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Mark Isherwood MS
Chair of the Public Accounts and Public Administration Committee
(by email)

10 November 2025

Dear Mr Isherwood

Ministerial Code

Thank you for your letter dated 16 October further to my correspondence with regard to evidence I had provided to the Senedd Standards of Conduct Committee on the Welsh Government Ministerial Code.

You note the FDA policy that we recognise that the First Minister must be the ultimate arbiter of a minister's fate, but there is still a need for a process with minimum standards including:

- independence of decision making into complaints, including whether to investigate and ultimate factual outcome;
- transparency of process for everyone involved in a complaint; and
- clear obligations and rights for all the parties involved, including ability to challenge factual conclusions.

The Ministerial Code published by Welsh Government on 12 September 2025 goes some way to address our policy objective.

It states in paragraph 1.7 that “the First Minister is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards.” A statement that FDA supports.

Paragraphs 1.9 – 1.14 describe the role of the Independent Adviser. The use of the word ‘may’ in the following sentence from 1.9 causes us some concern:

“The First Minister *may* ask the Independent Adviser to investigate a complaint that the Code has been breached.”

Coupled with the first sentence from 1.10:

“The First Minister will decide how complaints under the Code will be investigated, including whether the Independent Adviser will be asked to investigate.”

This is caveated by:

“The First Minister *will* consult the Permanent Secretary, or the Welsh Government Propriety and Ethics team on behalf of the Permanent Secretary, for initial advice. Taking into account that advice, the First Minister *may* decide that the complain can receive an immediate response.”

Not wanting to quote the whole of this section to you, as we are sure you are deeply familiar with it, our understanding of the process is as follows:

- First Minister receives a complaint.
- First Minister decides how that complaint should be investigated having first taken advice from the Permanent Secretary (or appropriate team in WG).
- First Minister, based on that advice, decides one of the following:
 - i) an immediate response
 - ii) an internal WG investigation
 - iii) referral to the Independent Adviser
- In case ii) or iii) above, the FM sets the terms of reference which are *subsequently* published.
- In case ii) and iii) above the “report of the investigation will include a *summary* of the key facts of the circumstances as discovered by the investigation/adviser and *may* include an assessment of whether in the view of the investigators there are grounds for concluding that the Ministerial Code has been breached.”
- In either case (ii or iii), the FM will publish the report they receive *unamended*.
- Following publication, “the FM *will* exercise judgement over any necessary action resulting from the investigation report they receive”.

There are some similarities between the Welsh and Scottish Government’s versions of the Ministerial Code. However, a key difference lies in the Scottish Code (see paragraph 2.6(b) of the Scottish Government Code) which provides that where the Independent Advisers believe an alleged breach of the Code warrants further investigation, and the matter has not already been formally referred by the First Minister, they may initiate an investigation after notifying the First Minister. By contrast the Welsh Code, as published on 12 September 2025, does not include an equivalent clause granting the Independent Adviser the power to initiate investigations without a referral from the First Minister.

FDA believes there is a question for the Welsh Government as to why they have chosen not to incorporate this final step, one that would allow for transparency of process for everyone involved, and provide clear obligations and rights for all parties involved.

On behalf of FDA, I am available to discuss this matter further should you or the Committee require.

Kind regards

A handwritten signature in black ink, appearing to read 'Jane Runeckles', written in a cursive style.

Jane Runeckles

cc. David Richards, WG Director Propriety and Ethics

Annex 1

FDA policy on Ministerial Code (May 2025)

This ADC welcomes the changes made by the new Prime Minister to the Ministerial Code, including granting the power to initiate investigations to the renamed Independent Adviser on Ministers' Conduct.

Whilst these changes are an improvement to the code, this ADC believes that they do not go far enough in establishing a truly independent process to investigate complaints of bullying and harassment were they to be made by a civil servant against a minister.

This ADC is concerned that the current system is still opaque with no written, transparent process and no rights conferred on either party when it comes to the conduct of an investigation or its conclusion.

This ADC recognises that bullying and harassment is at its core, an abuse of power, and the power imbalance between ministers, some of the most powerful people in the country, and civil servants, is vast. This ADC believes that in a modern workplace, everyone should be held to the same standards of behaviour and conduct. Critical in ensuring this is a process that all parties can have confidence in to deal with complaints when they arise. If civil servants are to have confidence in a process that will investigate the conduct of ministers, many of whom may be the closest political allies of the Prime Minister, they need to believe that the process will be free from political bias. These are not just theoretical concerns, it has been the lived experience of many civil servants in recent years.

This ADC recognises that the Prime Minister, or First Ministers, must be the ultimate arbiter of a minister's fate, but that still allows for a process with minimum standards including:

- independence of decision making into complaints, including whether to investigate and ultimate factual outcome;
- transparency of process for everyone involved in a complaint; and
- clear obligations and rights for all the parties involved, including ability to challenge factual conclusions.

This ADC welcomes the progress that has been made in Scottish Government to develop processes that meet these standards in partnership with the FDA.

This ADC calls on the Executive Committee to work with the new UK government to establish a new process for handling complaints that will provide the minimum standards expected in any modern workplace.

This ADC also calls upon the Executive Committee to ensure that those minimum standards apply in all governments, parliaments and assemblies of the UK, seeking to establish processes to deliver this where they are absent.