



STATEMENT OF GOVERNMENT POLICY: STANDARDS IN PUBLIC LIFE

1. The Government has been considering the recommendations of the Committee on Standards in Public Life regarding the role of the Ministerial Code and the Independent Adviser as well as discussing arrangements for the office of Independent Adviser with the current incumbent in light of an exchange of letters with the Prime Minister in December 2021. This statement sets out the Government's carefully considered position.

Constitutional status and framework

2. It is fundamental to the UK's constitution, that the Prime Minister, as the head of the Executive, has sole responsibility for the organisation of Her Majesty's Government. It is for the Prime Minister alone to recommend the appointment, dismissal or acceptance of resignation of Her Majesty's Ministers; and Ministers hold office for as long as they have the confidence of the Prime Minister.
3. The Prime Minister is accountable to Parliament and the public for the use of these powers, including, ultimately, at the ballot box. In the same way, all Ministers, including the Prime Minister, are accountable to Parliament and the public for their actions and conduct more generally.
4. In keeping with the Prime Minister's responsibility for the organisation of HM Government, the Ministerial Code is the Prime Minister's document, and provides his guidance to Ministers on how they should act and arrange their affairs in order to uphold the principles and standards of conduct which are set out in the Code. In setting out the Prime Minister's expectations in this way, it allows individuals to understand what is required of them and enables Parliament and the public to measure Ministerial conduct and actions against those expectations.
5. To assist him in discharging these responsibilities, the Prime Minister appoints an Independent Adviser on Ministers' Interests. The Independent Adviser performs a critical role in providing the Prime Minister with independent advice on whether or not a Minister's conduct has met the standards set out in the Ministerial Code, as well as providing independent, impartial advice to Ministers on the management of their interests.
6. As the Prime Minister's guidance to Ministers, the Ministerial Code and its application is a matter for the Executive and – as with all matters of the Prerogative – wholly separate from the legislature. Therefore, the Government does not consider it appropriate to legislate for the Code or for the office of Independent Adviser, as this would 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. It would not be in the public interest to further fuel politically-motivated judicial reviews.

The role of the Independent Adviser

7. Revised Terms of Reference setting out more detail about the Independent Adviser's role have been published today. The Ministerial Code has been re-issued, to include more specific reference to the role of the Independent Adviser and the duty on Ministers to provide the Independent Adviser with all information reasonably necessary for the discharge of his role.
8. As the Prime Minister's personal adviser, the Independent Adviser is an officeholder of the Executive and subject to Terms of Reference set by the Prime Minister. Because the role relies on a relationship of mutual trust and confidence, the appointment of the Independent Adviser is a direct appointment of the Prime Minister, subject to general legal requirements and for a non-renewable five-year term. The Terms of Reference provide clarity about the responsibilities of the Independent Adviser, whilst also making clear the responsibilities that apply to Ministers in their engagement with the Independent Adviser. The Independent Adviser will in future be consulted about revisions to the Code including how it can be made simpler and clearer.
9. 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. The elected Prime Minister is democratically accountable for such decisions. In order that there may be accountability for such decisions, the Independent Adviser's Terms of Reference give him the power to require that his advice at the conclusion of an investigation be published in a timely manner.
10. As an adviser to the Prime Minister on matters relating to the Ministerial Code, the Independent Adviser is able to provide independent advice on the initiation of an investigation and 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.
11. The Prime Minister may also ask the Independent Adviser for advice on the appropriate sanctions in the event that a breach of the Code is determined to have occurred. As both Lord Geidt and the Committee on Standards in Public Life have recommended last year, 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. The Ministerial Code has been updated to reflect this.

12. The Government is also mindful of the need to avoid incentives for trivial or vexatious complaints which may be made for partisan reasons. Such complaints can undermine public confidence in standards in public life rather than strengthen it. The Government must also balance the broader considerations of unelected 'standards' processes seeking to remove from office those who hold a political and democratic mandate.

Support for the office of Independent Adviser

13. The office will be supported by a dedicated secretariat of civil servants who will be accountable to the Independent Adviser. The office will have its own online presence and be responsible for managing its own affairs and correspondence. Further information will be set out by the Independent Adviser in the Annual Report.

14. Taken together, these reforms provide a measured and principled approach to ensure high standards in public life, whilst ensuring democratic accountability of elected representatives to the British people via the ballot box.

May 2022