Rt Hon Bernard Jenkin MP  
Chair, PASC  
House of Commons  
7 Millbank  
London SW1P 3JA

20 January 2015

Dear Bernard,

Thank you for your letter to the Prime Minister of 7th January 2015 seeking an explanation of what the Special Advisers’ Code of Conduct allows in relation to national political campaigning by Special Advisers. The Prime Minister has asked me to reply on his behalf.

First it may be helpful to set out some context. Special Advisers’ political allegiance is a matter of public record. The purpose of the political activity rules in the Code is therefore not to uphold political impartiality but to ensure that official resources or public funds are not used, or seen to be used, for party political purposes. This is an important principle - and I am clear that it is one which has been fully adhered to.

Turning then to the specific issue of Special Advisers’ conduct in parliamentary by-elections, the advice provided by the Cabinet Office was based on this overarching principle. In essence our advice stated that any Special Adviser involvement in such a by-election campaign would have to be strictly limited - non-public, carried out very clearly in a Special Adviser’s own time, and with no use made of government resources or facilities.

Consistent with this, private telephone calls made from CCHQ in Special Advisers’ own time were permitted. Such calls are materially different from active and visible public campaigning in a constituency, such as public door to door canvassing or public speaking, which is addressed directly by the Code.

Limited private activity of this kind does not in my judgment constitute a breach of the Special Advisers’ Code or indeed the Model Contract. Nor, in the Prime Minister’s view, would it be a breach of the Ministerial Code, let alone be illegal, for him or other Ministers, acting in their party capacity, to ask Special Advisers to undertake this sort of limited private activity in their personal time.
It is worth noting that a similar approach was taken by the previous Government in its guidance for what Special Advisers could do during the last General Election campaign if they wished to remain in post. The guidance stated:

"These special advisers must be careful not to take any public part in the Election campaign. In the individual's own time, backroom support activities, such as stuffing envelopes and liaison with the party, are permitted. Public speaking, briefing the Press and supporting the Minister on the campaign trail are not. Any backroom support provided to the Party must be done in the individual's own time outside office hours."

And it is similar to the position in relation to Special Advisers' activities during local election campaigns:

"For the local and Mayoral elections, special advisers may undertake in their own time local political activity with the approval of their Minister and in accordance with the terms of the Code of Conduct for Special Advisers. Special advisers planning to help with the local and Mayoral elections should note that any help on campaigning must be done in their own time either outside office hours or while on leave from their departments."

Of course the precise wording of the Special Advisers' Code itself is kept under review, with a view to ensuring that it continues to provide the clarity needed in the light of questions that arise in practice. No doubt there will be an opportunity to look at it again after the forthcoming General Election.

In the meantime I hope this letter has helped to clarify the issues that you and the Committee were concerned about. I can assure you that both the Prime Minister and I take very seriously our responsibility to ensure that Special Advisers respect both the letter and the spirit of the Code.

Jeremy Heywood