

ART proposed additions to Commonwealth Ministerial Code – accountability and responsibility

Suggested changes to the Howard Code track changed

Discharge of Accountability obligations

4.4 Ministers are required to provide honest and comprehensive account of exercise of public office, and of the activities of the agencies within their portfolios, in response to any reasonable and bona fide enquiry by member of the Parliament or a Parliamentary Committee. Without

The current Guide is silent on how a minister may demonstrate accountability for an event which has occurred or a decision that has been taken within an area for which he or she is assigned responsibility.

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The levels at which ministers discharge their responsibilities have been clearly identified

limiting the generality of the

foregoing Ministers may discharge their responsibility to be accountable at one or more of six levels. The appropriate level of accountability will vary according to circumstances and judgements related to the details of each case.

There are six accountability levels which may be summarised as:

- **redirecting the question to the relevant minister;**
- **providing all relevant information;**
- **providing full explanations;**
- **taking any necessary remedial action;**
- **accepting personal culpability; or,**
- **resignation.***

The six accountability levels involve the following obligations:

- **redirecting the question applies where the matter falls outside the minister's responsibility and is redirected to the ministerial colleague, other government or non-government entity with responsibility;**
- **providing all relevant information is appropriate when the only requirement is for the minister to provide some factual information concerning a matter within an area for which he or she has responsibility;**

* see Woodhouse, Diana (1994). *MINISTERS AND PARLIAMENT. Accountability in Theory and Practice*. Oxford: Clarendon: pp.28-38.

- providing a full explanation is where, in order to discharge responsibility, a minister provides an explanation of the events or actions taken but where no corrective or remedial action is required;
- taking any necessary remedial action concerns instances where some action was or is required in response to events which have occurred, or decisions have been taken by the minister or any subordinate, which require some corrective or remedial action;
- ministers are expected to accept personal culpability for their own acts and omissions and for those of:
 - their heads of department and their personal staff,¹ and
 - other instances in which they have participated or of which they were aware or should have been aware;

In determining whether a minister is personally culpable, ignorance of a matter does not excuse the acts or omissions of the minister where the minister should have known or should have ensured the matter was drawn to the minister's personal attention. Without limiting the circumstances in which ministers should have known of any matter, they are deemed to have the knowledge of their heads of department and others who report directly to them and all members of their personal staff;²

Resignation is appropriate where a minister has lost the confidence of the House of Parliament or the Prime Minister in the minister's capacity to satisfactorily discharge the responsibilities of the office. In the rare event that a minister declines to act on advice to resign, the Prime Minister may recommend to the Governor-General that the minister's commission be withdrawn, after which the minister ceases to hold office.

Ministers are expected to conduct all official business on the basis that they may be expected to demonstrate publicly that their actions and decisions in conducting public business were taken with the sole objective of advancing the public interest for the short and long term.

¹ John Quiggin. (2006) *Australian Financial Review*, 2 March. Note also PSU Group Submission, where the point was made that public servants dealing with ministerial staff need to be confident that the actions of ministerial staff are fully authorised (p. 2).

² ibid.

1-5.2 Ministers are expected to be honest in the conduct of public office and take all reasonable steps to ensure that they do not mislead the public or the Parliament. It is a Minister's personal responsibility to ensure that any error or misconception in relation to such a matter is corrected or clarified, as soon as practicable and in a manner appropriate to the issues and interests involved. *(Taken from Howard Code but amended)*

- 5.32 Ministers must not encourage or induce other public officials, including public servants, **or their personal staff**, by their decisions, directions or conduct in office to breach the law, or to fail to comply with the relevant code of ethical conduct applicable to them in their official capacity **or request of the Parliament or Parliamentary Committees**. **Ministers shall do nothing to prevent or hinder personal or departmental staff from giving evidence to Parliamentary Committees when requested to do so.** Ministers are also expected to ensure that reasonable measures are put in place in the areas of their responsibility to discourage or prevent corrupt conduct by officials.

5.4 (Howard Code p24 1st para dot point 2) Ministers should ensure that their conduct is defensible (stronger?? ---alternative "*can be adequately justified*"??) and should consult the Parliamentary Standards Commissioner (Howard Code– the PM) when in doubt about any course of action (*too subjective??- "about the propriety of any course of action which may be open to criticism"*)