

**PUBLICATION OF REVISED MINISTERIAL CODE – 2.30PM, THURSDAY,
8 FEBRUARY 2018**

Text of Government Inspired Question to announce publication of the 2018 edition:

Question (Ben Macpherson MSP):

To ask the Scottish Government whether it is the First Minister's intention to publish a new edition of the Scottish Ministerial Code.

Answer (Joe FitzPatrick MSP):

The 2018 edition of the Scottish Ministerial Code will be published today. The Code, which was last revised in August 2016, provides a code of conduct and guidance on procedures for members of the Scottish Government and Junior Scottish Ministers.

A copy of the 2018 edition of the Code may be found on the Scottish Government's website at: www.gov.scot/isbn/9781788515757.

As well as some minor updates, the Code has been amended in line with the January 2018 edition of the UK Ministerial Code: in particular, there are explicit references to:

- inappropriate, bullying or harassing behaviour;
- the requirement on Ministers to report meetings to their Private Offices, including meetings held overseas; and
- the role of the Advisory Committee on Business Appointments.

In addition, a new paragraph 4.25 reflects the provisions of the Lobbying (Scotland) Act 2016.

1. What are the main changes to the Code?

The changes, which take account of the revisions made to the new UK Ministerial Code, which was issued on 9 January, provide:

- Additional references to Ministerial standards of conduct made at paragraphs 1.1, new paragraph 1.2 and paragraph 6.1. These reflect precisely the changes made in the UK Ministerial Code in January 2018.
- New wording to reflect changes made by the UK Government in response to unauthorised meetings held abroad by Priti Patel MP with representatives of a foreign government. The new wording, broadly, advises Ministers to:
 - Take care when discussing matters which are the responsibility of other Ministers;
 - ensure a civil servant or relevant official is present at discussions relating to Government business, including during overseas trips; and,
 - to report any significant meetings to their private office where a civil servant was not present and Government business was discussed. (Unlike the UK Code, the Scottish Code already requires Ministers to inform private offices if they had a meeting about Government business

where no official was present but the changes ensure the wording is consistent with the UK Code.) The changes in the Scottish Code will be made at paragraphs 2.4, 4.22, 4.23, 9.13, 9.32 and 10.18.

- A change in relation to the Advisory Committee on Business Appointments (ACOBA), which provides advice to former Ministers and senior civil servants about taking up new appointments after leaving office. The ACOBA rules apply equally to Scottish Ministers. The change at paragraph 11.25 of the Scottish Code clarifies that former Ministers should not announce or take up new appointments until ACOBA has provided advice.
- A minor change at paragraph 10.17 to replace references to the Press Complaints Commission, Ofcom and the BBC Trust with a catch-all reference to the 'appropriate regulator'.
- In addition to the changes stemming from the UK revisions, a new section is being inserted at paragraph 4.25 of the Scottish Code to reflect the provisions of the Scottish Lobbying Act which will come in to force next month.

2. Why make these changes now?

It is desirable to ensure, so far as possible, that the Ministerial Codes across the UK adopt consistent standards. Therefore, the Scottish Ministerial Code is being revised in line with changes made by the Prime Minister to the UK Code in January 2018.

3. Why follow the UK Code so closely?

The basic principles governing Ministerial conduct are common to Ministers in all administrations across the UK – and it makes sense to ensure consistent wording in the guidance that sets out what is required of them personally, based on the Seven Principles of Public Life.

This is why the changes to the UK Ministerial Code made by the Prime Minister in January 2018 have been adopted in a new edition of the Scottish Ministerial Code in February 2018.

Periodic updates are made to the Scottish Ministerial Code (as in Wales and Northern Ireland) that reflect changes made to the UK Code – except where bespoke guidance is required to reflect the differing Parliamentary and legal systems and government structures in Scotland.

The practice of issuing a Ministerial Code is based on convention and has no separate basis in law.

4. Do the changes relate to the actions of Mark Macdonald or to any other Scottish Minister's behaviour?

None of the changes being made in the Code are prompted by any specific issue relating to a current or former Scottish Minister.

The changes relating to the Scottish Code about Ministerial conduct reflect precisely the January 2018 changes to the UK Ministerial Code to address Ministers' working relationships with civil servants, Ministerial and Parliamentary colleagues and Parliamentary staff, and to make clear that "*harassing, bullying or other inappropriate or discriminating behaviour, wherever it takes place, is not consistent with the Ministerial Code and will not be tolerated*".

5. Are the changes relating to meetings prompted by the Scottish Government's alleged failings in relation to the SPA / Chief Constable?

No.

The changes in paragraphs 4.22-23 on meetings with external parties simply reflect changes made in paragraph 8.14 of the UK Ministerial Code. These changes were made by the UK Government in response to unauthorised meetings held abroad by Rt Hon Priti Patel MP with representatives of a foreign government.

The changes made to the Scottish Code will not lead to any change in procedures, because – unlike the UK Code – the Scottish Ministerial Code has, since December 2011, already required Scottish Ministers to report back to their private offices if they held a meeting about Government business where there was no official present (para 4.23).

6. How often does the Scottish Ministerial Code change?

Revisions to the Scottish Ministerial Code are routinely made by First Ministers at the start of an administration or on their appointment to office, or whenever a significant change is made to the UK Ministerial Code (such as the January 2018 edition).

There have now been eight editions of the Scottish Ministerial Code:

- August 1999 (first edition) (no longer on website);
- February 2002 - www.scotland.gov.uk/Resource/Doc/158641/0043036.pdf
- August 2003 - www.scotland.gov.uk/Publications/2003/08/17996/25268
- June 2008 - www.scotland.gov.uk/Publications/2009/06/18095600/0
- December 2011 - www.scotland.gov.uk/Publications/2011/12/01141452/0
- June 2015 - www.gov.scot/Publications/2015/06/2562
- August 2016 - www.gov.scot/Publications/2016/08/1393
- February 2018 – www.gov.scot/isbn/9781788515757

7. Is the Scottish Ministerial Code approved by the UK Government?

No.

The Scottish Ministerial Code is issued, under the direct authority of the First Minister, to all Scottish Ministers as a code of conduct and guidance on procedures.

A copy of the Code is sent to the UK Government for information.

8. How many complaints have been upheld under the Scottish Ministerial Code?

No alleged breach of the Ministerial Code has been established in any case investigated on behalf of the First Minister.

Cabinet Secretariat
February 2018

From: Cabinet Secretariat inbox
Sent: 07 February 2018 12:23
To: [REDACTED]
Subject: FW: Scottish Ministerial Code - 2018 edition - EMBARGOED COPY

Embargoed copy sent to Scottish Government Trade Unions by HR

From: [REDACTED]
Sent: Wednesday, February 07, 2018 12:22:37 PM
To: [REDACTED] (HR)
Cc: Hynd JS (James); Cabinet Secretariat inbox
Subject: Scottish Ministerial Code - 2018 edition - EMBARGOED COPY
Auto forwarded by a Rule

[REDACTED],

As agreed, here is an embargoed copy of the 2018 edition of the Scottish Ministerial Code:

<< File: EMBARGOED DRAFT COPY - NOT FOR WIDER CIRCULATION.pdf >>

OFFICIAL-SENSITIVE

A summary of the paragraphs that have changed in this edition is as follows:

What are the main changes to the 2018 edition of the Scottish Ministerial Code?

The changes, which take account of the revisions made to the new UK Ministerial Code, which was issued on 9 January, provide:

- Additional references to Ministerial standards of conduct made at paragraphs 1.1, new paragraph 1.2 and paragraph 6.1. These reflect precisely the changes made in the UK Ministerial Code in January 2018.
- New wording to reflect changes made by the UK Government in response to unauthorised meetings held abroad by Priti Patel MP with representatives of a foreign government. The new wording, broadly, advises Ministers to:
 - Take care when discussing matters which are the responsibility of other Ministers;
 - ensure a civil servant or relevant official is present at discussions relating to Government business, including during overseas trips; and,
 - to report any significant meetings to their private office where a civil servant was not present and Government business was discussed.

(Unlike the UK Code, the Scottish Code already requires Ministers to inform private offices if they had a meeting about Government business where no official was present but the changes ensure the wording is consistent with the UK Code.)

The changes in the Scottish Code will be made at paragraphs 2.4, 4.22, 4.23, 9.13, 9.32 and 10.18.

- A change in relation to the Advisory Committee on Business Appointments (ACOBA), which provides advice to former Ministers and senior civil servants about taking up new appointments after leaving office. The ACOBA rules apply equally to Scottish Ministers. The change at paragraph 11.25 of the Scottish Code clarifies that former Ministers should not announce or take up new appointments until ACOBA has provided advice.
- A minor change at paragraph 10.17 to replace references to the Press Complaints Commission, Ofcom and the BBC Trust with a catch-all reference to the 'appropriate regulator'.
- In addition to the changes stemming from the UK revisions, a new section is being inserted at paragraph 4.25 of the Scottish Code to reflect the provisions of the Scottish Lobbying Act which will come in to force next month.

█

█ | Cabinet Secretariat | Scottish Government | T █ | M █
█ | █, St Andrew's House, 1 Regent Road, Edinburgh EH1 3DG

From: [REDACTED]
Sent: Wednesday, February 07, 2018 3:39:03 PM
To: Permanent Secretary; Hynd JS (James); [REDACTED]
Cc: EXECUTIVE TEAM PROGRAMME HUB; Rogers DA (David) (Strategy and Constitution Director); Director Communications, Ministerial Support & Facilities; [REDACTED] First Minister; Somers J (John); Mackinnon J (Judith); [REDACTED] Executive Team; ParlyClerk Scotland; Lloyd E (Elizabeth); [REDACTED] Minister for Parliamentary Business; [REDACTED] Richards N (Nicola); [REDACTED] (HR); Booth J (John); [REDACTED]
Subject: RE: Ministerial Code - Publication

RE: Point 1: GIQ cleared through PQ tracker system for written answer by Mr FitzPatrick at 2.30pm on Thursday, 8 February. I've checked with Parly Clerks ([REDACTED]), and so long as the link is in the answer (which it is), nothing further is required nowadays for lodging a publication with SPICe.

RE: Point 2: To note also that I've sent a draft to [REDACTED] for onward transmission to the TUs under strict embargo.

RE: Points 4 and 6: Lines with Comms colleagues and SpAds.

RE: Point 5: Hard copies of new now Code received from printer, so will send to Private Offices, SpAds, ET, Comms, HR, and others on this distribution list with an interest following publication.

RE: Point 7: Next FMQs is 22 February (as publication tomorrow is post-FMQs), so will keep under review: unlikely to require separate note on Code itself.

[REDACTED]

[REDACTED] | Cabinet Secretariat | Scottish Government | T [REDACTED] | M [REDACTED]
[REDACTED] | [REDACTED] St Andrew's House, 1 Regent Road, Edinburgh EH1 3DG

From: [REDACTED] **On Behalf Of** Permanent Secretary
Sent: 07 February 2018 14:58
To: [REDACTED]
Cc: EXECUTIVE TEAM PROGRAMME HUB; Rogers DA (David) (Strategy and Constitution Director); Director Communications, Ministerial Support & Facilities; [REDACTED] First Minister; Somers J (John); Mackinnon J (Judith); Permanent Secretary; Cameron DA (Donald); Executive Team; ParlyClerk Scotland; Lloyd E (Elizabeth); [REDACTED] Minister for Parliamentary Business; [REDACTED] Richards N (Nicola); [REDACTED] (HR); Booth J (John); [REDACTED] Hynd JS (James); Permanent Secretary
Subject: RE: Ministerial Code - Publication

[REDACTED]

To confirm action at para 3 below completed - Cabinet Office, Propriety & Ethics team have been sent copy of the new Code under strict embargo.

[REDACTED]

[REDACTED] | Office of Permanent Secretary | Scottish Government | [REDACTED] | St Andrew's House | Regent Road | Edinburgh | EH1 3DG | [REDACTED]@gov.scot | [REDACTED]

From: Hynd JS (James)

Sent: 05 February 2018 11:50

To: Permanent Secretary; [REDACTED] (HR); Richards N (Nicola); ParlyClerk Scotland; Lloyd E (Elizabeth); Booth J (John); [REDACTED] Minister for Parliamentary Business; [REDACTED]

Cc: Executive Team; EXECUTIVE TEAM PROGRAMME HUB; Rogers DA (David) (Strategy and Constitution Director); Director Communications, Ministerial Support & Facilities; [REDACTED] First Minister; Somers J (John); Mackinnon J (Judith)

Subject: Ministerial Code - Publication

Dear all

Preparations are being made to publish a revised Scottish Ministerial Code this Thursday (8 February) at 2:30pm. Publication will be made via a Government Inspired Question.

At the same time, the Code will be made available on the SG Website. A number of hard copies will be printed for internal use.

I attach a copy of the final text of the revised Code – **other than as set out below, the text should not be copied further before publication.**

I also attach a note explaining the main changes that have been made. **This note is for internal use only and not for publication.**

The following sets out the various actions that are needed, and assigns ownership to these.

1. Government Inspired Question:

- The Question and answer have been drafted and are with [REDACTED] for SpAd clearance.
- Once we have SpAd sign off, Cabinet Secretariat will pass to FM for sign-off.
- Parly Clerk colleagues have arrangements in hand for lodging and answering the GIQ.
- Cabinet Secretariat and Parly Clerk colleagues to agree copies for placing in SPICe.

2. SG Unions

- HR colleagues have orally briefed the unions about the intention to publish a revised Code. [REDACTED] will pass the Unions a copy of the approved text on Wednesday afternoon (7 February), under strict embargo.

3. Cabinet Office

- The majority of changes to the Scottish Code mirror those made last month to the UK version. As a courtesy, [REDACTED] will pass a copy of the Scottish Code to Sue Gray and her team in the Cabinet Office on Wednesday afternoon (7 February), under strict embargo.

4. **Lines to Take**

- Cabinet Secretariat will draft lines for agreement with Comms and SpAds.

5. **Scottish Ministers**

- On publication, Cabinet Secretariat will circulate copies of the revised Code to Scottish Ministers, including Law Officers.

6. **Internal Comms**

- [REDACTED] to consider and offer advice on the need for any internal comms activity.

7. **FMQ**

- Cabinet Secretariat will consult FMQ team about the need for an FMQ.

Will colleagues please let me know if there are any additional steps that need to be taken or if an action needs to be reassigned.

[REDACTED] will take ownership of the above plan and will be in touch as required.

<< File: SCT0118820158-1_Code_Final_v3.pdf >>



Resistance to the
Ministerial C...

[doc 16]

James

James Hynd
Head of Cabinet, Parliament and Governance Division

[REDACTED]
St Andrew's House
Edinburgh

[REDACTED]

REVISIONS TO THE SCOTTISH MINISTERIAL CODE – FEBRUARY 2018

1. The Prime Minister issued a new UK Ministerial Code on 9 January. The First Minister has approved broadly similar changes to the Scottish Ministerial Code. The headline changes are:

Ministerial Standards of Conduct

2. Additional references to Ministerial standards of conduct are being made in the Scottish Code at paragraphs 1.1, new paragraph 1.2 and paragraph 6.1 about.

'Priti Patel' provisions

3. New wording which, broadly, advises Ministers to:

- avoid discussing matters which are the responsibility of other Ministers;
- ensure a civil servant is present at discussions relating to Government business, including during overseas trips; and,
- to report any significant meetings to their private office where a civil servant was not present and Government business was discussed.

4. The changes in the Scottish Code will be made at paragraphs 2.4, 4.22, 4.23, 9.13, 9.32 and 10.18. Unlike the UK Code, the Scottish Code already requires Ministers to inform private offices if they had a meeting about Government business where no official was present but the changes ensure the wording is consistent with the UK Code.

ACOBA

5. The Advisory Committee on Business Appointments (ACOBA) provides advice to former Ministers and senior civil servants about taking up new appointments after leaving office. The ACOBA rules apply equally to Scottish Ministers. The change is at paragraph 11.25 of the Scottish Code and clarifies that former Ministers should not announce or take up new appointments until ACOBA has provided advice.

IPSO – Reference Change

6. A minor change at paragraph 10.17 to replace references to the Press Complaints Commission, Ofcom and the BBC Trust with a catch-all reference to the 'appropriate regulator'.

Lobbying

7. In addition to the changes stemming from the UK revisions, a new section is being inserted at paragraph 4.25 of the Scottish Code to reflect the provisions of the Scottish Lobbying Act which will come in to force next month.

First Minister's Foreword

8. Given that this is not formally publication of a new Code the FM's existing Foreword is not being changed.

Cabinet Secretariat
February 2018

From: Hynd JS (James)
Sent: 06 February 2018 09:07
To: Watt K (Karen) (Director for External Affairs); Neilson M (Mike)
Cc: Rogers DA (David) (Strategy and Constitution Director); [REDACTED] Cabinet Secretariat
inbox
Subject: Revised Ministerial Code

Karen, Mike

With the FM's agreement we are currently planning on publishing a revised Ministerial Code this Thursday afternoon. This will be by way of a Government Inspired Question.

Most of the changes being made will reflect revisions which were made to the UK Ministerial Code in January. Some of those revisions were prompted by the Priti Patel case last year when she failed to properly report meetings she held overseas at which UK Government business was discussed. In that regard, the planned changes to the Scottish Code will, broadly, advise Ministers to:

- Take special care when discussing matters which are the responsibility of other Ministers;
- ensure a private secretary or relevant official is present at discussions relating to Government business, including during overseas trips; and,
- to report any significant meetings to their private office where a civil servant was not present and Government business was discussed.

I thought I would draw this to your attention given the background and the overseas dimension.

FM may brief Cabinet this morning about the changes and we will let all Ministers see the revised Code in advance of publication. I'll also let you see an embargoed copy of the Code in advance.

Happy to discuss.

James

James Hynd
Head of Cabinet, Parliament and Governance Division

[REDACTED]
St Andrew's House
Edinburgh

[REDACTED]

From: [REDACTED]
Sent: 08 February 2018 10:36
To: DL Cabinet Secretaries; DL Ministers; DL SPADS; Permanent Secretary
Cc: DL SPADS Admin; Somers J (John); [REDACTED] Director
Communications, Ministerial Support & Facilities; Watt K (Karen) (Director for External Affairs);
Neilson M (Mike); Richards N (Nicola); Rogers DA (David) (Strategy and Constitution Director); Hynd
JS (James); [REDACTED]
[REDACTED] Mackinnon J (Judith); [REDACTED]
[REDACTED] (HR); [REDACTED]
Subject: SCOTTISH MINISTERIAL CODE: 2018 EDITION - advance copy (EMBARGOED UNTIL
2.30PM, 8 February 2018)

First Minister
Cabinet Secretaries
Ministers
Law Officers
Special Advisers
Permanent Secretary

Copies: As above

SCOTTISH MINISTERIAL CODE: 2018 EDITION

A new edition of the Scottish Ministerial Code is being published this afternoon at 2.30 pm by means of a Government Inspired Question. Ministers are being sent embargoed hard copies.

I also attach a link to an embargoed PDF copy, which is available now for advance download (from the Cabinet Restricted file in eRDM):

<< File: A20115787#4.obr >> **EMBARGOED UNTIL 2.30PM ON 8 FEBRUARY 2018**

From 2.30pm onwards, you will be able to see and download the new edition of the Ministerial Code at the following web address (NB the link will not work until then):

www.gov.scot/isbn/9781788515757

All Ministers and Private Office staff are encouraged to familiarise themselves with the changes to the Code.

The main updates to the 2018 edition are summarised below:

The changes in the 2018 edition of the Scottish Ministerial Code largely mirror the revisions made to the new UK Ministerial Code, which was issued on 9 January 2018. They provide:

- ◆ Additional references to Ministerial standards of conduct made at paragraphs 1.1, new paragraph 1.2 and paragraph 6.1. These reflect precisely the changes made in the UK Ministerial Code in January 2018.
- ◆ New wording to reflect changes made by the UK Government in response to unauthorised meetings held abroad by Rt Hon Priti Patel MP with representatives of a foreign government. The new wording, broadly, advises Ministers to: *)
 - Take care when discussing matters which are the responsibility of other Ministers;
 - Ensure a civil servant or relevant official is present at discussions relating to Government business, including during overseas trips; and
 - Report any significant meetings to their private office where a civil servant was not present and Government business was discussed.

**) Unlike the UK Code, the Scottish Code has – since 2011 – required Ministers to inform private offices if they hold a meeting about Government business where no official is present, but the changes ensure the wording is consistent with the UK Code. The related changes to the Scottish Code are at paragraphs 2.4, 4.22, 4.23, 9.13, 9.32 and 10.18.*

- ◆ A change in relation to the Advisory Committee on Business Appointments (ACOBA), which provides advice to former Ministers and senior civil servants about taking up new appointments after leaving office. The ACOBA rules apply equally to Scottish Ministers. The change at paragraph 11.25 of the Scottish Code clarifies that former Ministers should not announce or take up new appointments until ACOBA has provided advice.
- ◆ A minor change at paragraph 10.17 to replace references to the Press Complaints Commission, Ofcom and the BBC Trust with a catch-all reference to the 'appropriate regulator'.
- ◆ In addition to the changes stemming from the UK revisions, a new section is inserted at new paragraph 4.25 of the Scottish Code to reflect the provisions of the Scottish Lobbying Act which will come in to force next month.

James Hynd, [REDACTED] or I would be happy to answer any questions.

[REDACTED]

[REDACTED] | Cabinet Secretariat | Scottish Government | T [REDACTED] | M [REDACTED]
[REDACTED] | [REDACTED] St Andrew's House, 1 Regent Road, Edinburgh EH1 3DG

From: [REDACTED]
Sent: 08 February 2018 14:58
To: DL Cabinet Papers; [REDACTED]
[REDACTED] Mackinnon J (Judith); [REDACTED] (HR); [REDACTED]
Subject: Updated: for information: SCOTTISH MINISTERIAL CODE: 2018 EDITION - published 8 February 2018

[Note sent to Senior Officials and Ministers and senior officials on publication]

SCOTTISH MINISTERIAL CODE: 2018 EDITION

A new edition of the Scottish Ministerial Code was published at 2.30 pm this afternoon by means of a Government Inspired Question. It is now live at the following web address:

<https://beta.gov.scot/publications/scottish-ministerial-code-2018-edition/>

The main updates to the 2018 edition are summarised below:

The changes in the 2018 edition of the Scottish Ministerial Code largely mirror the revisions made to the UK Ministerial Code, which were published on 9 January 2018. They provide:

- ◆ Additional references to Ministerial standards of conduct (at paragraphs 1.1, new paragraph 1.2 and paragraph 6.1). These reflect precisely the changes made in the UK Ministerial Code in January 2018.
- ◆ New wording to reflect changes made by the UK Government in response to unauthorised meetings held abroad by Rt Hon Priti Patel MP with representatives of a foreign government. The new wording, broadly, advises Ministers to: *)
 - Take care when discussing matters which are the responsibility of other Ministers;
 - Ensure a civil servant or relevant official is present at discussions relating to Government business, including during overseas trips; and
 - Report any significant meetings to their private office where a civil servant was not present and Government business was discussed.

**) Unlike the UK Code, the Scottish Code has – since 2011 – required Ministers to inform Private Offices if they hold a meeting about Government business where no official is present, but the changes ensure the wording is consistent with the UK Code. The changes are at paragraphs 2.4, 4.22, 4.23, 9.13, 9.32 and 10.18.*

- ◆ A change in relation to the Advisory Committee on Business Appointments (ACOBA), which provides advice to former Ministers and senior civil servants about taking up new appointments after leaving office. The ACOBA rules apply equally to Scottish Ministers. The change at paragraph 11.25 of the Scottish Code clarifies that former Ministers should not announce or take up new appointments until ACOBA has provided advice.

- ◆ A minor change at paragraph 10.17 to replace references to the Press Complaints Commission, Ofcom and the BBC Trust with a catch-all reference to the 'appropriate regulator'.
- ◆ In addition to the changes stemming from the UK revisions, a new section is inserted at (new) paragraph 4.25 of the Scottish Code to reflect the provisions of the Scottish Lobbying Act 2016, which will come in to force in March 2018.

James Hynd, [REDACTED] or I would be happy to answer any questions you may have.

[REDACTED]

[REDACTED] | Cabinet Secretariat | Scottish Government | T [REDACTED] | M [REDACTED]
[REDACTED] | [REDACTED] St Andrew's House, 1 Regent Road, Edinburgh EH1 3DG