

Written evidence submitted by Sir Alex Allan

Dear Mr Bryant

Thank you for your letter of 12 January setting out a number of questions on which you invite me to give written evidence to your Committee's inquiry into the operation of the Code of Conduct for Members of Parliament. One of the questions in the call for evidence to your inquiry was "In what ways does the Ministerial Code complement or undermine the Code of Conduct?"

In your letter you asked first whether I considered that the difference between the processes for investigation and sanctioning under the Ministerial Code and the Code of Conduct for Members had a damaging effect on public confidence in both codes. You also asked whether I thought there was merit in a proposal to introduce greater elements of independence into the investigation of alleged breaches of the Ministerial Code and into arrangements for sanctioning if breaches are found to have happened.

I cannot see how the difference between the processes can have a damaging effect on public confidence in the Parliamentary Code. It has been said that the fact that the Ministerial Code does not contain a provision for the independent adviser to initiate investigations may raise questions about public confidence in that Code. But I don't believe that any such concerns about the Ministerial Code can have a damaging impact on perceptions about the Parliamentary Code.

I don't think it is appropriate in the context of your inquiry for me to offer a view on what might be the merits of introducing a greater element of independence into the investigation of alleged breaches of the Ministerial Code. As I said, I don't believe a decision whether or not to do that would have any impact on the Parliamentary Code.

Your second question was about the separate rules for Ministers and for Members of the Commons on registration of hospitality, gifts, travel etc. You said that you had been told that Ministers do not register events

which they believe they attend solely as a Minister even though they would have to register the event as hospitality if they were a backbench member of the House. That is not my understanding: the Ministerial Code says "Departments will publish, quarterly, details of hospitality received by Ministers in a Ministerial capacity."

You asked whether there was merit in a proposal that Ministers who are MPs should register all their Ministerial interests (e.g. gifts, benefits, or hospitality received in their Ministerial capacity) in a single place, namely with the Registrar for Members' Financial Interests, so as to prevent duplication and ensure greater consistency and transparency. I do not believe there is in fact an issue over the transparency of ministerial gifts, hospitality, travel and meetings, which are published quarterly by departments for all ministers.

This is also relevant to one of your later questions on the interaction of the requirements in the Ministerial Code and the Parliamentary Code. You said that the Parliamentary Commissioner for Standards cannot investigate potential breaches by a minister acting 'in their ministerial capacity', even though she could investigate identical behaviour by another member.

There does seem to me a distinction between actions taken in a ministerial capacity and subject to the Ministerial Code, and those taken in someone's capacity as an MP and not as a minister. The Ministerial Code specifically draws this distinction in relation to gifts and hospitality where it says that:

"Gifts given to Ministers in their Ministerial capacity become the property of the Government and do not need to be declared in the Register of Members' or Peers' Interests ... Gifts given to Ministers as constituency MPs or members of a political Party fall within the rules relating to the Registers of Members' and Lords' Interests.

"Departments will publish, quarterly, details of hospitality received by Ministers in a Ministerial capacity. Hospitality accepted as an MP or Peer should be declared in the Register of Members' or Lords' Interests respectively."

The Parliamentary Commissioner could therefore examine issues relating to gifts or hospitality given to ministers in their capacity as an MP in the same way as she could for other MPs.

You next asked for my view on a proposal that the Parliamentary Commissioner for Standards should be empowered to investigate alleged breaches of the Ministerial Code and recommend sanctions for any breaches to the Government.

Giving the Parliamentary Commissioner the combined role of investigating breaches of both Codes would raise issues over her accountability. On the one hand, she would report to the Committee on Standards on alleged breaches of the House of Commons Code of Conduct and, on the other hand, to the Prime Minister on alleged breaches of the Ministerial Code.

There would also be issues over how the appointment to the combined post was carried out. The Parliamentary Commissioner is appointed by resolution of the House of Commons without there being any role for the Prime Minister, who would clearly have an interest if the post-holder was also responsible for investigating breaches of the Ministerial Code.

I believe it is right to recognise the differences between the Parliamentary and the Ministerial Codes, both in terms of their coverage and of their status. This would point towards the roles of the independent adviser and of the Commissioner for Standards being kept separate rather than for one person to wear two hats.

Your final question asked for my view on a proposal to introduce a reciprocal provision which made it a requirement of the Code of Conduct for MPs that Ministers comply with specified provisions of the Ministerial Code or not to commit breaches of the Ministerial Code which bring the House into disrepute. This would, it seems to me, raise the issues discussed above over the blurring of accountability. If the roles of the Parliamentary Commissioner and the independent adviser remain separate, both would then have responsibility for investigating allegations of a breach of the Ministerial Code, with one reporting to the Committee on Standards and the other to the Prime Minister.

I hope this evidence is of help to the Committee.

Yours sincerely

A handwritten signature in blue ink that reads "Alex Allan". The signature is written in a cursive style with a horizontal line underneath the name.

ALEX ALLAN

22 February 2021