

GOVERNANCE PROJECT



10

The role and appointment of special advisers

- R.10.1. The public profile, numbers, and influence of special advisers (SpAds) in Government has continued to grow. There are ambiguities (and sometimes tensions) that flow from SpAds' status as both temporary civil servants and political appointees, impacting them personally and the effectiveness of Government more widely.
- R.10.2. SpAds are temporary civil servants, used by Ministers to provide political and policy guidance, advice, and assistance, not least when the use of the permanent (and politically impartial) civil service would be inappropriate. The Commission believes that SpAds fulfil a valuable and legitimate role in supporting Ministers. However, having a cadre of committed and talented people exercising considerable influence on executive decisions and policy who are neither subject to the disciplines of the legislature, nor fully within the civil service structure, poses significant governance issues.
- R.10.3. The Commission seeks to reduce these ambiguities by ensuring a proper level of accountability and transparency around SpAd appointments and activities as well as by providing SpAds with better employment protections, management frameworks and support.

We recommend that:

The Ministerial Code and Special Adviser Code should clarify the special adviser roles that exist in Government

- R.10.4. The Commission is not prescriptive as to these roles, but:
- a. the remit, responsibilities, and scope of each 'strand' of SpAd should be clearly demarcated in the Ministerial and Special Adviser Codes; and
 - b. it should be clear how:
 - i. these responsibilities differ from those provided by the policy analysts and media officials within the permanent Civil Service;
 - ii. SpAds interact with the Civil Service in respect of those roles.

Accountability for each SpAd should be clear

- R.10.5. The Ministerial Code should be amended to state explicitly:
- a. it must be clear who is accountable for each SpAd role (and SpAd appointment processes should expressly reflect that position);
 - b. where a SpAd is accountable to a Secretary of State, that Minister is responsible for enforcing the SpAd's obligations in relation to conflict-of-interest rules and the SpAd code;
 - c. where SpAds are appointed to ministerial teams by Number 10, the Prime Minister is ultimately accountable for their actions;
 - d. the Ministerial Code should specify that failure to hold SpAds to these standards is a breach of the Ministerial Code for which Ministers (including the Prime Minister), can be investigated and the Code Commissioner should be responsible for investigating any instances where ministers breach the Ministerial Code in relation to the conduct of their SpAd; and
 - e. the Ministerial Code should also be amended to state that, if a Prime Minister wishes to dismiss a SpAd they have not appointed or wish to withdraw their consent to a Minister to appoint one, this should be discussed with the relevant Secretary of State.

There should be a cap on the number of SpAds

- R.10.6. A rigorous limit should be applied to the number of SpAds in Government as a whole.
- R.10.7. The current theoretical (but often breached) cap of two SpAds per Minister should be aggregated and the total allocated across departments, at the discretion of the Prime Minister but subject to not more than 25% of the total number of SpAds being committed primarily to advising the PM.
- R.10.8. The use of SpAds by junior Ministers should be discontinued.

A single, senior figure should be responsible for supervising the provision of training and HR/pastoral support for SpAds

- R.10.9. A senior figure in Number 10, appointed by the PM, should be responsible for supervising the training, evaluation, grading, and support provided to departmental SpAds.

SpAds' employment status and HR provision should be clarified and improved

- R.10.10. All SpAds should have, as a minimum, basic contracts of employment and the rights and benefits afforded by the Civil Service Human Resources function to the extent applicable for temporary staff.

Transparency about SpAds' roles, costs, and responsibilities should be improved

- R.10.11. The annual publication of information regarding SpAds, should be expanded to include information about the specific roles and responsibilities of SpAds (not just the Minister to which they are accountable). In particular:
- a. it should be stated which specific projects SpAds are managing, any line-management responsibilities they hold, and the salary cost for SpAds per department as opposed to just in total; and
 - b. the Government must also notify the appropriate departmental Select Committee promptly when a new SpAd is appointed (and not wait for the annual reporting), along with a copy or description of a SpAd's qualifications and a letter stating the reason for their appointment.

Training for SpAds should be enhanced

- R.10.12. Standard basic training for SpAds should be introduced. This would be mandatory for all appointees and would include:
- a. the scope of the codes of conduct relevant to SpAds (including Ministerial, the Civil Service and SpAd Codes);
 - b. the implications of SpAds' status as temporary civil servants and their obligations under access to information legislation; and
 - c. how ministerial accountability affects SpAds' relationship with their Minister in practice;
 - d. the role and remit of the Permanent Secretary; and
 - e. the standards of conduct in public office training referred to in Recommendation 6.

Conflicts arising from SpAds participating in national politics should be avoided

R.10.13. The changes made in 2015 to the Code of Conduct for special advisers, which had the effect of permitting SpAds to participate in national political activities and stand as parliamentary candidates, should be revoked.

- a. SpAds should not be permitted to hold any employment in a political party in addition to their role as a ministerial adviser or to stand as a candidate for an elected position whilst holding their roles as SpAds.
- b. SpAds should be subject to (i) the Commission's proposed new Conflict of Interest rules (which include disclosing conflicts relating to possible future employment) and (ii) the Business Appointments Rules as applied and enforced by AcoBA.

Certain additional, background material for this Recommendation is available on the website for the Commission (<https://www.ukgovernanceproject.co.uk>).