Code of Conduct for Members of the Scottish Parliament

THESE VOLUMES INCORPORATE THE CODE OF CONDUCT, GUIDANCE NOTES AND STATUTORY DOCUMENTS

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VOLUME 1

Introduction

1. Preamble

1.1 These volumes provide a set of principles and standards for members of the Scottish Parliament.

1.2 The Code is intended to provide specific standards to cover most situations encountered by members. It has as its goals the welfare and protection of the individuals and groups with whom members work and the education of both members and the public regarding the ethical standards expected of members in carrying out their Parliamentary duties.

1.3 It is important to note that these volumes relate to the conduct of all members in relation to duties connected to being a member of the Scottish Parliament. It does not cover the activities of members in other circumstances, for example:

- members’ private and family life;
- members expressing their political views (in their capacity as a member of a political party or organisation);
- members who are Ministers, when they are acting in their capacity as Ministers of the Scottish Government and carrying out functions of the Scottish Government covered by the Ministerial Code.

2. Background

2.1 The Code of Conduct for Members of the Scottish Parliament has been drawn up in accordance with Rule 1.6 of the Standing Orders of the Scottish Parliament which states that “the Parliament may, on a motion of the Standards, Procedures and Public Appointments Committee, lay down a Code of Conduct for members”.

2.2 The Scottish Parliament commits itself to being an open, accessible, participative Parliament in which the public and other organisations in civic society are partners. It exists to serve the people of Scotland and is accountable to them.

2.3 The Scottish electorate has a high expectation of members of the Scottish Parliament and the way in which they should act in their relationships with their constituents and in the Parliament. Members must meet those expectations by ensuring that their conduct is above reproach and worthy of the trust of the electorate.

2.4 The word “Integrity” is inscribed on the mace which is a symbol of the authority of the Parliament; it is one of a number of principles which must be observed in all that members do.
2.5 The Code underpins the approach that members are required to take in carrying out their Parliamentary duties. It explains the rules for members’ conduct and guides them in interpretation of the rules. It also offers advice to members in relation to their conduct.

2.6 Some of the guidance set out in the Code refers to rules which are statutory requirements. Other requirements are non-statutory and are created by the Parliament in this Code. At various points the Code contains "Key Definitions" to assist the reader in interpreting the statutory requirements.

2.7 The Code draws on the recommendations of the Code of Conduct Working Group of the Consultative Steering Group and is consistent with the principles established in the First Report of the Committee on Standards in Public Life (the "Nolan Committee") published in May 1995.

2.8 Adopting a Code of Conduct for Members of the Scottish Parliament ensures that members and the public are clear about the principles which define members’ activity and how the principles are to be interpreted and enforced in practice.

2.9 The issue of standards in public life generally is often subject to discussion; rules and legislation are developing. The Scottish Parliament is determined to be at the forefront in developing best practice on standards matters.

2.10 It is the Parliament's intention to review and, as necessary, amend these volumes in the light of future legislation and other relevant developments.

2.11 By virtue of resolutions of the Parliament on 14 March 2007, 25 March 2009, and 20 January 2011 the provisions of the Code have been adopted by the Parliament and apply to every member. All members will receive a copy of these volumes and it is the responsibility of members to make sure that they are familiar with, and that their actions comply with, their provisions. A breach of the Code itself could lead to sanctions being imposed on a member. Enforcement of the rules in the Code is explained in Section 9.

2.12 The key principles underpinning the Code follow this introductory section. The Code itself is contained in Volume 2. Volume 3 consists of guidance and Volume 4 contains excerpts from relevant legislation and other material having the force of law.
3.1 Introduction: Key principles

3.1.1 This Section consists of general key principles. The key principles, as compared to the ethical standards set out in the Code itself, are aspirational in nature. Their intent is to guide and inspire members toward the very highest ethical ideals. The key principles, in contrast to ethical standards, do not represent obligations and do not form the basis for imposing sanctions.

Key principles underpinning the Code of Conduct

3.1.2 These principles set the tone for the relationship between members and those they represent and between the Parliament and the people of Scotland.

Public duty

3.1.3 Members are expected to act in the interests of the Scottish people and the Scottish Parliament. Members should uphold the law and act in conformity with the rules of the Parliament.

3.1.4 In order to exercise their public duty, members must take the oath of allegiance or make a solemn affirmation as explained in Rule 1.2 of the Standing Orders.

Duty as a representative

3.1.5 Members should be accessible to the people of the areas for which they have been elected to serve and represent their interests conscientiously.

Selflessness

3.1.6 Members should take decisions solely in terms of the public interest. They should not act in order to gain financial or other material benefit for themselves, their family or friends.

Integrity

3.1.7 Members have a duty not to place themselves under any financial or other obligation to any individual or organisation that might reasonably be thought to influence them in the performance of their duties.

Honesty

3.1.8 Members should act honestly. They must declare any private interests (as required by the Interests of Members of the Scottish Parliament Act 2006) relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest. The categories of registrable interest are outlined in the schedule to the Act, as amended on resolution of Parliament on 20 January 2011. The schedule, as amended, is contained in Volume 4 of the Code.
Accountability and openness

3.1.9 Members are accountable for their decisions and actions to the Scottish people. They should consider issues on their merits, taking account of the views of others.

3.1.10 Members should be as open as possible about their decisions and actions.

Leadership

3.1.11 Members should promote and support these principles by leadership and example, to maintain and strengthen the public’s trust and confidence in the integrity of the Parliament and its members in conducting public business.

3.2 Guidance on the Code of Conduct

3.2.1 The Code and guidance which follow have been developed in line with these key principles. No written information can provide for all circumstances. If a member is uncertain about how the rules apply, the member may ask the Standards clerks for advice. Members may also choose to consult their own legal advisers and, on detailed financial and commercial matters, may wish to seek advice from other relevant professionals.
1.1: Introduction

1.1.1 The Interests of Members of the Scottish Parliament Act 2006 ("the Act") sets out the statutory requirements that apply to the registration and declaration of members’ interests with effect from 4 April 2007. Section 1 of the Act provides for a Register of Interests of Members of the Scottish Parliament ("the Register") in which information about certain financial interests of members must be registered. The types of financial interest which must be registered are those which might be thought to influence a member’s actions, speeches or votes in the Parliament. The Act, its schedule, together with its explanatory notes and determinations made under it, are attached in Volume 4 to this Code. Where appropriate, this Section of the Code will direct the reader to the relevant determination or provision of the Act.

1.1.2 The schedule to the Act sets out the circumstances in which financial interests must be registered. In the Code and in the Act these interests are referred to as ‘registrable interests’ and there are five categories of interests. These registrable interests are described in detail in Section 2 of the Code. Penalties and criminal sanctions apply in the event of non-compliance with the requirements for registration. If a member is uncertain about any aspect of the operation of the Act or the Code, the Standards clerks may be asked for advice. However, it is the responsibility of each member to ensure that the provisions of the Act are complied with and members may additionally wish to seek independent legal and other professional advice prior to registration.

1.1.3 Some of the detail required for registration and declaration is contained in determinations made by the Parliament. Determinations are a type of subordinate legislation (the power to make the determination is contained in primary legislation) and are legally binding. The Parliament may modify the schedule to the Act by resolution and the rule governing the making of a resolution is set out in the Standing Orders of the Parliament.

1.1.4 The schedule to the Act and the determination on form and content of written statements were amended, by resolution of Parliament, at the end of session 3 (20 January 2011), including reducing the number of categories of registrable interest from eight to five.

1.2: Registration of interests

Access to the Register

1.2.1 Section 11 of the Act makes provision for publication and access to the Register. The Register, along with old entries, is kept for public inspection in the
office of the Standards clerks with a further copy at the main visitor information desk in the Parliament. The Register and the copy register are available at such times as the office and information desk are open and copies of individual entries may be provided on request.

1.2.2 The Register must contain an entry for each member (as provided for in section 1 of the Act) and may be kept in any form. Currently, it is printed and kept in the form of a loose-leaf folder with an up to date entry for each member. Where any entry has been changed in the preceding five year period, the original entry and any intervening amended entry (the old entries) are also kept for public inspection purposes along with the current Register.

1.2.3 The Interests of Members of the Scottish Parliament Act 2006 (Publication of Register of Interests) Determination 2007 provides for the Register to be published on the Internet by displaying an electronic version of the information in respect of each member’s entry on that member’s page on the Parliament’s website. The information is regularly updated to correspond with the hard copy of the Register itself.

1.2.4 The time limits for all types of registration are set out in the following paragraphs. It should be noted that these are the maximum time limits that apply. For example, a member has up to 30 days to submit a statement of interests for initial registration and the Standards clerks have a further 30 days to register these interests. However, members should take steps to register their interests as quickly as possible to ensure that all relevant interests which should be in the public domain appear in the Register timeously. The web pages are also regularly updated and will be changed as soon as practically possible after any change to an entry in the Register.

1.2.5 It should also be noted that the Register only applies to the current session of the Parliament. On dissolution all entries are deleted (as provided for in section 9(5) of the Act) and at the beginning of each new session a new Register is set up for both new and returning members. Entries are also deleted where a member ceases to be a member by virtue of death or resignation. Nevertheless, there is an obligation to keep all old entries for a period of five years after amendment or deletion (section 10). These are kept and made available for public inspection with the current Register as indicated above.

**Initial registration of interests**

1.2.6 Members must register interests by lodging written statements with the Standards clerks. The Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2010 sets out the form of the statement that must be used. Members must register all registrable financial interests held by them on the date they were returned or which they have acquired since that date by completing such a statement (section 3 of the Act). Additionally, any interest held before the date on which the member was returned but which is no longer held must also be registered if it meets the prejudice test set out in section 3(2) of the Act. A member must decide whether any interest meets that test. An interest meets the test if, taking into account all the circumstances, the interest would
reasonably be considered to prejudice, or reasonably be considered to appear to prejudice, the ability of the member to participate in a disinterested manner in any Parliamentary proceedings.

1.2.7 In making a decision as to whether an interest meets the prejudice test, a member must consider not just whether the member feels influenced by the existence of the interest but whether a fair minded and impartial observer would consider that it could influence a person acting as an MSP or give the appearance of prejudicing that person’s ability to act impartially.

Completion of written statements

1.2.8 The written statement contains guidance to assist completion and copies are available from the Standards clerks. The statement must be lodged with the Standards clerks no later than the date which is 30 days after the date on which a member takes the oath of allegiance or makes a solemn affirmation in accordance with section 84(1) of the Scotland Act 1998 (“the Scotland Act”). Section 18 of the Act sets out special arrangements applying to the Lord Advocate and Solicitor General for Scotland who, in terms of section 39(8)(b) of the Scotland Act, are included as members for the purposes of the Register and who are also required to submit written statements of their registrable interests.

1.2.9 The written statement sets out the information that must be provided in relation to each type of interest. It is also designed to allow a member to include additional information (where that person wishes to do so) in relation to any interest. Members may wish to consult the Standards clerks in relation to the additional information that they wish to add. If the member has no registrable interests, the Act provides that a written declaration must be lodged with the Standards clerks to that effect (section 3(1) and (3) of the Act). There is no specific form for a written declaration specified in the Act. Members who wish to make such a declaration may, however, make a written declaration by ticking “no” in the relevant boxes in the written statement. Members should sign and date the statement and submit the completed form to the Standards clerks who will accept it as a written declaration. The Standards clerks can provide further assistance and guidance on this matter if required.

1.2.10 Within 30 days of a written statement being lodged with the Standards clerks, the information in the statement and the date it was lodged are entered in the member’s entry in the Register and a copy of the entry is sent to the member. Where a member has made a declaration that no interest is held, the entry in the Register relating to the relevant member will record that fact along with the lodging date of the declaration.

Registration of interests acquired after date that the member is returned

1.2.11 Where an interest is acquired after the initial registration, the procedure is largely the same as for initial registration. A member must register an acquired interest by lodging a further written statement within 30 days after the date of acquisition (section 5 of the Act). The form of written statement is again the same as
that provided for initial registration but in this case the member fills in only the information relating to the acquired interest.

1.2.12 Members should note that it is possible that an interest which a member already has may change in nature to become a registrable interest. That would occur where, for example, the value of heritable property or shares increases to exceed the specified financial thresholds. Such interests should be treated as new interests that have been acquired.

Late Registration

1.2.13 Where a member has omitted to register an interest due, for example, to an oversight or misunderstanding, the member must register that interest within seven days of the member becoming aware that registration was required. Once again, the member does this by filling in the required information relating to the overlooked interest in a written statement in the same form as provided for initial registration and lodging that form with the Standards clerks. It should be noted that the obligation to register such an interest persists even where the member has subsequently disposed of the interest.

1.2.14 Members should be aware of the need to rectify omissions as quickly as possible and should contact the Standards clerks immediately they become aware that something has been overlooked. Failure to register an interest is a criminal offence and opens a member up to the possibility of prosecution as well as sanctions imposed by the Parliament. Members must at all times be conscious of the need to register any new interest and those that did not initially require registration but which may have changed in character, in terms of the prejudice test or because of an increase in value. While any oversight could possibly result in a prosecution, members are encouraged to act rapidly to rectify matters that have been overlooked.

Voluntary registration

1.2.15 A member may register on a voluntary basis an interest which does not require to be registered by lodging a written statement at any time (section 7 of the Act). Once again this information can be included in the written statement provided for initial registration which has a section for this purpose. Members may, for example, provide such details to give the public fuller understanding of the nature of some particular interest. This could, for example, be information about a non-financial interest which the member is not required to disclose.

1.2.16 Members are not obliged to register these entries within 30 days under the Act. Once Standards clerks are informed of such an entry, they are obliged to publish it within 30 days.

Changes to the register

1.2.17 Following initial registration, which must be completed using written statements submitted in hard copy, members may notify the Standards clerks of additions and amendments to, or deletions from their register in signed hard copy or by email from their personal Scottish Parliament account. Deletions and
amendments can be provided in the form of a written notice, either in signed hard copy or by email.

1.2.18 Written statement templates and associated guidance for registration of new interests are provided in hard copy in Volume 4 and are available electronically on the Parliament’s intranet SPEIR pages.

Deletion of interests from the Register

1.2.19 A member may instruct deletion of a registered interest from the Register if it is a ceased interest (section 8 of the Act). A ceased interest is an interest which is registered but which no longer requires to be registered and voluntary registrations which the member no longer wishes to be registered. A member is not required to delete ceased interests but members are encouraged to do so as it is helpful in terms of accountability and openness to the public if the Register is up to date at all times.

1.2.20 Entries in the gifts and overseas visits categories can be ceased where a member considers that an entry no longer meets the terms of the prejudice test. Heritable property and interest in shares entries can be ceased when a member disposes of the property or shares that generated the need for registration. A member may cease to be an unremunerated director in a related undertaking or partner in a firm and so such an interest could be ceased. The only form of entry which may not be deleted under the terms of the Act are those which constitute remuneration under the remuneration and related undertaking category (because the member has received the remuneration and that cannot be reversed), although the terms of these entries may be amended to reflect that remuneration is no longer received from that source.

1.2.21 Where a member wishes to have a ceased interest removed from the Register, the member lodges a written notice identifying the ceased interest and giving the date that it became a ceased interest. The Act does not specify that the notice must be in any particular form but members may wish to contact the Standards clerks for advice on what the written notice is to contain.

1.2.22 Within 30 days after the written notice is lodged, the Standards clerks will amend the member’s entry to record that the relevant interest is a ceased interest, the date it became a ceased interest and the date on which the amendment was made in the Register. The clerks will also send a copy of the amended entry to the member.

1.2.23 Not less than 12 months after the notice was lodged, the clerks will further amend the entry in the Register by deleting the interest and information relating to it and send a copy of the amended entry to the member.

1.2.24 In some cases it will be clear that an interest has ceased, for example, where a member has sold their heritable property. Other cases - such as gifts which the member no longer considers meets the prejudice test perhaps because of the passage of time - may not be so easy to determine. Such matters are for a member’s own judgement but the Standards clerks may be able to offer advice. Once again a
member may wish to consider obtaining legal or other independent advice. Members should note that once an entry is deleted, the old entry showing the ceased interest will still be available for public inspection for a further period of five years even where that person is no longer a member.

Amending an interest

1.2.25 A member should also monitor any changes in the status of their registered interests and seek to amend an entry where necessary. A member is not required by the Act to amend interests but members are encouraged to do so as it is helpful to the public if the Register is up to date at all times.

1.2.26 An amendment is made by lodging a written notice of the proposed amendment (section 9 of the Act) rather than a written statement. The member should consult the Standards clerks on whether a proposed amendment is possible and what the notice of the amendment should contain. Within 30 days of the written notice being lodged the Standards clerks will amend the entry and send a copy to the member. An entry may not be amended so as to delete, without replacing, any of the information that Parliament has determined must be included about an interest. This means that in making any amendment a member should have regard to the information about the interest that had to be included for the purposes of the original written statement.

1.2.27 The Standards clerks may also at any time amend the Register to correct any clerical or typographical error in any entry. Where they do this they will send a copy of the amended entry to the member. The clerks will also delete the entry relating to a member when that person ceases to be a member for any reason. However, the entry will still be available for public inspection as an old entry for a further five years.

Sanctions and offences for non-registration

1.2.28 Where a member fails to register an interest by failure to lodge a written statement in respect of an initial, acquired or omitted registrable interest, the Parliament may apply sanctions to that member (section 15 of the Act). It may also apply sanctions where a member has lodged a written notice to the effect that an interest has ceased when it has not in fact ceased. The Parliament may, as it considers appropriate in a particular case, prevent or restrict such a member from participating in any proceedings of the Parliament relating to the matter in which there is an interest.

1.2.29 In addition, when a member fails to comply with or contravenes any registration requirement or fails to adhere to any sanction imposed as a result of non-registration, the Parliament may exclude that member from proceedings in the Parliament for such period as it considers appropriate (section 16). This could occur, for example, where a member refuses to provide all the required information about a particular registrable interest.

1.2.30 Finally, in terms of section 17 of the Act (which implements requirements under section 39 of the Scotland Act) failure to register a registrable interest and
failure to comply with any sanctions imposed by the Parliament as a result of that failure are criminal offences. It is for the Commissioner for Ethical Standards in Public Life in Scotland to refer breaches of the Act to the Procurator Fiscal. A member found guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
SECTION 2: CATEGORIES OF REGISTRABLE INTERESTS

2.1: Introduction

2.1.1 The Schedule to the Act sets out the categories of registrable financial interests which a member must register. These are set out below with reference to the relevant provision in the Act and with explanatory notes designed to help members when registering their interests under any particular category. Members should refer to Section 1 (Volume 2) of this Code for the general requirements in relation to registration. The form of written statement which members must complete when registering an interest (see Volume 4) contains key definitions and terms in relation to each category of interest.

2.2: Remuneration and related undertaking – Schedule, paragraph 2

A member has, or had, a registrable financial interest:

(1) Where a member receives, or has received, remuneration by virtue of—

(a) being employed;
(b) being self-employed;
(c) being the holder of an office;
(d) being a director of an undertaking;
(e) being a partner in a firm; or
(f) undertaking a trade, profession or vocation.

(1A) Where a member is, or was—

(a) a director in a related undertaking; or
(b) a partner in a firm,

but does, or did, not receive remuneration by virtue of being such a director or partner.

(2) A member does not fall within sub-paragraph (1) solely by virtue of being, or of having been, a member, a member of the Scottish Executive or a junior Scottish Minister or holding or having held the office of Presiding Officer, deputy Presiding Officer or member of the Parliamentary corporation or of Convener, deputy Convener or member of a Committee of the Parliament.

(3) Sub-paragraph (1) does not apply where the remuneration received from a person on a single, or on more than one, occasion during the current parliamentary session consists solely of expenses unless those expenses amount, or amount in aggregate, to more than the specified limit.

(4) The exception in sub-paragraph (3) applies even although the remuneration received from that person on another occasion, or on other occasions, during that session does not consist solely of expenses.

Key definitions:

“Remuneration” includes any salary, wage, share of profits, fee, expenses and other monetary benefit or benefit in kind (the Act, section 19(1)). This would include, for example, reimbursement of costs incurred and the provision by an employer of a company car or travelling expenses.

“a related undertaking” is a parent or subsidiary undertaking of an undertaking of which the member is a director and receives remuneration as a director as mentioned in sub-paragraph (1)(d);
“Undertaking” has the same meaning as in the Companies Act (see section 1161(1) of the Companies Act 2006) and means, in broad terms, (a) a body corporate or partnership; or (b) an unincorporated association carrying on a trade or business, with or without a view to a profit;

“Parent” and “subsidiary” undertakings have the same meaning as in section 1162 of the Companies Act 2006;

“specified limit” means 1% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session;

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;

“prejudice test” an interest meets the prejudice test if, after taking into account all of the circumstances, that interest is reasonably considered to prejudice, or give the appearance of prejudicing the ability of the member to participate in a disinterested manner in any proceedings of the Parliament.

Guidance on remuneration and related undertaking

Remuneration

2.2.1 All remuneration received from the date of return as an MSP which falls into the categories (1) (a)-(f) and related undertakings which fall into categories (1A) (a) and (b) must be registered. Remuneration received solely as an MSP (i.e. MSPs’ salary and allowances) or solely as a result of holding the various offices set out in paragraph (2) of this provision is expressly excluded.

2.2.2 Expenses fall within the definition of remuneration including expenses that represent reimbursement of costs incurred. Where a member receives expenses at the same time as receiving other remuneration (for example, a fee) from the same source these expenses are registrable.

2.2.3 Remuneration consisting solely of expenses below the specified limit (1% of a member’s salary at the beginning of the current parliamentary session, rounded down to the nearest £10) is not registrable. Expenses received from a single source on a single occasion that exceed the specified limit are registrable. In addition, expenses received from a single source, which in aggregate during a parliamentary session exceed the specified limit, are registrable. Members should therefore keep a record of all expenses received from the date of the member’s return, whether or not these are registrable at the time, so that they are aware if the aggregate expenses, from a single source, exceed the threshold for registration.

2.2.4 Remuneration received prior to the date of return as an MSP must also be registered if it meets the prejudice test. In terms of section 3(2) of the Act, an interest meets the prejudice test if, after taking into account all the circumstances, that interest is reasonably considered to prejudice, or to give the appearance of prejudicing, the ability of the member to participate in a disinterested manner in any proceedings of the Parliament.

2.2.5 Remuneration (including expenses exceeding the specified limit) received as an MP at Westminster or as an MEP should be registered where there is an overlap in the holding of both offices; as should any allowances paid in relation to
membership of the House of Lords or any other institution except the Scottish Parliament: for example, the Committee of the Regions.

2.2.6 When registering remuneration from employment, members must include the name of the employer, the employer’s principal business address (if not a private individual), the nature of its business and the position that they hold.

2.2.7 When registering remuneration from self-employment or a partnership members must include the name and nature of the business or partnership. The principal business address of the partnership must also be given. If a member is self-employed and carries on the business from the member’s private address, that address need not be included.

2.2.8 When registering remuneration from being the holder of an office, members must provide the name of the organisation in which an office is held, its principal business address, the nature of its business and the position held. Such positions can be in private businesses or public sector organisations. Examples include being a director of a consultancy firm or being a member of an advisory board or committee.

2.2.9 When registering remuneration from a directorship, members must provide the name of the undertaking in which the directorship is held, its principal business address and the nature of its business.

2.2.10 Where registering remuneration from a trade, profession or vocation, members must provide any name under which the trade etc. is carried out and the regularity and nature of the activity. Where work is provided under contract to one particular person or body, it is suggested that the names of that person or body should be given (under the requirement for any relevant additional information). For example, a member who is contracted to write a series of newspaper articles should consider giving the name of the publication and the frequency of articles for which the member is paid as well as the remuneration itself.

2.2.11 One-off activities which members might undertake, such as speaking at a conference or writing a single newspaper article, do not constitute remuneration from a trade, profession or vocation even if the member receives a fee or expenses for doing so (although this could be registered under the voluntary category). However, if a member undertakes such an activity on a regular, remunerated basis, this may be considered remuneration from a trade, profession or vocation.

2.2.12 For the purposes of initial registration, remuneration under each category ((1)( a)-(f)) must be registered with reference to the gross amount per annum (or nearest estimate) that a member expects to receive from the date of return. That remuneration will then be expressed in that member’s entry in the Register as being remuneration falling within the following bands—

- up to £500
- between £501 - £1,000
- between £1,001 - £2,000
- between £2,001 - £3,000

between £3,001 - £5,000

and thereafter in intervals of £5,000.

(Members may specify an exact figure, instead of indicating a bandwidth, if they wish.)

2.2.13 In the case of remuneration received prior to the date of return and to which the prejudice test applies, the remuneration received must be registered within the relevant band for each year in which it was received.

2.2.14 Where a member knows that remuneration will be received but does not know the exact amount, the member must register remuneration on the basis of what the member expects to receive. Where this later proves to be inaccurate, the member is encouraged to amend the entry by lodging an appropriate amendment so that the remuneration is shown within the appropriate band. Members are referred to Section 1.2.21 (Volume 2) of this Code for further details on making amendments.

2.2.15 Members must also register any new remuneration for work undertaken after the date of return as a newly acquired interest. Members should refer to Section 1.2.11 (Volume 2) of this Code for guidance on the registration of new interests. They must also take steps to register any remuneration that they have accidentally overlooked, or had not realised required to be registered, as soon as possible and in all cases, within seven days of becoming aware of it. Members should refer to Section 1.2.13 (Volume 2) of this Code for further guidance on late registration.

2.2.16 It is not necessary to register remuneration received prior to the date of return if this represents remuneration for activity undertaken solely before the member was returned, unless it meets the prejudice test. However, should a member receive remuneration on or after the date of their return, this is registrable, even if the activity was undertaken in advance of them becoming a member. Under the terms of the Act the relevant date that the interest is acquired is the date of receipt of payment.

2.2.17 Under the terms of the Act a member may not cease an interest that consists of remuneration (see Section 1.2.20 of Volume 2). Such interests will therefore remain on the register for the duration of the session.

2.2.18 As remuneration relates to active employment of some kind, members are not required to register pensions. However, if a member wishes to, a pension may be registered voluntarily. There is a separate part of the written statement for registering voluntary interests. Members are referred to Section 1.2.15 of Volume 2 of the Code for guidance on voluntary registrations.

Related undertaking

2.2.19 See the opening paragraphs in Section 2.2 above for all relevant definitions for the provisions on related undertakings.
2.2.20 Members are required to register any directorships which they hold, which are not remunerated, where the undertaking in which they hold a directorship is a parent or a subsidiary of an undertaking in which the member holds a remunerated directorship. Members are also required to register being a partner in a firm where the member does not, or did not, receive remuneration by virtue of being such a partner. This could be where a member is a sleeping partner in a business or a business whose operating profits are wholly reinvested in the business.

2.2.21 Members should be aware of the need to register any previous directorship or partnership which is no longer held by them if the holding of that position meets the prejudice test set out in section 3(2) of the Act.

2.2.22 The provisions of the Companies Act 2006 referred to above set out the circumstances where an undertaking is treated as a parent or subsidiary of another undertaking. Generally, this relates to voting rights, the right to remove a board of directors and dominant influence and control. Members who hold the position of a director in any such body are expected to be aware of what constitutes a related undertaking in terms of the Act and what constitutes a parent and subsidiary undertaking in terms of the Companies Act 2006. Judgement about what constitutes a related undertaking in company law is complicated. Where any member has a doubt about whether or not a particular directorship should be registered, they are strongly recommended to take independent professional advice.

2.2.23 Members are required to register the name of the related subsidiary or parent undertaking, the nature of its business, its principal business address and its relationship to the other undertaking in which the member is a director and from which the member receives remuneration. Members who are unremunerated partners in firms are required to register the name of the firm, its principal business address and the nature of its business. Any other unremunerated directorships which are not related in any way to a remunerated directorship do not require to be registered but they may be registered on a voluntary basis.

2.3: Gifts – Schedule, paragraph 6

A member has a registrable interest:

(1) Where a member or a company in which the member has a controlling interest or a partnership of which the member is a partner, receives, or has received, a gift of heritable or moveable property or a gift of a benefit in kind and—

   (a) in the case where the gift was received from a person on a single occasion, the value of that gift, at the date on which it was received, exceeds the specified limit; or

   (b) in the case where gifts were received from that person on more than one occasion during the current parliamentary session, the aggregate value of those gifts, at the dates on which they were received, exceeds the specified limit and, in either case,

   (c) that gift or those gifts meet the prejudice test.

(2) Sub-paragraph (1) does not apply to
(a) the costs of travel and subsistence in connection with the member's attendance at a
conference or meeting where those costs are borne in whole or in part by—

(i) the organiser of that conference; or

(ii) one of the other parties attending that meeting,
as the case may be;

(b) any support (of any kind) provided by the services of a volunteer which are provided in
that volunteer’s own time and free of charge; or

(c) a donation (of any kind) which is intended by the donor to be used for the purpose of
meeting—

(i) any campaign expenditure incurred in connection with the member’s campaign for
election to a party office;

(ii) the election expenses of the member in relation to the election at which that
member was returned as a member of the Scottish Parliament; or

(iii) the election expenses of the member in relation to any UK parliamentary election
at which that member stands as a candidate,

but this exemption ceases to apply if the donation is not used for its intended purpose by the
expiry of the 35th day after the election result is declared.

Key definitions:

“company” means a company as defined in section 1(1) of the Companies Act 2006;

“controlling interest” means, in relation to a company, shares carrying in the aggregate more than half
of the voting rights exercisable at general meetings of the company;

“heritable property” includes any right or interest in heritable property in Scotland or elsewhere. It
includes residential or other similar property, land etc;

“moveable property” means any property which is not heritable property and includes anything from
money to jewellery to the copyright in a book for example;

“specified limit” means 1% of a member’s salary (rounded down to the nearest £10) at the beginning
of the current parliamentary session;

“prejudice test” – an interest meets the prejudice test if, after taking into account all of the
circumstances, that interest is reasonably considered to prejudice, or give the appearance of
prejudicing the ability of the member to participate in a disinterested manner in any proceedings of the
Parliament;

“candidate” has the same meaning as in section 118A, as read with section 90ZA(5) of the
Representation of the People Act 1983;

“campaign expenditure” includes expenditure incurred, whether before or after the member’s
candidacy for election to the party office is announced or after the date on which the result of that
election is declared, which can reasonably be described as being for the purposes of that campaign;

“current parliamentary session” means the parliamentary session which begins immediately after, or
in which, the member is returned;

“election expenses”, in relation to a member, has the same meaning for the purposes of
(i) sub-paragraph (2)(c) (ii) as “election expenses” has in relation to a candidate in the order under section 12 of the 1998 Act which is in force for the purposes of the election at which the member was returned; and

(ii) sub-paragraph (2)(c)(iii) as “election expenses” has in section 90ZA of the Representation of the People Act 1983;

“party office” means an office in a registered political party with which that member is connected; and

“registered political party” means a political party registered under Part II of the Political Parties, Elections and Referendums Act 2000 and a member is “connected with” a registered political party if the member was returned at the election after contesting it as a candidate (whether for return as a constituency member or as a regional member) of that party.

Guidance on gifts

2.3.1 Members should have regard to paragraph 7.2.6 of Volume 2 of this Code for guidance on the acceptance of gifts generally. Any gift, the value of which on the date the gift is made, exceeds 1% of a member’s salary at the beginning of the current parliamentary session (rounded down to the nearest £10 – currently £570), must be registered where the gift also meets the prejudice test in section 3(2) of the Act. Gifts which exceed the threshold but do not meet the prejudice test do not need to be registered.

2.3.2 This category applies to a gift of any tangible item such as glassware or jewellery, to gifts of money or residential property and to other benefits such as hospitality, or tickets to sporting and cultural events. The category also covers benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.

2.3.3 The category covers gifts received directly by a member and gifts received by any company in which a member has a controlling interest, or by a partnership of which the member is a partner. It covers both gifts received in a member’s capacity as an MSP and gifts received in a private capacity. However, it does not cover gifts to spouses and cohabitees. It is also expected that most gifts from friends and family will not meet the prejudice test and will therefore not require to be registered.

Financial support

2.3.4 A member who receives any financial support as a member, the value of which exceeds the specified limit, must register this as a gift where the prejudice test is met. Donations received by a member from a constituency party may fall within the gifts category but only if the member considers the prejudice test is met.

Material support

2.3.5 Subject to paragraph 2.3.9, a member who receives any material support as a member, the value of which exceeds the specified limit, must register this as a gift where the prejudice test is met. Examples of material support include the provision of services of a research assistant, secretary or other member of staff whose salary, in whole or in part, is met by another person other than the member.

2.3.6 Members must register the monetary value of the support which is the gross cost to the person providing the material support. In the case of payment of salary...
cost this should be calculated on the basis of pre-tax income including the cost of providing national insurance and other benefits.

2.3.7 When registering material support a member should provide the name of the provider, their principal business address (if not an individual) and the nature of its business (if not an individual). Members may also wish to detail any conditions attached to the support, such as the duration of it and how it is paid for (whether or not it is or was provided directly to the member, or is paid directly to another person providing the service to the member).

*Travel and subsistence*

2.3.8 Members are not required to register the costs of travel and subsistence in connection with attendance at a conference or meeting if those costs are borne in whole or in part by the organiser of the conference or by one of the other parties attending the meeting. However, attendance at an overseas conference or meeting may require to be registered as an overseas visit. It is also possible that expenses for attendance at a meeting or conference could fall into the remuneration category.

*Volunteer services*

2.3.9 Support from a volunteer who provides a service in their own time free of charge is exempt from the requirement to register in the gifts category.

*Election expenses*

2.3.10 At the end of session 3, the “election expenses” category was removed from the Act. This was on the basis that there is an entirely separate regime for registering election expenses with the relevant Returning Officer and the Electoral Commission as part of an electoral return. At the same time, the gifts category was amended to exclude from registration in that category donations towards the member’s:

- campaign expenses for election to a party office;
- election expenses in relation to their election to the Scottish Parliament; or
- election expenses in relation to standing at a UK Parliamentary election.

2.3.11 Such expenses are not registrable, even if they exceed the gifts threshold, as long as:

(a) the donor intended them to be used for one of the three purposes outlined above; and

(b) they have been spent on the intended purpose by the end of the 35th day after the result of the election was declared.

2.3.12 However, any donations which are unspent on the election in question by the expiry of the 35th day after the election result is declared (the same timeframe that is allowed for lodging election returns) must be registered if they exceed the gifts threshold and meet the prejudice test. Members acquire a registrable interest on the expiry of the 35th day after the election result is declared and have 30 days from then to register the interest as set out in sections 3(4) and 4(5) of the Act.
2.3.13 In recording election expenses and considering whether the exemption from registration applies, therefore, members need to be clear:

(a) whether a particular donation was intended by the donor to be used towards those election expenses (rather than for example being a general donation to the local party); and

(b) whether the donation was spent on costs associated with that election before the expiry of the 35th day after the election.

Should there be any complaint about a member’s failure to register election expenses, the member would need to be able to demonstrate that the donation had been spent on its intended purpose within the deadline specified.

2.3.14 Certain elections may take place close to the end of the parliamentary session. The period of 35 days after the election result is declared, during which the donation is potentially exempt, could then run into the dissolution period and so the donation would not require to be registered during that session even if it was not used for its intended purpose by the expiry of the 35th day. However, returning members may consider that such donations meet the prejudice test and so should be registered in the following parliamentary session, regardless of whether the member still has the donation by that time.

Registering a gift
2.3.15 In lodging a written statement in relation to a gift, the member must provide details of the nature of and estimated monetary value of the gift and the date it was received. A member must also indicate whether the gift was received directly or was given to a company or partnership in which the member has a controlling interest. Members must additionally provide the donor’s name, principal business address (if not a private individual) and the nature of the donor’s business (if not a private individual).

2.3.16 A member is not required to register a gift whose value does not exceed the registration threshold. However, if over the course of a session a member receives a number of gifts from a single source, each of which is below the threshold but which cumulatively exceed it, the member is required to register such an interest in the gifts category. Members should therefore keep track of gifts received and register gifts from the same source if, cumulatively, they exceed the specified limit.

2.3.17 In addition, members may register in the voluntary category any gift which does not exceed the gifts threshold and/or does not meet the prejudice test, if they believe that disclosure would be in the public interest. Members should be aware of the need for caution in accepting gifts and other benefits.

2.3.18 Where a member registers a gift received before the date that the member was returned, which the member considers meets the prejudice test, the threshold for registration is based on a member’s salary at the start of the parliamentary session in which the gift would be registered (not the session in which the gift was received). In other words, a single threshold applies to all gifts included in the register in a particular session.
2.3.19 Members must also take steps to register any gifts that they have accidentally overlooked, or had not realised required to be registered, as soon as possible and in all cases, within seven days of becoming aware of the requirement to register. Members should refer to Section 1.2.13 of Volume 2 of this Code for further guidance on late registration.

2.3.20 Members may wish to seek advice from the Standards clerks about the need to register in specific circumstances.

2.4: Overseas Visits – Schedule, paragraph 7

A member has a registrable interest:

(1) Where a member makes, or has made, a visit outside the United Kingdom and that visit meets the prejudice test.

(2) Sub paragraph (1) does not apply to a visit, the travel and other costs of which—

(a) are wholly met—

(i) by the member;
(ii) by the member's spouse, civil partner or cohabitant;
(iii) by the member’s mother, father, son or daughter;
(iv) by the Parliamentary corporation; or
(v) out of the Scottish Consolidated Fund; or

(b) were approved prior to the visit by the Parliamentary corporation.

Key definitions:
“Spouse” does not include a former spouse or a spouse who is living separately and apart from the member where the separation is likely to be permanent.

“Civil partner” does not include a former civil partner or a civil partner who is living separately and apart from the member where the separation is likely to be permanent.

“Cohabitant” means either member of a couple consisting of a man and a woman who are living together as if they were husband and wife or two persons of the same sex who are living together as if they were civil partners.

“Prejudice test” an interest meets the prejudice test if, after taking into account all of the circumstances, that interest is reasonably considered to prejudice, or give the appearance of prejudicing, the ability of the member to participate in a disinterested manner in any proceedings of the Parliament.

Guidance on overseas visits

2.4.1 A member is required to register and provide details of a visit outside the United Kingdom where the visit meets the prejudice test. For the purposes of registration, the date upon which a visit becomes registrable is the final day of any such visit. Under the terms of the Act, members then have 30 days to lodge a written statement with the clerks reflecting this interest.
2.4.2 Certain overseas visits are excluded from the requirement to register. These are visits, the travel and other costs of which are wholly met—

- by the member;
- by the member’s spouse, civil partner or cohabitant;
- by the member’s mother, father, son or daughter;
- by the Scottish Parliamentary Corporate Body (SPCB); or
- out of the Scottish Consolidated Fund (for example, Ministerial visits).

2.4.3 There is also no need to register visits the costs of which were approved in advance by the SPCB.

2.4.4 There may be occasions when fees or expenses for work undertaken overseas fall into the remuneration rather than overseas visits category. Equally, certain overseas visits and related costs may fall within the gifts category. Members are advised to seek advice from the Standards clerks if they are uncertain about which category an interest should be registered in.

2.4.5 Visits within the United Kingdom and the provision of hospitality in the United Kingdom are not covered by this provision although members may register these on a voluntary basis if they believe that disclosure would be in the public interest. Depending on the value, and subject to meeting the prejudice test these may also fall within the gifts category. Similarly hospitality provided abroad not directly linked to the cost of the visit itself does not need to be registered under the overseas visits category. Again, however, members need to take account of the value of that hospitality as it may require to be registered as a gift.

2.4.6 Members should note that committee travel outwith the UK may fall to be registered. Members are advised to seek advice from the relevant committee clerk regarding prior approval by the SPCB. Members may also consult the Standards clerks for further advice on seeking SPCB approval for certain visits overseas.

2.4.7 Where registration is required, members should provide details of the dates, destination and purpose of the visit along with the name of any individual, business or organisation which met any of the costs. Members must also provide the principal business address of the business or organisation (but not that of a private individual) which met the costs of the trip and the nature of the business (but not that of a private individual). Members must provide details of the cost of the visit, ideally split between travel and expenses. Costs can be provided in the currency in which they were incurred, however members may also wish to include the estimated value in sterling and the date of the currency conversion upon which this estimate is based.

2.4.8 Members must also take steps to register any overseas visits that they have accidentally overlooked, or had not realised required to be registered, as soon as possible and in all cases, within seven days of becoming aware of it. Members should refer to Section 1.2.13 of Volume 2 of this Code for further guidance on late registration.
2.5: Heritable property – Schedule, paragraph 8

A member has a registrable interest:

(1) Where a member owns or holds, or has owned or held, any heritable property and sub-paragraph (2) applies.

(2) This sub-paragraph applies where either—

(a) the market value of the heritable property, at the relevant date, exceeds the specified limit; or

(b) any income is received from the heritable property during the twelve months prior to the relevant date.

(3) Sub-paragraph (1) applies to heritable property which a member owns or holds, or has owned or held—

(a) solely in the member’s name;

(b) jointly with any other person or body; or

(c) as a trustee, whether or not jointly with other trustees, where the member has an interest as a beneficiary of the trust.

(4) Sub-paragraph (1) does not apply to heritable property—

(a) which is used as a residential home by the member or the member's spouse, civil partner or cohabitant;

(b) which was used as a residential home by the member or the member's spouse, civil partner or cohabitant but which, for a period of not more than 12 months, is or was unoccupied and for sale; or

(c) which forms part of the assets of a partnership and any income from that partnership is, or forms part of, the remuneration registered under paragraph 2 of this Schedule.

(5) Where a member has ceased to own or hold any heritable property before the date on which the member was returned as a member, the relevant date is the date when the heritable property ceased to be so owned or held.

(6) Where a member owned or held any heritable property at the date on which the member was returned as a member, the relevant date is—

(a) that date; and

(b) the 5th April immediately following that date and in each succeeding year, where the heritable property continues to be so owned or held on that 5th April.

(7) Where a member becomes the owner of or acquires any heritable property after the date on which that member was returned as a member, the relevant date is—

(a) the date on which the member became the owner of or acquired that heritable property; and

(b) the 5th April immediately following that date and in each succeeding year, where the heritable property continues to be so owned or held on that 5th April.
Key definitions:

“Heritable property” includes any right or interest in heritable property whether in Scotland or elsewhere. It includes residential or other similar property, land or any right or interest in or over land;

“Spouse” in relation to a member does not include a former spouse or a spouse who is living separately and apart from the member where the separation is likely to be permanent;

“Civil partner” in relation to a member does not include a former civil partner or a civil partner who is living separately and apart from the member where the separation is likely to be permanent;

“Cohabitant” means either member of a couple consisting of—

(a) a man and a woman who are living together as if they were husband and wife; or
(b) two persons of the same sex who are living together as if they were civil partners;

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned; and

“specified limit” means 50% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.

Guidance on heritable property

2.5.1 A heritable property which exceeds either the market value or income threshold set out in paragraph 8 of the Schedule to the Act must be registered. Members are required to register any interest in heritable property where the property’s market value exceeds 50% of the member’s salary at the start of the current parliamentary session (rounded down to the nearest £10 — currently £28,760). Members must also register heritable property which yields any income, for example from rent, in the twelve months prior to the relevant date. Members do not require to register interests in heritable property which do not exceed either the market value or income threshold; however, members may choose to register these in the voluntary category if they wish.

2.5.2 Heritable property may be situated in any part of the world. The issue of the “relevant date” is particularly important in understanding when an interest in property requires to be registered. The relevant date is the date that the member is returned for property owned at that date; the date of acquisition for a newly acquired property; or the date of disposal when a property is sold before the member is returned.

2.5.3 In relation to income-based registration, registration is required where any income is received in the twelve months prior to the date that the member is returned (and each following 5th April) or the date of acquisition (and each following 5th April) or the date of disposal as the case may be. An acquired rental property must therefore be registered (within 30 days) on the basis of income received in the past twelve months even where the income prior to acquisition has not been paid to the member but to a previous owner.

2.5.4 A member registering an existing property at the date that the member is returned must estimate its market value at that date and assess whether that figure exceeds 50% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session. If it does, the property must be
registered. The member must then re-estimate the market value on each subsequent 5th April that the member continues to own or hold the property. If the value continues to exceed 50% of the member’s salary (as at the start of the parliamentary session) then the property should continue to be registered. If it does not, then the member may identify the interest as a ceased interest by following the procedures for deletion of interests set out in Section 1.2.19 of Volume 2 of this Code.

2.5.5 Where a member disposes of a registrable property (prior to the date of return as a member), the relevant amounts for the purposes of calculation are: market value at the date of sale measured against the amount of a member’s salary at the start of the current parliamentary session; and/or any income from the property in the twelve months prior to sale. Similarly for registrable property acquired after the date of return as a member, the requirement for registration should be considered on the basis of market value at acquisition and on each subsequent 5th April that the member owns or holds the property against salary at the start of the parliamentary session.

2.5.6 The requirement to register does not apply to heritable property used as a residence by the member’s spouse, civil partner or cohabitant or to heritable property which was such a residential home, but (for not more than twelve months) is or was unoccupied and for sale. A member also does not have to register property which forms part of the assets of a partnership where any income received by the member from that partnership is already registered as remuneration under paragraph 2 of the Schedule to the Act.

2.5.7 There may also be circumstances where income received from a rental property could fall within the remuneration category if it is received by a member who lets property in connection with self-employment or a trade, profession or vocation. Equally, there may be circumstances in which heritable property could fall within the gifts category. Members are advised to seek advice from the Standards clerks if they are uncertain in which category an interest should be registered.

2.5.8 The requirement to register heritable property applies not just to property that a member owns in their own name but to property in joint names (such as with a spouse or business partner) and to property held as a trustee but only where the member has a beneficial interest in the income or assets of the relevant trust.

2.5.9 For all properties that require to be registered, members are required to indicate the location of each property (for example, by local authority area if in Scotland) and the type of property (for example, flat, house, commercial property, industrial or agricultural). Members do not have to provide the date they acquired the property if this was prior to the date the member was returned but must provide relevant dates where a property is disposed of or acquired during the session.

2.5.10 For properties registrable on the basis of market value, members must provide an estimate of market value for each property (within the bandwidths determined by the Parliament) at whichever relevant date applies. For properties registrable on the basis of income, members must provide an estimate of gross income (within the bandwidths determined by the Parliament) in the twelve months
prior to whichever relevant date applies. Where a property meets both tests then both the market value and income details should be provided.

2.5.11 Registration is based on the full market value or income irrespective of whether the member owns the property independently or with another person or irrespective of the member’s equity share in the property once a mortgage is taken into account or the costs of disposal. Members may provide additional details in connection with the entry in relation to these matters if they wish to do so.

2.5.12 Where a member registers an interest in heritable property which the member no longer had on the date that the member was returned but which meets the prejudice test, the relevant date is the date that the interest ceased to be held. The member may not have been in receipt of a salary at the time the interest was disposed of. In these circumstances the threshold for registration should relate to the salary of a member at the start of the parliamentary session in which the member is considering registration.

2.5.13 Members must also take steps to register any heritable property that they have accidentally overlooked, or had not realised required to be registered, as soon as possible and in all cases, within seven days of becoming aware of it. Members should refer to Section 1.2.13 of Volume 2 of this Code for further guidance on late registration.

2.6: Interest in shares – Schedule, paragraph 9

A member has a registrable interest:

(1) Where a member has, or had, an interest in shares, whether that interest is, or was, held by the member or by a relevant person, and sub-paragraph (2) applies.

(2) This sub-paragraph applies where either—

   (a) the nominal value of the shares at the relevant date is, or was, greater than 1% of the total nominal value of the issued share capital of the company or other body; or
   
   (b) the market value of the shares at the relevant date exceeds, or exceeded, the specified limit.

(3) Sub-paragraph (1) applies to an interest in shares, whether that interest is, or was, held by a member (or a relevant person)—

   (a) solely in the name of the member (or relevant person);

   (b) jointly with any other person or body; or

   (c) as a trustee, whether or not jointly with other trustees where the member has an interest as a beneficiary of the trust.

(4) Sub-paragraph (1) does not apply to an interest in shares which forms part of the assets of a partnership and any income from that partnership is, or forms part of, remuneration registered under paragraph 2 of this Schedule.
(5) Where a member has ceased to have an interest in shares before the date on which the member was returned as a member, the relevant date is the date when the interest in such shares ceased to be so held.

(6) Where a member had an interest in shares at the date on which the member was returned as a member, the relevant date is—

(a) that date; and

(b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

(7) Where a member acquires an interest in shares after the date on which the member was returned as a member, the relevant date is—

(a) the date on which the interest in shares was acquired; and

(b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

**Key definitions:**

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;

an “interest in shares” means an interest in shares comprised in the share capital of a company or other body;

“relevant person” is a person who is subject to the control or direction of a member in respect of an interest in shares;

“specified limit” means 50% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.

**Guidance on interest in shares**

2.6.1 A member is required to register an interest in shares which the member or a “relevant person” (as defined in sub-paragraph (3) above) has or had. A relevant person can be a relative (such as a spouse or civil partner) or some other individual or body. Such a person may nominally own or hold the shares but can be said to be controlled or directed where, for example, only the member may authorise disposal of the shares or where the member ultimately benefits from any income or gain on disposal.

2.6.2 Registration is required where the nominal value of the shares at the relevant date is or was greater than 1% of the total nominal value of the issued share capital of the company or other body; or where the market value of the shares exceeds 50% of a member’s salary at the start of the current parliamentary session (rounded down to the nearest £10 – currently £28,760). Members are not required to register interests in shares which do not exceed either of the value thresholds; however, members may register these in the voluntary category if they wish.

2.6.3 Once again, the “relevant date” is important in understanding when an interest in shares falls to be registered. Calculation of the relevant date for shares works in the same way as for heritable property (above).
2.6.4 A member considering whether registration of an existing share-holding at the date of return is required on the basis of market value must ascertain its value at that date. If it exceeds 50% of a member’s salary at the start of the current parliamentary session the shareholding must be registered. Likewise, a member considering whether registration of an existing share-holding at the date of return is required on the basis of the nominal value of the shares must ascertain whether this value is greater than 1% of the total nominal value of the issued share capital of the company or other body at that date. In either case the member must then obtain a new valuation on each subsequent 5th April that the member continues to have the interest in shares. If the value continues to exceed the relevant threshold, then the shares should continue to be registered. If they fall under that threshold then the member may have the interest removed from the Register as a ceased interest (see Section 1.2.19 of Volume 2 of this Code). Members who have a portfolio of shares must continue to track the value of shares to ensure that all holdings continue to fall under the threshold for registration. Where a share holding later exceeds that threshold, the share-holding must be registered as if it was an interest acquired after the date of the member’s return.

2.6.5 Where a member disposes of shares, the market or nominal value for the purpose of registration is the market or nominal value at the date of sale. Similarly, for shares newly acquired after the date of return, registration depends either on the nominal value on acquisition or the market value at acquisition against member’s salary at the start of the current parliamentary session and the nominal or market value against this salary on each subsequent 5th April that the member continues to have the interest in shares.

2.6.6 Where a member disposes of a registrable shareholding (prior to the date of return as a member), the relevant amounts for the purposes of calculation are: the total nominal value of the issued share capital at the date of disposal; or the market value of the shareholding at that date measured against a member’s salary at the start of the current parliamentary session.

2.6.7 Where a member registers an interest in shares which the member no longer has but which meets the prejudice test, the relevant date is the date that the interest ceased to be held. As with the Gifts and Heritable Property categories, a member may be required to register interests in shares disposed of before being returned as an MSP, if the member considers that the prejudice test is met. The member may therefore not be in receipt of a salary at the time the interest is acquired or disposed of. In these circumstances the threshold for registration relates to the salary of a member at the start of the parliamentary session in which the member is considering registration.

2.6.8 A member does not have to register shares which form part of the assets of a partnership where any income received by the member from that partnership is already registered as remuneration under paragraph 2 of the Schedule to the Act.

2.6.9 There may also be circumstances in which interests in shares could fall within the gifts category. Members are advised to seek advice from the Standards clerks if they are uncertain in which category an interest should be registered.
2.6.10 The requirement to register shares applies not just to shares that a member owns in their own name but to shareholdings in joint names (such as with a spouse or business partner) and to shareholdings held as a trustee but only where the member has a beneficial interest in the income or assets of the relevant trust.

2.6.11 When registering shares, members are required to provide details of the type of shares, the name of the company in which the shares are held, the company’s business address and the nature of its business. Members do not have to provide the date of acquisition of shares held at the date of return but must provide dates where the shares have been disposed of or acquired as the case may be during the parliamentary session.

2.6.12 For shares registered on the basis of market value, members must provide a valuation on the relevant date. For shares registered on the basis of a proportion of nominal value, members must provide the percentage of the issued share capital of the company that the member holds. Where shares could be registered on the basis of both market value and nominal value the market value should also be provided as well as the percentage of overall share capital.

2.6.13 Investment ISAs or unit trusts constituting shares are registrable if they independently, or in combination with other investments, meet the conditions outlined above. Members are not required to register investments that would not be considered to be part of a share portfolio, such as cash savings, cash ISAs, government bonds (gilts) and corporate bonds. If a member wishes to, these holdings may be registered in the voluntary category. Members are referred to Section 1.2.15 of Volume 2 of the Code for guidance on voluntary registrations.

2.6.14 Members must also take steps to register any interest in shares that they have accidentally overlooked, or had not realised required to be registered, as soon as possible and in all cases, within seven days of becoming aware of it. Members should refer to Section 1.2.13 of Volume 2 of this Code for further guidance on late registration.

2.7: Responsibility of the Member

2.7.1 Responsibility for ensuring compliance with the requirements of the Act for registration of interests lies with the individual member. If a member is uncertain about how the rules apply, the Standards clerks may be asked for advice. A member may also choose to consult a personal legal adviser and, on detailed financial and commercial matters, a member may wish to seek advice from other relevant professionals. As explained in Section 1.2.28-30 of Volume 2, failure to comply with the requirements of registration will constitute a breach of the requirements of the Act and may be a criminal offence. It could also lead to sanctions being imposed on a member by the Parliament. Enforcement of the Rules in the Code is explained in Volume 2, Section 9 and in Volume 3, Section 9 of the Code.
SECTION 3: DECLARATION OF INTERESTS

3.1: The statutory requirements

Section 12, declarable interests

(1) In this Act, a “declarable interest” means a declarable financial interest.

(2) A member has a declarable financial interest in any matter if that member has, or had, a registrable financial interest in that matter which is registered in the entry relating to that member.

(3) A member has a financial interest for the purposes of paragraph (b) of section 39(2) of the 1998 Act if that member has a declarable financial interest.

Section 13, declaration of interests

(1) Any member who has a declarable interest in any matter shall declare that interest before taking part in any proceedings of the Parliament relating to that matter.

(2) For the purposes of subsection (1), a member shall declare an interest by making, in such circumstances as the Parliament may determine, either an oral or, as the case may be, a written declaration of that interest.

3.1.1 Sections 12 and 13 of the Act set out the legal requirements in relation to declaration of interests.

3.1.2 An interest about which a declaration must be made is referred to as a ‘declarable interest’.

3.1.3 Under the statutory requirements, a member has a ‘declarable interest’ in relation to any matter if that member has a registrable financial interest relating to it. Registrable financial interests are those which must be registered under one of the categories set out in the schedule to the Act. These categories are explained in Section 2 of the Code.

3.1.4 A member who has a ‘declarable interest’ in a matter must make a declaration of that interest in any proceedings of the Parliament which relate to that matter, before otherwise taking part in those proceedings.

3.1.5 Declarations may be either oral or written. The Parliament has determined the circumstances in which declarations should be oral and in which they should be written (as required in the Act). The Interests of Members of the Scottish Parliament Act 2006 (Declaration of Interests) Determination 2007 sets out when oral and written declarations apply.

3.1.6 Where a member has a declarable interest in any matter, the member must make an oral declaration of that interest before speaking in any meeting of the Parliament relating to that matter. The requirement applies:

- during a meeting of the Parliament (includes initiating, contributing to or intervening in any debate) (an oral declaration is required); and
• during a meeting of a Parliamentary committee (or a joint committee meeting or sub-committee meeting) (includes initiating, contributing to or intervening in any debate) (an oral declaration is required).

3.1.7 Where a member has a declarable interest in any matter and takes part in a meeting of the Parliament relating to that matter only by attending and voting at that meeting, that member must have, prior to the meeting, made a written declaration of that interest. Where the interest is already registered, the declaration is made by virtue of that interest being registered in the entry relating to that member in the Register of Interests of Members of the Scottish Parliament and no additional written declaration is required (see paragraph 3.1.13).

3.1.8 Where a member has a declarable interest in any matter, and takes part in any proceedings of the Parliament relating to that matter otherwise than as provided in paragraphs 3.1.6 and 3.1.7, the member must make and lodge with the Clerk (usually understood to be the clerks in the Chamber Desk) a written declaration of that interest before taking part in any such proceedings relating to that matter.

3.1.9 For the purposes of paragraph 3.1.8, taking part in proceedings of the Parliament includes any of the following—

(a) lodging questions for oral or written answer,
(b) lodging motions, amendments to motions,
(c) introducing a Bill, or lodging a proposal for a Member’s Bill,
(d) lodging amendments to Bills, or
(e) adding the member’s name in support of any of the proceedings referred to in (a) to (d) above.

3.1.10 Before taking part in any proceedings of the Parliament a member should consider whether they have a ‘declarable interest’ in relation to the particular matter being addressed in those proceedings. The onus is on individual members to decide.

3.1.11 A member must declare an interest when speaking or intervening in a debate where that interest relates to the subject being debated. The Act requires that only such interests as actually appear in the member’s entry in the Register must be declared (section 12(2)). Following the lodging of a written statement of an interest with the Standards clerks (in relation to initial registration, newly acquired interests, or late registrations), there could be a period of up to 30 days before the statement actually appears on the Register and so becomes publicly known. In this situation, members are encouraged to make a declaration of that interest (either orally or in writing as appropriate to the proceedings) in order to avoid the suggestion of undue influence which only they will be aware of prior to the registration being published.

3.1.12 The Act refers to a member’s participation in “any proceedings of the Parliament” relating to the ‘declarable interest’. In this context, “proceedings of the Parliament” means all the actions noted above. Oral declarations are required only at meetings of the Parliament, its committees, joint committees and sub-committees.
3.1.13 A member is not required to make an oral declaration where the member simply attends or votes at a meeting but does nothing else. The effect of the Parliament’s determination is that the member’s register entry is sufficient declaration of their interest. If the member wishes to take part in the meeting in any way, other than simply attending or voting, they must make an oral declaration. Where the proceedings occur after the member has lodged a written statement with the clerks but before it is published in the Register, members are encouraged to make an oral declaration of that interest.

3.1.14 Members should be aware that other requirements of the Act, for example, in relation to the paid advocacy provisions, do apply to voting and other proceedings. The paid advocacy provision is explained in Section 4 of the Code.

3.2: Failure to comply with or contravention of the rules on declaration of interests

3.2.1 Failure to comply with, or contravention of, the Rules on declaration of interests may by virtue of section 16 of the Act result in the Parliament, by determination, applying sanctions to a member. Sanctions include being prevented from attending, restricted from attending or excluded from Parliamentary proceedings. In terms of section 17 of the Act, as with the failure to register interests, a member who fails to make a relevant declaration commits a criminal offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale. Enforcement of the Rules in the Code is explained in Section 9.
SECTION 4: PAID ADVOCACY

4.1: The statutory requirements

Section 14, Prohibition of paid advocacy etc.

(1) A member shall not by any means, in consideration of any payment or benefit in kind—
(a) advocate or initiate any cause or matter on behalf of any person; or
(b) urge any other member to advocate or initiate any cause or matter on behalf of any person.

(2) For the purposes of subsection (1)—
(a) “any means” shall be construed as the doing of anything by a member in the capacity of a member, whether or not in any proceedings of the Parliament; and
(b) “any payment or benefit in kind” means any payment or benefit in kind—
(i) which the member receives and which may reasonably be considered, after taking into account all the circumstances, to result in some benefit to that member, other than a vote for that member in any election to the Parliament; or
(ii) which the member’s spouse, civil partner or cohabitant receives and which may reasonably be considered, after taking into account all the circumstances, to be provided in connection with the Parliamentary duties of the member and to result in some benefit to that member.

(3) Subsection (1) shall not prevent a member receiving assistance in connection with any of the following matters—
(a) the preparation of a Member’s Bill or of any amendment to a Bill, or any other matter relating to a Bill (whether before, during or after its passage in the Parliament and before it is submitted for Royal Assent); or
(b) a debate upon subordinate legislation (whether before or after its making); or
(c) a legislative consent motion.

4.1.1 Paid advocacy is not permitted.

4.1.2 Section 14 of the Act sets out both what constitutes paid advocacy and is, therefore, forbidden and what assistance to a member is permitted.

4.1.3 Unlike the provisions of the Act relating to the registration and declaration of interests (which are designed to ensure transparency and do not inhibit members’ participation in the proceedings of the Parliament), the provisions of the Act relating to paid advocacy provide that a member may not, in consideration of any payment or benefit in kind, advocate or initiate any cause, or matter, on behalf of any person or urge any other member to advocate or initiate any cause, or matter, on behalf of any person.

4.1.4 “Any payment or benefit in kind” means any payment or benefit in kind which the member receives and which may reasonably be considered to result in some benefit for that member (except a vote for that member in an election to the Parliament). This also includes any payments or benefit in kind which the member’s spouse, civil partner or cohabitant receives and which may reasonably be considered to be provided in connection with the Parliamentary duties of that member and to benefit that member in some way.
4.1.5 Section 14(3) of the Act describes the kinds of assistance which members may receive without being in breach of the paid advocacy provisions. Those provisions do not apply to assistance provided to a member in the preparation of a Member’s Bill, or assistance with amendments to any Bill, or a debate on subordinate legislation or a legislative consent motion (formerly known as a Sewel motion).

4.2 Sanctions and offences for failure to comply with the rule on paid advocacy

4.2.1 Failure to comply with the paid advocacy rule may result in the Parliament excluding a member from proceedings for such period as it considers appropriate (section 16 of the Act). A member may also be guilty of a criminal offence in terms of section 17 of the Act. A member found guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
SECTION 5: LOBBYING AND ACCESS TO MSPs

5.1: Rules

5.1.1 A member should not, in relation to contact with any person or organisation who lobbies, do anything which contravenes this Code of Conduct or any other relevant rule of the Parliament or any statutory provision.

5.1.2 A member should not, in relation to contact with any person or organisation who lobbies, act in any way which could bring discredit upon the Parliament.

5.1.3 The public must be assured that no person or organisation will gain better access to, or treatment by, any member as a result of employing a commercial lobbyist either as a representative or to provide strategic advice. In particular, a member should not offer or accord preferential access or treatment to commercial lobbyists or their employers. Nor should commercial lobbyists or their employers be given to understand that preferential access or treatment might be forthcoming from another MSP or group or person within or connected with the Parliament.

5.1.4 Before taking any action as a result of being lobbied, a member should be satisfied about the identity of the person or organisation who is lobbying and the motive for lobbying. A member may choose to act in response to a commercial lobbyist but it is important that an MSP knows the basis on which the member is being lobbied in order to ensure that any action the member takes complies with the standards set out in this Code.

5.1.5 In addition, members should:

- consider whether a meeting with one group which is making representations on an issue should be balanced by offering another group with different views an opportunity to make representations;
- consider keeping a record of all contacts with lobbyists;
- consider arranging for an assistant or researcher to take notes at any meetings with lobbyists.

5.1.6 The Section of the Code on General Conduct (Section 7) sets out the standards expected in relation to acceptance of hospitality, gifts and benefits. In addition to this and the statutory provisions in the Act, members:

- should not accept any paid work which would involve them lobbying on behalf of any person or organisation or any clients of a person or organisation;
- should not accept any paid work to provide services as a Parliamentary strategist, adviser or consultant, for example, advising on Parliamentary affairs or on how to influence the Parliament and its members. (This does not prohibit a member from being remunerated for activity, which may arise because of, or relate to, membership of the Parliament, such as journalism or broadcasting, involving political comment or involvement in representative or presentational work, such as participation in delegations, conferences or other events.)
• should decline all but the most insignificant or incidental hospitality, benefit or gift if the member is aware that it is offered by a commercial lobbyist. Section 7 of the Code on General Conduct states that a member should not accept any offer that might reasonably be thought to influence the member’s judgement in carrying out Parliamentary duties. Since the basis on which many people believe that commercial lobbyists sell their services is by claiming to provide clients with influence over decision-makers, it might reasonably be thought that acceptance of a benefit of any significance from such a source could influence a member’s judgement in carrying out Parliamentary duties. (If a member only becomes aware of its source after receiving hospitality, a benefit or gift, then the member should consider reimbursing the costs of any hospitality or benefit or returning any gift.)

5.1.7 Members may participate in events for which others are charged a fee to attend. Participation, for example, in a conference or seminar for which delegates are charged a fee may be a useful means of a member gathering a range of views on a topic. There could be some concern, however, that events falling into this category could be a means of “buying” access to MSPs. It is important that there should be no grounds for such a perception. No preferential treatment should, therefore, be offered or accorded any person or organisation as a result of having made initial contact with a member at such an event.

5.1.8 Members may participate in events unless they are aware, or become aware, that the organisers are promoting the event on the basis that those paying to attend the event are “buying” influence over MSPs or that they can expect to receive better subsequent access to, or treatment by MSPs, than would be accorded to any other person or organisation. Members should exercise their judgement in deciding whether it is appropriate to participate in an event and if they are uncertain, can seek advice from the Standards Clerks. Where an event involves support for a charitable purpose, including fundraising, members should ensure that they comply with the SPCB’s charities policy.

5.1.9 Members should ensure that staff working for them are aware of and apply these rules and guidelines when acting on a member’s behalf or in any Parliamentary connection.

5.2: Failure to comply with the Code in relation to contacts with lobbyists

5.2.1 Failure to comply with or contravention of the rules in the Act in relation to contacts with any person or organisation who seeks to lobby a member may constitute a breach of the requirements of the Act, may constitute a criminal offence, and/or could lead to sanctions being imposed on a member by the Parliament. In addition, behaviour by an MSP which falls short of the standards established in this Code could lead to penalties being imposed on a member by the Parliament. Enforcement of the rules in the Code is explained in Section 9.
SECTION 6: CROSS-PARTY GROUPS

6.1: Introduction

6.1.1 Cross-Party Groups provide an opportunity for MSPs from across the parties to engage with external stakeholders, primarily to enable the sharing of experiences and information on a particular subject and to raise awareness of issues relevant to MSPs’ parliamentary duties.

6.1.2 It is important that Cross-Party Groups are understood by all to be separate from any of the formal structures of the Parliament and, in particular, should not be confused with the Parliament’s committee system.

6.1.3 Cross-Party Groups are formed and led by MSPs although it is expected that groups will also have non-MSP members, whether individuals or representatives of organisations. Cross-Party Groups do not have any power to introduce issues formally into the parliamentary or government systems and do not have access to any financial or staffing resources, other than is necessary to all Cross-Party Groups to meet in the Parliament or otherwise fulfil the requirements set out below.

6.1.4 Any queries about the regulation of Cross-Party Groups, and any notifications referred to in the following parts of Section 6, should be directed to the Standards clerks at crosspartygroup@scottish.parliament.uk.

6.1.5 Groups must conform to the following provisions and with such other requirements as may be laid down from time to time by the Standards, Procedures and Public Appointments Committee, the Parliament and the Scottish Parliamentary Corporate Body.

6.2: Establishment of Cross-Party Groups

6.2.1 Once a proposed Group is satisfied it can meet the minimum MSP membership requirement, the first step towards establishment is to arrange an initial meeting, including the election of office bearers. The initial meeting should, as far as is possible, comply with the normal requirements that apply to any meeting of a recognised Cross-Party Group. Both the MSP membership requirement and the meeting requirements are set out in Section 6.4 of the Code.

6.2.2 The initial meeting must be notified to the Standards clerks at least 10 calendar days in advance of the meeting taking place. The Standards clerks will add details of the time and location of the meeting to the Parliament website, along with contact details to be used by anyone who wishes to attend the meeting.

6.2.3 The Standards clerks should also be provided with the name and contact details of an MSP who will act as the contact for any queries until the Group has elected a Convener. Once elected, the Convener will be the main contact point for the Group.
6.3: Registration of Cross-Party Groups

6.3.1 No later than 30 calendar days after its initial meeting, the Convener of a proposed Group must submit a completed registration form to the Standards clerks.

6.3.2 The registration form sets out the information that a proposed Group must provide, specifically—

- the name and purpose of the proposed Group
- the proposed Group’s office bearers
- the planned frequency of meetings of the proposed Group and an outline of the issues that the proposed Group expects to address in the next year
- MSP and non-MSP membership lists
- Details of any financial benefits (including material assistance such as secretariat support) received from a single source that have a value, either singly or cumulatively, of over £500 per year
- details of any subscription the proposed Group intends to charge
- details of staff employed by the proposed Group.

6.3.3 The Convener of the proposed Group must also provide their contact details and complete the statement on compliance at the end of the registration form.

6.3.4 Advice on the registration requirements can be sought from the Standards clerks but responsibility for compliance with the requirements rests with the proposed Group.

6.3.5 Only Groups accorded recognition can use the title ‘Cross-Party Group in the Scottish Parliament’ and have access to Parliamentary facilities.

6.3.6 If there are any changes to the details set out in the registration form, the Convener of the Group (or a member of staff of the Convener who has been formally delegated authority) must notify the Standards clerks of the change within 30 calendar days. When the Convener of the Group changes the new Convener must also complete and submit the statement on compliance.

6.3.7 The Standards clerks may draw any changes to the attention of the Standards, Procedures and Public Appointments Committee if the change relates to information that was relevant to the initial decision to accord recognition. Any proposal to change the name or purpose of the Group must be drawn to the attention of the Standards, Procedures and Public Appointments Committee which will consider the proposed change and decide whether to continue to accord recognition to the Group.
6.3.8 As noted at 6.3.2, there can be a value, and therefore a financial benefit to a Group in the provision of secretariat support. If a Group receives secretariat support from an employee of an external organisation, the value of any time that employee spends on supporting Cross-Party Group activities should be calculated and, if over £500 per year, registered. The only exception to this is where the secretariat is provided by an individual in their own time; in these circumstances it is not considered that any financial benefit is received by the Group.

6.3.9 If the external organisation providing secretarial support is a consultancy/public affairs firm or a charity/not-for-profit organisation, that organisation must agree to provide, if requested by the Standards, Procedures and Public Appointments Committee—

- a full client list (if a consultancy/public affairs firm)
- a list of companies which have made a donation of more than £5,000 in the previous 12 months (if a charity/not-for-profit organisation).

**Consideration by the Standards, Procedures and Public Appointments Committee**

6.3.10 Once a proposed Group has submitted its registration form, the Group’s application will be considered by the Standards, Procedures and Public Appointments Committee which will decide whether to accord recognition to the Group. As part of its consideration, the Standards, Procedures and Public Appointments Committee will invite one of the proposed Group’s MSP office bearers (usually the Convener) to attend a meeting to explain the justification for the proposed Group.

6.3.11 The Committee will pay particular attention to a proposed Group’s purpose. If the Committee considers that a Group is being proposed not in the public interest but, for example, to further particular commercial interests, the Group will not be accorded recognition. The Committee will also consider whether the purpose of a proposed Group overlaps the remit of an existing Group. The proposed Group will be asked to provide justification as to why its aim could not effectively be achieved within the existing Group.

**Re-registration following a general Scottish Parliamentary election**

6.3.12 A previously recognised Group may re-register within 90 days of the first meeting of the Parliament following an ordinary or extraordinary general Scottish Parliamentary election. For the purposes of calculating the 90 day period, no account will be taken of any time during which the Parliament is in recess for more than 4 days.

6.3.13 A Group seeking to re-register must follow the process of holding an initial meeting and electing office bearers as set out in Section 6.2 above. Following the initial meeting the Convener must submit a completed registration form to the Standards clerks. If the Group meets the criteria detailed below, the Standards clerks will re-register the Group. If the Group does not meet the criteria, the Standards clerks will draw the application for re-registration to the attention of the Convener of the Standards, Procedures and Public Appointments Committee. The
Convener will decide whether the Group can be re-registered or if the application should be considered by the Committee.

6.3.14 The Standards clerks will apply the following criteria to re-registrations—

- **Name and purpose of Cross-Party Group**: These must be the same as were registered in the previous Session.

- **MSP membership**: There must be at least 5 MSP members and at least one MSP from each of the parties or groups represented on the Parliamentary Bureau.

- **Non-MSP membership**: There are two categories of membership, individual and organisational. For organisational members, if a Group has listed names of individuals who may represent the organisation at meetings, the registration will be updated so that only the name of the organisation is given and the Group informed. The balance of MSP to non-MSP members must be “Parliamentary in nature”.

- **Office Bearers**: There must be at least 2 MSP office bearers and one of these must be the Convener of the Group.

- **Financial Benefits**: Value and source of any financial benefit must be given. In the first instance, the Group will be contacted and asked to provide more information.

- **Contact**: Must be the Convener of the Group.

- **Annual Return**: The application for recognition must be accompanied by the Group’s most recent Annual Return to demonstrate that the Group has previously operated effectively and in compliance with the Code.

### 6.4: Operation of Cross-Party Groups

6.4.1 Any MSP may be a member of any Cross-Party Group. A Cross-Party Group must have at least 5 MSP members. A Group’s membership must include at least one MSP from each of the parties or groups represented on the Parliamentary Bureau. The party representation requirement may be modified or waived by the Standards, Procedures and Public Appointments Committee in circumstances where the Committee considers there is merit in doing so.

6.4.2 Groups may also have members who are not MSPs. Non-MSP membership is split into two categories: individuals and organisations. Where someone joins a Cross-Party Group in connection with a role they have in, or to represent the views of, a specific organisation, it is the organisation that is considered to be the member of the Cross-Party Group. No limits are placed on the number of non-MSP members that a Cross-Party Group may have but the overall membership profile of the Group must be clearly Parliamentary in character. Beyond this requirement, any decisions about membership, including whether to limit the number of non-MSP members, is a matter for the Group itself.
6.4.3 One of the MSP members of the Group must be elected as Convener; the Group must also have at least one other MSP office bearer. Groups are required to elect office bearers at the initial meeting and every 12 months subsequently. As Groups are required to hold an AGM, Groups may wish to elect office bearers at the AGM. Beyond these requirements, any decisions about the structure of office bearer positions are a matter for the Group itself.

6.4.4 All Cross-Party Groups must hold at least two meetings per year, and one of these must be the AGM. Meetings of a Group must be announced in advance via the Parliament website with meeting details notified to the Standards clerks at least 10 calendar days in advance of the meeting.

6.4.5 To be quorate, each meeting of a Cross-Party Group must be attended by at least 2 MSPs who are registered members of the Group. Any MSP who is not a member of the Group is entitled to attend and participate at a meeting but will not be counted towards the quorum for minimum MSP attendance. Attendance and participation by non-MSPs who are not registered members of a Group is at the discretion of the Group.

6.4.6 The right to vote on Group matters is restricted to registered members of the Group, both MSP and non-MSP. However, Groups which charge a subscription may restrict voting rights to members who have paid the subscription charge.

6.4.7 Within 30 calendar days of holding an AGM, the Convener of a Group must submit to the Standards clerks a completed Annual Return, detailing the Group’s activities over the previous 12 month period. The information that Groups are required to provide are as set out in the Annual Return.

6.4.8 Each recognised Group will have a page created on the Parliament website which will allow the wider public to see the details submitted by the Group in its initial registration. The page will be updated in line with any changes to those details that are notified to the Standards clerks.

6.4.9 Groups must provide minutes and may provide agendas of meetings to the Standards clerks. The Standards clerks will publish minutes (including draft minutes) and agendas on each Group’s page on the Parliament website.

6.4.10 No papers other than minutes and agenda will be posted on a Group’s page on the Parliament website. However, if a Group wishes, it can request that a link to an external website is added to its page. The request must be made by the Convener who must confirm that they accept the following conditions—

- the Scottish Parliament is not responsible for the content of external internet sites
- the Convener of the group has viewed the website and is content that the link is appropriate
- complaints about the content of external sites will be directed in the first instance to the Convener of the group
the Scottish Parliament reserves the right to refuse to establish links to an external site

responsibility for checking links on the Scottish Parliament website to ensure that they are working lies with the Convener of the group and that, in the event of discovering a link which no longer works, the Convener will inform the Standards clerks.

6.4.11 Cross-Party Groups must respect the limitations on the use of Parliamentary facilities—

- MSPs, but not other members of Cross-Party Groups, may make reasonable use of the Parliament’s telephone, fax, photocopying, IT facilities and Parliamentary stationery in pursuit of Cross-Party Group business or where expressly permitted by these rules, for example, use of the Cross-Party Group Bulletin. Groups may not otherwise use the Parliament’s telephone, fax, photocopying, IT facilities and Parliamentary stationery other than where these are available for public use.

- Groups may not make use of free postage facilities provided by the Parliament.

- Groups may not make use of the Parliament’s audio or broadcasting equipment and there is no provision for the televising or sound recording of their proceedings (other than as may be provided for in SPCB policy and in any SPCB terms and conditions on events).

- Groups may not draw on the resources of the Parliamentary staff to service meetings, except in fulfilment of the requirements of these rules or where expressly permitted by them, for example, in order to book meeting rooms.

- MSPs who are members of a Cross-Party Group may use the services of the Parliament's Information Centre to brief themselves on matters relating to that Group, but other members of the Group may not.

6.4.12 Groups may wish to form sub-groups to focus on particular elements of the Group’s purpose. A meeting of a sub-group is required to meet the requirements set out above in relation to meetings of a full Group, other than the requirements to hold an AGM and submit an annual return. Any decisions made by a sub-group must be ratified at a subsequent meeting of the full Group.

6.5: Compliance with the Code of Conduct

6.5.1 The Convener of a Group is primarily responsible for ensuring that the Group meets the requirements of the Code of Conduct. However, all other MSP members, and any secretariat, should also ensure that they are aware of the requirements in order to assist with the efficient operation of the Group.

6.5.2 To assist Groups in complying with the requirements of the Code, the Standards clerks may provide guidance and advice, including in relation to the
requirements for providing advance notification of meetings and the deadlines for submitting documentation, providing minutes and updates to membership.

6.5.3 The Standards, Procedures and Public Appointments Committee will regularly consider information from annual returns to determine whether Groups are operating in compliance with the Code.

6.5.4 Complaints that a Group has not complied with the Code will be considered in accordance with the provisions in Section 9 of the Code of Conduct. Failure to comply with the Code could lead to a Group’s recognition being withdrawn or to sanctions being imposed on individual MSPs.

6.5.5 MSP members of a Group should also be aware that benefits received in connection with a Group may also fall within the scope of the registration of interests under the Interests of Members of the Scottish Parliament Act 2006. If a member receives any such benefit, they should contact the Standards clerks for advice on the registration requirements.
SECTION 7: GENERAL CONDUCT AND CONDUCT IN THE CHAMBER OR IN COMMITTEE

7.1: Introduction

7.1.1 Members must comply with the requirements of this Code of Conduct, with the Standing Orders, with any other decision of the Parliament and with any statutory provision. The following provisions cover the general conduct of members.

7.2: General conduct

SPCB policies

7.2.1 The SPCB has statutory responsibility to provide the property, staff and services required for the Parliament’s purposes and is legally responsible for ensuring that, in doing so, it complies with the law. The SPCB accordingly puts in place policies for such reasons as the good governance of the organisation as a whole, compliance with legal requirements, the efficient and effective operation of the Parliament’s premises and facilities and the protection of services and facilities from misuse or the perception of misuse.

7.2.2 Members must abide by the policies that are adopted by the SPCB. These policies are set out in the library of policies created by the SPCB on the Scottish Parliament website.

Treatment of staff

7.2.3 Parliamentary staff (which includes contractors providing services to the Parliament) together with the staff of MSPs are expected to treat members with courtesy and respect. Members must show them the same consideration. Complaints from staff of bullying or harassment, including any allegation of sexual harassment, or any other inappropriate behaviour on the part of members will be taken seriously and investigated.

Treatment of other MSPs

7.2.4 Members must treat other MSPs with courtesy and respect.

Allowances

7.2.5 No improper use should be made of any payment or allowance made to members for public purposes. Members must abide by the Reimbursement of Members’ Expenses Scheme agreed by the Parliament.

Acceptance of hospitality, gifts or other benefits

7.2.6 Over and above compliance with the statutory provisions, members should treat with caution any offer of hospitality, a gift, a favour or benefit. Members are not
prohibited from accepting reasonable hospitality or modest tokens of goodwill, particularly where refusal could cause offence. But a member should not accept any offer that might reasonably be thought to influence the member’s judgement in carrying out Parliamentary duties. The value of any benefit, its connection to a member’s Parliamentary duties, its source, the transparency of its receipt and the frequency of receipt of similar offers may all be factors which could be relevant to this judgement. (Members should also have regard to the standards in relation to acceptance of hospitality and gifts set out in the section of the Code on lobbying and access to MSPs at paragraph 5.1.6, as well as the requirement to register gifts set out at section 2.3 of the Code.)

7.2.7 Members should ensure that staff working for them are aware of, and apply, these standards when acting on a member’s behalf or in any Parliamentary connection.

7.3: Conduct in the Chamber or in Committee

7.3.1 Members must also consider their conduct within the Chamber or during committee meetings or other formal proceedings of the Parliament. Members must conduct themselves in accordance with the following Standing Orders rules during meetings in the Chamber and, as appropriate, in committee.

“Members shall at all times conduct themselves in a courteous and respectful manner and shall respect the authority of the Presiding Officer. In particular, members shall not speak or stand when the Presiding Officer is speaking.” (Rule 7.3.1)

“Members shall at all times conduct themselves in an orderly manner and, in particular, shall not conduct themselves in a manner which would constitute a criminal offence or contempt of court.” (Rule 7.3.2)

7.3.2 In committees and sub-committees, Standing Orders require that members respect the authority of the convener.

7.3.3 Members must abide by the guidance issued by the Presiding Officer on members’ conduct in the Chamber and, as appropriate, in committees. The current guidance issued by the Presiding Officer can be found in volume 3 of the Code.

7.4: Confidentiality requirements

7.4.1 It is the intention of the Parliament that its proceedings and printed material be open to the general public. This should be the basis on which members work, but there may be times when members will be required to treat discussions, documents or other information relating to the Parliament in a confidential manner, as described in paragraph 7.4.2 below.

7.4.2 All drafts of committee reports, and committee reports which, although agreed by a committee and no longer in draft, have not yet been published, should
be kept confidential, unless the committee decides otherwise. In addition the following should be treated as confidential:

- briefing provided to members by Parliamentary staff for particular members’ information only;
- documents produced during a private session of a committee;
- evidence submitted to a committee sitting in private from a witness which it has been agreed can be treated as confidential;
- any other documents or information which the committee has agreed should be treated as confidential; and
- minutes of private discussions.

7.4.3 Given the potential damage that the unauthorised disclosure of confidential committee material can do to the standing and integrity of a committee it is essential that all members respect these rules. This means that, unless the Parliament or the relevant committee has agreed otherwise, such documents should not be circulated, shown, or transmitted in any other way to members of the public (including those in Cross-Party Groups), media or to any member of any organisation outwith the Parliament, including the Scottish Government, nor to other MSPs who are not members of the committee or committees for whom the material was intended.

7.4.4 It is unacceptable for members to provide the media with off the record briefings on the general contents or ‘line’ of draft committee reports or other confidential material or information. Disclosures of this kind can also seriously undermine and devalue the work of committees.

7.4.5 It is also unacceptable, unless the Parliament or the relevant committee has agreed otherwise, to disclose any information to which a member has privileged access, for example, derived from a confidential document or details of discussions or votes taken in private session, either orally or in writing.

7.4.6 In the case of other documents and information members are requested to exercise their judgement as to what should or should not be made available to outside bodies or individuals. In cases of doubt members should seek the advice of the relevant clerk.

7.4.7 Where a committee member wishes to express dissent from a committee report, the member should only make this public once the committee report has been published in order to avoid disclosing the conclusions of a draft report.

7.5: Use of services of staff of the Parliament

7.5.1 Staff of the Parliament are employed by the SPCB to provide an impartial service to the Parliament and its members. Members should not ask Parliamentary staff to act in any way which would conflict with or call into question their political impartiality, or which could give rise to criticisms that people paid from public funds are being used for party political purposes.
7.5.2 Members should respect the confidentiality of advice, whether written or oral, received from clerks or other Parliamentary staff and should avoid attributing advice or views to a named member of staff.

**7.6: Awareness of MSPs’ staff**

7.6.1 Members will be held responsible for the behaviour of their staff within the Parliamentary complex and in their dealings with other members, other members’ staff, and Parliamentary staff.

7.6.2 Members are responsible for ensuring that their staff are fully aware of and understand the policies, rules and requirements that apply to the conduct of personnel on the SPCB’s premises.

**7.7: Failure to comply with or contravention of the Rules on General Conduct**

7.7.1 Failure to comply with or contravention of the Rules on general conduct, or behaviour which falls short of the standards established in this Code could lead to sanctions being imposed on a member by the Parliament. Enforcement of the Rules in the Code is explained in Volume 2, Section 9 and Volume 3, Section 9.
SECTION 8: ENGAGEMENT AND LIAISON WITH CONSTITUENTS

8.1 Dealing with individual constituents’ cases

8.1.1 Every constituent is represented by one constituency MSP and seven regional MSPs. It is expected that each member will take on a case when approached although it is recognised that there may be legitimate reasons for a member to decline a constituent’s case in certain circumstances, for example, where a constituent requests an MSP to take inappropriate action, or if that case seeks action which would represent a conflict of interest with existing casework or is contrary to the member’s political beliefs. If so, the member would ordinarily be expected to inform the constituent that the member is not taking up the case.

8.1.2 A constituent can approach any of the MSPs (whether a constituency MSP or one of the seven regional MSPs as the case may be) elected to represent them as all MSPs have equal formal and legal status.

8.1.3 In the event that a member is made aware that a constituent’s case is already being pursued by a constituency MSP or regional MSP, it is recommended that the member notifies that MSP. Whilst this is not a requirement of the Code of Conduct, adopting such an approach should avoid any duplication of case work or MSPs working at cross purposes thereby damaging a constituent’s case. Notification between members should only take place with the explicit consent of the constituent.

8.1.4 An MSP must not deal with a matter relating to a constituency case or constituency issue outwith the member’s constituency or region (as the case may be) unless by prior agreement.

8.1.5 Regional MSPs have a responsibility to all those in the region for which they were elected. It is important therefore that they recognise this in the way in which they operate within the region and they must therefore work in more than two constituencies within their region. Regional MSPs would be expected to deal (as appropriate, having regard to paragraph 8.1.1) with any matter raised by any constituent within their region.

8.1.6 In representing constituents’ interests, members have a duty to respect individual privacy, unless there are overwhelming and lawful reasons in the wider public interest for disclosure to be made to a relevant authority, for example, where a member is made aware of criminal activity.

8.2 Describing members

8.2.1 MSPs should not misrepresent the basis on which they were elected or the area they serve. Regional members and constituency members must describe themselves accurately so as not to confuse those with whom they deal.

Constituency members should always describe themselves as:
“[Name], Member of the Scottish Parliament for [x] constituency.”

Regional members should always describe themselves as:

“[Name], Member of the Scottish Parliament for [y] region.”

8.2.2 Regional members must not describe themselves as a “local” member for (or having a particular interest in) only part of the region for which they were elected. Constituency members should not describe themselves as the sole MSP for a particular area or constituency.

8.2.3 Further guidance may be issued by the Presiding Officer as appropriate in the context of a period prior to an election.

8.3 MSPs’ staff

8.3.1 Members must ensure that their staff in the Parliament and locally, and others working on their behalf with constituents and agencies, are aware of, and conform to, these rules.

8.4 Making a complaint

8.4.1 Any complaint against a member (including one about their staff or others working for them) in respect of this section should in the first instance be made to the Presiding Officer. Any complaint made under Section 8 of the Code of Conduct should meet the requirements set out in paragraph 9.1 of Volume 3 of the Code of Conduct for Members of the Scottish Parliament. A complaint which does not meet the requirements set out in paragraph 9.1 may be dismissed by the Presiding Officer as a ‘Procedurally Defective Complaint’.

8.4.2 In considering a complaint the Presiding Officer may contact the member(s) concerned to seek a response to the conduct complained about.

8.4.3 The Presiding Officer will, if necessary, contact the respective Party Business Manager in relation to a complaint.

8.4.4 Where the complaint cannot be resolved in this way, where the matter is of sufficient seriousness to warrant a more formal investigation, or where any MSP directly involved remains dissatisfied, the Presiding Officer will raise the matter with the Convener of the Standards, Procedures and Public Appointments Committee.

8.4.5 The Standards, Procedures and Public Appointments Committee would then consider the matter as it judges appropriate, in accordance with its procedures and its remit to consider and report on the conduct of members in carrying out their Parliamentary duties.

8.4.6 It is fundamental to the success of this section that the Standards, Procedures and Public Appointments Committee will, as a matter of course, treat all
breaches of these rules with the utmost seriousness. Members should not raise complaints under Section 8 of the Code of Conduct in any way other than that described above (in particular via the media) to avoid any suggestion of prejudging the issue.
SECTION 9: ENFORCEMENT OF THE RULES

Complaints

9.1.1 Complaints, in relation to the conduct of members of the Scottish Parliament under the Code of Conduct for MSPs, are initially investigated by the Commissioner for Ethical Standards in Public Life in Scotland ("the Ethical Standards Commissioner"). Exceptions to this procedure are set out below as ‘Excluded Complaints’.

Disclosure

9.1.2 Members must not disclose, communicate or discuss any complaint or intention to make a complaint to or with members of the press or other media prior to the lodging of the complaint or during Stages 1 and 2 of the procedure for dealing with complaints (this procedure is set out in Volume 3, Guidance; Section 9).

9.1.3 In relation to Excluded Complaints (which are not always subject to the four stage process set out in the guidance notes), this restriction applies until the Standards, Procedures and Public Appointments Committee has confirmed that the Ethical Standards Commissioner will not be carrying out an investigation or, where such an investigation has been carried out, that the Ethical Standards Commissioner will not be carrying out any further investigation.

9.1.4 Where, during the period when the restriction in paragraph 9.1.2 applies, any complaint or intention to make a complaint has been publicised in the press or other media without the involvement of the member who is the subject of the complaint or intended complaint, that member may issue a brief statement. In doing so, the member must, so far as possible, avoid discussing details of the complaint or intended complaint.

Excluded Complaints

9.1.5 Section 3(2) of the Scottish Parliamentary Standards Commissioner Act 2002 excludes certain complaints from the remit of the Ethical Standards Commissioner.

9.1.6 The complaints mentioned in the following paragraphs are “Excluded Complaints” and should not be made to the Ethical Standards Commissioner:

(a) Complaints about a member’s conduct at a meeting of the Parliament, including a member’s treatment of another member: these are to be referred to the Presiding Officer. Complaints about a member’s conduct at a meeting of a committee, including a member’s treatment of another member: these are to be referred to that committee’s convener, unless the complaint is about the conduct of the convener (including the convener’s treatment of another committee member), in which case the complaint is to be referred to the Presiding Officer. The Presiding Officer, or as the case may be, the committee’s convener will consider the complaint and may refer the complaint to the Standards, Procedures and Public Appointments Committee.
(b) Complaints made under Section 8: Engagement and liaison with constituents: these are to be referred to the Presiding Officer. The Presiding Officer will consider the complaint.

(c) Complaints about a member’s use of the Reimbursement of Members’ Expenses Scheme: these are referred to the SPCB. Where, following an investigation (whether as a result of a complaint or claim submitted), the SPCB finds that a member has submitted an improper claim, the SPCB may report the matter to the Standards, Procedures and Public Appointments Committee and may recommend the removal of all or part of the member’s entitlement to reimbursement of expenses under the Scheme for such period and to such extent as the SPCB may specify.

(d) Complaints about a member’s treatment of the Parliament’s staff: these are to be made to the Parliament’s Human Resources Office which will investigate the complaint. Complaints about a member’s treatment of the staff of another member: these are to be made to the member’s Business Manager who will investigate. In some cases a joint investigation by the Human Resources Office and Business Managers may be appropriate. In all cases, opportunities for conciliation will be pursued in the first instance. If a complaint cannot be resolved, it will be reported to the SPCB who may refer the complaint to the Standards, Procedures and Public Appointments Committee.

(e) Complaints about Cross-Party Groups: these are to be made to the Standards, Procedures and Public Appointments Committee unless the complaint relates to the use of Parliamentary facilities and services in which case it is be made to the SPCB. The SPCB may refer any complaint relating to the use of Parliamentary facilities and services by a Cross-Party Group to the Standards, Procedures and Public Appointments Committee together with a recommendation for action.

(f) Complaints about use of SPCB facilities and services and breaches of SPCB policies (which do not relate to conduct at a meeting of the Parliament or at a meeting of a committee): these are to be made to the SPCB. The SPCB may refer any complaint relating to the use of Parliamentary facilities and services and breaches of SPCB policies to the Standards, Procedures and Public Appointments Committee together with a recommendation for action.
VOLUME 3

Guidance to Sections of the Code

SECTION 1: REGISTRATION OF INTERESTS

Guidance

Statement of intent

The following statement sets out the approach that the Standards, Procedures and Public Appointments Committee agreed to take in complaint cases where a member has sought and acted on the Standards clerks’ advice when registering an interest. When it was developed it was envisaged that successor committees would take the terms of this statement into account when considering complaints.

“If a member is uncertain about whether or not to register an interest the Standards clerks’ advice should be sought (in writing, where possible).

Where the SPPA Committee agrees with the conclusion of a Stage 2 complaint report from the Ethical Standards Commissioner that a breach of the Interests of Members of the Scottish Parliament Act 2006 has occurred (in relation to Section 3(1)\(^1\) or section 5(2)\(^2\) of that Act), the SPPA Committee will take into account whether the member followed any advice provided to the member by the Standards clerks (on whether that interest required registration) when considering whether or not to recommend sanctions.\(^3\)

The Committee will also take into account whether the circumstances as disclosed by the member to the Standards clerks (and upon which the Standards clerks have given advice) are the same as those disclosed to the Ethical Standards Commissioner during investigation of the complaint.

Where the member has sought advice from the Standards clerks within 30 days of acquiring an interest and has acted in accordance with that advice (having fully disclosed the circumstances of the interest) the SPPA Committee would not generally expect to recommend sanctions on any breach found by the Ethical Standards Commissioner.

\(^1\) Section 3(1) states that at initial registration: Each member shall register—
(a) any registrable interest which that member had on the date on which that member was returned; and
(b) any registrable interest which that member had before that date but which that member no longer had on that date, if that interest meets the prejudice test, or declare that the member had no such interest.

\(^2\) Section 5(2) states that: Within 30 days after the date on which the member acquired that interest, that member shall register that interest by lodging a written statement with the Clerk.

\(^3\) Section 9.43 of the Guidance to sections of the Code (Volume 3 of the Code of Conduct for Members of the Scottish Parliament)
Members should be aware that this statement of intent does not prevent the Ethical Standards Commissioner or the Procurator Fiscal from finding that a member has breached the Act.

Standards, Procedures and Public Appointments Committee, 8 September 2009 (Session 3).”

Submission of written statements and written notices

Members may notify the Standards Clerks of additions and amendments to, or deletions from their register of interests in signed hard copy or electronically by email. Given that the 2006 Act provides that members are personally responsible for registering interests and that failure to do so is a criminal offence, emails must be sent direct from members’ personal Scottish Parliament email address and not by support staff through “on behalf of” email.

Written statement templates and associated guidance for registration of new interests are provided in hard copy in Volume 4 and are available electronically on the Parliament’s intranet SPEIR pages.
SECTION 2: CATEGORIES OF REGISTRABLE INTERESTS

Guidance

Flowcharts to aid the identification of registrable interests

Members may find it helpful to keep to hand the flow charts below. These are designed to remind members what they should bear in mind in deciding whether they have a ‘registrable interest’ in relation to the remuneration and related undertaking, gifts and overseas visits categories. These are not intended to be a comprehensive guide to the requirements of the Schedule to the Act in relation to these categories and should not be treated as replacing the Act, the guidance provided in Volume 2 Section 2 of the Code, or advice on a case by case basis from the Standards clerks.
REMUNERATION AND RELATED UNDERTAKING

I have received remuneration for undertaking work as set out in 2(1) of the schedule

Is this remuneration solely as an MSP, Scottish Minister, Presiding Officer, member of the SPCB or Convener or member of a Committee?

Yes

You do not need to register this remuneration

No

Does this remuneration consist only of expenses?

Yes

Does it exceed 1% of a member’s salary at the start of the session (currently £570)?

Yes

Complete a written statement and send to standards.clerks@scottish.parliament.uk

No

You do not need to register this interest. You can consider whether to register this in the Voluntary category. However you may have to register these if you receive more expenses from the same source at a later date.

No

Complete a written statement and send to standards.clerks@scottish.parliament.uk

Members should note that remuneration received before their date of return which meets the prejudice test should also be registered.
GIFTS

I (or a company in which I have a controlling interest or a partnership of which I am a partner) have received a gift (heritable or moveable property or a benefit in kind)

Does it exceed the threshold for registration (currently £570)

Yes

Was it costs of travel and subsistence in connection with my attendance at a conference or meeting where these costs were met by the conference organiser or one of the parties attending the meeting?

No

Yes

Was it a donation to election expenses?

No

Yes

This gift may be exempt from registration; contact the Standards clerks for advice

No

Yes

Does it meet the prejudice test?

No

Yes

You do not need to register this gift. However, you should keep a record of the gift in case future circumstances change. You can consider registering in the voluntary category.

You do not need to register this gift.

Consider registering in the Voluntary category

Yes

No

Would disclosure be in the public interest?

Yes

No

Complete a written statement and send to standards.clerks@scottish.parliament.uk

Members should note that interests received before their date of return which exceed the threshold and meet the prejudice test should also be registered.
OVERSEAS VISITS

I have travelled overseas

Were any of the costs of the visit met by someone other than me or other than any of the bodies listed in 7(2) of the schedule (see para 2.4.2 of Volume 2)?

Yes

Were the costs of the visit approved in advance by the SPCB?

Yes

You do not need to register this visit. You may register in the Voluntary category if you wish.

No

Does it meet the prejudice test?

Yes

Consider registering in the Voluntary category

No

You do not need to register this visit.

No

Would disclosure be in the public interest?

Yes

You do not need to register this visit.

No

You do not need to register this visit. However, you should keep a record of the visit in case future circumstances change.

Members should note that visits undertaken before their date of return for which any costs were met by someone other than the member, and which meets the prejudice test, should also be registered.
SECTION 3: DECLARATIONS OF INTERESTS

Guidance

When should I declare an interest?

3.1 It is the responsibility of the member to judge whether a ‘declarable interest’ is sufficiently relevant to particular proceedings to require a declaration. Members are advised to err on the side of caution. For example, a member who had received and registered a benefit or remuneration from a particular company would have to make a declaration before participating in any proceedings in relation to that company, but the member should also consider whether or not to declare it before participating in any proceedings relating generally to the industry to which that company belongs.

“Miscellaneous” entries

3.2 A member does not require to make a declaration in respect of interests voluntarily registered under the “Voluntary” category of the Register, but may make reference to such interests if the member so wishes.

How a declaration should be made

Oral declaration

3.3 Where a member has a declarable interest in any matter, the member is required to make an oral statement declaring the nature of the registrable financial interest before taking part in Parliamentary proceedings relating to that matter. A declaration should be brief but sufficiently informative to enable a listener to understand the nature of the member’s interest. It is not necessary to rehearse all the details of an interest which may appear in the member’s entry in the Register of Interests if this is more than is required to explain the nature of the interest. A member may wish to preface the declaration with the words “I declare an interest”, explain briefly the interest, and then move on to the business in hand.

Procedure in meetings of the Parliament

3.4 In a debate in a meeting of the Parliament the following procedures apply:

A member should declare an interest at the beginning of that member’s first contribution in relevant proceedings. (Where a member’s first contribution is an intervention in another member’s speech, the declaration should be made at that point.)

A member who has an interest to declare which is relevant to proceedings which may take place over more than one day should declare it at each meeting of the Parliament in which the member participates in relevant proceedings. This is to try to ensure that as far as reasonably possible members of the public observing proceedings on any particular day are aware of members’ relevant interests.
Procedure in committees and sub-committees

3.5 It has been established as good practice that members of a committee (including committee substitutes) should declare interests relevant to the remit of that committee at the first meeting of the committee they attend or on the first occasion on which they address the committee, irrespective of the business before the committee at that meeting. The same applies to any MSPs who, although not members of the committee (or committee substitutes) expect to attend its meetings regularly.

3.6 Thereafter, a member must make a declaration at committee meetings wherever the requirements of section 13 of the Act apply.

3.7 The following procedures must be followed in declaring interests at committee meetings:

Where a member has an interest relevant to the proceedings, the member must make an oral declaration of interest at each meeting of a committee in which that member participates. This is to allow the public attending any committee meeting to be aware of the member’s interest. Where the member does nothing more than attend the committee meeting or vote at it, or both, no oral declaration is required, providing the interest appears in the member’s entry in the Register. Parliament has determined that the member’s entry in the Register is sufficient declaration of that interest.

The declaration should be made at the start of the relevant agenda item or as soon as the member is able to make the declaration, but before otherwise participating in those proceedings.

A declaration must be made whether a committee meets in private or public. Where a relevant matter is discussed in both private and public at any single committee meeting, the declaration should, as good practice, be made during the public session even if it has already been made in private session.

Where a committee is taking evidence from witnesses a member should, as good practice, ensure that declaration of an interest is made in the presence of those witnesses even if the declaration has been made earlier at that meeting of the committee. The declaration must be made at each meeting whether or not the member believes the witnesses are already aware of the member’s relevant interest.

Although such relationships are not registrable members should, as good practice, also inform the committee of any business or personal relationships they might have with any advisers or witnesses to the committee. This should be done in advance of the witness addressing the committee. In the case of an adviser, and where the identity of any potential adviser is known to committee members, a member should advise the clerk to the committee of the relationship prior to the appointment of the adviser so that this can be brought to the attention of the committee. If the committee subsequently decides that the adviser be appointed, there is no need for the member to re-inform the committee about this relationship.
3.8 A member’s work in the Parliament may not have any relevance to the interests that member may have registered and consequently the member may never need to declare an interest during proceedings.

**Written declaration of an interest**

3.9 A written declaration of relevant interest is required when:

(a) lodging questions for oral or written answer;

(b) lodging motions or amendments to motions;

(c) introducing a Bill, or lodging a proposal for a Member’s Bill;

(d) lodging amendments to Bills; or

(e) adding the member’s name in support of any proceedings referred to in (a) to (d) above.

3.10 In the case of written declarations of interests, the clerks accepting the notice assume that no interest is declarable unless the notice clearly indicates an interest: this should be done by completing the appropriate box which appears on the forms for lodging the notice. Whenever such an interest is declared, the symbol R is printed in the Business Bulletin after the relevant text in the case of parliamentary questions, motions, Bills and amendments and after the member’s name in the case of a member supporting a motion or amendment.

3.11 If the interest to which the member is drawing the attention of the Parliament is already entered in the Register and provided it is readily apparent which of the member’s registered interests are applicable, the member need simply make reference to the entry in the Register. If this is not the case, or if the interest is a new interest which is not yet available for inspection in the Register, then the member, when giving notice, should attach to it a brief written description of the interest which is being declared. This will then be available for inspection by members in the office where the notice was lodged.

3.12 A written declaration does not replace the need for an oral declaration whenever the provisions of sections 12 and 13 of the Act apply. For example, in the case of oral questions which are selected for answer, a member with a relevant interest should declare that interest orally when the question is formally asked in the Parliament even though the member will already have made a written declaration when lodging the question. The member should, of course, make the declaration, before asking the question, following the format for oral declaration described above.

**Voting**

3.13 If a member does nothing other than attend a meeting of the Parliament or its committees, joint committees and sub-committees and vote but not contribute to the meeting in any other way, it has been determined by Parliament that a member does
not require to make an oral declaration, providing the relevant interest is already registered.

3.14 A written declaration is made by virtue of a member having an entry in the Register relating to that interest or by virtue of lodging a written notice of that interest with the Standards clerks prior to voting. The date that the member lodges the written notice with the clerks will be the date from which that interest should be declared even though this may be prior to the interest being published in the Register.

**Responsibility of the member**

3.15 Members are reminded that responsibility for ensuring compliance with the rules on declaration of interests lies with the individual member. If a member is uncertain about how the rules apply, the member may ask the Standards clerks for advice. A member may also choose to consult their own private legal advisers and, on detailed financial and commercial matters, a member may wish to seek advice from other relevant professionals. Members should also bear in mind in relation to any proceedings in the Parliament the paid advocacy provisions which are explained in this guidance.
SECTION 4: PAID ADVOCACY

Guidance

4.1 Members may find the following guidance helpful in understanding how the paid advocacy provision is to be applied in practice.

Purpose of the paid advocacy provision

4.2 The purpose of the provision is to prevent a member advocating or initiating any cause or matter, or urging any other member to advocate or initiate any cause or matter on behalf of any person, in consideration of any payment or benefit in kind to the member, their spouse, civil partner or cohabitant. Other than as detailed in paragraphs 4.5 and 4.6 below, it includes all forms of payment or benefit, including hospitality. It is the member’s reason for undertaking any action in the capacity of a member following receipt of any payment or benefit in kind which is fundamental in applying this rule.

4.3 For a definition of what is covered by “Any payment or benefit in kind” members should refer to Volume 2, Section 4 of the Code. Paid advocacy includes a payment or benefit in kind not just to the member but also to the member’s spouse, civil partner or cohabitee. Receipt of payments or benefits from an individual or organisation which a member registers as registrable financial interests do not prevent a member from taking part in proceedings relating to the affairs or interests of that individual or organisation. Members must, however, make appropriate declarations of these interests in terms of Section 3 of the Code. However, the effect of the paid advocacy rule is that, in relation to any Parliamentary proceedings, a member must never advocate or initiate any cause or matter on behalf of any person or organisation where payments or benefits have been made specifically for that purpose or which would not have been provided had the member not undertaken that course of action.

4.4 In seeking to apply this rule to their Parliamentary activities, members should not only consider their own intentions but the linkage that might reasonably be made by others between receipt of a payment or a benefit in kind and subsequent advocacy. It is a question of circumstances in each case, but the larger the benefit and the more significant the advocacy, the easier it could be to draw the conclusion that the reason a member had undertaken particular action was because of the payment or benefit.

4.5 The paid advocacy rule does not prevent a member from doing paid work or receiving other financial benefits which are registered as registrable financial interests. However, a member who engages in advocating any matter which confers benefit on an organisation for which the member is doing, or has done, paid work, even after making an appropriate declaration of interest, might well be thought to be doing so in consideration of that payment whether or not this is actually the case. It is less likely that this inference would be drawn if the member was participating in proceedings directly or indirectly related to the organisation but which has a neutral
or negative effect on the organisation or the sector within which that organisation operates.

4.6 Similarly, the paid advocacy rule does not prevent a member receiving expenses in connection, say, with a conference or fact-finding visit and then raising in proceedings of the Parliament matters which the member may have learned as a result of that event. As long as the member registers the receipt of the expenses, makes an appropriate declaration to that effect and does not advocate a particular course of action at the behest of the organisation or individual providing the expenses, there would be no paid advocacy.

4.7 The paid advocacy rule as articulated in section 14 of the Act provides a list of exceptions for situations which could be interpreted as conferring benefit on a member for political purpose but which are not to be considered as paid advocacy. Members may seek and accept assistance in connection with any matter relating to a Bill (before it is submitted for Royal Assent), a debate on subordinate legislation or on a legislative consent motion. However, members should ensure that any assistance relates purely to those matters and there is no other ancillary benefit to the member. Members should be wary of entering any arrangement from which it could be construed that the reason they had taken forward a Bill was because they had received a payment or a benefit in kind, other than permitted assistance.

4.8 A member may not act in consideration of a payment or benefit in kind received at any time from the date on which the member was returned. It is the link between the payment or benefit and the action which is important and it does not matter if the length of time between the payment and the action is long or short, if the action was taken in consideration of a payment or benefit.

‘Advocate or initiate any cause or matter’

4.9 A member shall not by “any means”, in consideration of any payment or benefit in kind, advocate or initiate any cause or matter on behalf of any person. This extends to urging any other member to advocate or initiate any cause or matter on behalf of any person. The Act provides that “any means” is to be construed as “the doing of anything by a member in the capacity of a member, whether or not in any proceedings of the Parliament”.

4.10 A member does not “advocate or initiate any cause or matter” simply by sitting and listening to a debate. However, a member may contravene the paid advocacy rule in any of the following situations if the action described is done for payment and, in taking the action, the member advocates or initiates a cause or matter on behalf of another person:

- initiating, contributing to or intervening in any debate;
- voting;
- lodging notice of a proposal for a Bill or introducing a Bill;
- lodging or asking a parliamentary question;
- lodging notice of or moving a motion;
- lodging notice of or moving an amendment to a Bill;
• proposing a draft report, or moving an amendment to a draft report in a committee;
• supporting a motion or a Bill or proposal for a Bill or a motion;
• lodge or supporting an amendment to a Bill or a motion.

4.11 This list cannot be comprehensive. Members are advised to seek advice from the Standards clerks before undertaking any activity in the capacity of a member if they have any concern that the rule may apply.

Urging another MSP to act

4.12 A member who receives a payment or benefit in kind is also prohibited from urging, in consideration of that payment or benefit, any other member to advocate or initiate any cause or matter on behalf of any person. For example, a member may not ask another member to lodge a motion or parliamentary question which advocates a cause etc. (or to do any of the other things listed above at paragraph 4.10 with that intention) in return for any payment or benefit in kind which the member has received from that person.

Responsibility of the member

4.13 Responsibility for complying with the provisions on paid advocacy lies with the individual member. Each member will need to apply the paid advocacy provisions to that member’s particular circumstances. If a member is uncertain about how the rules apply, the member may ask the Standards clerks for advice. Members may also choose to consult their own legal advisers and, on detailed financial and commercial matters, may wish to seek advice from other relevant professionals.

Failure to comply with or contravention of the Rule on paid advocacy

4.14 Failure to comply with or contravention of the provisions on paid advocacy is a criminal offence in terms of section 17 of the Act. The provisions are explained in Section 4 of the Code. A member found guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale. A breach of the provisions may also lead to exclusion from proceedings of the Parliament for such period as Parliament considers appropriate (section 16 of the Act).
SECTION 5: LOBBYING

Introduction

5.1 In order for the Parliament to fulfil its commitment to being open, accessible, and responsive to the needs of the public it needs to encourage participation by organisations and individuals in the decision-making process. Clearly, however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the Parliament conducts its business.

5.2 It is an essential element of the democratic system that any individual should be able to lobby the Parliament or an MSP. Members will therefore come into contact with a wide range of lobbying activities.

5.3 In order to perform their duties effectively, members will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals. Some of these organisations and individuals will make their views known directly to individual members or committees of the Parliament. Others will choose to employ intermediaries (sometimes known as “commercial lobbyists”) to present their views in what they may consider to be the most effective way.

5.4 Members should note that some organisations and individuals employ commercial lobbyists (which may include public affairs companies, law firms, management consultancies, investment banks, merchant banks, and other providers of professional services) to devise strategies for lobbying the Parliament. The role of commercial lobbyists is not, therefore, limited to the direct representation of a client’s interests to members but may also include or consist of providing strategic advice. Under such arrangements the client undertakes the direct representation element of lobbying on the advice of the commercial lobbyist.

5.5 Lobbying is also undertaken by paid staff and by members of business and trade associations, individual companies, trade unions, charities, churches, voluntary organisations and other individuals and groups, many of whom have no professional staff and comparatively few resources.

5.6 There is, however, some uneasiness about the way in which lobbying may be practised. At the heart of public concern is the nature of the relationship between elected members and those who seek to influence them. It is important, therefore, to ensure that those relationships are handled with complete propriety so as to maintain the confidence of the public in the decision-making and integrity of its representatives in the Parliament. It is essential that there is transparency in the relationships between members and lobbyists, in line with the Parliament’s core principles of accessibility and openness. This is particularly important where commercial lobbyists are employed to advise organisations or companies in the presentation of their arguments.
5.7 The Code sets out how members should conduct themselves in their contacts with those who lobby or seek to lobby them. It is designed to encourage proper interaction between members, those they represent and interest groups. As well as setting standards for MSPs’ conduct in relation to lobbyists, they are designed to demonstrate that access to the Parliament and its members is open to all.

Statutory rules in relation to contacts with lobbyists

5.8 Section 39 of the Scotland Act 1998 requires that provision is made for the registration and declaration of members’ interests and to prohibit members from advocating any matter on behalf of a person by specified means or urging other members to do so in return for any remuneration. Accordingly, section 14 of the Act prohibits paid advocacy (Please see the relevant sections of the Code on Registration and Declaration of Interests and on Paid Advocacy for details.) Failure to observe the requirements of the Act may constitute a breach of the Act or a criminal offence. Thus the Act already provides a mechanism for the Parliament to regulate the way members relate to others, including lobbyists of any kind.

5.9 Members need to bear in mind these statutory obligations in their contacts with anyone who seeks to lobby them, and particularly when considering whether to accept any remuneration, gift, benefit or hospitality from another person.

5.10 In addition, members should ensure that they act in accordance with the rules and standards set out in the Code.

5.11 If a member has concerns about the approach or methods used by any person or organisation in their contacts with the member, guidance should be sought from the Standards clerks.
SECTION 6: GUIDANCE ON CROSS-PARTY GROUPS

6.1 Introduction

6.1.1 The purpose of this guidance is to provide additional information on some issues regarding the operation of Cross-Party Groups within the provisions of Section 6 of the Code of Conduct (Volume 2).

6.1.2 If you have any queries about Cross-Party Groups on which you would like further clarification or advice, you should contact the Standards clerks—

- By email: crosspartygroup@scottish.parliament.uk
- By post: TG.01, The Scottish Parliament, Edinburgh, EH99 1SP
- By telephone: 0131 348 6924.

6.2 Waiver or modification of the MSP membership requirements

6.2.1 Section 6.4.1 of the Code explains that all Cross-Party Groups are required to have at least 5 MSP members, with at least one MSP member from each of the parties or groups represented on the Parliamentary Bureau.

6.2.2 However, the Code also recognises that there are circumstances in which the membership requirements may need to be waived or modified to enable the establishment of Cross-Party Groups which otherwise fulfil the requirements of the Code.

6.2.3 There are two ways in which a waiver or modification will usually be made—

- Where the SPPA Committee considers that a general waiver or modification should be applied for all Cross-Party Groups
- Where a specific Cross-Party Group applies to the SPPA Committee for a waiver or modification to reflect the particular circumstances of that Group.

6.2.4 Where a general waiver or modification is applied, notice of this will be provided to all Cross-Party Group Conveners and Secretaries and to the MSP contact of any proposed Cross-Party Group. The notification will set out the detail of the MSP membership requirements as a result of the waiver or modification, the reasons for the Committee’s decision and the duration for which the waiver or modification will be in effect.

6.2.5 In the situation of a specific Cross-Party Group applying for a waiver or modification, the Convener of the Cross-Party Group should apply in writing to the SPPA Committee, setting out—

- the nature of the waiver or modification that is requested
- the steps that have been taken to meet the membership requirements
- any reasons, if known, why it has not been possible for the Group to secure the required MSP membership.

6.2.6 The Convener of the proposed Cross-Party Group will normally be invited to attend the meeting at which the SPPA Committee considers the Group’s application.
The SPPA Committee will consider the information provided by the Cross-Party Group or proposed Cross-Party Group and decide whether to grant the waiver or modification. The Cross-Party Group or proposed Cross-Party Group will be notified in writing of the Committee’s decision.

6.2.7 Where the Committee decides not to grant the waiver or modification, the Cross-Party Group must notify the Committee decision if it is not able to meet the MSP membership requirements. If a Cross-Party Group does not manage to secure the required MSP membership, the SPPA Committee may withdraw recognition from that Cross-Party Group.

6.3 Election of office bearers

6.3.1 It is anticipated that the election of Cross-Party Group office bearers will usually take place at the initial meeting of a Cross-Party Group and thereafter at the AGM. However, it may be necessary for a Group to hold the election of office bearers at different times and/or outwith meetings.

6.3.2 It is therefore possible for Cross-Party Groups to hold electronic elections in which all Group members can vote by e-mail.

6.3.3 As with Cross-Party Group meetings, an electronic election must be advertised at least 10 calendar days in advance on a Group’s page on the Parliament website.

6.3.4 The advertisement should use the following form of words—

   The Cross-Party Group on [TITLE] is holding elections for office bearers on [DATE]. The elections will be carried out by email and the Group will send an e-mail to its members setting out the positions for which elections are to be held, the names of prospective office bearers and the date by which members must vote for their preferred candidates. For further information, please contact the Convener of the Group, [NAME] MSP on 0131 348 xxxx or at <email>@scottish.parliament.uk.

6.3.5 It is recommended that the Group keeps copies of the votes received in order that they can be verified should a question arise about the outcome of the election. The Convener of the Group should advise members about the outcome of the elections as soon as possible after the date of the election. The Standards clerks must also be notified of any changes to office bearers arising from the elections no later than 30 calendar days after the election. The Standards clerks will then make any necessary amendments to the information on the Cross-Party Group webpage.

Meetings at which fewer than 2 MSP members are present

Section 6.4.5 of the Code requires that at least 2 MSP members of a Group must be present in order for a meeting to be quorate. It is, however, recognised that there are circumstances in which it may not be possible to meet this requirement.
Non-quorate, informal meetings of a Group can be held in the event of the quorum not being met. This ensures that all Cross-Party Group members who are able to attend can participate in the planned discussions and exchange of information however—

- any votes or decisions to be taken by the Group should be postponed until, or ratified at, a future quorate meeting of the Group.
- inquorate meetings will not be counted towards the minimum requirement to hold at least two meetings a year, as set out in section 6.4.4 of the Code
- the minutes of inquorate meetings will not be posted on the Group’s webpage on the Parliament website.

Where a period of a Cross-Party Group meeting is inquorate, for example if a meeting starts with 2 or more registered MSP members present but then a number leave the meeting making it inquorate, votes taken during the inquorate part of the meeting must be ratified at a future meeting.

Use of the Cross-Party Group pages on the Parliament website and updates to information

The Scottish Parliament website has a dedicated section for Cross-Party Groups. Within this section each Cross-Party Group has its own page on which the details provided on the Registration Form are reproduced.

The Code requires that advance notification is provided of Cross-Party Group meetings or activities such as elections and it is in the dedicated Cross-Party Group section that this information is found.

Beyond complying with the requirements of the Code, Cross-Party Groups may wish to note the options that the Cross-Party Group section may offer in terms of assisting with advance planning of Cross-Party Group activity, particularly in relation to minimising clashes for MSPs who are members of a number of Cross-Party Groups.

For example, Cross-Party Group Conveners and Secretaries could refer to this section when planning future meeting dates to determine which dates and times would prevent any clashes occurring between different Cross-Party Groups of which the same MSPs are members.

The main Cross-Party Group page (which is located on the Parliament website at http://www.scottish.parliament.uk/msps/1696.aspx) will show the details of the next meeting of each Cross-Party Group. In addition, the individual Cross-Party Group pages can also show the dates of both the next meeting and future meetings of the Cross-Party Group.

However, the usefulness of the Cross-Party Group pages to both Cross-Party Group members and other interested parties is largely determined by the information that is provided to the Standards clerks for inclusion on each page. It is strongly recommended that Cross-Party Groups make use of the Parliament’s webpage to ensure that information is available and accessible to all those who may have an interest in the Cross-Party Group system.
Use of the reimbursement of members’ expenses scheme

There are only limited circumstances in which members may make use of the expenses scheme in pursuit of Cross-Party Group business. At its meeting on 18 June 2012, the SPCB agreed that the specific circumstances in which use of the scheme is permitted are—

- Staff costs, where an MSP member of staff is acting in a supporting role to the MSP but not where the member of staff is a member of the Cross-Party Group or an office holder of the Cross-Party Group, and
- Travel costs, where the travel is limited to MSPs only and is in connection with their parliamentary duties. This would also apply to any overnight costs.

For advice on making use of the Reimbursement of Members’ Expenses Scheme in connection with these circumstances, Members should seek advice from the Allowances Office at the earliest opportunity.

Cross-Party Groups and guidance on filming/photography

All filming/photography at CPGs must comply with the following conditions.

- The filming/photography can only be used to raise awareness of the purpose of the Cross-Party Group (CPG). The filming/photography should not be used to suggest parliamentary support for a particular campaign or initiative.

- The filming/photography must not
  o be used in connection with party political purposes
  o distort or alter images in reproduction
  o be used for satirical purposes
  o be used for competitions
  o be used in connection with advertising endorsement or other commercial uses

- The filming/photography should be carried out respecting the privacy of other Members, other meeting attendees and building users. Members, meeting attendees and building users should not be the focus of a shot or recording unless prior permission has been obtained from the individuals concerned.

- Meeting attendees should be notified in advance when filming/photography is taking place and for what purpose the images will be used. Individuals should be given the option of opting out of shots.

- When children under the age of 16 are being filmed/photographed the permission of the parent/guardian should be obtained in writing by the meeting organiser in advance of the filming/photography taking place.

- All set up for, and carrying out of filming and/or photography must not cause disruption to parliamentary activities.
• All meeting organisers must abide by the SPCB copyright and corporate identity policies.

Cross-Party Groups and meeting room booking policy

General Policy

Scottish Parliament meeting rooms may be used for CPG meetings.

Meeting rooms must be used for parliamentary purposes, not party political purposes.

All bookings are made on the understanding that parliamentary business takes precedence, and that any booking may be withdrawn at short notice if the room or space is required for this purpose. If possible, alternative accommodation will be found for the external activity but this cannot be guaranteed.

Eligibility

Only Members, their staff and SPCB staff may book meeting rooms.

The person in whose name the booking is made must attend personally or be represented by at least one Parliament pass holder with signing-in rights. Invitations to attend a meeting in any of the Parliament's meeting rooms should only be issued in the name of the person making the booking. In the case of CPG meetings, Members or a nominated member of their staff authorised by them will be responsible for issuing invitations to other Members to attend the CPG meeting. External invitations can be issued by external organisations but must clearly state in the opening paragraph that the CPG meeting is being hosted by named Members. Once the meeting is finished the responsible pass holder(s) must ensure that all guests/non-pass holders are escorted off the premises. The person who made the booking or the pass holders who are present must take full responsibility for the behaviour of all persons in the room and for the care and safe keeping of all articles in the room.

Cancellations

If a Parliamentary meeting room is no longer required, the FM helpdesk should be advised at the earliest opportunity.

Repeated instances of a room being booked and not subsequently used (a "no-show"), may result in the removal of meeting facilities to the meeting organiser.
NAME OF CROSS-PARTY GROUP

Cross-Party Group on <SUBJECT>

PURPOSE OF THE GROUP AND PROPOSED DISCUSSION TOPICS

1. Please state the purpose of the Group.
2. Please also provide a brief explanation of the purpose of the Group and why the purpose is in the public interest.
3. Please also provide details of any overlaps with the purpose of existing Cross-Party Groups and an explanation of why, regardless of any such overlap, the Group should be established.
4. Please also provide an indication of the topics which the Group anticipates discussing in the forthcoming 12 months.

MSP MEMBERS OF THE GROUP

Please provide names of all MSP members of the Group. Note that only names need to be provided, no party designation or other information is required.

| Individuals |
| Organisations |

NON-MSP MEMBERS OF THE GROUP

For organisational members please provide only the name of the organisation, it is not necessary to provide the name(s) of individuals who may represent the organisation at meetings of the Group.

| Individuals |
| Organisations |

GROUP OFFICE BEARERS

Please provide names for all office bearers. The minimum requirement is that two of the office bearers are MSPs and one of these is Convener – beyond this it is a matter for the Group to decide upon the office bearers it wishes to have. It is permissible to have more than one individual elected to each office, for example, co-conveners or multiple deputy conveners.

| Convener |
| Deputy Convener |
| Secretary |
| Treasurer |
### FINANCIAL BENEFITS OR OTHER BENEFITS
Please provide details of any financial or material benefit(s) the Group anticipates receiving from a single source in a calendar year which has a value, either singly or cumulatively, of more than £500. This includes donations, gifts, hospitality or visits and material assistance such as secretariat support.

### SUBSCRIPTION CHARGED BY THE GROUP
Please provide details of the amount to be charged and the purpose for which the subscription is intended to be used.

### CONVENER CONTACT DETAILS

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Parliamentary address</td>
</tr>
<tr>
<td>Telephone number</td>
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### STATEMENT ON COMPLIANCE WITH THE CODE OF CONDUCT
I declare that the Cross-Party Group on <SUBJECT> is constituted and will comply with the terms of Section 6 of the Code of Conduct for Members of the Scottish Parliament.

| Signed |
| Date |
CROSS-PARTY GROUP ANNUAL RETURN

<table>
<thead>
<tr>
<th>NAME OF CROSS-PARTY GROUP</th>
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<tbody>
<tr>
<td>Cross-Party Group on &lt;SUBJECT&gt;</td>
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</tbody>
</table>

| DATE GROUP ESTABLISHED (the date of establishment is the date in this parliamentary session that the Group held its initial meeting, where the office bearers were elected and not the date that the Group was accorded recognition. All Groups should hold their AGMs on, or before, the anniversary of this date.) |

<table>
<thead>
<tr>
<th>DATE ANNUAL RETURN SUBMITTED</th>
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<table>
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<tr>
<th>GROUP MEETINGS AND ACTIVITIES</th>
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<tbody>
<tr>
<td>Please provide details of each meeting of the Group including the date of the meeting, a brief description of the main subjects discussed and the MSP and non-MSP attendance figures.</td>
</tr>
<tr>
<td>Details of any other activities, such as visits undertaken by the Group or papers/report published by the Group should also be provided.</td>
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</tbody>
</table>

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</tr>
</tbody>
</table>
FINANCIAL BENEFITS OR OTHER BENEFITS RECEIVED BY THE GROUP
Please provide details of any financial or material benefit(s) received from a single source in a calendar year which has a value, either singly or cumulatively, of more than £500. This includes donations, gifts, hospitality or visits and material assistance such as secretariat support.

Details of material support should include the name of the individual providing support, the value of this support over the year, an estimate of the time spent providing this support and the name of the organisation that this individual is employed by / affiliated to in providing this support.

Groups should provide details of the date on which the benefit was received, the value of the benefit and a brief description of the benefit.

SUBSCRIPTION CHARGED BY THE GROUP
Please provide details of the amount charged and the purpose for which the subscription is intended to be used.

CONVENER CONTACT DETAILS
Name
Parliamentary address
Telephone number
Complaints process for CPGs

This guidance sets out the approach that the SPPA Committee will take to any complaints received about Cross Party Groups.

The process is intended to allow the SPPA Committee to respond fairly and proportionately to any complaints received. It therefore provides for a more informal approach to investigating minor complaints whilst allowing the Committee to undertake formal consideration where necessary, including imposing sanctions.

Complaints about the use of parliamentary resources by CPGs will be considered by the SPCB and are not covered by this process. The process outlined in this guidance only applies to complaints which do not relate to parliamentary resources but to other rules in Section 6 of Volume 2.

The Committee has delegated steps 1 to 4 to the Convener. These responsibilities can also be delegated to the Deputy Convener if required.

Complaints process

- **Step 1** – the Convener establishes whether the complaint falls within the responsibilities of the SPPA Committee and whether it meets the admissibility criteria set out in Section 9.1 of volume 3. Where a complaint is not admissible, the Convener will dismiss it at this stage.

- **Step 2** – where a complaint is admissible, the Convener writes to the complainer confirming this and advising how it will be investigated. If necessary further information is requested from the complainer at this point. The complainer will be advised that the information they provide, including their name, may be published if the Committee decides the complaint requires a formal report to Parliament. The complainer will also be advised that the complaint should remain confidential while it is being investigated.

- **Step 3** – where necessary the Convener writes to the Convener of the CPG being complained about inviting them to respond and provide relevant evidence. The CPG Convener would also be informed that such correspondence could become public and that the complaint should remain confidential. The CPG Convener may involve the secretary to the group and other office-holders in preparing a response. If the complaint relates to the behaviour of an individual MSP in the group then that individual may be invited to provide a separate response to the complaint.

- **Step 4** – once the Convener is content that sufficient information is available, the Convener reports to the Committee.

- **Step 5** – the Committee considers the Convener’s report on the complaint and agrees how to deal with it. Available options include—

  a) *Dismiss the complaint* if there has been no breach of the Code;
b) **Find that there has been a breach of the Code but that the breach is not sufficiently serious to impose sanctions.** The Group may be advised of any steps they must take to comply with the Code. The Committee may (but will not necessarily) publish the complaint letter, correspondence and the Committee’s conclusions;

c) **Remove recognition from the Group.** Any decision about removing recognition will be made at an SPPA Committee meeting, announced publicly and set out in a Committee report. When considering this option, the Committee will first give the CPG an opportunity to make representations either orally or in writing.

d) **Find that there has been a breach of the Code which warrants sanctions being imposed on an individual MSP.** If the Committee wishes to recommend imposing sanctions on the Convener or another group member, the Committee will make this decision at an SPPA Committee meeting, announce it publicly and publish a report recommending to Parliament that sanctions be imposed. This would be followed by a Parliamentary debate and vote on the proposed sanctions. If sanctions are being considered, the MSP will first be given an opportunity to make representations either orally or in writing.

e) **Find that the matter should be referred to the Commissioner for further investigation.** If, exceptionally, the Committee considers that the facts of the matter require further investigation, the Ethical Standards Commissioner may be directed to investigate the complaint and report to the Committee.
SECTION 7: GENERAL CONDUCT AND CONDUCT IN THE CHAMBER OR IN COMMITTEE

Guidance

7.1 Members of the Scottish Parliament are accountable to the Scottish electorate who will expect them to carry out their Parliamentary duties in an appropriate manner consistent with the standing of the Parliament and not to engage in any activity as a member that would bring the Parliament into disrepute.

7.2 As stated above, members are required to conduct themselves in a manner appropriate to the standing of the Scottish Parliament.

Use of Social Media

Conduct in the Chamber and in Committee

7.3 Conduct in the Chamber is a matter for the Presiding Officer and conduct in committee proceedings is a matter for the relevant convener. Members should ensure they are up to date with the view of the Presiding Officer, and the convener of any committee they attend, before using electronic devices in any way during parliamentary proceedings.

Treatment of other MSPs and of other MSPs’ staff

7.4 The Code requires that members must treat other MSPs and the staff of other MSPs with courtesy and respect.

7.5 Members are used to applying this requirement to conduct in parliamentary proceedings and the provision does not inhibit robust debate and exchange of views. The same considerations apply in relation to conduct on social media. However, members should also be aware that that kind of debate may be perceived negatively on a forum that also involves non-MSPs.

Confidentiality requirements in relation to social media

7.6 Social media allows MSPs to provide information about their parliamentary work. This could include information about discussions at committee meetings. In this regard, members should note Section 7.4.5 of the Code which makes clear that members should not “disclose...details of discussions or votes taken in private session”.

7.7 Further guidance on the use of social media is available at Section 8.3.20 to 8.3.29 of this guidance.

Confidentiality requirements

7.8 Certain information may be agreed as ‘confidential’ by committees or sub-committees. This is not through any desire to withhold information from the public. Rather, there are a number of difficulties which could arise through the unauthorised disclosure of confidential material:
• public discussion of draft reports might give preliminary views a status they do not warrant and lead to recommendations or findings not adopted by the committee being prematurely attributed to it;
• early release of information about a committee report could also result in unfair party political advantage;
• it may be difficult for members to freely deliberate on the content of a draft report;
• it may be difficult to get witnesses to give evidence in confidence if members are shown to be incapable of treating their proceedings in confidence;
• it could lead to a loss of mutual trust between members and a breakdown of confidence in the operation of the committee.

7.9 Published committee reports are available to MSPs from Document Supply within the Scottish Parliament Information Centre (SPICe) and on the Parliament website. Members of the public can access published reports on the website or they can be purchased from Stationery Office outlets. The relevant clerk should be contacted about the availability of other documents.

**Guidance issued by the Presiding Officer on Conduct**

The Parliament’s Standing Orders state that Members shall at all times conduct themselves in a courteous and respectful manner and shall respect the authority of the Presiding Officer. In addition, Members shall conduct themselves in an orderly manner and, in particular, shall not conduct themselves in a way which would constitute a criminal offence or contempt of court.

As a central principle underpinning this revised code of conduct, the Presiding Officers expect Members to adhere to the expectations outlined above both during proceedings held in the Chamber and committees as well as in their role as an elected representative to the Scottish Parliament.

It is ultimately a matter for the Presiding Officer to rule on issues of Members’ conduct in the chamber. However, the following has been issued previously by way of specific guidance —

(a) **Conduct in the Chamber**

To maintain courtesy and respect, Members should not behave in a way which interferes with the proper conduct of business in the Chamber. This includes:

*General courtesy and noise levels* – Members must conduct themselves in a courteous and respectful manner. Please pay attention to the impact of your entry and exit from the Chamber, particularly at Decision Time and Time for Reflection, and to noise levels more generally. During debates and questions, the Presiding Officers will give a certain amount of latitude in the interests of encouraging debate and avoiding excessive formality. However, that does not mean that the Presiding Officers condone behaviour that prevents other Members or the visiting public from following a debate. Do not cross the well of the Chamber. Please do not turn you back on the Chair as this has an impact on the sightlines of the Presiding Officers.
**Use of language and behaviour** – Members shall at all times ensure that their choice of language in the Chamber is appropriate and meets the high standards expected by the general public. It is for the Presiding Officers to make judgements on these matters and all Members must respect the decisions of the Chair. The Parliament’s Standing Orders provide for sanctions in relation to these matters. Members should refer to other Members by their full name, refrain from the use of ‘nicknames’ and speak through the Chair, i.e. do not refer to other Members in the second person, e.g. “you”.

**Questions** – when your name is selected for a question, please make every effort to submit the question to the Chamber Desk in advance of the relevant deadline. If you are unable to do so, please email the Presiding Officers and Chamber Desk providing an explanation. Please also make sure that you present yourself on time to participate fully in the questioning of Ministers. A failure to adhere to these points is not only a discourtesy to the Parliament but it also means that a fellow Member may miss out on the opportunity to ask a question.

**Attendance in the Chamber** - as a courtesy to your fellow Members, if you wish to participate in a debate, you should attend the whole debate but, as a minimum, Members should be present during the opening and closing speeches and should remain in the Chamber to hear the two speeches following their contribution. It is particularly important that closing speakers are able to reflect upon all of the contributions made during a debate.

**Use of mobile phones, IT etc.** - Mobile telephones should be switched off and other tablet-type devices may be used but only for the purposes of delivering a pre-prepared speech. The Presiding Officer does not consider that the use of electronic devices for purposes such as social networking sites or accessing the internet is compatible with the requirements of conduct in the Chamber.

**Use of printed material** - Members should not read newspapers or magazines, except where members wish to quote from articles in debate.

**(b) Conduct in committee meetings**

The above guidance relating to conduct in the Chamber is applicable in formal and informal meetings of the parliamentary committees at the discretion of the convener of the committee.
SECTION 8: ENGAGEMENT AND LIAISON WITH CONSTITUENTS

8.3 Unacceptable actions – guidance for members and their offices

Introduction

8.3.1 The Code of Conduct establishes for members the conduct expected of them in working with constituents and within the Parliament. However in a minority of cases members may experience difficulty in representing a constituent because of that constituent’s behaviour. This guidance sets out examples of the types of behaviour which are unacceptable and suggests how members might respond.

8.3.2 This guidance seeks to strike a balance between the duty of the member as an elected representative and members’ rights to a non-threatening environment for themselves and their staff. Further advice is available from the Standards, Procedures and Public Appointments clerks.

8.3.3 MSP office staff may be the first point of contact for constituents. This guidance is intended to be helpful to members and their staff; however, it is the member who should decide what the most appropriate response is to address unacceptable behaviour by constituents.

8.3.4 This guidance is intended as best practice advice, does not represent obligations and does not form the basis for imposing sanctions.

Defining unacceptable behaviour

8.3.5 Members and their staff should be able to work in an environment which is free from oppressive behaviour such as the threat or use of harassment, verbal abuse and physical violence. Members and their staff should not view behaviour as unacceptable just because the constituent is forceful or determined. Actions and behaviour should be judged on the basis of the nature and extent of the behaviour.

8.3.6 Members and their staff should treat all individuals with courtesy and respect and expect to receive similar consideration in return.

8.3.7 Wherever possible, members should provide the constituent with the opportunity to change their behaviour. Where it is deemed that unacceptable behaviour exists it is recommended that the member keeps a documented trail of activity on the part of the member and the constituent.

Aggressive and abusive language

8.3.8 Harassment through aggressive and abusive language may occur in a face-to-face setting or by telephone, as well as in written or electronic communications.

8.3.9 Members and their staff are not expected to put up with rude, abusive or threatening language and have the right to ask the constituent to use reasonable language. The member or their staff may warn the constituent that, if they persist in using unreasonable language, the call may be ended or the member may not
respond to future communications couched in similar terms. Members and their staff should be aware of the fact that some people use offensive language when they are in a panic or are frustrated.

Aggressive and abusive behaviour
8.3.10 Physical abuse should not under any circumstance be tolerated and should be reported immediately to the member’s local police station or the Parliament’s police unit. The member could ban the constituent from entering the member’s office and the member can decide not to represent that person any further.

8.3.11 It is understood that members may be unwilling to report a constituent to the relevant authority (for example, local police or the Parliament’s police unit) because of concerns about protecting the privacy of the constituent. However, members must take into account not only their own personal safety but also that of any staff who are working in members’ offices.

8.3.12 Section 8.1.6 of the Code of Conduct requires members to “respect individual privacy, unless there are overwhelming and lawful reasons in the wider public interest for disclosure to be made to a relevant authority, for example, where a member is made aware of criminal activity.” The police can offer advice on situations where the member suspects that an offence may have been committed and will usually deal with these situations in a confidential manner. Members are advised to consult either their local police or the Parliament’s police unit.

8.3.13 Aggressive and abusive behaviour may include unwanted physical or non-verbal conduct. It may occur in a face-to-face setting, by telephone, in written or electronic communications or by loitering outside the home or workplace. It may also include damage to property.

8.3.14 In these circumstances the member must be able to decide if any future face-to-face meetings with the constituent should take place. If the member decides to hold face-to-face meetings, the member is entitled to ask any member(s) of staff to attend the meeting too.

8.3.15 If the threats or threatening behaviour continue despite a warning, the member could ban the constituent from entering the member’s office. This decision should be communicated to the constituent together with the reason for it. The member may also decide to stop representing that constituent. It is for the member to decide in future if the threats have subsided enough to re-admit the constituent concerned. A member might also limit further communication: for example, to written communication only. Further advice is also available from the member’s local police station or the Parliament’s police unit.

Unreasonable demands and persistence
8.3.16 Some unacceptable behaviour does not involve any threatening actions but simply involves unreasonable demands which, if met, would impact detrimentally on the member’s other responsibilities and which also may not assist the constituent in progressing their case.
8.3.17 What constitute unreasonable demands may depend on the circumstances surrounding the behaviour but could include demanding responses or action within an unreasonable timescale, repeated phone calls or letters to the member or continuing refusal to accept a decision made in relation to a case.

8.3.18 Where the constituent repeatedly phones or sends irrelevant documents, the member may decide only to return calls from the constituent at a set time on set days or to return documents to the constituent. The member should explain to the constituent the reasons for such a course of action.

8.3.19 If the constituent refuses to accept the decision of the member, the member may warn the constituent that future phone calls will not be accepted or that correspondence on the same issue will be filed and a simple acknowledgement issued. The member is advised to respond to the constituent if the constituent provides significant new information relating to the case.

Use of Social Media

How you describe yourself
8.3.20 In setting up a social media account, members should be aware of the requirements of the Code of Conduct in relation to how they should describe themselves. Section 8.2 provides that members should not misrepresent the basis on which they were elected or the area they serve. Members may therefore wish to use a description on any social media account which reflects whether they are a constituency or regional MSP and the name of the constituency or region that they represent. This applies both to the name that would appear on the account page and to the username (if this is publicly available).

8.3.21 Members may also want to distinguish any account they use in campaigning for election to any office (including party office) from an account for communicating about the work they undertake as part of their parliamentary duties.

Staff access to your social media accounts
8.3.22 Members are responsible for the behaviour of their staff within the Parliamentary complex and in their dealings with other members, other members’ staff, and Parliamentary staff (section 7.6.1). Members are also responsible for ensuring that their staff comply with the terms of Section 8 of the Code of Conduct in relation to engagement and liaison with constituents.
8.3.23 If a member intends to allow staff to update and post content on social media accounts, they should ensure that staff are also aware of this guidance.

Responding to aggressive or abusive comments
8.3.24 In making use of social media, members may become the object of abusive or aggressive comments and messages from individuals whose aim is to provoke a response rather than to engage in a reasoned discussion.

8.3.25 Members who receive such comments should be aware of the principles underpinning the guidance on unacceptable actions set out in Volume 3 of the Code of Conduct.
8.3.26 Members may also wish to ensure that they know how to make use of the reporting and/or blocking tools offered by the social media they use.

8.3.27 Members are advised to avoid taking any actions (such as retweeting if the comment is made on Twitter) that may result in the individual who made the aggressive or abusive comment themselves becoming the object of similar comments by other users.

Further guidance

8.3.28 Further guidance on the use of social media is available at Section 7.3 to 7.7 if this guidance.

8.3.29 More specific advice can be sought from the clerks to the Standards, Procedures and Public Appointments Committee.
SECTION 9: ENFORCEMENT OF THE RULES

Guidance

Making a complaint

9.1 A complaint about the conduct of a member (or where appropriate, Cross-Party Group) of the Parliament should—

- be made in writing to the Commissioner for Ethical Standards in Public Life in Scotland (“the Commissioner”) (or, in relation to Excluded Complaints under paragraph 9.49, in writing to the authority indicated in that paragraph);
- be signed by the Complainer;
- state the Complainer’s name and address;
- be made by an individual person (“the Complainer”);
- name the member who is the subject of the complaint, or where the complaint refers to a Cross-Party Group, the name of the Group;
- set out the facts relevant to the conduct complained about;
- be accompanied by any supporting evidence which the Complainer wishes to submit; and
- be made within one year from the date when the Complainer could reasonably have become aware of the conduct complained about.\(^4\)

9.2 An individual who considers that there are mitigating circumstances that prevent them from complying with any of the first three criteria listed in 9.1 should contact the Commissioner’s office for assistance. An individual in the same situation except that they are seeking to make an excluded complaint should contact the Scottish Parliament’s Public Information Office for assistance.

9.3 A complaint which fails to meet one or more of the requirements set out above is referred to as a “Procedurally Defective Complaint”. Procedurally Defective Complaints may be dismissed by the Commissioner\(^5\) or, in relation to an Excluded Complaint under paragraph 9.1.6 of the Code, by the authority indicated in that paragraph.

9.3 A Procedurally Defective Complaint which is not signed or which does not state the Complainer’s name or address is an “Anonymous Complaint”.

9.4 A Procedurally Defective Complaint which does not name the member who is the subject of the complaint is an “Undirected Complaint”.

9.5 “The Commissioner” is the person appointed by the SPCB as the Commissioner for Ethical Standards in Public Life in Scotland under section 1 of the Scottish

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Unless otherwise stated, references in these footnotes to sections are to sections of the Scottish Parliamentary Standards Commissioner Act 2002 and references to Rules are to Rules of the Standing Orders of the Scottish Parliament.

\(^4\) Section 6(5)
\(^5\) Sections 7(3), 7(4), 7(6) and 7(8)
Parliamentary Commissions and Commissioners etc. Act 2010 and includes, where appropriate, any acting Commissioner appointed by the SPCB under section 7 of that Act.

9.6 The address of the Commissioner is:

Commissioner for Ethical Standards in Public Life in Scotland
39 Drumsheugh Gardens
Edinburgh
EH3 7SW

Email:
info@ethicalstandards.org.uk

Procedure for dealing with a complaint

9.7 The procedure for dealing with a complaint (other than an Excluded Complaint in terms of paragraph 9.1.6 of the Code) consists of four stages.

- Stage 1 - (Admissibility) - The Commissioner will investigate and determine the admissibility of the complaint.
- Stage 2 - (Investigation) - If a complaint is admissible, a further investigation into the complaint will be carried out by the Commissioner who will then report the findings in fact and conclusion to the Standards, Procedures and Public Appointments Committee.
- Stage 3 – (Report) - A report to the Parliament is made by the Standards, Procedures and Public Appointments Committee following the Committee’s consideration of the Commissioner’s report.
- Stage 4 – (Decision) - If the Standards, Procedures and Public Appointments Committee has recommended the imposition of sanctions against a member, a decision on sanctions is made by the Parliament on a motion of the Standards, Procedures and Public Appointments Committee.


Notification

9.9 After receiving a complaint, the Commissioner will notify the member who is the subject of the complaint (unless the complaint does not name the member of the Scottish Parliament concerned). The notification will inform the member of the nature and details of the complaint. The notification will also inform the member of the name of the Complainer unless the complaint does not state the name of the Complainer or the Commissioner considers that it would be inappropriate to do so.\(^6\)

\(^6\) Section 7(1)
9.10 In considering whether or not it would be appropriate to inform the member of the name of the Complainer, the Commissioner will have regard to—

- whether or not the Complainer is or appears to be a vulnerable person;
- any reasons given by the Complainer as to why the member should not be given the name of the Complainer; and,
- whether giving the name of the Complainer would prejudice an investigation into the complaint.  

9.11 If the Commissioner considers that it would be inappropriate to give the member the name of the Complainer, the Commissioner will make a report on the matter to the Standards, Procedures and Public Appointments Committee giving the reasons for that decision.

**Admissibility**

9.12 The Commissioner will investigate and determine whether or not a complaint is admissible.

9.13 A complaint is admissible if it appears to the Commissioner that the complaint—

- is relevant, which means:
  - the complaint is about the conduct of a member of the Parliament;
  - the complaint is not an Excluded Complaint under paragraph 9.1.6 of the Code or it is subject to a reference by the Standards, Procedures and Public Appointments Committee under paragraph 9.50; and,
  - if proved, the conduct complained about would amount to a breach of the Standing Orders, the Code of Conduct or the Interests of Members of the Scottish Parliament Act 2006 (asp 12);
- is not a Procedurally Defective Complaint or, as the case may be, is not to be treated as a Procedurally Defective Complaint; and
- warrants further investigation, which means:
  - it appears to the Commissioner after an initial investigation that the evidence is sufficient to suggest that the conduct complained about may have taken place.

**Stage 1 – procedure**

9.14 Paragraphs 9.15 to 9.19 apply to complaints which are not Anonymous Complaints or Undirected Complaints.

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7 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
8 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
9 Section 6(1)
10 Sections 3(3), 6(2)(a), and 6(4)
11 Sections 6(2)(b) and 6(5)
12 Sections 6(2)(c) and 6(6)
9.15 A complaint which appears to the Commissioner to be irrelevant will be dismissed by the Commissioner.\textsuperscript{13}

9.16 The Commissioner will investigate whether a relevant complaint warrants further investigation.\textsuperscript{14}

9.17 If the Commissioner finds that a relevant complaint does not warrant further investigation, the Commissioner will dismiss the complaint.\textsuperscript{15}

9.18 If the Commissioner finds that a Procedurally Defective Complaint other than an Anonymous Complaint or an Undirected Complaint is relevant and warrants further investigation, the Commissioner will make a report to the Standards, Procedures and Public Appointments Committee.\textsuperscript{16} The report will include—

- the reasons why the Commissioner considers that the complaint is a Procedurally Defective Complaint;
- the reasons (if known) for the failure to meet the requirements set out in paragraph 9.1;
- any other matters which the Commissioner considers relevant; and,
- the Commissioner's recommendation as to whether the complaint should be dismissed on the ground that it is a Procedurally Defective Complaint or should be treated as if it were not a Procedurally Defective Complaint.\textsuperscript{17}

9.19 Following receipt of a report from the Commissioner under paragraph 9.18, the Standards, Procedures and Public Appointments Committee will direct the Commissioner either to dismiss the complaint or to treat the complaint as if it were not a Procedurally Defective Complaint.\textsuperscript{18} The Commissioner must comply with any such direction.\textsuperscript{19}

**Anonymous Complaints and Undirected Complaints**


9.21 An Anonymous Complaint or an Undirected Complaint which appears to the Commissioner to be irrelevant will be dismissed by the Commissioner.

9.22 The Commissioner will make a report to the Standards, Procedures and Public Appointments Committee in respect of a relevant Anonymous Complaint or a relevant Undirected Complaint without investigating whether it warrants further investigation.\textsuperscript{20} The report will include—

\textsuperscript{13} Section 7(3)

\textsuperscript{14} Sections 6(1), 6(6) and 7(6)

\textsuperscript{15} Sections 7(3) and 7(6) and the Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002

\textsuperscript{16} Section 7(4) and Rule 3A.4

\textsuperscript{17} Section 7(5)

\textsuperscript{18} Section 7(7) and Rule 3A.3

\textsuperscript{19} Section 7(8)

\textsuperscript{20} Sections 7(4) and 7(6), Rule 3A.4 and the Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002
• the reasons why the Commissioner considers that the complaint is a Procedurally Defective Complaint;
• the reasons (if known) for the failure to meet the requirements set out in paragraph 9.1;
• any other matters which the Commissioner considers relevant; and,
• the Commissioner’s recommendation as to whether the complaint should be dismissed on the ground that it is a Procedurally Defective Complaint or should be treated as if it were not a Procedurally Defective Complaint.  

9.23 Following receipt of a report from the Commissioner under paragraph 9.22, the Standards, Procedures and Public Appointments Committee will direct the Commissioner either to dismiss the complaint or to treat the complaint as if it were not a Procedurally Defective Complaint and to investigate whether the complaint warrants further investigation. The Commissioner must comply with any such direction.

Determination of admissibility

9.24 If the Commissioner considers that a complaint is admissible, the Commissioner will proceed to Stage 2 of the procedure for dealing with a complaint.

Notification of determination of admissibility

9.25 The Commissioner will make a report to the Standards, Procedures and Public Appointments Committee informing it that a complaint is proceeding to Stage 2.

9.26 The Commissioner will notify the Complainer (unless the complaint is an Anonymous Complaint) and the member who is the subject of the complaint (unless the complaint is an Undirected Complaint) of the fact that the Commissioner is proceeding to Stage 2.

9.27 The Commissioner will notify the Complainer (unless the complaint is an Anonymous Complaint) and the member who is the subject of the complaint (unless the complaint is an Undirected Complaint) of the fact that a complaint has been dismissed and will set out the reasons for the dismissal as appropriate.

Time limits for determination of admissibility

9.28 If the Commissioner has not determined the admissibility of a complaint within two months of receipt of the complaint, the Commissioner will make a report as to progress to the Standards, Procedures and Public Appointments Committee.

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21 Section 7(5)
22 Section 7(7) and Rule 3A.3
23 Section 7(8)
24 Section 7(2)(a) and Rule 3A.4
25 Sections 7(2)(b) and 7(9)
26 Sections 7(3); 7(6); and 7(8)
27 Section 7(11) and Rule 3A.4
Commissioner will send a copy of that report to the member who is the subject of the complaint (unless the complaint is an Undirected Complaint). 28

**Further provisions in respect of Stage 1**

9.29 The provisions of paragraphs 9.31 and 9.32 below will apply to any interview by the Commissioner which is carried out during an investigation at Stage 1. 29

**Stage 2 – investigation**

9.30 The Commissioner will investigate any complaint which has not been dismissed at Stage 1 with a view to—

- making findings in fact as to whether or not the conduct complained about was committed; and
- reaching a conclusion as to whether or not, as a result of the conduct complained about, there has been a breach of the provisions of the Standing Orders, the Code or the Interests of Members of the Scottish Parliament Act 2006. 30

**Interviews**

9.31 If the Commissioner interviews any person in the course of an investigation, the Commissioner will—

- have regard to whether that person is or appears to be a vulnerable person;
- allow that person to have a third party present at the interview;
- allow that person to have his or her views conveyed through an interpreter if that person so requests; 31 and
- tape-record the interview. 32

9.32 At least 48 hours before interviewing any person for the first time in the course of an investigation, the Commissioner will notify that person in writing of—

- the purpose of the interview;
- the powers of the Commissioner to call for witnesses and evidence; 33
- the procedure to be followed in connection with the investigation of the complaint including the fact that the interview will be tape-recorded (see paragraph 9.31 above);
- the right of that person to have a third party present at the interview; and,

28 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
29 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
30 Sections 3, 5, 6, 12, 13 and 14
31 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
32 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
33 Section 13(1)
the right of that person to have his or her views conveyed through an interpreter (see paragraph 9.31 above). 34

Time limits for completion of Stage 2

9.33 If the Commissioner has not completed the investigation of a complaint within six months of the date when the Commissioner found the complaint to be admissible, the Commissioner will make a report as to progress to the Standards, Procedures and Public Appointments Committee. 35

Report at Stage 2

9.34 At the conclusion of an investigation into a complaint at Stage 2, the Commissioner will make a report to the Standards, Procedures and Public Appointments Committee upon the outcome of the investigation. 36

9.35 The report by the Commissioner to the Standards, Procedures and Public Appointments Committee will include—

- details of the complaint;
- details of the investigation carried out by the Commissioner;
- the facts found by the Commissioner in relation to whether or not the conduct complained about was committed by the member; and,
- the Commissioner’s conclusion in relation to the complaint. 37

9.36 Before making a report under paragraph 9.34 above, the Commissioner will give the member concerned a copy of the draft report and will give the member concerned the opportunity to make representations about the alleged breach and on the draft report. 38 The representations of the member will be annexed to the report in as far as they are not given effect to in the report. 39

Stage 3 – Consideration by the Standards, Procedures and Public Appointments Committee

9.37 A copy of any report to the Standards, Procedures and Public Appointments Committee under paragraph 9.34 will be made available to the member concerned by the clerk to the Standards, Procedures and Public Appointments Committee (“the clerk”). The clerk will ask the member to confirm in writing whether or not the member agrees with the Commissioner’s findings in fact or the Commissioner’s conclusion. The clerk will also ask the member whether or not the member wishes to appear before the Standards, Procedures and Public Appointments Committee to make representations about the Commissioner’s findings in fact or conclusion.
9.38 The Standards, Procedures and Public Appointments Committee will consider in private any report of the Commissioner under paragraph 9.34 and any representations by the member concerned about the Commissioner’s findings in fact or the Commissioner’s conclusion. This is in order to ensure the privacy of any further investigation into the complaint.

9.39 Following consideration of the report and any representations by the member, the Standards, Procedures and Public Appointments Committee will decide whether—

- to agree with the Commissioner’s findings in fact and conclusion;
- to refer the complaint back to the Commissioner for further investigation or clarification; or
- to conduct its own investigation into the complaint.

9.40 The Committee’s decision under paragraph 9.39 will be announced in public.

9.41 The Commissioner will carry out such further investigations as the Standards, Procedures and Public Appointments Committee may direct.\(^\text{40}\)

9.42 The Standards, Procedures and Public Appointments Committee will determine the procedure to be followed in relation to any investigation which it wishes to carry out itself.

9.43 If the Standards, Procedures and Public Appointments Committee finds that there has been a breach of the Standing Orders, Code of Conduct or the Interests of Members of the Scottish Parliament Act 2006, the member concerned may be afforded a further opportunity to make representations to the Standards, Procedures and Public Appointments Committee. Following consideration of any such representations, the Standards, Procedures and Public Appointments Committee will make a decision as to whether or not to recommend the imposition of sanctions against the member. If the Standards, Procedures and Public Appointments Committee decides to recommend the imposition of sanctions it will also decide in public which sanctions to recommend.

**Stage 3 – Report to the Parliament**

9.44 Following completion of the procedure set out above and any other procedure which the Standards, Procedures and Public Appointments Committee considers appropriate, the Standards, Procedures and Public Appointments Committee will make a report to the Parliament. The Committee’s report will include the Commissioner’s report and any relevant evidence. The report of the Standards, Procedures and Public Appointments Committee will include—

- the Standards, Procedures and Public Appointments Committee’s conclusion as to whether or not the complaint should be upheld;

\(^\text{40}\) Section 10(2) and Rule 3A.3
• the Standards, Procedures and Public Appointments Committee’s recommendation as to the sanctions (if any) which should be imposed on the member concerned;
• such other relevant information or evidence as the Committee may determine.

Stage 4 – Consideration of a complaint by the Parliament

9.45 Where the Standards, Procedures and Public Appointments Committee considers that a sanction should be imposed on the member concerned, the Standards, Procedures and Public Appointments Committee will make a motion to the Parliament\footnote{Rule 1.7} which will be considered in accordance with Standing Orders.

Withdrawal of complaints

9.46 Prior to the Commissioner’s report to the Committee complaints other than Excluded Complaints may be withdrawn by the Complainant giving the Commissioner notice to that effect.\footnote{Section 11(1)}

9.47 Where a complaint is withdrawn during Stage 1, the Commissioner will cease to investigate the complaint and will inform the member concerned of that fact and of any reasons given by the Complainant for the withdrawal of the complaint.\footnote{Section 11(2)}

9.48 Where a complaint is withdrawn during Stage 2, the Commissioner will inform the member concerned of that fact and of any reasons given by the Complainant for the withdrawal of the complaint. The Commissioner will also invite the member’s views as to whether the investigation of the complaint should take place despite the withdrawal of the complaint. After considering any relevant information including any reasons given by the complainant for withdrawing the complaint and any views expressed by the member, the Commissioner will decide whether or not to recommend to the Committee that the investigation of the complaint should nevertheless continue\footnote{Section 11(3)}. The Commissioner will report his decision to the Committee which will direct the Commissioner either to continue investigating the complaint or to cease investigation.\footnote{Sections 11(5) and 11(6) and Rules 3A.3 and 3A.4}

Excluded complaints

9.49 Where an Excluded Complaint has been referred to the Standards, Procedures and Public Appointments Committee under paragraph 9.1.6 (Volume 2) it will be dealt with in such manner as the Standards, Procedures and Public Appointments Committee deems appropriate. The Standards, Procedures and Public Appointments Committee may refer such a complaint to the Commissioner for further investigation.
General role of Standards, Procedures and Public Appointments Committee in relation to conduct

9.50 Standing Orders Rule 6.4.1 states:

**Rule 6.4 Standards, Procedures and Public Appointments Committee**

1. The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—

   (a) the practice and procedures of the Parliament in relation to its business;

   (b) whether a member’s conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members’ interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;

   (c) the adoption, amendment and application of any Code of Conduct for members; and

   (d) matters relating to public appointments in Scotland.

9.51 Standing Orders gives the Standards, Procedures and Public Appointments Committee a general role in relation to members’ conduct as described in the Committee remit set out above. The Committee may therefore undertake to consider and report on any matter within this remit in relation to a member, whether or not any complaint has been received by the Committee or any matter has been referred to it and whether or not the matter has been considered elsewhere.

**Sanctions**

9.52 If it is considered appropriate, the Parliament may decide to impose sanctions on a member. The appropriate sanction in a particular case will be decided by the Parliament on the basis of the facts and circumstances of the case. In addition, certain breaches of the requirements of the Interests of Members of the Scottish Parliament Act 2006 could constitute a criminal offence.

**Breach of the Interests of Members of the Scottish Parliament Act 2006**

**Parliamentary sanctions**

9.53 The Interests of Members of the Scottish Parliament Act 2006, at section 15, states:

(1) If a member—

   (a) has, or had, a registrable interest in any matter and has failed to register it in accordance with section 3, 5 or 6; or

   (b) has a declarable interest in any matter and has failed to declare that interest in accordance with section 13,

the Parliament may, in such manner as it considers appropriate in the particular case, prevent or restrict that member from participating in any proceedings of the Parliament relating to that matter.
The Interests of Members of the Scottish Parliament Act 2006, at section 16, states:

*Where a member fails to comply with, or contravenes, any of the provisions made by or under section 3, 5, 6, 13, 14 or 15, the Parliament may, in such manner as it may determine, exclude that member from proceedings in the Parliament for such period as it may consider appropriate.*

9.54 Section 15(1) means that the Parliament may prevent or restrict a member from participating in proceedings of the Parliament relating to a matter in which the member has, or had, a registrable interest but where the member has failed to lodge a written statement for registration in the Register of Interests about that interest, or where the interest is a ‘declarable interest’, has failed to make the required written or oral declaration.

9.55 Any such restriction or prohibition is limited to proceedings touching on specific matters as described in the paragraph above. But in relation to these specific proceedings the Parliament could prevent a member from doing any or all of the following:

- attending any meeting of the Parliament, committee or sub-committee in the capacity of a member;
- initiating, contributing to or intervening in any debate;
- voting;
- lodging notice of a proposal for a Bill or introducing a Bill;
- lodging or asking a parliamentary question;
- lodging notice of or moving a motion;
- lodging notice of or moving an amendment to a Bill or motion;
- proposing a draft report, or moving an amendment to a draft report in a committee;
- supporting a Bill or a motion or proposal for a Bill or a motion;
- supporting an amendment to a Bill or a motion.

9.56 The extent of any restriction will be decided by the Parliament on a case by case basis. The Parliament will also decide the length of time for which it considers it would be appropriate to restrict or prevent a member from participating in proceedings of the Parliament.

9.57 Under section 16, the Parliament may exclude a member from all proceedings of the Parliament where that member fails to comply with or contravenes the Parliament’s decision to prevent or restrict that member from participating in proceedings of the Parliament under section 15 or where the member fails to comply with or contravenes the requirements of the Act in relation to:

- lodging an initial statement for registration in the Register of Interests;
- registering a new interest;
- the late registration of an interest;
- written or oral declaration of a ‘declarable interest’;
- paid advocacy.
Sanctions in relation to criminal offences

9.58 The Scotland Act 1998, at section 39, states:

(6) Any member of the Parliament who—
(a) takes part in any proceedings of the Parliament without having complied with, or in contravention of, any provision made in pursuance of subsection (2) or (3), or
(b) contravenes any provision made in pursuance of subsection (4)
is guilty of an offence.

9.59 This means that a member is guilty of an offence if that member fails to comply with, or contravenes, the requirements of the Interests of Members of the Scottish Parliament Act 2006 in relation to—

- lodging an initial statement for registration in the Register of Interests;
- registering a new interest;
- written or oral declaration of a declarable interest;
- paid advocacy;

and then takes part in any proceedings of the Parliament.

9.60 On conviction for such an offence a member is liable to a fine not exceeding level 5 on the standard scale.

9.61 Prosecution is not a matter for the Parliament. However, the Parliament could subsequently decide that it also wished to sanction a member found guilty of an offence.

Sanctions in relation to conduct at a meeting of the Parliament or committee meeting

9.62 If the Presiding Officer decides that a member is in breach of Rule 7.3 of the Standing Orders, set out in Section 7.3 (Volume 2) of the Code, the Presiding Officer may order that member to be excluded from the Chamber for a period not beyond the end of the next sitting day. In the case of a committee or sub-committee, the decision is for its Convener, who may exclude the member for the rest of the committee meeting at which the exclusion is made.

9.63 The Parliament may decide, on a motion of the Parliamentary Bureau, to exclude the member for a further period.

Sanctions in relation to a breach of the Reimbursement of Members’ Expenses Scheme

9.64 Where the SPCB finds that a member has made improper use of an allowance the SPCB may report this to the Standards, Procedures and Public Appointments Committee. The Standards, Procedures and Public Appointments Committee may then recommend to the Parliament that any of the member’s rights and privileges be withdrawn, including under the Reimbursement of Members’ Expenses Scheme Resolution the removal of all or part of the member’s allowances.
Sanctions in relation to Cross-Party Groups

9.65 The MSP who signs the declaration on compliance with the rules on Cross-Party Groups on behalf of a group will be held primarily responsible for a group’s conduct. If the Standards, Procedures and Public Appointments Committee considers that a group has failed to comply with any of the rules on Cross-Party Groups it may withdraw a group’s recognition as a Cross-Party Group, with consequent loss of access to the Parliament’s facilities and any privileges generally accorded to recognised Cross-Party Groups.

9.66 Each individual MSP, however, remains responsible for all matters relating to that member’s own conduct as a member of a Cross-Party Group. Any individual failure to comply with, or contravention of, the rules on Cross-Party Groups by a member could lead to the Standards, Procedures and Public Appointments Committee recommending a withdrawal of that member’s rights and privileges.

Sanctions in relation to treatment of staff

9.67 If the SPCB decides to refer a complaint about the treatment of staff to the Standards, Procedures and Public Appointments Committee, the Standards, Procedures and Public Appointments Committee may recommend to the Parliament that any of the member’s rights and privileges be withdrawn.

Withdrawal of rights and privileges

9.68 Standing Orders Rule 6.4.2, in relation to the remit of the Standards, Procedures and Public Appointments Committee, states:

Where the Committee considers it appropriate, it may by motion recommend that a member’s rights and privileges be withdrawn to such extent and for such period as are specified in the motion.

9.69 The Standards, Procedures and Public Appointments Committee may recommend to the Parliament that any of a member’s rights and privileges should be withdrawn. This would be in relation to any breach of the Code for which no specific sanction is set out in the paragraphs above. As appropriate, the Committee may also wish to make such a recommendation, in addition to other sanctions, described above, having been imposed.

9.70 As laid down in Schedule 3, paragraph 2 of the Scotland Act, the rights and privileges which the Parliament may consider for withdrawal are a member’s rights and privileges as a member. The Parliament may consider the following to be appropriate in particular cases:

- exclusion of a member from proceedings of the Parliament generally or specifically, for example, proceedings at particular meetings of the Parliament or its committees;
- exclusion from other activities which a member might normally have a right to attend, such as Cross-Party Groups;
- withdrawal of a right of access as a member to the Parliamentary complex;
• withdrawal of a right of access as a member to Parliamentary facilities and services;
• removal of representational, ceremonial and related privileges which a member might normally enjoy as a member;
• withdrawal of a member’s allowance or salary or any part of an allowance or salary.

9.71 The Parliament will decide on a case by case basis what rights and privileges will be withdrawn from a member and the duration of withdrawal.
c. 46 Scotland Act 1998

39.—(1) Provision shall be made for a register of interests of members of the Parliament and for the register to be published and made available for public inspection.

(2) Provision shall be made—

(a) requiring members of the Parliament to register in that register financial interests (including benefits in kind), as defined for the purposes of this paragraph,

(b) requiring that any member of the Parliament who has a financial interest (including benefits in kind), as defined for the purposes of this paragraph, in any matter declares that interest before taking part in any proceedings of the Parliament relating to that matter.

(3) Provision made in pursuance of subsection (2) shall include any provision which the Parliament considers appropriate for preventing or restricting the participation in proceedings of the Parliament of a member with an interest defined for the purposes of subsection (2)(a) or (b) in a matter to which the proceedings relate.

(4) Provision shall be made prohibiting a member of the Parliament from—

(a) advocating or initiating any cause or matter on behalf of any person, by any means specified in the provision, in consideration of any payment or benefit in kind of a description so specified, or

(b) urging, in consideration of any such payment or benefit in kind, any other member of the Parliament to advocate or initiate any cause or matter on behalf of any person by any such means.

(5) Provision made in pursuance of subsections (2) to (4) shall include any provision which the Parliament considers appropriate for excluding from proceedings of the Parliament any member who fails to comply with, or contravenes, any provision made in pursuance of those subsections.
(6) Any member of the Parliament who—

(a) takes part in any proceedings of the Parliament without having complied with, or in contravention of, any provision made in pursuance of subsection (2) or (3), or

(b) contravenes any provision made in pursuance of subsection (4),

is guilty of an offence.

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) In this section—

(a) "provision" means provision made by or under an Act of the Scottish Parliament,

(b) references to members of the Parliament include references to the Lord Advocate and the Solicitor General for Scotland, whether or not they are such members.
Interests of Members of the Scottish Parliament Act 2006
2006 asp 12

1 The register

(1) There shall be a Register of Interests of Members of the Scottish Parliament (in this Act referred to as “the register”).

(2) The register shall be kept by the Clerk at the office of the Clerk.

(3) In the register, there shall be an entry for each member which shall contain—
   (a) the information required by or under this Act; and
   (b) any other matter which the Parliament may determine should be included in each entry.

(4) The register shall be kept in such form (which need not be in documentary form) as the Clerk considers appropriate but, if it is kept otherwise than in documentary form, it shall be in such form that, when printed or displayed, it shows what the register contains.

2 Registrable interests

(1) In this Act, a “registrable interest” means a registrable financial interest.

(2) The schedule sets out the circumstances in which a member has, or had, a registrable financial interest.

(3) A financial interest is defined for the purposes of paragraph (a) of section 39(2) of the 1998 Act as a registrable financial interest.

3 Initial registration of registrable interests

(1) Each member shall register—
   (a) any registrable interest which that member had on the date on which that member was returned; and
(b) any registrable interest which that member had before that date but which that member no longer had on that date, if that interest meets the prejudice test, or declare that the member had no such interest.

(2) An interest meets the prejudice test if, after taking into account all the circumstances, that interest is reasonably considered to prejudice, or to give the appearance of prejudicing, the ability of the member to participate in a disinterested manner in any proceedings of the Parliament.

(3) A member shall comply with subsection (1) by lodging with the Clerk, not later than the relevant date, a written statement or, as the case may be, a written declaration.

(4) The relevant date for the purposes of subsection (3) is the date which is 30 days after the date on which the member has taken the oath of allegiance or made a solemn affirmation in accordance with section 84(1) of the 1998 Act.

4 Written statement

(1) A written statement shall be in such form as the Parliament may determine.

(2) A written statement shall contain such information about the interest or relating to it as the Parliament may determine.

(3) The Parliament may make different determinations under subsections (1) and (2) for different kinds of interests.

(4) The member may also include in the written statement such other information relating to the interest as the member wishes to disclose in the register.

(5) Within 30 days after a member has lodged with the Clerk a written statement in accordance with section 3, 5, 6 or 7, the Clerk shall—

   (a) register that statement in the entry relating to the member in the register together with the date on which the statement was lodged; and
   
   (b) send a copy of that entry to the member.

5 Registration of registrable interests acquired after date of return

(1) This section applies where a member acquires a registrable interest after the date on which the member was returned.

(2) Within 30 days after the date on which the member acquired that interest, that member shall register that interest by lodging a written statement with the Clerk.

6 Late registrations

(1) This section applies where a member becomes aware that a registrable interest which ought to have been registered by that member in accordance with section 3 or 5 has not been so registered.

(2) Within 7 days of becoming so aware, the member shall register that interest by lodging a written statement with the Clerk.
7 **Voluntary registration**

A member may at any time register an interest which a member is not required to register by lodging a written statement with the Clerk.

8 **Deletion of interests from the register**

(1) In this Act, a “ceased interest” means—

(a) an interest which is registered but which, if it had not been registered, would not now require to be registered; and

(b) an interest which is registered under section 7 but which the member no longer wishes to be registered.

(2) Where a member has a ceased interest, that member may lodge with the Clerk a written notice which identifies the interest in question, states that it is a ceased interest and gives the date on which it became a ceased interest.

(3) Within 30 days after a member has lodged a written notice in accordance with this section, the Clerk shall—

(a) amend the entry relating to that member in the register by recording in it that the interest is a ceased interest, the date mentioned in subsection (2), and the date on which the amendment was made in the register; and

(b) send a copy of the amended entry to that member.

(4) Not less than 12 months after the date on which the notice was lodged, the Clerk shall—

(a) amend the entry relating to that member in the register by deleting that interest and any information relating to it; and

(b) send a copy of the amended entry to that member.

9 **Other amendments to the register**

(1) A member may at any time amend the entry relating to that member by lodging with the Clerk a written notice of the proposed amendment.

(2) Within 30 days after a member has lodged a written notice in accordance with this section, the Clerk shall—

(a) amend the entry relating to that member in the register by making the proposed amendment and recording the date on which the notice was lodged; and

(b) send a copy of the amended entry to that member.

(3) The Clerk may at any time amend an entry relating to a member in the register to correct any clerical or typographical error and shall send a copy of the amended entry to that member.

(4) Any amendment made in pursuance of this section may only amend the information about or relating to an interest which is registered but no amendment can be made which would delete, without replacing (with or without any variation) any of the information referred to in section 4(2).

(5) When a member ceases to be a member, the Clerk shall amend the entry relating to that member in the register by deleting it from the register.
10 Old entries

(1) When the Clerk amends an entry relating to a member in the register, the Clerk shall keep a copy of the old entries for a period of 5 years from the date of making the last amendment.

(2) Section 1(4) shall apply to the keeping of the old entries as it applies to the keeping of the register.

(3) In this section, “the old entries” mean the original entry and any subsequent amended entry in the state in which it was before it was amended.

11 Publication of the register etc.

(1) The Clerk shall publish the register at such intervals and in such manner as the Parliament may determine.

(2) The Clerk shall keep a copy of the register and of any old entries available for public inspection in such form and in such manner as the Clerk considers appropriate.

(3) The copy of the register and of any old entries shall be available for public inspection at the office of the Clerk on the days and at the times when that office is open.

Declaration of interests and prohibition of paid advocacy etc.

12 Declarable interests

(1) In this Act, a “declarable interest” means a declarable financial interest.

(2) A member has a declarable financial interest in any matter if that member has, or had, a registrable financial interest in that matter which is registered in the entry relating to that member.

(3) A member has a financial interest for the purposes of paragraph (b) of section 39(2) of the 1998 Act if that member has a declarable financial interest.

13 Declaration of interests

(1) Any member who has a declarable interest in any matter shall declare that interest before taking part in any proceedings of the Parliament relating to that matter.

(2) For the purposes of subsection (1), a member shall declare an interest by making, in such circumstances as the Parliament may determine, either an oral or, as the case may be, a written declaration of that interest.

14 Prohibition of paid advocacy etc.

(1) A member shall not by any means, in consideration of any payment or benefit in kind—
   (a) advocate or initiate any cause or matter on behalf of any person; or
   (b) urge any other member to advocate or initiate any cause or matter on behalf of any person.

(2) For the purposes of subsection (1)—
(a) “any means” shall be construed as the doing of anything by a member in the capacity of a member, whether or not in any proceedings of the Parliament; and

(b) “any payment or benefit in kind” means any payment or benefit in kind—

(i) which the member receives and which may reasonably be considered, after taking into account all the circumstances, to result in some benefit to that member, other than a vote for that member in any election to the Parliament; or

(ii) which the member’s spouse, civil partner or cohabitant receives and which may reasonably be considered, after taking into account all the circumstances, to be provided in connection with the Parliamentary duties of the member and to result in some benefit to that member.

(3) Subsection (1) shall not prevent a member receiving assistance in connection with any of the following matters—

(a) the preparation of a Member’s Bill or of any amendment to a Bill, or any other matter relating to a Bill (whether before, during or after its passage in the Parliament and before it is submitted for Royal Assent); or

(b) a debate upon subordinate legislation (whether before or after its making); or

(c) a legislative consent motion.

Sanctions

15 Preventing or restricting participation in proceedings of the Parliament

(1) If a member—

(a) has, or had, a registrable interest in any matter and has failed to register it in accordance with section 3, 5 or 6; or

(b) has a declarable interest in any matter and has failed to declare that interest in accordance with section 13,

the Parliament may, in such manner as it considers appropriate in the particular case, prevent or restrict that member from participating in any proceedings of the Parliament relating to that matter.

(2) For the purposes of subsection (1)(a), a member has failed to register a registrable interest in the register if—

(a) that member has not lodged with the Clerk a written statement as required by section 3, 5 or 6, as the case may be; or

(b) after having lodged such a statement with the Clerk, the member has lodged with the Clerk a written notice under section 8 indicating that the interest is a ceased interest when it is not.

16 Exclusion from proceedings of the Parliament

Where a member fails to comply with, or contravenes, any of the provisions made by or under section 3, 5, 6, 13, 14 or 15, the Parliament may, in such manner as it may determine, exclude that member from proceedings in the Parliament for such period as it may consider appropriate.
17 Offences

(1) In subsection (6)(a) of section 39 of the 1998 Act, the reference to any provision made in pursuance of subsection (2) or (3) of that section is a reference to any provision made by or under any of the following sections of this Act—
   (a) section 3, 5 or 6 so far as it relates to a registrable financial interest;
   (b) section 13 so far as it relates to a declarable financial interest;
   (c) section 15 so far as it relates to a registrable financial interest or declarable financial interest; and
   (d) section 16 so far as it relates to a failure to comply with, or a contravention of, any such provision.

(2) In subsection (6)(b) of section 39 of the 1998 Act, the reference to any provision made in pursuance of subsection (4) of that section is a reference to any provision made by or under either of the following sections of this Act—
   (a) section 14; and
   (b) section 16 so far as it relates to a failure to comply with, or a contravention of, any such provision.

Supplementary

18 Scottish Law Officers

(1) The following modifications of this Act shall apply in relation to a Scottish Law Officer who is not a member of the Parliament.

(2) Any reference in this Act to the date on which a member was returned shall be construed, in relation to such a Scottish Law Officer, as—
   (a) in the case where there is a general election and a person who was a Scottish Law Officer before that election continues in the same office after that election, the date of the poll at that election; or
   (b) in any other case, the date when that Scottish Law Officer was appointed to that office,

and any reference in this Act to “being returned as a member” shall be construed accordingly.

(3) For the purposes of subsection (2)(a), a Scottish Law Officer shall be regarded as continuing in office after an election if no other person is appointed to that office within 28 days after the date of the poll at that election.

(4) Section 3(4) shall not apply and, for the purposes of section 3(3), the relevant date, in relation to such a Scottish Law Officer, is the date which is 60 days after the date mentioned in subsection (2)(a) or the date which is 30 days after the date mentioned in subsection (2)(b), according to whichever applies.

(5) Section 9(5) shall not apply but the Clerk shall delete the entry relating to such a Scottish Law Officer, on the date when that person either ceases to be appointed to, or ceases to be deemed to continue in, that office.

19 Interpretation

(1) In this Act—
“the 1985 Act” means the Companies Act 1985 (c. 6);
“the 1998 Act” means the Scotland Act 1998 (c. 46);
“the 1999 Order” means the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 (S.I. 1999/1350);
“ceased interest” shall be construed in accordance with section 8(1);
“civil partner” in relation to a member does not include a former civil partner or a civil partner who is living separately and apart from the member where the separation is likely to be permanent;
“the Clerk” means the Clerk of the Parliament;
“cohabitant” means either member of a couple consisting of—
(a) a man and a woman who are living together as if they were husband and wife; or
(b) two persons of the same sex who are living together as if they were civil partners;
“company” means a company within the meaning of the 1985 Act;
“declarable interest” shall be construed in accordance with section 12(1);
“declarable financial interest” shall be construed in accordance with section 12(2);
“financial interest” includes benefits in kind;
“heritable property” includes any right or interest in heritable property whether in Scotland or elsewhere;
“member” means a member of the Scottish Parliament and, subject to section 18, includes a Scottish Law Officer where that officer is not a member of the Parliament;
“member’s salary” means the gross annual salary of a member as a member;
“old entries” shall be construed in accordance with section 10(3);
“parent undertaking” has the same meaning as in section 258 of the 1985 Act;
“parliamentary session” means the period from the date of the first meeting of the Parliament following a general election until the Parliament is dissolved;
“prejudice test” shall be construed in accordance with section 3(2);
“the register” means the Register of Interests of Members of the Scottish Parliament established under section 1(1) and associated words shall be construed accordingly;
“registrable interest” shall be construed in accordance with section 2(1);
“registrable financial interest” shall be construed in accordance with section 2(2) and the schedule;
“remuneration” includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind;
“Scottish Law Officer” means the Lord Advocate or the Solicitor General for Scotland;
“shares” includes stock;
“spouse” in relation to a member does not include a former spouse or a spouse who is living separately and apart from the member where the separation is likely to be permanent;
“subsidiary undertaking” has the same meaning as in section 258 of the 1985 Act; and
“undertaking”, except in paragraph 2(f) of the schedule, has the same meaning as in section 259 of the 1985 Act.
(2) Any reference in this Act to—
   (a) an interest meeting the prejudice test shall be construed in accordance with section 3(2); or
   (b) lodging a written statement with the Clerk shall be construed in accordance with section 4.

(3) For the purposes of this Act, a member has registered an interest in the register if—
   (a) that member has lodged with the Clerk a written statement in accordance with section 3, 5, 6 or 7, irrespective of whether or not the Clerk has registered that statement; and
   (b) that member has not lodged with the Clerk a written notice under section 8 indicating that the interest is a ceased interest,

   and any reference in this Act to an interest being registered shall be construed accordingly.

20 Revocation and saving

(1) The day when this section comes into force is the day appointed for the purposes of Article 10 of the 1999 Order.

(2) The Clerk shall keep a copy of the register kept under the 1999 Order for a period of 5 years from the day when this section comes into force.

(3) Section 1(4) shall apply to the keeping of the register under subsection (2) as it applies to the keeping of the register under section 1.

21 Short title and commencement

(1) This Act may be cited as the Interests of Members of the Scottish Parliament Act 2006.

(2) This Act comes into force in accordance with subsections (3) and (4).

(3) The following provisions of this Act come into force on the day after Royal Assent but only for the purpose of enabling the Parliament to make determinations to come into force when the remaining provisions of this Act come into force in accordance with subsection (4)—
   (a) sections 4(1) and (2);
   (b) section 11(1);
   (c) section 13(2);
   (d) section 19;
   (e) this section; and
   (f) the schedule, paragraph 8(2)(b).

(4) The provisions of this Act, to the extent that they are not already in force by virtue of subsection (3), come into force on the day after the date of the first dissolution of the Parliament following the date of Royal Assent.
AMENDED SCHEDULE TO THE INTERESTS OF MEMBERS OF THE SCOTTISH PARLIAMENT ACT 2006

Registrable financial interests

1 A member has, or had, a registrable financial interest in the circumstances set out in the following paragraphs.

Remuneration and Related undertaking

2 (A1) Where the circumstances are as described in sub-paragraph (1) or (1A).

(1) Where a member receives, or has received, remuneration by virtue of—

(a) being employed;

(b) being self-employed;

(c) being the holder of an office;

(d) being a director of an undertaking;

(e) being a partner in a firm; or

(f) undertaking a trade, profession or vocation.

(1A) Where a member is, or was—

(a) a director in a related undertaking; or

(b) a partner in a firm,

but does, or did, not receive remuneration by virtue of being such a director or partner.

(2) A member does not fall within sub-paragraph (1) solely by virtue of being, or of having been, a member, a member of the Scottish Executive or a junior Scottish Minister or holding or having held the office of Presiding Officer, deputy Presiding Officer or member of the Parliamentary corporation or of Convener, deputy Convener or member of a Committee of the Parliament.

(3) Sub-paragraph (1) does not apply where the remuneration received from a person on a single, or on more than one, occasion during the current parliamentary session consists solely of expenses unless those expenses amount, or amount in aggregate, to more than the specified limit.

(4) The exception in sub-paragraph (3) applies even although the remuneration received from that person on another occasion, or on other occasions, during that session does not consist solely of expenses.

(5) In this paragraph—
“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;

“a related undertaking” is a parent or subsidiary undertaking of an undertaking of which the member is a director and receives remuneration as a director as mentioned in sub-paragraph (1)(d); and

“specified limit” means 1% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.

Gifts

(1) Where a member or a company in which the member has a controlling interest or a partnership of which the member is a partner, receives, or has received, a gift of heritable or moveable property or a gift of a benefit in kind and—

(a) in the case where the gift was received from a person on a single occasion, the value of that gift, at the date on which it was received, exceeds the specified limit; or

(b) in the case where gifts were received from that person on more than one occasion during the current parliamentary session, the aggregate value of those gifts, at the dates on which they were received, exceeds the specified limit and, in either case,

(c) that gift or those gifts meet the prejudice test.

(2) Sub-paragraph (1) does not apply to

(a) the costs of travel and subsistence in connection with the member’s attendance at a conference or meeting where those costs are borne in whole or in part by—

(i) the organiser of that conference; or

(ii) one of the other parties attending that meeting,

as the case may be;

(b) any support (of any kind) provided by the services of a volunteer which are provided in that volunteer’s own time and free of charge; or

(c) a donation (of any kind) which is intended by the donor to be used for the purpose of meeting
(i) any campaign expenditure incurred in connection with the member’s campaign for election to a party office;

(ii) the election expenses of the member in relation to the election at which that member was returned as a member of the Scottish Parliament; or

(iii) the election expenses of the member in relation to any UK parliamentary election at which that member stands as a candidate,

but this exemption ceases to apply if the donation is not used for its intended purpose by the expiry of the 35th day after the election result is declared.

(3) For the purposes of this paragraph:

“candidate” has the same meaning as in section 118A, as read with section 90ZA(5) of the Representation of the People Act 1983;

“campaign expenditure” includes expenditure incurred, whether before or after the member’s candidacy for election to the party office is announced or after the date on which the result of that election is declared, which can reasonably be described as being for the purposes of that campaign;

“controlling interest” means, in relation to a company, shares carrying in the aggregate more than half of the voting rights exercisable at general meetings of the company;

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;

“election expenses”, in relation to a member, has the same meaning for the purposes of

(i) sub-paragraph (2)(c) (ii) as “election expenses” has in relation to a candidate in the order under section 12 of the 1998 Act which is in force for the purposes of the election at which the member was returned; and

(ii) sub-paragraph (2)(c)(iii) as “election expenses” has in section 90ZA of the Representation of the People Act 1983;

“party office” means an office in a registered political party with which that member is connected;

“registered political party” means a political party registered under Part II of the Political Parties, Elections and Referendums Act 2000 and a member is “connected with” a registered political party if the member was returned at the election after contesting it as a candidate (whether for return as a constituency member or as a regional member) of that party; and

1 1983 c.2
2 2000 c.41
“specified limit” means 1% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.

**Overseas visits**

7 (1) Where a member makes, or has made, a visit outside the United Kingdom and that visit meets the prejudice test.

(2) Sub-paragraph (1) does not apply to a visit, the travel and other costs of which—

(a) are wholly met—

(i) by the member;

(ii) by the member's spouse, civil partner or cohabitant;

(iii) by the member's mother, father, son or daughter;

(iv) by the Parliamentary corporation; or

(v) out of the Scottish Consolidated Fund; or

(b) were approved prior to the visit by the Parliamentary corporation.

**Heritable property**

8 (1) Where a member owns or holds, or has owned or held, any heritable property and sub-paragraph (2) applies.

(2) This sub-paragraph applies where either—

(a) the market value of the heritable property, at the relevant date, exceeds the specified limit; or

(b) any income is received from the heritable property during the twelve months prior to the relevant date.

(3) Sub-paragraph (1) applies to heritable property which a member owns or holds, or has owned or held—

(a) solely in the member’s name;

(b) jointly with any other person or body; or

(c) as a trustee, whether or not jointly with other trustees, where the member has an interest as a beneficiary of the trust.

(4) Sub-paragraph (1) does not apply to heritable property—

(a) which is used as a residential home by the member or the member's spouse, civil partner or cohabitant;

(b) which was used as a residential home by the member or the member's spouse, civil partner or cohabitant but which, for a period of not more than 12 months, is or was unoccupied and for sale; or

(c) which forms part of the assets of a partnership and any income from that partnership is, or forms part of, the remuneration registered under paragraph 2 of this schedule.

(5) Where a member has ceased to own or hold any heritable property before the date on which the member was returned as a member, the relevant date is the date when the heritable property ceased to be so owned or held.

(6) Where a member owned or held any heritable property at the date on which the member was returned as a member, the relevant date is—

(a) that date; and

(b) the 5th April immediately following that date and in each succeeding year, where the heritable property continues to be so owned or held on that 5th April.

(7) Where a member becomes the owner of or acquires any heritable property after the date on which that member was returned as a member, the relevant date is—

(a) the date on which the member became the owner of or acquired that heritable property; and

(b) the 5th April immediately following that date and in each succeeding year, where the heritable property continues to be so owned or held on that 5th April.

(8) In this paragraph—

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned; and

“specified limit” means 50% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.

Interest in shares

(1) Where a member has, or had, an interest in shares, whether that interest is, or was, held by the member or by a relevant person, and sub-paragraph (2) applies.

(2) This sub-paragraph applies where either—

(a) the nominal value of the shares at the relevant date is, or was, greater than 1% of the total nominal value of the issued share capital of the company or other body; or
(b) the market value of the shares at the relevant date exceeds, or exceeded, the specified limit.

(3) Sub-paragraph (1) applies to an interest in shares, whether that interest is, or was, held by a member (or a relevant person)—

(a) solely in the name of the member (or relevant person);  
(b) jointly with any other person or body; or  
(c) as a trustee, whether or not jointly with other trustees where the member has an interest as a beneficiary of the trust.

(4) Sub-paragraph (1) does not apply to an interest in shares which forms part of the assets of a partnership and any income from that partnership is, or forms part of, remuneration registered under paragraph 2 of this schedule.

(5) Where a member has ceased to have an interest in shares before the date on which the member was returned as a member, the relevant date is the date when the interest in such shares ceased to be so held.

(6) Where a member had an interest in shares at the date on which the member was returned as a member, the relevant date is—

(a) that date; and  
(b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

(7) Where a member acquires an interest in shares after the date on which the member was returned as a member, the relevant date is—

(a) the date on which the interest in shares was acquired; and  
(b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

(8) In this paragraph—

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;  

an “interest in shares” means an interest in shares comprised in the share capital of a company or other body;  

“relevant person” is a person who is subject to the control or direction of a member in respect of an interest in shares;
“specified limit” means 50% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.

Modification

10 (1) The Parliament may, by resolution, make any modifications of this schedule which the Parliament considers necessary or expedient.

(2) Immediately after any such resolution is passed, the Clerk shall send a copy of it to the Queen's Printer for Scotland; and Articles 5, 7(1), 8 and 9 of the Scotland Act 1998 (Transitional and Transitory Provisions) (Statutory Instruments) Order 1999 (SI 1999/1096) shall apply to it as if it were a Scottish statutory instrument.
ANNEXE 3

THE SCOTTISH PARLIAMENT

The Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2010

The Scottish Parliament, in exercise of the powers conferred by sections 4(1) and 4(2) of the Interests of Members of the Scottish Parliament Act 2006, on the 20th day of January 2010 made the following Determination. This replaces the Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2007:

Citation and commencement

1. This Determination may be cited as the Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2010 and shall have effect from 23 March 2011.

Interpretation

2. In this Determination—

“the Act” means the Interests of Members of the Scottish Parliament Act 2006(43);
“the Code of Conduct” means the Code of Conduct for Members of the Scottish Parliament, 5th Edition, March 2011; and
“written statement” means the written statement which members are required to lodge under sections 3(3), 5(2) or 6(2) of the Act or may lodge under section 7 of the Act.

Form of written statement

3. A written statement shall be in the form set out in the Annexe to this Determination.

Content of written statement

4. A written statement shall contain the information required in the form set out in the Annexe and for the purposes of registration includes only those parts of the statement completed by a member.
ANNEXE

REGISTER OF INTERESTS OF MEMBERS OF THE SCOTTISH PARLIAMENT

WRITTEN STATEMENT OF INTERESTS

PLEASE NOTE: Statements (including nil returns) must be returned to the Standards Clerks—

a. In the case of initial registration by members (section 3) no later than 30 days after you take the oath of allegiance or make the solemn affirmation. As the thirtieth day falls on a Sunday, statements should be returned to the Standards Clerks by Friday 10 June 2011;

b. In the case of interests acquired by members after the date of return (section 5) within 30 days of the date you acquired the interest;

c. In the case of Scottish Law Officers (section 18) in accordance with that section; and

d. In the case of late registrations (section 7) within 7 days of becoming aware the interest ought to have been registered.

<table>
<thead>
<tr>
<th>NAME:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CONSTITUENCY / REGION:</td>
<td></td>
</tr>
</tbody>
</table>

1. The Register of Members Interests

The Act requires a Member to register any registrable interests or to declare that the Member has no such interest. You must register any interest by lodging a written statement with the Clerk. Written statements lodged by you form the basis of your entry in the Register of Interests of Members of the Scottish Parliament (‘the Register’).

Under section 11(3) of the Act, the Register must be made available for public inspection. It will be available at the office of the Standards Clerks (Tower 4, Room TG.01). A copy will be available in the public reception to the Parliament and an electronic version will also appear on the Scottish Parliament’s website.

Please take the time to familiarise yourself with the requirements of the Act and the Code of Conduct. Any Member who takes part in any proceedings of the Parliament without having complied with, or in contravention of, sections 3, 5, 6, 13, 14, 15 or 16 of the Act is guilty of a criminal offence. The maximum penalty for an offence under this Act, as specified in section 39(7) of the Scotland Act, is a fine not exceeding level 5 on the standard scale.
Failure to comply with the requirements of the Act may also (in terms of sections 15 and 16) result in a Member being prevented, restricted or excluded from participation in proceedings of the Parliament.

Amongst other things the Code of Conduct provides detailed information on how to comply with the Act, including the criteria for registration under each of the categories of registrable interest (Volume 2, Section 2); the requirements to update your register throughout the Parliamentary session (Volume 2, Section 1); and how to declare your interests in advance of taking part in Parliamentary proceedings (Volume 2, Section 3).

The Schedule to the Act, which sets out the categories of registrable interest, was amended by resolution of Parliament at the end of Session 3. This includes a reduction in the number of registrable categories from eight to five, in part through amalgamation of categories. Section 2 of the Code was re-drafted to reflect these amendments. Therefore, those members who have been members in previous Parliamentary sessions should familiarise themselves with the changes to the Act and the Code.

2. Registration requirements under the Act

*Interests to be registered*

The interests that require to be registered are those set out in the Schedule to the Act which you—

(1) had at the date you were returned; or

(2) had before you were returned but no longer have, where the interest meets the prejudice test (section 3(2)); or

(3) have acquired since the date you were returned.

"Prejudice test" – an interest meets the prejudice test if, after taking into account all of the circumstances, that interest is reasonably considered to prejudice, or give the appearance of prejudicing the ability of the member to participate in a disinterested manner in any proceedings of the Parliament.

The Parliament has determined what information you *must* provide but you may provide additional details for your entry if you wish.

*Declaration that no registrable interests are held (section 3)*

If you have no registrable interests you are still required to make a written declaration to that effect. You can do so by completing and lodging this form.

*Late registration (section 6)*

If, after submitting your statement, you become aware of a registrable interest which was not included, you should immediately contact the Standards Clerks. The Act requires you to lodge a further written statement registering that interest within 7 days of becoming aware of it. If you have in the meantime taken part in proceedings of the Parliament, you should be aware

that you may already have committed a criminal offence and could also become subject to parliamentary sanctions.

Further, if you lodge a statement 7 days or more after becoming aware of the unregistered interest you may have committed a further offence and may become subject to further Parliamentary sanctions.

3. **Completion and submission of the written statement**

The written statement form is split into 6 categories—
- Remuneration and Related Undertaking
- Gifts
- Overseas Visits
- Heritable Property
- Interest in Shares
- Voluntary

For each category of interest, the form asks you to indicate whether you have an interest in the relevant category and then goes on to set out a series of questions regarding the specific information that should be provided for that category. Any part of the form that you are required to complete has been shaded in grey.

Please go through this form, in conjunction with the Act and the Code of Conduct, and complete each grey-shaded section as appropriate before signing and dating where indicated on page 16. If there is not enough space in any section of this form additional sheets may be attached, but each sheet should be clearly marked with your name and also signed and dated.

Once you have completed this form, and any additional sheets as necessary, the document should be sent to the Standards Clerks in Room TG.01.

Upon receipt of the completed form, the Standards Clerks will draft a Register of Interests for each member. Each member will be sent a copy of their Register of Interests. Under the terms of the Act, the Register of Interests will be published on **Friday 8 July 2011**.

4. **Who to contact for further information**

Further advice and assistance on any matter relating to this form can be obtained from the Standards Clerks (ext. 85239 or e-mail standards.clerks@scottish.parliament.uk).

Members are advised to seek advice from the Standards Clerks if they are uncertain about whether an interest is registrable, or about which category an interest should be registered in. Members may also choose to consult their own legal or other advisers. If you are in any doubt about whether or not to register an interest, the guiding principle is to err on the side of caution.
REMUNERATION AND RELATED UNDERTAKING

For details of what constitutes a registrable interest under the remuneration and related undertaking category and details of exemptions to the requirement to register please refer to the schedule to the Act and to the Code of Conduct, in particular 2.2, Section 2 of Volume 2.

Notes

The following are not registrable under this category—

a. Remuneration received solely by virtue of being an MSP (i.e. MSPs’ salary and allowances) and remuneration received solely by virtue of being a Minister of the Scottish Government, Presiding Officer, deputy Presiding Officer, member of the Parliamentary corporation or convener, deputy convener or member of a committee of the Parliament.

b. Remuneration received from one source on a single or more than one occasion during this parliamentary session which consist solely of expenses amounting to no more than 1% of a member’s gross salary at the start of this parliamentary session.

REMUNERATION

<table>
<thead>
<tr>
<th>Do you receive remuneration by virtue of:</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) being employed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) being self-employed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) being the holder of any office</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) being the director of an undertaking</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e) being a partner in a firm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f) undertaking a trade, profession or vocation?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If you answered yes, then please answer the following questions for each interest:

<table>
<thead>
<tr>
<th>Into which category (a-f) does this interest fall?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Question</td>
<td>Answer</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>What is the name of the employer, business, body, undertaking or firm or name under which the trade, profession of vocation is carried out?</td>
<td></td>
</tr>
<tr>
<td>What is the:</td>
<td></td>
</tr>
<tr>
<td>a) principal business address of, and</td>
<td></td>
</tr>
<tr>
<td>b) nature of the business, activities or work carried out by the person or organisation named in 2 above?</td>
<td></td>
</tr>
<tr>
<td>What position do you hold?</td>
<td></td>
</tr>
<tr>
<td>What level of remuneration do you receive or expect to receive per annum within the following bands:</td>
<td></td>
</tr>
<tr>
<td>up to £500</td>
<td></td>
</tr>
<tr>
<td>between £501 – £1,000</td>
<td></td>
</tr>
<tr>
<td>between £1,001 – £2,000</td>
<td></td>
</tr>
<tr>
<td>between £2,001 – £3,000</td>
<td></td>
</tr>
<tr>
<td>between £3,001 – £5,000</td>
<td></td>
</tr>
<tr>
<td>and thereafter in intervals of £5,000?</td>
<td></td>
</tr>
<tr>
<td>What is the regularity of the work you undertake (for example, the number of hours or days worked per week or month)?</td>
<td></td>
</tr>
<tr>
<td>Is there any relevant additional information that you wish to provide?</td>
<td></td>
</tr>
</tbody>
</table>
**RELATED UNDERTAKING**

<table>
<thead>
<tr>
<th>Are you:</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) a director of a related undertaking but do not receive remuneration as such a director?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) a partner in a firm but do not receive remuneration as such a partner</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If you answered yes, then please provide the following information for each interest:

<table>
<thead>
<tr>
<th>Into which category (a or b) does this interest fall?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>What is the name of the related undertaking or firm?</td>
<td></td>
</tr>
<tr>
<td>What is the:</td>
<td></td>
</tr>
<tr>
<td>a) principal business address of, and</td>
<td></td>
</tr>
<tr>
<td>b) nature of the business carried out by</td>
<td></td>
</tr>
<tr>
<td>the related undertaking or firm?</td>
<td></td>
</tr>
<tr>
<td>What is the nature of the relationship between related undertakings?</td>
<td></td>
</tr>
<tr>
<td>Is there any relevant additional information that you wish to provide?</td>
<td></td>
</tr>
</tbody>
</table>
GIFTS

For details of what constitutes a registrable interest under the gifts category and details of exemptions to the requirement to register please refer to the schedule to the Act and to the Code of Conduct, in particular 2.3, Section 2 of Volume 2.

Notes
Please note that if a member receives a number of gifts from a single source each of which is below the registrable value (£570) but which cumulatively exceed it, the gifts are registrable if the prejudice test is met.

The following are not registrable under this category—

a. Support provided by a volunteer in that person’s own time and free of charge

b. Donations towards expenses for election to party office, the Scottish Parliament or to the UK Parliament are not registrable. However, any donations which are unspent on the election in question by the expiry of the 35th day after the election result is declared (the same timeframe that is allowed for lodging election returns) must be registered if they exceed the gifts threshold and meet the prejudice test.

c. The costs of travel and subsistence in connection with attendance at a conference or meeting if those costs are borne in whole or in part by the organiser of the conference or by one of the other parties attending the meeting.

<table>
<thead>
<tr>
<th>Have you or a company in which you have a controlling interest or a partnership of which you are a partner, received:</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) a gift of heritable or moveable property; or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) a gift of a benefit in kind;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the value of which, at the date on which it was received exceeded 1% of a Member’s gross salary at the start of this parliamentary session (£570)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>And</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does that interest meet the prejudice test (as set out in section 3(2) of the Act)?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If you answered yes, then please answer the following questions for each interest:
<table>
<thead>
<tr>
<th><strong>Into which category (a or b) does this interest fall?</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>On what date or dates did you receive the gift?</strong></td>
</tr>
<tr>
<td><strong>What is the name of the donor of the gift?</strong></td>
</tr>
<tr>
<td><strong>What is the:</strong></td>
</tr>
<tr>
<td>a) <strong>principal business address of, and</strong></td>
</tr>
<tr>
<td>b) <strong>nature of the business, activities or work carried out by the employer etc. named in 3 above?</strong></td>
</tr>
<tr>
<td>(Note: This information does not need to be provided if the donor of the gift is a private individual)</td>
</tr>
<tr>
<td><strong>Was the gift to you as an individual or to a company or partnership?</strong></td>
</tr>
<tr>
<td><strong>What is the monetary value of the gift, within the following bands:</strong></td>
</tr>
<tr>
<td>between £501 – £1,000</td>
</tr>
<tr>
<td>between £1,001 – £2,000</td>
</tr>
<tr>
<td>between £2,001 – £3,000</td>
</tr>
<tr>
<td>between £3,001 – £5,000</td>
</tr>
<tr>
<td>and thereafter in intervals of £5,000?</td>
</tr>
<tr>
<td><strong>Is there any relevant additional information that you wish to provide?</strong></td>
</tr>
</tbody>
</table>
OVERSEAS VISITS

For details of what constitutes a registrable interest under the overseas visits category and details of exemptions to the requirement to register please refer to the schedule to the Act and to the Code of Conduct, in particular 2.4, Section 2 of Volume 2.

Notes
Overseas visits the costs of which were met wholly by the member or certain family members, or which were approved in advance by the SPCB, are not registrable under this category. However Members should note that committee travel outwith the UK may fall to be registered in this category. Members are advised to seek advice from the relevant committee clerk regarding prior approval by the SPCB. Members may also consult the Standards Clerks for further advice on seeking SPCB approval for certain visits overseas.

<table>
<thead>
<tr>
<th>Have you made a visit outside the United Kingdom which meets the prejudice test?</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

If you answered yes, then please answer the following questions for each interest:

<table>
<thead>
<tr>
<th>On or between which date(s) did the visit take place?</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>What was:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) the destination, and</td>
</tr>
<tr>
<td>b) the purpose of the visit?</td>
</tr>
<tr>
<td>---</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What is the name of the person or organisation who met any of the costs of the visit?</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>What is the:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) principal business address of, and</td>
</tr>
<tr>
<td>b) nature of the business, activities or work carried out by the person or organisation named in 3 above?</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>(Note: This information does not need to be provided if the donor of the gift is a private individual)</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>What were the costs of the visit?</td>
</tr>
<tr>
<td>Is there any relevant additional information that you wish to provide?</td>
</tr>
</tbody>
</table>
HERITABLE PROPERTY

For details of what constitutes a registrable interest under the heritable property category and details of exemptions to the requirement to register please refer to the schedule to the Act and to the Code of Conduct in particular 2.5, Section 2 of Volume 2.

Notes

The relevant date referred to below is the date that the member is returned (and each following 5th April) or for property acquired after the date of return the date of acquisition (and each following 5th April) or for property disposed of before the member is returned the date of disposal, as the case may be.

The following are not registrable under this category—

a. Heritable property used as a residential home by you, your spouse, civil partner or cohabitant.

b. Heritable property which was used as a residential home by you, your spouse, civil partner or cohabitant but which, for a period of not more than 12 months, is or was unoccupied and for sale.

c. Heritable property which forms part of the assets of a partnership and any income from that partnership is, or forms part of, the remuneration registered under the remuneration and related undertaking category.

<table>
<thead>
<tr>
<th>Do you own or hold heritable property:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) the market value of which, at the relevant date, exceeds 50% of a member's gross salary at the start of this Parliamentary session (£28,760); or</td>
</tr>
<tr>
<td>b) from which you have received rental income during the period of twelve months prior to the relevant date?</td>
</tr>
</tbody>
</table>

If you answered yes, then please answer the following questions for each interest:

<table>
<thead>
<tr>
<th>Into which category (a, b or both) does this interest fall?</th>
</tr>
</thead>
</table>

<p>| What is the location of the property (by area, for example by local authority area if in Scotland)? |</p>
<table>
<thead>
<tr>
<th><strong>What is the type of the property (for example, flat, house, commercial, industrial, domestic, commercial, agricultural)?</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>On what date did you acquire the property (if after the date of your return in this parliamentary session) or dispose of the property (if before the date of your return)?</strong></td>
<td></td>
</tr>
<tr>
<td><strong>What is/was the market value of the property at the relevant date within the following bands:</strong></td>
<td></td>
</tr>
<tr>
<td>up to £50,000</td>
<td></td>
</tr>
<tr>
<td>between £50,001 – £100,000</td>
<td></td>
</tr>
<tr>
<td>between £100,001 – £150,000</td>
<td></td>
</tr>
<tr>
<td>between £150,001 – £200,000</td>
<td></td>
</tr>
<tr>
<td>between £200,001 – £250,000</td>
<td></td>
</tr>
<tr>
<td>between £250,001 – £300,000</td>
<td></td>
</tr>
<tr>
<td>and thereafter in intervals of £100,000?</td>
<td></td>
</tr>
<tr>
<td><strong>What is/was the gross income from the property at the relevant date within the following bands:</strong></td>
<td></td>
</tr>
<tr>
<td>up to £5,000</td>
<td></td>
</tr>
<tr>
<td>between £5,001 – £10,000</td>
<td></td>
</tr>
<tr>
<td>between £10,001 – £15,000</td>
<td></td>
</tr>
<tr>
<td>between £15,001 – £20,000</td>
<td></td>
</tr>
<tr>
<td>between £20,001 – £25,000</td>
<td></td>
</tr>
<tr>
<td>between £25,001 – £30,000</td>
<td></td>
</tr>
<tr>
<td>and thereafter in intervals of £10,000?</td>
<td></td>
</tr>
<tr>
<td><strong>Is there any relevant additional information that you wish to provide?</strong></td>
<td></td>
</tr>
</tbody>
</table>
INTEREST IN SHARES

For details of what constitutes a registrable interest under the interest in shares category and details of exemptions to the requirement to register please refer to the schedule to the Act and to the Code of Conduct, in particular 2.6, Section 2 of Volume 2.

Notes
The relevant date referred to below is the date that the member is returned (and each following 5th April) or for interests acquired after the date of return the date of acquisition (and each following 5th April) or for interests disposed of before the member is returned the date of disposal as the case may be.

An interest in shares which forms part of the assets of a partnership and any income from that partnership is, or forms part of, remuneration registered under the remuneration and related undertaking category, is not registrable under this category.

<table>
<thead>
<tr>
<th>Do you or a relevant person have an interest in shares and:</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) the nominal value of the shares at the relevant date is greater than 1% of the issued share capital of the company or other body;</td>
<td></td>
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<tr>
<td>Or</td>
<td></td>
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<tr>
<td>b) the market value of the shares at the relevant date exceeds or exceeded 50% of a Member's gross salary at the start of this Parliamentary session (£28,760)?</td>
<td></td>
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</tr>
</tbody>
</table>

If you answered yes, then please answer the following questions for each interest:

<table>
<thead>
<tr>
<th>Into which category (a, b or both) does this interest fall?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>What is the name of the company or other body (as described when you acquired the interest)?</td>
<td></td>
</tr>
<tr>
<td>What type of shares do you own?</td>
<td></td>
</tr>
<tr>
<td>On what date did you acquire the shares (if after the date of your return in this parliamentary session) or dispose of the property (if before the date of</td>
<td></td>
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<tr>
<td>your return?</td>
<td></td>
</tr>
<tr>
<td>What is the nature of the business undertaken by the company or other body in which you hold shares?</td>
<td></td>
</tr>
<tr>
<td>What is the market value and/or percentage of the issued share capital of the company or other body?</td>
<td></td>
</tr>
<tr>
<td>Is there any relevant additional information that you wish to provide?</td>
<td></td>
</tr>
</tbody>
</table>
VOLUNTARY

You may choose to provide details in this section of any interest, not falling within any of the previous sections, which you wish to register, perhaps because you consider that the interest might be thought by others to influence your actions.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Do you have any such interests?</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If you answered yes, please insert details below:

Signed

Date
ANNEXE 3

THE SCOTTISH PARLIAMENT

The Interests of Members of the Scottish Parliament Act 2006 (Publication of Register of Interests) Determination 2007

The Scottish Parliament, in exercise of the powers conferred by section 11(1) of the Interests of Members of the Scottish Parliament Act 2006, on the 25th day of January 2007 made the following Determination:

Citation and commencement

1. This Determination may be cited as the Interests of Members of the Scottish Parliament Act 2006 (Publication of Register of Interests) Determination 2007 and shall have effect from 3 April 2007.

Interpretation

2. In this Determination—

   “the Act” means the Interests of Members of the Scottish Parliament Act 2006(44);
   “Clerk” means the Clerk of the Parliament; and
   “register” means the Register of Interests of Members of the Scottish Parliament, established under section 1(1) of the Act.

Manner and interval of publication of the Register

3. The Clerk shall publish the register by—

   (a) reproducing the information which appears in it in respect of each member’s entry on that member’s page on the Scottish Parliament website; and

   (b) updating that information in respect of any amendment to the register by the operation of sections 4(5), 8(3), 8(4), 9(2), 9(3) and 9(5) of the Act(45) at intervals which correspond with the relevant time limits specified under sections 4(5), 8(3), 8(4) and 9(2) of the Act and, in relation to an amendment by the Clerk under sections 9(3) and 9(5), within 30 days of such an amendment.

(44) 2006 asp 12.
(45) Sections 4(5), 8(3) and 9(2) of the Act require the Clerk to register an interest or amend an entry in the register within 30 days of the statement or notice, as the case may be, being lodged. Section 8(4) requires the Clerk to amend an entry in the register by deletion not less than twelve months after a notice has been lodged under section 8(3). Sections 9(3) and (5) provide for the amendment of entries in the Register by the Clerk to correct clerical or typographical errors and to remove the entry when a member ceases to be a member.

ANNEXE 3

THE SCOTTISH PARLIAMENT

The Interests of Members of the Scottish Parliament Act 2006
(Declaration of Interests) Determination 2007

The Scottish Parliament, in exercise of the powers conferred by section 13(2) of the Interests of Members of the Scottish Parliament Act 2006, on the 25th day of January 2007 made the following Determination:

Citation and commencement

1. This Determination may be cited as the Interests of Members of the Scottish Parliament Act 2006 (Declaration of Interests) Determination 2007 and shall have effect from 3 April 2007.

Interpretation

2. In this Determination—

   “Clerk” means the Clerk of the Parliament; and
   “Parliament” includes a committee, sub-committee or joint committee of the Scottish Parliament.

Oral declaration of interest

3. Where a member has a declarable interest in any matter, the member must make an oral declaration of that interest before speaking in any meeting of the Parliament relating to that matter.

Written declaration of interest

4. Where a member has a declarable interest in any matter and takes part in a meeting of the Parliament relating to that matter only by attending and voting at that meeting, that member must, prior to voting, have made a written declaration of that interest either by virtue of that interest being registered in the entry relating to that member in the Register of Interests of Members of the Scottish Parliament or in any other case by lodging a written declaration of that interest with the Clerk.

5. Where a member has a declarable interest in any matter, and takes part in any proceedings of the Parliament relating to that matter otherwise than as provided in paragraphs 3 and 4, the member must lodge with the Clerk a written declaration of that interest before taking part in those proceedings.

6. For the purposes of paragraph 5, taking part in proceedings of the Parliament includes any of the following—
a. lodging questions for oral or written answer,
b. lodging motions or amendments to motions,
c. introducing a Bill, or lodging a proposal for a Member’s Bill,
d. lodging amendments to Bills, or
e. (e) adding the member’s name in support of any of the proceedings referred to in sub-paragraphs (a) – (d).
Scottish Parliamentary Standards Commissioner Act 2002

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 27th June 2002 and received Royal Assent on 30 July 2002

An Act of the Scottish Parliament to establish a Scottish Parliamentary Standards Commissioner to investigate complaints about the conduct of members of the Parliament and to report upon the outcome of such investigations to the Parliament; and for connected purposes.

The Scottish Parliamentary Standards Commissioner

1 Appointment of the Scottish Parliamentary Standards Commissioner

(1) There shall be a Scottish Parliamentary Standards Commissioner (in this Act referred to as “the Commissioner”).

(2) The Commissioner shall be appointed by the Parliamentary corporation with the agreement of the Parliament.

(3) A person shall not be eligible to be appointed as the Commissioner if that person—
   (a) is a member of the Parliament or of the staff of the Parliament; or
   (b) has been such a member at any time during the period of 2 years prior to the date when the appointment is to take effect.

(4) The Commissioner shall be appointed for such period, not exceeding 5 years, as the Parliamentary corporation may determine.

(5) A person who has been appointed for one period as the Commissioner may be appointed for a second period (whether or not consecutive) but not for any additional period.

(6) A person who has been appointed as the Commissioner may at any time—
   (a) resign by notice given to the Parliamentary corporation; or
   (b) be removed from office by the Parliamentary corporation.

(7) The Parliamentary corporation shall not remove a person as the Commissioner unless—
   (a) the Parliament so resolves; and
(b) if the resolution is passed on a division, the number of votes cast in favour of it is not less than two thirds of the total number of votes cast in the division.

(8) The schedule makes further provision about the Commissioner.

2 Appointment of the acting Commissioner

(1) When the office of the Commissioner is vacant or the Commissioner is, for any reason, unable to act, the Parliamentary corporation may appoint a person to discharge the functions of that office either generally or in relation to such case or class of cases, and until such time, as may be specified by the Parliamentary corporation as part of the terms and conditions of such appointment; and a person so appointed is referred to in this section as the “acting Commissioner”.

(2) The Commissioner and the acting Commissioner may each discharge the functions of the office of the Commissioner at the same time but in relation to different cases.

(3) A person who is not eligible to be appointed as the Commissioner is not eligible to be appointed as the acting Commissioner.

(4) A person appointed as the acting Commissioner—

(a) may at any time resign by notice given to the Parliamentary corporation;

(b) may at any time be removed from office by the Parliamentary corporation;

(c) in other respects, holds office on such terms and conditions as the Parliamentary corporation may determine; and

(d) while holding that appointment is to be treated for all purposes (except those of section 1 and paragraph 1 of the schedule) as the Commissioner.

3 Functions of the Commissioner

(1) Subject to the provisions of this Act, where a complaint has been made to the Commissioner about the conduct of a member of the Parliament, it shall be the function of the Commissioner to—

(a) investigate whether the member has committed the conduct complained about and has, as a result of that conduct, breached a relevant provision; and

(b) report upon the outcome of that investigation to the Parliament.

(2) However, subject to section 12, the Commissioner shall not investigate any complaint which falls within a class of complaint which is excluded from the jurisdiction of the Commissioner by any provision in the standing orders or in the Code of Conduct; and any such complaint is referred to in this Act as an “excluded complaint”.

(3) A “relevant provision” is any provision in force at the relevant time—

(a) in the standing orders;

(b) in the Code of Conduct;

(c) in the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 (S.I. 1999/1350); or

(d) made by or under an Act of the Scottish Parliament in pursuance of section 39 (members’ interests) of the Scotland Act.

(4) The “relevant time” is the time when the conduct in question is alleged to have taken place, whether before or after this section comes into force.
(5) The Commissioner may give advice to a member of the Parliament or to a member of the public about the procedures for making a complaint to the Commissioner and the procedures following upon the making of such a complaint.

(6) However, the Commissioner shall not—

   (a) give advice to a member of the Parliament or to a member of the public as to whether any conduct which has been, or is proposed to be, committed by a member of the Parliament (whether or not the member seeking such advice) would constitute a breach of a relevant provision; or

   (b) otherwise express any view upon any of the relevant provisions except in the context of an investigation in any particular case or in a report upon the outcome of that investigation or in such other circumstances as may be specified in any direction given to the Commissioner by the Parliament.

(7) In addition to the functions mentioned in subsections (1) and (5), the Commissioner also has the functions which are conferred or imposed upon the Commissioner by virtue of any other provision in this Act or in any other enactment or in the standing orders.

4 Directions to the Commissioner

(1) The Commissioner shall, in carrying out the functions of that office, comply with any directions given by the Parliament.

(2) Any direction to the Commissioner by the Parliament under this section may, in particular—

   (a) make provision as to the procedure to be followed by the Commissioner when conducting—

      (i) investigations generally into any complaint about the conduct of a member of the Parliament; or

      (ii) investigations into complaints falling within such class or classes as may be specified in the direction (and different provision may be made in relation to different classes of complaint); or

   (b) require the Commissioner to make a report to the Parliament upon such matter relating to the exercise of the functions of the Commissioner as may be specified in the direction.

(3) However, any direction to the Commissioner by the Parliament under this section shall not direct the Commissioner as to whether or how any particular investigation is to be carried out.

Investigation of complaints

5 General provisions relating to an investigation into a complaint

(1) There are two possible stages to any investigation by the Commissioner into a complaint, namely—

   (a) Stage 1 which consists of investigating and determining whether a complaint is admissible; and

   (b) if the complaint is admissible, Stage 2 which consists of further investigating the complaint and reporting upon it to the Parliament,
and any reference in this Act to “the stage of an investigation” or to “Stage 1” or “Stage 2” shall be construed accordingly.

(2) Each stage of an investigation into a complaint shall be conducted in private.

(3) The Commissioner may at any time make a report to the Parliament as to the progress of an investigation into a complaint.

(4) Subject to the provisions of this Act, it is for the Commissioner to decide when and how to carry out any investigation at each stage.

6 Stage 1: Admissibility of complaints

(1) At Stage 1, the Commissioner shall investigate and determine whether a complaint is admissible.

(2) A complaint is admissible if it appears to the Commissioner that the following three tests are satisfied, namely—
   (a) that the complaint is relevant;
   (b) that the complaint meets all the requirements specified in subsection (5) (“the specified requirements”) or that the Parliament has, as under section 7(7)(b), directed the Commissioner to treat the complaint as if it had met all of those requirements; and
   (c) that the complaint warrants further investigation.

(3) The three tests mentioned in paragraphs (a), (b) and (c) of subsection (2) are referred to as the first, second and third tests respectively.

(4) For the purposes of the first test, a complaint is relevant if—
   (a) it is about the conduct of a member of the Parliament;
   (b) it is not an excluded complaint or, if it is, that the Commissioner has been directed under section 12 to investigate it; and
   (c) it appears at first sight that, if all or part of the conduct complained about is established to have been committed by that member, it might amount to a breach of a relevant provision or provisions identified by the Commissioner.

(5) For the purposes of the second test, the specified requirements are that the complaint—
   (a) is made in writing to the Commissioner;
   (b) is made by an individual person, is signed by that person and states that person’s name and address;
   (c) names the member of the Parliament concerned;
   (d) sets out the facts relevant to the conduct complained about and is accompanied by any supporting evidence which the complainer wishes to submit; and
   (e) is made within one year from the date when the complainer could reasonably have become aware of the conduct complained about.

(6) For the purposes of the third test, a complaint warrants further investigation if it appears after an initial investigation that the evidence is sufficient to suggest that the conduct complained about may have taken place.
7 Procedures at Stage 1

(1) When the Commissioner receives a complaint about the conduct of a member of the Parliament, the Commissioner shall—
(a) notify that member that a complaint has been made;
(b) inform that member of the nature of the complaint; and
(c) except where the Commissioner considers that it would be inappropriate to do so, inform that member of the name of the complainer.

(2) If the Commissioner considers that the complaint is admissible, the Commissioner shall proceed to Stage 2 of the investigation into the complaint and shall—
(a) make a report to the Parliament informing it of that fact and of the relevant provision or provisions identified by the Commissioner for the purposes of the first test; and
(b) inform the complainer and the member of the Parliament concerned accordingly.

(3) If the Commissioner considers that the complaint is inadmissible for failing to satisfy the first or the third test, the Commissioner shall dismiss the complaint and shall inform the complainer and the member of the Parliament concerned accordingly, together with the reasons for that view.

(4) Subject to subsection (6), where the Commissioner considers that a complaint satisfies the first test but fails to meet one or more of the specified requirements, the Commissioner shall not dismiss the complaint as inadmissible for failing to satisfy the second test without making a report upon the matter to the Parliament and receiving a direction under subsection (7)(a).

(5) The report under subsection (4) shall set out—
(a) the reasons as to why the Commissioner considers that the complaint fails to meet one or more of the specified requirements;
(b) the reasons (if known) for that failure;
(c) any other matters which the Commissioner considers relevant; and
(d) the recommendation of the Commissioner as to whether, having regard to all the circumstances of the case, the complaint should be dismissed as inadmissible for failing to satisfy the second test or should be treated as if it had met all of those requirements.

(6) Except in the case of a complaint falling within such class or classes of case as may be specified in any direction by the Parliament under this section, the Commissioner shall, before making the report to the Parliament under subsection (4), investigate whether the complaint satisfies the third test and, if it does, the report shall contain a statement to that effect; but, if the Commissioner considers that the complaint fails to satisfy that test, the Commissioner shall dismiss the complaint accordingly and no report requires to be made under that subsection.

(7) After receiving a report under subsection (4), the Parliament shall give the Commissioner a direction under this section either—
(a) to dismiss the complaint as inadmissible for failing to satisfy the second test; or
(b) to treat the complaint as if it had met all of the specified requirements.

(8) Where the Commissioner is directed by the Parliament to dismiss the complaint under subsection (7)(a), the Commissioner shall dismiss the complaint and shall inform the complainer and the member of the Parliament concerned accordingly.
(9) In any case where the member of the Parliament concerned has not been named in the complaint or the complainer is anonymous, subsections (1), (2), (3) and (8) shall apply only to the extent that they are capable of applying.

(10) The Commissioner may make a report to the Parliament informing it of any complaint which the Commissioner has dismissed as being inadmissible and of the reasons for the dismissal.

(11) If the Commissioner has not completed the investigation and determined the admissibility of a complaint within two months of the complaint being received, the Commissioner shall, as soon as possible thereafter, make a report to the Parliament upon the progress of any investigation into the complaint at Stage 1.

8 Stage 2: Investigation of an admissible complaint

(1) At Stage 2, the Commissioner shall investigate an admissible complaint with a view to—
   (a) making findings of fact in relation to whether the member of the Parliament concerned (whether or not named in the complaint) has committed the conduct complained about; and
   (b) reaching a conclusion as to whether that member has, as a result of that conduct, breached the relevant provision or provisions identified by the Commissioner for the purposes of the first test.

(2) The Commissioner may make a finding of fact if satisfied on a balance of probabilities that the fact is established.

(3) If the Commissioner has not completed the investigation under this section within the period of six months beginning with the date on which the Commissioner found that complaint to be admissible, the Commissioner shall, as soon as possible thereafter, make a report to the Parliament upon the progress of any such investigation.

9 Report

(1) At the conclusion of an investigation into a complaint at Stage 2, the Commissioner shall make a report to the Parliament upon the outcome of the investigation.

(2) The report shall include—
   (a) details of the complaint;
   (b) details of the investigation carried out by the Commissioner;
   (c) the facts found by the Commissioner in relation to whether the member of the Parliament concerned (whether or not named in the complaint) has committed the conduct complained about;
   (d) the conclusion reached by the Commissioner as to whether that member has, as a result of that conduct, breached the relevant provision or provisions identified by the Commissioner for the purposes of the first test and the reasons for that view,
   but shall not express any view upon what sanction would be appropriate for any breach.

(3) No report concluding that a member of the Parliament, who is named in the report, has breached a relevant provision shall be made to the Parliament unless the member concerned has been given a copy of the draft report and an opportunity to make representations on the alleged breach and on the draft report; and there shall be annexed
to the report made to the Parliament any representations made by that member which are not given effect to in that report.

10 Action on receipt of a report

(1) The Parliament is not bound by the facts found, or the conclusions reached, by the Commissioner in a report made under section 9.

(2) The Parliament may direct the Commissioner to carry out such further investigations as may be specified in the direction and to report on the outcome of these investigations to it.

(3) Subject to any such direction, the provisions of this Act and of any other direction given under this Act shall apply, subject to any necessary modifications, in relation to any investigation and report by virtue of subsection (2) as they apply in relation to an investigation and report into a complaint made to the Commissioner.

11 Withdrawal of a complaint

(1) At any time after a complaint has been made to the Commissioner and before a report is made to the Parliament under section 9, the complaint may be withdrawn by the complainer by notice in writing to the Commissioner which is signed by the complainer.

(2) When a complaint has been withdrawn as mentioned in subsection (1) during Stage 1, the Commissioner shall—
   (a) cease to investigate that complaint; and
   (b) inform the member of the Parliament concerned that the complaint has been withdrawn, that the investigation into the complaint has ceased and of the reasons given by the complainer for withdrawing the complaint.

(3) When a complaint has been withdrawn as mentioned in subsection (1) during Stage 2, the Commissioner shall—
   (a) inform the member of the Parliament concerned that the complaint has been withdrawn and of the reasons given by the complainer for withdrawing the complaint;
   (b) invite that member to give the Commissioner any views upon whether the investigation should nevertheless continue; and
   (c) after taking into account any relevant information, including any reasons given by the complainer for withdrawing the complaint and any views expressed by that member, determine whether to recommend to the Parliament that the investigation into the complaint should nevertheless continue.

(4) If the Commissioner determines not to make any such recommendation as is mentioned in subsection (3), the Commissioner shall—
   (a) cease to investigate that complaint;
   (b) inform the complainer and the member of the Parliament concerned the investigation into the complaint has ceased; and
   (c) report to the Parliament that the complaint has been withdrawn, that the investigation into the complaint has ceased and the reasons given by the complainer for withdrawing the complaint.

(5) If the Commissioner determines to make any such recommendation as is mentioned in subsection (3), the Commissioner shall report to the Parliament—
(a) that the complaint has been withdrawn, the reasons given by the complainer for withdrawing the complaint and the views, if any, expressed by the member concerned as mentioned in subsection (3)(b); and 

(b) that the Commissioner recommends that the complaint should nevertheless continue to be investigated, together with the reasons for that view.

(6) After receiving a report under subsection (5), the Parliament shall give the Commissioner a direction under this section either to continue the investigation into the complaint or to cease that investigation; and the Commissioner shall comply with that direction and inform the member of the Parliament concerned and the complainer accordingly.

(7) Where the Commissioner is required under this section to inform the member of the Parliament concerned of, or to report to the Parliament, the reasons given by the complainer for withdrawing the complaint, the Commissioner may do so by providing a summary of those reasons.

(8) In any case where the member of the Parliament concerned has not been named in the complaint or the complainer has not given any reasons for withdrawing the complaint, subsections (2) to (7) shall apply only to the extent that they are capable of applying.

12 Investigation into excluded complaints

(1) The Parliament may direct the Commissioner to undertake an investigation into any excluded complaint specified in the direction.

(2) Any such direction may direct the Commissioner to take into account any information in connection with the excluded complaint which is specified in the direction.

(3) Any such direction may direct the Commissioner to treat an excluded complaint as being admissible and, if so, shall specify the relevant provision or provisions which is or are to be treated as having been identified by the Commissioner for the purposes of the first test.

(4) Subject to any such direction, any excluded complaint which the Commissioner is directed to investigate shall be treated in the same way as any other complaint made to the Commissioner.

(5) Subject to any such direction, the provisions of this Act and of any other direction given under this Act shall apply, subject to any necessary modifications, in relation to any investigation and report by virtue of this section as they apply in relation to a complaint made to the Commissioner.

General

13 Power to call for witnesses and documents

(1) Subject to subsection (2), at each stage of an investigation into a complaint the Commissioner may for the purposes of that investigation require any person, whether in or outside Scotland, who is able, in the opinion of the Commissioner, to give relevant evidence or to produce relevant documents, to do so.

(2) The Commissioner may not impose such a requirement upon any person whom the Parliament could not require, under section 23 of the Scotland Act, to attend its
proceedings for the purpose of giving evidence or to produce any documents for the same purposes.

(3) A person is not obliged under this section to answer any question or to produce any document which that person would be entitled to refuse to answer or produce in proceedings in a court in Scotland.

(4) Any statement made by a person in answer to any question which that person was obliged under this section to answer shall not be admissible in any criminal proceedings against that person, except where the proceedings are in respect of perjury relating to that statement.

(5) A Scottish Law Officer or a procurator fiscal is not obliged under this section to answer any question or to produce any document which that officer would be entitled to decline to answer or to produce in accordance with section 27(3) or, as the case may be, section 23(10) of the Scotland Act.

(6) The Commissioner may—
   (a) administer an oath to any person giving evidence to the Commissioner; and
   (b) require that person to take an oath.

(7) Any person who refuses to take an oath when required to do so under subsection (6)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding three months.

(8) The Commissioner may pay such allowances and expenses to persons giving evidence before the Commissioner or producing documents which they have been required or requested to produce as the Commissioner may, with the agreement of the Parliamentary corporation, determine.

(9) For the purposes of this section, a person shall be taken to comply with a requirement to produce a document if that person produces a copy of, or an extract of the relevant part of, the document.

14 Witnesses and documents: notice

(1) A requirement under section 13 shall be imposed by the Commissioner giving the person in question notice in writing specifying—
   (a) the time and place at which the person is to attend before the Commissioner and the particular subjects concerning which that person is required to give evidence; or
   (b) the documents, or types of documents, which the person is to produce, the date by which that person is to produce them and the particular subjects concerning which they are required.

(2) Such notice shall be given—
   (a) in the case of an individual, by sending it, by registered post or the recorded delivery service, addressed to that person at the person’s usual or last known address or, where the person has given an address for service, at that address;
   (b) in any other case, by sending it, by registered post or the recorded delivery service, addressed to the person at the person’s registered or principal office.
15 Witnesses and documents: offences

(1) Any person to whom a notice under section 14(1) has been given who—
   (a) refuses or fails to attend before the Commissioner as required by the notice;
   (b) refuses or fails, when attending before the Commissioner as required by the
       notice, to answer any question concerning the subjects specified in the notice;
   (c) deliberately alters, suppresses, conceals or destroys any document which that
       person is required to produce by the notice; or
   (d) refuses or fails to produce any such document,

is guilty of an offence.

(2) Subsection (1) is subject to section 13(3) and (5).

(3) It is a defence for a person charged with an offence under subsection (1)(a), (b) or (d)
    to prove that there was a reasonable excuse for the refusal or failure.

(4) A person guilty of an offence under this section is liable on summary conviction to a
    fine not exceeding level 5 on the standard scale or to imprisonment for a period not
    exceeding three months.

(5) Where an offence under this section which has been committed by a body corporate is
    proved to have been committed with the consent or connivance of, or to be attributable
    to any neglect on the part of—
       (a) a director, manager, secretary or other similar officer of the body corporate; or
       (b) any person who was purporting to act in any such capacity,

    that person, as well as the body corporate, is guilty of that offence and liable to be
    proceeded against accordingly.

16 Restriction upon disclosure of information

(1) Except as permitted by subsection (2), the Commissioner or the staff of, or any other
    person appointed by, the Commissioner shall not disclose any information contained
    in the complaint or any information which is furnished to or obtained by them in the
    course of, or for the purposes of, an investigation into that complaint.

(2) Such information may be disclosed for the purpose of—
       (a) enabling or assisting the Commissioner to discharge any functions imposed
           or conferred upon the Commissioner by virtue of any provision in this Act or
           in any other enactment or in the standing orders, including, in particular, the
           making of any report to the Parliament; or
       (b) the investigation or prosecution of any offence or suspected offence.

17 Protection from actions of defamation

(1) For the purposes of the law of defamation, any statement made in pursuance of the
    purposes of this Act—
       (a) by the Commissioner shall have absolute privilege; or
       (b) to the Commissioner shall have qualified privilege.

(2) In subsection (1), “statement” has the same meaning as in the Defamation Act 1996
    (c. 31).
18 Annual report

(1) As soon as possible after the end of each calendar year, the Commissioner shall lay before the Parliament an annual report upon the performance of the functions of the Commissioner throughout that year.

(2) Without prejudice to the generality of subsection (1), the annual report shall include, in relation to the year in question—
   (a) the number of complaints made to the Commissioner;
   (b) in relation to Stage 1, the number of Stage 1 investigations completed by the Commissioner, the number of complaints which are dismissed, and the number of complaints found to be admissible;
   (c) in relation to Stage 2, the number of Stage 2 investigations completed by the Commissioner and the number of reports where the Commissioner reached the conclusion that the conduct complained about did or did not constitute a breach of a relevant provision;
   (d) the number of complaints withdrawn by the complainer and the stage at which they were withdrawn; and
   (e) the number of investigations carried out by the Commissioner under section 10(2).

19 Transitional provision

(1) The Parliament may direct the Commissioner to undertake an investigation into any complaint which, on the day when this section comes into force, has been received, or is under investigation, by the Parliament.

(2) Any such direction may direct the Commissioner to take into account any information in connection with the complaint which is specified in the direction.

(3) Any such direction may, in relation to a particular complaint, direct the Commissioner to treat that complaint as being admissible and, if so, shall specify the relevant provision or provisions which is or are to be treated as having been identified by the Commissioner for the purposes of the first test.

(4) Subject to any such direction, any complaint which the Commissioner is directed to investigate shall be treated in the same way as any other complaint which is made to the Commissioner.

(5) Subject to any such direction, the provisions of this Act and of any other direction given under this Act shall apply, subject to any necessary modifications, in relation to any investigation and report by virtue of this section as they apply in relation to a complaint made to the Commissioner.

Supplementary

20 Interpretation

In this Act—
   “acting Commissioner” shall be construed in accordance with section 2(1);
   “admissible complaint” shall be construed in accordance with section 6(2) and related expressions shall be construed accordingly;
“Code of Conduct” means the Code of Conduct for members of the Parliament made under the standing orders;
“Commissioner” shall be construed in accordance with section 1(1);
“conduct” includes any act or failure to act and related expressions shall be construed accordingly;
“excluded complaint” shall be construed in accordance with section 3(2);
“first test”, “second test” and “third test” shall be construed in accordance with section 6(3);
“member of the Parliament” includes—
(a) a Scottish Law Officer even where that officer is not a member of the Parliament; and
(b) except for the purposes of section 1(3), a former member of the Parliament and a former Scottish Law Officer;
“the Parliament” includes any committee of the Parliament;
“Parliamentary corporation” means the Scottish Parliamentary Corporate Body;
“relevant provision” shall be construed in accordance with section 3(3);
“relevant time” shall be construed in accordance with section 3(4):
“Scotland Act” means the Scotland Act 1998 (c. 46);
“Scottish Law Officer” means the Lord Advocate or the Solicitor General for Scotland;
“specified requirement” shall be construed in accordance with section 6(5);
“Stage 1” and “Stage 2” shall be construed in accordance with section 5(1);
“stage of an investigation” shall be construed in accordance with section 5(1); and
“standing orders” means the standing orders of the Parliament.

21 Short title and commencement

(1) This Act may be cited as the Scottish Parliamentary Standards Commissioner Act 2002.

(2) This Act comes into force as follows—
(a) this section and sections 1 and 20 and the schedule shall come into force the day after the date of Royal Assent; and
(b) the remainder of this Act shall come into force at the end of the period of six months beginning with the date of Royal Assent.
SCHEDULE
(introduced by section 1)

THE SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER

Appointment

1 Appointment

(1) The appointment of the Commissioner shall be on such terms and conditions as the Parliamentary corporation may determine.

(2) Those terms and conditions may include arrangements for the payment of pensions, allowances and gratuities to, or in respect of, any person who has ceased to hold the office of the Commissioner.

(3) In particular, the Parliamentary corporation may—
   (a) make contributions or payments towards provision for such pensions, allowances or gratuities; and
   (b) establish and administer one or more pension schemes.

Appointment of staff

2 Appointment of staff

(1) The Commissioner may, with the consent of the Parliamentary corporation as to numbers, appoint staff to assist in carrying out the Commissioner’s functions.

(2) The Commissioner may, with the consent of the Parliamentary corporation, determine the terms and conditions of appointment of such staff, including arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of staff of the Commissioner.

(3) The Commissioner may authorise the staff appointed under this paragraph to exercise functions on behalf of the Commissioner.

Appointment of persons to provide services

3 Appointment of persons to provide services

The Commissioner may, with the consent of the Parliamentary corporation, appoint any person to provide services by assisting or advising the Commissioner in carrying out the Commissioner’s functions and may pay such fees or allowances to that person as the Commissioner may, with the like consent, determine.

Validity of actings

4 Validity of actings

The validity of any actings of the Commissioner is not affected by any defect in the appointment of that officer, including any disqualification from such appointment.
Financial provision

The Parliamentary corporation shall pay—

(a) the salary and allowances of the Commissioner;
(b) any pension, allowances and gratuities payable by virtue of paragraph 1(2) or contributions or payments towards their provision under paragraph 1(3); and
(c) any expenses incurred by the Commissioner in the exercise of the functions of the Commissioner, including any expenses incurred by the Commissioner by virtue of paragraphs 2 and 3.
Scottish Parliamentary Commissions and Commissioners etc. Act 2010
2010 asp 11

PART 1

THE COMMISSION FOR ETHICAL STANDARDS IN PUBLIC LIFE IN SCOTLAND: THE PUBLIC STANDARDS COMMISSIONER FOR SCOTLAND AND THE PUBLIC APPOINTMENTS COMMISSIONER FOR SCOTLAND

The Commission and the Commissioners

1 Establishment, members and functions of the Commission for Ethical Standards in Public Life in Scotland

(1) There is established a corporate body to be known as the Commission for Ethical Standards in Public Life in Scotland (in this Part, the “Commission”).

(2) It has two members; they are to be appointed by the Parliamentary corporation with the agreement of the Parliament.

(3) One of them is to be so appointed as the Public Standards Commissioner for Scotland; and is to be known as such.

(4) The other is to be so appointed as the Public Appointments Commissioner for Scotland; and is to be known as such.

(5) They have, respectively, the functions transferred to them by section 2(1) and (2).

(6) Each of them is referred to in this Part as a “Commissioner”.

(7) The functions of the Commission are—

(a) to provide the Commissioners with the property, staff and services they need in order to perform their respective functions, and
(b) to make such arrangements as are appropriate and practicable for the co-
ordination of the performance of those respective functions.

2 Functions of the Commissioners

(1) There are transferred to the Public Standards Commissioner for Scotland—
   (a) the Chief Investigating Officer's functions under the Ethical Standards in Public
       Life etc. (Scotland) Act 2000 (asp 7), and
   (b) the Scottish Parliamentary Standards Commissioner's functions under the

(2) There are transferred to the Public Appointments Commissioner for Scotland the
    functions of the Commissioner for Public Appointments in Scotland under the Public
    Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4).

(3) Accordingly, the offices of—
   (a) the Chief Investigating Officer,
   (b) the Scottish Parliamentary Standards Commissioner, and
   (c) the Commissioner for Public Appointments in Scotland,
    are abolished.

(4) The enactments mentioned in subsections (1) and (2) are referred to in this Act as,
    respectively—
   (a) the “Ethical Standards Act”,
   (b) the “Parliamentary Standards Act”, and
   (c) the “Public Appointments Act”.

(5) Those enactments, the Scottish Public Services Ombudsman Act 2002 (asp 11) and the
    Public Services Reform (Scotland) Act 2010 (asp 8) are consequentially amended in
    schedule 1.

3 Status of Commission and Commissioners

(1) The Commission—
   (a) is not a servant or agent of the Crown,
   (b) has no status, immunity or privilege of the Crown.

(2) The Commissioners—
   (a) are not servants or agents of the Crown,
   (b) have no status, immunity or privilege of the Crown.

4 Independence of Commissioners

In the performance of their respective functions, the Commissioners are not subject
to the direction or control of—
   (a) any member of the Parliament,
   (b) any member of the Scottish Executive, or
   (c) the Parliamentary corporation.
5 Protection of Commission from actions for defamation

(1) For the purposes of the law of defamation, any statement made by the Commission in pursuance of its functions has qualified privilege.

(2) In subsection (1), “statement” has the same meaning as in the Defamation Act 1996 (c. 31).

6 Designation of Chief Commissioner

(1) The Parliamentary corporation must keep the effectiveness of the working arrangements of the Commission under review and may, at any time—
   (a) designate a Commissioner as the Chief Commissioner,
   (b) revoke the designation,
   and give directions to the Commission accordingly.

(2) A designation or revocation under this section does not affect—
   (a) the period of office of the Commissioner,
   (b) the validity of anything done by the Commission or either Commissioner, or
   (c) the performance of the functions that a Commissioner has by virtue of sections 1(5) and 2(1) or (2).

7 Appointment of acting Commissioner

(1) If the office of a Commissioner is vacant or a Commissioner is, for any reason and to any extent, unable to act, the Parliamentary corporation may appoint a person (an “acting Commissioner”) to perform the functions of the Commissioner, either generally or in relation to such matters or class of matter as is specified in the terms and conditions of the appointment.

(2) An appointment of an acting Commissioner is for, or until, such time as is specified in the terms and conditions of appointment.

(3) A Commissioner and an acting Commissioner may each perform the same functions at the same time but in relation to different matters.

(4) Subject to subsection (5), a person who is not eligible for appointment as a Commissioner is not eligible for appointment as an acting Commissioner.

(5) Members of the Commission's staff are eligible for appointment as an acting Commissioner.

(6) The other Commissioner is eligible for appointment as an acting Commissioner.

(7) An acting Commissioner—
   (a) may at any time resign by notice given to the Parliamentary corporation,
   (b) may at any time be removed from office by the Parliamentary corporation,
   (c) subject to this section, holds office on such terms and conditions as the Parliamentary corporation determines, and
   (d) is to be regarded for all purposes, except those of sections 9(1) to (4) and 10, as having the same status, functions and rights and being subject to the same restrictions as the Commissioner in respect of whom the acting Commissioner was appointed.
(8) The Parliamentary corporation may, in the terms and conditions of appointment of an acting Commissioner, specify the minimum period of notice for the purposes of subsection (7)(a).

Office of Commissioner

8 Disqualification

(1) A person is disqualified from appointment and from holding office as a Commissioner if the person—
   (a) is a member of the Parliament or its staff,
   (b) was a member of the Parliament at any time within two years before the date when the appointment might otherwise have been made,
   (c) is disqualified from being a member of the Parliament,
   (d) is a member of the House of Commons,
   (e) is a member of the House of Lords entitled to vote there,
   (f) is employed, or appointed in any other capacity, by the Commission,
   (g) is a member, employee or appointee of—
      (i) the Standards Commission for Scotland,
      (ii) a specified authority, or
      (iii) a devolved public body,
   (h) is a specified authority (where the authority is an individual),
   (i) is, or is an employee or appointee of, the Scottish Public Services Ombudsman,
   (j) is a member of a council or any committee of a council,
   (k) is disqualified from being a member of a council, or
   (l) is a member of a joint board or joint committee.

(2) In this section—
   (a) the following expressions have the following meanings—
      “specified authority” means any of the specified authorities referred to in section 2(1) of the Public Appointments Act,
      “council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),
      “joint board” and “joint committee” have, respectively, the meanings given by section 235(1) of the Local Government (Scotland) Act 1973 (c. 65),
      “devolved public body” has the meaning given by section 28(1) of the Ethical Standards Act,
   (b) the reference to a member of a specified authority includes a reference to—
      (i) a member, by co-option, of any committee of a specified authority,
      (ii) a holder of a paid office appointed by a specified authority, and
   (c) a paid office is one where the holder is entitled to remuneration, allowances or expenses or any combination of them.

9 Terms of office and remuneration

(1) Each Commissioner—
(a) holds office for such period, not exceeding eight years, as the Parliamentary corporation, at the time of appointment, determines, but
(b) is ineligible for reappointment at any time.

(2) A Commissioner may, at any time, resign by notice given to the Parliamentary corporation.

(3) A Commissioner may be removed from office by the Parliamentary corporation if subsection (4) applies.

(4) This subsection applies if—
(a) the Parliamentary corporation is satisfied that the Commissioner has breached the Commissioner's terms and conditions of office and the Parliament resolves that the Commissioner should be removed from office for that breach, or
(b) the Parliament resolves that it has lost confidence in the Commissioner's willingness, suitability or ability to perform that Commissioner's functions, and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.

(5) Each Commissioner is entitled to such remuneration and allowances as the Parliamentary corporation determines.

(6) In other respects, each Commissioner holds office on such terms and conditions as the Parliamentary corporation determines.

(7) Those terms and conditions may, without prejudice to section 8—
(a) prohibit the Commissioner from holding any other specified office, employment or appointment or engaging in any other specified occupation,
(b) provide that the Commissioner's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation.

(8) In subsection (7), “specified” means specified in the terms and conditions of office or within a description so specified.

(9) The Parliamentary corporation may, in the terms and conditions of office of a Commissioner, specify the minimum period of notice for the purposes of subsection (2).

10 Pensions etc.

(1) The Commission may, with the approval of the Parliamentary corporation, make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a Commissioner.

(2) Those arrangements may include—
(a) the making of contributions or payments towards provision for such pensions, allowances or gratuities,
(b) the establishment and administration of one or more pension schemes.

(3) References in subsections (1) and (2) to pensions, allowances and gratuities include, respectively, references to pensions, allowances and gratuities by way of compensation for loss of office.
11 Subsequent appointments etc. of former Commissioner

(1) A person who has ceased to be a Commissioner may not, without the approval of the Parliamentary corporation—
   (a) be employed, or appointed in any other capacity, by the Commission,
   (b) be a member, employee or appointee of—
       (i) the Standards Commission for Scotland,
       (ii) a specified authority, or
       (iii) a devolved public body,
   (c) be a specified authority (where the authority is an individual),
   (d) be, or be an employee or appointee of, the Scottish Public Services Ombudsman, or
   (e) hold any other office, employment or appointment or engage in any other occupation, being an office, employment, appointment or occupation which, by virtue of section 9(7)(a), that person could not have held or, as the case may be, engaged in when a Commissioner.

(2) The restriction in subsection (1)—
   (a) starts when the person ceases to be a Commissioner, and
   (b) ends on the expiry of the financial year following the one in which it started.

(3) In this section—
   (a) the following expressions have the following meanings—
       “specified authority” means any of the specified authorities referred to in section 2(1) of the Public Appointments Act,
       “devolved public body” has the meaning given by section 28(1) of the Ethical Standards Act,
   (b) the reference to a member of a specified authority includes a reference to—
       (i) a member, by co-option, of any committee of a specified authority,
       (ii) a holder of a paid office appointed by a specified authority, and
   (c) a paid office is one where the holder is entitled to remuneration, allowances or expenses or any combination of them.

General functions, procedures etc. of Commission

12 General powers

(1) The Commission may do anything which appears—
   (a) necessary or expedient for the purpose of or in connection with, or
   (b) conducive to,
       the performance of its functions or the efficiency of its administration.

(2) In particular, the Commission may—
   (a) enter into contracts,
   (b) acquire and dispose of land and other property.

(3) The exercise of the power to acquire or dispose of land is subject to the approval of the Parliamentary corporation.
(4) The Commission may determine and charge reasonable sums for anything done or provided by it or on its behalf in the performance of, or in connection with, its functions.

(5) The Commission must retain any sums received by it by virtue of subsection (4) and apply them to meet expenditure incurred in doing or providing whatever is charged for.

13 Payment of witnesses' expenses

The Commission may pay to persons giving evidence, producing documents or providing information under section 13 of the Ethical Standards Act or section 13 of the Parliamentary Standards Act such allowances or expenses as it may, with the approval of the Parliamentary corporation, determine.

14 Strategic plans

(1) The Commission must, in respect of each 4 year period, lay before the Parliament a plan (referred to in this section as a “strategic plan”) setting out how the Commission and each Commissioner propose to perform their respective functions during the 4 year period.

(2) A strategic plan must, in particular, set out—
   (a) the Commission's and each Commissioner's objectives and priorities during the 4 year period,
   (b) how the Commission and each Commissioner propose to achieve them,
   (c) timetables for doing so, and
   (d) estimates of the costs of doing so.

(3) Before laying a strategic plan before the Parliament, the Commission must provide a draft of it to and invite, and (if any are given) consider, comments on it from—
   (a) the Parliamentary corporation, and
   (b) such other persons as the Commission think appropriate.

(4) The reference in subsection (3)(b) to other persons includes a reference to a committee of the Parliament.

(5) The Commission must lay each strategic plan before the Parliament not later than the beginning of the 4 year period to which the plan relates.

(6) The Commission must arrange for the publication of each strategic plan laid before the Parliament.

(7) The Commission may, at any time during a 4 year period, review the strategic plan for the period and lay a revised strategic plan before the Parliament.

(8) Subsections (2) to (7) apply to a revised strategic plan as they apply to a strategic plan.

(9) In that application, the reference in subsection (5) to the 4 year period is a reference to the period to which the revised strategic plan relates.

(10) In this section, “4 year period” means the period of four years beginning on 1 April next following the coming into force of this section and each subsequent period of four years.
15 Procedure and validity of acts

(1) The Commission may regulate its own procedure.

(2) The validity of its acts is not affected by—
   (a) any defect in the appointment of a Commissioner,
   (b) any disqualification from appointment as a Commissioner of any person bearing to be a Commissioner, or
   (c) any vacancy in the office of a Commissioner.

(3) The validity of acts of a Commissioner is not affected by—
   (a) any defect in the appointment of the Commissioner, or
   (b) any disqualification from appointment as a Commissioner of the person bearing to be the Commissioner.

(4) Subsection (1) is subject to—
   (a) any direction in that regard given by the Parliamentary corporation, and
   (b) the other provisions of this Part.

16 Delegation

(1) Any function of the Commission may be performed on its behalf by any person (whether or not a Commissioner or a member of its staff) authorised by it to do so, and to the extent so authorised.

(2) Subsection (1) does not affect the Commission's responsibility for the performance of its functions.

(3) Any function of a Commissioner may be performed on the Commissioner's behalf by any person (whether or not the other Commissioner or a member of the Commission's staff) authorised by the Commissioner to do so, and to the extent so authorised.

(4) Subsection (3) does not affect the responsibility of either of the Commissioners for the performance of that Commissioner's functions.

Staff, advisers etc.

17 Staff

(1) The Commission may, for the purposes of section 1(7), appoint staff on such terms and conditions as it determines.

(2) The Commission may make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of its staff.

(3) Those arrangements may include—
   (a) the making of contributions or payments towards provision for such pensions, allowances or gratuities, and
   (b) the establishment and administration of one or more pension schemes.

(4) References in subsections (2) and (3) to pensions, allowances or gratuities include, respectively, references to pensions, allowances or gratuities by way of compensation for loss of employment.
(5) The exercise of a power in this section is subject to the approval of the Parliamentary corporation.

18 Advisers, assessors and other services

(1) The Commission may obtain for itself or for a Commissioner advice, assistance or any other service from any person who, in the opinion of the Commission, is qualified to give it.

(2) The Commission may pay to that person such fees and allowances as it determines.

(3) Any payment under subsection (2) is subject to the approval of the Parliamentary corporation.

Finance

19 Accountable officer

(1) The Parliamentary corporation must designate a Commissioner or a member of the Commission's staff as the accountable officer for the purposes of this section.

(2) The functions of the accountable officer are—
   (a) signing the accounts of the expenditure and receipts of the Commission,
   (b) ensuring the propriety and regularity of the finances of the Commission,
   (c) ensuring that the resources of the Commission are used economically, efficiently and effectively, and
   (d) the duty in subsection (3).

(3) Where the accountable officer is required to act in some way but considers that to do so would be inconsistent with the proper performance of a function set out in subsection (2) (a) to (c), the accountable officer must—
   (a) obtain written authority from the Commission before taking the action, and
   (b) as soon as possible, send a copy of the authority to the Auditor General for Scotland.

(4) The accountable officer is answerable to the Parliament for the performance of the functions in subsection (2).

20 Budget

(1) The Commission must, before the start of each financial year, prepare proposals for its use of resources and expenditure during the year (a “budget”) and, by such date as the Parliamentary corporation determines, send the budget to the Parliamentary corporation for approval.

(2) The Commission may, in the course of a financial year, prepare a revised budget for the remainder of the year and send it to the Parliamentary corporation for approval.

(3) In preparing a budget or a revised budget, the Commission must ensure that the resources of the Commission will be used economically, efficiently and effectively.

(4) A budget or revised budget must contain a statement that the Commission has complied with the duty under subsection (3).
21 Funding

(1) The Parliamentary corporation is to—
   (a) pay the remuneration and allowances of each Commissioner,
   (b) pay any expenses properly incurred by the Commission in the performance of
       its functions, so far as not met out of sums received and applied by it under
       section 12(5),
   (c) indemnify the Commission and each Commissioner in respect of any liabilities
       incurred by it or, as the case may be, that Commissioner in the performance of
       its or, as the case may be, that Commissioner's functions.

(2) Subsection (1)(b) does not require the Parliamentary corporation to pay any expenses
    incurred by the Commission which exceed or are otherwise not covered by a budget or,
    as the case may be, a revised budget approved under section 20.

(3) However, the Parliamentary corporation may pay those expenses.

22 Accounts and audit

(1) The Commission must, in accordance with any directions in that regard given by the
    Scottish Ministers—
    (a) keep proper accounts and accounting records,
    (b) prepare annual accounts in respect of each financial year, and
    (c) send a copy of the annual accounts to the Auditor General for Scotland for
        auditing.

(2) If requested by any person, the Commission must make the audited accounts available,
    at any reasonable time, without charge and in printed or electronic form, so that they
    may be inspected by that person.

Location of office and sharing of resources

23 Location of office

The Commission must comply with any direction given by the Parliamentary
    corporation as to the location of the Commission's office.

24 Sharing of premises, staff, services and other resources

The Commission must comply with any direction given by the Parliamentary
    corporation as to the sharing of premises, staff, services or other resources with any
    other public body or any officeholder.

Annual reports

25 Annual reports

(1) The Commission must lay before the Parliament annually a general report on the
    performance by the Commission and each of the Commissioners of their respective
    functions during the reporting year.
(2) The report must include, in relation to the performance of the functions of the Public Standards Commissioner for Scotland—

(a) the numbers of complaints made to that Commissioner during the reporting year about, respectively—

(i) members of the Parliament,
(ii) councillors, and
(iii) members of devolved public bodies,

(b) the number of complaints made for the purposes of investigation under the Ethical Standards Act or the Parliamentary Standards Act which were withdrawn during the reporting year, broken down according to the stage of the investigation at which they were withdrawn,

(c) the numbers of investigations under the Ethical Standards Act—

(i) begun,
(ii) not proceeded with,
(iii) completed,

during the reporting year,

(d) the number of outcome reports submitted to the Standards Commission for Scotland under section 14 of that Act during the reporting year,

(e) the number of further investigations that the Commissioner has, during the reporting year, been directed under section 16 of that Act to carry out,

(f) in relation to Stage 1 investigations—

(i) the number completed,
(ii) the number of complaints dismissed, and
(iii) the number of complaints considered admissible or treated, under section 7(7)(b) of the Parliamentary Standards Act, as meeting all the specified requirements,

during the reporting year,

(g) in relation to Stage 2 investigations—

(i) the number completed,
(ii) the number of outcome reports made under section 9 of the Parliamentary Standards Act,
during the reporting year, and

(h) the number of further investigations that the Commissioner has been directed to carry out under section 10(2) of that Act during the reporting year.

(3) The report must include, in relation to the performance of the functions of the Public Appointments Commissioner for Scotland—

(a) a summary of any revisals made under section 2(3)(b) of the Public Appointments Act to the code of practice,

(b) a summary of any section 2(5)(b) complaints received by that Commissioner,

(c) a summary of any guidance to the Scottish Ministers issued under section 2(6) of the Public Appointments Act,

(d) the number of section 2(8)(a) reports made, and

(e) the number of section 2(8)(b) directions made,
during the reporting year.

(4) The report must also include a summary of the Commission's activities during the reporting year.
(5) The report must be laid before the Parliament within seven months after the end of the reporting year.

(6) The Commission must arrange for the publication of each report laid before the Parliament under this section.

(7) In preparing a report under this section, the Commission must comply with any direction given by the Parliamentary corporation as to the form and content of the report.

(8) In this section—

“reporting year” means the year beginning on 1 April,
“devolved public bodies” has the meaning given by section 28(1) of the Ethical Standards Act,
“Stage 1” and “Stage 2” are to be construed in accordance with section 5(1) of the Parliamentary Standards Act,
“section 2(5)(b) complaints” are complaints to which section 2(5)(b) of the Public Appointments Act applies (those arising from certain appointments, or recommendations for appointments, made by Scottish Ministers),
“section 2(8)(a) reports” are reports made under section 2(8)(a) of that Act (about continued non-compliance with the code of practice on appointments),
“section 2(8)(b) directions” are directions to Scottish Ministers under section 2(8)(b) of that Act (to delay appointment or recommendation pending consideration by the Parliament).

Ombudsman’s investigations and freedom of information

26 Commission and Commissioners to be subject to investigations by Scottish Public Services Ombudsman

(1) Before paragraph 21A in Part 2 of schedule 2 to the Scottish Public Services Ombudsman Act 2002 (asp 11) (amendable list of authorities subject to investigation by Ombudsman) there is inserted—

“21ZA The Commission for Ethical Standards in Public Life in Scotland in the performance of its functions under section 1(7) of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 12).”

(2) After paragraph 32A in that Part of that schedule there is inserted—

“32B The Public Appointments Commissioner for Scotland.

32C The Public Standards Commissioner for Scotland in the performance of functions under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7).”

27 Commission and Public Appointments Commissioner for Scotland to be subject to Freedom of Information (Scotland) Act

(1) After paragraph 62 in Part 7 of schedule 1 to the Freedom of Information (Scotland) Act 2002 (asp 13) (Scottish public authorities subject to the Act) there is inserted—
“62ZZA The Commission for Ethical Standards in Public Life in Scotland in the performance of its functions under section 1(7) of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 12).”

(2) After paragraph 75 in that Part of that schedule there is inserted—

“75ZA The Public Appointments Commissioner for Scotland.”

Interpretation

28 Interpretation of Part 1

In this Part, except where the context otherwise requires—

“Commission” means the Commission for Ethical Standards in Public Life in Scotland,

“Commissioner” means a Commissioner appointed under section 1(2),

“the Parliament” means the Scottish Parliament,

“Parliamentary corporation” means the Scottish Parliamentary Corporate Body.
ANNEXE 5

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002

DIRECTIONS BY THE STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

In exercise of the powers conferred by sections 4 and 7(6) of the Scottish Parliamentary Standards Commissioner Act 2002 (“the 2002 Act”) and by virtue of Rule 3A.2 of the Standing Orders of the Scottish Parliament the Standards, Procedures and Public Appointments Committee of the Scottish Parliament (“the Committee”) gives the following directions to the Public Standards Commissioner for Scotland (“the Commissioner”).

Citation and commencement

1. These Directions may be cited as the “The 2012 Directions to the Public Standards Commissioner for Scotland” and shall come into force on 9 March 2012.

Direction under section 7(6)

2. For the purposes of section 7(6) of the 2002 Act the specified classes of complaint are cases in which the complaint fails to meet one or more of the specified requirements because they—

   (a) are not signed by the complainer;

   (b) do not state the name of the complainer;

   (c) do not state the address of the complainer; or

   (d) do not name the member of the Parliament concerned.

Direction under section 4

3. For the purposes of section 4 of the 2002 Act the Committee gives the Commissioner the following direction:

Information as to name of a complainer

   (1) In considering whether it would be inappropriate to inform a member of the name of a complainer under section 7(1)(c) of the 2002 Act and without prejudice to any other matter that the Commissioner considers relevant, the Commissioner shall -

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46 asp 16
47 The Public Standards Commissioner for Scotland is appointed in terms of section 1(3) of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11).
(a) have regard to whether or not the complainer is or appears to be a vulnerable person;

(b) have regard to any reasons given by the complainer as to why the member complained about should not be informed of the name of the complainer; and

(c) consider whether informing the member of the name of the complainer would be likely to prejudice an investigation into the complaint.

(2) Where the Commissioner receives a complaint about the conduct of a member and considers that it would be inappropriate to inform that member of the name of the complainer under section 7(1)(c) of the 2002 Act, the Commissioner shall make a report on the matter to the Committee setting out the reasons for that decision.

Interviews

(3) At least 48 hours before interviewing any person for the first time in the course of an investigation, the Commissioner shall notify that person in writing of—

(a) the purpose of the interview;

(b) the powers of the Commissioner under section 13(1) of the 2002 Act;

(c) the procedure to be followed in connection with the investigation of the complaint, including that the interview will be tape-recorded;

(d) the right of that person to have a third party present at the interview; and

(e) the right of that person to have his or her views conveyed through an interpreter.

(4) A notification transmitted by electronic means is to be treated as being in writing for the purposes of subparagraph (3) if it has been recorded and is capable of being reproduced in legible form.

(5) The Commissioner shall allow any person interviewed to have—

(a) third party present; and

(b) his or her views conveyed through an interpreter.

(6) If the Commissioner interviews any person in the course of an investigation, the Commissioner shall have regard to whether or not that person appears to be a vulnerable person.
(7) For the purposes of subparagraphs (1) and (6) “vulnerable person” means any person who by reason of age, infirmity, illness, disability or any other circumstance appears to the Commissioner to be in need of care or attention.

(8) The Commissioner shall make and keep a tape-recorded record of any interviews that are carried out in the course of any investigation.

(9) No summary of an interview with a witness shall be included in any report by the Commissioner to the Committee unless the witness has been given a copy of the draft summary and an opportunity to make representations about the draft summary. The Commissioner shall annexe to the report to the Committee any representations which are not given effect to in the summary.

Documents and records

(10) The Commissioner shall keep (whether in written or electronic form) details of each interview which is carried out in the course of any investigation.

(11) The Commissioner shall keep each document which is considered in the course of any investigation unless the document requires to be returned to the person who provided it. If the Commissioner requires to return any document, the Commissioner shall make and keep a copy of it.

(12) All documents and records shall be kept for a minimum period of five years from the date on which the complaint was dismissed by the Commissioner or, as the case may be, the Commissioner’s report upon the outcome of the investigation was made. If the Commissioner is directed to carry out further investigation under section 10 of the 2002 Act, the documents and records shall be kept for a minimum period of five years from the date on which the Commissioner's report on the further investigation was made.

(13) The Commissioner may destroy the documents and records after the period mentioned in subparagraph (12), unless the Committee instructs the Commissioner to keep the documents and records for a further specified period.

(14) In subparagraphs (11), (12) and (13) of this direction “document” means anything in which information is recorded in any form.

Criminal offences

(15) If the Commissioner is satisfied in relation to any complaint that the member has committed the conduct complained about and that the conduct would, if proved, constitute a criminal offence, the Commissioner shall—
(a) suspend investigation and consideration of the complaint;

(b) submit a report to the Procurator Fiscal; and

(c) notify the Committee.

(16) The Commissioner shall resume investigation and consideration of a complaint in respect of which investigation and consideration has been suspended under subparagraph (15)(a)—

(a) at the conclusion of any criminal proceedings instituted in consequence of the report by the Commissioner;

(b) on receipt of confirmation from the Procurator Fiscal that no such proceedings will be raised; or

(c) on receipt of confirmation from the Procurator Fiscal that the Commissioner may do so.

Reports under sections 7(11) or 8(3) of the 2002 Act

(17) The Commissioner shall send a copy of any report submitted to the Committee under sections 7(11) or 8(3) of the 2002 Act to—

- the complainer (if the complainer's name and address is known), and
- to the member concerned (if the identity of the member is known),
- unless the Commissioner considers that to do so would prejudice the outcome of any investigation.

Enquiries about complaints

(18) Where—

(a) the Commissioner receives an enquiry about a complaint; and

(b) a member is named in the enquiry,

the Commissioner may indicate whether or not a complaint concerning that member has been received (by the Commissioner).

Revocation

4. The following Directions are revoked:

(a) the Scottish Parliamentary Standards Commissioner Act 2002 (Transitional Provision) Direction 2003;
(b) the Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002;

(c) the Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002 and


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Scottish Parliament
Edinburgh
1 March 2012