

## 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 Service<sup>1</sup>. 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.

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<sup>1</sup>Departments 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.

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 purpose is available at: <http://acoba.independent.gov.uk/media/21242/model-business-appointments-application-form-civil-servants.rtf> 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 decision<sup>23</sup>.

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.

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<sup>2</sup>Where 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.

<sup>3</sup> Final decisions on applications from special advisers are made by the relevant Permanent Secretary.

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 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 Department<sup>4</sup>.

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

12. For these grades, the Rules normally<sup>5</sup> 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.

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<sup>4</sup> Decisions on applications are delegated to departmental officials who should consult the Secretary of State on the most sensitive applications.

<sup>5</sup> Departments 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.

- 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.
- 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** year<sup>6</sup>.

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

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<sup>6</sup> 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.

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 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 one<sup>7</sup>.

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<sup>7</sup>The 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  
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Ground Floor  
1 Horse Guards Road  
London  
SW1A 2HQ

Tel: (020) 7271 0839

e-mail to: [acoba@acoba.gsi.gov.uk](mailto:acoba@acoba.gsi.gov.uk)

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