

## **Research Note: Special Advisers and Public Allegations of Misconduct 1997 - 2013**

### **Executive Summary**

- Overall, there have been 26 key cases involving a special adviser being publicly accused of misconduct between 1997 and 2013.
- Over half of all allegations (15 out of 26) have involved departmental special advisers; less than half involved those at 'the centre' (ie., No 10, Cabinet Office and the Treasury).
- The most common department to be associated with public allegations of special adviser misconduct has been No.10, which has been involved with over one third of all cases (9 out of 26).
- The "media" special adviser is the most common type of special adviser to be implicated in public allegations of misconduct. Policy special advisers have been involved just under a fifth of cases whereas media special advisers have been involved in all but one.
- The type of misconduct which special advisers are most often alleged to engage in is "personal attack".
- The number of allegations of special adviser misconduct appears to have increased, but it is unclear whether this is because of actual misconduct or because of intensified media scrutiny.

## 1. Introduction

1.1. The recent events involving Michael Gove's special advisers, Dominic Cummings and Henry De Zoete, marked yet another furore about the perceived misconduct of special advisers<sup>1</sup>. There is a public perception that special advisers regularly act outside of their remit with high profile cases such as that of Adam Smith<sup>2</sup> and Damian McBride<sup>3</sup> serving to reinforce such a view.

1.2. We all remember the colossal scandals, such as the one involving Jo Moore ('a good day to bury bad news'<sup>4</sup>), but to what extent are these instances of misconduct really representative of the usual mishaps that force the people "who live in the dark"<sup>5</sup> to be pulled into the bright light of the British media? We think it is appropriate to take a closer look at the details and origins of such instances of alleged misconduct in an attempt to gain a more rounded understanding of these figures in government. We want to ask:

- How many instances of perceived misconduct by special advisers have been reported in the media?
- Have instances of these allegations increased or decreased over the past few years? What sorts of special advisers seem to have been most commonly involved?
- What *type* of misconduct have special advisers most commonly been said to have engaged in?

1.3. This paper begins by presenting a brief overview of the regulation of special advisers and how these rules have evolved over time. It goes on to assess the key cases between 1997 and 2013 where special advisers have been publicly accused of misconduct. The paper focuses on three different aspects of alleged special adviser misconduct:

1. The number of cases involving public allegations of special adviser misconduct and the years that they have occurred;
2. The type of the special advisers involved in these cases;
3. The types of misconduct special advisers are alleged to have engaged in.

1.4. The final section briefly discusses the paper's findings and the possible factors to consider when evaluating them: for example the impact of changes in the media as well the potential effects of a change in government.

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<sup>1</sup> Such recent events, in early 2013, refer to circumstances in which Michael Gove's special advisers Dominic Cummings and Henry De Zoete were accused of using an anonymous twitter account to personally attack specific journalists such as The Observers' Toby Helm, among others.

<sup>2</sup> Adam Smith was special adviser to former Minister for Culture, Media and Sport Jeremy Hunt. Smith was forced to resign in 2012. This is due to it coming out during the Leveson inquiry that Smith had been in frequent contact, at the time of News Corp's bid for BskyB, with Frédéric Michel - lobbyist and News Corp's director of public affairs.

<sup>3</sup> Gordon Brown's special adviser, Damian McBride, was exposed in 2009 for allegedly planning the launch of a website, Red Rag, containing personal attacks on Opposition figures.

<sup>4</sup> Jo Moore was special adviser to Steve Byers. 2001 saw the leak of an email she sent following 9/11; stating that today would be "very good day" to release unfavourable government figures.

<sup>5</sup> Quote by Clare Short in an interview with Steve Richards, *New Statesman*, (1996)

## 2. An Overview of Special Adviser Regulation

2.1. While the first legal reference to special advisers dates back to a 1978 order in council<sup>6</sup>, no official commentary is made in relation to the behaviour of special advisers until 1991- provided in an Order in Council. The document states that special advisers are appointed “only for the purpose of providing advice”<sup>7</sup>, emphasising that special advisers were to operate in a separate sphere from civil servants, and not able to direct officials. In 1995, a *Civil Service Order in Council* made it obligatory that special advisers adhere to the *Civil Service Code* – that they be bound by all of its rules, except for those referring to political impartiality and working for future administrations. In 1995 the *Draft Model Letter of Appointment for Special Advisers* contained significant references to the functions of special advisers, and stated that their duties will be “laid down by.. [their] minister”<sup>8</sup>. Some of the earliest detailed rules specifically written for special advisers were also contained within the Draft Letter. These rules primarily pertained to limitations on the extent to which special advisers may be involved in party politics – such as strict instructions to avoid the use of public funds on “forms such as departmental resources for party political purposes”. These restrictions of party politics predate any other regulation on special adviser behaviour, including regulation about relations with the media or the civil service.

2.2. In 1997, the *Ministerial Code* and the *Model Contract for Special Advisers* were published. *The Ministerial Code* made applicable to special advisers those rules which stipulated the necessity of avoiding public controversy and personal attacks. It also set out a limit on the number of special advisers: Cabinet ministers were only allowed to appoint two (although there were exceptions). Within *The Model Contract*, the role of the special adviser was redefined to one that was to “advise the Minister in the development of Government policy and its effective presentation”<sup>9</sup>. *The Model Contract* also highlighted, along with *The Ministerial Code*, that partaking in public controversy was not allowed and that special advisers were required to “observe discretion and express comment with moderation”<sup>10</sup> as well as to avoid personal attacks. Although there was no specific reference to contact with journalists in these documents, Blick argues it could be inferred that anonymous briefing of reporters was still permissible, provided it was not malicious or hyperbolic.<sup>11</sup>

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<sup>6</sup> 1978 Order in Council, cited in Blick, A, *People who live in the dark*, (2004), pp. 224

<sup>7</sup> Civil Service Order in Council 1991; Diplomatic Service Order 1991

<sup>8</sup> *Draft Model Letter of Appointment for Special Advisers*, (1995)

<sup>9</sup> *Model Contract for Special Advisers*, (1997)

<sup>10</sup> *Model Contract for Special Advisers*, (1997); *The Ministerial Code*, (1997)

<sup>11</sup> Blick, A, *People who live in the dark*, (2004), pp. 258

2.3. Following a number of reports looking into the role special advisers played in government, such as “Special Advisers: Boon or Bane<sup>12</sup>”, the *Special Adviser Code of Conduct* was established in July 2001. *The Code of Conduct* contained sections of the existing *Civil Service Code* and *Model Contract for Special Advisers*, as well as setting out duties designed to assist in upholding the political impartiality of the civil service. In addition, special adviser contact with the media, and the relation of special advisers’ work to the work of civil service information staff was explicitly discussed. Recommendations made in important reports such as *Defining the Boundaries with the Executive* from the Committee on Standards in Public Life helped ensure that there were a number of amendments made over the years. For example, in 2005, alterations were implemented to the wording of the *Code of Conduct* so that the role of special adviser was changed from “giving advice only” to “providing assistance” (to the minister). Changes were also made establishing that special advisers could “request officials to prepare and provide information and data”. There was also a revised *Code of Conduct* in 2009.

2.4. In 2010, with the start of a new Coalition government, a revised *Code of Conduct 2010* was published. It incorporated new requirements set by the *Constitutional Reform and Governance Act 2010*, and stated that special advisers are there to “serve the Government as whole and not just their appointing Minister<sup>13</sup>”. There are also now provisions that require special advisers to declare any gifts or hospitality they may receive while in Government. The 2010 Code of Conduct also emphasises that “the preparation or dissemination of inappropriate material or personal attacks has no part to play in the job of being a special adviser<sup>14</sup>” – and that “any special adviser even found to be disseminating inappropriate material will automatically be dismissed by their appointing Minister”. Since the release of the revised Code of Conduct, and following the resignation of Adam Smith, supplementary guidance has been issued by the Cabinet Secretary and the Head of the Civil Service on the careful control of involvement of special advisers in the “handling of quasi-judicial decisions by Ministers”<sup>15</sup>.

2.5. Currently, the responsibilities and boundaries of the activities of special advisers are contained within at least four separate documents. These are the *Code of Conduct for Special Advisers*, *The Civil Service Code*, *The Ministerial Code* and *The Model Contract for Special Advisers*. Various parliamentary reports have suggested that such a large number of codes might be confusing to follow for special advisers, as well as being difficult to enforce.

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<sup>12</sup> Public Administration Committee, “*Special Advisers: Boon or Bane?*”, (2001)

<sup>13</sup> Cabinet Office, *Code of Contract for Special Advisers*, (2010), Para 2

<sup>14</sup> Cabinet Office, *Code of Contract for Special Advisers*, (2010), Para 6

<sup>15</sup> Public Administration committee, “*Special Advisers in the thick of it*”, Para 27

2.6. Moreover, the disciplinary process in the case of misconduct has yet to be fully explained by governmental regulation. *The Ministerial Code*<sup>16</sup>, published in 2010, states that Ministers are personally responsible for disciplinary procedures. Furthermore, it is stated that civil servants may make complaints to their Permanent Secretary if they suspect misconduct. Where there are allegations about a special adviser's conduct, the relevant Permanent Secretary will first investigate and make recommendations to the Minister, but the ultimate responsibility for initiating an investigation and disciplining a special adviser lies with the appointing Ministers<sup>17</sup>. Aside from this there are no other significant guidelines about procedures for inquiries into allegations of misconduct.

### **3. Cases of Public Allegations of Misconduct: An Overview**

#### **Methodology**

3.1. In collecting data on public allegations of special adviser misconduct, the primary sources of information have been acquired via the Internet; reports from online mainstream media websites as well as political blogs such as "order-order.com". Secondary sources of information include political biographies and memoirs.

3.2. We have defined a public allegation of special adviser misconduct as any case of behaviour by a special adviser, which has been publicly criticised and may be plausibly considered 'misconduct'. The action of a special adviser is considered 'misconduct' when it may be reasonably seen to be a breach of any of the rules by which they are bound. Public criticism was judged to be any comment that may be accessible to the public.

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<sup>16</sup> Cabinet Office, *Ministerial Code* (May 2010), para. 3.2; Cabinet Office, *Code of Conduct for Special Advisers* (June 2010), para. 4.

<sup>17</sup> This was made clear in the Government's response to the Wicks Committee's report *Defining The Boundaries within the Executive: Ministers, Special Advisers and the Permanent Civil Service* in 2003: see O. Gay, *Special Advisers*, House of Commons Library Std. note, SN/PC/03813 (4 November 2010), pp. 8-9 – Submission by The Constitution Unit.

3.3. It is important to note that this paper assesses *public* allegations regardless of whether they have been investigated and found to be justified. It should also be noted that the purpose is to focus on the actions of special advisers—that is, those advisers inside government with the official title of ‘special adviser’—not individuals who might informally offer advice to the government (which is why we do not include those such as Adam Werrity<sup>18</sup> in our list of cases). There was some difficulty in determining whether a case can necessarily be judged a “public allegation of misconduct” if it has merely been the subject of a (say) two paragraph article on an obscure political blog. However, we decided that such articles should be included as sources, regardless of length or potential readership, by virtue of their presence on the Internet: which entails they can in theory be accessed by anyone and therefore are ‘public’. In terms of the timeframe within which this study was carried out, the search was restricted to the beginning of the Labour administration in 1997 up to March of this year, 2013. The search was also limited to public allegations of misconduct against special advisers located within UK Government departments, excluding allegations against special advisers in the devolved administrations of Scotland, Wales and Northern Ireland.

3.4. In conducting this research, we found a number of problematic cases. For example, Alistair Campbell is a special adviser who was faced with many accusations of general bullying. The aim of this research was to calculate *individual* cases; however it was surprisingly difficult to pin down any specific events alluding to Campbell’s alleged bullying. While there was the temptation to insert an annual category for his “general bullying”, we felt this would involve the reliance on too many assumptions for comfort. Furthermore, there are other special advisers who have also faced similar claims of general bullying and it would be difficult to deal with them consistently. We chose to list only individual allegations, and so those listed that are associated with Campbell are perhaps fewer than imagined. Another problematic case was that of Andy Coulson<sup>19</sup>, whose resignation was the result of actions taken previous to working for the Prime Minister. However, Coulson’s involvement in the hacking scandal inevitably stood him in the centre of media storm at the time when he was a special adviser. Such involvement in controversy, during his time in government, can be considered misconduct in that it breaches section of the Code of Conduct stating that special advisers “should not take part in political controversy”. Given such circumstances, it appears suitable that Coulson would be included in our list.

3.5. We should emphasise that the aim of this research is to look at all instances where there have been public *allegations* of special adviser misconduct: we are not in a position to confirm or deny their veracity. While a systematic search has been attempted in order to find all cases of alleged misconduct, it is acknowledged there may be some cases missing and thus these findings may not be wholly representative of allegations of special adviser misconduct as a whole. We welcome input, corrections and updates from the public and interested parties.

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<sup>18</sup> Adam Werrity was a personal friend of Liam Fox, Secretary of State for Defence in the Coalition government. Fox was forced to resign in 2011 following allegations that Werrity had been accompanying Fox on many official visits and posing as his adviser.

<sup>19</sup> Andy Coulson, former News of the World editor, was Director of Communications at No.10 for the Coalition Government. Coulson was forced to resign in 2011 in the midst of the hacking scandal after allegations that he had been involved in hacking while at News of the World.

#### **4. The Number of Cases**

4.1. Overall, there have been 26 key cases involving a special adviser or pair of special advisers having been publicly accused of misconduct. Each case and a short description of the circumstances can be found in the table below (Figure 1).

4.2. The table documents the year of the alleged misconduct; the special adviser or advisers involved; their department and minister; and whether they were more policy or media spads. There is also a column termed “outcomes”: did the allegation result in resignation or not. We also note the primary source or sources for information that were used to inform each entry. By the term “major broadsheets”, we are referring to papers such as *The Telegraph*, *The Times*, *The Guardian*, and *The Independent*.

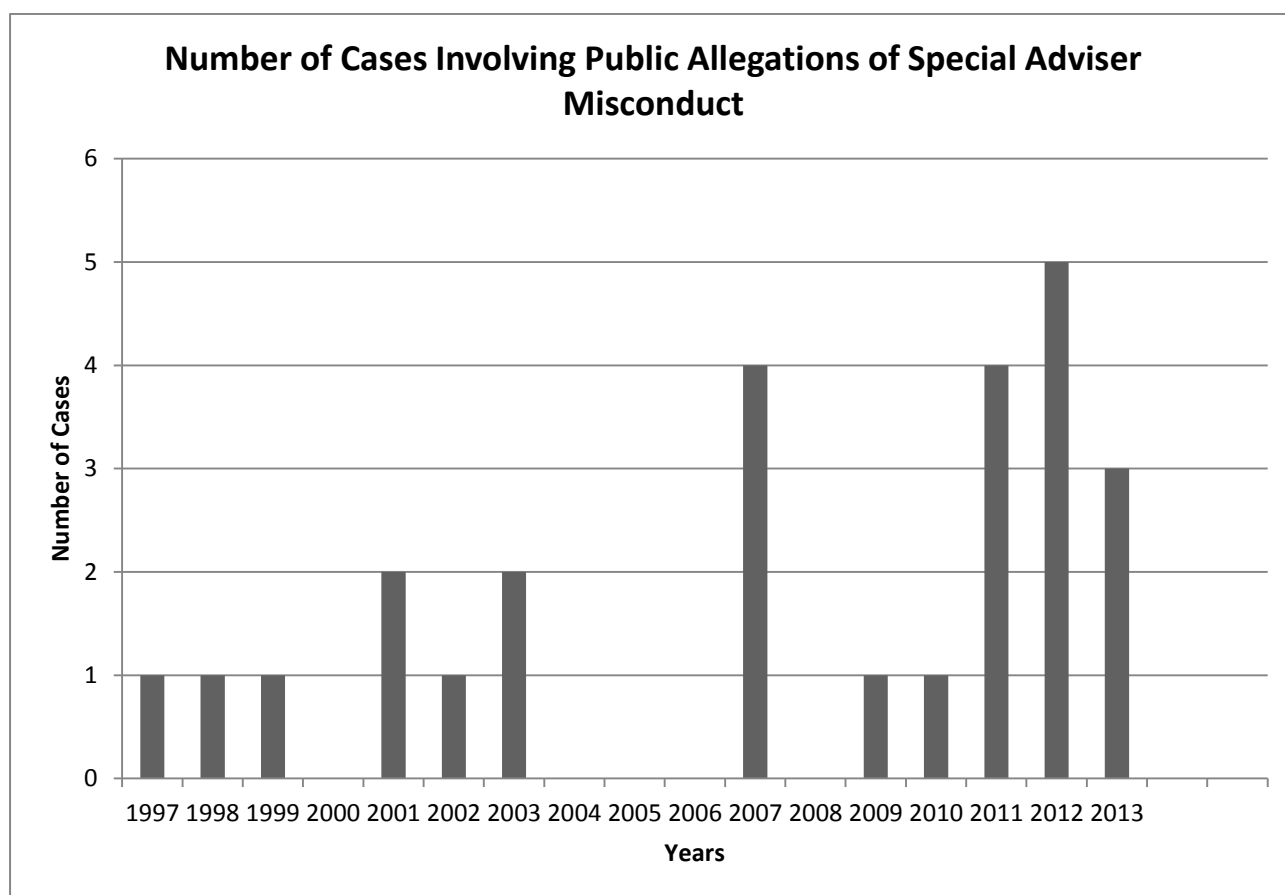
**Figure 1: Cases of Special Adviser Alleged Misconduct 1997 – 1913**

No.	Year	Special Adviser	Minister	Dept	Role	Alleged Misconduct	Outcome	Primary Sources
1.	2012	Dominic Cummings	Michael Gove	DofE	Media	Implying a journalist needed therapy		Major Broadsheets
2.	2013	Dominic Cummings, Henry De Zoete	Michael Gove	DofE	Media, Policy	Responsible for personally abusive twitter feed (@toryeducation)		Major Broadsheets
3.	2013	James McGrory	Nick Clegg	No.10	Media	Using government email for party political purposes		Order-order
4.	2012	Adam Smith	Jeremy Hunt	DCMS	Media	Forming an inappropriate relationship with lobbyist Fredric Michel	resigned 25/04/2012	Major Broadsheets
5.	2012	Craig Oliver	David Cameron	No.10	Media	Threatening the Telegraph over reports of Culture Secretary's expenses		Major Broadsheets
6.	2012	Joanna Hindley	Maria Miller	DCMS	Media	Threatening the Telegraph over reports of Culture Secretary's expenses		Major Broadsheets
7.	2012	Philippa Stroud	Ian Duncan-Smith	DWP	Policy	Receiving payment from the Centre of Social Justice (which also lobbies DWP)		Major Broadsheets
8.	2012	Dominic Cummings, Henry De Zoete	Michael Gove	DofE	Media, Policy	Using a private email account to discuss government matters		Major Broadsheets
9.	2011	James McGrory	Nick Clegg	No. 10	Media	Accused of leaking damaging story about the PM		Order- order
10.	2011	Andy Coulson	David Cameron	No.10	Media	Becoming involved in political controversy due to associations with the Hacking Scandal	resigned 21/01/2011	Major Broadsheets
11.	2011	Dominic Cummings	Michael Gove	DofE	Media	Encouraging a speedy donation to former workplace		Bureau of Investigative Journalism
12.	2011	Fiona Cunningham/Nick Timothy	Theresa May	HO	Media/Policy	Accused of briefing against UK Border Agency chief, Brodie Clark		Major Broadsheets



13.	2010	Sheridan Westlake/Giles Kenningham	Eric Pickles	DCLG	Policy/ Media	Briefing against Electoral Commission chair Jenny Watson		Political Scrapbook
14.	2009	Damien McBride	Gordon Brown	No.10	Media	Planning the launch of a website, Red Rag, containing personal attacks on Opposition figures	resigned 11/04/2009	Major Broad sheets
15.	2007	Alex Belardinelli	Ed Balls	DCSF	Media	Attacking education green paper for party political reasons		Iain Dale's blog,
16.	2007	Phil Taylor	Peter Hain	NIO	Media	Beginning party political campaigning before resigning		Order-order, Wales on Sunday
17.	2007	Paul Richards	Hazel Blears	DCLG	Media	Party political campaigning work during Deputy Leadership Campaign		Order-order
18.	2007	Blair McDougall	Ian McCartney	DofT	Media	Party political campaigning work during Deputy Leadership Campaign		Order-order
19.	2003	Alistair Campbell	Tony Blair	No.10	Media	Releasing the name of Dr David Kelly (source used in coverage of Iraq Dossier) to the media		Major Broad sheets
20.	2003	Alistair Campbell	Tony Blair	No.10	Media	Inserting misleading information into the Iraq Dossier		Major Broad sheets
21.	2002	Jo Moore	Steve Byers	DLTR	Media	Manipulating timings of the release of official information	resigned 15/02/2002	Major Broad sheets
22.	2001	Jo Moore	Steve Byers	DTLR	Media	Manipulating timings of the release of official information		Major Broad sheets
23.	2001	Alistair Campbell	Tony Blair	No.10	Media	Leaking information regarding the date of the election to The Sun		Lance Price: Where the Power Lies
24.	1999	Charles Whelan	Gordon Brown	HMT	Media	Leaking information related to Peter Mandelson's resignation	resigned 1999	Major Broad sheets
25.	1998	Alistair Campbell	Tony Blair	No.10	Media	Bullying journalists following accusations of PM passing confidential information to Murdoch		Lance Price: Where the Power Lies
26.	1997	Charles Whelan	Gordon Brown	HMT	Media	Briefing journalists on government stance on the euro at the Red Lion pub in Whitehall		Major Broad sheets

**Figure 2: Number of Cases Involving Public Allegations of Special Adviser Misconduct 1997-2013**



4.3. Figure 2 sets out the number of allegations about special adviser misconduct in the period 1997-2013. The graph indicates that before 2007, there existed no more than one or two cases per year, with an increase of cases occurring from 2007 onwards. The increase of cases in 2007, with four special advisers having been publicly accused of misconduct, coincides with the Labour Deputy Leadership campaign. The only subsequent case during the Labour Administration is one involving Damian McBride (special adviser to Gordon Brown). Since the Coalition came into power, the number of allegations appears to be increasing. Indeed, there are an equal number of cases having occurred under the Coalition Government (over a period of around two and a half years) as under Labour (over thirteen years).

## **5. Assessing the background of special advisers involved in alleged misconduct**

5.1. In terms of assessing allegations of misconduct, four different factors have been catalogued:

1. The special adviser's department;
2. Whether the department is part of the centre or not (by 'centre' we mean No 10, Cabinet Office and the Treasury);
3. The Minister the special adviser works for;
4. Whether the special adviser has a media-orientated or policy-orientated role.

5.2. The most common department to have been involved with public allegations of special adviser misconduct is Number 10, which has been involved over a third of all cases (9/26). Interestingly, special advisers in some large departments such as BIS and the MOD have never been accused of misconduct—at least not publicly. Over half of all cases (15/26) took place outside of the centre of government. The Ministers that has been most frequently been associated with these cases is Tony Blair, whose special adviser Alistair Campbell was involved in 4 out of 26 cases; and Michael Gove, whose special adviser Dominic Cummings has also been implicated in 4 out of 26.

5.3. Special advisers may perform varying roles in a department, but for our purposes a distinction has been made between what may be termed a policy special adviser and a “media” special adviser. On occasions where a special adviser’s role is not obvious, we have drawn inferences by looking at their backgrounds - for example, where they have worked in or gone on to work in, the public relations industry, we have often defined them as media special advisers. Once those accused of misconduct have been categorised, it becomes clear that it is the “media” special adviser who is most commonly accused, being involved in almost all cases (25/26), leaving only one case, that of Philippa Stroud, when it is only a policy special adviser that has been publically accused of misconduct. However, policy special advisers in conjunction with media special advisers have been involved in a fifth of all cases (5/26).

## 6. Categorising Cases of Alleged Misconduct

6.1. In order to assess the types of misconduct that have occurred most often, we have coded the rules contained within the 2010 Special Adviser Code of Conduct (see Figure 3 below). It appears somewhat anachronistic to use the most recent Code of Conduct, given there have been a number of versions of the Code of Conduct prior to 2010 (and given that it only came into existence in 2001). However the Code provides a useful, easily accessible standard by which to measure claims of misconduct.

**Figure 3: The Code of Conduct (2010) formalised**

1.	Special advisers should conduct themselves with honesty and integrity
2.	Special advisers should not deceive or knowingly mislead Parliament or the public
3.	Special advisers should not misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others
4.	Special advisers should not receive any benefits of any kind which others might reasonably see as compromising their personal judgement and integrity
5.	Special advisers are required to declare details of gifts and hospitality received in accordance with the rules set out in their departmental staff handbooks
6.	Special advisers should not, without authority, disclose official information which has been communicated in confidence in Government or received in confidence from others
7.	Special advisers should not use official resources for party political activity
8.	Special advisers should act in a way which upholds the political impartiality of civil servants and does not conflict with the Civil Service Code
9.	Special advisers should avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes
10.	Special advisers should not be involved in the preparation or dissemination of inappropriate

	material or personal attacks
11.	Special advisers should not ask civil servants to do anything which is inconsistent with their obligations under the civil service code
12.	Special advisers should not behave towards civil servants in a way which would be inconsistent with the standards set by the employing department for conduct generally
13.	Special advisers should not authorise the expenditure of public funds, have responsibility for budgets, or any involvement in the award of external contracts
14.	Special advisers should not exercise any power in relation to the management of any part of the Civil Service (except in relation to another special adviser)
15.	Special advisers should not otherwise exercise any statutory or prerogative power
16.	Special advisers should not suppress or supplant the advice being prepared for ministers by permanent civil servants although they may comment on such advice.
17.	Special Advisers should not be involved in issues affecting a permanent civil servant's career such as recruitment, promotion, reward and discipline (though their views may be sought as an input to performance appraisals provided these are written by permanent civil servants)
18.	All contacts between special advisers and the news media should be authorised by the appointing Minister and be conducted in accordance with the Government Communications Network
19.	Special advisers should not take part in political controversy whether in speeches or letter to the Press, or in books, articles or leaflets
20.	Special advisers must observe discretion and express comment with moderation, avoiding personal attacks
21.	In all contacts with the Party, special advisers must observe normal Civil Service rules on confidentiality unless specifically authorised
22.	Special advisers should not take part in the work of the Party's national organisation - they must not use official resources for Party political purposes or take any active part in the Election campaign
23.	Special advisers must not take part in any sort of national political activities
24.	If special advisers are involved with local political activities, they must at all times observe discretion, take care to express comment with moderation and avoid personal attacks.
25.	Special advisers should not speak publicly or in the Council, or vote, on matters for which their Minister has responsibility
26.	Special advisers should not serve on any committee considering such matters
27.	Special advisers should not take part in deputations or other representations to Ministers
28.	Special advisers should declare an interest in relation to any case or application which comes before the Council in which their department is involved
29.	Special advisers should observe discretion in relation to policies for which other Ministers are responsible, in order to avoid causing them embarrassment
30.	Special advisers are required to submit an application to the Head of their former Department for any appointments or employment they wish to take up within two years of leaving the Civil Service
31.	Special advisers should not disclose to the Council privileged information obtained in the course of their duties
32.	Special advisers are not allowed to publish or broadcast personal memoirs reflecting their experience in Government, unless authorised
33.	Special advisers must continue to observe their duties of confidentiality after they have left their employment as special adviser

6.2. Each case of alleged misconduct has been coded according to which sections of the *Code* their actions would have breached (see figure 5 below). It is acknowledged that some sections of the *Code* may overlap. Furthermore, the assignment of these numbers is based on an interpretation of the events as they were reported, bearing in mind that some news reports might omit certain information or conflict with reports from other media organisations or blogs.

6.3. It has been assumed that in all of these cases, the alleged misconduct would be in breach of numbers 1 and 19. Number 1 (“special advisers should conduct themselves with honesty and integrity”) is judged to be relevant for all cases as each case may bring into question integrity. Number 19 (“special advisers should not take part in controversy whether in speeches or letters to the Press, or in books, articles or leaflets”) has also been assumed to have been violated in all cases: any reported accusation of misconduct necessarily involves the special adviser being embroiled in some level of political controversy. Therefore the table depicts sections of the Code that have been breached over and above those of numbers 1 and 19.

6.4. The table in figure 5 contains a column documenting different categories of “type” of misconduct: this codes the alleged misconduct in terms of the primary basis for criticism directed at the special adviser/ special advisers. The category “party political” refers to misconduct in which the special adviser has been primarily accused of using their position and/or national resources for their party as opposed to the government. The category “personal attack” refers to cases where the special adviser has attempted to undermine or criticise an individual or several individuals. The category “improper handling of official information” involves cases whereby the chief accusation against a special adviser is that they misled the public in how they have presented or released official information. The final category, “other” is a residual category.

**Figure 4: Elements of the Code Special Advisers have been accused of breaching**

No.	Year	Special Adviser	Alleged Misconduct	Relevant Elements of Code	Type of misconduct
1.	2013	Dominic Cummings	Implying a journalist needed therapy	2,3,7,9,10,18,20	Personal attack
2.	2013	Dominic Cummings, Henry De Zoete	Writing personally abusive twitter feed under @toryeducation	2,3,7,9,10,18,20,22	Personal attack
3.	2013	James McGrory	Using government email for party political purposes	7,9,22, 23	Party political
4.	2012	Adam Smith	Forming an inappropriate relationship with lobbyist Fredric Michel	3,4,6	Other
5.	2012	Craig Oliver	Threatening the Telegraph over reports of Culture Secretary’s expenses	3,7,9,10, 18,20,	Personal attack
6.	2012	Joanna Hindley	Threatening the Telegraph over reports of Culture Secretary’s expenses	3,7,9, 10,18,20,	Personal attack
7.	2012	Philippa Stroud	Being paid by an organisation, Centre for Social Justice, which lobbies DWP	4	Other

8.	2012	Dominic Cummings, Henry De Zoete	Using a private email account to discuss government matters	2,9	Improper handling of official information
9.	2011	James McGrory	Leaking damaging story about the PM		Personal Attack
10.	2011	Andy Coulson	Becoming involved in political controversy due to associations with the Hacking Scandal		Other
11.	2011	Dominic Cummings	Encouraging a speedy donation to former workplace	3	Other
12.	2011	Fiona Cunningham/Nick Timothy	Accused of briefing against UK Border Agency chief, Brodie Clark.	3,7,10,18,20	Personal attack
13.	2010	Sheridan Westlake/Giles Kenningham	Briefing against Electoral Commission chair Jenny Watson	3,7,10,18,20	Personal attack
14.	2009	Damien McBride	Planning the launch of a website, Red Rag, containing personal attacks on Opposition figures	2,3,7,9,10,18,20,22	Personal attack
15.	2007	Alex Belardinelli	Attacking education green paper for party political reasons	9,22	Party political
16.	2007	Phil Taylor	Beginning party political campaigning before resigning	7,9,22	Party political
17.	2007	Paul Richards	Party political campaigning work during Deputy Leadership Campaign	7,9,22	Party political
18.	2007	Blair McDougall	Party political campaigning work during Deputy Leadership Campaign	7,9,22	Party political
19.	2003	Alistair Campbell	Releasing the name of Dr Kelly (source used in news coverage of Iraq Dossier) to media	2,3,9,10,18,20	Personal attack
20.	2003	Alistair Campbell	Inserting misleading information in the Iraq Dossier	2,7,9	Improper handling of official information
21.	2002	Jo Moore	Manipulating timings of the release of official information		Improper handling of official information
22.	2001	Jo Moore	Manipulating timings of the release of official information		Improper handling of official information
23.	2001	Alistair Campbell	Leaking information regarding the date of the election to The Sun		Improper handling of official information
24.	1999	Charles Whelan	Leaking information relating to Peter Mandelson's resignation	3,6,7,9,10,18	Personal attack
25.	1998	Alistair Campbell	Bullying journalists following accusations of PM passing confidential information to Murdoch	3,7,9,10,18,20	Personal attack
26.	1997	Charles Whelan	Briefing journalists on government stance on the euro at the Red Lion pub in Whitehall	3,6,7,9,10,18	Improper handling of official information

**Figure 57: Frequency with which certain parts of the code are violated**

Relevant Elements of Code	Frequency
2	5
8.3	14
4	2
6	4
7	16
9	17
10	12
18	11
20	9
22	7
23	1

6.5. Figure 7, above, depicts the frequency by which sections of the code have been violated. The table shows that the most relevant sections are 7 and 9; “special advisers should not use official resources for party political activity” and “special advisers should avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes” respectively.

6.6. Other sections which are relevant in a significant number of cases are numbers 3, 10 and 18 (“special advisers should not misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others”, “special advisers should not be involved in the preparation or dissemination of inappropriate material or personal attacks” and “all contacts between special advisers and the news media should be authorised by the appointing Minister and be conducted in accordance with the Government Communications Network”).

**Figure 68: Frequency of each category of alleged misconduct**

Category of Alleged Misconduct	Frequency
Party political	5
Personal attack	12
Improper use of official information	5
Other	5

6.7. Figure 8, above, then depicts the number of cases in each category. Interestingly, despite the most relevant sections of the Code of Conduct for each case referring to party politics; the “type” of misconduct which occurs most frequently is “personal attack”, followed by “party political” and then “other” types of misconduct.

## 7. Conclusion

7.1. From the findings of this paper, it appears that it is almost always “media spads” that are the object of allegations of misconduct. One explanatory factor for this may be the fact they are better known by the media and so are more likely to be targeted by reporters. Moreover, the kind of work the media special adviser does, ie, focusing on the presentation of policy as opposed to its construction, may align more closely with the type of misconduct that appears to be most common – personal attacks and behaving in a fashion considered to be in the interests of the party.

7.2. What is perhaps most striking is that the number of cases of alleged misconduct has increased in recent years. The reasons for this are unclear. It may be that special advisers are increasingly engaging in behaviour amounting to misconduct. But arguably changes in the media are of equal or even greater significance. ‘The media’ has evolved in a way that has enabled it to keep a much closer watch on politicians and those that work in the government. There is now much more information available related to the day-to-day workings of government. More importantly the number of observers of the political landscape have increased, with political blogs such as that of Guido Fawkes as well as other internet-based media such as twitter. As a result, the opportunity to publicly accuse a special adviser of misconduct has greatly increased.

7.3. Another possible factor for the rise in public allegations of misconduct may be directly related to changes in government. It can be seen from figure 2 that there are ‘spikes’ in the number of allegations following a change in government. This may be a result of new special advisers unclear of the boundaries; but it may also be a result of the media more focused on seeking weaknesses or fault lines in a new government.



## Appendix

No.	Year	Special Adviser	Reference
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3.	2013	James McGrory	Order – Order, <i>Clegg SpAd McGrory Reported for Partisan Eastleigh Blunder</i> , February 7 2013, <a href="http://order-order.com/2013/02/07/clegg-sp-ad-mcgrory-reported-for-partisan-eastleigh-blunder/">http://order-order.com/2013/02/07/clegg-sp-ad-mcgrory-reported-for-partisan-eastleigh-blunder/</a>
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