

Eluned Morgan MS
First Minister of Wales
Welsh Government

26 November 2024

The Ministerial Code

Dear Eluned,

Following the Public Accounts and Public Administration Committee's recent work on the Ministerial Code, I am writing to set out our findings about the arrangements in place in other parts of the United Kingdom, our view about how they compare with the position in Wales and our related recommendations.

UK Government reform of the Ministerial Code

The Committee notes with interest the work undertaken by the UK Government to update their Ministerial Code and strengthen the governance arrangements around it, with an updated version published on 6 November 2024. In particular, the Committee were encouraged to note that the updated version:

- Enshrined the Nolan Principles directly into the Code;
- Strengthened the powers of the Prime Minister's Independent Adviser;
- Set out new "guiding principles" around Ministers accepting gifts and hospitality.

Under strengthened powers, the newly renamed 'Independent Adviser on Ministerial Standards' (the 'Independent Adviser') is able to initiate misconduct investigations without the Prime Minister's veto, alongside guaranteed access to necessary evidence.

The Independent Adviser may require that any advice provided to the Prime Minister be published, following the conclusion of their investigation. It also requires the Prime Minister to consult with the Independent Adviser before amending the Ministerial Code.



We also note that the Labour Party's manifesto, ahead of this year's general election, proposed a new independent Ethics and Integrity Commission, whose role would be to oversee and enforce standards in government. We await with interest developments in this area.

Position in Scotland and Northern Ireland

We note the role of independent adviser has existed in Scotland since 2008, with information published about the current and former postholders. The updated version of the Ministerial Code, published in July 2023, notes the First Minister is the "ultimate judge of the standards of behaviour expected of a Minister". However, the Ministerial Code provides the First Minister with the power to refer matters to one of two Independent Advisers for advice.

The Scottish Government has since announced a plan for changing the Ministerial Code to strengthen the role of independent advisers, allowing them to launch their own investigations whenever they feel it is warranted. Where there has been a breach, the independent advisers will be able to advise on appropriate sanctions.

In Northern Ireland, the Northern Ireland Executive's Ministerial Code is a statutory document, included in the Northern Ireland Act 1998. Ministers are subject to possible investigation by the Commissioner for Standards, who is also responsible for the conduct of Members of the Legislative Assembly. This Commissioner is an independent person appointed by the Northern Ireland Assembly.

Committee consultation

As part of the Committee's work in this area, we conducted a consultation to hear the view of interested stakeholders, with responses from Transparency International UK and the Institute for Government.

Transparency International UK argued that an updated Ministerial Code should:

- be placed on a statutory footing;
- include a commitment to the Nolan principles as part of the First Minister's foreword;
- allow for the appointment of an Independent Adviser on Ministerial Interests, who can "initiate and set the terms of investigations into breaches of the code without needing the explicit consent of the First Minister";
- require, for increased transparency, the publication of the minutes of ministerial meetings on a monthly basis;
- extend the requirement to record meetings to Special Advisers, to "better understand the full range of influence on Ministers".

The Institute for Government's response echoed many of Transparency International UK's recommendations. It noted the need for the Code to be placed on a statutory footing and for the

appointment of a “standing” independent adviser on the Ministerial Code (rather than the current ad hoc arrangement), with the powers to initiate their own investigations. It went on to make further recommendations, including:

- The need for the Ministerial Code to explain a range of sanctions available for breaches, as per the UK Ministerial Code;
- It should specify that the Ministerial Code applies to Ministers’ use of social media, as well as their conduct in person;
- The Ministerial Code should explicitly require Ministers to follow guidance on the use of personal devices and non-official communication channels, and note that Ministers should not use personal phones for “substantive government business”;
- The details of Ministers’ meetings with external groups, including via other means of communication including phone calls, should be published regularly. It also notes that, should a Minister meet an external group without an official present, they should ensure the meeting is recorded with their private office at the earliest opportunity.

Committee view

It’s clear that the other legislatures of the United Kingdom have more robust arrangements in place around the Ministerial Code and we feel that it’s overdue that Wales strengthens the Ministerial Code to not only emulate but also eclipse the arrangements in place elsewhere.

The Committee wishes to see the Welsh Government act as an exemplar in its public administration, wherever possible. We endorse the changes suggested by the Institute for Government and Transparency International UK in their responses to our consultation.

By reviewing and reforming the system, we feel you have an opportunity to strengthen standards in this area, providing much-needed assurance and improving accountability and transparency. In our opinion, two developments are necessary to deliver this.

The placing of the Ministerial Code on a statutory basis is crucial to embedding standards of conduct into the Welsh system and would help to repair public trust in standards in public life.

The Committee also believes that the creation and appointment of an Independent Adviser on Ministerial Standards for Wales is crucial to restoring trust in the system. In particular, under the terms of the appointment, the Adviser, who is truly independent of government, should be given the power to initiate their own investigations without veto.

Furthermore, the Committee believes that, as a minimum, you should consider the following changes to the Ministerial Code:

- The Ministerial Code should be reviewed at the earliest opportunity, with the review to reflect on the changes introduced or planned by the administrations in the rest of the United Kingdom and beyond;
- The advice of the Independent Adviser should be published when it is deemed necessary by the Adviser;
- The Independent Adviser should have guaranteed access to any evidence they require;
- The Ministerial Code should include information about sanctions, as per the UK Government's Ministerial Code, with the ability for the Independent Adviser to provide advice on sanctions, as per the UK Government's latest reforms;
- The updated Ministerial Code should explicitly make provisions relating to a Minister's use of social media, their use of personal devices and non-official communications channels;
- That the First Minister should consult with the proposed new Independent Adviser when making amendments to the Code.

We believe that the responses to our consultation reinforce our recommendations above, but also provide further ideas for making the Welsh Government more transparent and accountable than ever. This would include the publication of the minutes from Ministerial meetings.

The Committee is happy to work with you in this area, if you wish, and would welcome constructive dialogue about how these aims can be achieved. We would also welcome the opportunity to take evidence from you in due course and would appreciate your response to this invitation.

I would appreciate a response by 18 December 2024.

Regards,



Mark Isherwood MS

Chair of the Public Accounts and Public Administration Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.