

CODE OF CONDUCT FOR SPECIAL ADVISERS

Version	Date	Context	Owner	Date of next Scheduled Review
1.0	January 2020	Following <i>New Decade New Approach</i>	David Hughes	
1.1	August 2021	Amendments following the publication of the RHI Inquiry Report and the Functioning of Government Act 2021	David Hughes	August 2024

CODE OF CONDUCT FOR SPECIAL ADVISERS

1. This Code is issued under s.7 of the Civil Service (Special Advisers) Act (Northern Ireland) 2013.
2. Special advisers are a critical part of the team supporting Ministers. Their employment adds 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.
3. They are part of the team, working closely alongside other civil servants to deliver Ministers' priorities. They can help Ministers on matters where the work of government and Ministers' party responsibilities overlap and where it would be inappropriate for other civil servants to become involved. They are an additional resource for the Minister, providing advice from a standpoint that is more politically committed than would be available to a Minister from the Civil Service. Special advisers stand outside the departmental hierarchy but work collaboratively with civil service colleagues supporting the Ministers who have appointed them and the Executive as a whole.
4. In order to provide effective assistance to Ministers, special advisers should establish mutual relationships of confidence and trust with their Minister. Among other things, special advisers may:
 - give assistance on any aspect of departmental 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 Department;
 - write speeches and undertake related research, including adding party political content to material prepared by other civil servants;
 - liaise with the Party, briefing party representatives and Assembly members on issues of departmental and Executive policy;
 - liaise with other Special Advisers in support of the work of the Executive;
 - represent the views of their Minister to the media (including from a party viewpoint), where they have been authorised by the Minister to do so; and
 - liaise with outside interest groups (including those with a political allegiance).
5. In working with other civil servants, special advisers can, on behalf of their 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 for Ministers, including internal analyses and papers; and

- review and comment on – but not change, suppress or supplant – advice submitted to Ministers by civil servants.

6. But special advisers must not:

- authorise the expenditure of public funds;
- exercise any power in relation to the management of any part of the Northern Ireland Civil Service, except (in the case of special advisers in the Executive Office) in relation to another special adviser;
- otherwise exercise any power conferred by or under any statutory provision, or any power under the prerogative;
- 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
- ask civil servants to do anything which is inconsistent with their obligations under the Northern Ireland Civil Service Code of Ethics or behave in a way which would be inconsistent with standards set by their employing department.

Status and conduct as civil servants

7. Special Advisers are temporary civil servants appointed under Article 3 of the Civil Service Commissioners (Northern Ireland) Order 1999 as amended. They are required to comply with the NICS Code of Ethics but are exempt from the general requirements that civil servants should be appointed on merit through fair and open competition, and should behave with political impartiality and objectivity in order to retain the confidence of future Administrations. They must not be accountable to anyone other than the Minister. This does not prevent a special adviser being accountable to any external organisation in their private capacity and in circumstances where they would be accountable if they were in any other job.
8. Their appointment ends, if not terminated earlier, on their appointing Minister ceasing to hold office or moving to another appointment. An example of an earlier termination would be as a result of the application of the provisions of the Civil Service (Special Advisers) Act (Northern Ireland) 2013.

Breaches of the Code

9. Breaches of this Code of Conduct, the NICS Code of Ethics and the Standards of Conduct in the NICS Staff Handbook shall be treated as disciplinary matters.
10. The responsibility for the management and conduct of special advisers, including discipline, rests with the Minister who made the appointment. It is also the appointing Minister's responsibility to ensure that their special adviser(s) adhere to this Code of Conduct.

11. Special advisers are subject to the Discipline chapter of the NICS Handbook, in as far as that document applies to special advisers. The Minister may fulfil a defined role in the procedures set out in the Handbook, but must not otherwise interfere. This does not prevent a Minister from dismissing a special adviser immediately if the circumstances justify it.
12. Special advisers should act in a way which upholds the political impartiality of the civil service. They should not use official resources for party political activity. They are employed to serve the objectives of the Executive and the Department in which they work. It is this which justifies their being paid from public funds and being able to use public resources, and explains why their participation in party politics is carefully limited. They should avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes. Special advisers' involvement in party politics, both national and local, is set out in the Annex.
13. Special advisers should not disclose official information which has been communicated in confidence on official business or received in confidence from others.
14. It is a criminal offence for a special adviser (or Minister) to communicate official information for the improper benefit of any person. Communications in the discharge of a statutory obligation (such as FOI) or in the lawful pursuit of official duties (such as on-the-record briefing the news media) are permitted.
15. 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.
16. Special Advisers must keep accurate official records, including minutes of relevant meetings, and handle information as openly and transparently as possible within the legal framework. Special Advisers must use official email systems for communications relating to official business. Exceptionally, where this is not possible, the Special Adviser must copy any message to their official email account. Information generated in the course of government business must be handled in accordance with the requirements of the law (including the Freedom of Information Act (FoI), GDPR and Public Records Act), regardless of how it is communicated.
17. Supported by the Department, special advisers must take all reasonable steps to ensure that all their meetings with third parties on official business are attended by a civil servant other than a special adviser to ensure that a written record is made.

Transparency

18. Special advisers must, at all times, ensure that no conflict arises, or could be perceived to arise, between their public duties and their private interests, financial or otherwise. The Department of Finance will prepare and publish a register of interests in respect of special advisers in line with their published scheme. Special advisers are under a statutory duty to disclose details of interests which could give rise to conflict – including those of parents, parents-in-law, siblings, children and their spouses, civil partners and partners. The Declaration of Interest form attached should be completed by Special Advisers upon appointment and updated as soon as they are aware of a change, and within 28 days of any such change. The relevant interests of special advisers will be published annually by the Department of Finance.
19. Special advisers are required to declare details of gifts and hospitality received in accordance with the rules set out in the NICS Handbook. Departments will publish, on a quarterly basis, information about gifts and hospitality received by their departmental special advisers and details of special advisers' meetings with external organisations / individuals.
20. Information will be published annually about the number and cost of special advisers, including salaries and any severance payments.
21. In the event that a special adviser is lobbied, the special adviser must provide the department with a written record of the lobbying; this must happen as soon as reasonably practicable, and the department must retain the record in line with its policy on the retention and disposal of records. There is a definition of lobbying in the Functioning of Government (Misc. Prov.) Act (NI) 2021, and there are some exceptions to the requirement to record this kind of communication.

Involvement in politics in a private capacity: national-level political activities/local-level political activities

National-level Political Activities

1. This section relates to activity in relation to the following legislatures: the Northern Ireland Assembly, the Welsh Assembly, the Scottish Parliament, the Westminster Parliament, the Houses of the Oireachtas, and the European Parliament.
2. Special Advisers must not take part in political activities including:
 - a. holding, in a party political organisation, office which impinges wholly or mainly on party politics in the field of the listed legislatures;
 - b. speaking in public on matters of national-level political controversy;
 - c. expressing views on such matters in letters to the Press, or in books, articles or leaflets;
 - d. being announced publicly as a candidate or prospective candidate for the relevant legislatures; and
 - e. canvassing on behalf of a candidate for the relevant legislatures or on behalf of a political party.
3. In particular:
 - (i) if Special Advisers are publicly identified as a candidate or prospective candidate for the relevant legislatures, either by adoption by a political party or in any other way, they must resign their appointment;
 - (ii) if they wish to take part in a general or by-election campaign in respect of the relevant legislatures, or to help in a party headquarters or research unit during such a campaign, they must first resign their appointment. If they wish their appointment to carry on during a campaign, they may continue to give specialist or political advice to their Appointing Authority as before but they must be careful not to take any active part in the campaign going beyond the provision of such advice. They should not, for example, take part in public meetings or canvassing relating to an election campaign.
 - (iii) if, with the approval of their Appointing Authority, they wish to assist with other party political matters such as a leadership campaign, they may do so while on paid or unpaid leave or at times which do not interfere with their normal duties, for example, out of office hours.

Local-level Political Activities

4. With the approval of their Appointing Authority, Special Advisers may undertake, or continue to undertake, all forms of local political activity, but not local activities in support of national politics. They must comply with any conditions laid down by the employing Department.

5. Local activities are: candidature for, or co-option to, local authorities; holding, in a party political organisation, office impinging wholly or mainly on party politics in the local field; speaking in public on matters of local political controversy; expressing views on such matters in letters to the Press, or in books, articles or leaflets; and canvassing on behalf of candidates for election to local authorities or a political organisation.

6. 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:

- a. they should not speak publicly or in the Council or vote on matters for which their Appointing Authority has responsibility;
- b. they should not serve on any committee considering such matters;
- c. they should not take part in deputations or other representations to their Appointing Authority;
- d. they should declare an interest in relation to any case or application which comes before the Council in which the Northern Ireland Ministers or a Northern Ireland Department is involved;
- e. they should observe discretion in relation to policies for which other Ministers in the Northern Ireland Executive are responsible;
- f. they should not disclose to the Council privileged information obtained in the course of their duties.

ANNEX A

DECLARATION OF INTERESTS

1. Conflict of interests

I declare that neither I nor any close members of my family have any interests which may conflict with my position as a Special Advisor in the Department [].

Or

Details of any conflicts or potential conflicts that I wish to declare are listed on the attached form (Annex B).

If my situation changes and I become aware of any such conflict or potential conflict of interest with my work in the Department [], I will disclose it immediately to the Accounting Officer.

Name: _____

Signature: _____

Position: _____

Date: _____

¹ International Accounting Standard 24 states Close members of the family of a person are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity and include: (a) that person’s children and spouse or domestic partner; (b) children of that person’s spouse or domestic partner; and (c) dependants of that person or that person’s spouse or domestic partner.

² International Accounting Standard 24 defines a related party transaction as a ‘transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged’. This includes transactions undertaken in the normal course of business or at arm’s length prices.

Special Advisor Declaration of Interest

THIS FORM TO BE COMPLETED ONLY WHEN DECLARING AN INTEREST

Before completing the form please read the guidance.

Please note that if any changes occur after you have completed this form then you should complete an updated version.

Name: _____

Job Title: Special Adviser Branch: Private Office Department of []

1. Membership/Directorship/Employment in any company or organisation (including voluntary) which conducts business with Department of [].

(This includes temporary or casual employment or any engagement in a consultancy or other self-employed basis and includes sitting on Boards of other Public Bodies.) Please ensure that you have complied with the relevant provisions of Chapter 6 of the HR Policy, Standards of Conduct.

2. Ownership or part ownership in any business which conducts or is likely to conduct business with Department of [].

3. Close family or close personal connection with an individual involved with a company or other organisation which conducts business with Department of [].

(Please state name of person, nature of relationship, name of business/organisation and position held)

4. Please state any other interest which might reasonably be considered to influence your judgement, or which might affect your ability to act impartially, on matters which you are likely to be involved in as a member of Department of [] staff.

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Signed _____ Date _____