

# **Scottish Parliament Election: 6 May 2021**

**Guidance for the Scottish Government, its  
Agencies and National Devolved Public  
Bodies**

**February 2021**

## Introduction

1. The election to the Scottish Parliament takes place on 6 May 2021. It has significant implications for the work of the Scottish Government, its agencies and national devolved public bodies.

2. These arise from the special character of Government business during an election campaign, and from the need to maintain the impartiality of the Civil Service and to avoid any criticism of an inappropriate use of official resources.

3. Special arrangements apply to the handling of Government business during the election period (also known as the 'pre-election period').

**4. The 'election period' means the period of six weeks prior to polling day on 6 May. It is expected to begin on 25 March 2021.**

### Application of this guidance

5. This guidance applies to people working during the election period in the Scottish Government, its agencies and national devolved public bodies. It also applies to staff from the Scottish Government and its agencies who are on secondment to other bodies.

6. The guidance covers the handling of business up to and during the election period. Further guidance will be provided as necessary about handling business in the immediate post-election period once the outcome of the election is known.

7. It is business as usual until the election period begins on 25 March 2021. Ministers expect, and are entitled to, our continued commitment to deliver the Scottish Government's priorities in the run-up to the election period.

8. This means that you should continue to support and advise Ministers in the normal way, including the provision of support for Ministerial engagements and other official events. In most cases, you should follow usual practice.

9. The closer we get to the start of the election period, the greater scrutiny there will be of the conduct of Government business, particularly in relation to any significant new initiatives. Cabinet Secretariat can provide advice on particular issues that arise in the run-up to the election period.

## During the election period

10. During the election period, the Scottish Government retains its responsibility to govern, and Ministers remain Ministers and in charge of their portfolios. Essential business, including responding to the Coronavirus (COVID-19) pandemic, must be carried on (see Note 1 below for a definition of 'essential business'). However, you can expect Ministers to observe discretion in initiating any new action of a continuing or long-term character.

11. Decisions on matters of policy on which the next administration might wish to take a different view from the current administration are expected to be postponed until after the election, provided that such postponement would not be detrimental to Scotland's interest or wasteful of public resources. You can also expect Ministers to be largely engaged in the election campaign and therefore not want to be asked to make decisions on issues during the election period unless it is essential that they should do so.

12. There are three basic principles to remember and apply during the election period. You should:

- Remain politically impartial;
- Ensure that public resources are not used for party political purposes; and
- Avoid anything that could distract attention from or compete with the campaign.

13. The first two of these principles apply at all times. They are set out in the [Civil Service Code](#) and the [Scottish Ministerial Code](#). The third is a reminder that application of these principles needs particular care during the election period. The provisions of the Civil Service Code relating to political impartiality are as follows:

You must:

- Serve the Government, whatever its political composition, to the best of your ability in a way which maintains political impartiality and is in line with the requirements of the Civil Service Code, no matter what your own political beliefs are;
- Act in a way which deserves and retains the confidence of Ministers, while at the same time ensuring that you will be able to establish the same relationship with those whom you may be required to serve in some future Government; and

- Comply with any restrictions that have been laid down on your political activities.

You must not:

- Act in a way that is determined by party political considerations, or use official resources for party political purposes; or
- Allow your personal political views to determine any advice you give or your actions.

14. The following guidance notes deal with a range of particular issues likely to arise during the election period. They build upon and are consistent with the guidance notes issued in advance of the 2016 Scottish Parliament election.

- 1 - Supporting Ministers during the election period
- 2 - Freedom of Information
- 3 - Relations with the UK Government
- 4 - Special Advisers
- 5 - The Scottish Parliament and its Committees
- 6 - Political Activities of Staff
- 7 - Cabinet and Official Documents
- 8 - Communications Activity
- 9 - Consultations
- 10 - Statistics, Surveys, Social Research and Economics Analysis
- 11 - Use of Government and other public sector property
- 12 - Public Appointments
- 13 - Public Bodies

## **COVID-19 Pandemic**

15. Activity aimed at responding to the [four harms](#) caused by the COVID-19 pandemic (the direct impact of COVID-19, other health impacts, societal impacts, and economic impacts) constitutes essential business. During the election period, there will continue to be a need for the Scottish Government to keep the public informed about the progress of the pandemic and to ensure that they are aware of the latest restrictions and developments. Further guidance in relation to pandemic-related communications activity can be found in Note 8.

16. Essential business, including in relation to the pandemic, must be carried out in a way that is consistent with the principles set out in this guidance. Further advice on the application of this guidance in relation to

the pandemic can be sought from Cabinet Secretariat (see paragraphs 20 and 21 below).

## **Scottish Parliament**

17. Under normal circumstances, Parliament would have been expected to dissolve on 25 March. However, in order to ensure that the Scottish Parliamentary election can take place fairly and safely, the [Scottish General Election \(Coronavirus\) Act 2021](#) provides for the dissolution of Session 5 of the Parliament on 5 May 2021. This will allow the Parliament to be recalled in order to debate and pass emergency legislation if required.

18. The Parliament is however expected to move into a 'pre-election recess' period on 25 March, and the pre-election restrictions set out in this guidance will apply as normal from that point onwards.

19. Further information about the business of the Parliament can be found in Note 5.

## **Advice on the application of this guidance**

20. If you have any queries about the application of this guidance in relation to your work, you should in the first instance seek guidance from your Deputy Director and/or Director.

21. Advice is also available from Robin Benn or Duncan Beamish in Cabinet Secretariat or from the people identified at the end of each of the 13 guidance notes.

Scottish Government

February 2021

## **NOTE 1: SUPPORTING MINISTERS DURING THE ELECTION PERIOD**

1. The Scottish Government retains its responsibility to govern after the Parliament enters its pre-election recess on the 25 March 2021, and Ministers remain responsible for their portfolios. You should continue to provide official support for Ministers in relation to any essential business that cannot be deferred until after the election. Essential business includes discharging statutory functions, responding to a major incident or public health crisis (including the COVID-19 pandemic), or any case where postponing a decision or activity would prove detrimental to Scotland's interest, or would be wasteful of public resources. Official support for Ministers engaged in essential business includes briefing, communications support, and attendance at any necessary meetings or official engagements. It includes offering advice on new arguments which are likely to be put by others at events which form part of essential business. You should not devise new arguments for use in election campaign debates.

2. Decisions on matters of policy on which the next administration might wish to take a different view from the current administration are expected to be postponed until after the election, provided that such postponement would not be detrimental to Scotland's interest or wasteful of public resources. You can also expect Ministers to be largely engaged in the election campaign and therefore not want to be asked to make decisions on issues during the election period unless it is essential that they should do so.

3. You may check statements for factual accuracy and consistency with established Scottish Government policy. Any work on costing future Government policies must cease from 25 March to 6 May 2021.

### **Handling Correspondence**

4. All correspondence must be handled in accordance with the Freedom of Information (Scotland) Act 2002 - see Note 2 below for more details on this point.

5. Where a request requires a simple description of Scottish Government policy on a particular issue, you should deal with it in the same way as at any other time.

6. Where an enquiry concerns the day-to-day management of an agency or national devolved public body, and the Chief Executive would normally reply, they should do so in the normal way, taking care to avoid any matters of political controversy, particularly where they normally have a visible public profile.

7. Where the request relates to commitments included in the governing party's manifesto or asks for a comparison of the policies of different parties, a response should be provided to the correspondent, noting the content and advising they should contact the respective party headquarters directly.

8. Where a candidate has asked for Ministers' views, a reply should be offered to the relevant Minister. You should draft such replies, whether for Private Office or Ministerial signature, with care to avoid political controversy, especially comment or criticism of the policies of other parties. All replies to correspondence from candidates should be copied to PS/First Minister. Any special advisers who remain in post during the election period should be involved in the normal way.

9. Ministers may decide to adapt draft replies prepared in this way to make political points. In all such cases, you can expect the Minister - and not the Private Office - to sign the letter. You should invite the Minister to consider whether the letter should issue in a Ministerial capacity on Scottish Government's letterhead, or whether it should be regarded as being written on behalf of their party. The guiding principle is whether the use of the Scottish Government's letterhead and of official resources would be a proper use of public funds for Ministerial - as opposed to party political - purposes. Where the Minister wishes to refer in the reply to a proposal newly announced in the governing party's manifesto, then the reply must be issued on behalf of the party.

### **Speed of Response**

10. Given the circumstances of an election, you should aim to answer requests from Parliamentary candidates or from the headquarters of any of the political parties for factual information in the possession of the Government, agency or national devolved public body within 24 hours of receipt wherever reasonably possible.

11. It is for the Minister to decide, on a case-by-case basis, the timescale for providing replies to requests for their views on an issue. Where

requested, you should aim to provide a draft within 24 hours wherever reasonably possible.

12. You can expect the Minister's Private Office to inform the Minister of all incoming correspondence from candidates within 24 hours. This is to ensure that Ministers are aware of such correspondence while campaigning. Where views are requested, Private Office will then indicate to officials the timescale for response.

### **Correspondence about electors' cases during the election period**

13. During the election period, replies to letters from MSPs on behalf of electors which were sent before Parliament entered into its pre-election recess and replies to letters from Parliamentary candidates should take into account the fact that, if they become public knowledge, they will do so in the atmosphere of an election and are more likely to become the subject of public comment. Correspondence should be cleared as soon as possible.

14. Some additional points:

- MSPs will continue to be MSPs until 5 May 2021 for the reasons set out in Note 5 of this guidance;
- All candidates are on an equal footing. Ministers will usually reply to letters written by MSPs on behalf of a constituent before Parliament enters its pre-election recess. Ministers may also wish to reply to such letters written after Parliament enters its pre-election recess, particularly when the correspondence relates to an ongoing case;
- Private Secretaries will normally reply to letters from Parliamentary candidates who are not MSPs before Parliament enters its pre-election recess;
- The main consideration must be to ensure that the citizen's legitimate interests are not prejudiced. But it is quite possible that a personal case could become politically controversial during the election campaign, and replies should be concise and give no room for misrepresentation;
- Replies sent after election day should normally be sent to the candidate who wrote the letter. Where the candidate has been unsuccessful, a copy of the response should be sent to the new constituency (or regional) MSP, unless it is clear from the correspondence that this would be unwelcome to the member of public concerned.

## **Further information**

15. For further information about official support for Ministers, please contact Cabinet Secretariat:

- Robin Benn or
- Duncan Beamish

For further information about handling Ministerial correspondence, please contact the Public Engagement Unit:

- Kevin McArthur

## NOTE 2: FREEDOM OF INFORMATION

1. The Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIRs) remain in full force during the election period. All written requests for information received are subject to their provisions. Therefore, you should continue to follow the existing procedures for responding to FOI/EIRs requests.<sup>1</sup> For further guidance, Scottish Government officials should refer to [the Intranet](#).

2. During the election period, particular care must be exercised in handling FOI/EIRs requests, and you should ensure that your Deputy Director is consulted on individual cases and that your Director is aware of requests where the release of information has the potential to impact on the election campaign in any way. It is, however, important to ensure that cases are not held up or delayed unnecessarily during the election period. You should continue to consult the FOI Unit if you need advice on individual cases, particularly where they are complex or sensitive. You should also ensure that Ministers (and special advisers) are involved where requests are complex or sensitive. The FOI Unit's triage email will identify such cases.

### Further information

3. For further information, please contact the Freedom of Information Unit:

- Gerry Hendricks
- Graham Crombie

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<sup>1</sup> EIRs requests can be made verbally, but this is rare. The FOI Unit can advise if you think you are dealing with a verbal request for environmental information

## **NOTE 3: RELATIONS WITH THE UK GOVERNMENT**

1. UK Government business will continue as normal in the run-up to the elections to the Scottish Parliament and the Senedd Cymru/Welsh Parliament. However, staff working in UK Government departments will be asked to take extra care in announcing decisions which are likely to have a particular effect or impact in Scotland or Wales or which might impact on the election campaigns.

2. Officials in the Office of the Secretary of State for Scotland and other UK Government departments will be covered by guidance to be issued by the Cabinet Office.

3. In the run-up to the election period, staff in the Scottish Government who work with UK Government departments should maintain dialogue with their UK counterparts and ensure that they are aware of the timing of the Scottish Parliament election in planning UK Government announcements or events. It will be important to make clear that Scottish Ministers will not be able to seek consent for Legislative Consent Motions (LCMs) from the Scottish Parliament during the election period. Advice on LCMs is available from Claire Trail or Freya Liddle in Parliament and Legislation Unit.

### **Further information**

4. For further advice, please contact the UK Relations Team:

- Beth Elliot
- Hannah Chillingworth

## **NOTE 4: SPECIAL ADVISERS**

1. Special advisers must resign if formally adopted as a candidate in the Scottish Parliament election, or if they decide to actively campaign for their party during the election or to help in their party headquarters or research unit during such a campaign, other than backroom support activities carried out in their own time, such as filling envelopes or making private telephone calls from their party headquarters.

2. Special advisers who remain in post may continue to advise Ministers on Scottish Government policy, but must take particular care not to take any active part in the campaign. Officials should continue to engage with any special advisers who remain in post during the election period in the normal way.

### **Further information**

3. For further information, please contact:

- Carolyn Murdoch, Senior Talent and Staffing or
- Gill Glass, PS/Special Advisers

## NOTE 5: THE SCOTTISH PARLIAMENT AND ITS COMMITTEES

### Dissolution of Parliament

1. Under normal circumstances, Parliament would have been expected to dissolve on 25 March. However, in order to ensure that the Scottish Parliamentary election can take place fairly and safely, the [Scottish General Election \(Coronavirus\) Act 2021](#) provides for the dissolution of Session 5 of the Parliament on 5 May 2021. MSPs will remain in office until 5 May, and up to that point they could be recalled from recess in order to debate and pass emergency primary legislation, including to change the date of the election in the lead up to polling day on 6 May, should this be required.

2. It should be noted that:

a) In practice, the election period is still expected on 25 March, with legislative and parliamentary business ceasing in the same way as had dissolution taken place at that point. Instead of being dissolved six weeks before polling day, the Parliament is expected to move into a 'pre-election recess' for an equivalent period of time, with the possibility of recall in exceptional circumstances;

b) You should continue to plan on the basis that any legislative proposals which do not complete their parliamentary process by 25 March will not be considered by the Parliament until after the election;

c) When Parliament returns after the election, the process of committee formation means that the Parliament will have limited capacity to transact business before summer recess (which normally covers the months of July and August).

### Possible Recall of Parliament

3. Once Parliament enters its pre-election recess period, it is expected to remain in recess unless and until there is a need to meet in emergency session (for example, to postpone the election). However, given the exceptional circumstances and uncertainty surrounding the pandemic, the Parliament's corporate bodies will continue to review the exceptional basis upon which Parliament might need to reconvene during the pre-election recess in order to respond to developments, including in relation to the potential requirement to scrutinise significant changes to the Scottish Government's COVID-19 Regulations.

## **Parliamentary Committees**

4. Mandatory Committees are established for the whole session of the Parliament. Under Rule 6.1.3 of the Standing Orders, the Parliament may determine the duration of subject Committees that it establishes. All Committees cease to exist at the dissolution of Parliament. The memberships and any outstanding work of the Parliament's Committees also ceases at this point.

5. While dissolution of the Parliament in 2021 will occur later than normal (on the day before the election) in light of the COVID-19 pandemic, it is expected that most subject Committees will not hold meetings from 25 March, when the Parliament will enter a unique pre-election recess period (any Committee Activity after that point is expected only in exceptional circumstances).

6. During this period, the point of contact for Scottish Government Directorates continues to be the Committee Clerk, who remains in post to process any basic administrative work of the Committee.

7. No Government responses to Committee reports will be published during the pre-election recess. Directorates should continue to work, on a contingency basis, on any outstanding evidence required by Committees and on any outstanding Government responses to Committee reports.

8. It is for Committees of the new Parliament to decide whether to continue with the previous Committees' inquiries and for the incoming administration to determine the Government's response.

## **Further information**

9. For further information, please contact the Parliament and Legislation Unit:

- Al Gibson

## NOTE 6: POLITICAL ACTIVITIES OF STAFF

1. All political activity connected with the election falls within the definition of national political activity, so the general rules on civil servants' participation in national political activities apply. The Civil Service is divided into three groups:

- The "politically free" - industrial and non-office grades;
- The "politically restricted" - members of the Senior Civil Service, civil servants in Band C, Fast Stream staff and Graduate Development Programme members of staff; and
- The "intermediate group" - civil servants in Bands A and B.

2. All civil servants (whichever group they belong to) are disqualified from election to the Scottish Parliament and must therefore resign from the Civil Service before standing for election. If you intend to become a candidate for the Scottish Parliament, you should contact HR to discuss how the rules apply to you, the effective date of resignation and, if your candidature is unsuccessful, the possibility of reinstatement.

3. Aside from Parliamentary candidature, the "politically free" group may engage without restriction in national political activities (as described in paragraph 6 below). "Politically restricted" civil servants are totally debarred from national political activities.

4. The "intermediate group" may participate in national political activities provided:

- They do so in their capacity as private individuals, without reference to their roles or experience as civil servants; and
- They have official permission to do so (taking into account the points in paragraph 5 below).

5. The area in which "intermediate group" civil servants work is also relevant. For example, it may be less appropriate for those civil servants working in areas with a high level of Ministerial contact to engage in such activity than for those in areas where there is little such contact. If you wish to participate in national political activities, you must discuss this with your line manager and seek permission from HR.

6. National political activities are:

- Holding, in a party political organisation, office which impinges wholly or mainly on party politics related to the Scottish Parliament;

- Speaking in public on matters of national political controversy;
- Expressing views on such matters in the media, or in books, articles, letters to the press, leaflets or on social networking sites;
- Being announced publicly as a candidate or prospective candidate for Parliament; and
- Canvassing on behalf of a candidate for Parliament or on behalf of a political party.

7. Civil servants on secondment to outside organisations remain civil servants, and the rules relating to political activity continue to apply to them (as does all the guidance). Individuals seconded into the Civil Service are also covered by these rules for the duration of their appointment.

8. Further guidance on the political activities of Scottish Government civil servants only is available on their staff [Intranet](#). Case specific advice on participation on political activity can be provided by submitting a query via [HR Online](#)

### **Further information**

9. For further advice, please contact the
- Jane Wilson or
  - Julie MacFadyen

## **NOTE 7: CABINET AND OFFICIAL DOCUMENTS**

1. Under normal circumstances, routine Cabinet meetings would cease during the pre-election period. Exceptionally, in 2021, Cabinet may need to meet during this period if urgent collective decision-making is required as part of the Government's response to the COVID-19 pandemic, or for other essential business related to the pandemic. If required, Cabinet and other official documents should continue to be sent to Ministers in the normal way, using the standard copy lists. Officials should support the delivery of any Cabinet business in the normal way.

2. Cabinet Secretaries and Ministers relinquishing office following the election will be expected to ensure that they return to their Private Office all official documents in their possession which are required for current administration and to ensure that any other official documents which bear a protective marking are either returned to their office or destroyed. By convention, former Ministers are allowed reasonable access to official papers which they saw when they were in office. Such access is, however, limited to physical access by the former Minister, and the papers made available for inspection cannot be copied or taken away.

3. Where the governing party changes, Ministers in the next administration do not generally have access to papers of the previous Government. This applies, in particular, to papers relating to former Ministers' own deliberations and to advice given to them by officials. It does not apply to written advice from the Law Officers or to papers which were published or put into the public domain by the previous Government. In addition, the application of Freedom of Information legislation increases the range of circumstances in which papers of a previous administration could be disclosed.

### **Further information**

4. For further information, please contact:

Cabinet Secretariat:

- Robin Benn or
- Duncan Beamish

## **NOTE 8: COMMUNICATIONS ACTIVITY**

1. The general principle governing communications work during the election period is to do everything possible to avoid competition with Parliamentary candidates for the attention of the public. In addition, special care must be taken as information produced with complete impartiality and accepted as objective at other times may attract criticism during the election period.

2. References in this note to Communications Officers apply equally to all officials involved in similar work and any communication activity. It is incumbent on all to adhere to the principles as well as the provisions of the Civil Service Code. The principles extend to the use of the Internet and Intranet (see paragraph 8 below).

### **Regular Scottish Government Communication activity**

3. During an election campaign the Government retains its responsibility to govern and Ministers remain in charge of their portfolios. Only essential business must be carried on and supported by Communications as appropriate and in a proportionate way. See Note 1 for general guidance on this point in relation to COVID-19 activity in particular.

4. Scottish Government Communications staff may continue to discharge their normal function only to the extent of providing factual explanation of current Government policy, statements and decisions. They must be careful not to become involved in a partisan way in election issues. Arrangements for articles, interviews, etc. by Ministers during the election period will normally be made by the political network - except where they relate to essential official business.

5. The Government's normal daily news service will therefore effectively be suspended, including provision of the regular briefings for Parliamentary journalists during the election period. Essential business which support Public Information dissemination concerning COVID-19 will be permitted, but it should at all times adhere to the principles set out in this guidance.

6. During the election period, access to briefing will be restricted to permanent civil servants who will respond to information requests in line with the principles set out in Note 2. Any updating of briefing lines should be confined to matters of fact and explanations of existing Government policy. Briefing may be an appropriate resource for Private Offices to use

when providing factual information to Ministers in line with Note 1. Ministerial activity should be reviewed by Private Offices and Communications staff when the election period begins and confined to permitted Government announcements and official engagements during the campaign period and not beyond.

7. Guidance for Scottish Government Communications staff is as follows:

### ***News media relations***

- a) In response to questions, communications officers should, where possible, provide factual information by reference to published material, including that on websites. Specific requests for unpublished material should be handled in accordance with the Freedom of Information (Scotland) Act 2002.
- b) There is no objection to issuing routine factual news releases covering subjects, such as employment statistics, which are issued on a monthly or regular basis. Ministerial comment should, however, normally be issued through the Minister's political party. Equally, reports from public bodies and independent committees that the Government is required to publish can be summarised and drawn to the attention of the media.
- c) Communications officers should not handle statements that refer to the Government's future intentions, unless referring to previous, publicly recorded statements. Instead, these can be made by the Minister concerned in a political speech to be handled by the political party.
- d) Where a Minister is involved in activity associated with essential Government business, such as attendance at an event, the relevant Communications team should provide support, limited to the provision of factual information.
- e) The Communications team should not handle statements or comments referring to the policies, commitments or perceived intentions of the opposition parties.
- f) During the election period, arrangements for newspaper articles, interviews and broadcasts by Ministers, including digital and social media content, will normally be made through the political network. Care should be taken by communications staff in arranging and accompanying/supporting any press interviews for Ministers and

Government Clinicians, as appropriate, during this period because of the possibility that such interviews would have a strong political content, and the distinction between political and Ministerial publicity will be under very close scrutiny during this period. They should not arrange publicity through official channels unless Communications staff are satisfied there is a need to do so for reasons of essential business and that the Minister is speaking in a Government, not party, capacity.

g) If a Minister proposes to make an important Ministerial statement during the election period, this should be discussed with the Director of Communications and Ministerial Support, the Head of News, and the Cabinet Secretariat. Equally, if a Minister intends to hold a news conference to make clear the Government's policies on a particular subject of immediate importance, guidance should be sought from the Head of News and from Cabinet Secretariat, and the Government should provide facilities where appropriate.

### ***Marketing***

a) **New marketing campaigns** will not be launched in this period. Running of above the line marketing activity will cease, e.g. advertising. This covers both domestic and international activity. However, some essential marketing and advertising (for example COVID-19 and public health issues, civil emergencies, specialist recruitment) may be permitted in consultation with the Scottish Government's Director of Communications and Ministerial Support and the Head of Marketing. This will be considered on a case-by-case basis.

b) Where such **advertising** is commissioned by a **UK Government department**, the UK department concerned must first consult the Head of the Government Communications Service and the Scottish Government's Deputy Director for Marketing, Insight, Brand Scotland & Internal Communications, Pauline Aylesbury. Marketing information websites associated with public information or social marketing subjects will continue to be live and updated with appropriate changes to continue to be factually correct. No new content will be created or promoted.

c) **Websites** that support marketing campaigns by providing the public with information, may continue to stay live. New content can only be added if it is clearly not politically linked and also meets the same exemptions as outlined above (i.e. is related to public health issues, civil emergencies or specialist recruitment).

d) **Marketing campaign related social media activity** may continue to engage with the public where the content is not new or politically linked, and where no above-the-line advertising spend is being used. This includes responding to queries received (for example to communicate public information messages to audiences).

e) **PR Media relations** in support of campaigns will cease during the election period.

f) **Printed material** should not normally be given any fresh distribution in Scotland during the election period, in order to avoid any competition with the flow of election material. The effect on distribution of posters and leaflets to the public is as follows:

i. **Posters.** The normal display of existing posters on official premises may continue, but efforts should not be made to seek display elsewhere. Specific requests by, stakeholders and partners, for particular posters will be met in the ordinary way.

ii. **Leaflets.** Small numbers of copies of leaflets may be issued on request to members of the public and Parliamentary candidates. Bulk supplies should not be issued to any individuals or organisations without approval from the Deputy Director for Marketing, Insight, Brand Scotland & Internal Communications.

g) **Official 'filler' films and radio tapes** transmitted in intervals or public service periods of TV and radio programmes may be limited, in consultation with the BBC and Ofcom.

h) **Films, videos and photographs** from Scottish Government libraries or sources remain available to be shared online but no new images should be uploaded. The ability to share images does not imply Scottish Government endorsement of the views or comments of an individual, party, or group.

i) **Exhibitions** which form part of a privately sponsored exhibition should not be withdrawn, but self-contained official exhibitions or privately sponsored ones advocating a politically contentious policy should not be kept open or opened during the election period.

j) **Window Displays.** Normal display of factual information on official premises may continue, but promotional displays should be withdrawn or withheld.

k) **Research and evaluation.** Fieldwork involving interviews with the public or sections of it will be postponed or abandoned, although regular, continuous and ongoing statistical surveys may continue.

### ***The Scottish Government Website***

a) The general principles on information activities during Parliamentary elections will apply to the Government's main corporate website: [www.gov.scot](http://www.gov.scot) and any other websites operated by Government, including marketing campaign websites.

b) Other official websites operated by Government agencies and national devolved public bodies should also comply with these principles. A list of the relevant public bodies can be found on the Scottish Government [website](#).

c) The Government's normal online news service on [www.gov.scot](http://www.gov.scot) will effectively be suspended. No Ministerial videos or new social media content will be recorded or broadcast. Given the exceptional circumstances and the response to COVID-19, careful consideration should be given to the means of dissemination of any public information in relation to COVID-19, with each instance considered on its merits. The only items to be posted in the news section will be non-controversial, factual or routine, as defined above, including statistics notices, pre-planned publications, and public information in relation to COVID-19.

d) All material published on [www.gov.scot](http://www.gov.scot) prior to the election period, including video, Ministerial biographies, and policy information, will be regarded as part of the historical record and will remain accessible to the public. No significant additions or improvements will be made to that information.

e) All material published prior to the election period on the different websites will also continue to be publicly available. No significant additions or improvements will be made.

### ***Social Media***

a) During the election period, Government pages on most social media sites that aim to engage or inform should not be added to, expanded or improved, and nor should responses be made to comments posted. The reasons for this should be made clear on the relevant sites/pages, with

links made to the Scottish Government's primary channels for the purpose of promoting essential COVID-19 public health information only with each instance considered on its merits.

b) Given the exceptional circumstances and the response to COVID-19, the main Scottish Government Twitter, Facebook, Instagram and LinkedIn channels may continue to post essential public health messages, where it supports related news or marketing activity in this area, in accordance with the above definitions.

c) Where Government-backed social media sites promoting Scotland are aimed principally at international audiences (for example, [www.scotland.org](http://www.scotland.org)) engagement and provision of information can continue but should avoid political reference and controversy.

d) Civil servants' participation in a professional capacity in social networks (for example, Facebook, Twitter and Instagram) as well as in forums, online communities and other public online discussions should be limited during the election period to:

- Commenting on operational matters relating to services such as notifying users of technical problems with a website or digital service; and
- Responding to factual queries by signposting existing content. Any exceptions to this guidance should be referred to the Head of News, who will consider individual cases as appropriate.

e) As set out in Scottish Government Social Media guidance, civil servants should continue to use personal accounts with responsibility and care in line with the Civil Service Code. In particular, as the guidance sets out, civil servants must also not take part in any political or other public activity which compromises, or could be seen to compromise, our impartial service to the Government of the day. Liking, sharing and commenting on content can all be interpreted as expressing an opinion. In addition, the caveat 'all views are my own', or 'retweet does not equal endorsement' does not make civil servants immune to being associated with any content engaged with on social media.

### ***Blogs and Video***

a) There should be no new public facing or Ministerial blogs during the election period. Civil servants may continue to respond to comments on existing blog posts, provide routine and factual responses to queries, and moderate for inappropriate comments.

b) Ministerial blogs, videos and social network profiles should not be updated for the duration of the election period.

### **Journalists from overseas**

8. Any journalist from overseas - press, television or radio - who is not an official visitor and who may ask for assistance on political matters should be given the addresses of the central or local party offices.

### **Facilities for Information Material for Overseas Use**

9. The permission of the political parties must be sought for any photography, filming and sound recording in particular constituencies, for use overseas.

### **Further information**

10. For further information, please contact the Director of Communications and Ministerial Support, and your query will be directed to the relevant colleague who will be able to advise.

11. Scottish Government Agencies and national devolved public bodies should consult their own Head of Communications for advice in relation to the application of the Communications guidance in their own organisation in the first instance.

## **NOTE 9: CONSULTATIONS**

1. In general, consultations should not be launched during the election period. If there are exceptional circumstances where launching a consultation is considered essential (for example, for safeguarding public health), permission should be sought from Cabinet Secretariat, who will seek advice from the Permanent Secretary as required.

2. If a consultation is ongoing at the time an election is called, it should continue as normal for the standard, 12-week period. Officials should not, however, take any steps during the election period that will compete with Parliamentary candidates for the public's attention. This effectively means a ban on publicity for those consultations that are still in progress.

3. As these restrictions may be detrimental to a consultation, staff are advised to decide on steps to make up for that deficiency while strictly observing the guidance. That can be done, for example, by:

- Prolonging the consultation period to give the required 12 clear weeks; and/or
- Putting out extra publicity for the consultation after the election in order to revive interest.

4. In most cases, consultations aimed solely at professional groups and which carry no publicity will not have such an impact as those where a very public and wide-ranging consultation is required. Officials need, therefore, to take into account the circumstances of each consultation. Some consultations may need no remedial action - but this is a practical rather than propriety question so long as staff observe the election guidance. In all cases, however, external public activity should cease during the election period.

5. During the election period, officials may continue to receive and analyse responses with a view to putting proposals to the next administration, but they should not make any statement or generate publicity during this period.

### **Further information**

6. For further information, please contact Cabinet Secretariat:

- Robin Benn or
- Duncan Beamish

## **NOTE 10: STATISTICS, SURVEYS, SOCIAL RESEARCH AND ECONOMICS ANALYSIS**

1. This note gives guidance on the conduct of activities relating to statistics, surveys, social research and economics in Scottish Government Directorates and their Agencies and national devolved public bodies during the Scottish Parliament election. It should be read alongside the remainder of this election guidance which sets out general principles for handling business during the election period and processes for handling Freedom of Information requests.

2. Where further clarification is required or in cases of doubt, advice should be sought from the relevant Chief Professional Officer as below. They will consult Cabinet Secretariat as necessary:

- Scottish Government statistics, research and economics staff should consult the Chief Statistician, the Office of the Chief Researcher or the Head of OCEA, respectively;
- Staff in the General Register Office for Scotland should consult the Registrar General; and
- Other Scottish Government and agency staff involved in statistical or survey activities should consult the Chief Statistician.

3. It will be business as usual in UK Government departments (see Note 3 above for further detail).

### **Guidelines**

4. Official statistics releases (and planned revisions) should continue to be issued and published on dates which have been pre-announced in line with the Code of Practice for Official Statistics and the National Statistician's guidance booklet Publication and Presentation of Official Statistics.

5. The actual date must be announced no later than four weeks in advance. Staff should ensure that all publications due to be published between 25 March and 6 May have been pre-announced (with exact date of publication) before 25 March.

6. In general, you should avoid bringing forward into the election period any release of information that does not fall into the above category. Equally, you should not defer any publication that does, except for technical reasons. If such a delay occurs it should still be published as soon as possible - if it was pre-announced for publication before the

election and (after the technical issues have been resolved) it is ready to be published before the election, it should still proceed. For statistics releases, you are reminded that changes of publication date have to be posted on the Internet site along with an explanation of the reasons for changes.

7. The existing arrangements will not impact the publication of regular COVID-19 statistics; it has been pre-announced that they are to be updated daily. However, given how the pandemic has evolved, and the need to provide relevant and timely statistics relating to it, there may be a need to publish new statistics during the pre-election period that have not been pre-announced. In this circumstance, the Chief Statistician will make the decision about whether to release un-preannounced statistics; this is strictly limited to statistics to do with the COVID-19 pandemic and its consequences.

8. Commissioning and publication of social research can continue if the programme/project is already planned, has been agreed with the Minister and publicly known before the election is announced. Again, if you wish to proceed with commissioning or publishing a project that does not meet these criteria within the election period, please seek further advice from the Office of the Chief Researcher.

9. Where statistics or research publications are being released during the election period it is critically important that Ministers' Private Offices and Cabinet Secretariat are alerted to the intention to publish.

10. Regular, continuous and ongoing censuses and surveys of individuals, households, businesses or other organisations may continue; so may *ad hoc* surveys which are directly related to and in support of a continuing statistical series; and fieldwork which is part of an ongoing research or evaluation project. However, as these may give rise to controversy or be related to an election issue, directorates should consider postponing or cancelling them. Where survey or census questions ask about opinions or attitudes to the Scottish Government or the election in particular, or to politics in general, these should not proceed. Advice on these issues should be sought as indicated in paragraph 2 above.

11. Requests for information should continue to be handled in accordance with the Freedom of Information (Scotland) Act 2002.

12. Analysts should continue to brief Ministers. Special care must be taken over any face to face briefing for statistical, social research and economics publications/releases issued during the election period, and in producing commentary for inclusion in announcements concerning such releases and publications. Commentary that would be accepted as impartial and objective analysis or interpretation at ordinary times may result in criticism or controversy during an election. Ultimately, each case must be considered on its own merits and the content of the announcement left to the discretion of statistician/researcher/economist, seeking advice as indicated in paragraph 2 above. Care should also be taken with public presentation of statistics, research or economic analysis during the election period, and advice should always be sought.

13. Requests for advice on the interpretation or analysis of statistics, research or economics, and in particular requests to ascertain the costs or otherwise appraise parties' manifesto pledges, should be handled with care, and in accordance with the guidance set out above.

14. Requests for factual guidance on methodology should continue to be met.

15. Care should be exercised with Pre-release Access to statistics in their final form during the election period. All Pre-release lists should be reviewed, particularly with respect to any recipients who are special advisers, as some may resign as special advisers during the election period. Those who have resigned as a special adviser should be removed from Pre-release Access recipient list. Some special advisers have Pre-release Access to UK Department publications, and those who resign should be removed from the relevant recipient list.

16. Queries relating to updating the "National Performance Framework" during the election period should be referred to the NPF team.

17. Directorates should handle requests for factual information and advice from candidates, organisations and members of the public in accordance with general guidance.

18. Requests for small numbers of copies of leaflets, background papers or free publications which were available before the election period may continue to be met but no bulk issues to individuals or organisations should be made without approval from the Chief Professional Officer. Regular mailings of bulletins and research publications to customers on existing mailing lists may continue.

## **Further information**

19. For further information, please contact:

- Paul Matthews, Office of the Chief Statistician and Strategic Analysis
- Rod Harrison, Office of the Chief Researcher

## **NOTE 11: USE OF GOVERNMENT AND OTHER PUBLIC SECTOR PROPERTY**

1. Neither Ministers nor any Parliamentary candidates are permitted to use Government property for electioneering purposes. You should, therefore, decline requests from candidates to visit Government buildings for campaign purposes.

2. In the case of NHS property, decisions are for the relevant NHS Board. If hospital visits are permitted they should not disrupt services and the same facilities should be offered to all candidates. In any case, election meetings must not be permitted on NHS premises.

3. Decisions on the use of other public sector and related property must be taken by those legally responsible for the premises concerned - for example, for schools, the local authority, and so on. If the Scottish Government is consulted by national devolved public bodies about the use of public sector property, the advice will be that there is no presumption against such visits but that they will be expected to treat the candidates of all parties in an even-handed way and to avoid any disruption to the delivery of public services.

### **Further information**

4. For further information, please contact Cabinet Secretariat:

- Robin Benn or
- Duncan Beamish

## **NOTE 12: PUBLIC APPOINTMENTS**

1. Ministerial participation in the public appointments process - whether appointment rounds are regulated by the Ethical Standards Commissioner (ESC) or not - ceases until Parliament reconvenes and Scottish Ministers are appointed. This does not prevent staff from continuing preparatory action in support of the process, but no significant decisions should be taken or offers made, whether formal or informal. In particular, no action should be taken that might bind an incoming administration to a commitment made during this period.

2. Although this guidance applies to non-executive appointments, the principles are also applicable to those executive appointments to public bodies which require Ministerial approval.

### **Planning for an Appointment**

3. The current lead time for an appointment regulated by ESC is around six months. Appointments to bodies not regulated by ESC can have a shorter lead time.

4. At the planning stage of any current and any proposed new appointments rounds for any appointments or reappointments, sponsor teams should always consider the impact of the election on the process and the implications for the timing of the exercise.

5. The Public Appointments Managers are working with sponsor teams across their portfolios to identify any appointments or reappointments that would need Ministerial approval before the election period begins on 25 March.

6. Taking early action to set a realistic timetable for appointment decisions should mean that disruption of business while Scottish Ministers are not available will be minimal. In general, sponsor teams should be able to schedule the start, or progress of, a new appointment round to ensure that neither appointment criteria nor the actual appointment of a chair or member require to be agreed during the period of Ministerial non-availability. Depending on the stage of the new appointment round, an exception request to the Ethical Standards Commissioner to amend a publicised timetable could be required. Note that the Public Appointments Team has already taken steps to ensure that there are no appointments in this category. Any concerns about appointment activity over the pre-election period should be directed, in the first instance, to the relevant portfolio manager:

- DG Health and Social Care: Linsey Craig, Terry Brown
- DG Education, Communities and Justice: Karen Piaskowski
- DG Economy: Kevin Mills
- DGs Scottish Exchequer, Constitution and External Affairs: Derek O'Neill
- or to Helen Miller, Head of Public Appointments (Acting).

## **Specific Issues**

7. The ESC Code of Practice sets out the framework for Ministerial involvement in planning a new appointments round. While it makes no specific provision for the impact of a Scottish Parliament election, the Code requires that Ministers determine, in advance of each appointment round, the relevant skills, knowledge and personal qualities they wish to see held by appointees. Once appointable candidates have been identified by a selection panel, Ministers must make their decision on the basis of these agreed criteria. Neither of these decisions can be delegated.

8. In cases where an appointee's term is due to end between the start of the election period and the appointment of Ministers after the election, and no announcement has been made prior to Parliament entering its pre-election recess concerning a new appointment, sponsor teams are expected to consider whether the position can be left vacant until incoming Ministers are able to take a decision. This situation is also likely to apply to any appointments requiring Royal approval, since it would not be appropriate to invite Her Majesty to make an appointment in such circumstances.

9. In cases where an appointment needs to be made or a vacancy cannot be carried, it may be acceptable to extend the appointment of an existing member until incoming Ministers are able to take a decision on longer-term arrangements. The Public Appointments Team has reviewed through correspondence with sponsor teams that ESC regulated appointments requiring an extension are granted by the Commissioner. If you require an extension to a current appointee's term you must contact the Public Appointments Team immediately.

## **Cross-Border Appointments**

10. In those cases where Scottish Ministers need to be consulted on appointments to cross-border public bodies, the Government policy interests responsible for advising Scottish Ministers on such appointments should advise their UK Government counterparts of the implications of the Scottish election for such procedures well in advance of the election period.

## **Senior Civil Service Appointments**

11. Civil service appointments requiring agreement by the First Minister and approval by the UK Civil Service Cabinet Secretary, and other Senior Civil Service posts likely to prove sensitive, will not be made between 25 March and the date of appointment of Scottish Ministers after Parliament reconvenes.

## **Further information**

12. For further information, please contact the Public Appointments Team:

- Helen Miller

## **NOTE 13: PUBLIC BODIES**

1. This guidance applies to the activities of national devolved public bodies and public bodies with both devolved and reserved functions between 25 March and 6 May.
2. Sponsor Directorates should ensure that staff and Board members of public bodies are aware of the guidance and the statutory restrictions contained in this guidance. If in doubt, public bodies should always seek advice from their Scottish Government sponsor team or Scottish Government contact, who will refer to Cabinet Secretariat, Public Bodies Unit and the Permanent Secretary, as necessary.
3. Public bodies should avoid situations where any actions by their staff or Board members (acting in their capacity as Board members), could reasonably be construed as politically controversial or partisan in terms of the election or which could be seen to conflict with the statutory restrictions.
4. Public bodies should avoid any actions by staff or Board members (acting in their capacity as Board members) which might be interpreted as meaning they are working with any particular political party.
5. Public bodies should refer to the advice on Government communications activities set out in Note 8 above. If in doubt, public bodies should always seek advice from their Scottish Government sponsor team or relevant contact in the Scottish Government. The Chief Executive of a public body, as Accountable Officer, should ensure that staff and Board members are aware of their responsibilities and the relevant codes of conduct.

### **Staff of public bodies**

6. Staff of public bodies, like all public servants, are required to maintain political impartiality in the way in which they go about their public duties. There is no absolute prohibition on political activity for staff of public bodies, but public bodies need to be sure that, as a minimum, staff engaging in political activity avoid any comment on the business of their public body itself, bring any political involvement into their day-to-day work or engage in controversy relevant to the body's work. Codes of conduct for staff of public bodies will provide further detail.

## Board members

7. The Model Code of Conduct for Members of Devolved Public Bodies provides guidance for board members of public bodies. Board members must not use resources provided by the public body, or any information to which they have access, for political purposes or any campaigning activities. The key principles of the Model Code, especially those in relation to integrity, honesty and openness, are given practical effect by the requirement for members to declare certain interests in proceedings of the public body.

8. Board members choosing to make a public position of a campaigning nature should be mindful that their view may be perceived as representing the views of the Board, even when the Board member is doing so as a private citizen or in another capacity. **A Board member should therefore make it clear that the view expressed is their personal opinion and not that of the public body, to avoid any inference that they are speaking on behalf of the public body.**

## Further information

9. For further information, please contact the Public Bodies Unit:

- Ian Thomson or Public Bodies Unit Mailbox



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