

WELSH GOVERNMENT HR POLICIES AND GUIDANCE

THE BUSINESS APPOINTMENT RULES FOR CIVIL SERVANTS

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Roles and Responsibilities

Employees are responsible for:

- Considering before accepting any new job offer/appointment in the UK or overseas which they intend to take up after they have left the Civil Service and within one/two years of leaving as appropriate whether an application under the Business Appointment Rules is required;
- Making an application, where appropriate, to their Deputy Director (staff below the SCS), their Director (Deputy Directors), the Permanent Secretary (Directors) or the Advisory Committee on Business Appointments (Directors General and above) before accepting a new job offer/appointment;
- Complying with any conditions that might be applied to permission to take up a job offer/appointment.

Special Advisers are responsible for:

- Considering before accepting any new job offer/appointment in the UK or overseas which they intend to take up after they have left the Civil Service and within one/two years of leaving as appropriate whether an application under the Business Appointment Rules is required;
- Making an application, where appropriate, to the appropriate senior manager before accepting a new job offer/appointment;
- Complying with any conditions that might be applied to permission to take up a job offer/appointment.

Deputy Directors/Directors are responsible for:

- Countersigning applications under the Business Appointment rules;
- Submitting them to the HR Director via the Corporate Shared Service Centre.

The HR Director is responsible for:

- Making decisions on applications under the Business Appointment Rules for staff at Deputy Director level and below;

- Notifying applicants in writing of the outcome, via the Corporate Shared Service Centre;
- Offering an opportunity to discuss the decision if an application is approved with conditions or a waiting period and the applicant has concerns.

The Permanent Secretary is responsible for:

- Making decisions on applications from special advisers of equivalent standing to Director General level and above and staff at Director level.

HR Business Partners are responsible for:

- Providing advice to employees and line management in their business areas on the application of the Business Appointment Rules.

The Corporate Shared Service Centre is responsible for:

- Sending this policy out with the leaver letter on receipt of a resignation;
- Sending out the Business Appointments Form on request;
- Passing the returned completed form to the HR Director for decision;
- Sending out the decision letter; and,
- Maintaining records of applications and their outcome.

The Policy

The following Rules cover all civil servants and Special Advisers of the Welsh Government 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. For those at SCS level and above and Special Advisers of equivalent standing, the Rules continue to apply for two years after the last day of paid Civil Service employment.

All our policies are fully inclusive of all staff regardless of age, marriage and civil partnership (both same sex and opposite sex), pregnancy and maternity, race, religion or belief, sex, sexual orientation, whether they have an impairment or health condition, are neurodivergent or use British Sign Language, their gender identity or gender expression. We acknowledge that the terms 'gender identity' and 'gender expression' are not protected characteristics as defined by the Equality Act 2010, however, we believe that Government policy which includes provision for those persons who identify within the 'trans' umbrella (rather than on the basis of binary gender) is a more inclusive approach and one which ensures the Welsh Ministers are in a position to comply with all their statutory duties related to equality and the promotion of well-being in Wales. If you have any feedback on the inclusivity of this policy, please email EqualityintheWorkplaceTeam@gov.wales

Key Principles

1. These Rules are designed to uphold the core values in the Welsh Government's Civil Service Code, a copy of which can be found on the intranet.

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 the Welsh 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

- 3.1 The aim of the Rules is to avoid any reasonable concerns that:

a. a civil servant might be influenced in carrying out their official duties by the hope or expectation of future employment with a particular firm or organisation, or in a specific sector; or

b. on leaving the Civil Service, a former civil servant might improperly exploit privileged access to contacts in the Welsh Government or sensitive information; or

c. a particular firm or organisation might gain an improper advantage by employing someone who, in the course of their official duties, has had access to:

- i. information relating to unannounced or proposed developments in Welsh Government policy, knowledge of which may affect the prospective employer or any competitors; or
- ii. commercially valuable or sensitive information about any competitors.

Discretion

- 3.2. For staff below SCS and Special Advisers of equivalent standing, the Rules normally apply for one year after the last day of paid Civil Service employment. However, the Welsh Government has discretion to apply the Rules for up to two years for specific roles below SCS level where there is an exceptional case for doing so.
- 3.3 Prior to an individual leaving the Welsh Government, the Head of Branch must discuss the role with the Deputy Director and agree any exception to the one year rule. This decision must be communicated to the Individual by their line manager. The line manager must also liaise with the Corporate Shared Service Centre to ensure that this requirement is included in the Leavers Letter that is forwarded to the individual on termination of their employment.

Who must apply, when and how

- 4.1 The Rules apply to **all serving civil servants and to former civil servants**. This includes:
- Permanent civil servants;
 - Civil servants on fixed term contracts;
 - Civil servants on secondment to other organisations;
 - and
 - Special Advisers.
- 4.2 For those at Deputy Director (SCS1) level and above (and equivalents), the Rules apply for two years after leaving the Civil Service. For those below SCS level (and equivalents), they normally apply for one year after leaving the Civil Service. In circumstances where an individual is undertaking a role on temporary promotion immediately prior to leaving the Civil Service, it will be the temporary grade that will determine how the Rules are to be applied.
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 announce or accept a new appointment or offer of employment before it has been approved. The application form for this purpose can be found on the intranet [Leaving Pages](#). Retrospective applications will not normally be accepted.

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>) which considers the most senior cases.

SCS3 (Director General) and above and Special Advisers of equivalent standing

7. An application is required for any new appointment or employment that individuals 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 Welsh Government to the Advisory Committee, which provides advice to the First Minister, who makes the final decision. Final decisions on applications from Special Advisers are made by the Permanent Secretary.
8. Because of their role at the highest level of the Welsh Government, and their access to a wide range of sensitive information, all Permanent Secretaries, including Second Permanent Secretaries, will be subject to a minimum waiting period of three months between leaving paid Civil Service employment and taking up an outside appointment or employment. The Advisory Committee may advise that this minimum waiting period should be waived if, in its judgement, no questions of propriety or public concern arise from the appointment or employment being taken up earlier. Equally, the Advisory Committee may consider that public concern about a particular appointment or employment could be of such a degree or character that a longer waiting period is appropriate. Taking account of the maximum waiting period of two years that may be applied, the Committee may, exceptionally, add a rider to its advice saying that it views the appointment or employment to be unsuitable.
9. As a general principle, there will be a two year ban on civil servants at SCS3 and above and Special Advisers of equivalent standing lobbying the Welsh Government, another devolved administration or the UK Government on behalf of their new employer after they leave the Civil Service. The two-year lobbying ban may be reduced and/or modified by the Advisory Committee if it considers this to be justified by the particular circumstances of an individual application. Lobbying in this context means that the former civil servant should not engage in communication with the Welsh Government, another devolved administration or the UK Government (including Ministers, Special Advisers and officials) with a view to influencing a decision or policy in relation to their own interests, or the interests of the organisation by which they are employed, or to whom they are contracted. In certain cases, due to the nature of the proposed employment or appointment, the Advisory Committee may, at its discretion, recommend that the lobbying ban need not prevent communications with Government on matters that are an integral part of the normal course of business for the organisation concerned. Applicants must ensure that they provide the relevant detail about the proposed employment or appointment that will assist with the formulation of an appropriate lobbying condition.

SCS2 (Director) and SCS1 (Deputy Director) and Special Advisers of equivalent standing

10. An application is required for any new appointment or employment that individuals wish to take up during the two year period after their last day of paid service that matches one or more of the circumstances in paragraph 11 i – vii. Decisions on applications from SCS2 (director level) are made by the Permanent Secretary. Decisions on applications from SCS1 (Deputy Director level) are made by the HR Director. The Permanent Secretary should consult with the First Minister on the most sensitive applications.

Below SCS level and Special Advisers of equivalent standing

11. Applications from individuals below SCS1 level wishing to take up a new appointment or employment during the one year period after their last day of paid service are considered by the HR Director. 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 Welsh 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 Welsh Government, another devolved administration or the UK 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.

Your HR Business Partner Team will advise on whether or not an application is required.

All Grades

12. 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 Welsh 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

13. Under the terms of their contract, Special Advisers are required to submit an application to the Permanent Secretary for a new appointment or employment they wish to take up after leaving the Civil Service. This requirement applies to Special Advisers of equivalent standing to the Senior Civil Service for two years after leaving the Civil Service, and to other Special Advisers for one year. No application is required under the Rules when a Special Adviser takes up a role with the Party when they leave the Civil Service. If, during the two years after leaving the Civil Service (one year in the case of Special Advisers below SCS level) they take up an appointment in a different organisation, approval under the Rules is required.
14. Applications from Special Advisers of equivalent standing to Director General and above are referred to the Advisory Committee on Business Appointments (the Advisory Committee). The Advisory Committee provides its advice to the Permanent Secretary, who makes the final decision based on that advice. Applications from other Special Advisers are handled within the Welsh Government and the Permanent Secretary makes the decision on the application. A Special Adviser who is unhappy with the decision may appeal to James Turner, the Lead Non- Executive Director appointed to hear such appeals by contacting the Corporate Shared Service Centre.

How to apply for approval

15. Applicants must approach the Corporate Shared Service Centre as early as possible and before any announcements and commitments are made to seek advice on the process for handling business appointment applications. This involves completing an application form which will need to be countersigned by an appropriate person, normally your Deputy Director (for staff below the SCS), Director (for Deputy Directors), the Permanent Secretary (for Directors) or the Advisory Committee on Business Appointments (Director General or above). The counter- signatory for employees on outward secondment will be their last WG Deputy Director or higher grade appropriate officer who approved their secondment.
16. 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. Once completed the application form should be submitted to the Corporate Shared Service Centre.
17. Notification of decisions on applications will be made through the HR Director via the Corporate Shared Service Centre. The target timescale for processing fully and correctly completed applications is one month from receipt by the Corporate Shared Service Centre.
18. Applications may be approved unconditionally, or approved subject to conditions applying for a maximum of two years from the individual's last day of paid service. Such conditions may include a waiting period and/or a prohibition on the individual being involved in lobbying the Welsh Government, another devolved administration or the UK 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 Welsh Government, or involvement in particular areas of the new employer's business.

19. 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.
20. 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 they may have with the HR Director or for applicants at SCS3 level or above and Special Advisers of equivalent standing, with the Advisory Committee, before a final decision is made.
21. 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 it judges the propriety concerns to be substantial, add a rider to its advice saying that they also view the appointment to be unsuitable. It is for the First Minister (or the Permanent Secretary in the case of Special Advisers) to take the final decision on the application based on the advice received from the Advisory Committee.
22. In addition to notifying the applicant of the outcome of their application, the Welsh Government must also inform prospective employers of any conditions which have been attached to the approval of the appointment or employment. For those applications considered by the Advisory Committee, its advice, along with 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. The Welsh Government will publicise on the website, summary information in respect of individuals at Director (SCS2) and Deputy Director level (SCS1) and Special Advisers of equivalent standing on the website, setting out the advice given to former civil servants and the restrictions (if any) imposed on them. In all other respects, the business appointment process is a confidential one. The Advisory Committee handles personal information provided to it in accordance with the Data Protection Act 1998. Such information may on limited occasions be published, for example, if the Committee is required to publish information in accordance with the Freedom of Information Act 2000.

Payment for Waiting Periods

23. It may be appropriate to continue to pay former civil servants, including Special Advisers, who are required to observe a waiting period before taking up an external role. Such a payment would be subject to the particular circumstances of the individual case, and it would be important to ensure that decisions take account of all relevant factors including, for example, whether there was a reasonable expectation of a waiting period under the Rules. Where a waiting

period is required, the Welsh Government may seek to redeploy individuals for the duration of the period. Where there is no alternative suitable employment available, the Welsh Government will consider whether there is a case for the individual to be compensated for serving a waiting period. The Cabinet Office must be consulted when payment is proposed either by the Welsh Government or the individual.

Where to find out more

24. Guidance and advice on the Rules is available from your HR Business Partner, and on the intranet. 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>).
25. The Advisory Committee's Secretariat is available to provide advice and support to the Welsh Government on the application of the Business Appointment Rules and the handling of individual cases at any level. Contact details are:

Office of the Advisory Committee on Business Appointments
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