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without attachments (Mr King
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(Mr Hart
(Mr Russell

with (Mr Buckley
Memorandum (Mr Green
only (Mr Pattison

with (Mr Lawrance
two (Mr Davie + pps
attachments SAs File

Sir Douglas Wass KCB
HM Treasury
Parliament Street
London SW1

14 May 1979

Dear Douglas,

SPECIAL ADVISERS

... With the Prime Minister's approval I now attach a Memorandum on the employment of Special Advisers which incorporates the basic guidance provided to Ministers in Ken Stowe's "Dear Private Secretary" letter of 7 May. I would draw your attention particularly to the guidance on pay in paragraph 9.

... I also attach a draft model letter of appointment for use in connection with Special Advisers in Category i. ie those who are appointed to assist Ministers with that part of their work which is partly governmental and partly political. For those in Category ii. ie who are appointed because they are recognised as distinguished experts in their particular professional field, a personally tailored letter of appointment will probably be necessary in each case. Accordingly no appointment letter should be issued to such Advisers without prior consultation with CSD (PM5 Division).

I am copying this letter to all Permanent Secretary Heads of Departments, with the request that the Memorandum should be made available to Ministers' Private Secretaries as required, and that the Memorandum and draft model letter of appointment should be made available to Establishment Officers.

Yr evh,
Ian

IAN BANCROFT

INTRODUCTION

There will be two categories of Special Adviser:

- i. Those who can assist Ministers with that part of their work which is partly governmental and partly political; and
- ii. those who are recognised as distinguished experts in their particular professional field.

Only Cabinet Ministers may appoint Special Advisers and each such appointment should be made personally by the Minister following consultation with the Permanent Head of the Minister's Department and after the Prime Minister's approval has been secured.

2. Each Cabinet Minister may appoint only one Special Adviser in category i.; subject to the Prime Minister's approval there is no such limitation for those in category ii.

3. Special Advisers will have direct access to their Minister, and will normally be outside the departmental hierarchy; that is, they should not work directly under a permanent civil servant, nor, apart from the usual secretarial assistance, should permanent civil servants work directly for them unless the Prime Minister so decides. The Minister should lay down the duties of each Special Adviser appointed.

APPOINTMENT PROCEDURE

4. The Minister must seek the Prime Minister's approval of a proposed appointment. No commitment as to salary should be given until Civil Service Department (CSD) approval of the salary to be paid has been obtained (see paragraph 9 below). Details of the appointment should subsequently be provided to CSD (PM5 Division) for central records. All Special Advisers must be positively vetted.

DURATION OF APPOINTMENT

5. Special Advisers' appointments automatically cease either:

- i. with the end of the Administration under which they were appointed, ie when the Prime Minister resigns; or
- ii. when there is a General Election, on the day after Polling Day; or
- iii. when the appointing Minister leaves his or her present appointment.

6. If termination of appointment is brought about by any of these circumstances but there is not a change of Government, there will be an opportunity to review Special Advisers' appointments and, if it is wished, to make re-appointments, subject to the Prime Minister's approval. Fresh letters of appointment should be issued in all such cases. The date on which re-appointment takes effect will be the date on which it is made by the Minister concerned save that, where a Special Adviser has not resigned (eg to take part in an Election campaign) and is re-appointed to serve either in the same department, or under the same Minister, the date of re-appointment may be such that there is no break in service.

7. Special Advisers are members of the Civil Service, are paid from public funds, have the same conditions of service and are subject to the same rules of conduct as other civil servants, with the exception of the rules governing the acceptance of outside business appointments after resignation or retirement (see para 11 below) and certain aspects of the rules on political activities, (see para 14 below). All other provisions of the Civil Service Pay and Conditions of Service Code therefore apply to Special Advisers, who should be given access to a copy of the Code on appointment or to departmental staff regulations if these stand in place of the Code. Details of the application of some particular rules are given in paragraphs 12-18 below; these details, and the particular location of the Code and/or staff regulations should be brought to the specific attention of Special Advisers on appointment.

8. As with other civil servants, the Permanent Secretary of the department will be responsible for bringing the rules to the notice of Special Advisers, and ensuring that they are observed.

PAY AND CONDITIONS OF SERVICE

9. The rate of pay is subject to ^{Trommy} ~~CSD~~ approval. Regard will be had to the nature of the post to be filled and the age and relevant background of the person concerned. Special Advisers may be covered by the Principal Civil Service Pension Scheme but where the Special Adviser is a member of some other scheme the CSD should be consulted as to whether the employers contribution may be met from public funds.

10. The terms and conditions of service may vary slightly according to the circumstances. A model draft letter of appointment will be available from CSD (PM5 Division).

OUTSIDE OCCUPATIONS ON LEAVING THE SERVICE

11. The rules about business appointments following resignation or retirement (Code para 9961) will not apply to Special Advisers. But, as a corollary, they should neither have access to the kind of information (eg about individual companies) nor be involved in the kind of business (eg contracts) which underlies the need for the rules applicable to career civil servants.

POLITICAL ACTIVITIES

12. Subject to certain specific exceptions (see para 14), the Civil Service rules on political activities should be adhered to as closely as possible by all Special Advisers. For the purposes of the rules, which are set out in Code paragraphs 9923-9950, Special Advisers will be members of the "politically restricted" group.

13. In particular:

- a. Advisers publicly identified as Parliamentary candidates or prospective candidates by adoption by a political party must thereupon resign their appointments (see Code paras 9923a, 9948);

b. Advisers who wish to take part in a general or by-election campaign, or to help in a Party headquarters or research unit during such a campaign, must first resign their Civil Service appointments (Code paras 9923a-e);

c. it is essential that public funds (including departmental resources) should not be used in any way for party political purposes.

14. There are, however, two areas of political activity where Special Advisers may be allowed more freedom than other civil servants in the "politically restricted" group. With the approval of their Ministers, Special Advisers may:

a. attend Party functions (although they may attend the Party Conference only as observers) and maintain contact with Party members;

b. take part in policy reviews organised by the Party, or officially in conjunction with it, for the purpose of ensuring that those undertaking the review are fully aware of the Government's view and their Minister's thinking and policy; it would not be open to Special Advisers to advocate policies going beyond or departing from those of the Government as a whole.

In maintaining these political connections, Special Advisers must at all times observe discretion and aim at avoiding public controversy. They must not identify themselves with criticism of the Government or its policies.

15. Subject to the approval of the Minister concerned, Special Advisers will be permitted to undertake or to continue to undertake, all forms of local political activity (see Code para 9924). This does not include local activities in support of national politics as defined in Code paragraph 9923. The decision should be taken in each case by the Minister concerned who is responsible for ensuring, in consultation with colleagues as necessary, that no questions of conflict arise either with the policies for which the Minister is responsible or those of colleagues (Code para 9927).

16. Special Advisers who are allowed to take part in local political activities must observe the code of discretion set out in Code para 9929. In particular, if they serve on a local authority they should bear in mind the following points, which should be brought to their attention by the Permanent Head of their Department:

a. they should not speak publicly or in the Council or vote on matters for which their own Minister has responsibility;

b. they should not serve on any committee considering such matters;

c. they should not take part in deputations or other representations to their Ministers;

- d. they should declare an interest in relation to any case or application which comes before the Council and in which their department is involved;
- e. they should observe great discretion in relation to policies for which other Ministers are responsible, in order to avoid causing them embarrassment;
- f. they should not disclose to the Council privileged information which they obtained in the course of their duties.

OUTSIDE ACTIVITIES

- 17. Advisers who wish to take part in any outside activity where information or experience gained in the course of their work as an Adviser is likely to be relevant must first seek permission from the Permanent Head of their Department (Code para 9910).
- 18. Observance of the general principles of conduct required of all civil servants (Code para 9870) will also have a bearing on the activities engaged in by Special Advisers whether as part of their official duties or in a private capacity. Their position as Advisers to Ministers in no way frees them from the need to avoid public or political controversy (Code para 9870e) and they should at all times act with moderation and discretion on the matters referred to in Code paragraph 9929.

ACCESS TO PAPERS

- 19. Special Advisers should not have access to sensitive, security or intelligence reports, or to papers relating to civil servants personally, eg on appointments, reports on efficiency etc. The rules applying to Ministers as regards papers of a previous Administration apply to Special Advisers also. With these exceptions and that discussed in paragraph 11, Special Advisers may have access, at the Minister's discretion, to all papers submitted to the Minister. In order to facilitate their work they may be encouraged to join in departmental deliberations on matters which are in course of preparation for submission to the Minister.