



John Swinney BPA/MSP

Linda Fabiani MSP
Convener – Committee on the Scottish
Government Handling of Harassment Complaints
c/o Clerk to the Committee
Room T1.03
The Scottish Parliament
Edinburgh
EH99 1SP

13 January 2021

Dear Linda

I attach, for your committee's information, an exchange of letters that I have had with Mr James Hamilton, the Independent Adviser on the Scottish Ministerial Code.

Mr Hamilton's letter sets out his intention, under his existing remit, for the First Minister's self-referral under the Ministerial Code to address a number of points that have been raised with him by some Members of the Committee and also by the former First Minister. I have confirmed that his intention to address these matters is entirely consistent with the previous commitments that both the First Minister and I have made to Parliament.

I am copying this letter to SPICE.

JOHN SWINNEY

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire
Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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James Hamilton
Independent Adviser on the Scottish Ministerial Code

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John Swinney MSP
Deputy First Minister
By email

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, in your reply to a parliamentary question in the Scottish Parliament on 3 August 2020, having made an express reference to sections 4.22 and 4.23 of the Ministerial Code, and having set out the sequence of meetings and discussions between the First Minister and Alex Salmond, you concluded with the statement that the remit for the referral was as follows:

- 1. Review any relevant documentation relating to the meetings and discussions listed above.*
- 2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.*
- 3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.*
- 4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.*

5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:

- i. whether the Ministerial Code is engaged regarding the meetings and discussions;*
- ii. whether there has been any breach of the Code and the nature of any such breach; and*
- iii. if a breach has occurred, advice on the appropriate remedy or sanction.*

6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament on a broad view appears to be within the scope of the remit but even on a narrower view is so closely connected to the remit that I am minded to include this within the scope of my report.

I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

By Email

13 January 2021

Dear Mr Hamilton

Thank you for your letter of 11 January about the First Minister's self-referral under the Ministerial Code.

I note your intention to address in your report a number of points that have been raised with you by some MSPs and also by the former First Minister.

As I set out in my letter to you of 4 November, both the First Minister and I have separately advised Parliament that you are free to consider evidence on any aspect of the Ministerial Code as you consider necessary and appropriate. Your intention to include these matters is therefore entirely consistent with the previous commitments we have made to Parliament.

Please let me know if there is anything further the Scottish Government can do to assist you.

JOHN SWINNEY

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