

An extract of the "Report on Duty Visit to Study the Executive Accountability in the United Kingdom, France and Germany from 13 to 24 June 2001" prepared by the delegation of the Panel on Constitutional Affairs on the Ministerial Code in the United Kingdom (UK)

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Ministerial Code

2.23 In 1996, the Public Service Committee of the House of Commons made an enquiry into ministerial accountability and responsibility. The enquiry was prompted by the publication of the conclusions of Sir Richard Scott's Inquiry into the Export of Defence-Related Equipment and Dual-Use Goods to Iraq and Related Prosecutions. In this inquiry, Sir Richard Scott was also asked to determine whether Ministers had acted according to the requirements of the convention of ministerial responsibility. In his report to the House of Commons, Sir Richard Scott stated that the essence of ministerial accountability lay not in the threat of resignation but in the obligation to inform Parliament.

2.24 In his report, Sir Richard Scott proposed to the House of Commons to adopt a resolution on accountability, the purpose of which would be to underline the obligation of Ministers and civil servants "to be open with the House and not to mislead it".

2.25 The Government counter-proposed a resolution which took out "civil servants" from the resolution. The resolution was a written confirmation of the obligation of Ministers to provide accurate information to Parliament, failure of which would result in resignation of Ministers. It enabled Parliament to claim its authority over the executive.

2.26 The resolution on ministerial accountability proposed by the Government was passed by the House of Commons on 19 March 1997. A similar resolution was passed by the House of Lords on 20 March 1997. The UK Government formally incorporated the text of the resolution in a new Ministerial Code (1997) which replaced the previous ministerial rulebook entitled "Questions of Procedure for Ministers". The Ministerial Code is not legally binding.

2.27 Under the new Ministerial Code (**Appendix II** refers), which is a code of conduct and also gives guidance on procedures for Ministers, Ministers are expected, among other things -

"to behave according to the highest standards of constitutional and personal conduct in the performance of their duties. In particular, they must observe the following principles of Ministerial conduct :

- (i) Ministers must uphold the principle of collective responsibility;
- (ii) Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their Departments and Next Steps Agencies;
- (iii) It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;
- (iv) Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with relevant statute and the Government's Code of Practice and Access to Government Information (Second Edition, January 1997);
- (v) Similarly, Ministers should require civil servants who give evidence before Parliamentary Committees on their behalf and under their directions to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the Civil Service Code (January 1996);
- (vi) Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;
- (vii) Ministers should avoid accepting any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation;
- (viii) Ministers in the House of Commons must keep their separate role as Minister and Constituency Member;
- (ix) Ministers must not use resources for party political purposes. They must uphold the political impartiality of the Civil Service, and not ask civil servants to act in any way which would conflict with the Civil Service Code".

2.28 The Code of Practice on Access to Government Information commits

government departments, agencies and executive public bodies within the jurisdiction of the Parliamentary Commissioner for Administration to volunteer information, such as facts and analysis behind major policy decisions, and to answer requests for information.

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