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Circular 09/2009: Civil Servants and Political Activity

A Dhuine Uasail,

1. I am directed by the Minister for Finance to refer to the existing circulars and general instructions covering civil servants and political activity. This Circular consolidates existing arrangements and supersedes all previous circulars and instructions covering these matters.

Civil Service Code of Standards and Behaviour

2. The Civil Service Code of Standards and Behaviour (the Code) sets out a clear framework within which civil servants must work. The Code at paragraph 4 states that civil servants in the performance of their duties:

- a. “must conscientiously serve the duly elected Government of the day, the other institutions of State and the public,
- b. must advise and implement policy impartially and, in particular, be conscious of the need to maintain the independence necessary to give any future Minister or Government confidence in their integrity, and
- c. should not display partiality whether as a result of personal or family ties or otherwise”.

3. The Code forms part of the terms of employment of all civil servants, (including unestablished civil servants) who are expected to apply it at all times.

Purpose of the Circular

4. This Circular brings together in one document the rules that apply to civil servants in relation to politics and political activity and elaborates on the restrictions on civil servants in relation to politics and political activity, as set out in the Code.

Application

5. The contents of this Circular apply to all civil servants including prison officers. Breaches of the Code or non-adherence to the provisions of this Circular may result in disciplinary action.

Civil Servants and Membership of the Dáil, Seanad and European Parliament

6. Section 41(h) of the Electoral Act 1992 disqualifies from membership of the Dáil a civil servant “who is not by the terms of his employment expressly permitted to be a member of the Dáil”. Article 18.2 of the Constitution of Ireland states “A person to be eligible for membership of Seanad Éireann must be eligible to become a member of Dáil Éireann”. In relation to the European Parliament, Section 41 of the Electoral Act 1992, as amended by Section 11(2) of the European Parliament Elections Act 1997, disqualifies from membership of the European Parliament any person who is subject to any of the disqualifications applicable to membership of the Dáil referred to in paragraphs (f) to (k) of Section 41 of the Electoral Act 1992.

7. Arising from these legislative provisions the following rules apply to civil servants wishing to stand for election to either House of the Oireachtas or the European Parliament:

- a. Civil servants are debarred from standing for election to either House of the Oireachtas unless expressly permitted to do so by the terms of their employment;
- b. Civil servants are debarred from standing for election to the European Parliament unless expressly permitted to do so by the terms of their employment.

8. Any civil servant seeking a seat in either House of the Oireachtas or the European Parliament shall, when her/his intention to become a candidate is formed, immediately notify the Head of her/his Department¹. Unless alternative arrangements are expressly stated in the terms of her/his employment, s/he shall resign her/his office when s/he is officially declared a candidate for election or accepts nomination, or in any other manner announces her/himself, or causes her/himself to be announced, as a candidate for election.

Participation by Civil Servants in Local Elections

9. The following provisions apply to civil servants regarding local elections:

- a. Civil servants in the craft, state industrial and manual grades and grades below clerical grades may stand for election to local authorities;
- b. Civil servants in the clerical grades and non-industrial grades with salary maxima equal to or below the Clerical Officer maximum may stand as candidates at local election, subject to permission to do so being given by their Department. Departments must give such civil servants who are refused permission to take part in political activities, a statement of the reason for the decision;

¹ For “Department” read “Department or Office” throughout this circular

- c. Special advisers and other personal appointees of Ministers, Ministers of State, Parliamentary office holders and the Attorney General, holding temporary unestablished positions may contest local elections;
- d. **All other civil servants are completely debarred from standing for local elections, unless expressly permitted to do so by the terms of their employment.**

10. Civil servants who are members of Local Authorities may be given special leave without pay, up to a maximum of 12 days per annum, to attend full meetings of the Local Authorities where the meetings are held during normal business hours.

11. In addition, civil servants who are members of Local Authorities may be given special leave without pay, up to a maximum of 5 days per annum, to attend further Local Authority activities, other than meetings of the full public body, that take place during normal business hours.

Political Activity

12. The nature of a civil servant's role is such that a civil servant must maintain a reserve in political matters, in order to ensure confidence in the political impartiality of the Civil Service. The restrictions placed on civil servants in relation to politics and political activity are designed to ensure that a civil servant does not do anything that could give rise to a perception that his or her official actions are in any way influenced or capable of being influenced by party political motives.

13. Civil servants other than –
- a. Civil servants in the craft, state industrial and manual grades and grades below clerical grades,
 - b. Clerical grades and non-industrial grades with salary maxima equal to or below the Clerical Officer maximum who have obtained permission from their Department to engage in politics,
 - c. Special advisers and the personal appointees of Ministers, Ministers of State, Parliamentary office holders and the Attorney General holding temporary unestablished positions,
 - d. Persons expressly permitted to do so by the terms of their employment,

are prohibited from engaging in politics i.e. they may not contribute to public debate and may not support or oppose a candidate or party either in writing, by public debate or by contribution to the media (e.g. letter writing to newspapers, contribution to television or radio programmes, discussions on the internet, etc.), except if required to do so as part of their official duties.

14. Civil servants, other than those in the exempted categories in paragraph 13 must not speak in public on matters of local or national political controversy or express views on such matters in the media (including electronic media and the press) or in books, academic papers, articles or leaflets.

15. Civil servants may engage in voluntary, local, community or sporting affairs, where that activity is not connected to, or does not conflict with, their official duties or is not connected to politics and the activity does not conflict with the need for civil servants to behave, and to be seen to behave, in a politically impartial manner. However officers should adopt a precautionary approach when dealing with the media or making any public comment about their activities. Because of the need for civil servants to avoid the perception that their comments may be influenced by party political motives, where possible, they should notify the Personnel Officer in advance of any public comment and comply with any restrictions required by the Personnel Office. Where it is not possible to notify the Personnel Officer, the onus is on the individual officer to ensure that they do not say or do anything that could give rise to a perception of being influenced by party political motives.

16. Civil servants who are permitted to engage in political activity should note that the unauthorised use of state resources constitutes a breach of the Civil Service Code of Standards and Behaviour (paragraph 11 of the Code refers).

Position of Special advisers and the personal appointees of Ministers, Ministers of State, Parliamentary office holders and the Attorney General

17. Following a Government Decision in July 1985, Personal Assistants and Special Advisers in Ministers' offices are exempt from the general rules that restrict civil servants in relation to political activity. Those who hold the positions of Personal Secretaries, Civilian Drivers and any other personal appointees of Ministers, Ministers of State, Parliamentary office holders and the Attorney General may also engage in political activity and contest local elections. However, such persons are not permitted to stand for election to either House of the Oireachtas or the European Parliament unless permitted to do so by the terms of their contract.

18. Such appointees are free to work in campaign offices during election periods subject to the following arrangements:

- a. they must take annual leave to cover periods involved in campaign work;
- b. they should remain in their Department and perform their duties in the usual manner, if not involved in campaign work;
- c. annual leave taken for the purpose of campaign work will be interrupted when required to attend to official duties.

Use of property, services (including staff) and/or facilities for election purposes where the costs of same have been met out of public funds

19. Departments need to ensure that staff are aware of the provisions of this Circular and of the most recent guidance from the Standards in Public Office Commission (the Commission) concerning the use of property, services (including staff) and/or facilities for candidates at Presidential, Dáil and European elections, where the costs of same have been met out of public funds. (The most up-to-date guidance is normally contained in the Commission's most recent guidelines for elections. These guidelines are available on the Commission's website <http://www.sipo.gov.ie/en/> under Guidelines/Elections). The Commission can also be contacted for advice on this matter. Financial management systems should be in place for the appropriate recording of expenditure for election purposes. It will be a matter for the relevant agent and the candidate, in consultation with the provider of the property, services or facilities, to determine the value of the usage for electoral purposes and to account for this in the Election Expenses Statement.

20. Some candidates at an election who are already public representatives may be required to communicate with their constituents during the election period. It is necessary, therefore, where costs are being met from public funds, to differentiate between the use of property, services (including staff) and/or facilities in carrying out reasonable constituency business and the use of such material for electoral purposes. If, during an election period, such materials are used for the purpose of any form of unsolicited communication to any of the electorate in the constituency, the materials will be regarded as having been used for electoral purposes and the costs will have to be accounted for as an election expense at their full commercial value. In that regard, the Commission is of the view that, where a new enquiry is raised with a candidate (i.e. an enquiry which had not been raised with the candidate prior to the election) while he/she is canvassing and facilities are used for the purposes of responding to the enquiry, the cost of which are met out of public funds, these facilities will be regarded as having been used for electoral purposes. This also applies to unsolicited material issued by elected representatives, other than the candidate, where the material either promotes or opposes a candidate or otherwise seeks to influence the outcome of the election.

21. Departments need to ensure that relevant staff are aware of the provisions of this Circular and of the most recent guidance from the Minister for the Environment, Heritage and Local Government concerning the use of property, services (including staff) and/or facilities for all candidates standing at local election where the costs of same have been met out of public funds. It will be an offence for a candidate to exceed the spending limits² and penalties will apply in the case of non-compliance. It will be a matter for the relevant agent and the candidate, in consultation with the provider of the property, services or facilities, to determine the value of the usage for electoral purposes and to account for this in the Election Expenses Statement.

² Currently, in the case of the 34 County and City Councils, a sliding scale with four separate spending limits, based on the population within each individual electoral area, applies. Due to their different administrative responsibilities, a standard spending limit will apply to all 80 borough and town councils.

Briefings and other information sessions for Members of the Oireachtas.

22. Civil servants may give technical briefings to Members of the Houses of the Oireachtas on request in a variety of contexts, ranging from briefings for individual members representing the interest of constituents, to group briefings on complex national policy issues. Attendance at such meetings should only occur where the Secretary General or Head of Office considers it appropriate. However, all Ministers have been advised that office holders should not request civil servants to conduct briefings in settings such as parliamentary party meetings, constituency branch meetings or similar type meetings.

Circulation

23. The contents of this Circular should be brought to the attention of staff in your Department. On appointment to Departments all new appointees should be given the opportunity to read this Circular and their attention should also be drawn to the provisions of paragraphs 4 and 5 of the Code.

Mise le meas,

Patricia Coleman
Director

To: All Departments etc.