



Independent Adviser on Ministers' Interests
Sir Laurie Magnus CBE

The Prime Minister
10 Downing Street

29 January 2023

Dear Prime Minister,

Introduction

1. You have asked me to review the circumstances and facts concerning certain tax affairs of the Rt Hon Nadhim Zahawi, Minister without Portfolio, and that I assess these circumstances in the context of Mr Zahawi's obligations under the Ministerial Code.
2. This report sets out relevant facts that I have established whilst respecting Mr Zahawi's right to taxpayer confidentiality. It provides my assessment of the Minister's conduct under the Ministerial Code, both in terms of its specific provisions and its overriding principles.
3. I should acknowledge that the Minister without Portfolio has provided his full and open cooperation in assisting with my inquiries. I am also grateful for the assistance I have received from officials at HM Revenue & Customs (HMRC) and the Cabinet Office.

Scope of work and areas of inquiry

4. The matter under review concerns the fact that Mr Zahawi was the subject of an HMRC investigation that resulted in a determination that tax was owed and that a penalty should be applied, falling into the HMRC category of "lack of reasonable care". Mr Zahawi and HMRC have confirmed to me that this matter was resolved in principle in August 2022 with a settlement agreement signed in September 2022.
5. The technical detail of HMRC's investigation and their determination is outside my scope. I have focused on Mr Zahawi's handling of the matter in light of his responsibilities as a Minister who is subject to the provisions of the Ministerial Code. The Ministerial Code makes clear that Ministers are expected to "*maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety*", observing the Seven Principles of Public Life and having an "*overarching duty ... to comply with the law and to protect the integrity of public life*".
6. As well as considering the above overarching obligations, I have considered three specific areas under the Code:
 - i) How the existence of an ongoing HMRC investigation was declared by Mr Zahawi with reference to his obligations under Chapter 7 of the Ministerial Code (up to August 2022).
 - ii) How the settlement of the HMRC investigation was declared by Mr Zahawi (from August 2022), and in particular in relation to his current role as Minister without Portfolio.
 - iii) The accuracy of public statements made by Mr Zahawi in relation to the matter, in view of his obligations under the Ministerial Code to be open and honest.

Findings

Declarations of ministerial interests

7. The Ministerial Code sets out that "*Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests*". All Ministers are subject to an extensive and rigorous framework, designed to provide clear guidance on how interests are declared and handled. This includes a requirement that Ministers complete declaration of interests forms (which include questions about the status of their tax affairs), ensuring these are kept up to date at all times, and also discuss potential conflicts and other relevant matters on an ongoing basis with their Permanent Secretary. Ministers are also expected to disclose any relevant issues, including those which might give rise to possible conflicts, during the process of their appointment to any ministerial role. As a Minister of long standing, Mr Zahawi has operated within this framework over a significant period and should be familiar with its requirements.

Declaration of interests - HMRC investigation

8. With Mr Zahawi's agreement, I have met with HMRC and received some details, including the timing, of his interaction with them. This commenced in April 2021 and included a meeting which he and his advisers attended with them in June 2021. Mr Zahawi has told me that he had formed the impression that he and his advisers were merely being asked certain queries by HMRC concerning his tax affairs, and that this impression persisted until he received a letter from HMRC on 15th July 2022 (dated 13th July). The principle of taxpayer confidentiality continues to apply. However, on the basis of the confidential information to which I have had access, including correspondence between HMRC and Mr Zahawi personally, I consider that an individual subject to the HMRC process faced by Mr Zahawi should have understood at the outset that they were under investigation by HMRC and that this was a serious matter.
9. I consider that an HMRC investigation of the nature faced by Mr Zahawi would be a relevant matter for a Minister to discuss and declare as part of their declaration of interests. I would expect a Minister to inform their Permanent Secretary and to seek their advice on any implications for the management of their responsibilities. I would likewise expect a Minister proactively to update their declaration of interests form to include details of such an HMRC process.
10. After his appointment as Chancellor on 5th July 2022, Mr Zahawi completed a declaration of interests form which contained no reference to the HMRC investigation. A later form acknowledged (by way of an attachment) that Mr Zahawi was in discussion with HMRC to clarify a number of queries. Only following receipt of HMRC's letter received on 15th July 2022 (dated 13th July), did Mr Zahawi update his declaration of interests form to acknowledge that his tax affairs were under investigation, but he provided no further details other than the statement made previously that he was clarifying queries.
11. Given the nature of the investigation by HMRC, which started prior to his appointment as Secretary of State for Education on 15th September, 2021, I consider that by failing to declare HMRC's ongoing investigation before July 2022 - despite the ministerial declaration of interests form including specific prompts on tax affairs and HMRC investigations and disputes - Mr Zahawi failed to meet the requirement (at paragraph 7.3 of the Ministerial Code) to declare any interests which might be thought to give rise to a conflict.

Declaration of interests - settlement of tax matter and penalty

12. Following an in-principle agreement in August 2022, in September 2022 Mr Zahawi and HMRC reached a final settlement of his tax investigation. As Mr Zahawi has intimated in his public statement of 21st January 2023, the settlement included a penalty applied on the basis of “carelessness” which, in this context, according to the HMRC Compliance Handbook, indicates an individual’s failure to take “reasonable care” in relation to their tax affairs.¹
13. As set out at paragraph 11, I consider that Mr Zahawi should previously have declared the fact of the investigation. The subsequent fact that the investigation concluded with a penalty in relation to the tax affairs of a Minister also requires declaration and discussion. It is a relevant interest which could give rise to a conflict, and particularly so in the case of HM Treasury Ministers and the Chancellor of the Exchequer, who has responsibility for the UK tax system. As a result of my inquiries, I conclude that Mr Zahawi failed to update his declaration of interest form appropriately after this settlement was agreed in principle in August 2022. It was not until mid-January 2023 (see paragraph 16) that details of the earlier HMRC investigation and its outcome were declared.
14. I also conclude that, in the appointments process for the governments formed in September 2022 and October 2022, Mr Zahawi failed to disclose relevant information - in this case the nature of the investigation and its outcome in a penalty - at the time of his appointment, including to Cabinet Office officials who support that process. Without knowledge of that information, the Cabinet Office was not in a position to inform the appointing Prime Minister.
15. Taken together, I consider that these omissions constitute a serious failure to meet the standards set out in the Ministerial Code.
16. Mr Zahawi informed me that on 16th January 2023 he submitted, to his Permanent Secretary, his declaration of interests form in relation to his current role as Minister without Portfolio, to which he was appointed on 25th October 2022, and that in that form he included detail of the outcome of the HMRC investigation. At the time of my investigation this declaration was under consideration by the Permanent Secretary and had yet to be submitted onward to me for consideration. Given the seriousness of this matter, I would have expected Mr Zahawi to attend to his submission much more rapidly and, as stated in paragraph 14 above, to have notified Cabinet Office officials at the time of his appointment.

Public statements

17. On 10th July 2022, following media speculation, Mr Zahawi made a public statement. He said:

“There have been news stories over the last few days which are inaccurate, unfair and are clearly smears. It’s very sad that such smears should be circulated and sadder still that they have been published.

“These smears have falsely claimed that the Serious Fraud Office, the National Crime Agency, and HMRC are looking into me. Let me be absolutely clear. I am not aware of this. I have not been told that this is the case.

“I’ve always declared my financial interests and paid my taxes in the UK. If there are questions, of course, I will answer any questions HMRC has of me.”

¹ HMRC internal manual Compliance Handbook: <https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch81140>

18. Mr Zahawi has told me that at the time of this statement, he was under the impression that he was answering HMRC's queries, but that he was not under investigation. As set out in paragraph 8, I consider that an individual subject to the HMRC process faced by Mr Zahawi should have understood that they were under investigation by HMRC and that this was a serious matter.
19. Under section 1.3(d) of the Ministerial Code, Ministers have a duty to "*be as open as possible with Parliament and the public*". Whilst this duty clearly does not extend to disclosing personal tax information, it does include a general duty to be accurate in statements to ensure a false impression is not given or maintained.
20. Mr Zahawi did not correct the record until 21st January 2023, when Mr Zahawi's public statement indicated that he had reached a settlement with HMRC following an investigation. I consider that this delay in correcting an untrue public statement is inconsistent with the requirement for openness.

Conclusion

21. The General Principles of the Ministerial Code are very clear. Paragraph 1.1 states, "*Ministers of the Crown are expected to maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety*". Paragraph 1.3 states, "*The Ministerial Code should be read against the background of the overarching duty of Ministers to comply with the law and to protect the integrity of public life. They are expected to observe the Seven Principles of Public Life*". One of the Seven Principles of Public Life is Leadership, which requires that holders of public office should not only exhibit the principles in their own behaviour but also actively promote and robustly support the principles.
22. A Minister of the Crown has a responsibility to lead by example, demonstrating not just compliance with the Ministerial Code, but being an exemplar for integrity in public life. This means upholding high standards of propriety in their conduct as citizens and being actively conscious of possible conflicts between their private interests (financial or otherwise) and their ministerial responsibilities. Paragraph 7.2 of the Ministerial Code states that, "*It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of conflict*".
23. I consider that Mr Zahawi, in holding the high privilege of being a Minister of the Crown, has shown insufficient regard for the General Principles of the Ministerial Code and the requirements in particular, under the seven Principles of Public Life, to be honest, open and an exemplary leader through his own behaviour. I want to commend Mr Zahawi for his willingness to assist with my inquiry. I also fully appreciate the pressures faced by Ministers as they address the complex issues of government and the difficulties they encounter in balancing the demands of their personal lives and their ministerial responsibilities. These factors, however, cannot mitigate my overall judgement that Mr Zahawi's conduct as a Minister has fallen below the high standards that, as Prime Minister, you rightly expect from those who serve in your government.

Yours sincerely,



Sir Laurie Magnus CBE

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