

## DSR 5: Confidentiality and Official Information

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5.1. Members of the Diplomatic Service are reminded on appointment, retirement or resignation that they are bound by the provisions of the criminal law, including the Official Secrets Acts, which protect certain categories of official information, and by their duty of confidentiality owed to the Crown as their former employer.

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### Standards of conduct for serving members of the Diplomatic Service

5.2. Members of the Diplomatic Service must handle information as openly as possible within the legal framework. Government policy in this area is available via the website of the [Ministry of Justice](#). Members of the Diplomatic Service must not, without relevant authorisation, disclose official information which has been communicated in confidence within Government or received in confidence from others. It is an individual's responsibility to ensure that any action which may require authorisation is properly authorised in advance.

5.3. Members of the Diplomatic Service must continue to observe this duty of confidentiality after they have left the Diplomatic Service. See sections 5.15-5.19.

5.4. Members of the Diplomatic Service must not take part in any activities or make any public statement which might involve the disclosure of official information or draw upon experience gained in their official capacity without the prior approval of their Head of Department or Head of Post. They must clear in advance material for publication, broadcasts or other public discussion which draws on official information or experience. Members of the Diplomatic Service should not accept payment for speeches, books, magazine articles etc written in an official capacity.

5.5. The same standards of conduct apply to participation in social media and online activity. See further guidance on **blogging** on public websites.

5.6. Members of the Diplomatic Service must not seek to frustrate the policies or decisions of Ministers by the use or disclosure outside the Government of any information to which they have had access as a member of the Diplomatic Service.

5.7. Members of the Diplomatic Service must not publish or broadcast personal memoirs reflecting their experience in Government, or enter into commitments to do so, whilst in Crown employment.

The permission of the Permanent Under-Secretary must be sought before entering into a contractual commitment to publish such memoirs after leaving the Service.

5.8. Proposed memoirs should be submitted in good time before any proposed publication date. In reviewing information for publication, the FCO will have regard to whether the information could cause damage to international relations; national security or to the confidential relationships between Ministers, and between Ministers and officials.

5.9. Members of the Diplomatic Service who are appointed to sensitive posts\*[1] will, as a condition of taking up such a post, be taken to have assigned to the Crown copyright in any future work which relates to their employment and/or which contains or relies upon official information which came into their knowledge or possession by virtue of their employment as a member of the Diplomatic Service. Where permission to publish the work (or parts of it) is provided by the Permanent Under-Secretary, the Crown will reassign copyright in the relevant part of the work. In addition, information may also be subject to Crown copyright (see sections 5.20 to 5.24)

\*[[1] Sensitive posts are defined as Permanent Under-Secretary, Director General Political, Director General Defence & Intelligence, Principal Private Secretary, HMA Washington, Permanent Representative Brussels and Special Advisers.]

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### **Access to papers of a previous Administration**

5.10. In discharging your duties as a member of the Diplomatic Service you must maintain the long-standing conventions that Ministers and special advisers may not normally have access to papers of a previous Administration of a different political complexion. Further guidance is set out in the Cabinet Office publication *The Directory of Civil Service Guidance*.

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### **Surveys and research projects**

5.11. Members of the Diplomatic Service must not take part in their official capacities in surveys or research projects, even if they are not attributed, if they deal with attitudes or opinions on political matters or matters of policy.

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### **Trade union representatives**

5.12. Members of the Diplomatic Service who are elected national, departmental or branch representatives or officers of a recognised trade union need not seek permission before publicising union views on an official matter which, because it directly affects the conditions of service of members of the union as employees, is of legitimate concern to their members, unless their official duties are directly concerned with the matter in question. In all other circumstances they must conform to the standards set out above.

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## **Activities of spouses and partners**

5.13. Spouses/Partners, unless serving officers themselves, are under no obligation to submit their own memoirs. However, where a publication or other public intervention by your spouse or partner is liable to be interpreted as politically sensitive and therefore detrimental to your own position or more widely to the FCO, you are advised to seek guidance from the Head of Knowledge Management Department (KMD).

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## **Leaked Select Committee Reports**

5.14. Members of the Diplomatic Service in receipt of a leaked Select Committee report must not make any use of it nor circulate it further. They must return the report without delay to the Clerk of the relevant Committee, and only then may they inform their Ministers or Assembly Secretaries. Leaked reports from Committees of the devolved legislatures must be handled in the same way.

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## **Standards of conduct for former members of the Diplomatic Service**

5.15. The FCO welcomes debate on foreign policy and former members of the Diplomatic Service are regular contributors to that debate. The FCO recognises that there is a public interest in allowing former officials to write accounts of their time in government. These contributions can help public understanding and debate. It follows therefore that there is no ban on former members of the Diplomatic Service writing their memoirs or engaging in public debate, but obligations of confidentiality remain after staff have left the Diplomatic Service. The rules below are in place to offer guidance and to balance the public interest.

5.16. The FCO relies on former officials to exercise their good sense and professional judgement about how much they can say publicly for example in interviews, lectures or debates, without the need to consult the FCO.

5.17. The key principles to take into account are that when engaging in public dialogue whether in written or oral form, you should not:

- prejudice national security;
- damage international relations;
- be destructive of the confidential relationship between ministers and officials.

In addition, the FCO has a duty of care to both current and former members of staff who are named in a manuscript in such a way as to cause offence and/or distress.

5.18. To that end any memoir or part thereof, by retired members of the FCO that draws on official information or the writer's own experience in a way which might conflict with the principles above

must be submitted to the FCO for comment. You can be assured that all such material will be processed without undue delay.

5.19. The FCO is always willing to provide guidance and assistance in this area. If in doubt please contact the **Head of Knowledge Management Department**.

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### **Crown copyright**

5.20. Under the Copyright, Designs and Patents Act 1988, works made by members of the Diplomatic Service in the course of their official duties are subject to Crown copyright protection. The responsibility for the management and licensing of Crown copyright rests with the Controller of Her Majesty's Stationery Office (HMSO) in her capacity as Queen's Printer for works produced by UK Government departments, Northern Ireland departments and the National Assembly for Wales.

5.21. Members of the Diplomatic Service must obtain the prior approval of the Head of Knowledge Management before entering into any arrangements regarding the publication or dissemination of any Crown copyright protected material by private sector publishers or information providers. Such arrangements would usually be the subject of specific licensing, to be handled The National Archives. This would not apply in the following circumstances:

- a. where material is to be published in learned journals or in the proceedings of conferences or seminars;
- b. where the material in question is to be published in an official, authorised work specifically on behalf of the originating department or agency.

5.22. Crown copyright is not an issue when a member of the Diplomatic Service produces a copyright work unconnected with their official duties and entirely in their own time. If, however, the work in question is linked to their official duties, they should in the first instance consult the Head of Information Management Department, who in turn may need to consult OPSI. Under these circumstances, the following factors need to be taken into account:

- a. whether the Member of the Diplomatic Service produced the work during official time;
- b. whether the work is based on existing Crown copyright source documents; and
- c. whether there are security considerations.

5.23. If a member of the Diplomatic Service writes a book in their own time, which is unrelated to their official duties, but wishes to incorporate extracts of Crown copyright protected material within the work, permission to reproduce the material should be obtained from The National Archives. It is customary in such cases for the licence to be granted in favour of the publisher rather than the author, as it is the publisher which is reproducing the material. It is permissible for the author to submit the application on the publisher's behalf. Where an individual is on secondment outside the Diplomatic Service, copyright in any work which they produce during the term of their secondment will usually rest with the host organisation. This should be covered within the terms of the secondment.

5.24. If you have further questions concerning copyright procedures please refer them to the **Head of Knowledge Management Department**

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