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The Ministerial Code and the Independent Adviser on Ministerial Interests

Summary

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Summary

The Ministerial Code sets out the standards and conduct expected of Ministers.

It was first published with this title in 1997. It was previously published as Questions of Procedure for Ministers (QPM) in 1992. QPM had been in existence before this as a confidential internal circular, since at least the Second World War. The document was well known unofficially in the media, academic texts and Parliament.

The Ministerial Code is a combination of ethical principles and procedural guidance. Each Section of the Code begins with a statement of General principle. Ministers are also expected to observe the Code of Conduct for MPs or for Members of the Lords and the guidance brought together in the Cabinet Manual.

The text has been subject to revision, following recommendations from the Committee on Standards in Public Life and the Select Committee on Public Administration. It has become customary for a revised Code to be published at the beginning of a new administration, but revisions have also been issued at other times.

Two versions of the [Ministerial Code](#) were issued in 2022. The latest version was issued on 22 December by Prime Minister Rishi Sunak. The other 2022 revision was issued on 27 May 2022 by Prime Minister Boris Johnson. Several policy papers were also issued on 27 May 2022

Independent Adviser on Ministerial Interests

Since 2006 there has been an Independent Adviser on Ministers' Interests, to give confidential advice on request from Ministers; to conduct investigations at the request of the Prime Minister and to provide advice on the registration of Ministers' private financial interests. There have been calls for this role to be reviewed, to strengthen the power for the Adviser to initiate investigations. There has also been some controversy over decisions of successive Prime Ministers not to refer individuals to the Adviser. The terms of reference for the Adviser were revised in May 2022.

On 15 June 2022 the Adviser, Lord Geidt, resigned. Lord Geidt had been appointed as Independent Adviser in April 2021, after a gap of five months when the post was vacant.

The post was vacant until Sir Laurie Magnus, was appointed on 22 December 2022.

This briefing relates to the Ministerial Code for UK ministers. There are separate codes for [Scottish](#), [Welsh](#) and [Northern Ireland](#) ministers. All of the Codes include the [Seven Principles of Public Life](#).

1 The December 2022 Ministerial Code

1.1 Background

The Ministerial Code sets out the standards and conduct expected of Ministers.

A new edition of the Ministerial Code was issued on 22 December 2022.¹ The previous edition had been issued on 27 May 2022

It was first published as Questions of Procedure for Ministers (QPM) in 1992, although it had been in existence before this as a confidential internal circular since at least the Second World War and was well known unofficially in the media, academic texts and in Parliament.

QPM was revised and first issued with the title The Ministerial Code in 1997.

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The Prime Minister writes the introduction to each edition of the Code and can use this to set the tone for their plans and style of Government.

It has become customary for a new version of the Ministerial Code to be published when there has been a change of Prime Minister. New versions have also been published when there is a significant change of content, which needs to be put in the public domain.

In addition Ministers are expected to observe the [Seven Principles of Public Life](#) (an Annex to the Code), and the principles of ministerial conduct (see Box 1).

1 Principles of ministerial conduct

The following principles of conduct that Ministers are expected to follow are set out on pages 1 and 2 of the Ministerial Code:

¹ Cabinet Office, [Ministerial Code](#), May 2022.

- a. The principle of collective responsibility applies to all Government Ministers;
- b. Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their departments and agencies;
- c. It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;
- d. Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the Freedom of Information Act 2000;
- e. Ministers should similarly require civil servants who give evidence before Parliamentary Committees on their behalf and under their direction to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the Civil Service Code;
- f. Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;
- g. Ministers should not accept any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation;
- h. Ministers in the House of Commons must keep separate their roles as Minister and constituency Member;
- i. Ministers must not use government resources for Party political purposes;
- j. Ministers must uphold the political impartiality of the Civil Service and not ask civil servants to act in any way which would conflict with the Civil Service Code as set out in the Constitutional Reform and Governance Act 2010.

Ministers are personally responsible for deciding how to conduct themselves in light of the Code and for justifying their actions to Parliament and the public. The Code confirms that Ministers only remain in office as long as they retain the confidence of the Prime Minister.²

The Prime Minister appoints an Independent Adviser on Ministers' Interests who acts as an independent check and source of advice to government ministers on the handling of their private interests. The Prime Minister can also instruct the Independent Adviser to investigate any alleged breach of the

² Cabinet Office, [Ministerial Code](#), August 2019, para 1.6

Ministerial Code. There was a change in the arrangements for investigations in the the May 2022 Code (see more in 5.10 below)

[Lord Geidt](#) was appointed as the Independent Adviser in April 2021.³ Lord Geidt resigned from the post in June 2022.

[Sir Laurie Magnus](#) was appointed as the Independent Adviser in December 2022.

1.2

Background to changes in the December 2022 Code

Boris Johnson announced his resignation as Prime Minister on 7 July 2022. Liz Truss was appointed Prime Minister on 6 September 2022 and resigned on 25 October 2022. The Ministerial Code was not updated during her term as Prime Minister. Rishi Sunak became Prime Minister on 25 October 2022.

An investigation into the conduct of Ministers and staff in the Prime Minister's office during the period of Covid legal restrictions in 2020 and 2021 had been carried out by the Second Permanent Secretary to the Cabinet Office (Sue Gray), and the final report was published on 25 May 2022.⁴ Boris Johnson, Prime Minister, also received a Fixed Penalty Notice issues by the Metropolitan Police on 12 April 2022. A statement was made to the House of Commons by the Prime Minister on 19 April 2022.⁵

On 21 April 2022 the Commons passed a Resolution referring to the Committee of Privileges an instruction to carry out an inquiry into whether Boris Johnson's conduct was a contempt of the House. The Committee has not yet concluded this inquiry.⁶

On 15 June 2022 Lord Geidt resigned as Independent Adviser on Ministerial Interests.⁷ In his Annual Report published on 31 May 2022 he had commented:

It may be especially difficult to inspire that trust in the Ministerial Code if any Prime Minister, whose code it is, declines to refer to it. In the case of the Fixed Penalty Notice recently issued to and paid by the Prime Minister, a legitimate question has arisen as to whether those facts alone might have constituted a breach of the overarching duty within the Ministerial Code of complying with the law. It may be that the Prime Minister considers that no such breach of his

³ Cabinet Office, [Press Notice](#), 28 April 2021.

⁴ Cabinet Office, [Findings of Second Permanent Secretary's investigation....](#), 25 May 2022.

⁵ [HC Deb 19 April 2022 col 48](#)

⁶ HC Committee of Privileges, [Matter referred on 21 April 2022: conduct of Rt Hon Boris Johnson MP](#)

⁷ Cabinet Office, Press Notice, [Statement from Lord Geidt](#), 15 June 2022.

Ministerial Code has occurred. In that case, I believe a Prime Minister should respond accordingly, setting out his case in public.⁸

In his first speech as Prime Minister, on 25 October 2022, Rishi Sunak included a statement that:

This government will have integrity, professionalism and accountability at every level.

The appointment of Suella Braverman as Home Secretary attracted some controversy. The Minister had resigned from the same post on 19 October 2022 citing a breach of the Ministerial Code, where she had shared an official document with another (non-Ministerial) MP using a personal email address.⁹

1.3

Changes made in the December 2022 Code

A new Foreword from Prime Minister, Rishi Sunak, included:

And as we go about our tasks, we will uphold the Principles of Public Life, ensuring integrity, professionalism and accountability at every level. I know Ministers enter government because they believe in public service. They work hard because they want to make a difference to others. They do their jobs knowing it is an incredible privilege to serve. In everything we do, we must keep those thoughts at the forefront of our minds to earn the trust of the British people.¹⁰

An additional sentence was added to the end of para 1.5:

The Business Appointment Rules (paragraph 7.25 and Radcliffe Rules (paragraph 8.10 continue to apply to former ministers after they leave office.¹¹

The Business Appointment Rules include prohibitions on lobbying by former ministers and a requirement to seek advice on taking up employment. The Radcliffe Rules relate to publication of memoirs by former ministers. The new sentence does not change any requirement on former ministers, but the repetition lends emphasis. This may be related to the involvement of former Prime Minister David Cameron with the firm Greensill Capital.¹²

Para 4.11 on maternity leave was amended to include specific reference to the provisions of the [Ministerial and other Maternity Allowances Act 2021](#). A new

⁸ Cabinet Office, [Annual report of the Independent Adviser on Ministers' Interests 2021-22](#), 31 May 2022

⁹ Cabinet Office, [Letter from Home Secretary to Home Affairs Select Committee](#), 31 October 2022

¹⁰ Cabinet Office, [Ministerial Code](#), (pdf) December 2022, Foreword.

¹¹ Cabinet Office, Ministerial Code, December 2022, para 1.5

¹² Public Administration and Constitutional Affairs Select Committee, [Propriety of governance in light of Greensill](#), HC888 2022-23, 2 December 2022.

para 4.12 was added to make it clear that ministers could also seek permission for a leave of absence to cover ill health, adoption or paternity.

A few other drafting changes were made to specify references to the Prime Minister by title, not pronoun “he” and to update references to the King.

1.4

Calls for a statutory Code or parliamentary approval of the Code

There has been much debate over the years as to whether the Ministerial Code should be underpinned by statute. A recent call was in the Report of the Committee on Standards in Public Life, issued in November 2021.¹³ The Government rejected this recommendation in a policy paper it published to accompany the revised Ministerial Code issued in May 2022.¹⁴ (see more in Section 1.3)

There has been a particular interest in the argument that there should be statutory obligations on ministers to act with propriety towards the civil service and to take due notice of their advice. The [Constitutional Reform and Governance Act 2010](#) gave a statutory underpinning to the existence of a non-partisan civil service, but it did not specifically refer to the Code.¹⁵

On 17 July 2012 Bernard Jenkin, Chair of the Public Administration Select Committee, suggested that the Code should be “owned by Parliament and controlled by Parliament in order that it can become a mechanism that can be used by Parliament to hold Ministers to account.”¹⁶ This was in a debate on the Select Committee’s report on the degree on the Independent Adviser.¹⁷

The Government responded that “Parliament already has a powerful range of mechanisms to hold the Government, including the Prime Minister and his Ministers, to account” and that “it would not be appropriate to change the Ministerial Code” so that it was owned by Parliament and controlled by Parliament.¹⁸

In March 2021, Transparency International, the anti-corruption campaign, called for the Ministerial Code to be given statutory status:

If we are serious about our politicians and civil servants maintaining standards of integrity, we need oversight mechanisms with sufficient

¹³ Committee on Standards in Public Life, [Upholding standards in public life](#), November 2021.

¹⁴ Cabinet Office, [Statement of Government policy: standards in public life](#), 27 May 2022.

¹⁵ For background see Lords [Constitution Committee report on Constitutional Reform and Governance Bill 2009-10](#)

¹⁶ [HC Deb, 17 July 2012, col 876](#)

¹⁷ Public Administration Select Committee, [The Prime Ministers Adviser on Ministers’ Interests: Independent or not?](#) 17 March 2021, HC 1761.

¹⁸ Public Administration Select Committee, [The Prime Minister’s Adviser on Ministers’ Interests: Government Response](#), 12 February 2013, HC 976.

autonomy and comprehensive sanctions that act as a far more effective deterrent to misconduct in all its forms.¹⁹

In July 2021 the Institute for Government (IfG) issued a report calling for the Code and the role of the Independent Adviser to be placed on a statutory basis. Their recommendation was that:

The legislation should be tight and focused, setting out simply that there should be a ministerial code, that it should require ministers to abide by the ‘seven principles of public ... and that there should be an independent adviser on ministerial interests with appropriate powers to help the prime minister uphold the code ...²⁰

The IfG also pointed out that a statutory code already existed within the United Kingdom. In Northern Ireland the Code was set out in the Northern Ireland Act 1998, as amended by the Northern Ireland (St Andrews Agreement) Acts 2006 and 2007 and further defined in the Functioning of Government Act 2021.

¹⁹ [“It’s time for the Ministerial Code to become law”](#), Transparency International, 17 March 2021.

²⁰ Durrant; Panel; Haddon, [Updating the Ministerial Code](#), IfG Analysis, 2021.

2

The Register of Ministerial Interests

The Ministerial Code includes procedures for recording Minister's private interests on first appointment as a Minister and on a regular, ongoing basis. Government Departments and their Permanent Secretaries are responsible for collecting this information, which is published by the Cabinet Office.

The following information relating to Ministers and their family members must be published:

1. Financial interests: [must] includes directly relevant interests held by a Minister. ... It indicates where financial interests are held in a blind trust or similar blind management arrangement.
2. Directorships and shareholdings...
3. Investment property...
4. Public Appointments
5. Charities and non-public organisations...
6. Any other relevant interests
7. Interests of spouse, partner or close family member
8. Compliance with legal obligations: Ministers are asked to confirm that they have observed their overarching duty to comply with the law.

Publication of information

Since 2010, Paragraph 7.5 of the Ministerial Code has set out that a statement of this information will be published "twice yearly", but this has not always been achieved. No information was published in 2018; information was published once in 2020 (July) with a gap until May 2021. The schedule was resumed with publication of lists in November 2021 and May 2022. No information has been published since then, as there was no Independent Adviser in post until December 2022.²¹

The then Independent Adviser, Lord Geidt, commented in the 2020-21 Annual Report:

²¹ Cabinet Office, [List of ministers' interests 2011-](#)

The last list was published in July 2020, and the lists before that in December 2019 and March 2019. As with the annual report, had he been in post, Sir Alex Allan would have expected to publish a list in December 2020. It is my firm intention that the twice yearly publication should now be resumed and maintained, as envisaged in the Code. While the precise timings of publication in a given year may vary (for example to accommodate new Ministerial appointments) it is important that the publication remains regular and up to date.²²

What else must be declared?

The following details all come the most recent edition of the Code (December 2022).²³

Financial interests

Paragraph 7.3 of the code sets out the procedure for gathering financial declarations, as set out in the introduction to published lists is:

Under the terms of the Ministerial Code, Ministers must ensure that no conflict arises, or could reasonably be perceived to arise, between their Ministerial position and their private interests, financial or otherwise.

Gifts and hospitality

Paragraph 7.22 sets out how gifts given to Ministers must be treated. Gifts given to Ministers become the property of the Government. Gifts valued under £140 may be retained. Gifts over that value may be purchased. Departments publish quarterly returns on gifts received by Ministers.

The figure of £140, as a definition of a small gift, has remained at the same level for a number of years.

Meetings with external organisations

Paragraph 8.14 of the code sets out how meetings with Ministers must be declared. Meetings should normally be arranged through the department, and an official should normally be present. Ministers should declare instances where they discuss official business without officials present.

Departments publish quarterly reports on Ministers external meetings.

Travel

Paragraphs 10.3 and 10.4 deal with travel. Normally the department arranges and pays for Ministers' official travel. Offers of free travel

²² Cabinet Office, [Annual report by the Independent Adviser on Ministers' Interests](#), May 2021, para 13.

²³ Cabinet Office, [Ministerial Code](#), August 2019

should not normally be accepted, unless the offer is from another government and there is “no undue obligation created”.²⁴

Data on Ministers gifts and hospitality received, meetings which have been held and travel undertaken has been published since 2010, including nil returns. This is published by each individual Department through the Gov.UK website. In most cases all returns are linked to one web page, so that a full collection for a Department can be retrieved (see Treasury example).²⁵ No cross-Government analysis is published.

Information on Senior Officials and SPADs

In July 2021 an update on the publication of the latest issue of this data was included in a statement by Cabinet Office Minister Chloe Smith, on Government Transparency and Accountability. It was also announced that with effect from 2020, data would be published quarterly, on gifts and hospitality received and meetings attended by Ministers’ Special Advisers (SPADS) as well as Ministers and Senior Officials²⁶

²⁴ Cabinet Office, [List of Ministers’ interests](#), May 2021.

²⁵ Her Majesty’s Treasury, [HMT ministers’ meetings, hospitality and overseas travel](#), [accessed August 2021].

²⁶ [HCWS185](#) [on Government Transparency], 15 July 2021.

3 Proposals for reform of the Code

3.1 Proposals for reform since 2020

The twenty-fifth anniversary of the Nolan Report in 2020 has prompted reflection on the changes to the scope of ethical regulation of public life in this period.

Standards Matter 2 review

In September 2020 CSPL announced Standards Matter 2, a landscape review of the institutions, processes and structures in place to support high standards of conduct, including the Ministerial Code.²⁷

The former Independent Advisers on Ministerial Interests, Sir Philip Mawer and Sir Alex Allan, gave oral evidence to the Standards Matter 2 inquiry on 10 March 2021.²⁸ Both former Advisers responded that they felt the Independent Adviser should have the capacity to initiate investigations, and that there should be more frequent reference for investigation. Sir Alex commented that this could help the Prime Minister to stand between the Minister under investigation and the public, giving more confidence in the operation of the Code.

Both former Advisers felt that decisions on action to be taken following an investigation should remain with the Prime Minister. Sir Alex felt that the issue of finding a breach had occurred had become “mixed up” in the press and public with the issue of resignation by a minister. A potential reform could be to have a greater range of available sanctions.

In response to questions about the appointment of the Adviser, both Sir Philip and Sir Alex stressed the need for this to be based on a “relationship of trust” between the Prime Minister, the Cabinet Secretary and the Adviser. They were not in favour of formal pre-appointment hearings before the Parliamentary and Constitutional Affairs Select Committee.²⁹

Review final report

The CSPL review made a final report Report in November 2021, which included a number of recommendations for revision of the Code.³⁰ The Government

²⁷ CSPL, [Standards Matter 2: Terms of reference](#), 22 September 2020.

²⁸ CSPL, Standards Matter 2: [Committee oral evidence session 10 March 2021](#).

²⁹ CSPL, Standards Matter 2, [Oral evidence 10 March 2021](#).

³⁰ Committee on Standards in Public Life, [Upholding standards in public life](#), November 2021.

has not accepted all of these recommendations, although some are still under consideration. A debate on the Standards in Public Life report, on an opposition motion was held in the Commons in June 2022. In reply the paymaster General, Michael Ellis, stated:

The updates to the ministerial code strengthen it. It is simply wrong to say that they weaken it—that is the opposite of the case. They are intended, in the first place, to enhance the role of the Independent Adviser on Ministers’ Interests, for whom we have considerable respect. They are also to provide what could only be described as a reasonable range of sanctions so that the Prime Minister can discharge an appropriate and proportionate sanction for what might be in certain cases a minor breach, and to include a new foreword reflecting the current priorities of the Government.³¹

Public Administration and Constitutional Affairs Committee

In a report published in December 2022, PACAC made recommendations that the Independent Adviser should be appointed on a statutory basis and the appointment should be carried out using the procedures of the Commissioner for Public Appointments, including pre-appointment scrutiny by a Select Committee. Once appointed the Adviser should have a clear authority to initiate inquiries and to advise on sanctions. The Committee further recommended that:

The Government should outline the range of sanctions and indicative examples of breaches to which they might apply. Without this, the suspicion is that the only determinant of the level of sanction will be political expediency.³²

A post-Nolan era?

In an academic article reviewing developments in use of the Code between 2018 and 2020, Professor Leighton Andrews concluded:

The Nolan era is over. Ministers can perform badly but not be sacked. They can mislead Parliament but escape punishment. Cabinet and other ministers can breach collective responsibility with impunity. Details of Cabinet meetings and indeed Cabinet minutes can be leaked without any sanction. Ministers can undermine civil servants without consequence to themselves. Ex-Ministers can ignore ACOBA rules and a year later become Prime Minister. Ministers sacked for leaking can rejoin the Cabinet within months.³³

³¹ [HC Deb 7 June 2022 col 674-728](#).

³² Public Administration and Constitutional Affairs Select Committee, [Propriety of governance in the light of Greensill](#), HC888 2022-23, 2 December 2022.

³³ Leighton Andrews, ‘[Brexit, Cabinet Norms and the Ministerial Code](#): Are we living in a post-Nolan era?’, *The Political Quarterly*, vol 91, No 1, January-March 2020.

Use of statistics

In March 2021, the Commons Public Administration and Constitutional Affairs Committee (PACAC) published the report of an inquiry into the use and presentation of official statistical information, during Covid 19. The Committee recommended a change to the Ministerial Code:

The Ministerial Code needs to be strengthened so it is clear that Ministers are required to abide by the UKSA Code of Practice in their presentation of data. The UKSA Code includes the principle of trustworthiness that builds “confidence in the people and organisations that produce statistics and data”. Abiding by the UKSA Code of Practice is a statutory requirement for Government Departments. It is simply not enough to ask Ministers to be “mindful” of the UKSA code.³⁴

The Government has responded to the Report in the form of two letters to the Committee. It has not so far responded to the recommendation about the Code.

Institute for Government

In July 2021 the Institute for Government called for “overhaul of the ministerial code”. Their report analyses the provisions in the UK Ministerial Code and compares these with codes in operation in Northern Ireland; Scotland and Wales, as well as Australia, Canada and New Zealand.³⁵

The need for review is set out as:

The current ministerial code has several fundamental flaws. It has no permanent constitutional status, which means it can be disregarded. The independent adviser tasked with investigating potential breaches of the code is not actually that independent, as they are unable to act without the prime minister’s permission. And the code’s content urgently needs updating: it has no explanation of what sanctions might be applied to different breaches, for example, and lacks clarity over how ministers should respond to lobbying – the subject of another recent scandal surrounding the conduct of a recent Conservative prime minister. It contains only minimal guidance on how ministers should use social media.³⁶

The paper proposes changes to the content and enforcement of the Code. Recommendations include:

³⁴ Public Administration and Constitutional Affairs Committee, *Government transparency and accountability during Covid 19: the data underpinning decisions*, 15 March 2021, HC 803, 2019-21, Conclusions.

³⁵ T Durrant, J Pannell, C Haddon, ‘[Updating the Ministerial Code](#)’, IfG Analysis, July 2021.

³⁶ Op.cit p4

- The existence of the ministerial code and the principles it contains, as well as the existence and role of the independent adviser, should be put into statute.
- The prime minister should expand and strengthen the role of the independent adviser, currently Lord Geidt.
 - The adviser should be able to start his own investigations, and publish the findings
 - The adviser should be able to propose changes to the code
 - The staff supporting the adviser should be fully independent from ministerial oversight
 - The prime minister should ensure the adviser’s term in office is secure.
- The new code should explain that a range of sanctions are available for breaches, and should set out some.
- Ministers should have to publicly commit to abide by the code, to reinforce its importance.
- The code should better distinguish between expected standards of behaviour and the current processes of government that should be followed, such as who can attend cabinet committees. This would make the code easier to understand and uphold.
- The code also needs to be updated to respond to new concerns ranging from social media use to the accountability of advisers.
 - Ministers should not use personal phones for government business
 - The government should be more transparent about whom ministers meet
 - The code should expand and clarify rules on social media use
 - The code should update the rules on accountability for special advisers
 - More explicit guidance on relationships in government may be needed.³⁷

³⁷ Op cit, pp 7-8.

3.2 Previous proposals for reform

Since its publication, the Code has been subject to a number of recommendations for reform.

It was reviewed by the Committee on Standards in Public Life (CSPL) as part of its sixth report *Reinforcing Standards* in January 2000.³⁸ It recommended that the presentation of paragraph 1 of the Code be improved to reflect its importance as a statement of the ethical principles governing ministerial conduct. Some redrafting took place in 2001, but the broader recommendation aimed at separating out ethical principles from general guidance did not take place until 2005. This separation was removed in the 2007 edition.

The Public Administration Select Committee (PASC) made recommendations in 2000 for Parliament to have a voice in the formulation of the Ministerial Code. It recommended formal approval by the House, citing as precedent the formal approval of the Welsh version of the Ministerial Code by the Welsh Assembly in May 1999.³⁹ The Government in its response rejected the possibility of parliamentary approval for the Code:

The Ministerial Code is the Prime Minister's guidance to his Ministers on how he expects them to undertake their official duties. It is for the Prime Minister to determine the terms of the Code. The Government notes the Committee's concern that there is no requirement for the Ministerial Code to be published. It is, however, normal practice for the Ministerial Code to be updated after an Election, and since 1992, each revision has been published. The Prime Minister undertakes that he will continue to publish the Code and any revisions to it on this basis.⁴⁰

The CSPL returned to the overall presentation of the Code in its 2003 report *Defining the Boundaries within the Executive: Ministers, special advisers and the permanent civil service*.⁴¹ It recommended the separation of matters relating to standards of conduct from other material on procedures, to produce a free-standing code of conduct, defined as of equal weight and authority as the Civil Service Code and the Code of Conduct for Special Advisers.⁴²

³⁸ [Cm 4557](#) January 2000.

³⁹ Public Administration Committee, *The Ministerial Code: Improving the Rule Book*, 14 February 2001, [HC 235 2000-01](#)

⁴⁰ Public Administration Committee, *The Ministerial Code: Government Response to Committee Report*, 11 December 2001, [HC 439 2001-2](#)

⁴¹ Cm 5775 April 2003

⁴² Recommendation R1

The then CSPL chairman, Sir Alastair Graham, indicated interest in reviewing the content and operation of the Code, including the variants in devolved administrations.⁴³

⁴³ Letter to Chris Grayling , Shadow Leader of the House 3 August 2005

4 Investigating breaches of the Code

If there is an allegation about a breach of the Code and the Prime Minister, having consulted the Cabinet Secretary, feels that it warrants further investigation, they may refer the matter to the Independent Adviser on Ministers' Interests.⁴⁴ The post which has existed since 2006.⁴⁵

This section sets out developments to the role of Independent Adviser on Ministers' Interests and summarises investigations undertaken, during the tenure of the five Advisers to have been appointed since the role was established in 2006.

Prior to the appointment of an Independent Adviser on Ministers' Interests, the Code confirmed that the Prime Minister was the ultimate judge of the standards of ministerial behaviour. The development of the process for investigating alleged breaches of the Code is covered in greater detail later in this note.

4.1 Terms of reference May 2022 onwards

The terms of reference for the Adviser and their role in initiation of inquiries under the code were updated in May 2022, under Prime Minister Boris Johnson. These now state:

Where the Independent Adviser believes that an alleged breach of the Code warrants further investigation and that matter has not already been referred to him, he may initiate an investigation (1.4b). Before doing so, the Independent Adviser will consult the Prime Minister who will normally give his consent.

However, where there are public interest reasons for doing so, the Prime Minister may raise concerns about a proposed investigation such that the Independent Adviser does not proceed. In such an event, the Independent Adviser may still require that the reasons for an investigation not proceeding be made public unless this would undermine the grounds that have led to the investigation not proceeding.⁴⁶

⁴⁴ Cabinet Office, *Ministerial Code 2019*, para 1.4

⁴⁵ [HC Deb 23 March 2006 c33WS](#)

⁴⁶ Cabinet Office, [Terms of reference: Independent Adviser on Ministers' Interests](#), 27 May 2022.

Commentary on the revised terms of reference mostly did not conclude that the Adviser had gained the enhanced independence that previous advisers had sought. The Institute for Government commented that:

The more noteworthy – and regrettable – aspect of the new ministerial code is what has not changed. The prime minister failed to give Lord Geidt, his so-called [independent adviser on ministerial interests](#), any new powers that would have made his role properly independent. Geidt still requires the prime minister’s approval to begin any investigation into potential wrongdoing by a minister, and the prime minister can withhold that permission without having to explain why.⁴⁷

The Adviser gave oral evidence to PACAC on 14 June 2022. The hearing covered the revised Terms of Reference and Lord Geidt commented:

Yes, I do believe that I can now initiate inquiries. There is still a point of consultation built in. I am happy to speak to that by way of an example. As you may see, the terms of reference set out the precise mechanism for that consultation with the Prime Minister. Perhaps I could also say [...] that there has not been an occasion in the past year when any advice of mine on the initiation of an inquiry has been rejected by the Prime Minister. I would assert that my powers for independently initiating are rather greater now than they were.⁴⁸

In April 2021, the Chair of the Committee on Standards in Public Life wrote to the Prime Minister about the Adviser and recommended that he should have the ability to initiate investigations:

In appointing a new Independent Adviser, we recommend that the Adviser should be given authority to initiate investigations where, in their judgement, this is necessary in order to establish the facts surrounding allegations that the Ministerial Code had been breached.⁴⁹

The Prime Minister replied to Lord Evans on 28 April 2021. He accepted several of the recommendations made in Lord Evans’ letter, but not the one that the Adviser should be able to make the decision on initiation of an investigation:

The Independent Adviser will now have the authority to advise on the initiation of investigations. Previously the Independent Adviser’s role began if a matter was referred to him [...]. The constitutional position of the Prime Minister [...] means that I cannot and would not

⁴⁷ IfG, [The new ministerial code fails yet again to improve standards](#), Comment, 30 May 2022.

⁴⁸ Public Administration and Constitutional Affairs Select Committee, [The Independent Adviser on Ministers’ Interests](#), Oral evidence, 14 June 2022.

⁴⁹ [Lord Evans to the Prime Minister](#), Letter, 15 April 2021.

wish to abrogate the ultimate responsibility for deciding on an investigation into allegations concerning Ministerial misconduct.⁵⁰

Lord Evans wrote again to the Prime Minister and indicated that the CSPL would continue to consider the matter in its review Standards Matter 2:

While we welcome these steps and the changes made to the Terms of Reference for this role, we note that the Adviser will still lack the authority to initiate investigations. We will want to consider how far the new arrangements provide the degree of independence and transparency that the Committee believes is necessary, as our Standards Matter 2 review progresses.⁵¹

Exchange of letters between Lord Geidt and Prime Minister

The Independent Adviser carried out an investigation on whether there had been lapses in the Prime Minister's declaration of his Ministerial interests, in respect of the funding of the refurbishment of the residence flat in Downing Street. In his annual report published in May 2021, Lord Geidt concluded that:

Having advised that the interests declared by the Prime Minister present no actual or perceived conflict, I consider them to be consistent with the provisions of the Ministerial Code (7.1 and 7.2).⁵²

However in December 2021 it emerged that some information had not been released to Lord Geidt.

4.2

Process for investigating breaches 2007-2022

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⁵⁰ [Prime Minister to Lord Evans](#), Letter, 28 April 2021.

⁵¹ [Lord Evans to the Prime Minister](#), Letter, 28 April 2021

⁵² Cabinet Office, [Annual report of the Independent Adviser on Ministers' Interests](#), May 2021.

⁵³ [Lord Evans to the Prime Minister](#), Letter, 15 April 2021.

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In 2012 CSPL carried out a wide-ranging review of best practice in promoting good behaviour in public life. The report of its findings was published as *Standards matter*, in January 2013. In considering the Ministerial Code, the most important issue mentioned was the lack of the power for the Independent Adviser to initiate their own investigations. The CSPL commented:

Our concern about the Independent Adviser's investigatory role regards his or her inability to initiate investigations in the absence of a request from the Prime Minister.

There have only been two formal investigations by the Independent Adviser since the role was established. There has been controversy over the Prime Minister's decisions not to refer other cases to the Independent Adviser [...]

It is too easy for a Prime Ministerial decision not to refer to be interpreted, however unfairly, as being motivated by a desire to avoid uncomfortable revelations.

The Committee also expressed concern about open and regular publication of the Independent Adviser's reports:

There is no formal obligation on the Prime Minister to publish the Independent Adviser's reports. [...] An announcement that an investigation has taken place and that an allegation has been shown to be unfounded is less convincing if it is simply an assertion not

⁵⁴ [Prime Minister to Lord Evans](#), Letter, 28 April 2021.

⁵⁵ [Lord Evans to the Prime Minister](#), Letter, 28 April 2021

supported by publicly available evidence. Publication is fairer to an innocent subject of an allegation. If, on the other hand, an allegation is proven in whole or in part it is important for confidence in the robustness of the approach for the public to be able to see the evidence on which the Prime Minister decides whether or not to keep a colleague in post.

We would also welcome more regular publication of information about ministers' interests and of the Adviser's annual reports. The Ministerial Code promulgated by the present Prime Minister in May 2010 contained a commitment that "a statement covering relevant ministers' interests will be published twice yearly".⁵⁶

A former Minister, Mark Garnier, who was investigated by the Cabinet Office in 2017, and cleared of breaching the expected standards of behaviour, discussed his experience in an interview with the Institute for Government:

[...] you don't have anybody acting as an advocate on your behalf within the system. It is literally you and the Cabinet Office without any legal representation. That doesn't have to be a highly-paid lawyer, you could just have an intelligent friend acting on your behalf to make sure the process is being done properly.

Finally, a report is written, but we never get to see the report. I never asked to see it. I didn't think it was necessary because I was found not to have had any breach.⁵⁷

4.3 Process for investigating breaches, 2000-2006

Pre-2006 versions of the Code made clear that the Prime Minister was the ultimate judge of the standards of ministerial behaviour and the person to deal with breaches of behaviour, and were silent as to the means by which allegations should be investigated, other than noting (since 2001) that "it is not the role of the Secretary of the Cabinet or other officials to enforce [the Code] or to investigate Ministers' interests".⁵⁸

The CSPL heard evidence in its sixth report as to the undesirability of investigations by the Cabinet Secretary in 2000 and from 2001-6 the practice was for the Prime Minister to nominate individuals to investigate allegations on an ad hoc basis.⁵⁹ An example of the use of an external investigator was Sir Alan Budd who was commissioned to examine allegations against the Home Secretary, David Blunkett on 29 November 2004 in respect of inappropriate

⁵⁶ Committee on Standards in Public Life, *Standards matter*, Cm 8519, 17 January 2013.

⁵⁷ Institute for Government, *Ministers Reflect: Mark Garnier*, 13 March 2018.

⁵⁸ para 1.3 in the 2005 Ministerial Code

⁵⁹ For further details of individual cases see Research Paper 04/31 *Individual ministerial responsibility - issues and examples*.

assistance to a friend. His report was published on 21 December 2004.⁶⁰ Mr Blunkett had announced his resignation on 15 November 2004.⁶¹

The PASC advocated the use of the Parliamentary Ombudsman as an independent mechanism for investigating breaches of the Ministerial Code in 2001 considering that Parliament lacked an investigatory officer to act on its behalf when there were allegations of ministerial failure or misconduct. This was rejected by the Government.⁶²

In contrast, the CSPL had recommended in its sixth report in 2000 that no new officer for the investigation of ministerial conduct should be established, believing that it would be undesirable to fetter the Prime Minister's discretion to decide how to handle allegations against individual ministers.⁶³ But in its 2003 report the CSPL changed its stance and advocated independent mechanisms to investigate alleged misconduct by Ministers. The Committee was concerned that the Permanent Secretary and Cabinet Secretary should not be drawn into an investigatory role:

5.13 Of particular concern to witnesses was the way in which Permanent Secretaries became involved – as a result of their advice-giving role – in any investigation into an allegation of a breach of the Code. The Code itself contributes to a Permanent Secretary being drawn into the investigatory process. It states:

If an allegation is made that a particular Minister has a conflict of interest it must be for that Minister to explain their position and justify what has been done. ... It is open to them if they wish to confirm (if it is the case) that they have consulted their Permanent Secretary in accordance with the Code.

The Committee recommended that Permanent Secretaries and the Cabinet Secretary should have no responsibility for giving advice to Ministers on conflicts of interest arising under the Code, and recommended the appointment of an independent Adviser on Ministerial Interests to advise incoming ministers and record ministerial interests. The list of interests would be published but not the value of any financial interest. The closest model to that advocated by the CSPL appeared to be arrangements in Canada where there is an Ethics Counsellor, an office now combined with Parliamentary Commissioner for Standards in the Canadian House of Commons.

The Government accepted the principle of an independent adviser, to supplement the advice of Permanent Secretaries, in its response in September 2003, but did not make an appointment. The response did not accept that the Permanent Secretary and the Cabinet Secretary should have no responsibility

⁶⁰ *An inquiry into an application for indefinite leave to remain* HC 175 2004-5. This took the form of a parliamentary paper, thus attracting parliamentary privilege

⁶¹ "Blunkett's resignation statement" 15 November 2004 *Press Association*

⁶² Government response and Committee comments in HC 439 2001-2 December 2001

⁶³ *Reinforcing Standards* Cm 4557 Recommendation 7 2000

for giving advice to ministers on conflict of interests, maintaining that Secretaries were best placed to understand the work of departments.⁶⁴

The CSPL also recommended the appointment of two or three senior individuals at the start of each parliament as being available to investigate allegations of ministerial misconduct. Its recommendation was as follows:

5.42 The main elements of the process for handling an investigation as **we recommend** it are set out below.

1. At the beginning of each Parliament, the Prime Minister should nominate two or three individuals of senior standing as being available to carry out an investigation into an allegation of ministerial misconduct. We envisage that only one person would be needed to carry out an investigation, but two or three names are needed to ensure there is an alternative individual where necessary;
2. The individuals should be nominated by the Prime Minister after consultation with the leaders of the major opposition parties. This process will help ensure confidence in the individuals chosen;
3. The names of the individuals should be made public.

This was not accepted in the Government response, which considered that it had to be for the Prime Minister to decide whether an investigation was needed. The CSPL continued to express dissatisfaction that its recommendations had not been implemented in a letter to Sir Andrew Turnbull, the then Cabinet Secretary.⁶⁵

Following the publication of the 2005 Ministerial Code the new CSPL chairman, Sir Alastair Graham, said:

...I am disappointed that the Government has not used this opportunity to adopt the Committee's recommendations to enable the investigation of complaints about alleged breaches of the Ministerial Code to carry public confidence. Specifically, these are: the appointment of an independent office-holder to advise on ministerial interests; and, at the beginning of each parliament and in consultation with major opposition parties, the appointment of a panel of people of senior standing to be available to investigate alleged breaches of the Code.⁶⁶

Sir Alastair reiterated these points in November 2005, following the resignation of Mr Blunkett from his position of Secretary of State for Work and

⁶⁴ Cm 5964 September 2004

⁶⁵ CSPL Letter to Sir Andrew Turnbull 12 January 2004

⁶⁶ *Committee on Standards in Public Life* PN 171 Statement by Sir Alastair Graham 21 July 2005

Pensions', after concern that he had not taken the advice of the Advisory Committee on Business Interests.

4.4 The Independent Adviser: Appointment and investigations

The Independent Adviser on Ministers' Interests is "entirely a personal appointment of the Prime Minister of the day".⁶⁷ The role does not have a statutory basis, and it is not subject to open recruitment or a pre-appointment hearing.

Five individuals have been appointed Independent Adviser on Ministers' Interests to date; Sir John Bourn held the post from 2006 to 2007, Sir Philip Mawer from 2007 to 2011, Sir Alex Allan from 2011 to 2020, Lord Geidt from April 2021 to June 2022, and Sir Lawrie Magus from December 2022.

The Institute for Government has published a graphic timeline which shows the periods of office of Advisers and Prime Ministers.⁶⁸

4.5 Sir Laurie Magnus, 2022-

Sir Laurie Magnus was appointed as Independent Adviser by Prime Minister, Rishi Sunak, on 22 December 2022.⁶⁹ Sir Laurie was Chairman of Historic England and has a background in the financial services sector. He continues to hold advisory roles in the financial sector and to serve on Historic England advisory Committees.

Nadhim Zahawi

In January 2023 Sir Laurie carried out an inquiry into the conduct of Nadhim Zahawi, who had been serving as Chairman of the Conservative Party and Minister without Portfolio since 25 October 2022. Sir Laurie advised that he had breached the Ministerial Code by failing to disclose that he was being investigated by HM Revenue and Customs while he served in his previous position as Chancellor of the Exchequer under Boris Johnson. Nadhim Zahawi was dismissed from both roles by the Prime Minister 29 January 2023, following Sir Laurie's report.⁷⁰

⁶⁷ Public Administration Committee, *The Prime Minister's Adviser on Ministerial Interests [..]*, 17 March 2012, para 50, Q9 HC 1761 2010-12

⁶⁸ IfG, *Independent Advisers on Ministers' Interests March 2006-January 2023*, Data visualisation, 11 Jauray 2023.

⁶⁹ Cabinet Office, Press Notice, *Sir Laurie Magnus appointed as Independent Adviser ...*, 22 December 2022.

⁷⁰ Cabinet Office, *Advice from the Independent Adviser on Ministers' Interests*, January 2023.

The Institute for Government argued that a Minister should be temporarily suspended whilst an investigation into possible breach of the Code was being carried out.⁷¹ Such a suspension is within the powers of the Prime Minister, but might create political issues. The IfG position is that this should become norm and would not be seen as politically risky.

4.6 Lord Geidt, 2021-2022

It was announced on 28 April 2021 that Lord Geidt had been appointed as the Independent Adviser.⁷² Lord Geidt served as Private Secretary to the Queen for ten years and was appointed a (crossbench) Life Peer in 2017.

The Independent Adviser is selected by the Prime Minister. During a post-appointment hearing with the Public Affairs and Constitutional Affairs Committee (PACAC) in May 2021, Lord Geidt commented:

The first I knew about it, or certainly that it was a post ripe to be filled, was when I heard from the Cabinet Secretary, who made contact with me at the very end of March. He reported to me that the Prime Minister had been considering a long list of potential candidates, and that he had alighted on my name as being a suitable candidate to fill the role.⁷³

The Government published clarified terms of reference for the Independent Adviser at the same time. There were no major changes, but commitments were made that:

Where, in the assessment of the Independent Adviser, he believes an allegation about a breach of the Code might warrant further investigation, he will raise the issue confidentially with the Prime Minister. The decision on whether a Minister remains in office after an investigation sits with the Prime Minister, as “the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards” (1.6).

The Prime Minister may ask the Independent Adviser for recommendations about the appropriate sanction where the Prime Minister judges there to have been a breach of those standards. These recommendations will remain confidential.⁷⁴

And in respect of publication of reports on investigations:

⁷¹ IfG, [The Zahawi row raises the case for temporary ministerial suspensions](#), Comment, 28 January 2023.

⁷² Cabinet Office News Release, [The Rt Hon Lord Geidt appointed as Independent Adviser](#) [...], 28 April 2021.

⁷³ Public Administration and Constitutional Affairs Committee, [Post-appointment hearing: the Independent Adviser on Members' Interests](#), 13 May 2021, HC 40 2020-21.

⁷⁴ Cabinet Office, [Independent Advisers on Ministerial Interests-Terms of reference](#), April 2021.

Where a matter has been referred to the Independent Adviser by the Prime Minister, or an inquiry has been initiated after the Independent Adviser has raised the issue with the Prime Minister and the Prime Minister has agreed to this, he may require that, at the conclusion of his work, his advice to the Prime Minister is published in a timely manner.⁷⁵

During the PACAC post-appointment hearing with Lord Geidt on 13 May 2021, in a response on the post's remit and powers, Lord Geidt stated:

First and foremost, I think it is to the credit of this Prime Minister, and it is a simple matter of fact, that the revised terms of reference under which I am going to operate represent the first change in a decade. Yes, I am aware of the likely recommendations of the Committee on Standards in Public Life about even greater rights of independent initiation. However, I truly believe that the present revised terms—which, as I say, were fully agreed, I think with the active will of the Prime Minister—should be put to work before seeing if they need to be developed further.⁷⁶

Lord Geidt resigned on 15 June 2022, following an Oral Evidence session with the Commons Select Committee on Public Administration and Constitutional Affairs the previous day.⁷⁷ In a letter to the Prime Minister, Boris Johnson, Lord Geidt stated a number of reasons for his decision including:

I was tasked to offer a view about the government's intention to consider measures which risk a deliberate and purposeful breach of the ministerial code. This request has placed me in an impossible and odious position...The idea that a prime minister might to any degree be in the business of deliberately breaching his own code is an affront. A deliberate breach, or even an intention to do so, would be to suspend the provisions of the code to suit a political end. This would make a mockery not only of respect for the code but licence the suspension of its provisions in governing the conduct of Her Majesty's ministers.⁷⁸

4.7

Sir Alex Allan, 2011–20

In January 2012 it emerged that Sir Alex had been appointed to replace Sir Philip Mawer who had resigned in November 2011. Sir Philip and Sir Alex subsequently gave evidence to the PASC, discussed in Section 3 of this paper.

⁷⁵ Ibid

⁷⁶ Public Administration and Constitutional Affairs Committee, [Post-appointment hearing: the Independent Adviser on Members' Interests](#), 13 May 2021, HC 40 2020-21.

⁷⁷ Cabinet Office, [Statement from Lord Geidt](#), 15 June 2022.

⁷⁸ Cabinet Office, [Letter from Lord Geidt to the Prime Minister](#), 15 June 2022.

Prior to appointment, Sir Alex was a senior civil servant. Sir Alex resigned from the role in November 2020.

Baroness Warsi

In 2012, Sir Alex considered a case relating to the business interests of the Conservative party chair, Baroness Warsi.⁷⁹ She had already referred herself to Parliamentary Commissioner for Standards the over allegations by the Sunday Times about her parliamentary expenses.⁸⁰

Damian Green, former First Secretary of State

In December 2017, following allegations of sexual harassment, the Prime Minister, Theresa May, asked the Cabinet Office to establish the facts of the case and advise whether Damian Green, then First Secretary of State, had breached the Ministerial Code. The investigation focused on two main issues: first, allegations made by Kate Maltby, in an article published in The Times on 1 November 2017 that Mr Green had made an unwanted advance towards her and had sent her an inappropriate text message. The second issue related to public statements made by Mr Green following a report in The Sunday Times on 5 November 2017 that during a 2008 police investigation into leaks of official information, pornographic material was found on Mr Green's parliamentary computer.

The Cabinet Office concluded that Mr Green's statements of 4 and 11 November 2017, which suggested that he was not aware that indecent material was found, were inaccurate and misleading, as the Metropolitan Police Service had previously informed him of the finding of the material. Therefore, these statements fell short of the honesty requirement of the Seven Principles of Public Life and constituted breaches of the Ministerial Code.

The Cabinet Secretary shared his full report with Sir Alex Allan, the Prime Minister's Independent Adviser on Ministers' Interests, who considered the report a clear and comprehensive account. The Prime Minister requested that Mr Green resign from his position which he did on 20 December 2017. In his March 2019 report, Sir Alex confirmed that Mr Green's statements had represented a breach of the Ministerial Code.⁸¹

Amber Rudd, Former Home Secretary

On 25 April 2018 gave oral evidence to the Home Affairs Select Committee inquiry on The Windrush Generation. In answer to questions from the Chair, Yvette Cooper, the Home Secretary stated that the Home Office did not have targets for removals of illegal immigrants from the UK. [Q85-99]

A few days later The Guardian printed a document sent from the Home Secretary to the Prime Minister in January 2017 which mentioned targets.

⁷⁹ [David Cameron orders Baroness Warsi investigation](#), Independent, 4 June 2012

⁸⁰ [Lady Warsi to submit to parliamentary inquiry over her expenses](#), The Guardian, 28 May 2012

⁸¹ Cabinet Office, [Report by the Independent Adviser on Ministers' Interests](#), March 2019.

Amber Rudd resigned as Home Secretary, taking responsibility because she “because I inadvertently misled the Home Affairs Select Committee over targets for removal of illegal immigrants”, in contravention of the Principles of Ministerial Conduct.

The Permanent Secretary of the Home Office, Sir Philip Rutnam, asked the Independent Adviser on Ministerial Interests, Sir Alex Allan, to carry out a fact-finding review into the circumstances surrounding the resignation. Sir Alex published a report in May 2018, which criticised some of the support given to the Minister. The report did not recommend any further investigation into potential misconduct by Civil Servants.

Rt Hon Mark Field, former Minister of State, Foreign and Commonwealth Office

In June 2019 protestors from Greenpeace interrupted the Chancellor of the Exchequer’s Mansion House speech. Mark Field was at the event and took action to prevent one of the demonstrators from reaching the speaker, and to remove her from the room. The incident was filmed and broadcast on television.⁸² As a result of the incident allegations of assault were made against Mark Field to the police. The Minister apologised to the woman protestor and referred himself to the Cabinet Office and the Independent Adviser.⁸³ He was suspended as a minister while the investigation took place.

The Independent Adviser’s report was published in December 2019, dated July 2019. Sir Alex concluded that “the actions Mr Field took, and the force he used, were not consistent with the high standards of behaviour expected of Ministers [...]” and that he had breached the Ministerial Code.⁸⁴

Mark Field was removed from his ministerial role in July 2019 at a reshuffle, by the new Prime Minister, Boris Johnson. It was also announced that the investigation into his conduct had in effect been dropped as “a matter for the previous PM”.⁸⁵

Alun Cairns, Former Secretary of State for Wales

On 6 November 2019 Alun Cairns resigned as Secretary of State for Wales. It was alleged he had made an untrue denial of his knowledge that his former Special Adviser, Ross England, had been instrumental in the collapse of a rape trial in April 2018.⁸⁶ Following a re-trial and an appeal, the full details of the legal process only became public in late October 2019. At this point Alun Cairns stated to the media that he had not previously known about Ross England’s conduct.

The Prime Minister asked Sir Alex Allan to investigate. Sir Alex issued his report on 19 December 2019. He concluded that there was “no direct evidence

⁸² ITV News, [Tory MP Mark Field filmed removing protestor \[...\]](#), 20 June 2019.

⁸³ BBC News, [MP Mark Field accused of assaulting Greenpeace activist](#), 21 June 2019.

⁸⁴ Cabinet Office, [Report by the Independent Adviser on Ministers’ Interests](#), December 2019.

⁸⁵ [Boris Johnson drops investigation into MP \[...\]](#), The Guardian, 29 July 2019.

⁸⁶ BBC Wales, [Alun Cairns resigns \[...\]](#), 6 November 2019.

to contradict” the Minister’s statement and that there had not been a breach of the Ministerial Code.⁸⁷

Rt Hon Priti Patel, Home Secretary

In March 2020 the Cabinet Office and Sir Alex were asked to investigate several allegations against the Home Secretary, Priti Patel, relating to her dealings with civil servants in the Home Office, and previously at the Department for International Development. This arose in part because the Permanent Secretary at the Home Office, Sir Philip Rutnam, had resigned from his post stating that he had been the target of a “vicious and orchestrated briefing campaign” for which he accused the minister of responsibility, and that he would be pursuing a claim for “constructive, unfair dismissal” in the courts.⁸⁸

The investigation was confirmed in the House of Commons, by the Minister for the Cabinet Office, Michael Gove, in repose to an Urgent Question from the Leader of the Opposition, Jeremy Corbyn.⁸⁹

Independent Advisers, or the Cabinet Office, submit reports of their findings to the Prime Minister. Such reports are normally published, and this may be as part of an Annual Report by the Independent Adviser. The Independent Adviser’s report of the investigation into the Home Secretary was published on 20 November 2020. It stated that:

My advice is that the Home Secretary has not consistently met the high standards required by the Ministerial Code of treating her civil servants with consideration and respect. Her approach on occasions has amounted to behaviour that can be described as bullying in terms of the impact felt by individuals. To that extent her behaviour has been in breach of the Ministerial Code, even if unintentionally.⁹⁰

At the same time the Cabinet Office published a statement of the Prime Minister’s decision:

The Prime Minister notes Sir Alex’s advice that many of the concerns now raised were not raised at the time and that the Home Secretary was unaware of the impact that she had. He is reassured that the Home Secretary is sorry for inadvertently upsetting those with whom she was working. He is also reassured that relationships, practices and culture in the Home Office are much improved. As the arbiter of the code, having considered Sir Alex’s advice and weighing up all the factors, the Prime Minister’s judgement is that the Ministerial Code was not breached.

⁸⁷ Cabinet Office, [Report by the Independent Adviser on Members’ Interests](#), December 2019.

⁸⁸ BBC News, [Home Office: Sir Philip Rutnam resignation statement](#), 29 February 2020.

⁸⁹ [HC Deb 2 March 2020 \[Ministerial Code\]](#).

⁹⁰ Cabinet Office, [Findings of the Independent Adviser](#), 20 November 2020.

The Prime Minister has full confidence in the Home Secretary and considers this matter now closed. He is grateful to the thousands of civil servants working extremely hard to support delivery of the Government's priorities.⁹¹

On 20 November Sir Alex Allan resigned as Independent Adviser. The Cabinet Office issued his statement:

I recognise that it is for the Prime Minister to make a judgement on whether actions by a Minister amount to a breach of the Ministerial Code. But I feel that it is right that I should now resign from my position as the Prime Minister's independent adviser on the Code.⁹²

The Prime Minister and the Cabinet Secretary sent a letter to all Ministers and Permanent Secretaries on 23 November, concerning working relationships between Ministers and civil servants. This included:

Given the unprecedented challenges we currently face as a nation, relationships of mutual trust and respect between politicians and their officials are paramount. This includes keeping internal conversations private. We should also feel able to speak constructively about things that are not working, so that we can fix them together promptly. There is a particular duty on Ministers and Permanent Secretaries to create jointly across government a culture which is professional respectful, focused and ambitious for change and in which there is no place for bullying.⁹³

On 20 November 2020, the Shadow Home Secretary, Nick Thomas-Symonds, wrote to the Committee on Standards in Public Life (CSPL) requesting that the Committee carry out an investigation into the alleged breach of the Ministerial Code by the Home Secretary. The Chair of the Committee, Lord Evans, responded that it was not within the remit of CSPL to carry out such an investigation, but that there was a "need for allegations of ministerial impropriety to be dealt with independently and transparently". He also indicated that CSPL would be carrying out "a landscape review of the institutions, procedures and policies in place to uphold high standards of conduct."⁹⁴

The Institute for Government commented that:

[...] the process of this inquiry has consequences far beyond Patel's future. It has damaged the code and the means to investigate ministers accused of breaking it. Incongruity between the prime minister's and Sir Alex's conclusions, the delay to publication, reports about attempts to change Sir Alex's conclusions, and his decision to resign suggest a process that has become very

⁹¹ Cabinet Office Press release, [Ministerial code investigation, 20 November 2020](#).

⁹² Cabinet Office Press Release, [Statement from Sir Alex Allan](#), 20 November 2020.

⁹³ Cabinet Office, [Joint letter from the Prime Minister and Cabinet Secretary](#), 23 November 2020.

⁹⁴ CSPL, [Lord Evan's response to Nick Thomas-Symonds](#), 20 November 2020.

politicised. That is an impossible situation for a code of conduct that is highly dependent on principle.⁹⁵

In February 2021 the FDA, a trades union for senior civil servants, announced that it had initiated a judicial review of the decision that the Home Secretary did not breach the Code. The case was that Ministers were being held to a different standard on behaviour than civil servants, based on the definitions of bullying in the guidance used by the Home Office and other Departments. The FDA stated:

In an attempt to avoid litigation, we offered not to pursue our judicial review if the Prime Minister amended the Ministerial Code to include a definition of bullying that would be consistent with those that apply to civil servants. Unfortunately, this offer was refused and so we were left with no option but to seek a judicial review of his decision.⁹⁶

In April 2021 the High Court gave permission for a judicial review.⁹⁷ Judgement was delivered on 6 December 2021.⁹⁸ The FDA Commented that:

Although the judicial review was dismissed overall, the findings of the court represent a clear rejection of the idea that there are different standards for ministers than for civil servants. The court found:

That the prohibition on bullying, discrimination and harassment in the Ministerial Code is justiciable in the Courts.

That the Prime Minister must correctly apply those concepts when determining complaints against ministers.

That it is not an excuse for bullying under the Code that a minister does not intend or is not aware of the upset and distress caused by their actions.⁹⁹

4.8

Sir Philip Mawer, 2007–11

Gordon Brown announced on 3 July 2007 that he had asked Sir Philip Mawer to act as Independent Adviser on Ministerial Interests. *The Governance of Britain* Green Paper was published the same day stating:

⁹⁵ Institute for Government blog, [The handling of Priti Patel \[...\]](#), 20 November 2020.

⁹⁶ [Why we've launched a judicial review \[...\]](#), FDA, 21 February 2021.

⁹⁷ Blackston Chambers, Press notice, [FDA v Prime Minister](#), 28 April 2021.

⁹⁸ Royal Courts of Justice, [FDA v the Prime Minister, \[2021\] FWHC 3279 \(Admin\)](#), 6 December 2021.

⁹⁹ FDA Press Release, [Judgement handed down in the FDA's judicial review](#), 9 December 2021.

The Ministerial Code outlines the behaviour that is expected of Ministers. Until now, it has developed over decades as an amalgam of good practice, but it has become outdated and unwieldy. The Prime Minister has therefore tightened the Code. There are a number of key changes to it:

a new Independent Adviser will be appointed to advise on Ministers' interests. He or she will be able, at the Prime Minister's request, to investigate alleged breaches of the Ministerial Code;

the Independent Adviser on Ministers' Interests will publish an Annual Report and List of Ministers' Interests. Subsequent lists will be published with the Independent Adviser's Annual Report;

the Annual Report will be laid before Parliament to ensure proper scrutiny of ministerial conduct;¹⁰⁰

This established a clearer role for the Independent Adviser regarding the investigation of alleged breaches of the Ministerial Code, and created a new role of publishing an Annual Report and List of Ministers' Interests. The appointment and changes to the role were welcomed by the CSPL Interim Chair, Rita Donaghy.¹⁰¹

The Government responded to the PASC report of May 2006—published during the tenure of the previous Independent Adviser—on 27 October 2007. It signalled that the use of an Officer of the House in the form of the Comptroller and Auditor General was no longer considered desirable:

The Government does not believe that it would be appropriate for a serving Officer of the House to investigate alleged breaches of the Ministerial Code as to do so could blur the lines of accountability. However, the Government believes that the appointment of Sir Philip Mawer with his recent Parliamentary experience and expertise will serve to ensure that Ministers fully account for their actions and decisions and that, where needed, there is a genuine investigatory dimension.¹⁰²

Shahid Malik, former Justice and Home Office Minister

Sir Philip undertook an inquiry in May 2009 into allegations against Parliamentary Under-Secretary of State, Shahid Malik, in relation to the rate of rent paid on constituency offices and constituency house. During the investigation, Mr Malik stood down from his ministerial posts. Sir Philip

¹⁰⁰ The Governance of Britain [Cm 7170](#) Ministry of Justice, para 121

¹⁰¹ Standards Committee welcomes the new ministerial code and legislation on the civil service" 3 July 2007, Committee on Standards in Public Life

¹⁰² Public Administration Committee, [The Ministerial Code: the case for independent investigation: Government response](#), 25 October 2007, [HC 1088](#) session 2006-07

concluded that Mr Malik had not been shown to have breached the conflict of interest provisions in the Ministerial Code.¹⁰³

The first statement on ministerial interests was published on 12 March 2009,¹⁰⁴ together with an annual report from Sir Philip.¹⁰⁵ The first List covering the interests of members of the Coalition Government was published in February 2011. A subsequent list of ministerial interests was issued in [December 2011](#). A [second and final annual report](#) was issued by Sir Philip in November 2011.¹⁰⁶

The 2010 version of the Code referred to the office of Independent Adviser in para 7.2 and Sir Philip Mawer remained in post until the end of 2011. There was a new requirement to issue a statement covering relevant Ministers' interests twice a year in para 7.5. The 2007 commitment was for an annual statement.

4.9

Sir John Bourn, 2006–7

On 23 March 2006 the then Prime Minister, Tony Blair, announced that he had appointed Sir John Bourn, the Comptroller & Auditor General, to advise ministers on their interests.¹⁰⁷ This followed intense pressure from media and politicians about loans given to political parties undeclared to the Electoral Commission. This appointment was welcomed by the Committee on Standards in Public Life (CSPL) as a belated response to their recommendations of 2003.¹⁰⁸ However, in oral evidence to the Public Administration Select Committee on 27 April 2006, the then Chairman of the CSPL, Sir Alastair Graham, said that he was concerned that the details of the role of Sir John had not yet been put into the public domain. He stated there was a need for the role to be clarified and raised concerns about whether reports produced by the Independent Adviser would be published, whether the Opposition parties would be consulted on appointing a successor.¹⁰⁹

The subsequent PASC report, published in July 2006, recommended that the investigatory machinery should:

- be manifestly independent of the Executive;
- not involve the creation of yet a further regulatory office and, ideally, should be undertaken by an official connected to the House;

¹⁰³ [Allegations against Mr Shahid Malik Report by the Independent Adviser](#) June 2009

¹⁰⁴ Dep 2009 /0777

¹⁰⁵ Independent adviser on ministers' interests: annual report 2008-09

¹⁰⁶ Independent Adviser on Ministerial Interests [Annual Report 2010-11](#) Cabinet Office

¹⁰⁷ HC Deb 23 March 2006 [c34WS](#)

¹⁰⁸ "Appointment of Sir John Bourn as Adviser on Ministerial Interests" 23 March 2006 Committee on Standards in Public Life

¹⁰⁹ [Uncorrected oral evidence](#) 27 April 2006 to Public Administration Select Committee

- concern itself only with establishing the facts of the case;
- make its findings available to Parliament and the public;
- reserve to the Prime Minister the right to judge whether the facts amount to a breach of the Ministerial Code and what the consequences should be;
- avoid the proliferation of frivolous or vexatious complaints.¹¹⁰

In May 2006 the terms of reference for Sir John were deposited in the House of Commons Library.¹¹¹ Not only would Sir John act as a confidential adviser to Ministers, but he would be available to the Prime Minister ‘to establish the facts in certain cases concerning the Ministerial Code and to provide private advice to him’. It would be the decision of the Prime Minister as to whether to publish Sir John’s findings in such a case.

Sir John did not conduct any investigations during his appointment, which terminated with the resignation of Tony Blair.¹¹²

¹¹⁰ Public Administration Committee, [The Ministerial Code: the case for independent investigation](#), 6 September 2006, HC 1457 2005-06.

¹¹¹ Dep Paper 06/965 17 May 2006

¹¹² “Brown praises under fire Prescott” 28 April 2006 *BBC News*

5

History of the Ministerial Code

The first edition of the Ministerial Code was issued in 1997. An official guidance note for ministers, titled Questions of procedure for ministers (QPM), was first published in May 1992. It had been in existence before this as a confidential internal circular since at least the second world war and was well known unofficially in the media, academic texts and in Parliament.¹¹³

5.1

Background

Beyond relevant provisions of the criminal and civil law and parliamentary rules of conduct affecting Members generally, there are few if any ‘rules’ regarding ministerial responsibility which guide and bind ministers in their official capacity.

QPM came under scrutiny in the 1990s as part of the background to the Scott Inquiry on arms sales to Iraq.¹¹⁴ The Committee on Standards in Public Life’s first report recommended a new seven-point first paragraph setting out the general principles of ministerial conduct. Following consideration by the Treasury and Civil Service Committee,¹¹⁵ QPM was amended in 1995 to include the obligation to ‘not knowingly mislead Parliament’:

Ministers must not knowingly mislead Parliament and the public and should correct any inadvertent errors at the earliest opportunity. They must be as open as possible with Parliament and the public, withholding information only when disclosure would not be in the public interest, which should be decided in accordance with established Parliamentary convention, the law, and any relevant Government Code of Practice.¹¹⁶

The Public Service Committee also recommended the passage of a parliamentary resolution setting out the terms of ministerial accountability which was accepted by the Major Government. Similar (but not identical)

¹¹³ See Baker, Amy; *Prime Ministers and the Rule Book*, Politico, 2000 for a definitive guide to the history of QPM.

¹¹⁴ Report of the Inquiry into the Export of Defence Related Equipment and Dual Use Goods to Iraq and Related Prosecutions HC 115 1995-6

¹¹⁵ Fifth Report of the Treasury and Civil Service Select Committee, *The role of the civil service*, HC 27-I 1993-94 (became the Public Administration Committee in 1997)

¹¹⁶ First set out in Roger Freeman’s speech, HC Deb 2 November 1995 vol 265 [cc456-7](#). He stated that the new version ‘becomes effective immediately’

resolutions passed both Houses in March 1997, just before the general election.¹¹⁷

QPM was revised and reissued as the Ministerial Code in 1997 with a foreword from the new Prime Minister, Tony Blair, which stated that ‘I will expect all Ministers to work within the letter and spirit of the Code.’¹¹⁸ An earlier proposal by the Shadow Leader of the House, Ann Taylor, to omit the term ‘knowingly’ before ‘mislead Parliament’ was not implemented in Government.¹¹⁹ The new Code also redrafted the section on ministers and the presentation of policy to require all major interviews and media appearances to be cleared through the no 10 Press Office.¹²⁰

PASC described the Code in 2001 as ‘the rule book for ministerial conduct, including the responsibilities of Ministers to Parliament’¹²¹ but there has been resistance to the treatment of the Code as a definitive document. The former Cabinet Secretary, Lord Butler of Brockwell, stated in a guide to the history of QPM that it was ‘neither comprehensive nor absolute. Ministers are accountable to Parliament, not a piece of paper.’¹²²

5.2

The 2001-2007 Ministerial Codes

The Government made a number of changes in the 2001 version of the Code.¹²³ This edition accepted a recommendation from the Committee on Standards in Public Life in 1995 that the Prime Minister should explicitly recognise his role as ultimate judge of the standards of conduct of his ministers.¹²⁴ The new version also incorporated the Seven Principles of Public Life into the Code as an Annex, added paragraphs on the treatment of special advisers and leaked select committee reports, and clarified and expanded advice on the treatment of private interests. No other major changes were made.

During the Report Stage of the *Freedom of Information Bill* in 2000, the then Home Secretary, Jack Straw, proposed that the Code would be amended to include guidance on the procedures for any ministerial veto on disclosure.¹²⁵

¹¹⁷ For the Commons resolution see HC Deb 19 March 1997 [cc1046-47](#), the terms of which are repeated in para 1 ii. to v. of the Ministerial Code. The Lords Resolution is on 20 March 1997 [column 1057](#)

¹¹⁸ Cabinet Office, Ministerial Code: A Code of Conduct and Guidance on Procedures for Ministers, Dep 3/5263

¹¹⁹ HC 313-III 1995-96 Q1055.

¹²⁰ For commentary on this change, see Peter Riddell “Tories should focus on what really matters” 1 August 1997, cited in Giles Edwards ed *The Gresham Reader on Cabinet Government*, 2004

¹²¹ [The Ministerial Code: Improving the Rule Book](#) HC235 2000-2001 para 15

¹²² Amy Baker Prime Ministers: The Rule Book 2000 Foreword by Lord Butler of Brockwell

¹²³ Dep 01/1167 Ministerial Code 2001

¹²⁴ This appeared in the fourth sub-paragraph of para 1 in the 2001 version of the Code and remains there in the 2005 version.

¹²⁵ HC Deb 4 April 2000 [cc918-92](#)

The legislation came into force in January 2005, but the 2005 Code and subsequent versions did not contain such guidance.

A commitment was made in June 2003, during the debate on the new arrangements for the supervision of the Code of Conduct for Members, to amend the Code to clarify that Ministers must comply at all times with the requirements that Parliament has laid on them as Members.¹²⁶ An amendment was made to the text of the Code in 2005 which included a reference to parliamentary codes of conduct, as well as the parliamentary resolutions on accountability of March 1997. This has been reaffirmed in subsequent versions. The 2005 Code was issued on 21 July, the last day in which the Commons was in session before the summer adjournment.¹²⁷

Following the appointment of Gordon Brown as Prime Minister, a new version of the Code was issued on 3 July 2007, the same day as a green paper on constitutional reform, which emphasised the importance of the Code.¹²⁸

The new version of the Code was not subject to any advance examination by the CSPL or PASC. The CSPL Interim Chair, Rita Donaghy, welcomed the new Code, while making specific points, reproduced earlier in this note, about the Ministerial Adviser.

The 2005 Code was rearranged into two parts, as recommended by the CSPL. The first part was headed ‘a ministerial code of ethics’ and the second ‘procedural guidance for ministers’. The 2007 version did not retain this split, instead rearranging the material so that each chapter began with a general principle. This drafting has been retained in subsequent editions. Many of the procedural points about for example, attending Privy Council or Cabinet Committees, were removed.

The 2007 Code simplified much of the earlier drafting, removing some detailed matters, such as arrangements for unpaid advisers, or delegations to Ministers, or prohibition of civil service attendance at party conferences. The chapter on Ministers’ private interests provides for an annual statement covering ‘relevant Ministerial interests. Specific advice was added to ensure that Ministers personally pay council tax on at least one property. Detailed advice on the creation of blind trusts is omitted, but there was a new paragraph requiring departing Ministers to abide by the Business Appointments Rules.¹²⁹ The chapter on Ministers and Parliament was shortened and the prohibition of Ministers becoming members of select committees or all party groups did not appear in the 2007 version. The requirement to publish an annual list of travel by Ministers was retained. There was some media concern that references to the role of the monarch

¹²⁶ HC Deb 26 June 2003 [c1241](#)

¹²⁷ Ministerial Code: A Code of Ethics and Procedural Guidance for Ministers Dep 05/1003

¹²⁸ The Governance of Britain [Cm 7170](#) Ministry of Justice, para 121

¹²⁹ See Library Briefing Paper CPB03745, [Business Appointments Rules](#), April 2019 for background

had been removed; for example in respect of advising the Queen of ministerial travel abroad.¹³⁰

5.3 The 2010 Ministerial Code

David Cameron became Prime Minister of a coalition overnment on 12 May 2010, and a new Code was issued on 21 May 2010.

Collective responsibility

The 2010 Code included a change to paragraph 1 which made specific reference to the Coalition agreement as well as the possibility of setting aside the principle of collective responsibility:

1.2 The Ministerial Code should be read alongside the Coalition agreement and the background of the overarching duty on Ministers to comply with the law including international law and treaty obligations and to uphold the administration of justice and to protect the integrity of public life. They are expected to observe the Seven Principles of Public Life set out at Annex A, and the following principles of Ministerial conduct: a. The principle of collective responsibility, save where it is explicitly set aside, applies to all Government Ministers;

The Coalition Agreement for Stability and Reform, published in May 2010, set out more detail about departures from collective responsibility. This publication was designed to offer guidance on the operation of the Coalition Government and dealt with matters such as the reshuffling of ministers, appointment of PPSs, and the functioning of Cabinet and its committees. Much of the material could conceivably have been included within the Code itself. Some of the guidance also appears in the Cabinet Manual published in 2011.¹³¹

Further changes in the 2010 Code

The 2010 Code made some minor changes to the previous edition of the Code, for example:

- A requirement on Ministers to comply with the findings of the Independent Parliamentary Standards Authority (IPSA) in paragraph 1.6.
- Paragraph 3.2 noted that although the general rule was for two special advisers per Cabinet Minister, “where a Minister

¹³⁰ “Brown to politicise the civil service” 8 July 2007 *Express on Sunday*

¹³¹ [Cabinet Manual](#), October 2011

has additional responsibility, additional advisers may be allowed.”

- Paragraph 3.3 added that special advisers “must uphold their responsibility to the Government as a whole, not just their appointing Minister”.

This was added to reflect the realities of a coalition Government.

There was also a new paragraph requiring Secretaries of State to chair their departmental board, which should provide strategic leadership for the department.

There was a new requirement in paragraph 7.24 for Departments to publish, at least quarterly, details of hospitality received by Ministers in a ministerial capacity, and details of all travel overseas by Ministers in para 10.3.

Ministers who occupy official residences will not be able to claim accommodations expenses from the Independent Parliamentary Standards Authority (para 7.10).

Ministers “must” now abide by the advice of the Business Appointments Committee in para 7.25.

The rules on use of official cars were also changed.

5.4

Addendum to Ministerial Code July 2011

On Friday 15 July 2011 the following addendum to the Ministerial Code was agreed by the Prime Minister:

“The Government will be open about its links with the media. All meetings with newspaper and other media proprietors, editors and senior executives will be published quarterly regardless of the purpose of the meeting.”

David Cameron referred to this addendum in his witness statement to the Leveson Inquiry on 14 June 2012, where he highlighted the new requirements to be transparent about relations with the media.¹³²

The addendum was incorporated into the 2015 Ministerial Code.

¹³² [David Cameron witness statement Leveson inquiry](#) 4 May 2012, paras 26 and 27

5.5 Guidance on quasi-judicial decisions 2012

In his evidence to the Leveson inquiry on 14 June 2012 David Cameron said that ministers and special advisers needed adequate training and briefings to be "properly prepared" to take on quasi-judicial decisions in the future.¹³³ In response to a PQ on 25 May 2012, a letter from Jeremy Heywood and Bob Kerlake, Cabinet Secretary and Head of the Civil Service respectively, had been deposited in the Commons Library which set out procedures for departments to follow when taking quasi-judicial decisions.¹³⁴

5.6 The 2015 Ministerial Code

Following the 2015 General Election, a new edition of the Code was published on 15 October 2015. It amended the previous 2010 edition, including removing references to the Coalition Government and the addition of paragraphs on Senior Responsible Owners and Extended Ministerial Offices. There were also a number of smaller changes, including the incorporation of the addendum to the 2010 Code, which had been published separately in 2011.

Removal of the requirement to comply with international law

One change to the 2015 Code which attracted attention was the removal of the explicit reference in the 2010 Code to Ministers' obligation to comply with "international law and treaty obligations".

Instead, paragraph 1.2 of the 2015 Code stated:

The Ministerial Code should be read against the background of the overarching duty on Ministers to comply with the law and to protect the integrity of public life.¹³⁵

An article in the *Spectator* suggested that this was a significant change, arguing that the Conservative Government was easing the pressure on Ministers to abide by international law, in particular the European Convention on Human Rights:

The European Convention on Human Rights drives Conservatives as wild as the European Union does. [...]

¹³³ "Cameron at Leveson: Ministerial Code needs to change" 14 June 2012 BBC News

¹³⁴ HC Deb 23 May 2012 c701w [Dep 2012/0841](#)

¹³⁵ Cabinet Office, [Ministerial Code, October 2015](#), para 1.2

The removal of the obligation on British ministers to abide by the solemn undertakings the British state has made is the first step in taking Britain out from under the international rule of law.¹³⁶

The Guardian also commented on the change, reporting that some lawyers had claimed that key issues which would be affected by the change could include decisions about whether to go to war or use military force.¹³⁷ However, the Cabinet Office told The Guardian that the updated Code was very clear on the duty that it places on the Ministers to comply with the law. “‘Comply with the law’ includes international law”.¹³⁸

On the day that the new Code was published, the Attorney General, Rt Hon Jeremy Wright QC MP, gave a speech on the importance of international law for government lawyers. In it he said

The constitutional principle to respect the rule of law and comply with our international obligations is reflected in the Ministerial Code – which applies to me as much as to any other minister. The Code states that there is an overarching duty on ministers to comply with the law, including international law and treaty obligations and to uphold the administration of justice and to protect the integrity of public life.¹³⁹

Other changes

Several of the other changes contained in the 2015 Code reflected that the Government was no longer coalition led. The instruction that the Code should be read alongside the Coalition Agreement was removed. The principle of collective responsibility was also reaffirmed, omitting the qualification from the 2010 version that this could be set aside under explicit circumstances.

Two new paragraphs were also included on Senior Responsible Owners of the Government’s major projects. The first stated that Senior Responsible Owners were expected to account to Parliament for the decisions and actions they take when delivering projects for which they have personal responsibility. Paragraph 5.7 added that former Senior Responsible Owners, along with former Accounting Officers, may be asked to give evidence before select committees on matters for which they were previously personally responsible.¹⁴⁰

Another addition to the 2015 Code was paragraph 3.5 on Extended Ministerial Offices (EMOs). It stated that Secretaries of State and other Ministerial heads of departments could have an EMO. Before any appointments could be made, however, they were required to secure the approval of the Prime Minister. It

¹³⁶ ‘Cameron tells Tories they no longer have to follow international law’, [The Spectator](#), 21 October 2015

¹³⁷ ‘Lawyers express concern over ministerial code rewrite’, [The Guardian](#), 22 October 2015

¹³⁸ ‘Lawyers express concern over ministerial code rewrite’, [The Guardian](#), 22 October 2015

¹³⁹ Attorney General’s Office, The Importance of International Law for Government Lawyers, [Gov.uk](#), 15 October 2015

¹⁴⁰ Cabinet Office, [Ministerial Code, October 2015](#), paras 5.6-5.7

was also specified that any EMO must “include a member of staff focused on implementation, reporting to the Head of the Implementation Unit”.

Further changes to the 2015 Code included the addition of a paragraph permitting Parliamentary Private Secretaries to visit secure government establishments provided they had secured prior approval from the Head of that establishment.¹⁴¹ A paragraph from the 2010 Code, which required the relevant Permanent Secretary’s approval to be obtained before a special adviser accompanies a Minister overseas, was also removed.¹⁴²

The updated 2015 Code included a commitment that any meeting with newspapers and other media proprietors, editors and senior executives would be published on a quarterly basis regardless of the purpose of the meeting.¹⁴³ This had previously been published on 15 July 2011 as an addendum to the 2010 Code.

5.7

The 2016 Ministerial Code

The Ministerial Code was reissued on 28 December 2016. The 2016 Code made some revisions to the 2015 version. This included removing the provisions on Extended Ministerial Offices and incorporating amendments on strengthening pre-release access rules for statistical releases.

Extended Ministerial Offices (EMOs)

One of the main revisions made by the 2016 Code was the removal of a paragraph introduced in the 2015 edition which stated that Secretaries of State and other Ministerial Heads could have an Extended Ministerial Office. This removal was intended to reflect the disbandment of EMOs.

EMOs were introduced in 2013 by the Coalition Government to enable ministers to recruit policy advisers as temporary, non-political, civil servants to help them on key initiatives, working with permanent departmental staff.

However, take up of EMOs was initially low. Despite publishing guidance on establishing EMOs in November 2013, no EMOs were set up under the Coalition. Five were subsequently set up under the 2015 Conservative Government led by David Cameron.

An Institute for Government blog questioned whether the disbanding of EMOs was a mistake:

¹⁴¹ Cabinet Office, [Ministerial Code, October 2015](#), para 3.9

¹⁴² Cabinet Office, [Ministerial Code, May 2010](#), para 10.18

¹⁴³ Cabinet Office, [Ministerial Code, October 2015](#), para 8.14

Undoubtedly, there were some problems with EMOs. After all, the majority of departments did not adopt them [...]

But it does seem a shame that they have been canned without any proper evaluation of their merits. As with debates around special advisers, government seems much more concerned about numbers and cost than it is about effectiveness – politically savvy perhaps, but it won't make the wheels of Whitehall run any more smoothly.

Other changes

Other changes made in the 2016 Code included:

- appending and incorporating the Business Appointment Rules, which apply for two years after leaving ministerial office;
- stating that departmental boards should include a “Lead Non-Executive” as well as non-executive board members (largely drawn from the commercial private sector and appointed by the Secretary of State in accordance with Cabinet Office guidelines);
- amendments on strengthening pre-release access rules for statistical releases were also incorporated.

5.8

The 2018 Ministerial Code

A new Ministerial Code was published on 9 January 2018 following a turbulent political period involving Cabinet resignations and widespread sexual assault allegations within Westminster.

Three Cabinet Ministers, Damian Green, Priti Patel and Sir Michael Fallon resigned from their positions in November and December 2017 following sexual harassment allegations, incidents of improper behaviour and undisclosed ministerial meetings. Another Minister, Mark Garnier, was investigated about improper behaviour by the Cabinet Office in December 2017 but he was not found to be in breach of the Code.

The Code set out the general principle that “Ministers of the Crown are expected to maintain high standards and to behave in a way that upholds the highest standards of propriety”. It also stated that Ministers “should be professional in all their dealings” and “harassing, bullying or other inappropriate or discriminating behaviour wherever it takes place is not consistent with the Ministerial Code and will not be tolerated”.¹⁴⁴

¹⁴⁴ Cabinet Office, [Ministerial Code, January 2018](#), para 1.3

The Prime Minister, Theresa May, announced the publication of the new Code at the first meeting of her new reshuffled cabinet on 9 January 2018. She asked all her Cabinet colleagues to confirm at a later date that they and their ministerial teams had read the Code.¹⁴⁵

Culture of Respect

One amendment introduced by the 2018 Code was the objective to promote and establish a culture of respect in public life. It sought to ensure that harassment (of any kind) and improper behaviour were deemed unacceptable and viewed seriously by the Prime Minister and her Cabinet.

The foreword to the 2018 Code by the Prime Minister stressed “We need to establish a new culture of respect at the centre of our public life: one in which everyone can feel confident that they are working in a safe and secure environment.”

That general principle applied by the Code to all Ministers has been broadened to reflect that objective. Promoting the same theme of respect, the general principle applied to the relationship between Ministers and Civil Servants’ in paragraph 5.1 has been extended to include:

Ministers should be professional in their working relationships with the Civil Service and treat all those with whom they come into contact with consideration and respect.

Ministerial Meetings

Another significant change introduced by the Code concerned new rules on ministerial meetings. When Ministers are travelling abroad the Code clarified that:

When holding meetings overseas with Ministers and/or officials from overseas governments, or where official business is likely to be discussed, Ministers should always ensure that a private secretary or Embassy official is present.

If a Minister meets an external organisation or an individual and finds themselves discussing official business without an official present – for example at a social occasion or on holiday – any significant content should be passed back to the department as soon as possible after the event.¹⁴⁶

Other changes

Other changes introduced include:

- Obligations on Former Ministers

¹⁴⁵ [UK Government to publish new Code of Conduct for Ministers](#), The Guardian, 9 January 2018.

¹⁴⁶ Cabinet Office, [Ministerial Code, January 2018](#), para 10.5

Under the 2016 Code Former Ministers had to seek advice from the independent Advisory Committee on Business Appointments about any appointments or employment they wished to take up within two years of leaving office. The 2018 Code restricted this condition further by requiring that “Former Ministers must ensure that no new appointments are announced, or taken up, before the Committee has been able to provide its advice”.

- Enhancing Collective Responsibility

In order to ensure collective responsibility paragraph 2.3 has been amended to include: “Ministers should take special care in discussing issues which are the responsibility of other Ministers, consulting ministerial colleagues as appropriate”.

- Ministers and their Departments

Paragraph 4.3 no longer required that transfers “within the field of responsibility of one Minister when the change is likely to be politically sensitive or to raise wider issues of policy or organisation” had to be approved by the Prime Minister.

5.9

The 2019 Ministerial Code

A revised Ministerial Code was published on 23 August 2019.¹⁴⁷ The new Prime Minister, Boris Johnson, had replaced Theresa May, as leader of a minority Government. This followed a turbulent period of Government defeats in Parliament and disputes in Cabinet, in the context of ongoing negotiations to complete the Withdrawal Agreement for the UK to leave the European Union.

The Introduction to the 2019 edition of the Code summarised the standards expected of ministers:

There must be no bullying and no harassment; no leaking; no breach of collective responsibility. No misuse of taxpayer money and no actual or perceived conflicts of interest. The precious principles of public life enshrined in this document – integrity, objectivity, accountability, transparency, honesty and leadership in the public interest – must be honoured at all times; as must the political impartiality of our much admired civil service.

The Introduction to the 2019 Ministerial Code also referred to the Johnson Government’s priority of delivering Brexit:

...there must be no delay - and no misuse of process or procedure by any individual Minister that would seek to stall the collective

¹⁴⁷ Cabinet Office, [Ministerial Code](#), August 2019.

decisions necessary to deliver Brexit and secure the wider changes needed across our United Kingdom.

Paragraphs on a culture of respect and expectations of behaviour towards Civil Servants had been new in the previous (2018) edition of the Code. No changes to these sections were made in the 2019 edition, but the existence of them was emphasised by the new Introduction¹⁴⁸.

New provision was made for Ministers to take maternity leave or other extended absence from their duties.¹⁴⁹

The Prime Minister appoints an Independent Adviser on Ministers' Interests who acts as an independent check and source of advice to government ministers on the handling of their private interests. The Prime Minister can also instruct the Independent Adviser to investigate any alleged breach of the Ministerial Code. There was a slight change in the expectation of referral to the Independent Adviser in the 2019 edition.

The Independent Adviser on Ministers' Interests in 2019 was [Sir Alex Allan](#). Sir Alex resigned from the post on 20 November 2020. [Lord Geidt](#) was appointed to the role in April 2021.¹⁵⁰

Background to changes in the 2019 Code

Ministerial resignations and collective responsibility

Thirty-eight ministers resigned from their positions during the 2017-2019 Parliament, when Theresa May was Prime Minister. In the case of over twenty of these resignations, Ministers gave the cause as objection to the Government's policy on Brexit or on the conduct of the negotiations.¹⁵¹

In July 2018, Theresa May (then Prime Minister) wrote to Conservative colleagues reiterating the principle of collective responsibility, following the 'Chequers Summit' on Brexit.¹⁵²

The Ministerial Code and the [Cabinet Manual](#) detail the operation of the principle of collective responsibility.¹⁵³ Later in July 2018 seven Ministers, including two Cabinet Ministers, resigned citing opposition to the Agreement reached at Chequers as a reason. Arguably this could be seen as the Ministerial Code in operation, as individuals who could not accept the Government's policy chose to resign.

¹⁴⁸ Cabinet Office, [Ministerial Code](#), August 2019, para 1.2

¹⁴⁹ Cabinet Office, [Ministerial Code](#), August 2019, para 4.11

¹⁵⁰ Cabinet Office, [Press Notice](#), 28 April 2021.

¹⁵¹ Institute for Government, [Whitehall Monitor 2020: Ministers](#), 20 January 2020.

¹⁵² [How Theresa May is selling the Chequers proposal to Conservative MPs](#), Brexit Central, 6 July 2018.

¹⁵³ Cabinet Office, [Ministerial Code 2019](#), para 3-2.4

Differences of opinion about Brexit continued amongst Ministers and in March 2019 twelve Ministers abstained and another voted against the Government, in the Commons despite a Three Line Whip. The Ministers who abstained did not resign.¹⁵⁴ This led the Chief Whip, Julian Smith, to give his view that colleagues had demonstrated “the worst example of Cabinet ill-discipline in history”, during an interview on the BBC.¹⁵⁵

There were no referrals to the Independent Adviser as a consequence of these absentions or the vote against the Government.

Changes made in the 2019 Code

Changes made in the 2019 Code aimed to address the issues experienced by the Theresa May 2017-2019 administration.

Referral for investigation

A small amendment to the Code, in the Section on Ministers of the Crown, gives the Prime Minister further discretion on referral for investigation by the Independent Adviser. In the 2018 Code the wording was:

If there is an allegation about a breach of the Code, and the Prime Minister, having consulted the Cabinet Secretary feels that it warrants further investigation, she will refer the matter to the independent adviser on Ministers’ interests.¹⁵⁶

In the 2019 Code the wording was amended to:

If there is an allegation about a breach of the Code, and the Prime Minister, having consulted the Cabinet Secretary, feels that it warrants further investigation, he may ask the Cabinet Office to investigate the facts of the case and/or refer the matter to the independent adviser on Ministers’ interests.¹⁵⁷

The update sets out the option of an investigation by the Cabinet Office and an option for the Prime Minister not to refer the matter to the Independent Adviser. In previous editions, since the establishment of the post of Independent Adviser in 2007, the wording in this paragraph has been “he/she will refer”.¹⁵⁸

In April 2021, on the appointment of Lord Geidt to the role, the Terms of Reference for the Independent Adviser were reviewed and updated to include:

Where, in the assessment of the Independent Adviser, he believes an allegation about a breach of the Code might warrant further

¹⁵⁴ ‘[Gang of four defied the Prime Minister as discipline broke down](#)’, Sky News, 14 March 2019.

¹⁵⁵ ‘[Chief Whip attacks cabinet’s post-election Brexit strategy](#)’, BBC News, 1 April 2019.

¹⁵⁶ Cabinet Office, [Ministerial Code, January 2018](#), para 1.4

¹⁵⁷ Cabinet Office, [Ministerial Code](#), August 2019, para 1.4

¹⁵⁸ Cabinet Office, [Ministerial Code](#), May 2010, para 1.3

investigation, he will raise the issue confidentially with the Prime Minister.¹⁵⁹

In practice, it has always been made clear that decisions on the Code lie with the Prime Minister and that the Independent Adviser may only undertake investigations if asked to do so by the Prime Minister. The Cabinet Secretary and the Cabinet Office staff have also always had a role in assisting the Independent Adviser in fact gathering.

Security of Government Business

In the foreword to the 2019 Code the Prime Minister stressed “there must be no delay - and no misuse of process or procedure by any individual Minister that would seek to stall the collective decisions necessary to deliver Brexit and secure the wider changes needed across our United Kingdom.”¹⁶⁰ The emphasis made that not observing the principle of collective responsibility would not just breach the Code, but could delay the achievement of Government commitments.

A sentence about ministerial views and disclosure was added to strengthen the section on collective responsibility:

The internal process through which a decision has been made, or the level of Committee by which it was taken should not be disclosed. Neither should the individual views of Ministers or advice provided by civil servants as part of that internal process be disclosed.¹⁶¹

A new paragraph, 2.14, was also inserted to the section on Ministers and the Government, to emphasise the overall security of Government business:

Ministers have an important role to play in maintaining the security of Government business. They should ensure that they follow the advice about Security of Government Business. If in doubt about any particular arrangements, Ministers should, in the first instance, consult their Permanent Secretary for advice.¹⁶²

Although the phrase “security of government business” is printed in italics and upper case in the Code, it does not seem to relate to a specific document with this title. A policy paper and Guidance documents on Government security were published in May 2014 and updated in 2018.¹⁶³

Maternity leave

Paragraph 4.11 was added to to the 2019 Code to specify arrangements for a Minister to be given extended absence from their role, including on maternity

¹⁵⁹ Cabinet Office, [Independent Adviser on Ministerial Interests-Terms of Reference](#), 28 April 2021.

¹⁶⁰ Cabinet Office, [Ministerial Code](#), August 2019, foreword.

¹⁶¹ Cabinet Office, [Ministerial Code](#), August 2019, para 2.3

¹⁶² Cabinet Office, [Ministerial Code 2019](#), August 2019, para 2.4

¹⁶³ Cabinet Office, [HMG Security Policy Framework](#), 2018.

leave. A Minister may take 6 months maternity leave or “other extended absence from Government” at the discretion of the Prime Minister. The Minister on leave must not exercise Ministerial functions during their absence. Another Minister will temporarily cover the Minister on leave’s responsibilities.¹⁶⁴

The [Ministerial and other Maternity Allowances Act 2021](#) amended the process. It allows for the designation of a Minister going on maternity leave as a “Minister on Leave”.¹⁶⁵ This designation will not count towards the overall number of Ministers. This means that the Prime Minister can then appoint someone else to the role vacated by the Minister going on maternity leave, without exceeding the statutory limits on the number of Ministers. The Act also enables an allowance, equivalent to their Ministerial salary, to be paid to a Minister on maternity leave.¹⁶⁶

The Act only makes provision for birth mothers. There is no provision for additional types of family or other leave.

Other changes

Other changes introduced in the 2019 Ministerial Code include:

Official social media accounts

A new sentence was added to the provisions that official facilities must not be used for party political purposes. This sets out that “Particular care should be taken to ensure that official social media accounts are not used for party political or constituency purposes.”¹⁶⁷ Further guidance on these issues is given in Section 8 of the Code, on presentation of policy.

Foreign honours and decorations

The guidance on foreign decorations has been expanded.¹⁶⁸ The general rule was, and remains, that serving Ministers should not accept decorations from foreign countries. The new guidance in the Code sets out procedures for circumstances where “an award is offered directly to a Minister and it would be difficult or embarrassing to decline”. The Minister must inform the Foreign Office, and it is likely that permission to wear the award will not be granted. A “national interest case exemption” may be granted by the Prime Minister.

¹⁶⁴ Cabinet Office, [Ministerial Code](#), August 2019, para 4.11

¹⁶⁵ [Ministerial and other Maternity Allowances Act 2021](#).

¹⁶⁶ [Commons Library Research Briefing CBP-9133, Ministerial and other Maternity Allowances Bill 2019-2021, 12 March 2021](#).

¹⁶⁷ Cabinet Office, [Ministerial Code](#), August 2019, para 6.3

¹⁶⁸ Cabinet Office, [Ministerial Code](#), August 2019, para 7.19

5.10

The May 2022 Ministerial Code

Background to changes in the May 2022 Code

The twenty-fifth anniversary of the Nolan Report (the first report of the Committee on Standards in Public Life), in 2020, prompted reflection on the changes to the scope of ethical regulation of public life in this period.

Standards Matter 2 review

In September 2020 CSPL announced Standards Matter 2, a landscape review of the institutions, processes and structures in place to support high standards of conduct, including the Ministerial Code.¹⁶⁹

The former Independent Advisers on Ministerial Interests, Sir Philip Mawer and Sir Alex Allan, gave oral evidence to the Standards Matter 2 inquiry on 10 March 2021.¹⁷⁰ Both former Advisers responded that they felt the Independent Adviser should have the capacity to initiate investigations, and that there should be more frequent reference for investigation. Sir Alex commented that this could help the Prime Minister to stand between the Minister under investigation and the public, giving more confidence in the operation of the Code.

Both former Advisers felt that decisions on action to be taken following an investigation should remain with the Prime Minister. Sir Alex felt that the issue of finding a breach had occurred had become “mixed up” in the press and public with the issue of resignation by a minister. A potential reform could be to have a greater range of available sanctions.

In response to questions about the appointment of the Adviser, both Sir Philip and Sir Alex stressed the need for this to be based on a “relationship of trust” between the Prime Minister, the Cabinet Secretary and the Adviser. They were not in favour of formal pre-appointment hearings before the Parliamentary and Constitutional Affairs Select Committee.¹⁷¹

Recommendations of the Standards Matter 2 review

The final report of the Review was published in November 2021.¹⁷² of the 34 recommendations, nine related to the Ministerial Code and the Independent Adviser:

Recommendation 2: The government should pass primary legislation to place the Independent Adviser on Ministers’ Interests, the Public

¹⁶⁹ CSPL, [Standards Matter 2: Terms of reference](#), 22 September 2020.

¹⁷⁰ CSPL, Standards Matter 2: [Committee oral evidence session 10 March 2021](#).

¹⁷¹ CSPL, Standards Matter 2, [Oral evidence 10 March 2021](#).

¹⁷² Committee on Standards in Public Life, [Upholding standards in Public life](#): Final report of the Standards matter 2 review, November 2022.

Appointments Commissioner, and the Advisory Committee on Business Appointments on a statutory basis.

Recommendation 3: The Ministerial Code should be reconstituted solely as a code of conduct on ethical standards.

Recommendation 4: A requirement for the Prime Minister to issue the Ministerial Code should be enshrined in primary legislation.

Recommendation 5: The Independent Adviser should be consulted in any process of revision to the Ministerial Code.

Recommendation 6: The Ministerial Code should detail a range of sanctions the Prime Minister may issue, including, but not limited to, apologies, fines, and asking for a minister's resignation.

Recommendation 7: The Independent Adviser should be appointed through an enhanced version of the current process for significant public appointments.

Recommendation 8: The Independent Adviser should be able to initiate investigations into breaches of the Ministerial Code.

Recommendation 9: The Independent Adviser should have the authority to determine breaches of the Ministerial Code.

Recommendation 10: The Independent Adviser's findings should be published no more than eight weeks after a report has been submitted to the Prime Minister.

In its press statement accompanying the Report, the Committee emphasised:

There still needs to be greater independence in the regulation of the Ministerial Code, which lags behind similar arrangements for MPs, peers, and civil servants.

Government response to Committee recommendations

In addition to a revised version of the Code, the Government published two policy papers on 27 May 2022. One was a statement on standards.¹⁷³ The other was revised terms of reference for the Independent Adviser on Ministers' Interests¹⁷⁴

Together these provided Government response to the recommendations of the CSPL. In the statement on standards, it was made clear:

the Government does not consider it appropriate to legislate for the Code or for the office of Independent Adviser, as this would

¹⁷³ Cabinet Office, [Statement of government policy: standards in public life](#), 27 May 2022.

¹⁷⁴ Cabinet Office, [Terms of Reference: Independent Adviser on Ministers' Interests](#), 27 May 2022.

undermine the constitutional settlement by conflating the executive and legislature, and would provide an additional route where the judiciary may also be drawn into such (political) matters that the Government considers to be non-justiciable.¹⁷⁵

Therefore recommendations 2 and 3 had not been accepted.

The response to the recommendation on the powers of the Independent Adviser to initiate an investigation was:

the revised Terms of Reference set out an enhanced process to allow for the Independent Adviser to independently initiate an investigation, having consulted the Prime Minister and obtained his consent. However, reflecting the Prime Minister's accountability for the conduct of the Executive, it is important that a role is retained for the Prime Minister in decisions about investigations.¹⁷⁶

Recommendation 8 had been partially accepted, but final decisions on opening investigations were to remain with the Prime Minister.

Government response to recommendation 6, on the sanctions following on a decision of a breach was:

it is disproportionate to expect that any breach, however minor, should lead automatically to resignation or dismissal. The sanction which the Prime Minister may decide to issue in a given case is for the Prime Minister to determine, but could include requiring some form of public apology, remedial action or removal of ministerial salary for a period.¹⁷⁷

So recommendation 6 had been substantially accepted.

In response to the recommendation that the Independent Adviser should have the authority to determine breaches of the Code, the response was:

The Independent Adviser's role is advisory. In the event that an allegation about a breach of the Code is referred to the Independent Adviser, his role is to investigate and, at the conclusion of his investigation, to give his independent advice to the Prime Minister, in order that the Prime Minister can then reach a decision.¹⁷⁸

Therefore recommendation 9 had not been accepted.

The Chair of CSPL, Lord Evans, commented that the Government reforms did not go far enough and did not implement the measures the Committee had called for. He described this as "highly unsatisfactory" and stated that:

¹⁷⁵ Cabinet Office, Statement of government policy: standards in public life, May 2022, para 6.

¹⁷⁶ Cabinet Office, Statement of government policy: standards in public life, May 2022, para 10.

¹⁷⁷ Cabinet Office, Statement of government policy: standards in public life, May 2022, para 11.

¹⁷⁸ Cabinet Office, Statement of Government policy: standards in public life, May 2022, para 9.

Graduated sanctions and greater independence for the Adviser were therefore part of a mutually dependent package of reforms, designed to be taken together. Our proposals both protected the right of the Prime Minister to hire and fire ministers as they see fit, and introduced greater independence in the regulation of ministerial conduct.¹⁷⁹

Changes made in the May 2022 Code

Foreword

A new Foreword was included where the Prime Minister stated:

Thirty years after it was first published, the Ministerial Code continues to fulfil its purpose, guiding my Ministers on how they should act and arrange their affairs. As the Leader of Her Majesty's Government, my accountability is to Parliament and, via the ballot box, to the British people.¹⁸⁰

Investigations

The role of the Independent Adviser, and the procedures to initiate an investigation were set out in more detail as:

a. If there is an allegation about a breach of the Code, and the Prime Minister, having consulted the Cabinet Secretary, feels that it warrants further investigation, he may ask the Cabinet Office to investigate the facts of the case and/or refer the matter to the Independent Adviser on Ministers' interests.

b. Where the Independent Adviser believes that an alleged breach of the Code warrants further investigation and that matter has not already been referred to him, he may initiate an investigation. Before doing so, the Independent Adviser will consult the Prime Minister who will normally give his consent. However, where there are public interest reasons for doing so, the Prime Minister may raise concerns about a proposed investigation such that the Independent Adviser does not proceed. In such an event, the Independent Adviser may still require that the reasons for an investigation not proceeding be made public unless this would undermine the grounds that have led to the investigation not proceeding.¹⁸¹

¹⁷⁹ CSPL Blog, "[The Government should go beyond a 'low level of ambition' on the Ministerial Code](#)", 1 June 2022.

¹⁸⁰ Cabinet Office, [Ministerial Code](#), May 2022.

¹⁸¹ Cabinet Office, [Ministerial Code](#).(pdf), para 1.4, May 2022.

5.11

Previous editions of the Ministerial Code: links

The Ministerial Code has been published with this title since 1997 and has been updated several times. The Cabinet Office makes the most recent edition available on the Gov.UK website.

Previous editions are archived by the National Archives and can be accessed, in various forms, through the Government Web Archive and links to these are given below, for convenience.

[Ministerial Code, July 1997](#)

[Ministerial Code, July 2001](#)

[Ministerial Code July 2005](#)

[Ministerial Code, July 2007](#)

[Ministerial Code, May 2010](#)

[Ministerial Code, October 2015](#)

[Ministerial Code, December 2016](#)

[Ministerial Code, January 2018](#)

[Ministerial Code, August 2019](#)

[Ministerial Code, May 2022](#)

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