

MODEL CONTRACT FOR SPECIAL ADVISERS

JANUARY 2022



MODEL CONTRACT FOR SPECIAL ADVISERS WORKING IN THE SCOTTISH GOVERNMENT

This document sets out your principal terms and conditions of employment. It incorporates the written particulars required by the Employment Rights Act 1996 and, together with the *Code of Conduct for Special Advisers* (Schedule 1) and the *Civil Service Code* (Annex A) and the contractual information provided in the My Workplace section of Saltire (intranet), the Scottish Government Intranet system, as amended from time to time, constitutes your contract of employment with the Crown.

Names of Parties

[NAME]..... (The Employee)

The First Minister of Scotland as the appointing authority for the Crown.

1. Commencement of employment

You were appointed on [DATE]. Your date of continuous employment is shown at Schedule 2.

2. Job title and duties

2a. You are appointed in accordance with Section 15 of the Constitutional Reform and Governance Act 2010 as a special adviser to assist the First Minister and the other Ministers in the Scottish Government.

2b. You will carry out your duties in accordance with the *Code of Conduct for Special Advisers* which is reproduced in Schedule 1 to this contract. The Code also includes a description of the role of special advisers.

3. Scottish Government Intranet: Saltire (intranet)

Further details of your terms and conditions are set out in the My Workplace section of the Scottish Government Intranet system, Saltire (intranet). The Saltire home page will tell you about any significant changes to your terms and conditions of employment. Those parts which have contractual effect, as amended from time to time, form part of your contract of employment.

4. Salary

4a. Your salary is [£AMOUNT] per annum within special adviser pay band [X]. You will be paid monthly in arrears by credit transfer to your bank or building society.

4b. Pay is reviewed annually. Any changes will take effect from 1 October. You will be notified of any change to your salary.

5. Performance management and appraisal

Your employment requires a consistently high standard of performance. Your performance will be subject to an annual appraisal and review, with an opportunity to discuss that performance with the First Minister, and the First Minister's Special Adviser Chief of Staff.

6. Hours of work

6a. You are required to work a minimum (over a 5 day week) of 37 hours, excluding breaks.

6b. You will be required to work additional hours as may from time to time be reasonable and necessary for the efficient performance of your duties.

6c. You are not entitled to the payment of any overtime.

7. Annual leave

7a. Your annual leave allowance is 30 days. The detailed rules relating to annual leave are set out in the attached Schedule 2.

7b. Your leave year runs from 1 February to 31 January. Your allowance for the remainder of this leave year is unchanged.

7c. When you leave the Civil Service, you may be required to use any remaining holiday entitlement during any notice period. Alternatively, where this is not possible, you may be able to claim payment on a pro rata basis for any accrued but untaken leave from that year's annual leave entitlement and, if appropriate, any holiday permitted to be carried over from the previous year for a maximum of 10 days.

8. Public and privilege holidays

Subject to the detailed rules in Saltire (intranet), you are entitled to all public holidays and to three and a half privilege days in addition to your annual leave allowance and you will be paid for each day. Further details are set out in the attached Schedule 2.

9. Sickness

The rules relating to sickness and injury are to be found on Saltire (intranet). These provide for absence on full pay and on half pay, depending on the length of absence and subject to a ceiling on total paid absence within a given period.

10. Pensions

10a. As a civil servant you are eligible to be a member of the Civil Service pension arrangements. If you are already a civil servant then your existing pension arrangement will continue. All employees are eligible to join the Civil Service Pension arrangements. Following receipt of your completed pension questionnaire

a pension choices pack will be issued which will contain full details of the pension options available. Further [information on pension schemes and benefits](#).

10b. You can also find information about the pension arrangements on the [Civil Service Pensions website](#) or you can speak to the pensions administrators who are MyCSP (MyCivilServicePension) PO Box 2017, Liverpool, L69 2BU. Helpline number 0300 1236666.

10c. Irrespective of whether you join the Civil Service pension arrangements or opt out, you will be covered by the provisions of the Civil Service Injury Benefit Scheme in the event that your death or an impairment of earning capacity results from a qualifying injury.

10d. You will not be covered during your appointment as a special adviser by the provisions of the Civil Service Compensation Scheme irrespective of whether you join the Civil Service pension arrangements or opt out.

10e. Ill health retirement: in the event that you join the Civil Service pension arrangements and your health subsequently becomes such that our medical adviser agrees that you should be medically retired, you will be entitled to the ill health retirement benefits provided by the relevant pension arrangement. For this purpose, you will be treated as serving for a fixed term, expiring at the latest date at which the Administration that appointed you must end.

11. Maternity, Paternity, Adoption and Parental Leave

Entitlements to maternity, paternity, adoption and shared parental leave and pay and to unpaid parental leave are available on Saltire (intranet).

which details the qualifying conditions for such leave and the manner in which it may be taken. The provisions of paragraph 14 will continue to apply if you are on maternity, paternity, adoption or parental leave.

12. Special Leave

Details of provision for special leave are set out on Saltire (intranet).

13. Place of work

Your current place of employment is [LOCATION] but you may be required to work at any place which is within reasonable daily travelling distance of your home.

14. Notice and Severance Pay

14a. Because of the power of the Crown to dismiss at will, you are not entitled to a period of notice terminating your employment. Given the terms of the *Constitutional Reform and Governance Act (2010)*, you will be dismissed if the First Minister no longer wishes you to continue in the role. However, unless your employment is terminated (i) by agreement, (ii) in accordance with paragraph 14b below or (iii) on grounds justifying summary dismissal at common law, you will

normally be given not less than 3 months' notice in writing terminating your employment. On the expiry of such notice, your employment will terminate.

14b. Your employment will terminate not later than:

- i. when Nicola Sturgeon ceases to hold office as First Minister; or
- ii. if earlier, the end of the day after the day of the general election to the Scottish Parliament following your appointment.

14c. If your employment automatically terminates in either of the circumstances set out in paragraph 14b i or ii, or if you resign on or after the dissolution of Parliament prior to a general election the Scottish Parliament, you are entitled to a severance payment calculated in accordance with paragraph 14e. This is subject to your agreement that should you be reappointed as a special adviser, you will repay your severance pay less the amount of salary you would have been paid had you been employed during the period between the termination of your previous contract and your re-appointment on a fresh contract.¹

14d. Special advisers who have been publicly identified as a candidate or prospective candidate for election to the UK Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly must resign at the start of the short campaign period ahead of the election. Special advisers who resign in these circumstances are not entitled to a severance payment.

14e. Severance pay will be calculated as follows:

If termination occurs at any time during the first year of service, you will receive three months' pay. You will receive a month's pay for each additional completed year of service after the first year, subject to an overall maximum of six months' pay. If you have been re-appointed as soon as practicable following an earlier appointment then any service accrued in your previous appointment(s) will be included in the calculation.

14f. Any severance payment made under paragraph 14c is non-pensionable.

14g. You may terminate your appointment by giving not less than 5 weeks' notice in writing to the First Minister.

15. Conduct and Confidentiality

15a. You are a servant of the Crown and you owe duties of confidentiality and loyal service to the Crown. You are required to exercise care in the use of official information acquired in the course of your official duties and to protect information which is held in confidence. An account of the constitutional position is set out on Saltire (intranet).

¹ See also 14(e)(ii).

The rules governing confidentiality and the use of official information are set out on Saltire (intranet).

You are also subject to the provisions of the Official Secrets Act 1989 available on Saltire (intranet).

15b. You are required to abide by the conduct provisions of the Scottish Government including those relating to the avoidance of conflicts of interests, the recording of declarations of interest and the acceptance of gifts or hospitality. The rules which apply to you relating to involvement in political activities are set out in the *Code of Conduct for Special Advisers*.

15c. You are required to conduct yourself in accordance with the provisions of the *Code of Conduct for Special Advisers* and the *Civil Service Code*, except for those aspects which relate to the impartiality and objectivity of the Civil Service and of civil servants. Copies of both Codes have been provided to you.

15d. If you wish to take part in any outside activity where information or experience gained in the course of your work is likely to be relevant, you must first seek permission from the First Minister and the Permanent Secretary of the Scottish Government.

15e. You must comply with the rules on the publication of personal memoirs and books based on official experience set out in Saltire (intranet). You must not publish or broadcast personal memoirs reflecting your experience in government, or enter into commitments to do so, while in Crown employment. The permission of the Permanent Secretary of the Scottish Government must be sought before publishing, or entering into a contractual commitment to publish, such memoirs after leaving the Civil Service. You must submit any draft manuscripts for comment to the Permanent Secretary of the Scottish Government in good time in advance of publication. Separately, you should send a copy of the draft manuscript to the First Minister's Special Adviser Chief of Staff in post at the time of your employment.

15f. Special adviser positions are designated as sensitive posts within the Scottish Government. As a condition of taking up such a post, you will be taken to have assigned to the Crown copyright in any future work which relates to your employment and/or which contains or relies upon official information which came into your possession by virtue of your employment as a special adviser. Where permission to publish the work (or parts of it) is provided by the Permanent Secretary of the Scottish Government, the Crown will reassign copyright in the relevant part of the work. Detailed rules are set out in section 4.2 of the *Civil Service Management Code* and in Saltire (intranet).

16. Disciplinary and grievance procedures

16a. Disciplinary matters are dealt with in accordance with the Scottish Government's disciplinary procedures, which are set out in Saltire (intranet).

The responsibility for disciplinary matters rests with the First Minister.

The inefficiency policies set out in Saltire (intranet) do not apply to you.

16b. If you have any grievances relating to your employment, or if you wish to appeal against any decisions or actions which affect you adversely, you must bring this to the attention of the First Minister and the Permanent Secretary of the Scottish Government in writing.

17. Acceptance of outside appointments

17a. Special Advisers are subject to the Business Appointment Rules for Civil Servants. Under the Rules, you are required to submit an application to the Permanent Secretary of the Scottish Government for any new appointments or employment you wish to take up after leaving the Civil Service. This requirement applies to special advisers of equivalent standing to the Senior Civil Service (SpAd Pay Band 3) for two years after leaving the Civil Service and to other special advisers (SpAd Pay Bands 1 and 2) for one year.

17b. 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 Scottish 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 Scottish Government, and the Permanent Secretary in the Scottish Government makes the decision on the application. A special adviser who is unhappy with the decision on their application may appeal to an Executive Board Non-Executive Director in the Scottish Government. In the case of special advisers of equivalent standing to Director General and above, the Advisory Committee's advice, and the decision of the Permanent Secretary in the Scottish Government, will be published. The full Business Appointment Rules for Civil Servants are appended to the Code of Conduct for Special Advisers.

18. Data Protection

18.1 The Scottish Government collects personal information to administer data and support staff and to deliver services across the organisation. Processing is necessary for compliance with our legal obligations.

The following information is collected by our eHR, eOvertime, Flexi and Records systems:

- Name, date of birth, address, contact telephone numbers, National Insurance (NI) number, bank details, emergency contact/next of kin, payslip data, pensions data and marital status.
- Current job information, employee contract, employment history, disciplinary records and training Information
- Annual leave records, flexi records and sick leave records.

- Disability information, diversity monitoring including ethnicity, nationality, gender, religious beliefs and sexual orientation.

For staff administrative purposes data may be shared with the Department of Work and Pensions (DWP), Her Majesty's Revenue and Customs (HMRC), National Fraud Initiative (NFI) and the Pensions administrator.

Only specific Human Resources staff and line management can access your data held in Scottish Government records and systems.

Employees are entitled to review/update their personal information held on HR systems.

If you want to request additional information about your data and our privacy policy please contact HR Shared Services. Under current data protection laws, you are entitled to request a copy of your HR records (known as a Subject Access Request (SAR)). You can do so by contacting the Data Protection Team or email dpa@gov.scot. Further details, including the contact details of our data controller, can be found on the intranet.

18.2 Additionally, should you wish to access the Scottish Government Employee Benefits, you are required to consent to the sharing of data with the Scottish Government Employee Benefits provider (see below).

19. Statutory Particulars

The further particulars of terms of employment not contained in the body of this contract which must be given to you in compliance with Part 1 of the Employment Rights Act 1996 are given in the attached Schedule 2.

Signed
(Employee)

Signed.....
(On behalf of Nicola Sturgeon
First Minister of Scotland)

Date

Date:

EMPLOYEE BENEFITS

To enable the provision of an employee benefits service, we will share your name, surname, pay reference number and work email address with our service provider. If you are content for us to share this information, then please sign and return the acceptance below.

ACCEPTANCE

I [insert name] consent to the Scottish Government sharing the specified data with the Scottish Government employee benefits service provider.

Signed

Print name..... (Block capitals)

Date

The employee benefits service is optional and you can opt out of this at any time. If you wish to opt out, the specified data noted above will be removed from the system. To do so please contact the Senior Resourcing & Staffing Team.

SCHEDULE 1

Laid before the Scottish Parliament by the Scottish Ministers under section 8 (9) of the Constitutional Reform and Governance Act 2010, March 2017.

Scottish Government Laying Number: SG/2017/22

CODE OF CONDUCT FOR SPECIAL ADVISERS WORKING IN THE SCOTTISH 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 Scottish 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 Scottish 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 Scottish 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 Scottish 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 Scottish 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 Scottish 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. It is also the First Minister's responsibility to ensure that their special adviser(s) adhere to this Code of Conduct. It is, of course, also open to the First Minister to terminate employment by withdrawing 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 Scottish 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 and/or other Ministers in the Scottish Government, and should be conducted in accordance with the Government Communication Service's *Propriety Guidance - Guidance on Government Communications*.

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 Scottish Government.

Transparency

15. Special advisers are required to declare details of gifts and hospitality received in accordance with the rules set out in Saltire (intranet). The Scottish Government will publish, on a quarterly basis, information about gifts and hospitality received by special advisers and details of special advisers' meetings with newspaper and other media proprietors, editors and senior executives. 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 Scottish 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 Scottish Parliament. Special advisers who become Scottish Parliamentary candidates must carry out this new role in their own time, outside office hours, or work part-time for the Scottish 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, by-election or referendum 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 Scottish Parliament 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 National Assembly for Wales, 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 of the Scottish Government for any new appointments 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 (SpAd Pay Band 3) for two years after leaving the Civil Service and to other special advisers (SpAd Pay Bands 1 and 2) 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 Scottish 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 Scottish Government, and the Permanent Secretary makes the decision on the application. A special adviser who is unhappy with the decision may appeal to an Executive Board Non-Executive Director in the Scottish Government. The full Business Appointment Rules for Civil Servants are appended at Annex B.

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 of the Scottish 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 of the Scottish Government in good time in advance of publication. Detailed rules are set out in Section 4.2 of the *Civil Service Management Code* and on Saltire (intranet).

Separately, they should send a copy of the draft manuscript to the First Minister's Special Adviser Chief of Staff 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.

March 2017

CIVIL SERVICE CODE

Presented to Parliament pursuant to section 5 (5) of the *Constitutional Reform and Governance Act 2010*

Presented to the Scottish Parliament pursuant to section 5 (6) of the *Constitutional Reform and Governance Act 2010*

Scottish Government Laying Number: SG/2010/247

Civil Service values

1. The statutory basis for the management of the Civil Service is set out in Part 1 of the Constitutional Reform and Governance Act 2010.
2. The Civil Service is an integral and key part of the government of the United Kingdom². It supports the UK Government and Devolved Administrations of the day in developing and implementing their policies, and in delivering public services. As a civil servant, you are accountable to Scottish Ministers, who in turn are accountable to the Scottish Parliament³.
3. As a civil servant, you are appointed on merit on the basis of fair and open competition and are expected to carry out your role with dedication and a commitment to the Civil Service and its core values: integrity, honesty, objectivity and impartiality. In this Code:
 - ‘integrity’ is putting the obligations of public service above your own personal interests;
 - ‘honesty’ is being truthful and open;
 - ‘objectivity’ is basing your advice and decisions on rigorous analysis of the evidence; and
 - ‘impartiality’ is acting solely according to the merits of the case and serving equally well Governments of different political persuasions.

² This Code applies to all civil servants working for the Scottish Executive and its Agencies. Other civil servants have their own separate versions of the Code. Similar Codes apply to the Northern Ireland Civil Service and the Diplomatic Service.

³ Civil servants advising Ministers should be aware of the constitutional significance of the Scottish Parliament and of the conventions governing the relationship between the Scottish Parliament and the Scottish Executive.

4. These core values support good government and ensure the achievement of the highest possible standards in all that the Civil Service does. This in turn helps the Civil Service to gain and retain the respect of Ministers, Parliament, the public and its customers.

5. This Code⁴ sets out the standards of behaviour expected of you and other civil servants. These are based on the core values which are set out in legislation. The Scottish Executive's Aim, Vision and Values and individual Agencies' own separate mission and values statements are based on the core values, and include the standards of behaviour expected of you when you deal with your colleagues.

Standards of behaviour

Integrity

6. You must:

- fulfil your duties and obligations responsibly;
- always act in a way that is professional⁵ and that deserves and retains the confidence of all those with whom you have dealings⁶;
- carry out your fiduciary obligations responsibly (that is make sure public money and resources are used properly and efficiently);
- deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of your ability;
- keep accurate official records and handle information as openly as possible within the legal framework; and
- comply with the law and uphold the administration of justice.

7. You must not:

- misuse your official position, for example by using information acquired in the course of your official duties to further your private interests or those of others;

⁴ The respective responsibilities placed on Scottish Ministers and special advisers in relation to the Civil Service are set out in their Codes of Conduct: <https://www.gov.scot/publications/scottish-ministerial-code-2016-edition/> and <https://www.gov.uk/government/publications/special-advisers-code-of-conduct> . Special advisers are also covered by this Civil Service Code except, in recognition of their specific role, the requirements for objectivity and impartiality (paras 10-15 below).

⁵ Including taking account of ethical standards governing particular professions.

⁶ Including a particular recognition of the importance of cooperation and mutual respect between civil servants working for the Scottish Executive and the UK Governments and other devolved administrations, and vice-versa.

- accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise your personal judgement or integrity; or
- disclose official information without authority. This duty continues to apply after you leave the Civil Service.

Honesty

8. You must:

- set out the facts and relevant issues truthfully, and correct any errors as soon as possible; and
- use resources only for the authorised public purposes for which they are provided.

9. You must not:

- deceive or knowingly mislead Ministers, Parliament or others; or
- be influenced by improper pressures from others or the prospect of personal gain.

Objectivity

10. You must:

- provide information and advice, including advice to Ministers, on the basis of the evidence, and accurately present the options and facts;
- take decisions on the merits of the case; and
- take due account of expert and professional advice.

11. You must not:

- ignore inconvenient facts or relevant considerations when providing advice or making decisions; or
- frustrate the implementation of policies once decisions are taken by declining to take, or abstaining from, action which flows from those decisions.

Impartiality

12. You must:

- carry out your responsibilities in a way that is fair, just and equitable and reflects the Civil Service commitment to equality and diversity.

13. You must not:

- act in a way that unjustifiably favours or discriminates against particular individuals or interests.

Political impartiality

14. 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 this 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.

15. 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.

Rights and responsibilities

16. The Scottish Executive and its Agencies have a duty to make you aware of this Code and its values. If you believe that you are being required to act in a way which conflicts with this Code, the Scottish Executive, or the Agency in which you work, must consider your concern, and make sure that you are not penalised for raising it.

17. If you have a concern, you should start by talking to your line manager or someone else in your line management chain. If for any reason you would find this difficult, you should raise the matter with a nominated officer who has been appointed to advise staff on the Code.

18. If you become aware of actions by others which you believe conflict with this Code you should report this to your line manager or someone else in your line management chain; alternatively you may wish to seek advice from your nominated officer. You should report evidence of criminal or unlawful activity to the police or other appropriate regulatory authorities. This Code does not cover HR management issues.

19. If you have raised a matter covered in paragraphs 16 to 18, in accordance with the relevant procedures⁷, and do not receive what you consider to be a reasonable response, you may report the matter to the Civil Service Commission⁸. The Commission will also consider taking a complaint direct. Its address is:

G/8, 1 Horse Guards Road, London SW1A 2HQ.
Tel: 020 7271 0831
email: info@csc.gsi.gov.uk

If the matter cannot be resolved using the procedures set out above, and you feel you cannot carry out the instructions you have been given, you will have to resign from the Civil Service.

20. This Code is part of the contractual relationship between you and your employer. It sets out the high standards of behaviour expected of you which follow from your position in public and national life as a civil servant. You can take pride in living up to these values.

November 2010

⁷ The whistleblowing legislation (the Public Interest Disclosure Act 1998) may also apply in some circumstances. The Directory of Civil Service Guidance and the Civil Service Management Code give more information: <https://www.gov.uk/government/organisations/cabinet-office/series/civil-service-conduct-and-guidance>

⁸ The Civil Service Commission's Guide to Bringing a Complaint gives more information, available on the Commission's website: <http://civilservicecommission.independent.gov.uk/>

THE BUSINESS APPOINTMENT RULES FOR CIVIL SERVANTS

The following Rules cover the Civil Service. Equivalent versions of the Rules are in place for the Diplomatic Service/Intelligence Agencies/Armed Forces. The Rules apply to civil servants who intend to take up an appointment or employment after leaving the Civil Service.

The approval process for applications under the Rules differs depending on the applicant's seniority.

For members of the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for two years after the last day of paid Civil Service employment.

For those below the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for one year after leaving the Civil Service, unless, exceptionally, the role has been designated as one where a longer period of up to two years will apply.

Key Principles

1. These Rules are designed to uphold the core values in the *Civil Service Code*:

Integrity

- *You must not misuse your official position, for example by using information acquired in the course of your official duties, to further your private interests or those of others.*

Honesty

- *You must not be influenced by improper pressures from others or the prospect of personal gain.*

Objectivity

- *You must take decisions on the merits of the case.*

Impartiality

- *You must not act in a way that unjustifiably favours or discriminates against particular individuals or interests.*

2. It is in the public interest that people with experience of public administration should be able to move into other sectors, and that such movement should not be frustrated by unjustified public concern over a particular appointment. It is equally important that when a former civil servant takes up an outside appointment or employment there should be no cause for justified public concern, criticism or misinterpretation.

3. The aim of the Rules is to avoid any reasonable concerns that:

a. a civil servant might be influenced in carrying out his or her official duties by the hope or expectation of future employment with a particular firm or organisation, or in a specific sector; or

b. on leaving the Civil Service, a former civil servant might improperly exploit privileged access to contacts in Government or sensitive information; or

c. a particular firm or organisation might gain an improper advantage by employing someone who, in the course of their official duties, has had access to:

- i. information relating to unannounced or proposed developments in Government policy, knowledge of which may affect the prospective employer or any competitors; or
- ii. commercially valuable or sensitive information about any competitors.

Who must apply, when and how

4. **The Rules apply to all civil servants.** This includes:

- Permanent civil servants;
- Civil servants employed on fixed term contracts;
- Civil servants on secondment to other organisations; and
- Special advisers.

5. For those at SCS1 level and above (and equivalents), the Rules apply for two years after leaving the Civil Service. For those below SCS1 level (and equivalents), they normally apply for one year after leaving the Civil Service⁹. In circumstances where an individual is undertaking a role on temporary promotion immediately prior to leaving the Civil Service, it will be the temporary grade that will determine how the Rules are to be applied.

6. **Before accepting any new appointment or employment, whether in the UK or overseas, which they intend to take up after they have left the Civil Service, individuals must consider whether an application under the Rules is required.** If it is required, they should not accept or announce a new appointment or offer of employment before it has been approved. The model application form for this

⁹Departments have discretion to apply the Rules for up to two years for specific roles below SCS1 level (and equivalents) where there is an exceptional case for doing so.

purpose is available at: [Business Appointments - making applications under the Rules for former ministers and senior Crown servants - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/business-appointments-making-applications-under-the-rules-for-former-ministers-and-senior-crown-servants) and on departmental intranets. This form should be used for all applications under the Rules. **Retrospective applications will not normally be accepted.**

7. The process for giving approval differs depending on the applicant's seniority.

Permanent Secretaries and SCS3 (and equivalents, including special advisers of equivalent standing)

8. An application is required for any new appointment or employment that individuals wish to take up during the **two** year period after leaving office. All applications at this level must be referred by the Department to the Advisory Committee on Business Appointments (the Advisory Committee). The Advisory Committee provides advice to the Prime Minister, who makes the final decision¹⁰¹¹.

9. Because of their role at the highest level of Government, and their access to a wide range of sensitive information, all Permanent Secretaries, including Second Permanent Secretaries, will be subject to a minimum waiting period of three months between leaving paid Civil Service employment and taking up an outside appointment or employment. The Advisory Committee may advise that this minimum waiting period should be waived if, in its judgement, no questions of propriety or public concern arise from the appointment or employment being taken up earlier. Equally, the Advisory Committee may consider that public concern about a particular appointment or employment could be of such a degree or character that a longer waiting period is appropriate. Taking account of the maximum waiting period of two years that may be applied, the Advisory Committee may, exceptionally, add a rider to their advice to the Prime Minister stating that they view the appointment or employment to be unsuitable.

10. As a general principle, there will be a two year ban on all Permanent Secretaries and SCS3 (and equivalents, including special advisers of equivalent standing) lobbying Government on behalf of their new employer after they leave the Civil Service. The two year lobbying ban may be reduced and/or modified by the Advisory Committee if they consider this to be justified by the particular circumstances of an individual application. Lobbying in the context of these Rules means that the former civil servant should not engage in communication with Government (including Ministers, special advisers and officials) with a view to influencing a Government decision or policy in relation to their own interests, or the interests of the organisation by which they are employed, or to whom they are contracted. In certain cases, due to the nature of the proposed appointment or employment, the Advisory Committee may, at its discretion, recommend that the lobbying ban need not prevent communications with Government on matters that are an integral part of the normal course of business for the organisation concerned. The model application form prompts applicants to provide the relevant details about

¹⁰Where applications are from civil servants who serve/formerly served in the Devolved Administrations in Scotland and Wales, the Advisory Committee will provide advice to the relevant First Minister who will make the final decision.

¹¹ Final decisions on applications from special advisers are made by the relevant Permanent Secretary.

the proposed employment or appointment that will assist with the formulation of an appropriate lobbying condition.

SCS2 and SCS1 (and equivalents, including special advisers of equivalent standing)

11. For those at this level, the Rules apply for **two** years after the last day of paid service. An application for a new appointment or employment during this two year period is only required if the individual's circumstances match one or more of the triggers set out at paragraph 13 below. Decisions on applications from those at this level are made by the relevant Department¹².

Below SCS1 (and equivalents, including special advisers of equivalent standing)

12. For these grades, the Rules normally¹³ apply for **one** year after the individual's last day of paid service. An application for a new outside appointment or employment during this one year period is only required if an individual's circumstances match one or more of the triggers set out at paragraph 13 below. Decisions on applications from staff in this category are made within the Department. Further details are set out in departmental staff handbooks/on departmental intranets.

13. As set out at paragraphs 11 and 12 above, an application under the Rules is only required from those at SCS2 and below (and equivalents) if the individual's circumstances match one or more of the following:

- i. They have been involved in developing policy affecting their prospective employer, or have had access to unannounced Government policy or other privileged information affecting their prospective employer, at any time in their last two years in the Civil Service.
- ii. They have been responsible for regulatory or any other decisions affecting their prospective employer, at any time in their last two years in the Civil Service.
- iii. They have had any official dealings with their prospective employer at any time in their last two years in the Civil Service.
- iv. They have had official dealings of a continued or repeated nature with their prospective employer at any time during their Civil Service career.
- v. They have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties.

¹² Decisions on applications are delegated to departmental officials who should consult the Secretary of State on the most sensitive applications.

¹³Departments have discretion to apply for the Rules for up to two years for specific roles below SCS1 level (and equivalents) where there is an exceptional case for doing so.

- vi. The proposed appointment or employment would involve making representations to, or lobbying the Government on behalf of a new employer.
- vii. The proposed appointment or employment is consultancy work, either self-employed or as a member of a firm, and they have had official dealings with outside bodies or organisations in their last two years in the Civil Service that are involved in their proposed area of consultancy work.

In cases of doubt, departmental Human Resources functions are able to advise individuals on whether or not an application is required.

Special Advisers

14. Under the terms of their contract, special advisers are required to submit an application to the head of their former Department 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** year¹⁴.

15. Applications from special advisers of equivalent standing to Director General and above are referred to the Advisory Committee on Business Appointments (the Advisory Committee). The Advisory Committee provides its advice to the relevant departmental Permanent Secretary, who makes the final decision based on that advice. Applications from other special advisers are handled within the relevant Department, 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 of their former Department.

How to apply for approval

16. Applicants must approach their departmental Human Resources function as early as possible, and before any announcements or commitments are made. Human Resources will have a process in place for handling business appointment applications. This involves completion of the application form which will need to be countersigned by an appropriate person, normally someone within the line management chain.

17. Notification of decisions on applications will be made through the Department.

18. Applications may be approved unconditionally, or approved subject to conditions applying for a maximum of two years from the individual's last day of paid service. Such conditions may include a waiting period and/or a prohibition on the individual being involved in lobbying Government on behalf of their new employer. When a lobbying prohibition or other restriction is applied to an individual at any

¹⁴ No application is required under the Rules when a special adviser takes up a role with the Party when they leave the Civil Service. If, during the two years after leaving the Civil Service (one year in the case of more junior special advisers), they take up an appointment in a different organisation, approval under the Rules is required.

level, this information will be made available to key staff within a department. Other restrictions could include a condition that for a specified period, the former civil servant should stand aside from involvement in certain activities, for example, commercial dealings with his or her former Department, or involvement in particular areas of the new employer's business.

19. Where it is proposed that an application be approved with conditions or a waiting period, the applicant will be offered an opportunity to discuss any concerns he or she may have with an appropriate departmental officer, or for applicants at SCS3 level and above (and equivalents, including special advisers of equivalent standing) with the Advisory Committee on Business Appointments (the Advisory Committee), before a final decision is made.

20. For those cases considered by the Advisory Committee, in addition to the maximum two-year waiting period, the Advisory Committee may, if they judge the propriety concerns to be substantial, add a rider to their advice saying that they also view the appointment to be unsuitable. It is for the Prime Minister (or relevant Permanent Secretary in the case of special advisers) to take the final decision on the application based on the advice received from the Advisory Committee.

Payment for Waiting Periods

21. It may be appropriate to continue to pay former civil servants, including special advisers, who are required to observe a waiting period before taking up an external role. Such a payment would be subject to the particular circumstances of the individual case, and it would be important to ensure that decisions take account of all relevant factors including, for example, whether there was a reasonable expectation of a waiting period under the Rules. Where a waiting period is required, departments should seek to redeploy individuals for the duration of the period. Where there is no alternative suitable employment available, the department can consider whether there is a case for the individual to be compensated for serving a waiting period. The Cabinet Office must be consulted when payment is proposed either by the Department or the individual.

Transparency

22. In addition to notifying the applicant of the outcome of their application, the Department must also inform prospective employers of any conditions which have been attached to the approval of the appointment or employment. For those applications considered by the Advisory Committee, their advice, alongside summary details of the applicant's last Civil Service post, will usually be made public once the appointment or employment has been taken up by the applicant or announced, and Departments will make public on their departmental websites summary information in respect of individuals at SCS2 and SCS1 level (and equivalents, including special advisers of equivalent standing), setting out the advice given to their former civil servants, and the restrictions (if any) imposed upon them. In all other respects, the business appointment process is a confidential one¹⁵.

¹⁵The Advisory Committee handles personal information provided to it in accordance with the Data Protection Act 1998. Such information may on limited occasions be published, for example, if the Committee is required to publish information in accordance with the Freedom of Information Act 2000.

Where to find out more

23. Departmental guidance and advice on the Rules is available from local Human Resources functions, and, where applicable, on local intranets. More about the operation of the Rules, including details of appointments approved and taken up by the most senior members of the Civil Service, can be found on the website of the Advisory Committee on Business Appointments (the Advisory Committee): <http://acoba.independent.gov.uk>

24. The Advisory Committee's Secretariat is available to provide advice and support to Departments on the application of the Business Appointment Rules and the handling of individual cases at any level. Contact details are:

Office of the Advisory Committee on Business Appointments
G/08
Ground Floor
1 Horse Guards Road
London
SW1A 2HQ

Tel: (020) 7271 0839

e-mail to: acoba@acoba.gsi.gov.uk

Website: <http://acoba.independent.gov.uk>

SCHEDULE 2

EMPLOYMENT RIGHTS ACT 1996 - PART 1

The following information is given to supplement the information given in the body of the contract in order to comply with the requirements of Part 1 of the Act.

1. Continuous employment

Your period of continuous employment began on [DATE]. Your continuity of service date for severance pay purposes is [DATE].

2. Annual leave

The annual leave allowance for full-time staff is 30 days for which payment will be made. In addition you are entitled to 11½ days paid public and privilege holidays. For part-time staff the same applies but on a proportionate basis and a conversion is required. Further details can be provided by the Senior Staff Team on request.

The annual leave year runs from 1 February to 31 January each year. Up to 10 days untaken annual leave may be carried forward into the next annual leave year and noted on eHR.

Staff wishing to take annual leave should submit their proposals to line management on eHR at least 2 days in advance.

Detailed guidance on annual leave is available on Saltire (intranet).

3. Public and privilege holidays

a. The following are the public and privilege holidays generally observed in Scottish Government.

Public Holidays

Good Friday
Easter Monday

May Day Holiday
Spring Holiday Monday
Autumn Holiday Monday
Christmas Day
New Year's Day
Day following New Year's Day

Privilege Holidays

Queen's Official Birthday
Friday (pm only) preceding the
Autumn Holiday
St Andrew's Day Holiday
Boxing Day

The dates on which these holidays are to be observed will be notified at the beginning of each leave year in Saltire (intranet). Further information is available in Saltire (intranet).

b. You may be required to work on a public holiday or privilege day. If so, you will be entitled to time off in lieu.

4. National Collective Agreements

There are no National Agreements which affect your terms and conditions of service.

5. Local Agreements

- Scottish Government Main Management and Trade Union Partnership Agreement 1999 as amended
- Scottish Government and Associated Departments Agreement on Redundancy Principles and Procedures 1994

These local agreements are set out on Saltire (intranet), the Scottish Government intranet system.