STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

AGENDA

5th Meeting, 2016 (Session 5)

Thursday 22 September 2016

The Committee will meet at 9.30 am in the James Clerk Maxwell Room (CR4).

1. **Decision on taking business in private:** The Committee will decide whether its consideration of draft Standing Order rule changes and a draft report on First Minister’s Questions, and consideration of its work programme, should be taken in private at future meetings.

2. **Parliamentary Liaison Officers:** The Committee will take evidence from—

   Joe FitzPatrick, Minister for Parliamentary Business, James Hynd, Head of Cabinet, Parliament and Governance Division, and Steven MacGregor, Head of Parliament and Legislation Unit, Scottish Government.

3. **Complaints (in private):** The Committee will continue its consideration of reports from the Commissioner for Ethical Standards in Public Life in Scotland.

4. **Complaints:** The Committee will announce its decision at Stage 3 on reports from the Commissioner for Ethical Standards in Public Life in Scotland.

5. **Complaints (in private):** The Committee will consider its draft reports.

6. **Mandatory Committees’ remits (in private):** The Committee will consider a draft report and draft Standing Order rule changes.

Douglas Wands
Clerk to the Standards, Procedures and Public Appointments Committee
Room TG.01
The Scottish Parliament
Edinburgh
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The papers for this meeting are as follows—

**Agenda item 2**

PRIVATE PAPER  SPPA/S5/16/5/1 (P)

SPICe briefing  SPPA/S5/16/5/2

**Agenda item 3**

(to follow)  SPPA/S5/16/5/3 (P)

**Agenda item 4**

(to follow)  SPPA/S5/16/5/4 (P)

(to follow)  SPPA/S5/16/5/5 (P)

**Agenda item 5**

(to follow)  SPPA/S5/16/5/6 (P)

(to follow)  SPPA/S5/16/5/7 (P)

**Agenda item 6**

PRIVATE PAPER  SPPA/S5/16/5/8 (P)
PARLIAMENTARY LIAISON OFFICERS

SCOTTISH PARLIAMENT

The Scottish Government (and formerly the Scottish Executive) operates a system of Parliamentary Liaison Officers (PLOs) (formerly called Ministerial Parliamentary Aides).

They are unpaid and are not formal members of the Government. They perform a role similar to Parliamentary Private Secretary in the House of Commons (see below).

Since 2002, the Scottish Ministerial Code has covered the conduct of Aides/Officers. The latest version of the Code was published in August 2016. The paragraphs in the current Code relating to PLOs can be found in Annexe 1.

In the Codes for 2002 and 2003 the Scottish Executive stated that:

Ministerial Parliamentary Aides may serve on Parliamentary Committees but they should not serve on Committees with a substantial direct link to their Minister’s portfolio.

This provision was removed in the June 2008 Code, which was the first one produced by the SNP led Scottish Government, and did not appear in the subsequent 2015 Code. The provision was reinstated in the August 2016 edition of the Code.

A number of parliamentary question have been asked in this Session on PLOs, see Annexe 2.

This paper was written in response to a request from the Standards, Procedures and Public Appointment Committee for information on any equivalent roles in other legislatures, including the Northern Ireland Assembly and the National Assembly for Wales.

UK: HOUSE OF COMMONS

The following information was taken from a recent (August 2016) House of Commons briefing on Parliamentary Private Secretaries.

A Parliamentary Private Secretary (PPS) is an unpaid assistant to a Minister, selected from backbench MPs to be the ‘eyes and ears’ of the Minister in the House of Commons. They often advise the Minister on the state of parliamentary of party opinion, and act as a two-way channel of communication between the Minister and backbench MPs.
PPSs are not regarded as a member of the Government, and they cannot speak in Parliament on behalf of the Government from the front bench. By convention, PPSs sit on the bench behind the treasury bench.

The Ministerial Code makes provision for Cabinet Ministers and Ministers of State to appoint PPSs with the written approval of the Prime Minister, and after consulting the Chief Whip:

Cabinet Ministers and Ministers of State may appoint Parliamentary Private Secretaries. All appointments require the prior written approval of the Prime Minister. The Chief Whip should also be consulted and no commitments to make such appointments should be entered into until such approval is received.

The Ministerial Code places restrictions on PPSs involvement in select committees inquiries into their Minister’s department. The Code states that although PPSs are not prevented from serving on select committees, they should withdraw from any involvement with inquiries into their appointing Minister’s department.

According to the UK Ministerial Code, PPSs should not make statements in the House nor put Questions on matters affecting the department with which they are connected.

The position of PPS is an unpaid one. However, they are recipients of a level of official patronage and they are regarded as part of the ‘payroll vote’, that is, those MPs who can be relied upon absolutely by the Government to vote in support of their policies.

There have been calls in recent years to limit the number of PPSs.

**NORTHERN IRELAND ASSEMBLY**

In 2011, the First and Deputy First Ministers for Northern Ireland announced the appointment of Assembly Private Secretaries (APSs) for all of the Ministers. They are unpaid and are appointed by Ministers, from their own party, in order to help with ministerial business.

A protocol was issued in 2011 for the appointment, role and functions of Assembly Private Secretaries, see Annexe 3.

APSs must declare their appointment in the Assembly’s Register of Interests.

The APSs have access to all ministerial documents and this led to concerns being raised about APSs being members of committees with oversight for their Ministers’ departments.

**NATIONAL ASSEMBLY FOR WALES**

The National Assembly for Wales has no system of APSs.

**NEW ZEALAND**

The New Zealand Government operates a system of unpaid Parliamentary Private Secretaries similar to the UK House of Commons. The PPSs have no executive responsibilities and no policy, financial, statutory, or operational authority.

The main role of the PPS is to act as a sounding board and an advisor to the Minister.
PPSs use their skills and expertise to support the Minister in portfolio, administrative and representational issues.

The PPS is also the Minister’s link to the party caucus. A PPS will be heavily involved in the caucus policy process in the area in which they work; for instance, they would chair the Caucus committee in the relevant area, and lead the National Party policy advisory group in the relevant area.

They would work closely with the Minister on the Minister’s legislative programme.

They may also represent the Minister at public events, and deliver speeches, on occasions when the Minister was not available.

The PPSs do not appear to be covered by the Ministerial Code of Conduct.

**AUSTRALIA: HOUSE OF REPRESENTIVES**

Australia has no equivalent to the unsalaried PPSs.

**CANADA: HOUSE OF COMMONS**

Canada has no equivalent to unsalaried PPSs.

The Canadian Government does have the possibility of appointing salaried Parliamentary Secretaries (PSs) to assist Ministers for a specific period of time, a maximum of twelve months which can be renewed.

There is a [Guide for Parliamentary Secretaries](#) setting out their roles.
ANNEXE 1: EXCERPT FROM THE SCOTTISH MINISTERIAL CODE AUGUST 2016

The following paragraphs, relating to Parliamentary Liaison Officers, are copied from the 2016 edition of the Scottish Government’s Scottish Ministerial Code:

Parliamentary Liaison Officers

4.8 The First Minister may, on the recommendation of a Cabinet Secretary, and following consultation with the Minister for Parliamentary Business, appoint an MSP as a Parliamentary Liaison Officer (PLO) to support the Cabinet Secretary in the discharge of his or her Parliamentary duties.

4.9 No approach should be made to a potential PLO without the prior approval of the First Minister and the Minister for Parliamentary Business and Government Strategy. Appointment as a PLO can be terminated at any time by the First Minister, following consultation with both the Cabinet Secretary whom the PLO has been appointed to assist and the Minister for Parliamentary Business.

4.10 PLOs are not members of the Scottish Government and may not stand in for Cabinet Secretaries or other Ministers at media or other events. They should also exercise discretion in any speeches or broadcasts which they may make, taking care not to make statements which appear to be made in an official or semi-official capacity. PLOs may serve on Parliamentary Committees, but they should not serve on Committees with a substantial direct link to their Cabinet Secretary’s portfolio.

4.11 PLOs may be invited to attend official meetings and may be given access to Government information. Such access should be solely for the purpose of allowing PLOs to discharge their role effectively, and on a strictly confidential basis. PLOs should not, however, have access to information with a protective marking of secret or above. PLOs are required to exercise care in the use of any official information to which they have access in the course of their duties as a PLO and, in particular, should respect the confidentiality arrangements.

4.12 Although PLOs are not subject to the rules on private interests which apply to Ministers, they must ensure that no conflict arises, or appears to arise, between their role as a PLO and their private interests. They are in any case bound by the requirements of the Code of Conduct for Members of the Scottish Parliament.

4.13 PLOs undertaking visits within the United Kingdom relating to their duties as a PLO may receive the normal Civil Service travel and subsistence allowances, as would any other MSP undertaking work for the Government.

4.14 At the beginning of each Parliamentary session, or when changes to PLO appointments are made, the Minister for Parliamentary Business will advise Parliament which MSPs have been appointed as PLOs. The Minister for Parliamentary Business will also ensure that PLO appointments are brought to the attention of Committee Conveners. PLOs should ensure that they declare their appointment as a PLO on the first occasion they are participating in Parliamentary business related to the portfolio of their Cabinet Secretary.
## ANNEXE 2: PARLIAMENTARY QUESTIONS ON PLOS IN SESSION 5

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<th>PQ NUMBER</th>
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<td>S5W-02261: George Adam, Scottish National Party, Lodged: 31/08/2016 Initiated by the Scottish Government.</td>
<td>To ask the Scottish Government what changes have been made to parliamentary liaison officer appointments following changes to the Ministerial Code.</td>
<td>Answered by Joe FitzPatrick (01/09/2016): The First Minister has made changes to the appointed parliamentary liaison officers (PLOs) following the recent update of the Ministerial code. The revised list of PLOs are set out in the following table. PLOs will assist in developing and maintaining a positive and constructive relationship between the Scottish Parliament and the Scottish Government. PLOs are unpaid, are not members of the government and are not, therefore, bound by collective responsibility.</td>
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<td>S5W-02229: George Adam, Scottish National Party, Lodged: 30/08/2016 Initiated by the Scottish Government.</td>
<td>To ask the Scottish Government whether it is the First Minister’s intention to publish a new edition of the Scottish Ministerial Code.</td>
<td>Answered by Joe FitzPatrick (31/08/2016): In line with the convention that the Scottish Ministerial Code is revised both at the commencement of each new Parliamentary term and following the appointment of a new First Minister, the 2016 edition will be published today. The Code, which was last revised in June 2015, provides a code of conduct and guidance on procedures for members of the Scottish Government and Junior Scottish Ministers. A copy of the 2016 edition of the Scottish Ministerial Code may be found on the Scottish Government’s website at: <a href="http://www.gov.scot/About/People/14944/684">www.gov.scot/About/People/14944/684</a>. As well as some</td>
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minor updates the revised code now provides that Parliamentary Liaison Officers may not serve on the Parliamentary Committee which scrutinises the Cabinet Secretary to whom they are appointed.

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<td>S5W-01951: Mike Rumbles, Scottish Liberal Democrats, Lodged: 15/08/2016</td>
<td>To ask the Scottish Government which parliamentary liaison officers are included on the circulation list of material it produces pertaining to the business of parliamentary committees.</td>
<td>Joe FitzPatrick (08/09/2016)</td>
<td>None.</td>
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<td>S5W-01950: Mike Rumbles, Scottish Liberal Democrats, Lodged: 15/08/2016</td>
<td>To ask the Scottish Government which parliamentary liaison officers have (a) received copies of ministerial briefing material and (b) attended ministerial meeting regarding matters pertaining to the work programmes of Scottish Parliament committees.</td>
<td>Joe FitzPatrick (08/09/2016)</td>
<td>None.</td>
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<td>S5W-01949: Mike Rumbles, Scottish Liberal Democrats, Lodged: 15/08/2016</td>
<td>To ask the Scottish Government how many restricted documents have been shared with each parliamentary liaison officer since June 2016.</td>
<td>Joe FitzPatrick (08/09/2016)</td>
<td>I refer the member to the answer to question S5W-01947 on 8 September 2016.</td>
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| S5W-01948: Mike Rumbles, Scottish Liberal Democrats, Lodged: 15/08/2016 | To ask the Scottish Government how many departmental meetings with ministers have been attended by each parliamentary liaison officer since June 2016, and who was in attendance at each. | Joe FitzPatrick (08/09/2016) | Jenny Gilruth MSP met Mark McDonald MSP, Minister for Childcare and Early Years and Aileen Campbell MSP, Minister for Public Health and Sport on 14 June 2016 with Scottish Government (SG) officials.  
Jenny Gilruth MSP met John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills on 21 June 2016 with SG officials.  
Angus Macdonald MSP met Roseanna Cunningham MSP, Cabinet Secretary for Environment, Climate Change and Land Reform on 29 June 2016 with SG officials. |
<p>| S5W-01947: Mike Rumbles, Scottish Liberal Democrats, | To ask the Scottish Government whether (a) special advisers or (b) ministerial private offices have shared restricted briefing material with | Joe FitzPatrick (08/09/2016) | Restricted is not a recognised Scottish Government security classification. The Ministerial code sets out what government information parliamentary liaison officers are allowed to receive on a strictly confidential basis in order to |</p>
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<th>Lodged: 15/08/2016</th>
<th>parliamentary liaison officers since June 2016.</th>
<th>allow them to discharge their role effectively. The code has been fully complied with at all times.</th>
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<td>S5W-00723: Bill Kidd, Scottish National Party, Lodged: 13/06/2016 Initiated by the Scottish Government</td>
<td>To ask the Scottish Government how many parliamentary liaison officers have been appointed; to which ministers, and what their responsibilities are.</td>
<td>Answered by Joe FitzPatrick (14/06/2016): The First Minister has appointed 13 parliamentary liaison officers (PLOs), listed as follows, to assist in developing and maintaining a positive and constructive relationship between the Scottish Parliament and the Scottish Government and to take account of the views of the Parliament and of Scotland as a whole. PLOs are unpaid, are not members of the government and are not, therefore, bound by collective responsibility.</td>
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ANNEXE 3: PROTOCOL FOR THE APPOINTMENT, ROLE AND FUNCTIONS OF [NORTHERN IRELAND] ASSEMBLY PRIVATE SECRETARIES

Role

1. Each Minister in the Executive may appoint an Assembly Private Secretary (APS) to assist him or her in the discharge of their role and responsibilities. The function of the APS will be to:
   - act as a liaison between the Minister and the Northern Ireland Assembly;
   - provide information and advice to the Minister on any political issues relevant to the conduct and management of their Assembly business;
   - provide a political perspective to the Minister on the activities and policies being developed by their departments;
   - undertake and provide such analysis of departmental policy as the Minister may request;
   - provide assistance to the Minister in the Assembly chamber;
   - co-operate as necessary with the APSs of other Ministers in relation to any issues requiring consideration or resolution.

Appointment

2. An APS must be a Member of the Legislative Assembly and will be expected to continue to honour fully his or her obligations to the Assembly and the electorate. The appointment will be for such period of time as the Minister may determine and may be terminated at any time. The APS must, before appointment, declare any matters which might materially conflict with the proper performance of his or her duties and must subsequently notify the Minister of any circumstances arising which may compromise or be seen to compromise his or her integrity or ability to carry out those duties.

Remuneration

3. The post of APS will attract no remuneration. Any limited expenses necessarily incurred by an APS in relation to his or her duties will be subject to prior agreement
by the Minister and defrayed by the department in accordance with arrangements
determined by it.

Conduct of Business

4.1 The APS will seek at all times to ensure the effective, efficient and economic
conduct of the Minister's business and will observe any requirements in relation to
timescales for the discharge of business.

4.2 Subject to the demands of Assembly business, the APS will be expected to attend
all meetings as requested by the Minister and to accompany the Minister on such
other official business as may be necessary. The APS will not deputise for or
represent the Minister in Assembly business or at any official engagement in
relation to the department's business or issue statements on behalf of the
department. The APS may issue statements in relation to the business of the
department only with the explicit agreement of the Minister. The APS shall not table
Assembly questions on matters relating to the Minister’s responsibilities.

4.3 The APS will receive all papers circulated by officials to Ministers and will be
expected to treat all information so obtained in strict confidence. The APS should
not further disseminate information and papers without the explicit agreement of the
Minister, nor use information so gained for personal advantage or that of political
colleagues.

4.4 The APS may at any time request information from the Department but will direct
any such requests through the relevant Private Secretary. Meetings may also be
sought with departmental officials and arrangements for these will be made by the
relevant Private Office. In the event of officials needing to seek meetings with the
APS, requests should be made through the relevant Private Office.

4.5 The ability of an APS to conduct representations on behalf of his or her constituents
as an MLA through the normal Assembly channels remains unaffected. The APS
will not use his or her position, however, to make direct representations to the
department or to any other department on behalf of any individual, group or
organisation.

4.6 The provision of such facilities to the APS which will enable him or her to carry out
their functions while on departmental premises shall be agreed with the relevant
department.
Executive

5. An APS will not be entitled to attend meetings of the Executive Committee. Where a Minister requests that an APS should attend a meeting this will be with the agreement of the Executive and limited to specified items of business being tabled by that Minister or for other relevant and necessary purposes.

Amendments

6. A Minister may amend or augment the duties of an APS at any time in response to changed or new business needs.

Francesca McGrath
Senior Researcher
13 September 2016