

Staff Handbook

Chapter 4

Conduct and Security

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Please Note: The **Discipline Policy and Procedure** and **Grievance Policy and Procedure** have been relocated to sit directly within the Staff Handbook – e-Connect>>Human Resources>>Staff Handbook.

Staff Handbook

Chapter 4

Conduct and Security

CONDUCT

DUTIES AND RESPONSIBILITIES OF CIVIL SERVANTS IN RELATION TO MINISTERS

4000 These duties and responsibilities are set out in the [Civil Service Code](#), detailed at Annex 1, which forms part of your contract of employment.

The Code provides for internal complaints relating to alleged breaches of the standards set by the Civil Service Code. These internal complaints are different from our approach to dealing with concerns, problems or general complaints, which are managed using the Grievance Policy & Procedure. The process for dealing with complaints relating to the Civil Service Code is detailed at [Annex 2](#).

PRINCIPLES OF CONDUCT

4001 The central framework for conduct derives from the need for civil servants to be, and to be seen to be honest and impartial in the exercise of their duties. They must not allow their judgement or integrity to be compromised in fact or by reasonable implication. In particular:

- a. civil servants must not misuse information which they acquire in the course of their official duties, nor without authority disclose official information which has been communicated in confidence within Government, or received in confidence from others. They must not seek to frustrate the policies, decisions or actions of Government either by declining to take, or abstaining from, action which flows from ministerial decisions or by unauthorised, improper or premature disclosure outside the Government of any information to which they have had access as civil servants;
- b. civil servants must not take part in any political or public activity which compromises, or might be seen to compromise, their impartial service to the Government of the day or any future Government;
- c. civil servants must not misuse their official position or information acquired in the course of their duties to further their private interests or those of others. Conflicts of interest may arise from financial interests and more broadly from official dealings with, or decisions in respect of, individuals who share a civil servant's private interests (for example freemasonry, membership of societies, clubs and other organisations, and family). Where a conflict of interest arises, civil servants must declare their interest to senior management so that senior management can determine how best to proceed; and
- d. civil servants must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their judgement or integrity.

Moreover, civil servants in the politically restricted group (see paragraph 4097) must not involve themselves in matters of public and political controversy. Their impartiality must be beyond question. If they are likely to become involved as private citizens in such matters they must consult their line managers and if necessary a Senior Staff Group level manager.

USE OF OFFICIAL INFORMATION AND RELATED ACTIVITIES

Background

4002 Civil servants must exercise care in handling the information that has come into their possession in the course of their official duties and should not forget that they are employed for the purposes of the Department in which they are now serving. They owe duties of confidentiality and loyal service to the Crown. Since constitutionally the Crown acts on the advice of Ministers who are answerable for their Departments and Agencies in Parliament, that duty is, subject to the provisions of the Civil Service Code, owed to the duly constituted Government, or Administration.

Introductory

4003 Any member of staff or former member of staff who is in doubt about the application of the duties and obligations set out below to particular activities or situations relating to the use of information obtained in the course of official duties should always consult a senior officer.

Duties and Obligations

4004 Serving and former members of staff are bound by the provisions of the criminal law which protect certain categories of information. Staff should be aware of the Official Secrets Act 1989, the main provisions of which are summarised in Annex 3. There are also many other Acts of Parliament containing provisions which create criminal sanctions for the unlawful disclosure of certain kinds of information. Many of these provisions relate to information received or gathered under a statutory framework for official purposes.

4005 All members of staff owe the Crown, as their employer, a duty of confidentiality. Whether or not the criminal law applies they must not, without relevant authorisation, disclose official information which has been communicated in confidence within Government (for example by Ministers or civil servants), or because it has been received in confidence from others (for example, a member of the public or a firm), and no decision has been taken to lift that restriction. This duty of confidentiality continues after an officer has left Crown employment.

4006 As well as a duty of confidentiality, members of staff have a complementary general duty to give loyal service to the Crown. Officers – whether acting in an official or private capacity – must observe the following principles in relation to the use of official information or experience:

- a. It is their responsibility, before disclosing official information, to satisfy themselves that the information does not fall within the categories described in paragraphs 4004 and 4005 and, where appropriate, to check with a senior officer;
- b. Staff must not take part in any activities or make any public statement which might involve the disclosure of official information or draw upon experience gained in their official capacity without the prior approval of the Commission. They must clear in advance material for publication, broadcasts or other public discussion which draws on official information or experience;
- c. They must not seek to frustrate the policies or decisions of Ministers by the use or disclosure outside the Government of any information to which they have had access as civil servants;
- d. In discharging their duties under paragraphs 5 and 9 of the Civil Service code staff must maintain the long-standing conventions that new Administrations do not normally have access to papers of a previous Administration of a different political complexion. The conventions cover, in particular, Ministers' own deliberations and the advice given to them by officials, other than written advice from the Law Officers and those papers which were published or put in the public domain by the predecessor Administration. In applying the conventions to the devolved Administrations in Scotland and Wales, any information contained in the administrative and departmental records belonging to a Minister of the Crown or a UK Government department should be treated as if it were contained in papers or a previous Administration of a different political complexion.
- e. They must not make public statements or remarks in terms which the Commission could find objectionable, about:
 - i. individuals, whether officials, Ministers or private persons; or
 - ii. organisations, whether public or private.

- f. Civil servants must not take part in their official capacities in surveys or research projects, even unattributably, if they deal with attitudes or opinions on political matters or matters of policy.
- g. They must not take part in activities, including discussion of matters of current or political controversy, which:
 - i. conflict with the interests of the Commission;
 - ii. bring the name of the Commission, or the Civil Service generally, into disrepute; or
 - iii. bring into question the impartiality of the Commission or Civil Service.

Disciplinary Sanctions

4007 Any breach of these duties, involving:

- a. The disclosure or publication of information falling in either of the categories described in paragraphs 4004 and 4005, except in confidence to those entitled to receive it;
- or
- b. A failure to observe the principles described in paragraph 4006 and Annex 1 of Chapter 4 of the Staff Handbook

is a disciplinary offence, which may result in a range of penalties up to and including dismissal.

Trade Union Activities

4008 Civil servants do not need permission to take part in activities organised by, or on behalf of, their trade union; but they continue to be governed by the duties and obligations in relation to the use of official information described in paragraphs 4004, 4005 and 4006. In addition a civil servant who, as an elected national, departmental or branch representative or officer of a recognised trade union, need not seek permission before publicising their views on an official matter which, because it directly affects the conditions of service of members of the union as employees, is of legitimate concern unless the official duties of either are directly concerned with the matter in question.

Open Government

4009 In November 2001 Parliament passed a Freedom of Information Act to encourage greater transparency and accountability within government. All staff should be aware of our obligations under the Act, the rights of people making requests and the implications for the way we store, retrieve and release information:

- a. Individuals already have the right to access information about themselves, held on computer, and in some paper files, under the Data Protection Act. As of January 2005 a general right of access to information held by public authorities comes into force extending these rights to allow access to all the types of information held by public bodies, whether personal or non-personal. All public authorities will then be required to deal with individual requests for information.
- b. The right to request information will apply retrospectively. In other words, from 2005, people will be entitled to ask for any information that we hold, even items that originated before that year. This may include copies of e-mails, correspondence, file notes, complete files, computer held data or documents, and any other documents or information.
- c. Staff are expected to ensure that the Commission would not be embarrassed by the disclosure of any information that we hold and that the highest standards of impartiality, expected of us as public servants, are applied.

d. Until January 2005 we have no obligation to release information under the terms of the Act other than the classes of information that we have included in our publication scheme. However, in line with our commitment to become a more open and transparent organisation we should comply with the spirit of the Act wherever possible when dealing with individual requests for information and all staff should note the following:

Further information and guidance is available in the Secretariat section of E-Connect or from Colin Morton, Head of Communications, Silvan House (colin.morton@forestry.gsi.gov.uk).

A more detailed introduction to the Act, and general guidance on implementation, is available from the Information Commissioner's website: www.informationcommissioner.gov.uk

Information Security

4010 Information must be safeguarded at all times to meet the needs of the business and the legal constraints, which apply. The Forestry Commission IT Security Policy has been posted on the Intranet and a copy distributed to all staff. Business Systems Division also issues a Computer Security Guide, which provides a simple statement of what is required. This guide is issued to all staff and new entrants. Extra copies can be obtained from the BSD Service Desk.

4011 Breaches of security can:

- affect the FC's commercial performance;
- cause embarrassment to Ministers;
- infringe legislation

Breaches of security are disciplinary offences. Staff and managers must ensure that they are aware of the computer security requirements and ensure that they do not create (accidentally or deliberately) any additional weaknesses to system security. Any individual who does not comply with legal requirements, or any line manager, who condones non-compliance, may be liable to prosecution. Notwithstanding any possible prosecutions for breaches of legislation, FC will regard breaches or attempted breaches carried out by a member of staff or occasioned by the negligence of a member of staff as disciplinary matters.

Details of the Acts of Parliament most directly involved are given in the following paragraphs.

DATA PROTECTION ACT 1998

4012 The Data Protection Act 1998 strengthens and extends the data protection regime created by the Data Protection Act 1984, which it replaced. In particular it:

- restates the data protection principles (a sort of statutory code of data protection good practice);
- applies to certain structured manual records (which are not covered by the 1984 Act) as well as to computerised personal data;
- introduces conditions which must be satisfied if personal data are to be processed, with additional conditions for sensitive data (e.g. data about ethnic origin, health);
- strengthens individuals' existing rights and creates some new ones (e.g. new express rights to be told who is processing your data and why; and to prevent personal data being used for direct marketing);
- brings within its scope existing subject access rights created by other legislation;
- strengthens the powers of the Information Commissioner;
- replaces registration with new arrangements for notifying the Commissioner;
- introduces new rules for the transfer of personal data to countries outside the EU.

4013 The Department is required by the Act to register with the Office of the Information Commissioner the purposes for which it holds 'personal data'. Personal data is defined as data which relates to a living individual who can be identified from the data, or from the data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

4014 The Department is required:

- To take care of the data it holds;
- To prevent loss, destruction, disclosure or access to the data except as provided for in the entry in the register;
- To make sure of the accuracy of the data;
- To keep its entry in the register up to date;
- To work within the description in the register; and
- To deal with requests for access to information within 40 days of receiving the request.

Staff Affected By the Act

4015 The Act applies to all staff who work with personal data.

Liabilities of Staff under the Act

4016 Crown employees may be prosecuted under the Act for knowingly or recklessly:

- Obtaining, disclosing or transferring data for purposes not covered by the registration; and
- Giving the Registrar false or misleading information.

There is also provision for employees to be sued for damages personally. In the event however of a crown employee being prosecuted for a criminal offence whilst working within agreed departmental policies the Department would normally provide legal representation at public expense.

Departmental Liabilities under the Act

4017 Government departments cannot be prosecuted for offences under the Act but departments, which do not comply with the Act, may be mentioned in the Commissioner's Annual Report to Parliament. However the Department may be liable, through civil proceedings, to pay compensation for damage or distress suffered by reason of any contravention of the Act.

4018 Any civil servant or former civil servant who is in doubt about the application of the guidance set out in this section, in respect of data protection, should consult a senior officer.

Questions in respect of data protection should be addressed to the Departmental Security Officer in Silvan House.

COMPUTER MISUSE ACT 1990

4019 This Act creates three specific criminal (as opposed to civil) offences. These are:

- the Unauthorised Access Offence;
- the Ulterior Intent Offence;
- the Unauthorised Modification Offence.

Unauthorised Access Offence

4020 Managers must ensure that staff are aware of the systems that they are authorised to use, and that this is formally recorded. Staff must not use systems for which they have no formal authority. It is a criminal offence punishable by a fine of up to £2,000, or imprisonment for up to 6 months, for a person to gain, or to attempt to gain, access to a program or data held on a computer if the person does not have authority to do so and knows that such is the case. Employees who do not have any authority or who exceed their authority are guilty under the Act.

Ulterior Intent Offence

4021 This extends the nature of the offence where not only is there unauthorised access but there is also intent to commit an offence or to facilitate the commission of an offence. This offence attracts a sentence of up to five years and/or an unlimited fine.

Unauthorised Modification Offence

4022 A person who knowingly makes a change without authority which:

- impairs the operation of a computer;
- reduces the access to a program or data; or
- impairs the operation of a program or the integrity of the data;

is guilty of this offence which attracts a sentence of up to five years and/or an unlimited fine.

4023 Unallocated

COPYRIGHT, DESIGN AND PATENTS ACT, 1988

4024 Under this Act, the owner of a piece of software can seek civil damages if copyright is infringed and software is used without the copyright owner's permission. The copyright owner also has the right to seek to recover the copyright items. The Act also creates criminal offences for activities involving the sale, hire, distribution or the possession (with the aim of infringing copyright for reward) which is punishable by a fine and/or a term of imprisonment of up to 6 months for some offences and up to 2 years for others. The FC will only use software for which it has paid the appropriate fees for each copy of software in use and will comply with the licence conditions at all times. Since breaches of this Act may damage the reputation of the FC, affect its ability to operate or have a financial consequence, any breaches will be viewed as disciplinary offences.

Protecting Official Information

4025 Access to any material should be strictly on a 'need to know' basis. To help staff value information and to determine and to indicate to others the level of protection required, a protective marking system has been implemented by HM Government. This marks documents with a description ('RESTRICTED', 'CONFIDENTIAL', etc) which describes the sensitivities of the content of the document. GSM 6//01 sets out the arrangements for the operation of Protective Marking within the FC. The importance of carrying out these instructions cannot be over-emphasised. Managers must ensure that they are brought to the attention of their staff. Failure to observe the instructions will render staff liable to disciplinary action.

PUBLICATIONS, BROADCASTING, LECTURES, CONFERENCES AND SURVEYS

4026 Staff must get permission from an officer who is a member of the Senior Staff Group before undertaking private work which involves the use of official information or experience. Wherever possible they should seek prior permission on the basis of an outline of what work is proposed; where a written text is then produced this should be submitted for approval before it is used.

Payment for Publications

4027 Where the publication involves personal time, payment may be appropriate but officers should not negotiate or commit themselves until the Commission has given the go ahead for the publication to proceed.

Memoirs of Former Civil Servants

4028 Staff must not broadcast or publish personal memoirs reflecting their experience in Government, or enter into commitments to do so whilst in Crown employment. The permission of the Director General must be sought before entering into commitments to publish such memoirs after leaving the service.

Civil Servants who Give Lectures, and Attend Conferences

4029 If you receive an invitation to speak on a subject involving the use of official information and experience at a conference or seminar organised by an outside organisation, and is in any doubt about the

propriety of participation, then he/she must seek the advice of the Head of Division, Country Director, Chief Executive, as appropriate, before accepting.

Copyright of Speeches Made by Civil Servants

4030 When a presentation is to be made it must be made clear to the sponsoring organisation that any representation of the speech is Crown copyright vested in the Department.

Crown Copyright of Articles and Materials

4031 Under the Copyright, Designs and Patents Act 1988 copyright in any works made by civil servants in the course of their employment is Crown copyright. You must, therefore, obtain prior permission from the Secretary of the Forestry Commission (acting on behalf of the Director General) before entering into any arrangements regarding the publication of any articles or materials which you have produced as part of your official duties and is therefore protected by Crown copyright. The Secretary of the Forestry Commission will need to refer the matter to the Copyright Unit of Her Majesty's Stationery Office to consider the copyright implications. This would not apply in the following circumstances:

- a. where material is to be published in learned journals or in the proceedings of conferences or seminars;
- b. where the material in question is to be published in an official, authorised work specifically on behalf of the originating department or agency; or
- c. where the department or agency is authorised to license the material under specific delegated authority issued by the Controller of HMSO or the Queen's Printer for Scotland.

4032 If you create work entirely in your own time which is clearly unconnected with your official duties, then Crown copyright is not an issue. If you independently write a book relating to your official duties the situation is more complex and the Secretary to the Commissioners should be consulted. In this context the Commission would need to consider:

- a. whether you produced all or part of the work during official time;
- b. whether the work is based on Crown copyright source documents; and
- c. whether there are security implications.

If you write a book in your own time which is unrelated to your official duties, but you wish to incorporate extracts of Crown copyright material within the work, a licence to reproduce that material must be sought from HMSO at www.hmso.gov.uk.

Payment

4033 If the work is Crown copyright in its entirety (i.e. has been prepared by you in the course of your duties) or has been commissioned by an outside contractor and copyright has been formally assigned to the Crown, you will not be entitled to any remuneration from sales of the publication. This applies whether the work is published officially by the FC or by a private sector publisher under licence from the copyright unit of HMSO.

Fees Policy in Respect of Civil Servants' Participation in Conferences etc

4034 Whether or not a fee should be charged for the official's participation will depend on the circumstances, and should be decided on a case-by-case basis, using the following guidance:

- a. Payment of a fee may be waived even if the organisation charges participants a fee to cover its costs. But travel and subsistence costs should be recovered wherever possible, subject to a de minimis limit of £5. Similarly, if a private sector commercial organisation such as a bank or accountancy firm lays on seminars or conferences as a free service to its clients covering matters on which the Commission would otherwise itself have been organising similar publicity, and the Commission has an opportunity to participate, then it may not be appropriate to charge a fee, given

the savings to the Commission in effort and cost had it run its own event; but again travel and subsistence costs should be recovered. Participation in seminars laid on by large companies for their own managers generally falls into the same category. Payment of a fee may also be waived in other circumstances, for example a speech at a semi social function or where a senior official is standing in for a Minister (Ministers do not accept fees). Staff also have discretion to charge no fee for participation in a panel where little or no preparatory work is needed and where there is a value to the Commission in having a representative present.

b. If there is no overriding case for a fee to be waived, then a suitable amount should be negotiated, especially where the organisers are themselves charging a fee for attendance at the event with a view to making a profit. Where the organisers offer an economic fee, this may be accepted together with travel and subsistence costs. The individual must use his/her discretion about the amount of the fee, having regard a. to whether or not the organisation initiated the invitation and b. to the value to the Commission of conveying the message to a particular platform and audience. Where the event is of little benefit to the Commission, apart perhaps from ensuring that Government policy is explained more accurately by us than by an outsider, then a full economic fee should be sought. Where payment of a fee is appropriate, staff should not accept any offer of a non-financial gift as payment in lieu. Whether or not a fee is chargeable, staff may sometimes be offered a personal gift as a token of thanks for their participation (see the rules governing the acceptance of gifts at paragraphs 4070-4077).

4035 Unallocated

Broadcasts and Interviews with Journalists and the Media

General Principles

4036 In Government, Ministers are the main channel of communication with the media and it is primarily for them to explain and substantiate Government policy and actions. The position of Civil Servants in their relations with journalists is not, therefore, straightforward. If and when we deal with the media, we do so on behalf of Ministers and our actions must reflect that essential fact. However, provided the process is properly considered and conducted, it is perfectly in order, even advantageous, for officials to explain what the Government's policy is; to give factual background; to explain issues; and to discuss the various considerations that have led to the Government's choice between alternative policies.

4037 It is not desirable that staff should be involved in broadcast discussions on subjects which are politically controversial or in any unrehearsed or unscripted debates. It may be more appropriate for a Minister to take part rather than an official. It is primarily the task of the Head of Communications Branch, Silvan House to advise Ministers and the Director General on the co-ordinated presentation of the Commission's policies. Communications Branch is the primary focus for relations with the news media. Contacts with the media can, however, be a normal and proper part of the duties of other officials, especially at more senior levels. There is no intention to discourage that. Those who are expected to have such contacts, as part of their job, receive detailed briefing and guidance. Staff who receive an unexpected call from a journalist or who come into casual contact with a journalist, whether at work or outside, or whose work does not involve regular dealings with the media, should remember in particular, that:

- Care and forethought are always necessary; and it is Communication Branch's responsibility to give detailed guidance and briefing to anyone who has to deal with the media, whether on a regular or occasional basis.

In addition to the considerations mentioned in paragraph 4035, all dealings and contacts with journalists are governed both by the general principles of conduct, which require high personal standards of honesty and integrity (paragraph 4001); and by the rules on the use of official information (paragraphs 4002 to 4009).

4038 Whilst much of the work of the Commission is outward looking, and we have no wish to be unreasonably secretive, a substantial part of our work is

- Commercially confidential; or
- Relates to Ministers' decisions on policy; or

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- May involve information which is given to us in confidence by interests outside the Commission.

You should therefore exercise caution when dealing with journalists, especially if you have little experience in that field. Informal chats with them have obvious pitfalls as do contacts of a personal or social nature. Discussion on official matters should be put on a formal basis. Be careful that informality or apparent confidentiality does not lead to an attempt to gain official information that would not otherwise be available, especially in respect of information which is held by the Commission on trust and is not its own to divulge. Be particularly careful that the acceptance of hospitality does not give rise to a feeling of obligation. More detailed instructions on dealing with the media and public relations are contained within Secretariat Memoranda available from Silvan House.

Dealing with Approaches from the Media

4039 Your response to a journalist will depend on the nature of the approach. Unless it is a practical impossibility, the Head of Communications, or the Press Officer must be consulted before you talk to a journalist or accept an invitation to brief a journalist. They may be aware of relevant considerations which are not otherwise evident. For instance it may be that the journalist is pursuing parallel inquiries with more than one official or with more than one Department. If you are at work and you receive a call from a journalist, take down the details of the enquiry and say that you will arrange for the call to be returned. Always tell the Press Office and follow their advice, and, if you are below Pay Band 2, tell your line manager of at least that level. If, for any reason, you come into casual contact with a journalist outside the office (for example, at an official reception or some similar function), then you should follow carefully the guidance in this section and tell Communications Branch of any discussion of substance at the earliest opportunity. Again if you are below Pay Band 2, also tell your line manager. This also applies if you are approached by a journalist in your private life, with a view to discussions about official matters.

4040 In considering any discussion with the media, bear in mind the following:

- It may be more appropriate for a Minister rather than an official to give an interview. The Minister's officer must be consulted before implying the participation of the Minister. Such consultation will normally be carried out by Communications Branch;
- Specific Ministerial authority must be sought for any significant pre-arranged discussions by officials with journalist;
- Discussions with journalists are best held in the office with a Press Officer present but this is usually not practicable. Occasionally it may be useful to accept an invitation to a meeting over lunch, but consult Communications Branch first. In this case, and indeed whenever a Press Officer is not present, give them a full account of any briefing given to a journalist.

4041 Somewhat different considerations apply to senior staff travelling abroad in a representative role, when approached either by the local media, or the overseas representatives of the UK media. Such staff should bear the general principles in mind, but tailor their application to the specific circumstances, seeking the advice of the Embassy or the High Commission wherever possible and appropriate. Communications Branch should also be consulted and informed.

Being Interviewed – Do's and Don'ts

4042 If it becomes your responsibility to talk to a journalist, you should bear in mind the following important Do's and Don'ts:

DO discuss with Communications Branch the objectives of the interview, the background facts, and the balance which you are seeking to achieve;

DO establish the status of the interview. Briefing journalists by officials is usually best done on an unattributable basis, but establish at the outset whether the briefing may be attributed to the official by

name, to “sources”, or is entirely for background. Communications Branch will help. Contact them before opening negotiations;

DO draw a distinction between discussing and elaborating on matters where Government policy has already been announced and commenting on those where it has not. In the latter case **DON'T** get involved in discussion which might prejudice a future decision or announcement. Keep in mind the convention that Ministers announce significant developments of policy first to Parliament;

DON'T be drawn into expression of “personal” views or say anything “in confidence”. **DO** assume that anything which you say might be published. Be mindful of the risks of mischief, misinterpretation and embarrassment to Ministers inherent in discussion of politically controversial matters or current or pending ministerial policy;

DON'T disclose information which is classified; or which is commercially or market sensitive; or which is covered by any form or privacy marking;

DON'T compromise the principle of collective Ministerial responsibility nor expose or discuss differences of view between Ministers, or between Ministers and their Civil Service advisers. **DON'T** disclose information about the relationship between Ministers, nor in Cabinet or Cabinet Committees; nor between Ministers and officials; nor about the relationship of the Commission with another Department;

DON'T bring into question the impartiality of the Civil Service.

Payments for Interviews

4043 It is very unusual for payment to be offered for interviews with the media. If, however, you become involved in dealings with the media which entail a considerable amount of time and effort, you should consider whether the interview or briefing might more appropriately be done by a Minister; and, if not, whether a charge should be made for your contribution. In the latter case, you should consult Communications Branch.

Giving Interviews in a Personal Capacity

4044 You do not need the Commission's permission for interviews which are given in a personal capacity, provided that the interview has no bearing on any official matter (whether it relates to your own or someone else's area of responsibility, either in the Commission or outside it); that the subject is not one of current or potential political controversy; and that no mention is made of your official position. Bear in mind that it is not unknown for the media unilaterally and without warning to extend the scope of an interview for wider purposes, particularly if they think that an official can add to a story or an issue. If the interviewer does try to do this, you should merely respond by saying that the subject is outside the agreed scope of the interview.

Newspaper Interviews

4045 You should NOT, in their private capacities, accept any invitations for interview by newspapers etc, on matters involving the use of official information, knowledge or experience. Any request received MUST be referred to Communications Branch.

Outside Surveys

4046 You may be approached by organisations or individuals who want to claim the views of civil servants as such as a contribution to particular research projects. These may include market research surveys by commercial organisations as well as research studies by non-commercial organisations or individuals. Projects may often seek the views of senior staff in the public service and industry by means of questionnaires followed by personal interviews. You must not take part in your official capacity in a survey or research projects, even unattributably, if they deal with attitudes or opinions on political matters or matters of policy. The following guidelines are suggested when considering requests to participate in other types of surveys.

- Find out who is conducting the survey:

- a commercial organisation;
 - an agency. Establish the organisation on whose behalf the agency is working; or
 - a non-commercial organisation. These will usually take the form of studies by research workers;
- Ask for details of:
- the aims of the survey; and
 - the proposed method of operation;
- Have regard to the scope and depth of the questions likely to be asked, and particularly to any matters which might be especially sensitive. Where possible get details of the questions; and
- Get a list of the individuals to be approached;
 - Take account of the fact that surveys of this kind may involve approaches to senior management. They can take up a great deal of time of senior management;
 - Consider how far the outcome of the research activities will be of value to themselves; and
 - Consider any wider benefits to the Service.

You should always first consult your senior line manager (eg. FDM) before taking the matter forward. Anyone who participates in a survey should comply with the rules governing the use of official information, which are set out in paragraph 4006.

CONTACTS AND DEALINGS WITH MEMBERS OF PARLIAMENT

4047 Guidance on contact and dealings with MPs, AMs and MSPs is provided by Secretariat. You should seek the advice of a senior manager or Secretariat before responding to any contact by an MP/AM/MSP.

4048-4049 Unallocated

CIVIL SERVICE CODE

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 Kingdom¹. It supports the Government of the day in developing and implementing its policies, and in delivering public services. Civil servants are accountable to Ministers², who in turn are accountable to 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.
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. Individual departments may also have their own separate mission and values statements based on the core values, including the standards of behaviour expected of you when you deal with your colleagues.
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;

¹Civil servants working for the Scottish Executive and the Welsh Assembly Government, and their Agencies, have their own versions of the Code. Similar Codes apply to the Northern Ireland Civil Service and the Diplomatic Service. Civil servants working in Non Ministerial Departments in England, Scotland and Wales are covered by this Code.

² Some civil servants are accountable to the office holder in charge of their organisation. This is made clear in terms and conditions of employment.

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

⁴ The respective responsibilities placed on Ministers and special advisers in relation to the Civil Service are set out in their Codes of Conduct: www.cabinetoffice.gov.uk/propriety_and_ethics. 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).

⁵Including 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 UK Government and the devolved administrations and vice-versa.

- carry out your fiduciary obligations responsibly (that is make sure public money and other 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;
- 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 Government¹, whatever its political persuasion, 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. Your department or agency has 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, your department or agency 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 your department's nominated officers who have 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 procedures², and do not receive what you consider to be a reasonable response, you may report the matter to the Civil Service Commission³. The Commission will also consider taking a complaint direct. Its address is:

3rd Floor, 35 Great Smith Street, London, SW1P 3BQ.
Tel: 020 7276 2613
email: info@civilservicecommission.org.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.

¹ Some civil servants are accountable to the office holder in charge of their organisation. This is made clear in terms and conditions of employment.

²The 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: www.cabinetoffice.gov.uk/conduct-ethics/civil-service.aspx.

³The Civil Service Commission's Guide to Bringing a Complaint gives more information, available on the Commission's website: www.civilservicecommission.org.uk.

CIVIL SERVICE CODE COMPLAINTS PROCEDURE

1. Any employee who believes that they are being referred to act in a way which:

- is illegal, improper, or unethical;
- is in breach of constitutional convention or a professional code;
- may involve possible maladministration; or
- is otherwise inconsistent with the Code;

should report the matter to their Head of Unit. Employees should also report to the appropriate authorities evidence of criminal or unlawful activity by others and may also report if they become aware of other breaches of this Code or are required to act in a way which, for them, raises a fundamental issue of conscience.

2. If an employee does not wish to raise their concerns with a senior manager, they can approach the Head of Internal Audit Division, Silvan House in confidence in the first instance. Internal Audit staff may approach the Director HR in a similar capacity. Employees can be assured that they will not be penalised for raising concerns under the Civil Service Code.

3. Employees will not be required to do anything that is unlawful. In the very unlikely event that anyone is asked to do something which they believe would put them in clear breach of the law, the matter should be reported to a senior manager, Head of Internal Audit or Director HR who may request advice from the the FC's Solicitor.

Appeals to the Civil Service Commission

4. The Civil Service Code provides for Civil Servants to refer matters to the independent Civil Service Commission if they have reported a matter of concern in line with the above procedures and believe that the response does not represent a reasonable response. A written complaint can be made to the Civil Service Commission and details are provided on the Civil Service Commission website.

The Civil Service Commission website also contains guides for raising a complaint.

A BASIC GUIDE TO THE OFFICIAL SECRETS ACT 1989

1. The Official Secrets Act 1989 came into force on 1 March 1990. The 1989 Act replaces section 2 of the Official Secrets Act 1911, under which it was a criminal offence to disclose any official information without lawful authority. Under the 1989 Act it is an offence to disclose official information only in six specified categories and only if the disclosure is damaging to the national interest.
2. This guide gives answers to basic questions about how the new law might affect you. It does not cover everything in the Act, but PER4B will be able to give you more information and advice if you need it.

Who is affected by the Act?

3. The Act applies to:

Crown Servants, including:

- government Ministers;
- civil servants, including members of the diplomatic service;
- members of the armed forces;
- the police.

Government contractors, including anyone who is not a Crown servant but who provides or is employed in the provision of goods or services for the purposes of a Minister;

A small number of **office holders** and the members and staff of a small number of non-government organisations Crown servants for the purposes of the Act;

Members of the public and others who are not Crown servants or government contractors but who have, or have had, official information in their possession.

What is 'official information'?

4. This means any information, document or article which a Crown servant or a government contractor has or has had in his or her possession by virtue of his or her position as such.

What are the six specified categories of official information protected by the Act?

5. It is an offence for a Crown servant or government contractor to disclose official information in any of the following categories if the disclosure is made **without lawful authority** and is **damaging**. The categories are:

Security and intelligence;

Defence;

International relations;

Foreign confidences;

Information which might lead to the commission of crime;

The special investigation powers under the interception of Communications Act 1985 and the Security Service Act 1989.

When is a disclosure damaging?

6. The Act sets a different test or tests of damage for each of the six categories of information. For an offence to be committed under the Act, the disclosure of information must in general have damaged the national interest in the particular way, or ways, specified in the Act for the category of official information in question. It is ultimately for the jury to decide, when the case comes to trial, whether damage has in fact occurred.

When is a disclosure made without lawful authority?

7. Crown servants may disclose official information only in accordance with their official duty. Government contractors may do so only in accordance with an official authorisation or for the purposes of their functions as government contractors and without contravening an official restriction. In any other circumstances a disclosure is made without lawful authority.

What about members of the public?

8. If a member of the public – or any other person who is not a Crown servant or government contractor under the Act – has in his or her possession official information in one of the protected categories, and in the information has been:

Disclosed without lawful authority; or

Entrusted by a Crown servant or government contractor on terms requiring it to be held in confidence.

It is an offence to disclose the information without lawful authority.

9. It is also an offence to make a damaging disclosure of information relating to security or intelligence, defence or international relations which has been:

Communicated in confidence to another State or an international organisation; and

The information has come into a person's possession without the authority of that State or organisation.

It is an offence to disclose means of access to protected information?

10. It is an offence for anyone to disclose official information which it would be reasonable to expect might be used to obtain access to information protected by the Act.

What about the security and intelligence services?

11. For:

- present and former members of the security and intelligence services; and

- people who have been notified in writing that they are subject to section 1(1) of the Act.

It is an offence to disclose without lawful authority any official information about security or intelligence. There is no damage test.

What are the penalties for unauthorised disclosure?

12. Offences of unauthorised disclosure under the Act may be tried either on indictment, by the Crown Court, or summarily, by a magistrates' court. The maximum penalties are 2 years' imprisonment or an unlimited fine, or both, if the offence is tried on indictment, and 6 months' imprisonment or a £2000 fine, or both, if the offence is tried summarily.

What about safeguarding information?

13. It is also an offence under the Act:

For a Crown servant, a government contractor or a notified person to fail to take reasonable care to prevent the unauthorised disclosure of a document or article which is protected by the Act:

For a Crown servant or a notified person to retain such a document or article contrary to official duty;

For a government contractor or a member of the public to fail to comply with an official direction for the return or disposal of such a document or article.

These are summary offences, triable in England and Wales by a magistrates' court. The maximum penalties are 3 months' imprisonment or a £2000 fine or both.

Section 1 of the Official Secrets Act 1991

14. The 1989 Act does not affect the operation of Section 1 of the Official Secrets Act 1911, which protects information useful to an enemy. The maximum penalty for offences under section 1 of the 1911 Act is 14 years' imprisonment.

[Cabinet Office Guidelines on Conduct \(November 2009\)](#)

PERSONAL PROPRIETY AND CONDUCT

Private Shareholdings and Other Financial Interests

General Principles

4050 The code of conduct which applies to all staff requires that they should not put themselves in a position where duty and private interests conflict, nor make use of their official position to further those interests.

As a public servant you have a particular duty to ensure that your public position is not, and raises no reasonable suspicion of being, abused in your own personal interest. In particular, you must not:

- a. Use information gained in your work to advance your private financial interests, or the financial interests of others. Indeed, there are circumstances in which this would be insider trading, a criminal offence, which is explained at paragraph 4047 below;
- b. Participate in the taking of any decision which could affect the value of your private financial interests, or the financial interests of those to whom you give investment advice. As explained in paragraph 4049 below, this conflict of interest could, in certain circumstances, result in legal action against the Commission and against you.

4051 You may freely invest in shareholdings and other securities unless the nature of your work is such as to require constraints on this. You must not be involved in taking any decision which could affect the value of your private investments, or the value of those on which you give advice to others; or use information acquired in the course of your work to advance your private financial interests or those of others.

4052 You must therefore declare to the Commission any business interests (including directorships) or holdings of shares or other securities which you or members of your immediate family (spouse, including partner where relevant, and children) hold to the extent which you are aware of them, which they would be able to further as a result of your official position. You must comply with any subsequent instructions from the Commission regarding the retention, disposal or management of such interests.

Insider Trading

4053 Insider trading is a serious criminal offence under the Company Securities (Insider Dealing) Act 1985, which contains special provisions relating to public servants. If, therefore, you come into possession of unpublished sensitive information likely to affect the price of the securities of particular companies, you must be scrupulous in your use of that information. In particular:

- You must not deal in such securities on a recognised stock exchange, or through off-market dealings;
- You must not counsel or procure anyone else to do so either in Great Britain or abroad;
- You must not communicate such information to others (even in confidence to other Government officials) if you know or have reasonable cause to believe that they will use it to deal in the securities or counsel or procure anyone else to do so.

Conflict of Interest

4054 A decision by the Commissioners would be open to legal challenge, and could be set aside, if the private financial interests of any person substantively involved in the decision-making process were such as to give rise to a reasonable presumption of bias. (Persons "substantively involved" include not only the decision-taker but also others who contribute to the decision, by for example research or advice.) Any person who feels adversely affected by such a decision and who alleges bias by an official involved in the decision-making process may:

- Take legal action against the Commission in respect of the decision;

- Seek damages against a person with a conflict of interest against whom bias is alleged.

In law, the possibility of conflict of interest does not necessarily stop with consideration of financial interests held by you. Bias could be alleged in respect of the interests of anyone with whom you may have a family, domestic or other relationship and over whose decisions on investment matters you may reasonably be thought to exert an influence and where knowledge of such matters can reasonably be imputed to you. In that event a court would examine the facts of the matter to decide whether bias should be presumed.

Relevant Financial Interests

4055 For the purpose of these instructions, you should consider both your own financial interests and those of others to whom you give investment advice. You should consider financial interests such as shares (whether held directly or in a self-select PEP) and other forms of investment such as options and other similar products. It should normally only be necessary to consider investment trusts, insurance policies, gilts, collective investment schemes (such as unit trusts) and dealings through intermediaries or with lending institutions (eg building society mortgages or bank loans). You should always bear in mind that a financial interest even though small could, depending on circumstances, give rise to a legal presumption of conflict of interest and therefore of bias.

Basic Rules

4056 You must then closely observe the following basic rules:

- a. If you come into possession of confidential information, which could affect the value of any financial interest, you must not while the information remains confidential take financial advantage from the information for yourself or others. You must keep that information scrupulously to yourself and to those colleagues with a need to know;
- b. If you are in possession of any price-sensitive information about a company, you must not purchase or sell an interest in securities of that company, or counsel or procure others to do so or pass on the information to third parties unless such disclosure is properly authorised;
- c. If you, or those to whom you give investment advice, have a financial interest of which the value could reasonably be thought to be affected by an impending decision by the Commission, you must not participate in any way in the decision-taking process. You must immediately declare your position to your line manager. This should be done even if you have already declared your interest under supplementary rules that apply to you.

4057 If you are in any doubt as to your proper course of action in any of these areas, you must consult your line manager and/or the Commission's solicitors. It is your responsibility to ensure that you act within the law and within the rules. Even if not a criminal offence under the insider trading legislation, a breach of these requirements will make you liable to disciplinary proceedings.

4058 Unallocated

Sales of Surplus Items to Staff

4059 With the exception of vehicles and items which may present a health or safety risk, the sale of surplus items to staff is allowed but particular care must be taken to protect the interests of both the Commission and the individual concerned. If staff are in any doubt please contact BSD, Silvan House or Internal Audit Branch but the main considerations are as follows:

- a. Whether the individual had been officially associated with the disposal arrangements;
- b. If the individual has been able to obtain special knowledge about the condition of the vehicle to be sold (which was or would not be available to other interested prospective purchasers);
- c. Whether the transaction would be likely to cause criticism on low pricing.

Business Interests and Outside Occupations

4060 The following general principles must be observed in respect of business interest and outside occupations. You must not:

- a. at any time engage in private activities which would require your attendance during you're contracted hours or in any way impair your usefulness as a public servant;
- b. engage in occupations or other activities, which might in any way conflict with the interests of the Commission or be inconsistent with your positions as a public servant;
- c. engage in outside activities involving the use of official experience, or experience acquired in the course of official duties, or payment from another Government Department, without first obtaining the consent of a senior manager in the Senior Staff Group. In cases of doubt managers should consult HR Services.

The criteria of the Business Appointment Rules in Annex 5 also apply if you wish to undertake outside employment whilst still employed by the Forestry Commission.

You must tell your local HR Officer if you have any private business interests which could possibly conflict with your position in the Commission. You must carry out any instructions which the Commission give you about the retention or disposal of those interests. This, of course, only applies where it could be suggested that your official position could be used to better those interests.

4061 You may not in general hold directorships in, or undertake work in, public or private companies, firms or other organisations. However directorships may be allowed where you have been nominated by the Commission or have the express permission of a Senior Staff Group level manager. (The holding of non-executive directorships in small, private 'family-type' companies may be permitted, if no conflict of interest is caused.) You should consult a senior line manager before undertaking any such commitment. Appointments to outside bodies (eg as a non-executive director) for official purposes carry financial risks to the Commission and should be cleared with Director HR who will provide written advice.

4062 You may not engage in consultancy work on behalf of any company:

- a. with which the Commission has a contractual relationship; or
- b. with which an officer's work unit has some other close official relationship.

In any case of doubt regarding contractual or any other relationships, you should consult both your own senior management who can, if needs be, consult HR Services. Any consultancy work not of the prohibited type and undertaken by you should be reported to a line manager of at least Pay Band 2 level.

4063 Anyone who takes up outside employment, including consultancy work, should note that:

- a. he/she will have no right to special leave for absences which may result; and
- b. the fact that he/she has undertaken outside employment may be taken into consideration in determining his/her allocation to particular duties.

Where staff have doubts about the propriety of any personal private activities they should seek advice and guidance from HR Services.

4064 If you come into official contact with matters concerning a business organisation in which you have an interest, then you must declare the interest to a senior officer (at Pay Band 2 level) and ask that another member of staff deals with the matter.

Standards of Propriety – Contracts to Civil Servants

4065 Unless you have fully declared any interest in the contract and senior management has given permission the Commission will not let contracts to:

- a. any employee of the Commission;
- b. to any partnership of which you are a member; or
- c. to any company where you are a director (except as a nominee of the Commission);
- d. contracts, orders etc will not be placed with a firm in which an officer has any form of personal interest or connection, not just as a director or partner.

You must declare relevant business interests in writing to a line manager in the Senior Staff Group.

Advice for staff involved in making or influencing decisions on the purchase or sale of goods or services can be obtained from Finance & Accounting Services, Silvan House and is contained in the [Procurement Manual](#) and [OGB Booklet 3 Contract Management](#).

If an individual officer who is involved in any way in a purchase order situation has any form of personal interest or connection with a firm on whom an order is to be placed, this fact must immediately be reported to their line manager. Having reviewed all the circumstances surrounding the purchase in question, the line manager will either approve the order personally or decide if the matter should be dealt with by another member of staff. If the line manager is in any doubt as to the proprieties surrounding the placing of a particular order, the advice of higher authority must be sought, before the order is placed.

4066 Unallocated

ANNEX 5: THE BUSINESS APPOINTMENT RULES FOR CIVIL SERVANTS

The following Rules cover the Civil Service.

The Rules apply to civil servants who intend to take up an outside appointment or employment after leaving the Civil Service. The approval process for applications under the Rules differs depending on the applicant's seniority. The Rules continue to apply for two years after the last day of paid Civil Service employment.

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 business or other bodies outside central Government, 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 there should be no cause for justified public concern, criticism or misinterpretation.

Aim

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

- 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
- on leaving the Civil Service, a former civil servant might improperly exploit privileged access to contacts in Government or sensitive information; or
- 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 serving civil servants and to former civil servants for two years after the last day of paid service**. This includes:

- Permanent civil servants;
- Civil servants on fixed term contracts;
- Civil servants on secondment to other organisations;
- Those on secondment to the Civil Service from other organisations¹; and
- Special advisers.

5. 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**, all serving/former civil servants must consider whether an application under the Rules is required. If it is required, they should not accept a new job offer before it has been approved.

To apply a standard [application form](#) needs to be completed.

When approval is required

6. The process for giving approval differs depending on the applicant's seniority. The operation of these Rules is overseen by the independent Advisory Committee on Business Appointments (<http://acoba.independent.gov.uk>) who consider the most senior cases.

SCS3 and above

7. An application is required for any new appointment or employment that they wish to take up during the two year period after their last day of paid service. Applications from SCS3 and above must be referred by the Forestry Commission to the Advisory Committee, who provide advice to the Prime Minister, who makes the final decision².

8. As a general principle, there will be a two year ban on civil servants at SCS3 and above lobbying³ Government on behalf of their new employer after they leave the Civil Service. The two-year lobbying ban may be reduced by the Advisory Committee if they consider this to be justified by the particular circumstances of an individual application.

SCS2

¹ Except when they are returning to their employing organisation, and remain there for two years, in which case safeguards will have been provided in the terms of secondment.

² 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.

³ Lobbying in this context 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.

9. An application is required for any new appointment or employment that they wish to take up during the two year period after their last day of paid service. Decisions on applications from SCS2 are made by the relevant Permanent Secretary. In all cases, the Permanent Secretary's written recommendation to the applicant setting out the decision on the case will be copied to the Advisory Committee's Secretariat at the same time.

SCS1 and below

10. Applications from SCS1 level and below wishing to take up a new appointment or employment during the two year period after their last day of paid service are considered by:

SCS1: Director General or Country Directors
Other staff: Heads of Division, Chief Executive of Forest Research, Country Directors

An application is only required 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.
- 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.

Recruitment Team, HR Services will provide advice on whether or not an application is required.

All Grades

11. Serving civil servants must report to their line manager any approach from an outside employer with an offer of an appointment or employment for which approval would be required under the Rules if they plan to follow up the offer. Staff engaged in the letting or management of Government contracts must report all offers of an appointment or employment immediately to their line manager whether or not they intend to follow them up.

Special Advisers

12. Under the terms of their contract, special advisers are required to submit an application to the Director General for any new appointment or employment they wish to take up during the two

year period after their last day of paid service. In view of the particular nature of the special adviser role, applications from all special advisers, regardless of seniority, are referred to the Advisory Committee. The Advisory Committee provides advice to the relevant Permanent Secretary, who makes the final decision based on that advice.

13. Special advisers should report to the Permanent Secretary all offers of an appointment or employment received while they are employed as a special adviser.

How to apply for approval

14. Applicants must contact Recruitment Team, HR Services as early as possible. HR has a process for handling business appointment applications. This involves the individual completing an application form which will need to be countersigned by an appropriate person, normally someone within the line management chain.

15. To ensure the quickest possible turn around, applications must be completed in as much detail as possible, with additional sheets or documents attached as necessary to answer the questions posed.

16. HR will provide notification of decisions on applications.

17. 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 lobbying¹ Government on behalf of their new employer. 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 the Forestry Commission, or involvement in particular areas of the new employer's business.

18. If any condition, including a waiting period, is imposed on the proposed appointment it will run from the last day of paid service. Consideration of the application may, where it is judged appropriate, take account of any differences between the last day of paid service and the last day in post. Approval will not normally be given to start a paid appointment or employment with a new employer before completion of the last day of paid service.

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 manager, or for applicants at SCS3 level or above and special advisers, with the Advisory Committee, before a final decision is made.

20. For those cases considered by the Advisory Committee (applications from SCS3 and above and special advisers), 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 First Minister for those in a Devolved Administration or Director General in the case of special advisers) to take the final decision on the application based on the advice received from the Advisory Committee.

21. In addition to notifying the applicant of the outcome of their application, the Forestry Commission will 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

¹ Lobbying in this context 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.

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 the Forestry Commission has discretion to publicise their advice in the same way. In all other respects, the business appointment process is a confidential one¹.

Where to find out more

22. Guidance and advice on the Rules is available from HR. 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 independent Advisory Committee on Business Appointments: (<http://acoba.independent.gov.uk>).

23. The Advisory Committee's Secretariat is available to provide advice and support to the Forestry Commission on the application of the Business Appointment Rules and the handling of individual cases at any level.

25. Guidelines to Departments on administering the Business Appointment Rules for Civil Servants are provided in Annex 6.

¹ The 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.

ANNEX 6: GUIDELINES FOR DEPARTMENTS ON ADMINISTERING THE BUSINESS APPOINTMENT RULES FOR CIVIL SERVANTS

The application

1. Forestry Commission uses a model application form supplied by the Secretariat to the independent Advisory Committee on Business Appointments – add link for application .

2. The countersigning officer should be someone in a position to understand the potential issues arising from the applicant's proposed outside appointment and judge the possible public perceptions should the appointment be taken up as proposed. This will normally be someone in the applicant's line management chain.

3. The relevant Permanent Secretary (or equivalent) is responsible for the effective operation of the Business Appointment Rules within the Forestry Commission. Countersigned applications should be sent to Recruitment Team, HR Services for action. This should include scrutiny of the form to ensure that all the requested information has been completed by both the applicant and the countersigning officer, and that there is consistency in decision making across the Forestry Commission.

4. Applications must be dealt with in the following manner:

- SCS3 and above: All applications must be referred to the Advisory Committee who will give their advice to the Prime Minister (or appropriate First Minister) who will make the final decision. The decision will be communicated to the Forestry Commission as soon as practicable by the Advisory Committee's Secretariat.

- SCS2: All applications should be dealt with by the relevant Permanent Secretary (or equivalent).

- SCS1 and below: All applications should be dealt with by:

SCS1:	Director General or Country Directors
Other staff:	Heads of Division, Chief Executive of Forest Research, Country Directors

- Special advisers: All applications must be referred to the Advisory Committee, who will provide advice to the relevant Permanent Secretary (or equivalent), who will make the final decision.

- The proposed decision on any application can be referred to the Advisory Committee's Secretariat for informal advice should the Forestry Commission wish to do so.

- An application at any level may be referred to the independent Advisory Committee if the Head of the Civil Service and/or the relevant Permanent Secretary (or equivalent) agree it is necessary to have independent advice.

5. Before sending any applications from SCS3 and above and applications from special advisers to the Advisory Committee's secretariat for submission to the Advisory Committee the Forestry Commission must make an initial assessment of the appointment, and take an initial view on what

recommendation would be appropriate. This recommendation should accompany the completed application and any supporting documentation and should be sent to the address below:

Office of the Advisory Committee on Business Appointments
3rd Floor
35 Great Smith Street
London
SW1P 3BQ
Tel: (020) 7276 2610
Fax: (020) 7276 2607
Website: <http://acoba.independent.gov.uk>
E-Mail: office@acoba.x.gsi.gov.uk

6. The Advisory Committee aims to provide its advice to the Prime Minister (or relevant Permanent Secretary in the case of applications from special advisers) within 20 working days of receipt of a fully completed application from Departments. Complex cases may take longer, but in such cases, the Committee's Secretariat will advise the Department concerned.

7. Once the application process has been completed, the Department is responsible for making the decision on cases below SCS3.

8. For cases at SCS2, the Permanent Secretary's written recommendation to the applicant setting out the decision on the case must be copied to the Advisory Committee's Secretariat at the same time.

9. Where a Department recommends a waiting period, or conditions, the applicant should be given the opportunity to discuss the application with an appropriate departmental officer and make any representations to them before the final decision is reached. Those applicants dealt with by the Advisory Committee will normally be asked if they wish to meet with the Committee before any advice is offered to the Prime Minister (or relevant Permanent Secretary if the applicant is a special adviser).

Compliance Assurance

10. Departments must manage the reputational and other risks associated with the movement of staff to other employers. Permanent Secretaries (and equivalents) are personally responsible to the Head of the Civil Service for the effective management of these risks, and the timely and appropriate handling of business appointment applications within their departments.

11. Permanent Secretaries (and equivalents) are required to send an annual confirmation of compliance to the Advisory Committee.

12. The Advisory Committee's Secretariat undertakes a programme of informal compliance checks of Departments' arrangements for handling business appointment applications.

13. Compliance checks will seek evidence of effective management of the Business Appointment Rules which should include the following:

- a. Promoting Awareness: Departments should ensure that all staff have access to the Business Appointment Rules and be aware of their existence. To be enforceable, the Rules must be included in staff handbooks or equivalent documentation (for example, on departmental intranets).

b. Ensuring Consistency: Departments should put measures in place to ensure that the Rules are consistently applied within the organisation, and that they are broadly consistent with the Advisory Committee's approach.

c. Ensuring Fairness: Departments should deal with applications in line with their turnaround targets, and be open and honest with applicants about the handling of their applications.

d. Managing Leavers: Those leaving the department, for whatever reason, should have the Rules brought to their attention at the earliest opportunity. Care should also be taken when agreeing the terms of any career breaks as this can, on occasion, lead to someone leaving the Department on a permanent basis (for example, it would be difficult to set conditions on the appointment if the Department had already allowed it to be taken up during a career break which had subsequently been curtailed).

e. Managing Employment Contracts: Draft/model contracts of employment – for example, for fixed term appointees or members of the SCS – should make explicit reference to the Rules.

f. Protecting Third Parties: Where applicants have, at any time during their last two years in the Civil Service, had contractual dealings with any competitors of their prospective employer, or access to information concerning them which could be regarded as commercially sensitive, Departments should seek the views of the competitors about the proposed appointment as a matter of course.

g. Managing High Risk Areas: Departments should identify interchange trends and obvious areas of risk and ensure these are understood by senior management and monitored appropriately – for example, by ensuring that all secondees into the Civil Service are free from any conflict of interest, and that they are free to return to their parent employer without there being cause for concern on propriety grounds; and by ensuring that all staff involved in procurement and their line management are aware of the requirement to report all job offers to their Departments; and by ensuring that relationships with suppliers and partner organisations remain on a proper footing.

h. Informing Parties of Decisions: In addition to advising the applicant of the final decision, the Department must also inform the prospective employer (and, if appropriate, their competitors) of any waiting periods or conditions imposed, as well as informing affected officials within Government – for example, an applicant's former colleagues will need to be aware if an appointment has been approved on the condition that the applicant does not personally engage in lobbying former colleagues on behalf of his or her new employer.

i. Managing Public Expectations: Whilst there is no requirement for Departments to publish their decisions on applications there may be occasions where a particular appointment attracts wider press or public attention. On these occasions, the Department will want to be able to explain their position quickly, and so should ideally structure their case management systems with this in mind – it is unlikely to instil public confidence in the system if Departments are unable to confirm the decisions they have or have not made.

14. In addition to making public their advice on applications referred to them, the Advisory Committee may also comment on their assessment of overall compliance with the Rules by Departments (and other bodies), in their Annual Report.

15. The Advisory Committee's Secretariat (contact details at paragraph 5 above) 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.

USE OF OFFICIAL TELEPHONES

Private Use of Fixed Telephones

4067 Occasional use of fixed, official telephones for private calls is a concession agreed with the Inland Revenue and does not give rise to a tax liability. You must restrict your use of fixed telephones to urgent matters and you must be as brief as possible. The Commission will make no charge for private local telephone calls. However you must normally pay for any long distance or international calls. If you wish to make one, therefore, you must ask the operator to arrange the call, giving your name, extension, building and room number. You will then be billed for the call and the cashier, or other officer, responsible in your area for dealing with private calls, will collect the money.

Mobile Telephones

4068 A mobile telephone is one that can be used without any connection to a landline. Mobile phones are provided by the Commission for the needs and efficiency of the business and should not be regarded as provided for personal convenience. Free reasonable private use of FC mobile phones is allowed (up to certain limits) within and outwith office hours. Reimbursement above these limits is required. Detailed guidance is provided in [Staff Notice 68 – Provision of Mobile Telephones/Communication Equipment For Business Use and Reimbursement for Private Use](#). The use of mobile phones (personal or FC) during working hours for private calls is treated in the same way as fixed telephones and should be restricted to urgent matters.

4069 Guidance on how improper use of a fixed or mobile telephone will be dealt with, including excessive private calls during working hours, is provided in the section on discipline later in this chapter.

GIFTS AND HOSPITALITY

4070 Staff are required to be, and seen to be, honest and impartial in the exercise of their duties. They must not allow their judgement or integrity to be compromised in fact or by reasonable implication. In particular, they must not receive gifts, hospitality or benefits of any kind which might be seen to compromise their personal judgement or integrity. It is therefore important to remember that it may not matter that there is no actual conflict of interest or impropriety; any conduct which might foster such a suspicion is wrong and may be treated as a breach of discipline.

The Principles of Propriety

4071 Staff are frequently faced with the problem of how to respond when an individual or an organisation offers a gift or some form of hospitality. Such practices are increasingly common in the business world where it has become normal business practice or social convention to offer hospitality and sometimes gifts to facilitate useful contacts and working relationships. All members of staff, regardless of Pay Band, must not accept such offers without considering very carefully propriety or possible conflict of interest. They must also consider the possible bearing of the criminal law on the actions of civil servants (see paragraph 4073 below).

4072 FC staff are therefore expected to observe exceptionally high standards of personal honesty and integrity. The guiding principles governing the acceptance of gifts and hospitality are:

- a. That the conduct of individual staff should not foster the suspicion of any conflict between their official duty and their private interests;
- b. That the actions of a member of staff acting in an official capacity should not give the impression to anyone inside or outside the Commission, or to any firm, organisation or contractor with which the Commission deals that they have been or may have been influenced by a gift, reward, hospitality, loan or other consideration to show favour or disfavour to any person, firm, organisation, contractor;
- c. That, if the member of staff or the Commission is in any doubt about the propriety of accepting a gift or offer of hospitality, then it must be refused.

- d. Where a relative or friend of a civil servant is offered gifts or hospitality because of their relationship or association with the officer, the same considerations apply.

In practice, these principles mean that neither you nor any member of your family should accept a gift or hospitality which would, or might appear to, place you under any obligation to the donor, compromise your impartiality or otherwise be improper. These principles are of course to be applied with common sense. They are not intended to outlaw, for example, the isolated gift of trivial character such as a diary or calendar, or the occasional working lunch during the course of an official visit.

The Legal Position: Corruption

4073 It is an offence under the Prevention of Corruption Act 1906 for any civil servant in his or her official capacity corruptly to accept any gift or consideration as an inducement or reward for:

- Doing, or refraining from doing, anything; or
- Showing favour or disfavour to any person.

Moreover, under the Prevention of Corruption Act 1916, any money, gift or consideration (which includes hospitality) received by an officer from a person or organisation holding or seeking to obtain a Government contract will be deemed by the courts to have been received corruptly unless, on the balance of probabilities, it is proved to the contrary by the defendant.

4074 It is impossible to set out rules which govern every conceivable circumstance in which a gift or hospitality might be offered. Much will depend on the nature of the relationship between the Commission and the organisation and the role of the individual in that relationship. The following rules and guidance are intended to enable individuals and their managers to act with propriety when deciding whether or not acceptance is appropriate.

Managers should ensure that the guidelines are followed by the staff for whom they are responsible. HR Services, Silvan House is available for advice if any individual or their manager believe that there are circumstances surrounding a particular gift or occasion which are not covered by the principles stated above or the following advice. Advice for staff involved in making or influencing decisions on the purchase or sale of goods or services can also be obtained from Finance & Accounting Services, Silvan House and is contained in the [Procurement Manual](#) and [OGB Booklet 3 Contract Management](#).

Gifts

4075 The general principle is that gifts should be refused, particularly when you have direct involvement in decisions affecting the giver. There are exceptions to this rule in the case of:

- gifts of isolated, trivial or inexpensive seasonal nature such as diaries, calendars;
- gifts from overseas governments or organisations (see paragraph 4078) or where to refuse the gift would be discourteous or damaging to business relations.

4076 Except in these categories, unsolicited gifts which are received should normally be returned with a suitable letter of refusal, which explains Commission/Civil Service policy. You must be particularly circumspect if the gift is from a commercial organisation (including a trade association) and even more so if it is from one with whom you have just been, or will soon be, involved in business with financial or contractual implications. In the majority of such cases the usual correct course would be to decline the gift.

Only where refusal will clearly cause misunderstanding or offence to the donor (especially if it is an overseas government or government agency) should the gift be retained. In these circumstances it would be appropriate, for example, to let the donor know that you have accepted the gift on behalf of the Commission and that it has, for example, been put on display in your office. Thus it would be clear to the donor, and anyone else, that you were gaining no personal advantage from the gift. If you are in any doubt whatsoever, you should discuss it with your senior line manager, such as Head of Division or Chief Executive, whose decision on the matter and the reasons for it should be recorded in writing.

4077 If you and your line manager decide that the right course is to accept a gift, you must consider what should be done with it, with propriety in mind. Unless it is to be displayed in the office, it should be surrendered for disposal or purchased by the recipient. Any gift accepted with a retail value of at least £25 should normally be surrendered to the Commission. However, if you wish to keep the gift you should pay the Commission the assessed value of the gift less £25. If the value is less than £25 you may, with the agreement of your senior line manager, keep the gift or, if at all possible, share the gift amongst your immediate work colleagues. The same rules apply to gifts received from foreign governments, government organisations or international organisations, except that the level at which a gift may be retained, with line management agreement, is £75 retail value.

4078 If you are given a gift while abroad, you need to consider whether or not it should be declared to HM Customs and Excise. Purely private gifts come under the normal rules for travellers. That is they need not be declared unless their value (together with any other gifts you have acquired abroad) exceed the normal allowances (currently £420 from EC and £32 from other countries). However there are special arrangements for international goodwill gifts received by ministers or officials in their representative capacity. Any queries on this aspect should be addressed to HR Services.

4079 If you receive a gift imported from abroad you must consult HM Customs and Excise (International Customs Division C telephone 0171 620 1313) about liability to duty and VAT. You should consult HR Services if, having been relieved of duty and tax at the time of importation, the gift is disposed of within 2 years.

Hospitality

4080 Hospitality, increasingly on a quite lavish scale, is common in the private sector. FC staff who come into contact with organisations who offer such hospitality must behave differently and with more care. The first consideration when considering offers of hospitality from individuals, firms or organisations with whom you have official contact should always be that the normal place for conducting official business is your office or the place of business of the other party. Only when it is considered necessary in the legitimate interests of the conduct of the Commission's business, or to further its aims, should offers of hospitality be accepted. Such offers must be discussed with your line manager before they are accepted and recording action taken in accordance with paragraph 4085 below.

4081 There is clearly a difference between the offer of conventional hospitality such as tea, coffee, sandwiches or a modest working lunch (where the usual practice of returning the hospitality applies) and more lavish and expensive social hospitality, travel or accommodation. The general rule is that the former may be accepted in moderation, the latter must normally be refused. Even modest working lunches at someone else's expense must not become a regular feature.

4082 Before deciding whether to accept an offer of hospitality you must be satisfied that it is conventional hospitality and is reasonable in the circumstances. In particular you should:

- ensure that it is unconnected with any decision affecting the organisation or the individual offering it;
- consider whether it is likely to help business effectiveness or promote the interests of the Commission. There should be a clear and sufficient reason, of benefit to the Commission, for the contact in connection with which the hospitality is being offered. Consider whether personal participation is necessary;
- ensure that it is not part of a regular pattern of invitations. Acceptance of frequent, regular, annual or seasonal invitations, particularly from the same source, would breach the required standards of conduct. There would, however, be no objection to the acceptance of, for example, an invitation to the annual dinner of a large trade association or similar body with whom the Commission has day to day or regular contact;
- consider whether or not it places an obligation on you as the recipient. Contacts which are promotional, representational or information gathering are less likely to create obligation or embarrassment than those which are regulatory or which involve or could lead to a contractual relationship between the Commission and the contact;

- ❑ ensure that it is not too lavish or prolonged. As a rule of thumb, a working lunch or an invitation to an annual dinner of, for example, a trade association is unlikely to seem so. Invitations to expensive events, particularly where the opportunities for discussing business are likely to be limited, should normally be politely declined. If you consider that your attendance is justified in terms of the work of the Commission, you must seek the prior agreement of a senior line manager, whose decision and the reasons for it should be recorded in writing.
- ❑ ensure that it can be justified to Parliament and to the media;
- ❑ consider whether it provides clear benefits outweighing the risks.

4083 Occasional invitations to social/cultural/public sporting events may be acceptable but only if attendance is considered to be in the clear interests of the FC or to further public business. However, you should bear in mind that the business use of such events is usually very limited. Occasionally, staff may receive formal invitations to receptions, luncheons etc which also may be accepted if attendance is considered to be in the interests of the FC. Prior permission in writing from a senior line manager must be obtained if you propose to attend an event in any of these categories.

4084 It should be noted that the offer of free tickets to, for example, a sporting, social or cultural event, with or without hospitality, is essentially the offer of a gift and should be refused.

Recording of Offers of Gifts and Hospitality

4085 The primary responsibility for deciding whether to accept an offer of hospitality, or an unsolicited gift, lies with the individual officer, in consultation with a line manager. All offers of gifts and hospitality (except minor gifts detailed in paragraph 4075 above), whether accepted or not, must also be recorded in writing by the officer concerned. In a few situations, it may be sufficient to fulfil this requirement by recording the source of the offer, the date/venue and whether it was accepted/declined in the form of a minute to the line manager. However, specific procedures apply to staff who make or influence decisions on the purchase or sale of goods or services and further advice is given in paragraph 4087 and is available from the Procurement Team, Finance and Accounting Services.

4086 Reporting or recording the offer/acceptance of isolated gifts of trivial character such as pens, or minor seasonal gifts such as diaries or calendars, is not required. But all other offers of gifts must be recorded, whether accepted or not (see also paragraph 4084 on the offer of free tickets to events).

Staff Involved in the Purchase or Sale of Goods/ Services/Market Testing

4087 Staff are more likely to be faced with offers of gifts and/or hospitality when they are involved in one or other of the Commission's trading activities. This will include any staff involved in any way in making or influencing decisions on the purchase or sale of goods or services. Such involvement includes planning, funding, market testing prior to the actual procurement or sales exercise and will also include staff who have any contact with contractors/suppliers, as well as those involved in selecting or assessing tenders, negotiating contracts, project management and quality assurance.

There is a mandatory requirement that all offers of gifts or hospitality made in any such sale/purchase context must be formally recorded. Guidance on this is available from the Procurement Team, Finance and Accounting Services. Since nearly all cost centres are involved to some extent in the activities described above, all managers must make themselves aware of FC procurement guidance. The general requirement to consult a line manager before the acceptance of any gift/hospitality also applies.

4088 It cannot be too strongly emphasised that this guidance is framed to protect the individual as well as the Forestry Commission. In the last resort, staff are responsible for their own conduct. If anyone has any doubts about the propriety of accepting a gift or an invitation not covered by the guidance they should seek advice from a senior line manager or HR Services, Silvan House.

Presentation of Gifts by Civil Servants

4089 Staff are not generally expected to carry gifts when undertaking visits, etc in pursuance of their official duties, although they may of course provide personal gifts at their own expense if they so wish.

Public funds are available for the purchase of official gifts but this provision is, strictly speaking, reserved for Ministers; it may, however, be extended to officials when they are undertaking visits, etc that would normally be made by Ministers, or otherwise deputising for Ministers.

Awards and Prizes

4090 Staff who have distinguished themselves in a particular field of activity connected with their official duties are sometimes offered awards by external organisations. Officers who are approached by an outside organisation about the offer of an award or prize in any way connected with official duty should consult HR Services. Retention of the award or prize will normally be allowed, having due regard to considerations of propriety and risk of public criticism, provided the award or prize is:

- a. Offered in recognition of special personal merit or achievement;
- b. Not in the nature of, or such that it could be construed as, a gift, an inducement or payment for a publication or invention to which other rules in this section apply.

The guidance in this paragraph is not intended to cover the offer of a decoration or medal by a foreign Government; acceptance of such offers is generally not permitted. However, such offers must be reported to Director HR since the Foreign and Commonwealth Office must be consulted.

Inventions

4091 The ownership of inventions made by Crown servants before 1 June 1978 vests in the Crown. The Commission retains control of all such inventions falling within the Government field of interest, with any awards to officers in respect of commercial exploitation being on an ex-gratia basis. In the case of inventions outside the Government field of interest and outside officers' duties they have usually been allowed ex-gratia freedom of commercial exploitation;

Ownership of inventions made by Crown servants on or after 1 June 1978 depends, in accordance with Section 39 of the Patents Act 1977, on whether they were made in the course of duties.

4092 Unallocated

POLITICAL ACTIVITIES

Statement of Intent

4093 Civil servants owe their allegiance to the Crown. In its executive capacity, the authority of the Crown is exercised through the Government of the day. Civil servants must, therefore, discharge loyally the duties which are given to them by the Government of the day of whatever political persuasion.

4094 For the Civil Service to serve successive Governments of different political persuasions, Ministers and the public must have confidence that civil servants' personal views do not cut across the discharge of their official duties. The intent of the following rules governing political activities by civil servants is to allow them the greatest possible freedom to take part in public affairs without infringing these fundamental principles. The rules are concerned with political activities which are liable to give public expression to political views, rather than with privately held beliefs and opinions.

Code of Political Discretion

4095 Staff who are proposing to engage in political activities should familiarise themselves with the following regulations and note what restrictions, if any, apply to them. If the regulations require it, or they are in any doubt, they must seek the guidance of HR Services, Silvan House. If they are refused permission and wish to appeal, they must follow the rules laid down at paragraph 4102. Staff in the intermediate and politically restricted groups who have not been given permission to engage in political activities, are expected at all times to maintain a reserve in political matters and not to put themselves forward prominently on one side or another. Even when permission is given, a civil servant's political views must not constitute

so strong and so comprehensive a commitment to the tenets of one political party as to inhibit, or appear to inhibit, loyal and effective service to Ministers of another party. Permission which is given to staff in the intermediate and politically restricted groups to take part in political activities is subject accordingly to the following code of discretion:

- a. Staff must bear in mind that they are servants of the Crown, working under the direction of Ministers forming the Government of the day. While they are not debarred from advocating or criticising the policy of any political party, they must:
 - i. express comment with moderation, particularly in relation to matters for which their own Ministers are responsible;
 - ii. not comment at all if the issue concerned is controversial; and
 - iii. avoid personal attacks.
- b. Staff must take every care to avoid any embarrassment to Ministers or to the Commission which could result, inadvertently or not, from actions which could come prominently to public notice in party political controversy;
- c. Civil servants who are not in the politically free group and have permission to participate only in local political activities must take care not to get involved in matters of political controversy which are of national rather than local significance.
- d. In your official capacity you must not attend any outside conferences or functions run by party political organisations.

4096 All civil servants are barred from any form of political activity when on duty, or on official premises. Staff who are transferred to posts for which permission cannot be given must give up their political activities. Individuals who are given permission to undertake political activities are still liable in the usual way to posting to different official duties as the needs of the public service require.

Political Activities – Classification of Staff

4097 The extent to which staff can take part in political activities depends on which of the following group they are in:

- a. **Politically Free** – staff in this group, listed at Annex 1 are completely free to engage in all the activities set out in the following paragraphs;
- b. **Intermediate** – staff in this group, listed at Annex 1 must seek permission to engage in national or local political activities, unless they have a specific mandate from the Commission which gives them permission. Those staff who have standing permission must notify their Head of Division, Chief Executive or Country Director prior to taking up political activities and must comply with any conditions laid down.
- c. **Politically Restricted** – staff in this group, which comprises all staff not in either of the other two groups, are debarred from engaging in national political activities but may apply for permission to engage in local political activities. Staff must notify their Chief Executive, Country Director or Head of Division if they are elected to a local or county authority.

National Political Activities

4098 National political activities are defined as follows:

- Public announcement as a candidate or prospective candidate for Parliament (including Welsh Assembly and Scottish Parliament) or the European Parliament;
- Holding an office in party political organisations, which impinges wholly or mainly on party politics in the field of Parliament or the European Parliament;

- ❑ Speaking in public on matters of national political controversy;
- ❑ Expressing views on such matters in letters to the press, or in books, articles or leaflets; or
- ❑ Canvassing on behalf of a candidate for Parliament or the European Parliament, or on behalf of a political party.

Local Political Activities

4099 Local political activities which are subject to restriction are:

- ❑ Candidature for, or co-option to, local authorities;
- ❑ Holding an office in party political organisations, which impinges 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; or
- ❑ Canvassing on behalf of candidates for election to local authorities or a local political organisation.

Permission to undertake national activities will usually cover local activities as well. However, in some circumstances, the Commission may give permission for individuals to engage only in local political activities outside the area served by the office in which they work.

Parish and Community Council Activities

4100 Civil servants may take part in parish council or, in Scotland and Wales, community council affairs, provided that these activities do not interfere with their official duties.

Sensitive Areas

4101 There are sensitive areas in which the political impartiality of the Civil Service is most at risk. Permission to take part in political activities will not normally be granted to staff in the politically restricted or intermediate categories working in these areas. Such areas are those where the staff:

- a. are closely engaged in policy assistance to Ministers (or to other Departments). This includes staff tendering advice or executing immediate Ministerial directives;
- b. work in sensitive areas such as the private offices of Ministers or senior officials;
- c. work in areas which are acutely politically sensitive or subject to national security;
- d. regularly speak for the Government or the Commission in dealings with commercial undertakings, pressure groups, local Government, public authorities or any other bodies, and who may appear to these organisations to have influence in the application of Government policy affecting them;
- e. represent HM Government in dealings with overseas Governments; amount of face-to-face contact with the public;
- f. staff whose official duties involve a significant amount of face-to-face contact with individual members of the public and who make, or may seem to the public to be involved in making, decisions affecting them, and whose political activities are likely to be (or become) known to those members of the public (eg those whose work involves them or may seem to the public to involve them in both intimate knowledge and direct contact with members of the public in regard to their personal affairs, and decisions affecting their personal lives).

It is the general intention that standing permission should be applied to posts outside these sensitive areas. Where members of staff, working within these areas, wish to become politically active and permission cannot be granted, because of the nature of their posts, full consideration will be given to the possibility of finding suitable alternative posts. This is, of course, always subject to the constraints of the particular circumstances at the time.

Appeals Against Refusal to undertake Political Activities

4102 Staff who are refused permission to undertake political activities will be given a full explanation of the reasons. They may appeal to the Civil Service Appeal Board against this decision. The Secretary to the Board must receive the notification of intention to appeal within 8 weeks from the date the individual is told the final decision of the Commission following any appeal under the grievance procedures.

Withdrawal of Permission

4103 Whilst giving permission to participate in political activities to groups of staff or individuals, the Commission may withdraw that permission at any time if there is a change in relevant circumstances.

4104 Unallocated

Candidature for Parliament and the European Assembly

The UK Parliament

4105 All staff are disqualified from election to Parliament. (House of Commons Disqualification Act 1975.) A member of the politically free group is not obliged to resign on adoption as a prospective candidate. But to prevent their election being held to be void, they must submit their resignation before they give their consent to nomination in accordance with the Parliamentary Election Rules.

4106 The Servants of the Crown (Parliamentary, European Assembly and Northern Ireland Assembly Candidature) Order 1987 applies to civil servants in the politically restricted and intermediate groups, including those on secondment to outside bodies, whether or not they are paid by the host organisation. To comply with this Order, staff:

- a. must not issue an address to electors or in any other manner publicly announce themselves or allow themselves to be publicly announced, as candidates or as prospective candidates for election to Parliament; and
- b. must resign from the Commission on their formal adoption as a parliamentary candidate or prospective candidate in accordance with the procedures of the political party concerned.

4107 Staff must not postpone their last day of service beyond the date when their adoption procedures are completed. They are subject to the rules on political activities until their resignation takes effect. Staff in the intermediate or politically restricted groups, who resign their posts on being adopted as a parliamentary candidate can apply for reinstatement in the Civil Service. The Commission will consider their application for reinstatement, where postings to non-sensitive areas of work are possible.

Staff in the politically free group, who are elected to Parliament, are entitled to reinstatement in the Civil Service if they:

- a. cease to be a Member after an absence of not more than 5 years; and
- b. have had at least 10 years' actual service before their election; and
- c. apply for reinstatement within 3 months of ceasing to be a member.

Those who are not elected to Parliament will be reinstated in their previous capacity, provided that they apply within a week of declaration day.

If conditions a and b are not met reinstatement is at the discretion of the Commission.

The European Assembly

Reinstatement Terms

4108 Any break will not count for pay or pension purposes. No salary will be payable during the break. Reinstatement is effective on the day the individual begins work.

4109 Staff are disqualified from election to the European Parliament. The procedures are similar to those for Parliamentary candidature:

- a. Staff in the intermediate or politically restricted groups must resign on formal adoption as a candidate or prospective candidate. Staff in these two groups can, however, apply for reinstatement in the Civil Service. The Commission will consider applications for reinstatement from them to a post which is politically **non-sensitive**; and
- b. those in the politically free group must resign before consenting to nomination as a candidate. They will be entitled to reinstatement on the same conditions as those set out in paragraph 4107 for Parliamentary candidates.

TRADE UNION ACTIVITIES

4110 Staff do not need permission to take part in activities organised by or on behalf of their trade unions, but their conduct should still be consistent with the principles set out above. Elected TU officials may comment on Government policy when representing the legitimate interests of their members, but in doing so they must make it clear that they are expressing views as representatives of the union and not as civil servants. Union representatives are, of course, bound by the general principles of conduct set out in paragraph 4001, and these paragraphs should be read in conjunction with that paragraph and paragraph 4008.

4111-4119 Unallocated

POLITICAL ACTIVITIES - CLASSIFICATION OF PAY BANDS

POLITICALLY FREE GROUP

Staff in Pay Band 7.

INTERMEDIATE GROUP

Most jobs in Pay Bands 6 - 3

RESTRICTED GROUP

All other staff

BUSINESS APPOINTMENTS FOLLOWING RESIGNATION/RETIREMENT FROM CIVIL SERVICE

Introduction

4120 It is in the public interest that people with experience of public administration should be able to move into business or other bodies and that such movement should not be frustrated by unjustified public concern over a particular appointment. It is equally important, whenever a Crown servant accepts a particular outside appointment, that there should be no cause for any suspicion of impropriety. The aim of these rules is to maintain public trust in the Crown and Civil Service and in the people who work in them, and in particular:

- a. to avoid any suspicion that the advice and decisions of a member of staff might be influenced by the hope or expectation of future employment with a particular firm or organisation; or
- b. to avoid the risk that a particular firm or organisation might gain an unfair advantage over its competitors by employing someone who had in their official career access to technical or other information which those competitors could legitimately regard as their own trade secrets or to information relating to proposed developments in Government policy which may affect that firm or its competitors.

The Scope of The Rules

4121 Those to whom the rules apply are required to obtain approval before accepting any offer of employment in business or other bodies outside the Civil Service which would commence within two years of leaving crown employment, whether full or part-time, or before establishing a consultancy. The rules apply to appointments:

- a. in the United Kingdom; or
- b. overseas in a public or private company, or in the service of a foreign government or its agencies.

Approval is not, however, required in respect of unpaid appointments with non- commercial organisations. Nor do the rules apply to those appointments which are within the gift of Ministers.

Those to Whom The Rules Apply

4122 Within two years of leaving Crown employment, and in the circumstances set out in the following paragraph, staff must obtain Government approval before taking any form of full, part-time or fee-paid employment:

- a. in the United Kingdom; or
- b. overseas in a public or private company or in the service of a foreign government or its agencies.

4123 Applications for approval must be made by staff:

- a. if they are in the Senior Staff Group in a post attracting a minimum JESP score of 13; or if they are specialists or Special Advisers of equivalent standing; or
- b. if they have had any official dealings with their prospective employer during the last two years of Crown employment; or
- c. if they have had official dealings of a continued or repeated nature with their prospective employer at any time during their period of Crown employment; or
- d. if they have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties; or
- e. if their official duties during the last two years of Crown employment have involved advice or decisions benefiting their prospective employer, for which the offer of employment could be interpreted

as reward, or have involved developing policy, knowledge of which might be of benefit to the prospective employer; or

f. if they are to be employed on a consultancy basis (either for a firm of consultants or as an independent or self-employed consultant) and they have had any dealings of a commercial nature with outside bodies or organisations in their last two years of Crown employment.

Staff on secondment from the Forestry Commission to other organisations are subject to the rules in the same way as other staff.

Approval is required for:

- a. the initial appointment; and
- b. any further appointment within 2 years of leaving Crown employment.

4124 The rules do not apply to:

- a. unpaid appointments in non-commercial organisations;
- b. appointments in the gift of Ministers; or
- c. in the case of part-time staff, appointments held with the Commission's agreement whilst they are a civil servant.

4125 Staff on secondment to the Civil Service from other organisations are also subject to the rules in the same way as civil servants unless they return to their seconding organisation at the end of their secondment and remain there for two years. Special Advisers are subject to the rules in the same way as other civil servants unless they are offered a post by the same employer which they left on being appointed as advisers and remain there for two years. The rules do not apply to Special Advisers appointed before 1 April 1996 on terms exempting them from the rules, unless they have volunteered to be subject to them.

Applications

4126 You must apply for permission to accept an outside appointment which falls within these rules following retirement or resignation to Director HR. You will be required to complete a full application, giving details of the proposed employment and details of any official dealings with a prospective employer or with any other organisation including any competitors of the prospective employer.

You must first obtain the Commission's permission before accepting the outside appointment. Normally it takes about 2 weeks to process an application. It is, therefore, important that you should submit your application well in advance to meet your intended deadline.

Criteria for Dealing with Applications

4127 The Guidance for Departments and Agencies on the Rules on the Acceptance of Outside Appointments is reproduced in Annex 1 following paragraph 4149. This will be used in reaching a decision on any application.

4128 It may be appropriate to apply the rules to some appointments where the prospective employer is not in a relationship with the Commission, but where there is a perceived need to allay public concern over an appointment.

Reporting Offers of Employment whilst Employed by the Commission

4129 You must report in writing any approaches from an outside employer offering employment for which approval would be required under the rules, or one which seems likely to lead to such an offer.

You should report as follows:

Senior Staff Group: to the Director General or Country Directors
Other Staff: to Heads of Divisions, Chief Executive Forest Research, Country Directors
Director General/Country Directors: to the relevant Minister

If you are in a section concerned with procurement or contract work you should report any such approach, particularly where it emanates from an outside employer with whom you or your staff have had official dealings, whether or not you are considering taking it up.

The Advisory Committee on Business Appointments

4130 The Advisory Committee is appointed by the Prime Minister and comprises people with experience of the relationship between the Civil Service and the public or private sector(s). The Committee considers cases at the most senior level and reports direct to the Prime Minister.

4131 Assent to an application will take the form of approval by the Prime Minister in cases referred to the Advisory Committee or by the Minister in all other cases. Decisions in applications other than those referred to the Prime Minister, through the Advisory Committee, rest with the Minister in charge of the Department, after taking advice from the Cabinet Office.

4132 Appointments approved by the Prime Minister on the advice of the Advisory Committee on Business Appointments which are subsequently taken up may be the subject of a public announcement. Staff at those levels are required to confirm to the Commission their intentions to take up any appointment for which an application has been considered by the Committee. The new employer may include a reference to the Prime Minister's approval in their own announcement of the appointment, and applicants should discuss with the Commission and the new employer the terms of the statement; in other cases, the Government reserves the right to publish the terms of the Prime Minister's decision. A consolidated record of all appointments taken up will be included in the Advisory Committee's annual report.

Application Procedure and Terms of Approval

4133 You will be asked to supply:

- full details of the proposed employment;
- details of any official dealings with a prospective employer or with any other organisation, including any competitors of the prospective employer; and

Your Confirming Officer will be asked to verify, as far as possible, the information supplied.

4134 Applications under these rules will be approved either:

- a. unconditionally; or
- b. subject to conditions which may apply for up to two years from the final day in Crown employment, or where different, the final day in post, as appropriate. Conditions may include:
 - a waiting period before taking up the appointment;
 - an absolute or qualified ban on the involvement of the applicant in dealings between the prospective employer and the Government.
 - a ban on the involvement by the applicant in dealings between the prospective employer and named competitor (or competitors) of that employer;
 - in the case of consultancies, a requirement to seek official approval before accepting commissions of a particular nature, or from named employers.

Chairman and Director General

4135 Applications are normally approved by the Prime Minister on the advice of the Advisory Committee. Cases will be referred to The Cabinet Office. In view of their access to policy issues at the highest levels, applications from the Chairman and Director General which are referred to the Advisory Committee are subject to an automatic minimum waiting period of three months between leaving Crown employment and taking up an outside appointment, unless they have been appointed from outside the Civil Service on a limited period contract. The Advisory Committee has the discretion to recommend waiving the minimum waiting period if, in the Committee's view, the appointment is one which is entirely unconnected with the applicant's official knowledge and no questions of propriety arise. Although applicants serving on limited period contracts will not be required to serve the automatic waiting period, approval of applications may be subject to waiting periods or other conditions in the same way as any other application.

Executive Commissioners

4136 All cases involving Executive Commissioners will be referred to the Cabinet Office who will consult the Head of the Civil Service.

Other Staff Including the Senior Staff Group

4137 All applications from staff in the Senior Staff Group in a post attracting a minimum JESP score of 13 will be referred to the Cabinet Office, which will consult the Head of the Civil Service.

4138 Other members of the Senior Staff Group

The Commission will consult the Cabinet Office unless:

- the applicant has had no official dealings with the prospective employer at any time during his/her period of Crown Service and there appears to be no risk of criticism; or
- the employment is with a non-commercial organisation.

4139 Staff outside the Senior Staff Group

The Commission does not need to consult the Cabinet Office where:

- the applicant has had no official dealings with the prospective employer in the previous two years, or at most dealings of a casual nature; and
- there appears to be no risk of the disclosure of commercially sensitive information; or
- the appointment is with a non-commercial organisation.

4140 The Head of the Civil Service will have the discretion to recommend to the Prime Minister that any application should be referred to the Advisory Committee where he/she considers the circumstances make it desirable that this be done.

Terms of Approval

4141 Applications under these rules will be approved either:

- a. unconditionally; or
- b. subject to conditions which may apply for up to two years from the final day in Crown employment, or where different, the final day in post, as appropriate. Conditions may include:
 - a waiting period before taking up the appointment;

an absolute or qualified ban on the involvement of the applicant in dealings between the prospective employer and the Government;

- a ban on the involvement by the applicant in dealings between the prospective employer and a named competitor (or competitors) of that employer;
- in the case of consultancies, a requirement to seek official approval before accepting commissions of a particular nature, or from named employers.

Prospective employers will be notified of any conditions which are attached to the approval of an application.

4142 In circumstances where the Commission is considering the imposition of a waiting period or other conditions on the acceptance of an appointment, the applicant will be given the opportunity, before the decision is taken, of having an interview with Director HR.

4143-4149 Unallocated.

CABINET OFFICE GUIDANCE FOR DEPARTMENTS AND AGENCIES ON THE RULES ON THE ACCEPTANCE OF OUTSIDE APPOINTMENTS BY CROWN SERVANTS

1. The rules are designed primarily to counter any suspicion that an appointment might be a 'reward for past favours' granted by the applicant to the employer, or that a particular employer might gain an unfair advantage over its competitors by employing someone who had access to what they might legitimately regard as their own 'trade secrets'.
2. An appointment might also be sensitive because of the employer's relationship with the department and because of the nature of any information which the applicant possesses about Government policy.
3. While appointments must not only be, but also be seen to be, free from reproach and departments must therefore take account of public perception, departments should be prepared to defend an appointment which they were otherwise willing to approve when public concern can be shown to be unjustifiable.

The employer and the applicant

4. In most cases problems will occur only if the applicant has had some degree of contact with the prospective employer, giving rise to criticism that the post is a 'reward for past favours'. Departments are required to take the following into account:
 - a. how much of the contact was in the course of official duties;
 - b. how significant was the contact;
 - c. the nature of the proposed employment;
 - d. the connection between the new job and the applicant's previous official duties.
5. In order to establish whether the applicant was able to exert any degree of influence over the outcome of contractual or other dealings with the prospective employers, departments are advised to establish:
 - a. whether the individual was acting as a member of a team, jointly with other individuals in the department or in Government more widely, or taking sole responsibility;
 - b. whether the employer benefited substantially from such dealings;
 - c. whether contact was direct;
 - d. whether it was indirect (ie through those for whom the applicant was responsible, whether or not they normally worked for him or her).
6. Departments are advised to take into account contacts in the course of official duty which have taken place.
 - a. at any time in the two years before resignation or retirement;
 - b. earlier, where the association was of a continued or repeated nature.
7. Departments are advised to consider in particular whether the applicant has been:
 - a. dealing with the receipt of tenders from the employer;
 - b. dealing with the award of contracts to the employer;
 - c. dealing with the administration or monitoring of contracts with the employer;

d. giving professional or technical advice about such contracts whether before or after they were awarded;

e. involved in dealings of an official but non-contractual nature with the employer (this is particularly important in the circumstances set out in paragraph 9).

8. Departments should consider the circumstances of an applicant's departure as a component of considering each application on its merits. Staff reduction policies will not justify reducing standards of propriety, or any weakening of the element of protection which the rules offer to third parties in respect of trade secrets. If a civil servant is asked to retire, or is offered early retirement, at relatively short notice, or is unexpectedly made redundant, any presumption that he or she had been paving the way to subsequent employment by offering favours to potential employers may largely be removed. Conversely a protracted period of uncertainty might heighten concerns that individuals were anticipating redundancy by cultivating potential employers improperly.

On balance, where departments and agencies intend to reduce numbers during a relatively short period of a year or so, unexpected departures should normally be considered as a factor mitigating any concerns on grounds of rewards.

The employer and the Government

9. The relationship of the prospective employer to the Government may be a relevant factor in considering applications. Departments are advised to pay special attention to appointments where the employer:

- a. has a contractual relationship with the department;
- b. is regulated by the department;
- c. receives subsidies, loans, guarantees or other forms of financial assistance from the department;
- d. is one in which the Government is a shareholder; or
- e. is one with which departments or branches of Government or the Armed Services are, as a matter of course, in a special relationship.

Overseas Employers

10. The same considerations apply to foreign publicly-owned institutions or companies as to their UK counterparts. If the prospective employer is a foreign government, departments are advised to consider whether the applicant has information that would benefit that government to the detriment of HM Government or its allies. This can arise where the person:

- a. has been giving advice to HM Government on policies affecting the foreign Government; or
- b. would have been in a position to gain special knowledge of HM Government's policies and intentions concerning the foreign government.

Government policy or business

11. Many Crown servants deal with private interests on behalf of the Government. They have special knowledge of how the Government would be likely to react in particular circumstances. Departments are advised to consider whether the application could be, or could be thought to be, significantly helpful to the employer in dealing with matters where policy is developing or legislation is being prepared in a way which might disadvantage competitors of that employer. This applies in particular to specific areas where:

- a. there has been a negotiating relationship between the department and the employer;
- b. the applicant has been involved in policy discussions within the department leading to a decision of considerable benefit to the employer;

- c. the applicant has been involved in policy discussion within the department, knowledge of which might give the employer an improper advantage over its competitors; or
- d. where there is a risk of public criticism that the applicant might have scope to exploit contracts in his or her former department for commercial purposes.

In such cases, departments are asked to consider the implications of the applicant's joining the employer, and be guided accordingly.

The employer and competitor's trade secrets

12. Appointments might be criticised on the grounds that the applicant had access to information about his or her prospective employer's competitors which they could legitimately regard as 'trade secrets'. Concern on this score can arise whether or not the applicant has had previous dealings with the prospective employer. Departments are strongly advised to consult competitors as a matter of course preferably using a standard letter based on the Cabinet Office (OPS) model letter, to see whether they have any objections to the appointment.

Consultancies

13. Individuals who are to be employed on a consultancy basis (either for a firm of consultants or as an independent, self-employed consultant, competing for commissions in the open market – a 'brass plate' consultancy) should be treated in the same way as other applicants under the Rules. Extra care is needed, however, in dealing with such applications.

14. In the case of an applicant wishing to take up a salaried appointment with a firm of consultants, the 'rewards for past favours' issue will relate almost exclusively to the nature of any previous dealings between the applicant and the firm he or she is seeking to join. Departments will, however, need to consider the 'trade secrets' question both from the point of view of any competitors of the consultancy firm and then, more generally from the point of view of the service which the applicant will be offering on behalf of the consultant. It may be necessary to impose conditions on the appointment to protect the 'trade secrets' of firms with which the applicant or the department had dealings.

15. Where an applicant wishes to set up a 'brass plate' consultancy, the question of 'rewards for past favours' does not arise in the usual way. But departments will wish to keep in mind the need:

- a. to counter any suspicion of impropriety that might arise if such individuals were to be given lucrative contracts by clients with which they or their former departments and dealings; and
- b. to protect 'trade secrets' to which such individuals may have had access. There may be circumstances in which it would be undesirable for an independent consultant to offer services to a particular client where he or she has had access to the trade secrets of a competitor of the client. The fact that the competitor might also be free to use the same consultant, but did not choose to do so would not make the information any less sensitive negate the potential advantage which could be gained by the client.

In approving applications to set up 'brass plate' consultancies departments will, therefore, need to consider carefully the imposition of conditions in cases where such considerations apply..

16. Departments will also need to consider whether to apply conditions limiting contracts between applicants proposing to work as consultants and their former departments. This may be particularly relevant in the case of staff at senior levels, where there is a risk of public criticism that they could be exploiting contracts in their former departments for commercial purposes.