

ELECTIONS TO THE NORTHERN IRELAND ASSEMBLY, THE SCOTTISH PARLIAMENT AND THE NATIONAL ASSEMBLY FOR WALES, AND LOCAL ELECTIONS IN ENGLAND AND SCOTLAND

GUIDANCE ON CONDUCT FOR CIVIL SERVANTS IN UK DEPARTMENTS

1. This note provides guidance to civil servants in UK departments on their role and conduct during the forthcoming devolved Administration and local election campaigns. Separate and more detailed guidance is being issued to civil servants (including special advisers) employed in the Northern Ireland Office and Departments, the Scottish Executive and the National Assembly for Wales.
2. An election to the **Northern Ireland Assembly** is due to take place on **7 March 2007**. Elections to the **Scottish Parliament, and the National Assembly for Wales**, are due to take place on **3 May 2007**. Special care will need to be exercised following the start of the restricted periods for the devolved Administrations which are likely to start on **30 January in Northern Ireland, and 3 April in Scotland and Wales**.
3. **Local elections** will also be held in England and Scotland on **3 May 2007**. 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 **12 April 2007**.
4. These elections are different from a UK General Election. The UK Government will remain in office whatever the outcome of the elections to the devolved legislatures or local authorities in England and Scotland. Ministers will continue to carry out their functions in the usual way. UK civil servants will continue to support their Ministers in their work.
5. However, it needs to be borne in mind that the activities of the UK Government could have a bearing on the devolved and local election campaigns, and 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*, and in relation to the announcement of UK Government decisions which could have a bearing on the elections to the devolved legislatures or local authorities. 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.

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 announcements which could have a bearing on matters relevant to the devolved or local 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 – each case should be considered on its merits;
- b) Similar care should be taken over announcements of decisions made at official level;
- c) Special care should be taken in respect of paid publicity campaigns which should not be open to criticism that they are being undertaken for party political purposes;
- d) Officials should not be asked to provide new arguments for use in election 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 devolved or local elections.

8. All discussions between the devolved Administrations and the UK Government during the campaign period 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 routine inquiries and straightforward/routine requests from candidates as soon as possible within 24 hours.

10. Where it is clear that the 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.

Ministerial visits

11. In the pre-election periods, particular care should be taken in respect of proposed visits to Northern Ireland, Scotland and Wales or areas holding local 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 the Propriety and Ethics Team in the Cabinet Office on 020 7276 2471/2472.

Announcements

12. Similarly, announcements on non-devolved matters could have a bearing on the devolved Administration elections, and national announcements may have a particular impact on local areas. 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 could itself influence the political outcome. Each case should be considered on its merits. Again, in cases of doubt further advice should be sought from the Propriety and Ethics Team in the Cabinet Office on 020 7276 2471/2472.

Consultation/Publications

13. Public consultations with a particular emphasis on local issues should generally not be launched during the 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 on 207 276 2471/2472.

14. If a consultation is ongoing at the time an election is called, it should continue as normal. However, Departments should avoid taking action during election periods 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 process. During the election periods, departments may continue to receive and analyse responses.

Communication Activities

15. The principles set out in paragraphs 6 – 14 above apply to all communication activities during these periods. 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 periods. In cases of doubt, guidance should be sought from the Propriety and Ethics Team in the Cabinet Office on 020 7276 2471/2472.

Legislation

16. UK Departments should carefully consider the handling of primary legislation which includes provisions on devolved matters during the election period. In relation to Scotland, it is not possible for the Scottish Executive to seek the Scottish Parliament's consent for provisions in UK Bills that trigger the Sewel Convention once the Scottish Parliament is dissolved. This is also likely to be the case for a number of weeks after the election until a Scottish Executive is established and Scottish Parliament Committees formed.

Departments with Bills containing provisions that trigger the Sewel Convention should therefore discuss the position with the Legislative Programme (LP) Secretariat in the Cabinet Office, the Scotland Office, and their Scottish Executive policy contacts. Further guidance may be sought from the LP Secretariat in the Cabinet Office on 020 7276 0135 and the Constitutional Policy Team in the Scotland Office on 020 7270 6802.

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 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. The decision on the use of schools and other local authority properties should be for those legally responsible for the premises. They should ensure that the same facilities are available to all candidates.

Political activities

19. Political activity connected with the devolved elections falls within the definition of national political activity, and political activity connected with the local elections falls within the definition of local political activity. 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

Devolved Administration elections

20. UK special advisers who wish to participate in any of the devolved Administration election campaigns or help in a Party headquarters or research unit must first resign their appointment. Special advisers appointed by UK Ministers who resign in these circumstances will not be entitled to severance pay as their resignation is deemed to be voluntary. The restrictions on special advisers' involvement in national political activities are set out in the *Code of Conduct for Special Advisers*.

21. Special advisers must be careful not to take any public part in the campaign. They should not, for example, accompany their Minister on campaign visits or brief the press on election-related issues. Nor can this activity be done on unpaid leave. However, in the individual's own time, backroom support such as stuffing envelopes and liaison with the Party are permitted.

22. Official resources such as telephones, computers, fax machines, official stationery and departmental administrative support must not be used in support of these elections.

Local elections

23. For the local elections, special advisers may undertake all forms of local political activity – with the approval of their Minister and in accordance with the terms of the *Code of Conduct for Special Advisers*. 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.

24. Official resources such as telephones, computers, fax machines, official stationery and departmental administrative support must not be used in support of these elections.

Public Appointments

25. 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 or to influence the course of the elections.

Statistical and Social Research Activities

26. During these elections, statistical activities should continue to be conducted in accordance with *National Statistics Code of Practice* and its 12 supporting Protocols, particularly the Protocol on Release Practices, and social research activities in accordance with agreed protocols. Requests for information should be handled in accordance with the principles set out in paragraphs 6 – 14 of this note and with the National Statistics Code of Practice.

27. 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 (contact, in the first instance 020 7533 6210) or the Chief Government Social Researcher (contact, in the first instance 020 7270 5245).

Non-Departmental Public Bodies

28. While NDPBs and other public sector bodies are not formally covered by this guidance, they do spend public money and may make public announcements or employ civil servants. Decisions on individual matters are for the bodies concerned, but the principles set out above are generally applicable.

Further Advice

29. In cases of doubt, further advice should be sought from the Propriety and Ethics Team in the Cabinet Office on 020 7276 2471/2472.