



Ministry
of Defence

Ministry of Defence Police Committee -Independent Members-

Code of Conduct

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CODE OF CONDUCT

Scope

1. A member must observe the Police Committee's Code of Conduct whenever they conduct business on behalf of the Committee or act as a representative of the Committee.

Conduct and the Seven Principles of Public Life

2. Attention is drawn to the conduct expected under the Seven Principles of Public Life and in the Civil Service Code. A member is expected to adhere to the principles of these even though they are not formally designated as a Civil Servant.

3. The Seven Principles of Public Life is provided at Annex A and the Civil Service Code is at Annex B

Confidentiality of information

4. The Official Secrets Act 1989 will apply to independent members of the MOD Police Committee and will continue to apply after their appointments have ended. Members are asked to sign a declaration under the Official Secrets Act, if they have not already done so.

5. In addition, members will be under a duty to keep confidential and not use, except for the purposes of this agreement, any information from any source, acquired by them in confidence.

6. A basic guide to the Official Secrets Act 1989 including a declaration is provided at Annex C

Register of Members' interests

7. It is a condition of this appointment that members must not be able to profit personally or corporately, or to derive benefit for other employers or the like, from information revealed or deduced during Police Committee business. Therefore independent members will be expected to respect the confidentiality of any matters discussed at meetings or during visits. Where it becomes apparent that a discussion could lead to a situation where a conflict of interest could arise, you should declare an interest to the Chair or the Clerk of the Committee.

8. Independent members should declare any conflict of interest, or any matter which could lead to embarrassment being caused to the MOD Police Committee Ministry of Defence, or any other Government Department. Chair will ask for any declarations of interest at the beginning of each Committee meeting and the response will be written in the minutes.

9. Members should declare any personal or business interest which may, or may be perceived (by a reasonable member of the public) to influence their judgement. This should include, as a minimum, personal direct or indirect pecuniary interests. Members should normally also include such interests of close family members and of people living in your household.

10. This declaration will be copied to the Clerk of the MOD Police Committee, who is required to keep a central Register of Interests. The declarations should be kept up to date and regularly reviewed therefore a quarterly check will be conducted by the Clerk. Members are also asked to declare if they have no such interests. The returns will be published on the MOD Police Committee web page. The Chair may determine that a member who has declared a particular interest should be excluded from discussion or voting in connection with any matter of Committee business where that interest may be engaged.

11. Members are also expected to inform the Clerk in advance of any new appointments which may impinge upon their duties as independent member of the MOD Police Committee. The Clerk will advise the Chair/senior officials/Ministers as required.

Political Activity

12. Members are not expected to occupy paid party political posts or hold a particularly sensitive or high role in a political party. Subject to the foregoing, members are free to engage in political activities, provided that they are conscious of their general public responsibilities and exercise a proper discretion, particularly with regard to the work of the MOD.

13. You are expected to inform the Clerk to the MOD Police Committee of any intention to accept a prominent position to any political party who will inform the Secretary of State. You should understand that your appointment to the MOD Police Committee may be terminated if it is felt that the positions are incompatible.

14. If a member accepts a nomination for election to an elected government assembly, they will be required to resign from this appointment.

Fees and Expenditure

15. Visits, tasks or ad-hoc projects which incur fees within the terms of this arrangement need to be agreed with the Clerk to the Police Committee. Members should not assume that any other proposal for work arising from another person in MOD or MDP constitutes a commitment without getting approval from the Clerk in advance.

16. Members may claim for reasonable standard class travel and other related expenses which are incurred in accordance with MOD policy, which require the production of receipts.

17. Details of each member's fees and remuneration will be disclosed in the MOD Police Committee Annual Report to Defence Ministers, which is placed in the public domain.

Gifts and Hospitality

18. The Clerk to the MOD Police Committee is expected to ensure that the acceptance of gifts and hospitality by independent members can stand up to public scrutiny.

19. Gifts should be declined wherever possible. Similarly, care should be taken that no extravagance is involved with working lunches and other social occasions.

20. Where it would be ungracious or otherwise difficult not to accept a gift or hospitality, the independent member must where the value is over £25, notify the Clerk of the Police Committee of the existence and nature of that gift or hospitality, the estimated value and the donor. The Clerk will be responsible for recording this in the Gifts and Hospitality Register, which will be published on the MOD Police Committee webpage and updated each quarter.

Complaints or Allegations about Members

21. Any complaint or allegation that an independent member has breached the provisions of this code of conduct or has behaved in a manner that could bring the MOD or MOD Police into disrepute should be reported to the Clerk to the Committee who will investigate the matter in consultation with the Chair (except that if the complaint or allegation relates to the Chair, the Clerk will act in consultation with the DG T&CS MOD)

[signed]

KAREN FEATHER
Clerk to the MOD Police Committee

Annexes:

- A. The Seven Principles of Public Life
- B. The Civil Service Code
- C. Basic Guide to the Official Secrets Act 1989

THE SEVEN PRINCIPLES OF PUBLIC LIFE

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

Leadership

Holders of public office should promote and support these principles by leadership and example

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 Wales¹ 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 1 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 for Parliament² 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.

¹ In the rest of this Code, the term Administration means Her Majesty's Government of the United Kingdom, the Scottish Executive or the National Assembly for Wales as appropriate.

² In the rest of this Code, the term Parliament should be read, as appropriate, to include the Parliament of the United Kingdom and the Scottish Parliament.

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 Minister³ or, as the case may be, to the Assembly Secretaries and the National Assembly as a body or to the officer 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 which might reasonably be seen to compromise their personal judgment 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 fulfill its duties and obligations to, and impartially assist, advice and carry out the lawful policies of the duly constituted Administrations.

³ In the rest of this Code, Ministers encompasses members of Her Majesty's Government or of the Scottish Parliament.

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, 35 Great Smith Street, London, SW1P 3BQ. Telephone: (020) 7276 2613.

13 Civil Servants should not seek to frustrate the policies, decisions or actions of the Administrations by declining to take, or abstaining from, action which 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.

OFFICIAL SECRETS ACT 1989

Although you are not a servant of the Crown the Official Secrets Act will apply to you and will continue to apply after your engagement has ended. In addition you will be under a duty to keep confidential and not use, except for purposes of this agreement, any information from any source acquired by you in confidence.

A Basic Guide to the Official Secrets Act 1989

1. The Official Secrets Act 1989 came into force on 1 March 1990. It replaces Section 2 of the Official Secrets Act 1911, under which it was a criminal offence to disclose any official information without lawful authority. Under the 1989 Act, it is an offence to disclose official information only in six specified categories and only if the disclosure is damaging to the national interest.
2. This guide gives answers to basic questions about how the new law might affect you. It does not cover everything in the Act, but more information and advice can be obtained from Human Resources if required.

Who is affected by the Act?

3. The Act applies to:
 - Crown servants, including -
 - Government Ministers;
 - civil servants, including members of the diplomatic service;
 - members of the armed forces; and
 - the police;
 - Government contractors, including anyone who is not a Crown servant but who provides or is employed in the provision of goods or services for the purposes of a Minister;
 - A small number of office holders and the members and staff of a small number of non-Governmental Organisations who are Crown servants for the purposes of the Act, including:
 - the UK Atomic Energy Authority
 - British Nuclear Fuels plc
 - Urenco Ltd
 - the National Audit Office and the Northern Ireland Audit Office
 - the Offices of the Parliamentary Commissioner for Administration and the Northern Ireland Commissioner;

members of the public and others who are not Crown servants or Government contractors but who have, or have had, official information in their possession.

What is "official information"?

4. This means any information, document or article which a Crown servant or a Government contractor has or has had in his or her possession by virtue of his or her position as such.

What are the six specified categories of official information protected by the Act?

5. It is an offence for a Crown servant or a Government contractor to disclose official information in any of the following categories, if the disclosure is made without lawful authority and is damaging. The categories are:
 - security and intelligence;
 - defence;
 - international relations;
 - foreign confidences;
 - information which might lead to the commission of crime; and
 - the special investigation powers under the Interception of Communications Act 1985 and the Security Service Act 1989.

When is a disclosure damaging?

6. The Act sets a different test or tests of damage for each of the six categories of information. For an offence to be committed under the Act, the disclosure of information must in general have damaged the national interest in the particular way, or ways, specified in the Act for the category of official information in question. It is ultimately for the jury to decide, when the case comes to trial, whether damage has in fact occurred.

When is a disclosure made without lawful authority?

7. Crown servants may disclose official information only in accordance with their official duty. Government contractors may do so only in accordance with an official authorisation or for the purposes of their functions as Government contractors and without contravening an official restriction. In any other circumstances a disclosure is made without lawful authority.

What about members of the public?

8. If a member of the public - or any other person who is not a Crown servant or Government contractor under the Act - has in his or her possession official information in one of the protected categories, and the information has been:
 - disclosed without lawful authority, or
 - entrusted by a Crown servant or Government contractor on terms requiring it to be held in confidence,

It is an offence to disclose the information without lawful authority.

9. It is also an offence to make a damaging disclosure of information relating to security or intelligence, defence or international relations which has been communicated in confidence to another State or an international organisation, and the information has come into a person's possession without the authority of that State or organisation.

Is it an offence to disclose means of access to protected information?

10. It is an offence for anyone to disclose official information which it would be reasonable to expect might be used to obtain access to information protected by the Act.

What about the security and intelligence services?

11. For:

- present and former members of the security and intelligence services and
- people who have been notified in writing that they are subject to section 1(1) of the Act,

it is an offence to disclose without lawful authority any official information about security or intelligence. There is no damage test.

Who will be notified?

12. A person may be notified only if his or her work is, or includes, work connected with the security and intelligence services, and the nature of the work is such that the interests of national security require that the person should be subject to section 1(1) of the Act.

What are the penalties for unauthorised disclosure?

13. An offence of unauthorised disclosure under the Act may be tried either on indictment, by the Crown Court, or summarily, by a magistrates' court. The maximum penalties are two years' imprisonment or an unlimited fine, or both, if the offence is tried on indictment, and six months' imprisonment or a £2000 fine, or both, if the offence is tried summarily.

What about safeguarding information?

14. It is also an offence under the Act:

- for a Crown servant, a Government contractor or a notified person to fail to take reasonable care to prevent the unauthorised disclosure of a document or article which is protected by the Act;

- for a Crown servant or a notified person to retain such a document or article contrary to official duty;
- for a Government contractor or a member of the public to fail to comply with an official direction for the return or disposal of such a document or article.

15. These are summary offences, triable in England and Wales by a magistrates' court. The maximum penalties are three months' imprisonment or a £2,000 fine, or both.

Section 1 of the Official Secrets Act 1911

16. The 1989 Act does not affect the operation of Section 1 of the Official Secrets Act 1911, which protects information useful to an enemy. The maximum penalty for offences under section 1 of the 1911 Act is fourteen years' imprisonment.

Section 1(2) of the Official Secrets Act 1920 as follows:

- (2) If any person -
- a. retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government Department or any person authorised by such department with regard to the return or disposal thereof: or
 - b. allows any other person .to have possession of any official document issued for his use alone, or communicate any secret official code word or password so issued or, without lawful authority or excuse, has in his possession any official document or secret official code word or password issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police constable: or
 - c. without lawful authority or excuse, manufactures or sells, or has in his possession for sale any such die, seal or stamp as aforesaid he shall be guilty of a misdemeanour.