



10 DOWNING STREET

LONDON SW1A 2AA

020 7930 4433

13 May 2009

Dear Mr Harding

Thank you for your email received on 12 April asking to see emails from and to Damian McBride in the three weeks preceding your request.

Your request has been handled under the Freedom of Information Act 2000.

We have interpreted your request to mean that you are particularly interested in those emails which have been the subject of recent discussion.

You will no doubt be aware that the content of these emails is a series of highly personal remarks.

This information is personal data within the meaning of the Data Protection Act 1998. Disclosure of it would contravene the data protection principles in Schedule 1 of that Act, and in particular the principle that personal data shall be processed fairly and lawfully, and it is therefore exempt information under section 40(2) and (3) of the Freedom of Information Act 2000. This exemption is absolute and is not subject to a public interest test. However, I should make clear that it should not be inferred from this that we in any way accept that there is any accuracy in that information. We do not.

On a wider point we recognise that there is a public interest in knowing that action has been taken to ensure that such behaviour does not happen again and the following information sets out what has happened.

The Prime Minister has made it clear that these actions were unacceptable: *"We should all say that what happened has no part to play in the politics of this country. It is wholly inappropriate and unacceptable, and that is why there will be new rules and procedures to*

govern the behaviour of political advisers". (House of Commons 22 April)

The Secretary of the Cabinet (Sir Gus O'Donnell) has confirmed that no other member of No10 staff, or Ministers or the media were involved either as an author or copy recipient.

The Prime Minister accepted the resignation of the author of those emails. That resignation was effective immediately; there will not be any severance pay.

I have attached a copy of the Prime Minister's letter of 13 April to Sir Gus O'Donnell [annex A].

I have attached a copy of Sir Gus O'Donnell's letters of 14 and 21 April to the Shadow Minister to the Cabinet Office (Rt Hon Francis Maude MP) [annex B].

I have attached a copy of the guidance issued by the then Head of the Home Civil Service to all departments in July 2004 on the handling of e-mails [annex C].

I have attached a copy of the written ministerial statement made by the Prime Minister in July 2008 which gives the special advisers' pay ranges for 2008-09, the number of special advisers in each pay band by department and the total pay bill cost of special advisers for 2007-2008 [annex D].

All special advisers are appointed under terms and conditions set out in the *Model Contract* and *Code of Conduct for Special Advisers*. I have attached the relevant section of the strengthened *Code of Conduct for Special Advisers* [annex E].

Yours sincerely

N S Howard

NICHOLAS HOWARD

Mr Harding

ANNEX A



**10 DOWNING STREET
LONDON SW1A 2AA**

THE PRIME MINISTER

13 April 2009

Dear Gus

I am writing about the Code of Conduct for Special Advisers, and the proposals I want to make to tighten this up.

I am assured that no Minister and no political adviser other than the person involved had any knowledge of or involvement in these private emails that are the subject of current discussion, and I have already taken responsibility for acting on this – first by accepting Mr McBride's resignation and by making it clear to all concerned that such actions have no part to play in the public life of our country. I have also written personally to all those who were subject to these unsubstantiated claims.

Mr McBride has apologised and done so unreservedly. But it is also important to make sure such behaviour does not happen again. Any activity such as this that affects the reputation of our politics is a matter of great regret to me and I am ready to take whatever action is necessary to improve our political system.

I would therefore now like a more explicit assurance included in the special advisers Code of Conduct that not only are the highest standards expected of political advisers but that the preparation or dissemination of inappropriate material or personal attacks have no part to play in the job of being a special adviser, just as it has no part to play in the conduct of all our public life.

I also think it right to make it a part of the special advisers contract by asking our political advisers to sign such an assurance and to recognise that if they are ever found to be preparing and disseminating inappropriate material they will automatically lose their jobs.

I think you will agree that all of us in public life have a responsibility to ensure that those we employ and who are involved in our parties observe the highest standards.

Like the overwhelming majority of figures in public life across the political spectrum, I entered politics because of a sense of public duty and to improve the lives and opportunities of those less fortunate than me. My undivided focus as Prime Minister is on acting to make Britain a fairer, safer and more prosperous nation and, in particular, on guiding the country through the current economic difficulties. The public would expect no less and would also expect the highest possible standards from all their politicians and all those who work for them.

Yours sincerely

Gordon Brown

Sir Gus O'Donnell

CabinetOffice**Sir Gus O'Donnell KCB**Secretary of the Cabinet and
Head of the Home Civil Service70 Whitehall
London
SW1A 2AS**Telephone** 020 7276 0101**Fax** 020 7276 0208**E-mail** gus.odonnell@cabinet-office.x.gsi.gov.uk**Web** www.cabinet-office.gov.ukFrancis Maude MP
House of Commons
London
SW1A 0AA

14 April 2009

Dear Francis,

Thank you for your letter of 13 April.

Both the Prime Minister and I take these issues extremely seriously. As you know, the Prime Minister issued a statement yesterday making clear that he has been assured that no Minister or political adviser other than Damian McBride had any knowledge of, or involvement in, the e-mails which were covered in the weekend newspapers. The Prime Minister's Spokesman has made clear that he was not aware of the proposed website or concept behind it. The Prime Minister has also made clear that Damian McBride's actions were unacceptable and that there is no place in Government or public life more generally for actions of this nature. Tom Watson has made his own position clear.

What happened constituted a clear and serious breach of the *Code of Conduct for Special Advisers*. It cannot and has not been tolerated. Mr McBride is no longer employed as a special adviser. His resignation was accepted immediately and had immediate effect. He has not received severance pay.

Both the *Ministerial Code* and the *Code of Conduct for Special Advisers* are clear that government resources should not be used for party political purposes. The Prime Minister has asked me to strengthen the procedures governing these Codes in the light of the events reported this weekend. I have therefore today written to Permanent Secretaries with strengthened guidance and to arrange for special advisers within their departments to sign an undertaking to confirm that they have read and understood the strengthened *Code of Conduct for Special Advisers*. The Prime Minister has also asked me to remind Ministers and special advisers of the requirements of their respective Codes of Conduct in this regard. In particular, under this strengthened guidance, it has been made specifically clear that special advisers will automatically be dismissed if they are ever found to be preparing and disseminating inappropriate material. This implements the commitment made by the Prime Minister.

Your final point raises broader concerns about ensuring the highest standards in public life. The Prime Minister and I are entirely committed to this. As the PM has made clear, the events reported over the past weekend were not acceptable, and fell far short of the



high standards the public has a right to expect. Strong and swift action has been taken as a result. Neither the Prime Minister nor I want or expect to see any repetition of such events. Were it to happen, appropriate action will be taken.

You notified me that you were releasing your letter to the press. I am similarly content for you to release this reply, and I have authorised the Cabinet Office press office to release the text if requested by the media.

Yours sincerely,
Gus

Gus O'Donnell





Sir Gus O'Donnell KCB

Secretary of the Cabinet and
Head of the Home Civil Service

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Francis Maude MP
House of Commons
London
SW1A 0AA

21 April 2009

Dear Francis,

Thank you for your letter of 15 April. I am replying taking each of your questions in turn.

You asked about the assurances provided to the Prime Minister. As my last letter pointed out, the Prime Minister has been assured that there is no Ministerial or wider political adviser involvement in these events. However, he asked me to establish that this was the case. I have now investigated the emails in question. Having done so I can confirm to you that no member of No10 staff or Ministers, other than Mr McBride, were involved either as an author or copy recipient.

You then asked whether any members of the media were copied in on the email exchanges. Having undertaken this review of the relevant emails I can confirm to you that no one in the media was copied in.

You also asked what action I was taking to find out if the emails sent by Mr McBride were part of a broader pattern of activity, including through examination of his emails and computer. As well as examining the emails relating to the specific events reported over the Easter weekend, I have extended the search to include other email exchanges between the main correspondents. Having done so, I did not find that the emails were part of a broader pattern of activity of propagation of unfounded personal allegations.

As I have said, I am continuing to work with Permanent Secretaries and other senior colleagues to make sure that official resources are not, and will not, be misused in a similar way. As I said in my letter of 14 May, what happened constituted a clear and serious breach of the Code of Conduct for Special Advisers. It cannot and has not been tolerated.

To this end, Permanent Secretaries are reminding Ministers and special advisers of the enhanced requirements of the Special Advisers' Code of Conduct. The Code is



clear about the standards of conduct expected of special advisers. There can be no place in Government for this type of behaviour. The fact that special advisers now have to sign an undertaking to confirm they have read and understood the strengthened Code will also help ensure this issue is uppermost in people's minds.

Yours sincerely,
Gus

Gus O'Donnell



GUIDANCE ON E-MAILS

This guidance is intended to address issues, common to most departments, which have arisen through the dramatic growth in the use of e-mails in conducting departmental business. It applies to all e-mails from any source for any purpose that are held on the departmental system. It applies equally to internal and external communications and relates to all e-mails while they are held on departmental systems whether they are held in a managed electronic environment (an electronic records management system) on shared drives or on individuals' personal drives.

Increasingly e-mails are taking the place of 'loose minutes' and decisions are frequently relayed via e-mail messages, often in just a few words. The apparent informality of this means of communication does not alter the status of the information being conveyed. Such e-mail messages are clearly part of the corporate record of a department and there is no distinction between information recorded in an e-mail and that conveyed by any other means.

This guidance does not represent a change from established practice and procedure. It is aimed at dispelling some of the confusion that exists over the status of e-mails and other non IT-related issues and should be read in conjunction with any existing departmental guidance.

In summary, e-mails should be drafted with care and attention, filed in a department's records management system or otherwise deleted. The guidance covers: status; content; disclosability; responsibility; and storage/destruction

Status

There is no distinction between data recorded and conveyed in an e-mail and that conveyed by other means such as loose minutes, submissions and letters. All e-mails generated, or received, by members of a department, including any attachments, are public records and therefore are subject to departmental records management policies and procedures. The fact that they are public records does not mean that they will be kept for ever. Most will be destroyed; some after a very short period, in accordance with standard record keeping procedures. But if the sender or recipient of the e-mail, including copy addressees, decides it needs to be kept for more than a very short period it must be put into the departmental official record keeping system. Where an electronic records system has yet to be introduced the e-mail will need to be captured by some other means, for example printing it out and putting it on the relevant paper file.

E-mails and their attachments may be subject to copyright laws, intellectual property rights and other statutory or non statutory obligations and due care must be taken when publishing them, for example by making a copy available on a website. Where there is any doubt the author should first be consulted.

Content

E-mails are a convenient and immediate means of communication but should be constructed with care and with regard to the uses to which they could be put. The content should be kept short, polite and factual. They should be read over before being sent. E-mails with lots of mistakes are unprofessional. Long messages may be better conveyed by documents which are either attached to e-mails or, for internal e-mails, by links to the document in a department's electronic record keeping system. Care must be taken to draw attention to any sensitivity or protective markings attaching to the information. Care also needs to be taken over distribution lists to avoid unnecessary copies being circulated. The sender has no

control over the future use of data conveyed in an e-mail and so must exercise care in deciding how widely to distribute the message. Personal comments and judgements should only be included where these are germane to the issue in hand. Above all, nothing should be written in an e-mail that cannot be justified.

Disclosability

As e-mails which are kept are part of the public record, they are liable for disclosure in response to information access requests under, for example, the Data Protection Act (DPA), the Code of Practice on Access to Government Information and, from January 2005, the Freedom of Information Act. or to Public Inquiries and other government enquiries. internal and external e-mails are liable to be disclosed in civil litigation and criminal proceedings and, as such, should not contain statements which are unlawful, libellous, defamatory, inflammatory or are otherwise likely to embarrass a Department should they be made public. A department may be liable for negligent advice by e-mail just as through other means of communication. Therefore, any advice given by e-mail should be subject to the same rigorous controls as it would be by any other method of communication. It should also be noted that an internal e-mail in one department may have to be disclosed in proceedings involving another.

Incoming and outgoing e-mails are covered by the DPA so that e-mails in personal mailboxes and deleted items boxes are potentially disclosable, in part or as a whole, in response to a subject access request if they contain relevant personal data, just as much as e-mails saved into an electronic records management system. Copies on back-up systems may also be liable for disclosure.

Responsibility

Within the framework of departmental records management and information policies and procedures, responsibility lies with the e-mail originator and recipient for deciding whether an e-mail is to be retained as being of business interest and as part of the corporate record; or, alternatively, whether it is of short term interest and therefore can be deleted immediately. Individuals who breach departmental rules can make themselves personally liable.

Destruction of E-mails

If the message conveyed contributes to full understanding of a decision; results in action being taken; or forms a significant part of the 'story, it must be kept. If not, it should be deleted. Those e-mails not required 'for the record' should be deleted as soon as they have ceased to be of use. E-mails that are added to the department's electronic record management system must be deleted from inboxes or other storage areas immediately they successfully have been added to the official record. Personal, ephemeral and other e-mails not added to the official record keeping system should be deleted as soon as they have ceased to be of use. Individual members of staff are responsible for doing this.

In accordance with existing guidance it is strongly recommended that departments consider introducing a limit on the time that e-mails may be kept outside an official record keeping system before automatic deletion (some departments, for example, delete e-mails after three months).

PRIME MINISTER

ANNEX D

Special Advisers

The Prime Minister (Mr. Gordon Brown): Listed below are the names of special advisers in post at 22 July 2008, the special advisers' pay ranges for 2008-09, the number of special advisers in each pay band by Department and the total pay bill cost of special advisers for 2007-08.

All special advisers are appointed under terms and conditions set out in the Model Contract and Code of Conduct for Special Advisers to provide assistance on the full range of their appointing Minister's departmental responsibilities.

22 July 2008 : Column 100WS

<i>Appointing Minister</i>	<i>Special Adviser in post</i>
The Prime Minister	Greg Beales
	Theo Bertram
	Nicola Burdett
	Stephen Carter
	Konrad Caulkett (p-t)
	Matt Cavanagh
	Dan Corry
	Colin Currie (p-t)
	Jo Dipple
	Justin Forsyth
	Michael Jacobs
	Gavin Kelly
	Richard Lloyd
	Patrick Loughran
	Damian McBride
	Jennifer Moses (unpaid)
	David Muir
	Geoffrey Norris
	Sue Nye (p-t)
	Nick Pearce
	Lisa Perrin
	Paul Sinclair
	Nick Stace
	Stewart Wood
Cabinet Office Minister and Chancellor of the Duchy of Lancaster	Polly Billington
	Tom Restrick
Chief Whip (Commons) and Parliamentary Secretary of the Treasury	Michael Dugher
	Emma Reynolds
Chief Whip (Lords)	Ben Coffman
Secretary of State for Business, Enterprise and Regulatory Reform	John Williams
	John Woodcock
Secretary of State for Children, Schools and Families	Francine Bates
	Alex Belardinelli
Secretary of State for Communities and Local Government	Andrew Bagnall
	Paul Richards
Minister of State (Housing)	Claire McCarthy
Secretary of State for Culture, Media and Sport	Jennifer Gerber

	Philip French
Secretary of State for Defence	Alaina Macdonald John McTernan
Secretary of State for Environment, Food and Rural Affairs	Mike Dixon Beatrice Stern
Secretary of State for Foreign and Commonwealth Affairs	Madlin Sadler (job share) Sarah Schaefer (job share)
Secretary of State for Health	Clare Montagu Mario Dunn
Secretary of State for the Home Department	Sue Jackson Andrew Lappin
Leader of the House of Commons, Lord Privy Seal and Minister for Women and Equality	Ayesha Hazarika Anna Healey
Leader of the House of Lords, and Lord President of the Council	Philip Bassett Jonathan Pearse
Secretary of State for Innovation, Universities and Skills	Josie Cluer Andy Westwood
Secretary of State for International Development	Anthony Vigor
Lord Chancellor and Secretary of State for Justice	Mark Davies Declan McHugh
Secretary of State for Northern Ireland	Sebastian Dance Oonagh Blackman
Secretary of State for Scotland	Tom Greatrex
Secretary of State for Transport	Julie Crowley David Leam
Chancellor of the Exchequer ⁽¹⁾	Sam White Catherine Macleod
Chief Secretary	Will McDonald
Secretary of State for Wales	Andrew Bold
Secretary of State for Work and Pensions	Blair McDougall Lisa Tremble
Minister of State (Employment and Welfare Reform)	Graham Dale
Minister for the Olympics and London (Paymaster General)	Mandy Telford
⁽¹⁾ In addition, the Chancellor of the Exchequer has appointed Andrew Maugham, David Pinto-Duschinsky and Geoffrey Spence to the Council of Economic Advisers.	

22 July 2008 : Column 101WS*Pay bands for 2008-09*

The pay bands and pay ranges for special advisers for 2008-09 are as follows:

22 July 2008 : Column 102WS

Scheme Ceiling	£ 140,560
Pay Band 4	£87,651 - £105,285
Pay Band 3	£65,529 - £101,737
Pay Band 2	£51,443 - £68,242
Pay Band 1	£39,756 - £53,321

Advisers by Pay Band

At 22 July 2008, there were 73 special advisers in post. The number of special advisers in each pay band by Department is as follows:

Department	Pay band				Up to Scheme Ceiling
	1	2	3	4	
No.10 ⁽¹⁾	3	5	11		4
Cabinet Office (Includes Minister for the Olympics and London, Paymaster General)		1	2		
Chief Whips' Offices (Commons and Lords)	1	1	1		
Business, Enterprise and Regulatory Reform	1		1		
Children, Schools and Families	1		1		
Communities and Local Government (Includes Minister of State for Housing)	1	1	1		
Culture, Media and Sport	1		1		
Defence	1		1		
Environment, Food and Rural Affairs	1	1			
Foreign and Commonwealth Office		2			
Health		2			
Home Office			2		
Leader of the House of Commons, Lord Privy Seal and Minister for Women and Equality		1	1		
Leader of the House of Lords, and Lord President of the Council	1			1	
Innovation, Universities and Skills					
International Development	1				
Justice (Lord Chancellor)		1	1		
Northern Ireland Office	1		1		
Scotland Office		1			
Transport		2			
HM Treasury ⁽²⁾	1	3	2		
Wales Office	1				
Work and Pensions (including Minister of State for Employment and Welfare Reform)	1	1	1		
Total	16	23	28	1	4

⁽¹⁾Plus one unpaid adviser.

⁽²⁾Includes the three Members of the Council of Economic Advisers who are employed on special adviser terms.

⁽³⁾This figure includes salary, severance pay and estimate of pension costs.

Paybill costs

The paybill for special advisers in 2007-08 was £5.9 million⁽³⁾

UPDATED GUIDANCE FOR SPECIAL ADVISERS

I confirm that I have read and understood the terms under which I am employed which are set out in the *Model Contract for Special Advisers*, including the *Code of Conduct for Special Advisers*. In particular, my attention has been drawn to the amended text of paragraph 6 of the *Code of Conduct for Special Advisers* (November 2007) which now reads as follows (new text in bold):

6. Special advisers should not use official resources for party political activity. They are employed to serve the objectives of the Government and the Department in which they work. It is this which justifies their being paid from public funds and being able to use public resources, and explains why their participation in party politics is carefully limited. They should act in a way which upholds the political impartiality of civil servants and does not conflict with the Civil Service Code. They should avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes. **The highest standards of conduct are expected of special advisers and, specifically, the preparation or dissemination of inappropriate material or personal attacks has no part to play in the job of being a special adviser as it has no part to play in the conduct of public life. Any special adviser ever found to be disseminating inappropriate material will automatically be dismissed by their appointing Minister.**



10 DOWNING STREET
LONDON SW1A 2AA

If you are unhappy with the level of service you have received from this office in relation to any aspect of your request, you may ask for an internal review.

You should contact:

Sue Gray
Director
Cabinet Office
70 Whitehall
London
SW1A 2AS

Email: foiteam@cabinet-office.x.gsi.gov.uk

You should note that the Cabinet Office will not normally accept an application for internal review if it is received more than two months after the date that the reply was issued.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner's Office for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF