

CODE OF CONDUCT FOR SPECIAL ADVISERS

This Code applies to special advisers working in the Welsh Government

1. Special advisers are a critical part of the team supporting Ministers. They add a political dimension to the advice and assistance available to Ministers while reinforcing the political impartiality of the permanent Civil Service by distinguishing the source of political advice and support.
2. Special advisers should be fully integrated into the functioning of government. They are part of the team working closely alongside civil servants to deliver Ministers' priorities. They can also help Ministers on matters where the work of government and the work of the government party overlap and where it would be inappropriate for permanent civil servants to become involved. They are appointed to serve the First Minister and the other Ministers in the Welsh Government.

Role

3. In order to provide effective assistance to Ministers, special advisers should work closely with the ministerial team and with other civil servants, and establish mutual relationships of confidence and trust. Among other things, special advisers may:
 - give assistance on any aspect of Welsh Government business, and give advice (including expert advice as a specialist in a particular field);
 - undertake long term policy thinking and contribute to policy planning within the Welsh Government;
 - write speeches and undertake related research, including adding party political content to material prepared by permanent civil servants;
 - liaise with the Party, briefing party representatives and parliamentarians on issues of government policy;
 - represent the views of a Minister to the media (including a party viewpoint) where they have been authorised by a Minister to do so; and
 - liaise with outside interest groups (including those with a political allegiance).
4. In working with other civil servants, special advisers can, on behalf of a Minister:
 - convey to officials Ministers' views, instructions and priorities, including on issues of presentation. In doing so, they must take account of any priorities Ministers have set;
 - request officials to prepare and provide information and data, including internal analyses and papers;
 - hold meetings with officials to discuss the advice being put to Ministers; and

- review and comment on – but not suppress or supplant – advice being prepared for Ministers by civil servants.

5. But special advisers must not:

- ask civil servants to do anything which is inconsistent with their obligations under the *Civil Service Code* or behave in a way which would be inconsistent with standards set by the Welsh Government;
- authorise expenditure of public funds or have responsibility for budgets;
- exercise any power in relation to the management of any part of the Civil Service, except in relation to another special adviser; or
- otherwise exercise any statutory or prerogative power.

6. In order to enable special advisers to work effectively, the Welsh Government should allocate civil servants to provide support of a non-political nature. Special advisers are able to give direction to such civil servants in relation to their day-to-day work for them, and their views should be sought as an input to performance appraisals on the basis that these are written by other civil servants. However, special advisers should not be involved in the line management of civil servants or in matters affecting a civil servant's career such as recruitment, promotion, reward and discipline, or have access to personnel files of civil servants.

7. Special advisers are not entitled to have access to sensitive, security or intelligence reports unless cleared to the appropriate level. Subject to this exception, and the one mentioned above in relation to personnel files, special advisers may, at the discretion of the First Minister, have access to all papers submitted to Ministers, subject to the convention on access to papers of a previous Administration.

Status and conduct

8. Special advisers are temporary civil servants appointed in accordance with Part 1 of the *Constitutional Reform and Governance Act 2010*. Special advisers are bound by the standards of integrity and honesty required of all civil servants as set out in the *Civil Service Code*. However, they are exempt from the general requirement that civil servants should be appointed on merit and behave with impartiality and objectivity, or that they need to retain the confidence of future governments of a different political complexion. They are otherwise required to conduct themselves in accordance with the *Civil Service Code*, attached at Annex A.

9. As set out in the *Constitutional Reform and Governance Act 2010* and in the *Ministerial Code*, all appointments of special advisers in the Welsh Government are made by the First Minister. Their appointment ends at the end of the Administration which appointed them or when the First Minister leaves the Government or moves to another appointment. The responsibility for the management and conduct of special advisers, including discipline, rests with the First Minister who made the appointment. It is also the First Minister's responsibility to ensure that his/her special adviser(s) adhere to this Code of

Conduct. It is, of course, also open to the First Minister to terminate employment by withdrawing his/her consent to an individual appointment at any time.

10. Special advisers should act in a way which upholds the political impartiality of other civil servants. They should not use official resources for party political activity. They are employed to serve the objectives of the First Minister and the other Ministers in the Welsh Government.

11. Special advisers should not disclose official information which has been communicated in confidence in government or received in confidence from others. The preparation or dissemination of inappropriate material or personal attacks has no part to play in the job of being a special adviser as it has no part to play in the conduct of public life. Any special adviser found to be disseminating inappropriate material will be subject to a disciplinary process that may include dismissal.

Contacts with the media

12. Special advisers, when authorised, are able to represent Ministers' views on government policy to the media with a degree of political commitment that would not be possible for other civil servants. However, briefing on purely party political matters must be handled by the Party machine.

13. All contacts with the media should be authorised by the First Minister or his media advisor, and should be conducted with propriety and consideration for the reputation of the Government as a whole at all times.

14. Special advisers must not take public part in political controversy, through any form of statement whether in speeches or letters to the press, or in books, social media, articles or leaflets. They must observe discretion and express comment with moderation, avoiding personal attacks, and would not normally speak in public for a Minister, or the Welsh Government.

Transparency

15. Special advisers are required to declare details of gifts and hospitality received in accordance with the rules set out in the Welsh Government Terms & Conditions of Service Code. The Welsh Government will publish any information about gifts and hospitality received by special advisers. Information will be published annually about the number and cost of special advisers.

Involvement in politics in a private capacity: national political activities

16. Where a special adviser wishes to undertake work for a political party which does not arise out of government business they may do this either in their own time, outside office hours, or under a separate contract with the Party, working part-time for the Welsh Government. They may not use annual or unpaid leave for this purpose.

17. Special advisers are exempt from the *Civil Service Code* requirement of political impartiality. Therefore, their involvement in political activity does not need to be restricted in the same way as it is for other civil servants.

18. In particular:

- i. with the approval of the First Minister, a special adviser may be publicly identified as a candidate or prospective candidate for the National Assembly for Wales. Special advisers who become Assembly candidates must carry out this new role in their own time, outside office hours, or work part-time for the Welsh Government with their government salary reduced commensurately. Special advisers may not use annual or unpaid leave to carry out this role. In addition, a special adviser must also refrain in government from any involvement in matters concerning his/her prospective constituency, and they must resign as a special adviser at the start of the short campaign period ahead of the election. Special advisers who resign in these circumstances are not entitled to receive a severance payment;
- ii. if a special adviser wishes to take part in an election or by-election campaign, he/she is able to do so in their own time and out of office hours. They may not use annual or unpaid leave for this purpose;
- iii. with the agreement of the First Minister, special advisers can remain in post during the general election campaign period. Those who remain in post to work on government business must ensure that they do not use official resources for party political purposes and that any participation in the campaign is in a special adviser's own time and outside office hours. Special advisers may not use annual or unpaid leave for this purpose; and
- iv. special advisers are able to attend party functions, for example the Party Conference.

The above provisions also apply in relation to candidature to UK Parliament, the Scottish Parliament, the Northern Ireland Assembly, and the European Parliament.

Involvement in politics in a private capacity: local political activities

19. With the approval of the First Minister, special advisers may undertake, or continue to undertake, all forms of local political activity. They must comply with any conditions laid down by the First Minister.

20. If special advisers take part in local political activities, they must at all times observe discretion, take care to express comment with moderation and avoid personal attacks. In particular, if they serve on a local authority they must adhere to the following points:

- i. they should not speak publicly or in the Council, or vote, on matters which fall within the portfolio(s) of the Minister(s) to whom they most closely provide assistance;
- ii. they should not serve on any committee considering such matters;
- iii. they should not take part in deputations or other representations to Ministers;
- iv. they should declare an interest in relation to any case or application which comes before the Council which involves the portfolio(s) of the Minister(s) to whom they most closely provide assistance;
- v. they should observe discretion in relation to policies which fall within the portfolio(s) of other Ministers, in order to avoid causing them embarrassment; and
- vi. they should not disclose to the Council privileged information obtained in the course of their duties.

Leaving the Civil Service

21. Special advisers are subject to the *Business Appointment Rules for Civil Servants*. Under the Rules, they are required to submit an application to the Permanent Secretary in the Welsh Government for a new appointment or employment they wish to take up after leaving the Civil Service. This requirement applies to special advisers of equivalent standing to the Senior Civil Service for two years after leaving the Civil Service, and to other special advisers for one year.

22. Applications from special advisers of equivalent standing to Director General and above are referred to the *Advisory Committee on Business Appointments*. Decisions on these applications are taken by the Permanent Secretary in the Welsh Government based on the Advisory Committee's advice. The target timescale for completion of this process is 20 working days. Applications from other special advisers are handled within the Welsh Government, and the Permanent Secretary makes the decision on the application. A special adviser who is unhappy with the decision may appeal

to the Lead Non-Executive Director in the Welsh Government. The full *Business Appointment Rules for Civil Servants* are set out in Section 4.3 of the *Civil Service Management Code* and the Welsh Government Terms & Conditions of Service Code.

23. Civil servants, including special advisers, must not publish or broadcast personal memoirs reflecting their experience in Government, or enter into commitments to do so, while in Crown employment. The permission of the Permanent Secretary in the Welsh Government must be sought before publishing, or entering into a contractual commitment to publish such memoirs after leaving the Civil Service. They must submit any draft manuscripts for comment to the Permanent Secretary in good time in advance of publication. Detailed rules are set out in Section 4.2 of the *Civil Service Management Code* and the Welsh Government Terms & Conditions of Service Code. Separately, they should send a copy of the draft manuscript to the First Minister's Principal Private Secretary in post at the time of their employment.

24. Special advisers must continue to observe their duties of confidentiality after they have left their employment as a special adviser.

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