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EU REFERENDUM – GUIDANCE FOR THE CIVIL SERVICE AND SPECIAL ADVISERS

You will have seen the Prime Minister's letter of 11 January to his ministerial colleagues about the EU referendum. I am now writing to explain what this means for the Civil Service. The Prime Minister's note is attached for ease of reference.

Before coming on to the guidance itself, let me first pay tribute to Tom Scholar, Ivan Rogers and all those civil servants and Special Advisers, including legal advisers, in the FCO, the Home Office, the Treasury, the Cabinet Office (including No 10 itself), DWP, and indeed right across Whitehall, who have provided such brilliant support over many months for the Prime Minister and his Ministerial team on this hugely complicated, difficult and vitally important negotiation for the country. It really has been an exceptional effort, in the finest traditions of the Civil Service.

As the Prime Minister makes clear, the Government's policy has been to negotiate a new settlement for Britain in the EU and then ask the British people in a referendum whether they want to stay in the EU on a reformed basis or not. The negotiations have now concluded and following discussion at Cabinet, the UK Government's position is set out in the attached White Paper. In sum: in the referendum the Government's clear recommendation is that the United Kingdom should remain a member of a reformed EU.

The guidance contained in this letter applies until the start of the statutory 28-day pre-referendum period. Further guidance for departments for use during the 28-day period will be provided in due course.

Key principles

As set out in the Civil Service Code, the Civil Service supports the Government of the day in developing and implementing its policies. This includes in relation to EU and EU-related business and in supporting the Government to make the case for the UK to remain in a reformed EU. The Code also sets out the standards of behaviour expected of civil servants and sets out the core values of honesty, objectivity, impartiality and integrity which must be observed at all times. In supporting the Government's position on the EU



referendum, civil servants should therefore continue to operate in line with the Civil Service Code and the normal rules on civil service conduct and government communications. In turn, Ministers must continue to abide by the *Ministerial Code* and not ask civil servants to act in any way that would conflict with the *Civil Service Code*.

Briefing and other support for Ministers

Departments should continue to provide support in the normal way to Ministers operating in their ministerial capacity. This should include support for meetings on government business, ministerial visits and attendance at external events relating to government policy. Civil servants can draft ministerial speeches and provide briefing on government policy for Ministers to use at such events, including those organised by groups campaigning for the same outcome as the Government on the EU referendum. Ministerial briefing may explain the UK Government's policy position and offer comment on other policy positions in the usual way. As with any other policy position, civil servants may advise Ministers on the likely pros and cons of different approaches and how they could be implemented.

Civil servants should not themselves speak at external events on the issue, or work directly with or for the campaign groups. Liaison between the campaigns and Ministers should be handled by special advisers, who may also accompany Ministers to campaign events.

As previously agreed, and confirmed at Cabinet, individual Ministers will be able to take a different personal position from that of the Government on the issue of the EU Referendum. This wholly exceptional arrangement applies only to the question of whether the UK should remain in a reformed EU or leave. All other EU or EU-related business, including negotiations in or with all EU institutions and other Member States, and debates and votes in the UK Parliament on EU business will continue to be subject to the normal rules of collective responsibility and party discipline. This also of course applies to policy discussions within government. The existing machinery of government for making policy on EU business will continue to function in the normal way.

As set out in the Prime Minister's letter it will not be appropriate or permissible for the Civil Service to support Ministers who oppose the Government's official position by providing briefing or speech material on this matter. This includes access to official departmental papers, excepting papers that Ministers have previously seen on issues relating to the referendum question prior to the suspension of collective agreement. These rules will apply also to their special advisers.

In line with usual practice, Departments may check facts for such Ministers on request. And civil servants should continue to support such Ministers in undertaking all official government business in the usual way.

Ministerial visits

Officials should continue to support Ministers in the conduct of visits (or parts of visits) to carry out government business in the normal way. The government estate should not be used for visits and events that are organised by the designated campaign groups. Where a visit is a mix of campaign/political and official engagements, it is important that the department and the campaign/political organisation each meet a proportion of the actual



cost.

Communications

The principles of impartiality and the proper use of public resources continue to apply to all government communications activity, including activity related to the EU referendum.

In practice, this will mean maintaining a distinction between taxpayer-funded public information that explains government policy and information provided by external campaigning groups, including the designated campaigns, which have their own funding limits. That separation should apply to the documents that the Government is statutorily required to produce and any of the Government's 'paid for' marketing, branding or information activity.

When issuing statements on behalf of the Government in any medium – including speeches, social media, articles, answers to written parliamentary questions and Ministerial and official correspondence – officials should not include campaign branding and should avoid direct reference to any campaigning groups.

During this period, civil servants can continue to communicate government policy on behalf of Ministers in the normal way, including in making the case for the UK to remain in a reformed EU. This includes engagement with stakeholders. As usual, civil servants must be careful to explain the Government's position and arguments in a factual way, provide factual commentary on opposing positions where appropriate and not present any views or opinions of their own.

We can expect government publications to be scrutinised even more closely than usual and so it is especially important that the usual propriety principles of good administration are applied to ensure that material for publication is accurate, with facts and evidence clearly sourced wherever possible. The Government Communications Service propriety guidance may be found [here](#).

Dealing with requests for information from campaigning groups

Requests for information from external groups campaigning for a particular referendum outcome should be treated in the same way as other third party requests for information, taking account of the Freedom of Information Act 2000 and other relevant statutes and provisions. All requests for information should be handled as speedily as possible and treated in an even-handed way. In all cases, it should be made clear that any views given on the merits of proposals are the views of the UK Government.

European Union and International Business

All EU and EU-related business, including negotiations in or with all EU institutions and other Member States, EU Council meetings and policy discussions within government will continue as usual throughout this period. The normal rules of collective responsibility apply and therefore the existing machinery of government for making policy on EU business will continue to function in the normal way, including Cabinet Committee clearance processes.

Specific guidance on EU business may be sought from the European and Global Issues Secretariat at egis.eacwriterounds@cabinetoffice.gov.uk.



Special Advisers

Special advisers must conduct themselves in accordance with the requirements of their Code of Conduct.

Under the terms of their appointment, special advisers are permitted to discharge their role with a degree of party political commitment and association. They can provide a channel of communication between the Government and outside interest groups, including groups formed to campaign for a particular outcome in the referendum, provided this is in support of the Government's official position. They may provide such groups with publicly available information and attend meetings and events held by these groups in support of or on behalf of Ministers.

Special advisers who wish to work full-time for a campaign team must first resign their position as a special adviser for the duration of the campaign. Special advisers who wish to work part-time for government and part-time for a campaign must have their government salary reduced commensurately. Any special adviser wishing to work part-time or full-time for a campaign should seek the Prime Minister's approval for this. Special advisers who wish to undertake routine campaign activity in a personal capacity may do so in their own time and outside office hours. They may not use annual leave or unpaid leave for any campaign activity.

As at all other times, special advisers may not ask civil servants to do anything that is inconsistent with their obligations under the *Civil Service Code*.

As the Prime Minister outlined in his letter, special advisers may support Ministers who are campaigning against the Government's position, in accordance with their own wishes, and provided this is done in their own time and outside office hours, and does not draw on official or departmental resources. Any special adviser who wishes to support Ministers in this way should notify the Prime Minister's Principal Private Secretary. Special advisers will continue to support their Ministers on other government business in the normal way.

Involvement of civil servants in campaigning activities in a personal capacity

The involvement of civil servants in campaigning activities connected with the referendum in a personal capacity falls within the definition of national political activity outlined in the *Civil Service Management Code*. 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 (<http://www.civilservice.gov.uk/about/resources/csmc/CSMC-4.aspx>) and Departmental staff handbooks. Civil servants may also wish to remind themselves of the Government communications guidance and social media guidance and in particular the principle that the requirements of the *Civil Service Code* apply to the use of social media in both an official and personal capacity.

Departmental non-executive directors

Departmental non-executive directors who wish to take an active part in campaign activity on a personal basis in their own time should first consult the Chair of their departmental board and the Permanent Secretary of the department. In undertaking any such activity,



Departmental non-executive directors should make clear that any such activity is on a personal basis and not related to their departmental responsibilities.

Public bodies

Staff in public bodies, like all public servants, are required to maintain political impartiality in the way in which they go about their public duties and the general principles and conventions set out in this guidance apply to the board members and staff of all NDPBs and similar public bodies. Decisions on individual matters are for the bodies concerned in consultation with their sponsor Department who will wish to consider whether proposed activities could reflect adversely on the work or reputation of the NDPB or public body in question.

Forthcoming elections

On 5 May 2016, elections will be taking place for the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, for some local authorities, the London Assembly, for the Mayors of London, Liverpool, Bristol and Salford and for Police and Crime Commissioner roles in England and Wales (outside London). Guidance on the conduct of UK civil servants during the purdah periods for these elections will be issued nearer the time.

Departments should consider all proposed activity in the context of this guidance, in the usual way. However, these restrictions should not generally affect civil service support for any EU, EU-related or referendum business, as set out above.

Devolved administrations

In the same way that UK civil servants will support the UK Government's position on the EU Referendum, civil servants working for the devolved administrations will support that devolved government's position. This is the case irrespective of the position being taken by the respective governments on the EU Referendum. Separate guidance will be issued by the devolved administration to their respective civil servants on this issue.

Advice on specific cases

In cases of doubt, departments may seek further advice from their Permanent Secretary's office, or the Propriety and Ethics Team at proprietyandethicsteam@cabinetoffice.gov.uk.

I am confident that you will continue to deliver the excellent service to Ministers that they have come to expect whilst maintaining the core Civil Service values of honesty, objectivity, impartiality and integrity that underpin all that we do.

I am copying this letter to UK Government Permanent Secretaries, Ed Llewellyn, Simon Case and Sue Gray.



JEREMY HEYWOOD

