 2 May 2019.** Should the UK leave the EU before the 23 May, this guidance will cease to apply.
4. These elections are different from a UK general election. The UK Government will remain in office whatever the outcome of the elections. Ministers will continue to carry out their functions in the usual way. Civil servants will continue to support their Ministers in their work, including in relation to EU Exit.
5. However, it needs to be borne in mind that the activities of the UK Government could have a bearing on the election campaigns. Particular care will need to be taken during this period 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. 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 that could call into question their political impartiality. It is important to remember that this applies to online communication such as social media, in the same way as other activity.
6. In all cases essential business, which includes routine business necessary to ensure the continued smooth functioning of government and public services, must be allowed to continue. Activity which must be carried out during this period in order to deliver the Government's objective to leave the EU in an orderly manner as soon as possible constitutes essential business. This includes primary and secondary legislation required to enable the UK's withdrawal.

General principles

7. The following general principles should be observed by all civil servants, including Special Advisers:
- Particular care should be taken over official support, and the use of public resources, including publicity, for government announcements that could have a bearing on matters relevant to the elections. In some cases it may be better to defer an announcement until after the elections, but this would need to be balanced carefully against any implication that deferral could itself influence the political outcome and the need to continue essential business. Each case should be considered on its merits.
 - Care should also be taken in relation to proposed visits.
 - 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.
 - There should be even-handedness in meeting information requests from the different political parties and campaigning groups.
 - Officials should not be asked to provide new arguments for use in election campaign debates.

Handling of requests for information

8. 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.
9. Where it is clear that a candidate's request is a Freedom of Information (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.
10. Any enquiries from the media should be handled by Departmental Press Officers.

Ministerial visits

11. In this period, particular care should be taken in respect of proposed visits. 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, who may then contact the Propriety and Ethics Team in the Cabinet Office.

Announcements

12. Similarly, national announcements by the UK Government may have a particular impact on European issues, for example, the publication of policy statements which have a specific European dimension. 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. Obviously, this needs to be balanced carefully against any implication that deferral itself could influence the political outcome and the need to continue essential business. Each case should be considered on its merits. Again, in cases of doubt, further advice should be sought.

Public consultations

13. Public consultations with a particular emphasis on European issues should generally not be launched during the period between 2 May and 23 May. If there are exceptional circumstances where launching a consultation is considered **essential** (for example, in order

to enable the UK to leave the EU in an orderly manner as soon as possible, or for safeguarding public health), advice should be sought from your Permanent Secretary's office who may then seek advice from the Propriety and Ethics Team.

14. If a consultation is ongoing during this period, it should continue as normal. However, departments should avoid taking action that 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. Departments should also consider extending consultation periods after the election to allow all parties sufficient time to respond.

Communication activities

15. Government communicators should apply the principles set out above when planning and delivering communications activities that will take place during this period. Additional care should therefore be taken around press and marketing activity concerning European issues. This does not however necessarily prevent the continuation of existing campaigns and messaging where these have already begun.
16. It is also important to take care with official websites, including .gov.uk, and use of social media that will be scrutinised closely by the news media and the political parties during the election period. In cases of doubt, guidance should be sought from the Government Communications Service in the Cabinet Office.

Use of Government property

17. Government property should not be used by Ministers or candidates for electioneering purposes.
18. In the case of NHS property, decisions are for the relevant NHS body, 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 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

19. During the election period, statistical activities should continue to be conducted in accordance with the Code of Practice for Statistics and the Pre-release Access to Official Statistics Order 2008 (and/or the equivalent Orders made by the devolved administrations in relation to devolved statistics), which should be read as though it is part of that Code. Regular pre-announced statistical releases (for example, press notices or bulletin publications) will continue to be issued and published. The principles set out here are not about restricting commentary from independent sources, for example academics who may also hold public appointments or non-executive roles in government departments or public bodies. It is for individual public bodies to apply this pre-election guidance within their own organisations, but in doing so they should not go beyond the principles set out in this document.

20. Social research activities should be in accordance with the Government Social Research (GSR) Code and supplementary guidance, including the GSR Publication Protocol. Requests for information should be handled in accordance with the principles set out in paragraphs 8-10 of this note and with the Code of Practice for Statistics. In cases of doubt, you should consult your departmental Head of Profession for Statistics (who should consult the National Statistician if clarity is required) or your departmental Head of Profession for Social Research.

Use of public funds

21. During the pre-election period, departments should carefully consider the timing of decisions and announcements in relation to large and/or contentious commercial contracts or grants which could have a bearing on matters relevant to the elections. In some cases it may be better to defer an announcement until after the elections, but this would need to be balanced carefully against any implication that deferral could itself influence the political outcome and the need to continue essential business. Each case should be considered on its merits.

Political activities

22. Political activity connected with the European elections falls within the definition of national political activity.

23. Detailed guidance on the restrictions on civil servants' involvement in a private capacity in national political activities is set out in section 4.4 of the *Civil Service Management Code*:

<http://www.civilservice.gov.uk/about/resources/civil-service-management-code> and in departmental staff handbooks.

Special Advisers

24. The rules on Special Advisers' involvement in national political activities are set out in the *Code of Conduct for Special Advisers*: <https://www.gov.uk/government/publications/special-advisers-code-of-conduct>.
25. Special Advisers who wish to take part in the election campaign or help in a party headquarters or research unit during such a campaign must first resign their appointments. Special Advisers who resign in these circumstances will not be entitled to severance pay as their resignation is voluntary. Official resources must not be used in support of the elections.

Non-departmental public bodies (NDPBs) and other arm's-length bodies (ALBs)

26. NDPBs and other ALBs spend public money, make public announcements, use government property and may employ civil servants. It is for individual public bodies to apply this pre-election guidance within their own organisations, but in doing so they should not go beyond the principles set out in this document. Sponsor departments must ensure that staff and board members of their NDPBs and other ALBs are aware of the guidance and are applying the principles appropriately. Sponsor departments should be consulted by the NDPB/ALB in cases of doubt.

Further advice

27. In cases of doubt, in the first instance you should consult your Permanent Secretary's Office, who may then contact the Propriety and Ethics Team.

Cabinet Office
May 2019