

# **PE2093/G: Review and update the Scottish Ministerial Code**

## **Petitioner written submission, 5 May 2025**

I have taken the time to read the First Minister's (FM) submissions and the new ministerial code, and I would highlight several points (I will try to avoid repeating points in my previous written submissions, which remain the main background of each of the points I raised in my petition).

- **put the Code under statute**

The code, as it currently stands, still means that it is not a requirement for any government to have a code (unlike in Northern Ireland), as it is not under statute. I think this is a key weakness in the code: as any FM at any time may decide not to have a code or repeal parts of it when it suits. By putting the code under statute, these possibilities are eliminated (unless, of course, approved by parliament).

- **enable the independent advisers (IAs) to initiate investigations, and if the First Minister decides to go against the IAs advice, a statement should be provided to Parliament**

I welcome the changes to the code regarding advisors being able to self-initiate investigations and taking away this power from the FM, so I consider this point resolved! However, there is still no recourse for what happens if the FM goes against the advisor's advice. I realise, though, that political pressure at such a point would be strong enough to capture parliament's attention. I still believe that there should be an official pathway within the code for the FM to make a statement.

- **set out the sanctions for breaches other than misleading Parliament**

Having read the FM's submissions, I appreciate that the new advisors can recommend sanctions for code breaks, minus deliberately misleading parliament. However, as I said in my written submissions, these "appropriate sanctions" are not known to the public, and this is to the detriment of the code and, consequently, public trust. What range of sanctions are available to the FM for code breaks as a whole, and in what general situations (as described in my submissions) should breaks warrant? I realise that the latter of these points is hypothetical: the code cannot cover every situation, but I think even setting out several examples would be beneficial, as the sanction for deliberately misleading parliament does. For the former, to my mind, minus removal from office, the only two sanctions available would be a fine or an apology, it would be beneficial to know what the "range of sanctions" available to advisors and the FM are in preparation for any decision in such an investigation.

- **allow IAs to make recommendations for changes to the Code**

Having read the code and the FM's submissions, I am satisfied that this point is resolved!

- **renaming the IA position to make it clear there is no judicial involvement**

The new code still refers to the advisors as “independent”, despite what the former Lord President said in the Court of Session ([see my previous written submission](#)) regarding this description of the advisors. The title of “Independent”, to my mind, the former Lord President, and I think fair-minded observers, implies that the judiciary is involved in this process, which it very clearly is not. The role should be retitled to: “Adviser of the Scottish Ministerial Code” or similar, clarifying to rule out confusion with the judiciary.

- **require Ministers to make a public oath or commitment to abide by the Code.**

I refer to my points in my written submissions, as there is no provision within the current code for ministers to make a public oath or commitment to abide by it. As MSPs make their oaths upon entering office, I think ministers entering office should take a similar public oath or commitment, as I believe ministers in Australia do currently, as set out in Section 62 of the Commonwealth of Australia Constitution Act 1900. Having ministers make such an oath or commitment, I believe this would strengthen public trust in ministers, who, having committed in public, would be entrusted to follow the code compared to the absence of such a public commitment.

If the Committee would like me to provide further written evidence or for me to provide oral evidence, then I would be more than happy to do so.