

NORTHERN IRELAND ELECTION 2017: GUIDANCE ON CONDUCT

1. On 2 March 2017, elections will take place to the Northern Ireland Assembly. This note provides guidance to civil servants in UK Government departments and NDPBs on their role and conduct during the forthcoming election campaign. Guidance will be issued by the Devolved Administrations to their civil servants.
2. Dissolution of the Northern Ireland Assembly is effective from 26 January 2017, which means that its last sitting day will be 25 January. This Guidance takes effect immediately.
3. These elections are different from a UK General Election. The UK Government will remain in office whatever the outcome and UK government business will continue during this period. Ministers will continue to carry out their functions in the usual way, and UK civil servants will continue to support their Ministers in their work.
4. However, it needs to be borne in mind that the activities of the UK Government could have a bearing on the election campaign in Northern Ireland. Particular care will need to be taken during this period to ensure that civil servants conduct themselves in accordance with the requirements of the *Civil Service Code*. Care also needs to be taken in relation to the announcement of UK government decisions that could have a bearing on the elections. In particular, civil servants are under an obligation:
 - to ensure that public resources are not used for party political purposes; and
 - not to undertake any activity which could call into question their political impartiality. It is important to remember that this applies to on-line communication, for example social media, as well as off-line activity.

General Principles

5. The following general principles should be observed by all civil servants, including special advisers:

- UK-wide government business will continue during this period. Particular care should be taken over official support, and the use of public resources, including publicity, for Ministerial or official announcements that could have a direct bearing on matters relevant to the Northern Ireland elections. In some cases it may be better to defer an announcement until after election day, provided that such a postponement would not be either wasteful of public money or detrimental to the wider UK national interest, which will include consideration of the urgency and importance of the issue. Each case should be considered on its merits;
- care should also be taken in relation to proposed visits;
- special care should be taken in respect of paid publicity campaigns and to ensure that publicity is not open to the criticism that it is being undertaken for party political purposes;
- there should be even-handedness in meeting information requests from the different political parties and campaigning groups; and
- officials should not be asked to provide new arguments for use in election campaign debates.

6. As with all UK Government Ministers, the Secretary of State for Northern Ireland will continue to be in charge of his department, and civil servants should continue to support him. In doing so, UK civil servants will wish to be aware of the need to avoid any action that is, or could be construed as being, party political in the context of the Northern Ireland elections.

Handling of requests for information

7. There should be even-handedness in meeting information requests from candidates from the different political parties. The aim should be to respond to requests from candidates and campaigners as soon as possible.

8. Where it is clear that a candidate's request is an FOI request it must be handled in accordance with the Freedom of Information Act 2000. The Act requires public authorities to respond to requests promptly and in any event not later than 20 working days after the date of receipt. Where it is clear that it will not be possible to provide a quick response, the candidate should be given the opportunity to refine the request if they wish so that it can be responded to more quickly.

9. Any enquiries from the media should be handled by Departmental Press Officers.

Ministerial Visits

10. In the pre-election period, particular care should be taken in respect of proposed visits to Northern Ireland. In particular, the Secretary of State for Northern Ireland (and his junior Ministers) will need to continue to carry out their ministerial duties. However, in doing so, the basic test of whether the visit is for government purposes must be satisfied. Official support must not be given to visits and events with a party political or campaigning purpose. In cases of doubt, further guidance should be sought from your Permanent Secretary's office or the Propriety and Ethics Team in the Cabinet Office (see paragraph 26 below for contact details).

Announcements

11. The business of the UK Government, including announcements will continue. However, some announcements by the UK Government may have a particular direct impact on these elections. Ministers will wish to be aware of the potential sensitivities in this regard and might decide, on advice, to postpone making certain announcements until after the election provided that such postponement would not be wasteful of public money or detrimental to the wider national interest, which will

include consideration of the urgency and importance of the issue. Each case should be considered on its merits. Again, in cases of doubt, further advice should be sought from the Cabinet Office Propriety and Ethics team.

Public Consultations

12. Public consultations with a particular emphasis on Northern Ireland issues should generally 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), advice should be sought from your Permanent Secretary's office and/or the Propriety and Ethics Team in the Cabinet Office. If a consultation is on-going during this period, it should continue as normal. However, departments should avoid taking action that will compete with candidates for the attention of the public. This effectively means not undertaking publicity or consultation events for those consultations that are still in progress, and which have a particular emphasis on Northern Ireland. During this period, Departments may continue to receive and analyse responses.

Communication Activities

13. Government communicators should apply the principles set out above when planning and delivering communications activities that will take place during these elections. Additional care should therefore be taken around press and marketing activity concerning Northern Ireland issues.

14. It is also important to take care with official websites and use of social media that will be scrutinised closely by the news media and the political parties during the election period. In cases of doubt, guidance should be sought from the Government Communications Service at the Cabinet Office (e-mail:

gcs.propriety@cabinetoffice.gov.uk)

Use of Government Property

15. Government property should not be used by Ministers or candidates for electioneering purposes.

16. In the case of NHS property, decisions are for the relevant NHS body, but should visits be permitted to, for example, hospitals, it should be on the basis that there is no disruption to services and that the same facilities are available to all candidates. Care should also be taken to avoid any intrusion into the lives of individuals using the services. Decisions on the use of schools and other local authority properties should be for those legally responsible for the premises. Where it is decided to agree to such visits, the key principle is that the same facilities should be available to all candidates, and that there is no disruption to services.

Legislation

17. UK Government departments should carefully consider the handling of primary legislation that includes provisions on devolved matters during the election period. It is not possible for the Northern Ireland Executive to seek their legislature's consent for provisions in UK Government Bills that require Legislative Consent Motions once the Northern Ireland Assembly has been dissolved. This is also likely to be the case for a number of weeks after the election. Departments with Bills containing provisions that may impact on the Devolved Administrations or require Legislative Consent Motions should therefore discuss the position with the Parliamentary Business and Legislation Team in the Cabinet Office, the Northern Ireland Office, and their policy contacts in the Northern Ireland Executive. Further guidance may be sought from the Parliamentary Business and Legislation Team in the Cabinet Office on 0207 276 1573.

Statistical Activities

18. During the election period, statistical activities should continue to be conducted in accordance with the Code of Practice for Official Statistics and the Pre-release

Access to Official Statistics Order 2008 (and/or the equivalent Orders made by the Northern Ireland Executive in relation to Northern Ireland statistics), which should be read as though it is part of that Code. Regular pre-announced statistical releases (e.g. press notices or bulletin publications) will continue to be issued and published. Requests for information should be handled in accordance with the principles set out in paragraphs 7-9 of this note and with the Code of Practice for Official Statistics. In cases of doubt, you should consult your departmental Head of Profession for Statistics (who should consult the National Statistician if clarity is required). The office of the National Statistician can be contacted via Joseph Moore 0207 592 8627 or Joe Cuddeford 0207 592 8667.

Appointments

19. Public appointments made by UK Ministers could have an effect on the Northern Ireland devolved administration, for example where the remit of the body has specific Northern Ireland responsibilities. Particular care should be taken in relation to any such appointments, and consideration given to postponing the appointment process where it has the potential to be controversial. Further advice on public appointments can be sought from the Centre for Public Appointments in the Cabinet Office (e-mail: publicappointments@cabinetoffice.gov.uk). Queries on other appointments should be directed to the Propriety and Ethics Team in the Cabinet Office in the first instance.

Political Activities

20. Political activity connected with the Northern Ireland election falls within the definition of **national** political activity.

21. Detailed guidance on the restrictions on civil servants' involvement in a private capacity in national political activities is set out in section 4.4 of the *Civil Service Management Code* (<http://www.civilservice.gov.uk/about/resources/civil-service-management-code>), and in departmental staff handbooks.

Special Advisers

22. The rules on special advisers' involvement in national political activities are set out in the *Code of Conduct for Special Advisers* (see paragraph 24 below).

23. After consultation with their appointing Minister, special advisers who wish to take part in the election campaign may do so in their own time and out of office hours. Official resources must not be used in support of the election. Any UK Government special advisers who wish to take a public part in the election campaign must resign from their post and will not be entitled to severance pay.

24. Further guidance is set out in the *Code of Conduct for Special Advisers*. (<https://www.gov.uk/government/publications/special-advisers-code-of-conduct>).

Non-Departmental Public Bodies (NDPBs) and other Arm's Length Bodies (ALBs)

25. NDPBs and other ALBs spend public money, make public announcements, use Government property and may employ civil servants. This guidance therefore also applies to their activities. Sponsor departments must ensure that staff and board members of their NDPBs and other ALBs are aware of the guidance. Sponsor departments should be consulted in cases of doubt.

Further Advice

26. In cases of doubt, in the first instance you should consult your Permanent Secretary's Office, or the Propriety and Ethics Team in the Cabinet Office (e-mail: proprietyandethicsteam@cabinetoffice.gov.uk).

Cabinet Office
January 2017