Standards, Procedures and Public Appointments Committee

Code of Conduct revisions
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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.

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 Where the Committee considers it appropriate, it may by motion recommend that a member’s rights and privileges be withdrawn to such extent and for such period as are specified in the motion.

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Introduction

Interests of Members of the Scottish Parliament (Amendment) Act 2016

1. The Interests of Members of the Scottish Parliament (Amendment) Act 2016 (‗the 2016 Act‘) was passed by the Scottish Parliament on 17 December 2015. It amends the Interests of Members of the Scottish Parliament Act 2006 (‗the Interests Act‘). The 2016 Act incorporates the donations and loans, credit facilities, etc that are currently reportable to the Electoral Commission, under the Political Parties, Elections and Referendums Act 2000 (‗PPERA‘), into the Parliament’s members’ interests regime. These changes will allow for the elimination of the dual reporting of certain financial interests to both the Electoral Commission and the Scottish Parliament.

2. The 2016 Act is the result of a Committee bill introduced by the Standards, Procedures and Public Appointments (SPPA) Committee. The policy behind the 2016 Act is set out in the Committee’s proposal for the bill, and in the bill’s accompanying documents:


   http://www.scottish.parliament.uk/parliamentarybusiness/Bills/89730.aspx

3. The 2016 Act amends what amounts to a ‗registrable financial interest‘ for the purposes of registering and declaring financial interests, ensuring that relevant PPERA donations and loans, credit facilities, etc are captured. It makes adjustments to relevant time periods, and introduces a requirement to report changes to any registrable interest falling within a new controlled transactions category.

4. The 2016 Act also amends PPERA (with associated amendment of section 59 of the Electoral Administration Act 2006) to allow dual reporting to be ended for members of the Scottish Parliament who are not members of registered political parties (e.g. independent MSPs).

5. In addition to making changes to the interests regime, the 2016 Act enhances the sanctions available to the Parliament to impose on members who breach the registration and declaration requirements in Interests Act, broadens the existing paid advocacy offence, adjusts the threshold for registering certain gifts and for an exemption to the remuneration category for certain expenses, and amends provisions relating to the retention of members’ registers of interests.

6. This report sets out the revisions which the SPPA Committee is proposing to the Code of Conduct for MSPs to reflect the changes made by the 2016 Act. The report also sets out a number of other proposed amendments to the Code.
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7. The revised Code of Conduct for MSPs is attached to this report at annexe A. The report also sets out the revisions required to the written statement forms, and new forms for registering loans, credit facilities, etc (and connected transactions and a form for notifying changes to loans, credit facilities, etc). These are the forms which members are required to complete when registering interests. The revised and new written statement forms are attached at annexe A. These forms are subject to consultation with members.

8. Section 59 of the Electoral Administration Act 2006 created a mechanism for ending dual reporting. Where the Electoral Commission is satisfied with corresponding reporting arrangements that the Scottish Parliament has put in place, the relevant UK Secretary of State can commence statutory exemptions from reporting directly to the Electoral Commission. The Electoral Commission has been consulted on the revised Code of Conduct and written statement forms.

Cross-Party Group rules

9. At its meeting on 26 November 2015 the Committee agreed that the Code should be updated in relation to Cross-Party Groups (CPGs). This report sets out the proposed rule changes to section 6 of the Code, which relates to CPGs (these rule changes are attached at annexe B).
Background

Interests of Members of the Scottish Parliament (Amendment) Act 2016

10. This report sets out proposed changes to the Code of Conduct for MSPs resulting from the Interests of Members of the Scottish Parliament (Amendment) Act 2016 (‘the 2016 Act’). Other minor adjustments have been made to the Code to keep it up to date with current practice.

Format of registers

11. Section one of the Code has been amended to reflect the way in which the register of interests is maintained by the Standards Clerks. Previously, the register was kept in hard copy. The SPPA Committee agreed that the register can now be kept in an electronic format, with the current register being published on the web and previous versions of Register available from the Standards Clerks on request (along with snapshots of previous registers which are published online every year).

Timescale for keeping registers

12. The 2016 Act amends the Interests Act so that old entries in a member’s register are to be kept for at least ten years from the date of the last amendment (the Interests Act previously required them to be kept for five years). The SPPA Committee has decided that a ten year period is appropriate as this increases transparency and improves accessibility to this information. The Code has been amended to reflect this change.

Changes required to eliminate dual reporting

13. The majority of proposed changes to the Code set out the new rules which allow dual reporting to be eliminated. The Parliament’s register includes significant financial interests that might influence or prejudice MSPs’ parliamentary activities. The PPERA scheme involves the registration of donations and transactions to MSPs for political activities, above a £1500 value threshold.

14. The 2016 Act adjusts the definitions of gifts and overseas visits and a new category has been added for loans and certain other transactions. It also adds an additional layer of rules on the aggregation of interests with a combined value of over £1500. The Code has been amended to incorporate these rules which are derived from PPERA and to set out the exemptions which apply.

15. PPERA has slightly different timescales for registering interests and they have been incorporated into the Interests Act. The Code has been amended to reflect these changes and the new rules in relation to interests acquired by members on the date of return.
Sanctions and offences

16. The Scotland Act 2012 introduced changes to section 39 of the Scotland Act 1998, to give the Parliament greater flexibility in determining what sanctions are appropriate for breaches of the members’ interests regime and the paid advocacy prohibition. The 2016 Act largely restates the existing criminal offence.

17. The provisions on parliamentary sanctions in the Interests Act are currently limited to excluding a member from proceedings in the Parliament or restricting participation in proceedings on matters in relation to which there has been a breach. The 2016 Act makes clear that a full range of parliamentary sanctions will be available if an MSP fails to register or declare an interest or undertakes paid advocacy. It includes provision for a range of parliamentary sanctions that are broadly equivalent to some of the measures that are available to the Parliament where it withdraws a member’s rights and privileges (e.g. in respect of a breach of the Code of Conduct). This approach ensures consistency with section 39 which envisages further provision on sanctions being made in or under an Act of the Scottish Parliament.

18. The Code has been amended to set out the revised provisions in relation to sanctions.

Wider definition of paid advocacy

19. Paid advocacy is where an individual uses their position as an MSP to advocate a particular matter in return for payment (including a benefit in kind) or to urge any other MSP to do so. It is a criminal offence and a breach of the Interests Act for an MSP to undertake paid advocacy. The 2016 Act amends the definition of paid advocacy so that requesting or agreeing to receive inducements, as well as actually receiving them, would be an offence (and a breach of the Interests Act). The Code has been amended to reflect this change.

Other minor changes to the Code

20. The Code has been amended to clarify the registration requirements in relation to heritable property, and the relevant dates for reviewing the value and income levels from property. Changes have also been made to the section on the ‘interest in shares’ category to clarify the types of investments which members are required to register and the dates for reviewing their value.

Guidance on the Code

21. Volume 3 of the Code of Conduct for MSPs contains guidance on each section. This guidance has been amended to reflect the changes set out in this report and is attached at annexe A. Some guidance from the Electoral Commission
on the provisions in PPERA will be added when the revised Code is published, along with the relevant extracts from PPERA, which will be added to volume 4 of the Code (which contains copies of relevant statutory provisions).

Written statement forms

22. Members are required to complete written statement forms in order to register interests. These forms set out the information which members are required to provide. The forms have been amended to reflect the changes made to eliminate dual reporting, including the addition of forms relating to controlled and connected transactions (and a new form for members to submit when there has been a change to a controlled transaction). The forms are attached at annexe A.

Cross-Party Groups

Cut-off date for establishing new Groups

23. New Groups that set up after March in the year before the end of a session would not be in existence for a full year before dissolution. On that basis there would be no requirement for Groups to produce an annual return in the parliamentary session or to hold a minimum number of two meetings (since these rules apply to the 12 months after a group’s establishment).

24. The Committee agreed to establish a cut-off date for the establishment of new Groups, with a caveat that new Groups could be established under exceptional circumstances. A new rule, 6.4.13, has been created to reflect this change.

Changes to membership

25. The Committee discussed, during its consideration of a complaint, rule 6.3.6 which requires Groups to update the clerks within 30 days of membership changes. The Committee was also concerned with ensuring that annual returns reflect membership accurately. Members also discussed whether to tighten up the rules in relation to membership or to have clerks monitor changes in membership. Members agreed that they wished clerks to monitor the changes in membership.

26. Members agreed that they wished to tighten the rules to require meeting minutes to list all non-MSPs in attendance and to specify whether non-MSPs present were members of the Group or invited observers. A change has been made to rule 6.4.9 to ensure that this information is recorded.

Re-registration

27. At present, the rules allow for the automatic re-registration at the start of a parliamentary session of Groups that existed in the preceding session. The
Committee this session has been undertaking closer scrutiny than before of proposals for new Groups following the CPG review, and agreed that automatic re-registration is not in keeping with this new approach. Automatic re-registration does not, for example, provide an opportunity for the Committee to assess whether Groups being established overlap with the subject matter of other Groups. The overlap issue is one that the Committee now routinely considers before agreeing the establishment new Groups.

28. The Committee agreed to change the rules to remove automatic re-registration and that the clerks should then undertake a sifting exercise, in consultation with the Convener of the SPPA Committee, and highlight applications to the Committee which may merit further scrutiny (either through a paper to the Committee or an evidence session with the convener of the proposed group). Rule 6.3.13 has been amended to reflect this change to the re-registration process.

AGM and re-election of office-bearers

29. Members also agreed that there would be merit in clarifying the rules on AGMs and re-election of office bearers.

30. Part of the role of the clerks is to ensure that Groups comply with the Code. Although the Code requires Groups to hold an AGM, it does not state when this should be held. It does however state—

“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.”

31. Members considered the clause “every 12 months subsequently”. CPGs will sometimes face difficulties in meeting exactly a year after their first meeting for reasons of room availability, members’ availability and so on. Rule 6.4.3 was redrafted to provide some flexibility and clarity.

32. Additionally, Members agreed that it would make it more straightforward for the clerks to ensure compliance, and simpler for Groups, if the rules could be updated to include that the re-election of office bearers should be held at the AGM. Rule 6.4.3 has been amended to reflect this requirement.
Conclusions

33. The revised Code of Conduct and written statement forms attached to this report take the Scottish Parliament one step closer to implementing the provisions of the 2016 Act. The Committee believes that the new provisions will provide for more transparency in relation to members' financial interests and more robust sanctions for dealing with any breaches to the rules.

34. The revised Code of Conduct will ensure that Groups cannot be recognised if there is not enough time left in a session for Groups to comply with the requirements in the Code. The Committee believes that it is important for Groups to provide evidence that they have complied with the Code before they are permitted to reform in a new session. The revised Code will also provide clarity for the Committee and the public on the status of attendees at meetings and clarity for Groups on the purpose and timings of the AGM.
Recommendation

35. The Committee recommends that the Parliament agrees the changes to the Code of Conduct in relation to the Interests of Members of the Scottish Parliament (Amendment) Act 2016, the written statement forms and also agrees the related changes to volume 3 (guidance) set out in annexe A. The Committee also recommends that the Parliament agrees the changes to the Code of Conduct in relation to Cross-Party Groups set out in annexe B.
Annexe A: Interests of Members of the Scottish Parliament (Amendment) Act 2016 revisions

VOLUME 2

Code of Conduct for MSPs

SECTION 1: REGISTRATION OF INTERESTS

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 (and in some circumstances, interests which are in connection with political activities). 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.a The Interests of Members of the Scottish Parliament (Amendment) Act 2016 amended the Act to incorporate the registration requirements of the Political Parties, Elections and Referendums Act 2000 (PPERA). This means that certain financial interests which MSPs used to register with the Electoral Commission are now included in the Parliament’s register, thus ending ‘dual reporting’. The Code makes reference to the PPERA-derived provisions. These are complex provisions. If in any doubt about whether an interest is registrable, members should consult the Standards Clerks at the earliest opportunity.

1.1b The PPERA provisions as to permissibility requirements as regards accepting donations and entering into certain loans etc still apply. Guidance on permissibility of donations can be found in volume 3 of the Code. Further advice can be obtained from the Electoral Commission.

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/six 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...
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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 last amended, by resolution of Parliament, at the end of session 43 (XX20 January 20161), 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 available online 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, along with old entries may be provided by the Standards Clerks on request. Snapshots of the register are published annually and are available at the following link: http://www.scottish.parliament.uk/msps/register-of-interests.aspx

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. It is kept by the Standards Clerks in an electronic format. Currently, it is printed and kept in the form of a loose-leaf folder with an up-to-date entry for each member. Previously, where any entry was changed in the preceding five year period, the original entry and any intervening amended entry (the old entries) were also kept for public inspection purposes along with the current Register. The Interests of Members of the Scottish Parliament (Amendment) Act 2016 amended the period for retaining old entries, which are now to be kept for a ten year period (after amendment or deletion).

1.2.2a Under PPERA, the Electoral Commission is required to maintain its own register. The Electoral Commission will obtain the information it requires from entries in the Parliament’s register and any supplementary information from the Standards Clerks (i.e. information which is not published, such as individuals’ addresses).

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, following the passing of the Interests of Members of the Scottish Parliament (Amendment) Act 2016, there is an obligation to keep all old entries for a period of fifteen years after amendment or deletion (section 10) (previously, the timescale for keeping registers was five years). 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 on that date or since that date by completing such a statement (sections 3 and 5 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. A transaction which would otherwise be a controlled transaction (loans, credit facilities etc.) under paragraph 6A of the schedule to the Act is not a controlled transaction, and does not require to be registered, if entered into by the member before the date on which they were returned.

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”). Interests acquired on the date of return must be registered within 30 days of that date. Any member who acquires an interest on the date of return should consult the Standards Clerks as soon as possible after that date. 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. The timescale for registering interests was adjusted by the Interests of Members of the Scottish Parliament (Amendment) Act 2016. Previously the 30 day period began the day after the interest was acquired. However, a member must now register an acquired interest by lodging a further written statement within 30 days beginning with the date of acquisition (section 5 of the Act). This means that members have one day less to register interests than before. This change was made to comply with the requirements of PPERA. 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 on the “relevant date”. Where the interest did not exceed the threshold on return or on any later date on which the interest was acquired, the “relevant date” is each 5 April thereafter. Members therefore need to ensure that such interests are revalued as at each 5 April.

**Reporting and registration of changes to controlled transactions**

1.2.12a Members must register any change to a registered controlled transaction (loan, credit facility, etc) within 30 days beginning with the date on which the change takes effect. This includes the ending of a controlled transaction.

**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. However, as set out in section 1.2.12a above, members must register changes to controlled transactions in a timely manner.

1.2.18 Written statement templates and associated guidance for registration of new interests and changes to controlled transactions 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 Some 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 an entry relating to remuneration 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. Certain information will remain on the Electoral Commission’s register even if it has been deleted from the Scottish Parliament register.

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 meet 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–ten years even where that person is no longer a member.

Deletion of controlled transaction entries from the Register

1.2.24a As set out in paragraph 1.2.12a above, members must notify the Standards Clerks of the ending of a controlled transaction within 30 days. The same process as that set out in paragraphs 1.2.19 to 1.2.24 will apply in these circumstances.

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. With the exception of changes to controlled transactions, 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 With the exception of changes to controlled transactions, 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 at least a further five–ten 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 (late registration) registrable interest within the relevant time limit, or fails to notify a change to a controlled transaction within 30 days of that change, the Parliament may apply sanctions to that member (sections 15 and 17A 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. Section 17A means that the Parliament may exclude a member from the premises or part of the premises, withdraw the member’s right to use the facilities and services or salary and allowances provided by the SPCB or debate and agree to a motion of censure.

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, or to notify a change to a controlled transaction 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 0.51% 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 not exceeding the specified limit (0.51% 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. There may be circumstances where a one off activity is registrable under another category (e.g. gifts) if a payment of money, or transfer of property, in return for that activity goes beyond normal commercial rates.

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 remuneration is being received but the member does not know the exact amount that will be received, 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 Redundancy payments are registrable on receipt. 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 form 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.

1 Where the circumstances are as described in sub-paragraph (2) or (3).

2 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, each valued at the date on which it was received, exceeds the specified limit; and, in either case,

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

3 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 £1,500; or

(b) in the case where—

(i) the value of the gift, at the date on which it was received, exceeds £500 (but does not exceed £1,500); and

(ii) the aggregate value of the gift and any aggregable benefit or benefits, each valued at the date on which it was received, exceeds £1,500; and, in either case,

(c) that gift is—

(i) offered to the member; or

(ii) having been accepted, retained by the member, for use by or the benefit of the member in connection with the member’s political activities.

4 Sub-paragraph (2) does not apply to 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—

(a) the organiser of that conference; or

(b) one of the other parties attending that meeting, as the case may be.

5 Sub-paragraphs (2) and (3) do not apply to—

(a) 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

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

(i) 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

(ii) 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.

(6) Sub-paragraph (3) does not apply to a gift or other benefit which the member has returned (or repaid) or sent to the Electoral Commission in accordance with sections 56 and 57 of the Political Parties, Elections and Referendums Act 2000 (c.41) (as applied by paragraph 8 of Schedule 7 to that Act).

(7) The reference in sub-paragraph (3)(b)(ii) to a benefit being valued at the date on which it was received is, in the case of a controlled transaction, a reference to its being valued at the date on which it was entered into.

(8) For the purposes of this paragraph—
“aggregable benefit” means any of the following that is accepted by the member from the same person as gave the gift and in the same calendar year as the member accepted it—
(a) any other gift of a kind to which sub-paragraph (3)(b)(i) and (c) 5 applies;
(b) any remuneration that is registrable by virtue of paragraph 2, and has a value exceeding £500 (but not exceeding £1,500) and consisting of—
(i) the payment to the member of any expenses incurred directly or indirectly by the member in connection with any of the member’s political activities; or
(ii) a benefit in kind deriving from the payment by a person (other than the member) to a third party of expenses attributable to the member in connection with those activities;
(c) any controlled transaction (constrained in accordance with paragraph 6A) having a value not exceeding £1,500;
(d) any overseas political visit (within the meaning given by sub-paragraph (4), as read with sub-paragraph (5), of paragraph 7) having a value exceeding £500 (but not exceeding £1,500);
(e) any remuneration that is registrable by virtue of paragraph 90ZA(2) of the Representation of the People Act 1983 (c.2);
“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—
(a) sub-paragraph (5)(b)(i) 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
(b) sub-paragraph (5)(b)(ii) as “election expenses” has in section 90ZA of the Representation of the People Act 1983 (c.2);
“political activities”, in relation to a member, means the political activities of the member as such or as a member of a registered political party or both;
“specified limit” means 0.5% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.”.

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. There are two categories of gift which are registrable.

2.3.1a Firstly, any gift, the value of which on the date the gift is made, exceeds 0.51% of a member’s salary at the beginning of the current parliamentary session (rounded down to the nearest £10 – currently £280570), 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.

2.3.1b Under these provisions, 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.
2.3.1c Secondly, members must register any gift (or sponsorship within the meaning of PPERA schedule 7, para 3)\(^1\) over the value of £1,500 for political activities (as a member of the Parliament or a registered political party or both). A gift is considered to be for political activities where the gift is offered to the member for their use or benefit in connection with their political activities or is retained by the member for these purposes, or both. In assessing whether a gift is for a member’s use or benefit in connection with their political activities, regard is had to the intent of the donor in offering it and the intent of the member in retaining it. **The prejudice test does not apply to this category of gift.**

2.3.1d Political activities of a party member include promoting or procuring the election of any person to any position in, or to any committee of, the party in question, promoting or procuring the selection of any person as the party’s candidate for election to a relevant elective office; and promoting or developing policies with a view to their adoption by the party. For further information on whether a donation is for political activities, members should consult the guidance in volume 3 of the Code, or seek advice from the Standards Clerks.

2.3.1e Gifts received for political activities (valued above £500) from the same source in the course of the calendar year, which amount to over £1,500 when aggregated with certain other benefits, must be registered. This includes any other gift, overseas visit, remuneration received as expenses or a loan, credit facility or other controlled transaction where these are for political activities and fall within certain value ranges. Members should keep track of gifts or benefits from the same source which are for political activities and contact the Standards Clerks for advice where they are in any doubt about these provisions.

2.3.1f The flowchart in Volume 3, section 2 of the Code, sets out these two categories of interest for members to consult when considering which category an interest falls into. Again, members should consult the Standards Clerks if in any doubt or with any queries about these provisions.

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 property, services or facilities at a cost below that generally charged to members of the public. It also includes money spent by a third party in paying expenses incurred directly or indirectly by a member (so long as it does not amount to remuneration for work done under the remuneration category).

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 by members in a private capacity are registrable under the first category of interest (i.e where the gift is over £280 (either singly or cumulatively) and meets the prejudice test). However, this category does not cover gifts to spouses and cohabitees. It is also expected that most gifts from friends

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\(^1\) For a definition of "sponsorship", see the guidance on the PPERA provisions in Volume 3.
and family will not meet the prejudice test and will therefore not require to be registered.

Financial and material support

2.3.4 Under the first category of gift, a member who receives any financial or material support as a member, the value of which exceeds the £280 specified limit, must register this as a gift where the prejudice test is met. Under the second category of gift, a member who receives any financial or material support for political activities, the value of which exceeds the £1,500 either singly or in aggregation, must register the gift. The prejudice test does not apply to this second category of gift.

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 Unless the gift falls into the second category (i.e. where the gift is over the value of £1,500 (singly or cumulatively) and for political activities), 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 Members are not required to register 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. This exemption only applies if the expenses fall to be included in the candidate spending return for the election in question (under PPERA, schedule 7, paragraph 4(3)(a)).

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 under the first category of gift, if they exceed the gifts threshold of £280 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 section 5(2) of the Act.

2.3.12a Such expenses are not registrable under the second category of gift as expenses acquired by a member before they are returned are not registrable under PPERA.

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.

**Donations from impermissible sources**

2.3.14a PPERA requires that members only accept donations over £500 for political activities from a permissible source (see section 54 of, and paragraphs 6 to 9 of Schedule 7 to, PPERA). If the donation is not from a permissible source it must be returned to the donor or forwarded to the Electoral Commission where the donor cannot be identified (see sections 56 and 57 of PPERA). Members are not required to register any gift or benefit that is returned to the donor or forwarded to the Electoral Commission in these circumstances under the political activities sub-category. However, members are required to report impermissible donations to the Electoral Commission even if they have been returned. Further advice can be obtained from the Electoral Commission on the permissibility of donations.

2.3.14b Members would still be required to register donations returned to the donor under paragraph 6 of the schedule to the Interests Act (i.e. under the first category of gift – over £280). As outlined above, the prejudice test would apply to this category of gift.

**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 or is a partner. 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 meet the registration requirements, 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. Where a gift received prior to the date of return would
otherwise be registrable because it was for political activities (but for no other reason) then there is no need to register it. PPERA does not require registration of “political” gifts acquired before the date of return.

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.

**Loans, credit facilities, etc**

A member has a registrable interest:

6A(1) Where a member enters into a controlled transaction and—
(a) the value of the transaction is more than £1,500; or
(b) if not, the aggregate value of it and any aggregable benefit or benefits exceeds £1,500.
(2) Sub-paragraphs (3) to (10) define and provide further about controlled transactions.
(3) An agreement between the member and another person by which that person lends money to the member is a controlled transaction if the use condition (see sub-paragraph (9)) is satisfied.
(4) An agreement between the member and another person by which that person provides a credit facility to the member is a controlled transaction if the use condition (see sub-paragraph (9)) is satisfied.
(5) A credit facility is an agreement whereby a member is enabled to receive from time to time from another party to the agreement a loan of money not exceeding such amount (taking account of any repayments made by the member) as is specified in or determined in accordance with the agreement.
(6) Where—
(a) the member and another person enter into a controlled transaction of a kind mentioned in sub-paragraph (3) or (4) or a transaction under which any property, services or facilities are provided for the use or benefit of the member (including the services of any person);
(b) the other person also enters into an arrangement where a third person gives any form of security for a sum owed to the other person by the member under a transaction mentioned in paragraph (a); and
(c) the use condition (see sub-paragraph (9)) is satisfied,
the arrangement is a controlled transaction.
(7) But the agreement or arrangement is not a controlled transaction—
(a) to the extent that, in accordance with any enactment, a payment made in pursuance of the agreement or arrangement falls to be included in a return as to election expenses in respect of a candidate or candidates at a particular election;
(b) to the extent that it is entered into by the member and a person—
(i) in connection with the provision of goods or services to the member; and
(ii) in the normal course of that person’s trade or business and on its normal terms;
(c) if its value does not exceed £500; or
(d) despite section 3(1)(b), it was entered into by the person who is the member before the date the member was returned.
(8) For the purposes of sections 3 and 5 and sub-paragraph (1) of this paragraph, if—
(a) the value of a controlled transaction as first entered into is such that it is not registrable; but
(b) the terms of the transaction are subsequently varied in such a way that it becomes registrable, the member is to be treated as having entered into a registrable transaction on the date when the variation takes effect.
(9) The use condition is that the member intends, at the time the member enters into the loan or credit facility agreement or the transaction second mentioned in sub-paragraph (6)(a), to use any money or benefit obtained in consequence of it in connection with the member’s political activities (either as a member or as a member of a registered political party or both).
(10) For the purposes of sub-paragraph (9), it is immaterial that only part of the money or benefit is intended to be used in connection with the member's political activities.

(11) In sub-paragraph (1)(b), “aggregable benefit” means any of the following that is accepted by the member from the same person, being a party to the controlled transaction, and in the same calendar year as the member accepted the controlled transaction—

(a) any other controlled transaction having a value not exceeding £1,500;
(b) any remuneration that is registrable by virtue of paragraph 2, and has a value exceeding £500 (but not exceeding £1,500) and consisting of—
   (i) the payment to the member of expenses incurred directly or indirectly by the member in connection with the member’s political activities (as a member or as a member of a registered political party or both); or
   (ii) a benefit in kind deriving from the payment by a person (other than the member) to a third party of expenses attributable to the member in connection with those activities;
(c) any gift to which paragraph 6(3)(b)(i) and (c) applies;
(d) any overseas political visit (within the meaning given by sub-paragraph (4), as read with sub-paragraph (5), of paragraph 7) having a value exceeding £500 (but not exceeding £1,500).

Value of loans, credit facilities etc

6B(1) The value of a controlled transaction which is a loan is the value of the total amount to be lent under the loan agreement.
(2) The value of a controlled transaction which is a credit facility is the maximum amount which may be borrowed under the agreement for the facility.
(3) The value of a controlled transaction which is an arrangement by which any form of security is given is the contingent liability under the security provided.
(4) For the purposes of sub-paragraphs (1) and (2), no account is to be taken of the effect of any provision in a loan agreement or an agreement for a credit facility at the time it is entered into which enables outstanding interest to be added to any sum for the time being owed in respect of the loan or credit facility, whether or not any such interest has been so added.”

Reporting and registration of changes to controlled transactions

(1) For the purposes of this section, there is a change to a registered interest that is a controlled transaction if—
(a) another person becomes party to the transaction (whether in place of or in addition to any existing party to it);
(b) there is a change to anything about which information was (or should have been) provided by the member in the written statement lodged by the member when registering the transaction;
(c) the transaction comes to an end.
(2) The reference in subsection (1)(b) to information provided is a reference to information—
(a) about or relating to the transaction; and
(b) provided in accordance with a determination under section 4(2).
(3) For the purposes of subsection (1)(c), a loan comes to an end if—
(a) the whole debt (or all the remaining debt) is repaid;
(b) the creditor releases the whole debt (or all the remaining debt).
(4) A member who has registered a controlled transaction shall notify the Clerk of any change to the transaction.
(5) A member shall comply with subsection (4) by lodging a written notice with the Clerk not later than the last day of the period of 30 days beginning with the day on which the change takes effect.
(6) A written notice shall—
(a) be in such form; and
(b) contain such information about the change or relating to it, as the Parliament may determine.
(7) 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 so as to record the change and the date when it took effect; and
(b) send a copy of the amended entry to the member.”.

2.3A.1 Under section 8A of the 2006 Act, members are required to register loans, credit facilities and connected transactions (‘controlled transactions’) which are over the value of £1,500 and for political activities. For example, where a member enters
into a credit card agreement over the value of £1,500 with the intention of using it wholly or partly for their political activities, this would be registrable. Members must register such controlled transactions even if only part of the money or benefit obtained is intended to be used in connection with the member’s political activities.

2.3A.2 Members must also register loans, credit facilities and connected transactions over the value of £500 for political activities which, when aggregated during the course of a calendar year with other such income or benefits from the same source, exceed £1,500. This includes gifts, remuneration received as expenses, overseas visits or other loans, credit facilities and connected transactions where these are for political activities and amount to over £500 but do not exceed £1,500. Members should keep track of any loans, credit facilities or connected transactions and other benefits over £500 for political activities and contact the Standards Clerks for advice when there may be an aggregated registrable interest.

2.3A.3 Members must register transactions over £1,500 and for political activities that are connected to a loan or credit facility obtained by a member (‘connected transactions’). A connected transaction is one under which a third party gives security in relation to a sum owed by the member under a loan or credit agreement which is itself a controlled transaction (or for the provision of property, services or facilities to the member for political activities). For example, where a third person gives a personal guarantee to a bank in respect of a loan or credit facility over the value of £1,500 provided to the member for political activities.

2.3A.4 There are certain financial arrangements which members do not have to register. They are:

- payments which fall to be included in a candidate electoral return for an election;
- trade credit (given on normal rather than preferential terms);
- loans, credit facilities or connected transactions which do not exceed £500;
- loans, credit facilities or connected transactions entered into before the member was returned as a member.

2.3A.5 Members may enter into a controlled transaction which is not registrable but which is subsequently varied so as to become registrable (either singly or when aggregated with other aggregable benefits). For example, the terms of a loan agreement may be varied to take its value above £1,500. In such circumstances, the date on which the controlled transaction is considered to be entered into is the date on which that change takes effect.

2.3A.6 Members must indicate the value of the controlled transaction when registering it. In the case of a loan, the value is the value of the total amount to be lent under the loan agreement. For a credit facility, the value is the maximum amount which may be borrowed under the agreement for the facility. Where a third party gives security to a member for a controlled transaction (i.e. where it is a connected transaction), the value is the contingent liability under the security provided. The value of any interest added to the total of a loan or credit facility should not be taken into account when calculating its value.

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2.3A.7 Members must notify the Clerk of any changes to a registered controlled transaction within 30 days of the date on which the change takes effect. Such changes include changes to the name and address of the authorised participants to the transaction, its nature and its value. They also include another person becoming party to the transaction, where there is a change to anything about which information was (or should have been) provided by the member in the written statement lodged by the member when registering the transaction or where the transaction comes to an end.

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.

7 (1) Where the circumstances are as described in sub-paragraph (2) or (4).
(2) Where the member makes, or has made, a visit outside the United Kingdom and that visit meets the prejudice test.
(3) Sub-paragraph (2) 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.
(4) Where a member makes, or has made, a visit outside the United Kingdom in connection with any of the member’s political activities (as a member or as a member of a registered political party or both) (an “overseas political visit”) and—
(5) Sub-paragraph (4) does not apply to a visit the travel and other costs of which—
(a) are wholly met—
(i) by the member;
(ii) by the Parliamentary corporation; or
(iii) out of the Scottish Consolidated Fund; or
(b) were approved prior to the visit by the Parliamentary corporation.
(6) In sub-paragraph (4)(b), “aggregable benefit” means any of the following that is accepted by the member from the same person as met the costs of the visit and in the same calendar year as the member accepted it—
(a) any other overseas political visit having a value exceeding £500 (but not exceeding £1,500); 
(b) any remuneration that is registrable by virtue of paragraph 2, having such a value and consisting of—
(i) the payment to the member of any expenses incurred directly or indirectly by the member in connection with the member’s political activities (as a member or as a member of a registered political party or both);
(ii) a benefit in kind deriving from the payment by a person (other than the member) to a third party of expenses attributable to the member in connection with those activities;
(c) any gift to which paragraph 6(3)(b)(i) and (c) applies;
(d) any controlled transaction (construed in accordance with paragraph 6A) having a value not exceeding £1,500.”

Guidance on overseas visits

2.4.1 A member is required to register and provide details of a visit outside the United Kingdom in certain circumstances. Firstly, members must register overseas visits where the visit meets the prejudice test. Secondly, members must register overseas visits for political activities, over the value of £1,500 (the prejudice test does not apply to such visits).

2.4.1a Members must register overseas visits for political activities over the value of £500 which, when aggregated with other such income or benefits from the same source within the same calendar year and also for political activities (including other overseas visits, gifts, certain remuneration received as expenses or controlled transactions), amount to over £1,500 when received in the same calendar year.

2.4.1b For the purposes of registration, the date upon which a visit becomes registrable is the first day of any such visit. Under the terms of the Act, members then have 30 days beginning with that date 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 Scottish Parliamentary Corporate Body (SPCB); or
- out of the Scottish Consolidated Fund (for example, Ministerial visits).

2.4.2b Members are not required to register overseas visits, the travel and other costs of which are wholly met:
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 or the visit being for political activities, 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 or from which income has been received as 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 the market value threshold or generate 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. In the first two cases each 5th April after the initial relevant date is also a relevant date.

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 or 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 meaning a person subject to the control or direction of the member in respect of that interest) 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 at the relevant date 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 as at each relevant date 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 and on the relevant date on which the value exceeded the threshold.

2.6.5 Where a member disposes of shares before being returned, 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 value 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 Shares in investment 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 units held in unit trusts. 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.
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 15, 16 and 17A of the Act result in the Parliament, by determination, applying sanctions to a member. Sanctions include being prevented from attending, restricted from attending or restricted from participating in or excluded from Parliamentary proceedings. Under section 17A, the Parliament may exclude a member from the premises or part of the premises, withdraw the member’s right to use the facilities and services provided by the SPCB or debate and agree to a motion of censure. 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, agrees to receive or requests and which falls within subsection (2A); or
       (ii) which the member’s spouse, civil partner or cohabitant receives, agrees to receive or requests and which falls within subsection (2B).

(2A) A payment or benefit in kind falls within this subsection if, after taking account of all the circumstances, it may reasonably be considered that the payment or benefit results (or, if and when made or given, would result) in some benefit to the member, other than a vote for that member in any election to the Parliament.

(2B) A payment or benefit in kind falls within this subsection if, after taking account of all the circumstances, it may reasonably be considered that the payment or benefit—
   (a) is being provided (or, if and when made or given, would be provided) in connection with the Parliamentary duties of the member; and
   (b) results (or, if and when made or given, would result) in some benefit to that member.

(3) Subsection (1) shall not prevent a member receiving, agreeing to receive or requesting 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, agrees to receive or requests and which may reasonably be considered to result in some benefit, or if and when made or given, would 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, agrees to receive or requests 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 (or, if and when made or given, would result in some benefit to that member).

4.1.5 Section 14(3) of the Act describes the kinds of assistance which members may receive, agree to receive or request 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), or applying a sanction to the member (section 17A). 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 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 or reporting a change to a controlled transaction. 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, or to report a change to a controlled transaction 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)², or section 5(2)³ or section 8A⁴ 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 or change to the controlled transaction required registration) when considering whether or not to recommend sanctions.⁵

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 or the change to the controlled transaction 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.

² 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.
³ Section 5(2) states that where a member acquires an interest after the date of return: Within 30 days after beginning with the date on which the member acquired that interest, that member shall register that interest by lodging a written statement with the Clerk.
⁴ Section 8A states that a member who has entered into a controlled transaction shall notify the Clerk of any change to the transaction, by lodging a written notice with the Clerk not later than the last day of the period of 30 days beginning with the day on which the change takes effect.
⁵ 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 courts from finding that a member has breached the Act.

Standards, Procedures and Public Appointments Committee, 8 September 2009 (Session 3) – updated in January 2016 (Session 4).

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 website 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, DPO, 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 0.54% of a member’s salary at the start of the session (currently £570280)*?

Yes

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

No

You do not need to register this remuneration

No

Does this remuneration consist only of expenses?

Yes

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

No

You do not need to register this remuneration

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

* This is based on the current salary of MSPs.
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).

**Yes**

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**

Would disclosure be in the public interest?

**Yes**

You do not need to register this gift.

**No**

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.

**Yes**

Consider registering in the Voluntary category.

**No**

Does it meet the prejudice test?

**Yes**

You do not need to register this gift.

**No**

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

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Members should note that interests received before their date of return which exceed the £280 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

No

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

Yes

No

Would disclosure be in the public interest?

Yes

No

Consider registering in the Voluntary category

You do not need to register this visit

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

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

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

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.
Members’ Interests: Rules for gifts (both financial and material)

- Have you received a gift worth more than £280 (or several gifts from the same source over the session which amount to £280 or more)?*
  - No
  - Yes
    - Does it meet the prejudice test?
      - No
      - Yes
        - Is the donation for political activities?
          - No
            - Registration not required.
          - Yes
            - Subject to the exemptions from registration set out below, the gift must be registered

Exemptions from registering gifts:

Unless the gift is over the value of £1,500 (singly or cumulatively) and for political activities, 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.

Members are not required to register donations towards the member’s election expenses in relation to their election to the Scottish Parliament or election expenses in relation to standing at a UK Parliamentary election. Such expenses are not registrable, even if they exceed the gifts thresholds as long as the donor intended them to be used for one of the two purposes outlined above; and they have been spent on the intended purpose by the end of the 35th day after the result of the election was declared.
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 thresholds and in relation to the first category of interest 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 section 5(2) of the Act.

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.

PPERA requires that members only accept donations over £500 for political activities from a permissible source (see section 54 of, and paragraphs 6 to 9 of Schedule 7 to, PPERA). If the donation is not from a permissible source it must be returned to the donor or forwarded to the Electoral Commission where the donor cannot be identified (see sections 56 and 57 of PPERA). Members are not required to register any gift or benefit which falls into the second category of gift (i.e. over £1,500 and for political activities) that is returned to the donor or forwarded to the Electoral Commission in these circumstances. Further advice can be obtained from the Electoral Commission on the permissibility of donations.

Members would still be required to register donations returned to the donor under paragraph 6 of the schedule to the Interests Act (i.e. under the first category of gift – over £280). As outlined above, the prejudice test would apply to this category of gift.

* This is based on the current salary of MSPs.
Members’ Interests: Overseas visits

Have you travelled overseas with the costs met by someone other than by you, by the SPCB or out of the Scottish Consolidated Fund?

If yes, go to: Does the visit meet the prejudice test?

If no, go to: Registration not required. Members may include the visit in the voluntary category of their register.

Does the visit meet the prejudice test?

If no, go to: Subject to the exemptions set out below, the visit must be registered.

If yes, go to: Is the overseas visit for political activities?

If yes, go to: Registration not required.

If no, go to: Exemptions from registering overseas visits:

Exemptions from registering overseas visits:

Members are not required to register overseas visits, the travel and other costs of which are wholly met by the member’s spouse, civil partner or cohabitant or by the member’s mother, father, son or daughter unless the visit is over the value of £1,500 (either singly or in aggregate) and for political activities, in which case members must register the overseas visit.

There is no need to register visits the costs of which were approved in advance by the SPCB.
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, agreeing to receive or requesting 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 (or agreement to receive or request for 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 (or where the member has agreed to receive or requested payments or benefits) 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 (or the payment or benefit in kind which the member has agreed to receive or requested) and subsequent advocacy. It is a question of circumstances in each case, but the larger the benefit (or agreed or requested 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 (or agreement to receive or request for 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
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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, or which the member agreed to receive or requested at any time from the date on which the member was returned. It is the link between the payment or benefit (or the agreement to receive or request for 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 in return for a payment or benefit which the member has received, agreed to receive or requested 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;
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- 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;
- lodging 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, agrees to receive or requests 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, agreed to receive or requested 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) or to the imposition of other sanctions under section 17A.
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 Complainant;
- state the Complainant’s name and address;
- be made by an individual person ("the Complainant");
- 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 Complainant wishes to submit; and
- be made within one year from the date when the Complainant could reasonably have become aware of the conduct complained about.6

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 Commissioner7 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 Complainant’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 Parliamentary Commissions and Commissioners etc. Act 2010 and includes, where

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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.

6 Section 6(5)
7 Sections 7(3), 7(4), 7(6) and 7(8)
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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
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HE
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.\(^8\)

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.\(^9\)

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.\(^10\)

**Admissibility**

9.12 The Commissioner will investigate and determine whether or not a complaint is admissible.\(^11\)

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);\(^12\)

- is not a Procedurally Defective Complaint\(^13\) 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.\(^14\)

**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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\(^8\) Section 7(1)  
\(^9\) Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002  
\(^10\) Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002  
\(^11\) Section 6(1)  
\(^12\) Sections 3(3), 6(2)(a), and 6(4)  
\(^13\) Sections 6(2)(b) and 6(5)  
\(^14\) 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{15}

9.16 The Commissioner will investigate whether a relevant complaint warrants further investigation.\textsuperscript{16}

9.17 If the Commissioner finds that a relevant complaint does not warrant further investigation, the Commissioner will dismiss the complaint.\textsuperscript{17}

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{18} 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{19}

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{20} The Commissioner must comply with any such direction.\textsuperscript{21}

**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{22} The report will include—

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\textsuperscript{15} Section 7(3)
\textsuperscript{16} Sections 6(1), 6(6) and 7(6)
\textsuperscript{17} Sections 7(3) and 7(6) and the Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002
\textsuperscript{18} Section 7(4) and Rule 3A.4
\textsuperscript{19} Section 7(5)
\textsuperscript{20} Section 7(7) and Rule 3A.3
\textsuperscript{21} Section 7(8)
\textsuperscript{22} 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.23

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 Complaint24 and to investigate whether the complaint warrants further investigation. The Commissioner must comply with any such direction.25

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 2.26

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 2.27

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.28

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.29 The 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).30
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 1.31

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 2006.32

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;33 and
- tape-record the interview.34

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;35
- 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,
- the right of that person to have his or her views conveyed through an interpreter (see paragraph 9.31 above).36

31 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
32 Sections 3, 5, 6,12,13 and 14
33 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
34 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
35 Section 13(1)
36 Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002
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.\(^{37}\)

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.\(^{38}\)

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.\(^{39}\)

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.\(^{40}\) The representations of the member will be annexed to the report in as far as they are not given effect to in the report.\(^{41}\)

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.

\(^{37}\) Section 8(3) and Rule 3A.4
\(^{38}\) Section 9(1) and Rule 3A.4
\(^{39}\) Section 9(2)
\(^{40}\) Section 9(3)
\(^{41}\) Section 9(3)
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.\(^{42}\)

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;
- 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\textsuperscript{43} 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 Complainer giving the Commissioner notice to that effect.\textsuperscript{44}

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 Complainer for the withdrawal of the complaint.\textsuperscript{45}

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 Complainer 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 complainer 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.\textsuperscript{46} The Commissioner will report his decision to the Committee which will direct the Commissioner either to continue investigating the complaint or to cease investigation.\textsuperscript{47}

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:

\begin{quote}
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;
\end{quote}

\textsuperscript{43} Rule 1.7  
\textsuperscript{44} Section 11(1)  
\textsuperscript{45} Section 11(2)  
\textsuperscript{46} Section 11(3)  
\textsuperscript{47} Sections 11(5) and 11(6) and Rules 3A.3 and 3A.4
(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.


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, 8A(4) and (5), 13 or 14 or a measure taken by the Parliament under section 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;
- reporting and registration of changes to controlled transactions;
- written or oral declaration of a 'declarable interest';
- paid advocacy.

9.57a The Interests of Members of the Scottish Parliament Act 2006, at section 17A, states:

If a member fails to comply with, or contravenes, section 3, 5, 6, 8A(4) and (5), 13 or 14 or a measure taken by the Parliament under section 15 or 16, the Parliament may, by resolution, do one or more of the following—
(a) exclude the member, for such period as the Parliament determines, from the premises of the Parliament or such part of them as it determines;
(b) withdraw, for such period as the Parliament determines, the member’s right to use the facilities and services provided for members by the Parliamentary corporation or such of them as the Parliament determines;
(c) censure the member.
(2) Where a member is to be excluded from proceedings in the Parliament under section 16 or from the premises of the Parliament (or a part of them) under subsection (1)(a), the Parliament may also, by resolution, disallow payment of—
(a) the salary that would otherwise be payable to the member in respect of such period (not exceeding the duration of the exclusion) as it determines;
(b) the allowances that would otherwise be payable to the member in respect of such period (not exceeding the duration of the exclusion) as it determines; or
(c) both.
(3) In this section—
(a) "premises" includes places to which the public has access;
(b) "salary of the member" means the salary payable to the member by virtue of section 81(1) of the 1998 Act (including any salary payable because of section 83(4) of that Act (membership during dissolution));
(c) the references to a period not exceeding the duration of an exclusion are, where there are two exclusions of different lengths, references to the longer one.

9.57b Section 17A means that the Parliament may exclude a member from the premises or part of the premises, withdraw the member’s right to use the facilities and services provided by the SPCB or debate and agree to a motion of censure relating to the member, if a member fails to comply with or contravenes a decision of the Parliament under sections 15 or 16 referred to above or 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;
- reporting and registration of changes to controlled transactions;
- written or oral declaration of a ‘declarable interest’;
- paid advocacy.

9.57c Section 17A also means that where a member has been excluded from proceedings or the premises of the Parliament, the Parliament may withdraw their salary or allowances, or both for the duration of the exclusion.

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. Section 17 of the Act states:

(1) Any member who—
(a) takes part in any proceedings of the Parliament without having complied with, or in contravention of, section 3, 5, 6, 8A(4) and (5) or 13 or a measure taken by the Parliament under section 15 or 16; or
(b) contravenes section 14,
is guilty of an offence.
(2) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

9.59 This means that a member is guilty of an offence if that member fails to comply with, or contravenes, takes part in any proceedings of the Parliament having failed to comply with, or contravened, a decision taken by the Parliament under sections 15 or 16 referred to above or 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;
- the late registration of an interest;
- reporting and registration of changes to controlled transactions;
- written or oral declaration of a declarable interest;
- paid advocacy;

- a measure taken by the Parliament preventing or restricting participation in proceedings of the Parliament;

- a measure taken by the Parliament excluding a member from proceedings of the Parliament

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. This could for example be done in order to give effect to the sanctions set out in the Interests of Members of the Scottish Parliament Act 2006 (so that the Parliament would take its decision to impose such sanctions following a motion from the Committee). It could also be done in respect of breaches of the Code of Conduct which do not relate to the matters covered by the 2006 Act.

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.
Written statement forms

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 Interests Act and to the Code of Conduct, in particular 2.2, Section 2 of Volume 2. Gifts, overseas visits, controlled transactions (loans, credit facilities, etc), heritable property and interest in shares should be registered by completing the separate written statement forms for these categories.

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 consists solely of expenses amounting to no more than 0.5% of a member’s gross salary at the start of this parliamentary session.

However, members are required to register expenses for political activities, over the value of £500 and from a single source which, cumulatively, along with other expenses, gifts, overseas visits or controlled transactions from the same source and also for political activities, exceed the value of £1,500 in the course of the same calendar year.

REMUNERATION

<table>
<thead>
<tr>
<th>Name and Office:</th>
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<tbody>
<tr>
<td>Do you receive remuneration by virtue of:</td>
</tr>
<tr>
<td>a) being employed</td>
</tr>
<tr>
<td>b) being self-employed</td>
</tr>
<tr>
<td>c) being the holder of any office</td>
</tr>
<tr>
<td>d) being the director of an undertaking</td>
</tr>
<tr>
<td>e) being a partner in a firm</td>
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<tr>
<td>f) undertaking a trade, profession or vocation?</td>
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</table>
If you answered yes, then please answer the following questions for each interest:

<table>
<thead>
<tr>
<th>1. Into which category (a-f) does this interest fall?</th>
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<tbody>
<tr>
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<tr>
<td>2. 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>
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<tr>
<td>3. What is the:</td>
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<tr>
<td>a) principal business address of, and</td>
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<tr>
<td>b) nature of the business, activities or work carried out by the person or organisation named in 2 above?</td>
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<tr>
<td>4. What position do you hold?</td>
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<td>5. What level of remuneration do you receive or expect to receive per annum 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?</td>
</tr>
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<tr>
<td>6. What is the regularity of the work you undertake (for example, the number of hours or days worked per week or month)?</td>
</tr>
<tr>
<td></td>
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<tr>
<td>7. Is there any relevant additional information that you wish to provide?</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:

1. Into which category (a or b) does this interest fall?

2. What is the name of the related undertaking or firm?

3. What is the:
   a) principal business address of, and
   b) nature of the business carried out by
   the related undertaking or firm?

4. What is the nature of the relationship between related undertakings?

5. Is there any relevant additional information that you wish to provide?
**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 Interests Act and to the Code of Conduct, in particular 2.3, Section 2 of Volume 2. Remuneration and related undertakings, overseas visits, controlled transactions (loans, credit facilities, etc), heritable property and interest in shares should be registered by completing the separate written statement forms for these categories.

**Notes**

1. Please note that if a member receives a number of gifts from a single source each of which is below or equal to the registrable value (£280\(^\text{48}\)) but which cumulatively exceed it, the gifts are registrable if the prejudice test is met.

2. Also, a member is required to register gifts from a single source received within the same calendar year if

   - each of them has a value of over £500
   - they cumulatively exceed £1,500 (or exceed £1,500 when combined with overseas visits for political activities, remuneration as expenses for political activities or a controlled transaction from the same source within the same calendar year – see paras 2.3.1e of Code and paragraph 6A of the Schedule to Interests Act) and

   they are for the member’s use or benefit in connection with any political activities.

3. 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 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 (£280) and meet the prejudice test, or if they are over the value of £1,500 and they are for the member’s use or benefit in connection with any political activities.

   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. However, if these costs are over the value of £1,500, and they are for the member’s use or benefit in connection with any political activities, they are registrable.

4. PPERA requires that members only accept donations over £500 for political activities from a permissible source (see section 54 of, and paragraphs 6 to 9 of Schedule 7 to, PPERA). If the donation is not from a permissible source it must

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\(^{48}\) Based on the current MSP salary.
be returned to the donor or forwarded to the Electoral Commission where the donor cannot be identified (see sections 56 and 57 of PPERA). Members are not required to register any gift or benefit which falls into the second category of gift (i.e. over £1,500 and for political activities) that is returned to the donor or forwarded to the Electoral Commission in these circumstances. Further advice can be obtained from the Electoral Commission on the permissibility of donations.

5. Members would still be required to register donations returned to the donor under paragraph 6 of the schedule to the Interests Act (i.e. under the first category of gift – over £280). As outlined above, the prejudice test would apply to this category of gift.

<table>
<thead>
<tr>
<th>Name and Office:</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>
| A. Have you or a company in which you have a controlling interest or a partnership of which you are a partner, received:  
  a) a gift of heritable or moveable property; or  
  b) a gift of a benefit in kind;  
the value of which, at the date on which it was received exceeded 0.5% of a Member’s gross salary at the start of this parliamentary session (£280)?  
AND  
Does that interest meet the prejudice test (as set out in section 3(2) of the Act)?  
B. If the gift is over the value of £1,500 (either singly or in aggregate – see note 2 above) and for political activities, please also provide the information required under question 7 and 9 below and sign the declaration at 8 below. |

If you answered yes, then please answer the following questions for each interest:

1. Into which category (A or B) does this interest fall?
2. On what date or dates did you receive the gift?

3. What is the full name of the donor of the gift?

4. What is the:
   a) principal business address of, and
   b) nature of the business, activities or work carried out by
   the donor named in 3 above?
   (Note: This information does not need to be provided if the donor of
   the gift is a private individual)

5. Was the gift to you as an individual or to a company or
   partnership?

6. What is the monetary value of the gift?

7. If the gift is over the value of £1,500 (whether singly or in
   aggregation as set out in note 2 above) and for political
   activities, please provide the following information:
   (a) Date that you accepted the gift;
   (b) Is the requirement to register the result of an
       aggregation of gifts or other aggregable benefits (see note
       2 above)?
   (c) Please state –
       (i) the nature of the gift (e.g. cash or non-cash donation,
           sponsorship provided (within the meaning of section 51
           PPERA), payment of expenses incurred directly or
           indirectly by the member),
       (ii) a description if the donation is a benefit in kind/non-
           cash donation (e.g. office space etc), and
       (iii) the value of the donation as determined in accordance
           with section 53 PPERA
   (d) Is this gift a bequest?
   (e) Please specify the address at the time of receipt of the
       gift on the electoral register if the donor is an individual;
   (f) Please provide a company number in the case of
       donations from companies;
   (g) The specific type of donor from the list below:
       1) an individual registered in an electoral register;
       2) a company—
       (i) registered under the Companies Act 2006, and
(ii) incorporated within the United Kingdom or another Member State, which carries on business in the United Kingdom;

(3) a registered political party, other than a Gibraltar party whose entry in the PPERA register of political parties includes a statement that it intends to contest one or more elections to the European Parliament in the combined region;

(4) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992;

(5) a building society (within the meaning of the Building Societies Act 1986);

(6) a limited liability partnership registered under the Limited Liability Partnerships Act 2000 which carries on business in the United Kingdom;

(7) a friendly society registered under the Friendly Societies Act 1974 or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969; and

(8) any unincorporated association of two or more persons which does not fall within any of the preceding paragraphs but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there.

8. Please sign here if you answered “yes” to question B above.

I declare to the best of my knowledge and belief that the donation(s) accepted by me and included in this statement is/are each from a permissible donor within the meaning of PPERA:

Signed:

Date:
<p>| | |</p>
<table>
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<tbody>
<tr>
<td>9. If you answered “yes” to question B above, please tick this box if the donation is sponsorship. Please see guidance from the Electoral Commission at the following link and in volume 3 of the Code of Conduct for further details or seek further advice from the Standards Clerks:</td>
<td></td>
</tr>
<tr>
<td>10. Is there any relevant additional information that you wish to provide?</td>
<td></td>
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</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 and paragraph 7 of the schedule to the Interests Act. Remuneration and related undertakings, controlled transactions, gifts, heritable property and interest in shares should be registered by completing the separate written statement forms for these categories.

Notes
1. Overseas visits the costs of which were met wholly by the member or the SPCB, out of the Scottish Consolidated Fund, 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. Overseas visits, the costs of which were met wholly by certain family members are only registrable under this category where the costs are over £1,500 and for political activities.

2. If the costs of the visit are from a single source and over £500, and cumulatively exceed £1,500 when aggregated with other political overseas visits, gifts to support political activities, remuneration received as expenses for political activities or controlled transactions, also from the same source and received within the same calendar year, these costs are registrable (but only if the visit is for the member’s benefit in connection with the member’s political activities). Members should consult paragraph 2.5 of the Code or should seek advice from the Standards Clerks if in any doubt about these provisions.

Name and Office:

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<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>(a) Have you made a visit outside the United Kingdom which meets the prejudice test?</td>
<td></td>
</tr>
<tr>
<td>(b) Are the costs of the overseas visit over £1,500 (either singly or cumulatively) and if so, is it for political activities?</td>
<td></td>
</tr>
</tbody>
</table>

If you answered yes to either (a) or (b), then please answer the following questions for each interest:

1. On or between which date(s) did the visit take place?

2. What was:
<p>| | |</p>
<table>
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<tr>
<td>a) the destination, and b) the purpose of the visit?</td>
<td></td>
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<tr>
<td>3. What is the name of the person or organisation who met any of the costs of the visit?</td>
<td></td>
</tr>
<tr>
<td>4. What is the: a) principal business address of, and b) nature of the business, activities or work carried out by the person or organisation named in 3 above? (Note: This information does not need to be provided if the donor of the gift is a private individual, unless the costs of the visit are over £1,500 and for political activities, in which case please provide the individual’s address)</td>
<td></td>
</tr>
<tr>
<td>5. What were the costs of the visit?</td>
<td></td>
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<tr>
<td>6. Is there any relevant additional information that you wish to provide?</td>
<td></td>
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</tbody>
</table>
CONTROLLED TRANSACTIONS (LOANS, CREDIT FACILITIES, ETC)\textsuperscript{49}

For details of what constitutes a registrable interest under the controlled transactions category and details of exemptions to the requirement to register please refer to the schedule to the Interests Act and to the Code of Conduct, in particular 2.4, Section 2 of Volume 2. Remuneration and related undertakings, overseas visits, gifts, heritable property and interest in shares should be registered by completing the separate written statement forms for these categories.

PPERA prohibits members from entering into a controlled transaction (e.g. loans or credit facilities over £500 any part of which the member intends to use in connection with political activities) unless it is with an “authorised participant” (see section 54 of, and paragraphs 4 to 8 of Schedule 7A to, PPERA). Similarly, members are prohibited from deriving any benefit from a connected transaction if any of the participants to that transaction is not an authorised participant. If the parties to a controlled transaction include an unauthorised participant, the transaction is void and any sums received by the member under it must be repaid; also criminal sanctions may ensue. Further advice can be obtained from the Electoral Commission.

Notes
1. Please note that a member is required to register controlled transactions from a single source received within the same calendar year if
   - each of them has a value of over £500
   - they cumulatively exceed £1,500 (or exceed £1,500 when combined with “aggregable benefits” such as overseas visits for political activities, remuneration as expenses for political activities or a gift for political activities from the same source within the same calendar year – see para 2.4.2 of Code and paragraph 9 of Schedule 7A to PPERA) and

2. The following are not registrable under this category—
   - payments which fall to be included in an Electoral Return for an election;
   - trade credit (given on normal rather than preferential terms).

3. Members may enter into a controlled transaction which is not registrable but which is subsequently varied so as to become registrable (either singly or when aggregated with

\textsuperscript{49} A separate form is available for registering “connected transactions”.

\textsuperscript{50} Some controlled transactions entered into before a member is returned may be registrable with the Electoral Commission, e.g. where the member was a member of a registered political party at the time the transaction was entered into. Please contact the Electoral Commission for further advice.
other aggregable benefits). For example, the terms of a loan agreement may be varied to take its value above £1,500. In such circumstances, the date on which the controlled transaction is considered to be entered into is the date on which that change takes effect. Members are required to register controlled transactions within 30 days of entering into the transaction.

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<th>Name and Office:</th>
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<table>
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<tr>
<th>Yes</th>
<th>No</th>
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</table>

A. Are you reporting a controlled transaction with an authorised participant that is a UK registered company?

B. Are you reporting a controlled transaction with an authorised participant other than a company?

If you answered yes, then please complete the following:

1. If you answered “yes” to A above, please provide the full company name as registered, registered address and company registration number.

2. If you answered “yes” to B above, please provide the name of the authorised participant and address.\(^{51}\)

3. If you answered “yes” to B above, please specify the status of the participant:
   a) Individual;
   b) Trade union;
   c) Building society;
   d) Unincorporated association;
   e) Limited liability partnership;
   f) Political party;

\(^{51}\) For individual authorised participants, please enter their full name and their address shown in the electoral register at the time the transaction was entered into if applicable, or if not shown on the electoral register at that time, the individual’s home address (whether in the UK or elsewhere). In the case of an individual with an anonymous entry in the electoral register, please see question 4 below. Please note that the address of individuals will not be published. For other types of participant, please enter the registered name where applicable and the registered address of the participant’s headquarters or main or principal office.
### g) Friendly/provident society

4. If you specified an individual at Q3 above, please indicate if they are an anonymously registered individual.  

5. Please specify whether you have entered into:
   - a) a loan or
   - b) credit facility?

Over the value of £1,500 for use or benefit in connection with any political activities (either singly or cumulatively – see note 1).

6. What is the loan reference number?

7. On what date was the loan or credit facility entered into?

8. What is the date on which the loan is to be repaid or the credit facility ends? Please indicate if the loan/credit facility is indefinite and, if the date of repayment or ending is to be determined under the agreement, please state how it is to be so determined.

9. What is the value of the loan/maximum credit limit? Please specify if the amount is unlimited.

10. Are you registering the loan or credit facility as a result of an aggregation? (see note 1 above)

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52 Please confirm (if appropriate) that you have seen a duly issued certificate of anonymous registration. This is evidence prescribed by the Secretary of State that the individual has an anonymous entry - see para 2(3) Schedule 6A of PPERA, applied by 9(9) of Schedule 7A and the Political Donations and Regulated Transactions (Anonymous Electors) Regulations 2014, S.I.2014/1806.

53 This should be a unique number assigned by the member to ensure the transaction can be identified in future. This is important should any changes or connected transactions need to be reported to the Scottish Parliament Standards Clerks to ensure the correct transaction is identified.

54 For a loan, this is the maximum amount of the loan. For a credit facility, this is the maximum amount that can be drawn down under the facility. The value of a transaction does not include any provision for interest to be added on to the amount outstanding rather than be repaid. Examples of values include a £100,000 cash loan or £15,000 limit on a credit card issued to you. If the transaction has no maximum value, please indicate this instead of providing a numerical value.
11. Please specify the following information:

a) Is the interest rate fixed or variable?

b) What is the rate of interest? (or, please state that no interest is payable. Where the rate of interest is to be determined under the loan/credit facility agreement, please state how it is to be determined)

c) Can interest be added on to the loan/credit facility? 

12. Was security given on the loan or credit facility? If yes, please give details.

13. Please sign this declaration:

I declare that to the best of my knowledge and belief that all transactions recorded in this report have been entered into with an authorised participant in accordance with Schedule 7A of the Political Parties, Elections and Referendums Act as inserted by the Electoral Administration Act 2006.

Signed: ___________________________

Dated: ___________________________

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55 Please specify how the interest on this transaction is to be calculated; if it is a fixed per cent please enter at what rate. If the interest rate is variable, please give details of how it is ascertained. First you should explain what base rate is being used (e.g. bank’s base rate or the London Inter-bank Offered Rate (LIBOR). Please also specify the variation from that base (e.g. Bank of England minus one per cent or LIBOR plus two per cent). If no interest is being charged, please indicate this.
CONNECTED TRANSACTIONS

For details of what constitutes a registrable interest under the controlled transactions category and details of exemptions to the requirement to register please refer to paragraph 6A of the schedule to the Interests Act and to the Code of Conduct, in particular 2.4, Section 2 of Volume 2. Remuneration and related undertakings, overseas visits, gifts, heritable property and interest in shares should be registered by completing the separate written statement forms for these categories.

Notes
1. A connected transaction is a type of controlled transaction, and therefore the same general rules apply. Members must register transactions over £1,500 that are connected to a loan or credit facility obtained by a member (‘connected transactions’), which the member intends to be used wholly or partly for their political activities. A connected transaction is one under which a third party gives security in relation to a sum owed by the member under a loan or credit agreement which is itself a controlled transaction (or for the provision of property, services or facilities to the member for political activities). For example, where a third person gives a personal guarantee to a bank in respect of a loan or credit facility over the value of £1,500 provided to the member for political activities. Members are only required to register connected transactions entered into on or after the date of return. 56

2. Subject to note 4, registrable transactions include –
   a) loans,
   b) credit facilities such as credit cards and overdrafts,
   c) Securities or guarantees for a member’s obligations to someone else such as the (a) lender or the giver or (b) a credit facility or a person who provides property, services or facilities for the use of benefit of the member. These are all ‘connected transactions’ – for example, where a third person gives a personal guarantee to a bank in respect of a loan over the value of £1500 provided to the member for political activities.

3. A connected transaction is a type of “controlled transaction” and the same rules apply, including the PPERA rules about permissibility (see note 4 below). This written statement form is for registering connected transactions. Please see and complete the separate written statement form for categories (a) and (b) (i.e. the controlled transaction form).

4. Please note that a member is required to register connected transactions from a single source received within the same calendar year if
   • each of them has a value of over £500
   • they cumulatively exceed £1,500 (or exceed £1,500 when combined with other controlled transactions, overseas visits for political activities, remuneration as expenses for political activities or a gift for political activities from the same

56 Some controlled transactions entered into before a member is returned may be registrable with the Electoral Commission, e.g. where the member was a member of a registered political party at the time the transaction was entered into. Please contact the Electoral Commission for further advice.
source within the same calendar year – see para 2.4.2 of the Code and paragraph 9 of Schedule 7A to PPERA) and

the member intends to use any money or benefit obtained in consequence of the connected transaction in connection with the member’s political activities.

5. The following are not registrable under this category—
   • payments which fall to be included in an Electoral Return for an election;
   • trade credit (given on normal rather than preferential terms).

6. PPERA requires that members only enter into controlled transactions over £500 for political activities from a permissible source (see section 54 of, and paragraphs 4 to 8 of Schedule 7A to, PPERA). If a party to the controlled transaction is an unauthorised participant then both the transaction and the transaction to which it is connected are void and any sums received by the member under it must be repaid (see Schedule 7A paragraph 6 of PPERA). Breaches of this provision are a criminal offence. Further advice can be obtained from the Electoral Commission.

7. Members are required to register connected transactions within 30 days of entering into the transaction. Members are only required to register with the Scottish Parliament connected transactions entered into on or after the date of return.57

<table>
<thead>
<tr>
<th>Name and Office:</th>
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<tbody>
<tr>
<td></td>
<td>Yes</td>
</tr>
</tbody>
</table>

A. Are you reporting a connected transaction with an authorised participant that is a UK registered company?

B. Are you reporting a connected transaction with an authorised participant other than a company within the last 30 days?

If you answered yes, then please complete the following:

1. If you answered “yes” to A above, please provide the full company name, registered address and company registration number.

2. If you answered “yes” to B above, please provide the name of the authorised participant and address.

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57 Some controlled transactions entered into before a member is returned may be registrable with the Electoral Commission. Please contact the Electoral Commission for further advice.
3. If you answered “yes” to B above, please specify whether the participant is:
   a) Individual;
   b) Trade union;
   c) Building society;
   d) Unincorporated association;
   e) Limited liability partnership;
   f) Political party;
   g) Friendly/provident society

4. If you specified an individual at Q3 above, please indicate if they are an anonymously registered individual.58

5. What is the value of the connected transaction? Please state if it is unlimited.

6. What is the date on which the connected transaction was entered into?

7. Is this transaction connected to a controlled transaction already registered or being registered at the same time as this connected transaction? If so, please specify which controlled transaction by reference to the written statement form in which it was reported including the unique reference number you entered at Q6 of the relevant controlled transaction written statement form for identification purposes. If not, please give details of the original transaction.

8. If you answered “yes” to A above, will the company receive consideration from you? If yes,

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58 Please confirm (if appropriate) that you have seen a duly issued certificate of anonymous registration. This is evidence prescribed by the Secretary of State that the individual has an anonymous entry - see para 2(3) Schedule 6A of PPERA, applied by 9(9) of Schedule 7A and the Political Donations and Regulated Transactions (Anonymous Electors) Regulations 2014, S.I.2014/1806.
<p>| | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>9. If you answered “yes” to B above, will the participant receive consideration from you? If yes, please give details.</td>
<td></td>
</tr>
<tr>
<td>10. Are you registering the connected transaction as a result of an aggregation? (see note 4 above)</td>
<td></td>
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<tr>
<td>11. Does the security given include rights over property? If yes, please provide details of the property.</td>
<td></td>
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</tbody>
</table>
| 12. Please sign this declaration:  
I declare that to the best of my knowledge and belief that all transactions recorded in this report have been entered into with an authorised participant in accordance with Schedule 7A of the Political Parties, Elections and Referendums Act as inserted by the Electoral Administration Act 2006. | Signed:___________________  
Dated:___________________ |
Standards, Procedures and Public Appointments Committee
Code of Conduct revisions, 2nd Report, 2016 (Session 4)

CHANGE TO PREVIOUSLY REPORTED TRANSACTION

Members must notify the Clerk of any changes to a registered controlled or connected transaction within 30 days of the date on which the change takes effect. Such changes include the following: another person becoming party to the transaction, there is a change to any information which was (or should have been) provided by the member in the written statement lodged by the member when registering the transaction, the transaction coming to an end.  

Please complete the following:

<table>
<thead>
<tr>
<th>1. Name and Office:</th>
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<tbody>
<tr>
<td>2. What is the loan reference number?</td>
<td></td>
</tr>
<tr>
<td>3. What was the date on which the controlled transaction was registered?</td>
<td></td>
</tr>
<tr>
<td>4. What is the value of the loan/maximum credit limit?</td>
<td></td>
</tr>
<tr>
<td>5. What is the date of the change?</td>
<td></td>
</tr>
<tr>
<td>6. Was the transaction ended?</td>
<td></td>
</tr>
<tr>
<td>7. Is there a change to:</td>
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</tr>
<tr>
<td>a) participants in the transaction;</td>
<td></td>
</tr>
<tr>
<td>b) the details of an existing participant as previously provided (e.g. address).</td>
<td></td>
</tr>
<tr>
<td>8. If you answered “yes” to question 7 above, please specify the change and provide the new details for the information set out in questions 3 to 6 in the controlled transactions written statement form (or the connected transactions written statement form if applicable).</td>
<td></td>
</tr>
<tr>
<td>9. Is there any relevant additional</td>
<td></td>
</tr>
</tbody>
</table>

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59 A loan comes to an end: a) by the whole of the debt (or all the remaining debt) being repaid or (b) the creditor releasing the whole debt (or all the remaining debt) – see PPERA Sch 7A, para 11(4).

60 Members should contact the Electoral Commission immediately if they have reason to believe an unauthorised participant may have become a party to the transaction.
<table>
<thead>
<tr>
<th>Information that you wish to provide?</th>
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<tbody>
<tr>
<td>10. Please sign this declaration:</td>
<td></td>
</tr>
<tr>
<td>I declare that to the best of my knowledge and belief that the information contained and reported in this written statement form is true and complete.</td>
<td>Signed: __________________________</td>
</tr>
<tr>
<td></td>
<td>Dated: __________________________</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 Interests Act and to the Code of Conduct, in particular para 2.6, Section 2 of Volume 2. Remuneration and related undertakings, overseas visits, gifts, heritable property and controlled transactions should be registered by completing the separate written statement forms for these categories.

Notes
1. 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.

2. 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>Name and Office:</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you or a relevant person have an interest in shares and:</td>
<td></td>
<td></td>
</tr>
<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>
<td></td>
</tr>
<tr>
<td>Or</td>
<td></td>
<td></td>
</tr>
<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>
<td></td>
</tr>
</tbody>
</table>

If you answered yes, then please answer the following questions for each interest:

1. Into which category (a, b or both) does this interest fall?

2. What is the name of the company or other body (as described when you acquired the interest)?

3. What type of shares do you own?

4. On what date did you acquire the shares (if after the date of your return in this parliamentary session) or
<table>
<thead>
<tr>
<th>disposal of the shares (if before the date of your return)?</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. What is the nature of the business undertaken by the company or other body in which you hold shares?</td>
</tr>
<tr>
<td>6. What is the market value and/or percentage of the issued share capital of the company or other body?</td>
</tr>
<tr>
<td>7. 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 Interests Act and to the Code of Conduct in particular 2.5, Section 2 of Volume 2. Remuneration and related undertakings, overseas visits, gifts, controlled transactions and interest in shares should be registered by completing the separate written statement forms for these categories.

**Notes**

1. 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.

2. 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>Name and Office:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Do you own or hold heritable property:

- 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
- b) from which you have received rental income during the period of twelve months prior to the relevant date?

If you answered yes, then please answer the following questions for each interest:

1. Into which category (a, b or both) does this interest fall?

2. What is the location of the property (by area, for example by local authority area if in Scotland)?
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>3.</td>
<td>What is the type of the property (for example, flat, house, commercial, industrial, domestic, commercial, agricultural)?</td>
</tr>
<tr>
<td>4.</td>
<td>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)?</td>
</tr>
</tbody>
</table>
| 5. | What is/was the market value of the property at the relevant date within the following bands:  
   - up to £50,000  
   - between £50,001 – £100,000  
   - between £100,001 – £150,000  
   - between £150,001 – £200,000  
   - between £200,001 – £250,000  
   - between £250,001 – £300,000  
   - and thereafter in intervals of £100,000? |
| 6. | What is/was the gross income from the property at the relevant date within the following bands:  
   - up to £5,000  
   - between £5,001 – £10,000  
   - between £10,001 – £15,000  
   - between £15,001 – £20,000  
   - between £20,001 – £25,000  
   - between £25,001 – £30,000  
   - and thereafter in intervals of £10,000? |
| 7. | Is there any relevant additional information that you wish to provide? |
Annexe B: Cross-Party Group revisions

Code of Conduct for MSPs - Volume 2, 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, in consultation with the Convener of the SPPA Committee, will undertake a sifting exercise and highlight applications to be referred to the Committee for further scrutiny (either through a paper to the Committee or an evidence session with the Convener of the proposed group). Groups that do not require further scrutiny will be re-registered. 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 within a time period of, every 11-13 months subsequently. As Groups are required to hold an AGM, Groups may wish to elect the re-election of office bearers should be held 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. Minutes must list all those who attended the meeting. This should include all MSPs and non-MSP attendees and information on whether the attendees were members of the Group or invited observers (an individual or organisation is not a member of a Group until Standards clerks have been informed). 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.

6.4.13 New Groups will not be permitted to be established after March in the year preceding an election, except in exceptional circumstances.

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.
Annexe C: Extract from minutes

10th Meeting, 2015 (Session 4), Thursday 4 June 2015

Decision on taking business in private: The Committee agreed to take items 5 and 6 in private.

Code of Conduct (in private): The Committee considered the rules in the Code of Conduct on Cross-Party Groups and agreed to consider possible changes to the Code at a future meeting.

20th Meeting, 2015 (Session 4), Thursday 26 November 2015

Decision on taking business in private: The Committee agreed to take items 3 and 4 in private.

Cross-Party Groups (in private): The Committee agreed rule changes for Cross-Party Groups. The Committee also agreed to consider best practice guidance for Groups at a future meeting.

23rd Meeting 2015 (Session 4), Thursday 17 December 2015

Interests of Members of the Scottish Parliament (Amendment) Bill (in private): The Committee considered correspondence.