



## Independent Adviser on Ministers' Interests - Terms of Reference

The Independent Adviser on Ministers' Interests is appointed by the Prime Minister to advise him on matters relating to the *Ministerial Code*. The post holder is independent of Government and expected to provide impartial advice to the Prime Minister. The post holder is required to observe the *Seven Principles of Public Life*.

### 1. Ministers' interests

- 1.1. Under the Ministerial Code (7.2), *"it is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of a conflict, taking account of advice received from their Permanent Secretary and the independent adviser on Ministers' interests"*.
- 1.2. Ministers are required, upon appointment to each new office, to provide to the Independent Adviser a full list of interests which might be thought to give rise to a conflict with the Minister's public duties (7.3). This must occur within 14 days. The list should have been reviewed where relevant by the appropriate Permanent Secretary or Accounting Officer.
- 1.3. The personal information which Ministers disclose to those who advise them is treated in confidence (7.5).
- 1.4. The Independent Adviser must review any information provided by a Minister and may, in confidence, provide advice to that Minister on any action that should be taken by the Minister in order to uphold the standards set out in the Ministerial Code (7.4). Advice on the handling of interests may also be provided on an ad-hoc basis (see paragraph 3.2 below).
- 1.5. A Minister to whom advice is given must provide the Independent Adviser with a record of what action has been taken in response to the advice (7.4).
- 1.6. At least twice a year the Independent Adviser must prepare and publish a statement covering the relevant interests of Ministers (7.5). The statement must set out such information about those relevant interests as the Independent Adviser considers appropriate.

### 2. Investigation of alleged breaches of the Ministerial Code

- 2.1. Under the terms of the Ministerial Code (1.4a): *"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."*

- 2.2. 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.
- 2.3. The decision on whether a Minister remains in office is for 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).
- 2.4. If the Prime Minister determines that there has been a breach of the Ministerial Code, in addition to paragraph 2.3 above, the Independent Adviser may recommend in confidence to the Prime Minister what sanction should be considered as a result (1.7).
- 2.5. Following an investigation carried out by the Independent Adviser, the Independent Adviser may require that any advice provided to the Prime Minister on the outcome of such an investigation is published in a timely manner.

### **3. Further advice on Ministerial Code**

- 3.1. Before the Ministerial Code is amended, the Prime Minister will consult the Independent Adviser.
- 3.2. The Independent Adviser may, at the request of a Minister, provide the Minister, in confidence, with general advice in relation to the Ministerial Code.

### **4. Information**

- 4.1. A Minister must provide the Independent Adviser with any information the Independent Adviser reasonably requires for the purposes of discharging the responsibilities set out in these terms of reference (1.4).
- 4.2. Information provided to the Independent Adviser for the purposes of the Adviser’s functions is provided in confidence. The Independent Adviser may publish information provided to him, including in summarised form if it is necessary to discharge his responsibilities.
- 4.3. The Independent Adviser may require a Minister to publish information relating to adherence to the Ministerial Code.
- 4.4. The Independent Adviser must publish an annual report on the exercise of the Independent Adviser’s functions, which must:
  - (a) set out information about the work carried out by the Independent Adviser during the year; and
  - (b) include observations on matters relating to the role of the Independent Adviser.