ANNEX [X]

Short Guide to Cabinet and Related Matters

Status of Cabinet

1. The membership and working arrangements of Cabinet are entirely at the discretion of the First Minister. There is no statutory basis for Cabinet. Its purpose is most clearly defined in section 2 of the Scottish Ministerial Code: Scottish Ministerial Code: 2023 Edition (www.gov.scot).

[out of scope - redacted]

Ministerial Code

2. The Scottish Ministerial Code is a code of conduct for Ministers and can be found here: Scottish Ministerial Code: 2023 Edition - gov.scot (www.gov.scot). It provides guidance on how Ministers should act and arrange their affairs to uphold The Seven Principles of Public Life. It lists the principles which may apply in particular situations, drawing on past precedent, but it is not a rulebook. The Permanent Secretary may provide guidance on matters covered by the Code, but it is not the role of officials to enforce its provisions.

3. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Code and for justifying their actions to Parliament and the public. The First Minister is the ultimate judge of the standards of Ministerial behaviour.

4. The First Minister committed on 4 September 2024 to publish a new, strengthened Code before the end of 2024, which will introduce a number of changes, including allowing the FM's independent advisers on the Code to instigate investigations into alleged breaches of the Code without a referral from the FM.

Conflicts of Interest

5. The basic principle set out in the Ministerial Code is that Ministers must ensure that no actual or perceived conflict arises between the portfolio to which they are appointed and their private interests (financial or otherwise), as well as their constituency or party interests.

6. In the course of their duties, Ministers must clearly articulate the distinction between their role as Minister and as an MSP representing a particular electorate, especially in cases relating to planning applications, energy consents, or other matters involving the exercise of discretion by Ministers (such as school or hospital closures).

7. MSPs already declare relevant interests in the Parliament's Register of Members' Interests. However, because Ministers wield executive authority, the Ministerial Code obligations on Ministers to declare interests goes beyond that required of MSPs generally. **On appointment to each new office, Ministers are**

therefore required to provide the Permanent Secretary with a full list of all interests which are (or might reasonably be perceived to be) directly relevant to their new Ministerial office, in order to decide whether any remedial action might be required.

8. **If a Minister decides, on advice, to retain a relevant interest (financial or otherwise) that is relevant to their Ministerial office, this must be declared to Ministerial colleagues and officials to avoid the Minister being involved in official matters relating to that interest.**

9. **The 2023 edition of the Ministerial Code introduced the proactive publication of Ministers' private interests to increase transparency and scrutiny. Ministers' interests are now published on the Scottish Government website -** List of ministers' interests - gov.scot (www.gov.scot). The published list sets out Ministers' interests and any actions they have taken to avoid a conflict of interest or a perception of one. Ministers are invited to review and update their interests on an annual basis but changes are made to the online list of interests as and when they occur.

10. On 4 September 2024, the FM indicated that his new Code (to be published before the end of 2024) will invite his independent advisers to play a role in advising Ministers on their declaration of interests.

[out of scope – redacted]

Cabinet Secretariat

[out of scope – redacted]

11. Cabinet Secretariat is a source of advice on all Cabinet and Ministerial Code issues.

Cabinet Secretariat
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