

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE1935](#): Create an Independent Committee to judge whether Scottish Ministers have broken the Ministerial Code, lodged by Dillon Crawford

Brief overview of issues raised by the petition

- The Scottish Ministerial Code (“Ministerial Code”) is a code of conduct for members of the Scottish Government including the First Minister, Cabinet Secretaries, Law Officers and Junior Scottish Ministers.
- The Ministerial Code includes the ‘overarching duty’ on Ministers to comply with the law and to abide by the [Seven Principles of Public Life](#) (a set of ethical standards which apply to all holders of public office).
- The enforcement of the Ministerial Code is set out in [paragraphs 1.6 and 1.7 of the Code](#). It notes that the First Minister is the ultimate arbiter of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards.
- The Ministerial Code provides for [a system of independent advisers](#). The First Minister may refer matters to the independent advisers to provide advice on which to base their judgement about any action required in respect of ministerial conduct. The findings of the independent advisers are published.
- The decision to appoint or dismiss a Minister (or other member of the Scottish Government) is a power under the discretion of the First Minister. As such, the Code is explicit in [Paragraph 1.4](#) that it is not for Scottish Government Officials to enforce the Ministerial Code.
- The Code does not contain any special provisions for when an allegation is made that it is the First Minister who is alleged to have breached the Code. However, the [Scottish Parliament Committee on the Scottish Government Handling of Harassment Complaints \(Session 5\) Report](#) noted there is a precedent for a First Minister to refer allegations that they have breached the Code to the independent advisers for further investigation.

- The petition raises concerns about the independence of MSPs and their ability to assess an alleged breach of the Ministerial Code. However, as noted above the First Minister is the only MSP that judges and decides action for a breach of the Ministerial Code. With regards to the creation of an independent committee to assess alleged breaches of the Ministerial Code, an operational system of Independent Advisers on the Ministerial Code already exists.

Scottish Parliament Action

The [Scottish Parliament Committee on the Scottish Government Handling of Harassment Complaints \(Session 5\) Report](#) made two recommendations relating to amending the Ministerial Code and the remit of the independent advisers. These recommendations were addressed in the [Scottish Government's response to the Committee on 21 June 2021](#). The response included the following actions:

- cooperate fully with the Independent Advisers on the Ministerial Code in their proposed further considerations and keep them informed about work on the updated procedure; and
- ensure that the comments from the Committee, the Independent Advisers, and the [Review of the Scottish Government procedure for handling harassment complaints involving current or former ministers by Laura Dunlop QC](#) are considered as part of any revision to the Ministerial Code.

Courtney Aitken

Researcher

01/06/2022

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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