Thank you for your letter of 2 February on your committee’s review of section 7 of the Code of Conduct for MSPs.

I am responding in my capacity as Chair of the SPCB. The SPCB discussed and agreed the terms of this response at its meeting on 18 April.

SPCB policies

The SPCB notes that section 7 of the Code of Conduct contains references to various SPCB policies, including policies on equal opportunities, smoking, alcohol and the use of stationery. The Code also contains a general provision in paragraph 7.2.11 that members must abide by the policies that are adopted by the SPCB. The SPCB also notes that section 7 contains a paragraph on the reimbursement of members' expenses scheme, which is administered by the SPCB although it is not itself a SPCB policy.

The consultation document raises the question of whether specific SPCB policies should be referred to in the Code, or whether the general provision would be sufficient.

The SPCB is of the view that the Code should, as far as possible, be future proofed. Therefore, the SPCB considers that the general provision in paragraph 7.2.11 should be retained, but that it may not be necessary to make reference to specific policies elsewhere in the Code.

That said, the SPCB considers that there is merit in making special mention of some policies. Exceptions should therefore be made to specifically require members to abide by the policy on equal opportunities, the reimbursement of members' expenses scheme and policies on the use of parliamentary resources and external communications.

The SPCB believes that making specific reference to these documents reflects their particular importance in relation to members’ conduct. Their inclusion should be in the form of a short reference in the Code; the SPCB is content for the details of the documents not to be reproduced.

The SPCB believes it would be helpful if there was clarity regarding which particular SPCB policies are captured by the section 7.2.11 of the Code. The SPCB has therefore asked officials to create a library of SPCB policies in one location on the Scottish Parliament’s website for reference by members and other interested parties. This would allow the SPCB to set out, for the
avoidance of doubt, which documents are SPCB policies, as opposed to guidance documents which are not enforceable under the Code.

The consultation document raises the issue of breaches of SPCB policies. Section 9 of the Code makes clear that complaints about SPCB facilities and services should be made to the SPCB. The Code also sets out the procedure for complaining to the SPCB about use of the reimbursement of members’ expenses scheme. However the consultation document contends that there are other SPCB policies where the enforcement route is less clear.

The SPCB is of the view that breaches of SPCB policies should be considered only by the SPCB.

**Relationship between section 5 and SPCB charities policy**

The SPCB considered the question of whether any changes are needed to section 5 of the Code of Conduct on lobbying to ensure that it is consistent with the SPCB’s charities policy.

The SPCB notes that there may be some issues regarding how well the Code and the charities policy are aligned. At present a strict interpretation of paragraph 5.1.8 of the Code could place restrictions on a broad range of circumstances in which members interact with individuals and groups, including charitable organisations.

The SPCB is of the view that it would be helpful to all members if changes were made to section 5 of the Code of Conduct to ensure that it is consistent with the SPCB’s charities policy.

I hope this response is helpful.

TRICIA MARWICK
PRESIDING OFFICER
19 APRIL 2012