

## **3.1 Personal Conduct**

### Introduction

3.1.1. You and your employer have a duty of mutual trust and confidence. You are an employee of the Crown and owe your duty of loyal service to the Crown as your employer. As stated in paragraph 2 of the Civil Service Code, since constitutionally the Crown acts on the advice of Ministers who are answerable for their Departments and Agencies in Parliament, your duty is owed to the Government of the day.

3.1.2. Annex A to this Chapter expands on your duties and responsibilities in relation to Ministers – it contains the full text of the Civil Service Code. The Civil Service Code sets out the constitutional framework within which you and all civil servants work and the values that you must uphold. Annex B explains the procedures for dealing with alleged breaches of the Civil Service Code.

### Mutual Trust and Confidence

3.1.3. You must be, and be seen to be, honest and impartial in the exercise of your duties. You must maintain at all times a high standard of personal honesty and integrity, failure to do so will lead to disciplinary action (see Annex C – Maintaining Satisfactory Standards of Conduct). In particular you must not:

(a) misuse information that you acquire in the course of your official duties, nor without authority, disclose official information that has been communicated in confidence within the Department, or received in confidence from others. Nothing in this sub-paragraph infringes on your statutory right to make a disclosure which qualifies for protection under the Public Interest Disclosure Act 1998 or your contractual right to report breaches of the Civil Service Code in accordance with paragraphs 11 and 12 of the Code. See Annex B;

(b) subject to your statutory rights with regard to trade union activity, seek to frustrate the policies, decisions or actions of Government either by declining to take, or abstaining from, action that flows from ministerial decisions or by unauthorised, improper or premature disclosure of any information to which you have had access as a civil servant. Nothing in this sub-paragraph infringes on your statutory right to make a disclosure which qualifies for protection under the Public Interest Disclosure Act 1998 or your contractual right to report breaches of the Civil Service Code in accordance with paragraphs 11 and 12 of the Code. See Annex B;

(c) in your official capacity, provide advice or briefing other than factual information for the benefit of one political party. When factual information is produced in your official capacity, it is for the Minister or Special Advisor requiring the information to arrange for it to be circulated by the party concerned and for the costs to be met by them;

(d) make use of your official position to further your private interests or those of others. See (Chapter 5 of this Staff Handbook: Private Interests and the Department);

(e) receive benefits of any kind from a third party which might reasonably be seen to compromise your personal judgement or integrity;

(f) attempt to bring political or other outside influence to support your own personal claims as a civil servant (i.e., to try to use such influence to gain a special concession that is not available to others). However, this principle does not override any statutory rights of appeal, such as those conferred by - for example - Race Relations legislation, neither does it restrict your right to approach your own Member of Parliament on any matter.

### Breach of Discipline

3.1.4. If your conduct contravenes any of the provisions of this Chapter, or is otherwise incompatible with your terms and conditions of employment (see Chapter 1: Introduction), you will have acted in breach of discipline and may be liable to formal disciplinary action (see Annex C – Maintaining Satisfactory Standards of Conduct).

## Chapter 3 Annex A The Civil Service Code

1. The constitutional and practical role of the Civil Service is, with integrity, honesty, impartiality and objectivity, to assist the duly constituted Government of the United Kingdom, the Scottish Executive or the National Assembly for Wales constituted in accordance with the Scotland and Government of Wales Acts 1998, whatever their political complexion, in formulating their policies, carrying out decisions and in administering public services for which they are responsible.

2. Civil servants are servants of the Crown. Constitutionally, all the Administrations form part of the Crown and, subject to the provisions of this Code, civil servants owe their loyalty to the Administrations\* in which they serve.

3. This Code should be seen in the context of the duties and responsibilities set out for UK Ministers in the Ministerial Code, or in equivalent documents drawn up for Ministers of the Scottish Executive or for the National Assembly for Wales, which include:

- accountability to Parliament\*\* or, for Assembly Secretaries, to the National Assembly;
- the duty to give Parliament or the Assembly and the public as full information as possible about their policies, decisions and actions, and not to deceive or knowingly mislead them;
- the duty not to use public resources for party political purposes, to uphold the political impartiality of the Civil Service, and not to ask civil servants to act in any way which would conflict with the Civil Service Code;
- the duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching decisions; and
- the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice;

together with the duty to familiarise themselves with the contents of this Code.

4. Civil servants should serve their Administration in accordance with the principles set out in this Code and recognising:

- the accountability of civil servants to the Minister\*\*\* or, as the case may be, to the Assembly Secretaries and the National Assembly as a body or to the office holder in charge of their department;
- the duty of all public officers to discharge public functions reasonably and according to the law;
- the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; and
- ethical standards governing particular professions.

5. Civil servants should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to the Minister or, as the case may be, to the Assembly Secretaries and the National Assembly as a body or to the office holder in charge of their department, without fear or favour, and make all information relevant to a decision available to them. They should not deceive or knowingly mislead Ministers, Parliament, the National Assembly or the public.

6. Civil servants should endeavour to deal with the affairs of the public sympathetically, efficiently, promptly and without bias or maladministration.

7. Civil servants should endeavour to ensure the proper, effective and efficient use of public money.

8. Civil servants should not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not receive benefits of any kind from a third party that might reasonably be seen to compromise their personal judgement or integrity.

9. Civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers or Assembly Secretaries and the National Assembly as a body, and to be able to establish the same relationship with those whom they may be required to serve in some future Administration. They should comply with restrictions on their political activities. The conduct of civil servants should be such that Ministers, Assembly Secretaries and the National Assembly as a body, and potential future holders of these positions can be sure that confidence can be freely given, and that the Civil Service will conscientiously fulfil its duties and obligations to, and impartially assist, advise and carry out the lawful policies of the duly constituted Administrations.

10. Civil servants should not without authority disclose official information which has been communicated in confidence within the Administration, or received in confidence from others. Nothing in the Code should be taken as overriding existing statutory or common law obligations to keep confidential, or to disclose, certain information. They should not seek to frustrate or influence the policies, decisions or actions of Ministers, Assembly Secretaries or the National Assembly as a body by the unauthorised, improper or premature disclosure outside the Administration of any information to which they have had access as civil servants.

11. Where a civil servant believes he or she is being required to act in a way which:

- is illegal, improper, or unethical;
- is in breach of constitutional convention or a professional code;
- may involve possible maladministration; or
- is otherwise inconsistent with this Code;

he or she should report the matter in accordance with procedures laid down in the appropriate guidance or rules of conduct for their department or Administration. A civil servant should also report to the appropriate authorities evidence of criminal or unlawful activity by others and may also report in accordance with the relevant procedures if he or she becomes aware of other breaches of this Code or is required to act in a way which, for him or her, raises a fundamental issue of conscience.

12. Where a civil servant has reported a matter covered in paragraph 11 in accordance with the relevant procedures and believes that the response does not represent a reasonable response to the grounds of his or her concern, he or she may report the matter in writing to the Civil Service Commissioners, Horse Guards Road, London SW1P 3AL. Telephone: 0207-270 5066 (contact name: David Lebling).

13. Civil servants should not seek to frustrate the policies, decisions or actions of the Administrations by declining to take, or abstaining from, action that flows from decisions by Ministers, Assembly Secretaries or the National Assembly as a body. Where a matter cannot be resolved by the procedures set out in paragraphs 11 and 12 above, on a basis which the civil servant concerned is able to accept, he or she should either carry out his or her instructions, or resign from the Civil Service. Civil servants should continue to observe their duties of confidentiality after they have left Crown employment.

Footnotes

\*. In the rest of this Code, we use the term Administration to mean Her Majesty's Government of the United Kingdom, the Scottish Executive or the National Assembly for Wales as appropriate.

\*\* . In the rest of this Code, the term Parliament should read, as appropriate, to include the Parliament of the United Kingdom and the Scottish Parliament.

\*\*\*. In the rest of this Code, Ministers encompasses members of Her Majesty's Government or of the Scottish Executive.

# Chapter 3 Annex B - Alleged Breaches of the Civil Service Code and Appeals to the Civil Service Commissioners

## Introduction

1. This Annex sets out your contractual rights and obligations:
  - (a) for dealing with alleged breaches of the Civil Service Code (see Annex A); or
  - (b) if you are required to act in a way which, for you, raises a fundamental issue of conscience.
2. Nothing in this Annex affects your statutory rights under the Public Interest Disclosure Act 1998 (PIDA). Procedures for handling concerns under PIDA are contained in "DETR's guidance on public interest disclosure".

## What You Should Report

3. If you believe that you are being required to act in a way which:
  - a) is illegal, improper or unethical (or if you have evidence of criminal or unlawful activity by others);
  - b) is in breach of constitutional convention or a professional code;
  - c) may involve possible maladministration; or
  - d) is otherwise inconsistent with the Civil Service Code.

you must report the matter in accordance with the procedures set out in this Annex.

4. Similarly, if you become aware of other breaches of the Civil Service Code or you are required to act in a way which raises a fundamental issue of conscience for you, you may report the matter in accordance with the procedures set out in this Annex.
5. You should also ensure that evidence of criminal or unlawful activities by others is reported to the appropriate authorities.
6. If, exceptionally, it is not possible for you to follow the procedures set out in this Annex, and having satisfied yourself that no alternative action is available to you under the procedures and that there is no clear breach of the law, you must carry out the request or instruction in question and immediately afterwards formally report your concerns, in writing, to the Chief Executive, through the Director of Human Resources if you wish.

## Good Faith

7. It will be assumed that reports are made in good faith. This means it is assumed that you genuinely believe your complaint to be justified, whatever the outcome of the case.
8. Where your report is found to have been made in bad faith or maliciously (although there would need to be clear and strong reasons for believing this to be the case), you may face disciplinary action (see Annex C – Maintaining Satisfactory Standards of Conduct).
9. No complaint will be considered to have been made in bad faith simply because it is judged to be unfounded after investigation.
10. Except as described in paragraph 8 above, you will not suffer in any way as a result of making a report.

## To Whom You Should Report the Matter

11. You have, at any time, the statutory right to express concerns under the Public Interest Disclosure Act 1998. However, you also have a contractual obligation to report alleged breaches of the Civil Service Code in accordance with the procedures set out in this Annex. Under these procedures, you may, in the first instance, approach a senior line manager (normally your Countersigning Officer) to try to resolve the matter informally.

12. However, if:

- a) in the particular circumstances, you feel that it would be inappropriate to do so; or
  - b) following a discussion with your senior line manager, you wish to take the matter further,
- you have the right to refer the matter to the Director of Human Resources.

13. A formal report to the Director of Human Resources must be made in writing. The receipt of a report will be acknowledged in writing within five working days.

14. The report must set out:

- a) the nature and grounds of your concern;
- b) the name(s) of any individual(s) complained of; and
- c) the evidence for your concern - either in full or in summary form. This should include references to documents and where appropriate details of any incidents and the names of any witnesses.

15. Clearly, fairness requires that any individual who is the subject of a formal complaint should have the right to be told of the allegation(s) and to respond. Therefore, in sending your complaint you are automatically giving permission for it to be copied in full to anyone named in it. You must ensure that any allegations you make are strictly relevant to your concern.

## The Director of Human Resources' Response

16. The Director of Human Resources (or, if he/she is not available, another designated officer of senior managerial status designated by the Chief Executive) will seek such advice and assistance and take any further action as he/she may consider appropriate.

17. All correspondence to you will be sent under cover of the marking "Personal".

18. On completing his/her investigation, the Director of Human Resources or the designated officer will send you a formal response, setting out his/her conclusions and decision. The response will, amongst other things, advise you that, if you consider that the response does not represent a reasonable response to the grounds of your concern, you have the right to submit a written appeal - within 14 days of receipt of the formal response - to the Chief Executive.

## Representations

19. The Chief Executive will consider any such representations and will respond to you, except in exceptional circumstances, within 20 working days. That will conclude the Departmental procedures. However, the Chief Executive's letter of response will advise you of your right of appeal to the Civil Service Commissioners (see paragraph 22 below).

## Reporting Direct To the Chief Executive

20. Circumstances may arise when you feel the only appropriate action is to submit a report

direct to the Chief Executive. This is a contractual right and nothing in the previous paragraphs should be read as preventing you from taking such action.

#### Reports Submitted Anonymously

21. Any report submitted anonymously will be dealt with as the Director of Human Resources sees fit.

#### Appeals To Civil Service Commissioners

22. If you believe that the Department's response - as indicated by the letter you received from the Chief Executive - does not represent a reasonable response to the grounds of your concern, you have the right to report the matter in writing to the Civil Service Commissioners. The address is:

Mr J Barron  
Secretary to the Civil Service Commissioners  
Room 67/2  
Horse Guards Road  
LONDON, SW1E 3AL  
Tel. 020 7270 5927

23. You should:

- a) explain why you consider the actions you have been asked to take (or the actions by others) are wrong and in breach of the Code;
- b) explain why you consider the internal procedures have not resolved your concern;
- c) forward the correspondence with the Department about the matter.

24. You can either write directly to the Commissioners, or via the Chief Executive. If you choose the latter course the Chief Executive may add comments in a covering note but cannot make amendments to the Appeal itself. You will receive a copy of any comments added by the Chief Executive.

25. If your concerns involve highly classified information, you must let the Commissioners know so that they can make the necessary arrangements to handle the information securely.

#### What the Civil Service Commissioners will do

26. The Civil Service Commissioners are completely independent of Government. Their aim is to investigate Appeals as quickly as possible consistent with a thorough examination of the case and, wherever they can, to resolve the issues raised by agreement with those concerned.

27. The Commissioners, assisted by their staff or advisers, will investigate, in confidence, all the relevant facts. The starting point of their investigations will be the papers you have sent them. First of all they will check that it is a matter they can investigate and that you have used the Department's own internal procedures.

28. They will then examine written evidence. They will normally get from the Department the full record of the conclusions reached by the internal procedures (including any legal advice that has been taken), and give the Department an opportunity to confirm whether the facts as stated in your Appeal fairly reflect the Department's position. They may also decide to inspect official papers and files. The Department has a duty to co-operate with the Commissioners' investigation.

29. The Commissioners may then decide to talk to you and to others in the Department. A Representative of your professional organisation or Trade Union or other person of your choice



may accompany you if you so wish, at the discretion of the Commissioners. The Commissioners proceedings will be as informal as possible.

30. Other staff being interviewed will not normally be accompanied. However, if you are an individual whose conduct is being investigated and may, as a result, be liable to disciplinary action, you have the right of silence or to respond orally and/or in writing and to be assisted by a colleague or Trade Union representative throughout.

31. Depending on the nature of your case, they may decide to seek assistance from an outside expert, or to get independent legal advice. In cases involving a professional code, they may consult the appropriate professional body. All this may take time, especially if the case is complex.

32. Where the Commissioners' investigations produce evidence of criminal activity, they will pass it on to the appropriate authorities.

33. At least one of the Commissioners will be personally involved throughout the process and will consider all the facts and decide whether or not to uphold your Appeal.

34. The Commissioners will send their report on your Appeal to you and your Department, in confidence.

35. There is no further Appeal against the Commissioners decision.

#### If Your Appeal Is Upheld

36. If the Commissioners support your Appeal, they will make recommendations to the Department.

#### If Your Appeal Is Not Upheld

37. If your Appeal is not successful you must abide by the decision of the Chief Executive. If you do not do so, you will be liable to disciplinary action - which may include dismissal - by the Department (see Annex C – Maintaining Satisfactory Standards of Conduct).

#### Publication Of Reports Of Appeals

38. The Commissioners will report to Parliament in general terms on the number, nature and outcome of all Appeals made to them. They may decide to report in detail on a particular case, for example to convey best practice lessons or if the Department was to decline a recommendation arising from their investigation. Wherever possible, they will do this in a way that does not disclose the identities of those involved in the case.