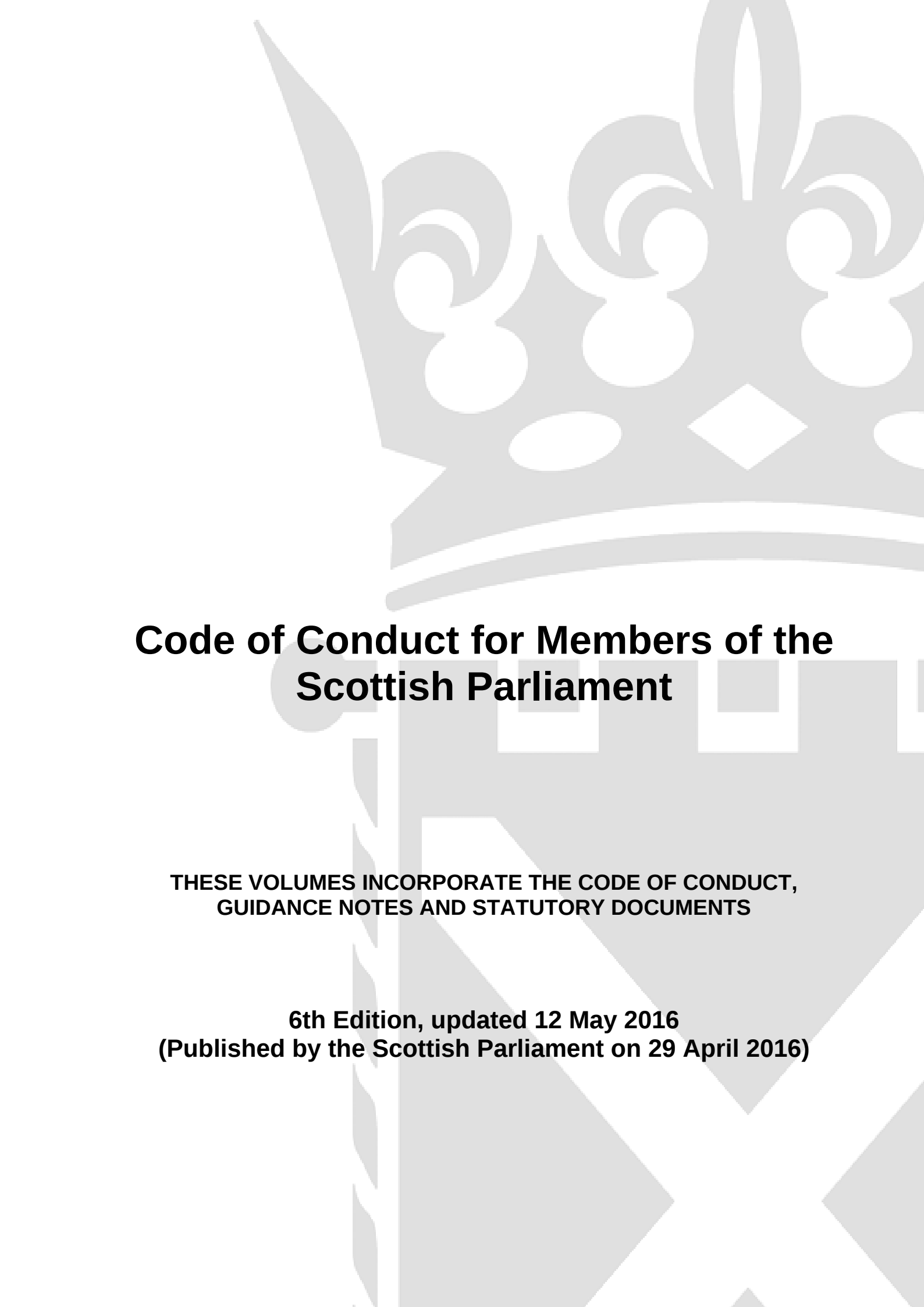




Code of Conduct for Members of the Scottish Parliament

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

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The Scottish Parliament
Pàrlamaid na h-Alba

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VOLUME 1

Introduction

1. Preamble

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

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

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

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

2. Background

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

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

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

2.4 The word "Integrity" is inscribed on the mace which is a symbol of the authority of the Parliament; it is one of a number of principles which must be observed in all that members do.

2.5 The Code underpins the approach that members are required to take in carrying out their Parliamentary duties. It explains the rules for members' conduct and guides them in interpretation of the rules. It also offers advice to members in relation to their conduct.

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

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

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

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

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

2.11 By virtue of resolutions of the Parliament on 14 March 2007, 25 March 2009, 20 January 2011 and 2 February 2016 the provisions of the Code have been adopted by the Parliament and apply to every member. It is the responsibility of members to make sure that they are familiar with, and that their actions comply with, their provisions. A breach of the Code itself could lead to sanctions being imposed on a member. Enforcement of the rules in the Code is explained in Section 9.

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

3.1 Introduction: Key principles

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

Key principles underpinning the Code of Conduct

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

Public duty

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

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

Duty as a representative

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

Selflessness

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

Integrity

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

Honesty

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

Accountability and openness

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

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

Leadership

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

3.2 Guidance on the Code of Conduct

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

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.

1.1.2 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.

1.1.3 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.

1.1.4 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 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 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.

1.1.5 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.

1.1.6 The determination on form and content of written statements was last amended, by resolution of Parliament, at the end of session 4 (2 February 2016).

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 is available online 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.parliament.scot/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. 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).

1.2.3 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).

1.2.4 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.

1.2.5 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.

1.2.6 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 ten 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

1.2.7 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 2016 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.

1.2.8 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

1.2.9 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.

1.2.10 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.

1.2.11 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

1.2.12 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.

1.2.13 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

1.2.14 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

1.2.15 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.

1.2.16 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

1.2.17 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.

1.2.18 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

1.2.19 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 1.2.14 above, members must register changes to controlled transactions in a timely manner.

1.2.20 Written statement templates and associated guidance for registration of new interests and changes to controlled transactions are provided in Volume 4.

Deletion of interests from the Register

1.2.21 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.

1.2.22 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.

1.2.23 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.

1.2.24 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.

1.2.25 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.

1.2.26 In some cases it will be clear that an interest has ceased, for example, where a member has sold their heritable property. Other cases 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 ten years even where that person is no longer a member.

Deletion of controlled transaction entries from the Register

1.2.27 As set out in paragraph 1.2.14 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 1.2.21 to 1.2.26 will apply in these circumstances.

Amending an interest

1.2.28 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 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.

1.2.29 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.

1.2.30 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 ten years.

Sanctions and offences for non-registration

1.2.31 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.

1.2.32 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.

1.2.33 Finally, in terms of section 17 of the 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 0.5% 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 not exceeding the specified limit (0.5% 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 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 1.2.28 (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 1.2.12 (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 1.2.15 (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 1.2.22 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. Members are not required to register pensions. However, if a member wishes to, a pension may be registered voluntarily. There is a separate part of the written statement for registering voluntary interests. Members are referred to Section 1.2.17 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 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) 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 (construed 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);

“candidate” has the same meaning as in section 118A, as read with section 90ZA(5) 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.

2.3.2 Firstly, any gift, the value of which on the date the gift is made, exceeds 0.5% of a member’s salary at the beginning of the current parliamentary session (rounded down to the nearest £10 – currently £300), must be registered where the gift also meets the prejudice test in section 3(2) of the Act.

2.3.3 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.

2.3.4 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.**

2.3.5 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

¹ For a definition of “sponsorship”, see the guidance on the PPERA provisions in Volume 3.

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.

2.3.6 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.

2.3.7 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.

2.3.8 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 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).

2.3.9 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 gifts received in a member's capacity as an MSP. Gifts received by members in a private capacity are registrable under the first category of interest (i.e where the gift is over £300 (either singly or cumulatively) and meets the prejudice test). This category does not cover gifts to spouses and cohabitants.

Financial and material support

2.3.10 Under the first category of gift, a member who receives any financial or material support as a member, the value of which exceeds the £300, 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 £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.

2.3.11 Subject to paragraph 2.3.15, 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.

2.3.12 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.

2.3.13 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

2.3.14 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

2.3.15 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

2.3.16 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. 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)).

2.3.17 Such expenses are not registrable, even if they exceed the gifts thresholds as long as:

- (a) the donor intended them to be used for one of the two 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.

2.3.18 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 £300 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.

2.3.19 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.

2.3.20 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.

2.3.21 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

2.3.22 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.

2.3.23 Members would still be required to register donations returned to the donor under paragraph 6(2) of the schedule (i.e. under the first category of gift – over £300). As outlined above, the prejudice test would apply to this category of gift.

Registering a gift

2.3.24 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 and the nature of the donor's business (if not a private individual).

2.3.25 In addition, members may register in the voluntary category any gift which does not 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.

2.3.26 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.

2.3.27 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.

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

2.4: Loans, credit facilities, etc - Schedule, paragraphs 6A and 6B

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, section 8 of the Act.

(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.

2.4.1 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.

2.4.2 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.

2.4.3 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.

2.4.4 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.

2.4.5 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.

2.4.6 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.

2.4.7 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.

2.5: Overseas Visits – Schedule, paragraph 7

A member has a registrable interest:

- (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—
 - (a) the costs of the visit exceed £1,500; or
 - (b) those costs exceed £500 (but do not exceed £1,500) and the aggregate value of them and any aggregable benefit or benefits exceeds £1,500.
- (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

2.5.1 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).

2.5.2 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, remuneration received as expenses or controlled transactions), amount to over £1,500.

2.5.3 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 have 30 days beginning with that date to lodge a written statement with the clerks reflecting this interest.

2.5.4 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).

2.5.5 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;
- 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.

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

2.5.7 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.

2.5.8 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.

2.5.9 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.

2.5.10 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 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.

2.5.11 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 1.2.15 of Volume 2 of this Code for further guidance on late registration.

2.6: 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

2.6.1 A heritable property which exceeds either the market value 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 £30,340). 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; however, members may choose to register these in the voluntary category if they wish.

2.6.2 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.

2.6.3 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.

2.6.4 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 1.2.21 of Volume 2 of this Code.

2.6.5 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.

2.6.6 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.

2.6.7 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.

2.6.8 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.

2.6.9 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.

2.6.10 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.

2.6.11 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.

2.6.12 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.

2.6.13 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 1.2.15 of Volume 2 of this Code for further guidance on late registration.

2.7: 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

2.7.1 A member is required to register an interest in shares which the member or a “relevant person” (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.

2.7.2 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 £30,340). 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.

2.7.3 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).

2.7.4 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 1.2.21 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 shareholding 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.

2.7.5 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.

2.7.6 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.

2.7.7 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.

2.7.8 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.

2.7.9 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.

2.7.10 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.

2.7.11 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.

2.7.12 Shares in investment trusts are registrable if they 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 1.2.17 of Volume 2 of the Code for guidance on voluntary registrations.

2.7.13 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 1.2.15 of Volume 2 of this Code for further guidance on late registration.

2.8: Responsibility of the Member

2.8.1 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 1.2.31-33 of Volume 2, failure to comply with

the requirements of registration will constitute a breach of the requirements of the Act and may be a criminal offence. It could also lead to sanctions being imposed on a member by the Parliament. Enforcement of the Rules in the Code is explained in Volume 2, Section 9 and in Volume 3, Section 9 of the Code.

SECTION 3: DECLARATION OF INTERESTS

3.1: The statutory requirements

Section 12, declarable interests

- (1) *In this Act, a “declarable interest” means a declarable financial interest.*
- (2) *A member has a declarable financial interest in any matter if that member has, or had, a registrable financial interest in that matter which is registered in the entry relating to that member.*
- (3) *A member has a financial interest for the purposes of paragraph (b) of section 39(2) of the 1998 Act if that member has a declarable financial interest.*

Section 13, declaration of interests

- (1) *Any member who has a declarable interest in any matter shall declare that interest before taking part in any proceedings of the Parliament relating to that matter.*
- (2) *For the purposes of subsection (1), a member shall declare an interest by making, in such circumstances as the Parliament may determine, either an oral or, as the case may be, a written declaration of that interest.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.1.12 The Act refers to a member's participation in "any proceedings of the Parliament" relating to the 'declarable interest'. In this context, "proceedings of the Parliament" means all the actions noted above. Oral declarations are required only at meetings of the Parliament, its committees, joint committees and sub-committees.

3.1.13 A member is not required to make an oral declaration where the member simply attends or votes at a meeting but does nothing else. The effect of the Parliament's determination is that the member's register entry is sufficient declaration of their interest. If the member wishes to take part in the meeting in any way, other than simply attending or voting, they must make an oral declaration. Where the proceedings occur after the member has lodged a written statement with the clerks but before it is published in the Register, members are encouraged to make an oral declaration of that interest.

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

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

3.2.1 Failure to comply with, or contravention of, the Rules on declaration of interests may by virtue of section 15, 16 and 17A of the Act result in the Parliament, by resolution, applying sanctions to a member. Sanctions include being prevented 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.

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 5: LOBBYING AND ACCESS TO MSPs

5.1: Rules

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

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

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

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

5.1.5 In addition, members should:

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

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

- should not accept any paid work which would involve them lobbying on behalf of any person or organisation or any clients of a person or organisation;
- should not accept any paid work to provide services as a Parliamentary strategist, adviser or consultant, for example, advising on Parliamentary affairs or on how to influence the Parliament and its members. (This does not prohibit a member from being remunerated for activity, which may arise because of, or relate to, membership of the Parliament, such as journalism or broadcasting, involving political comment or involvement in representative or presentational work, such as participation in delegations, conferences or other events.);

- should decline all but the most insignificant or incidental hospitality, benefit or gift if the member is aware that it is offered by a commercial lobbyist. Section 7 of the Code on General Conduct states that a member should not accept any offer that might reasonably be thought to influence the member's judgement in carrying out Parliamentary duties. Since the basis on which many people believe that commercial lobbyists sell their services is by claiming to provide clients with influence over decision-makers, it might reasonably be thought that acceptance of a benefit of any significance from such a source could influence a member's judgement in carrying out Parliamentary duties. (If a member only becomes aware of its source after receiving hospitality, a benefit or gift, then the member should consider reimbursing the costs of any hospitality or benefit or returning any gift.)

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

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

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

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

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

SECTION 6: CROSS-PARTY GROUPS

6.1: Introduction

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

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

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

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

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, within a time period of, every 11-13 months subsequently. 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.

SECTION 7: GENERAL CONDUCT AND CONDUCT IN THE CHAMBER OR IN COMMITTEE

7.1: Introduction

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

7.2: General conduct

SPCB policies

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

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

Treatment of staff

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

Treatment of other MSPs

7.2.4 Members must treat other MSPs with courtesy and respect.

Allowances

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

Acceptance of hospitality, gifts or other benefits

7.2.6 Over and above compliance with the statutory provisions, members should treat with caution any offer of hospitality, a gift, a favour or benefit. Members are not

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

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

7.3: Conduct in the Chamber or in Committee

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

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

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

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

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

7.4: Confidentiality requirements

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

7.4.2 All drafts of committee reports, and committee reports which, although agreed by a committee and no longer in draft, have not yet been published, should

be kept confidential, unless the committee decides otherwise. In addition the following should be treated as confidential:

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

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

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

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

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

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

7.5: Use of services of staff of the Parliament

7.5.1 Staff of the Parliament are employed by the SPCB to provide an impartial service to the Parliament and its members. Members should not ask Parliamentary staff to act in any way which would conflict with or call into question their political impartiality, or which could give rise to criticisms that people paid from public funds are being used for party political purposes.

7.5.2 Members should respect the confidentiality of advice, whether written or oral, received from clerks or other Parliamentary staff and should avoid attributing advice or views to a named member of staff.

7.6: Awareness of MSPs' staff

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

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

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

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

SECTION 8: ENGAGEMENT AND LIAISON WITH CONSTITUENTS

8.1 Dealing with individual constituents' cases

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

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

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

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

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

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

8.2 Describing members

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

Constituency members should always describe themselves as:

“[Name], Member of the Scottish Parliament for [x] constituency.”

Regional members should always describe themselves as:

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

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

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

8.3 MSPs’ staff

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

8.4 Making a complaint

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

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

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

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

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

8.4.6 It is fundamental to the success of this section that the Standards, Procedures and Public Appointments Committee will, as a matter of course, treat all

breaches of these rules with the utmost seriousness. Members should not raise complaints under Section 8 of the Code of Conduct in any way other than that described above (in particular via the media) to avoid any suggestion of prejudging the issue.

SECTION 9: ENFORCEMENT OF THE RULES

Complaints

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

Disclosure

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

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

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

Excluded Complaints

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

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

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

- (b) Complaints made under Section 8: Engagement and liaison with constituents: these are to be referred to the Presiding Officer. The Presiding Officer will consider the complaint.
- (c) Complaints about a member's use of the Reimbursement of Members' Expenses Scheme: these are referred to the SPCB. Where, following an investigation (whether as a result of a complaint or claim submitted), the SPCB finds that a member has submitted an improper claim, the SPCB may report the matter to the Standards, Procedures and Public Appointments Committee and may recommend the removal of all or part of the member's entitlement to reimbursement of expenses under the Scheme for such period and to such extent as the SPCB may specify.
- (d) Complaints about a member's treatment of the Parliament's staff: these are to be made to the Parliament's Human Resources Office which will investigate the complaint. Complaints about a member's treatment of the staff of another member: these are to be made to the member's Business Manager who will investigate. In some cases a joint investigation by the Human Resources Office and Business Managers may be appropriate. In all cases, opportunities for conciliation will be pursued in the first instance. If a complaint cannot be resolved, it will be reported to the SPCB who may refer the complaint to the Standards, Procedures and Public Appointments Committee.
- (e) Complaints about Cross-Party Groups: these are to be made to the Standards, Procedures and Public Appointments Committee unless the complaint relates to the use of Parliamentary facilities and services in which case it is to be made to the SPCB. The SPCB may refer any complaint relating to the use of Parliamentary facilities and services by a Cross-Party Group to the Standards, Procedures and Public Appointments Committee together with a recommendation for action.
- (f) Complaints about use of SPCB facilities and services and breaches of SPCB policies (which do not relate to conduct at a meeting of the Parliament or at a meeting of a committee): these are to be made to the SPCB. The SPCB may refer any complaint relating to the use of Parliamentary facilities and services and breaches of SPCB policies to the Standards, Procedures and Public Appointments Committee together with a recommendation for action.

VOLUME 3

Guidance to Sections of the Code

SECTION 1: REGISTRATION OF INTERESTS

Guidance

Statement of intent

The following statement sets out the approach that the Standards, Procedures and Public Appointments Committee agreed to take in complaint cases where a member has sought and acted on the Standards clerks' advice when registering an interest 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)¹, section 5(2)² or section 8A³ 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.⁴

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

¹ Section 3(1) states that at initial registration: *Each member shall register—*

(a) any registrable interest which that member had on the date on which that member was returned; and

(b) any registrable interest which that member had before that date but which that member no longer had on that date, if that interest meets the prejudice test, or declare that the member had no such interest.

² Section 5(2) states that where a member acquires an interest after the date of return: *Within 30 days 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.*

³ 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.

⁴ Section 9.43 of the Guidance to sections of the Code (Volume 3 of the Code of Conduct for Members of the Scottish Parliament)

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.

Members should be aware that this statement of intent does not prevent the Ethical Standards Commissioner or the 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.

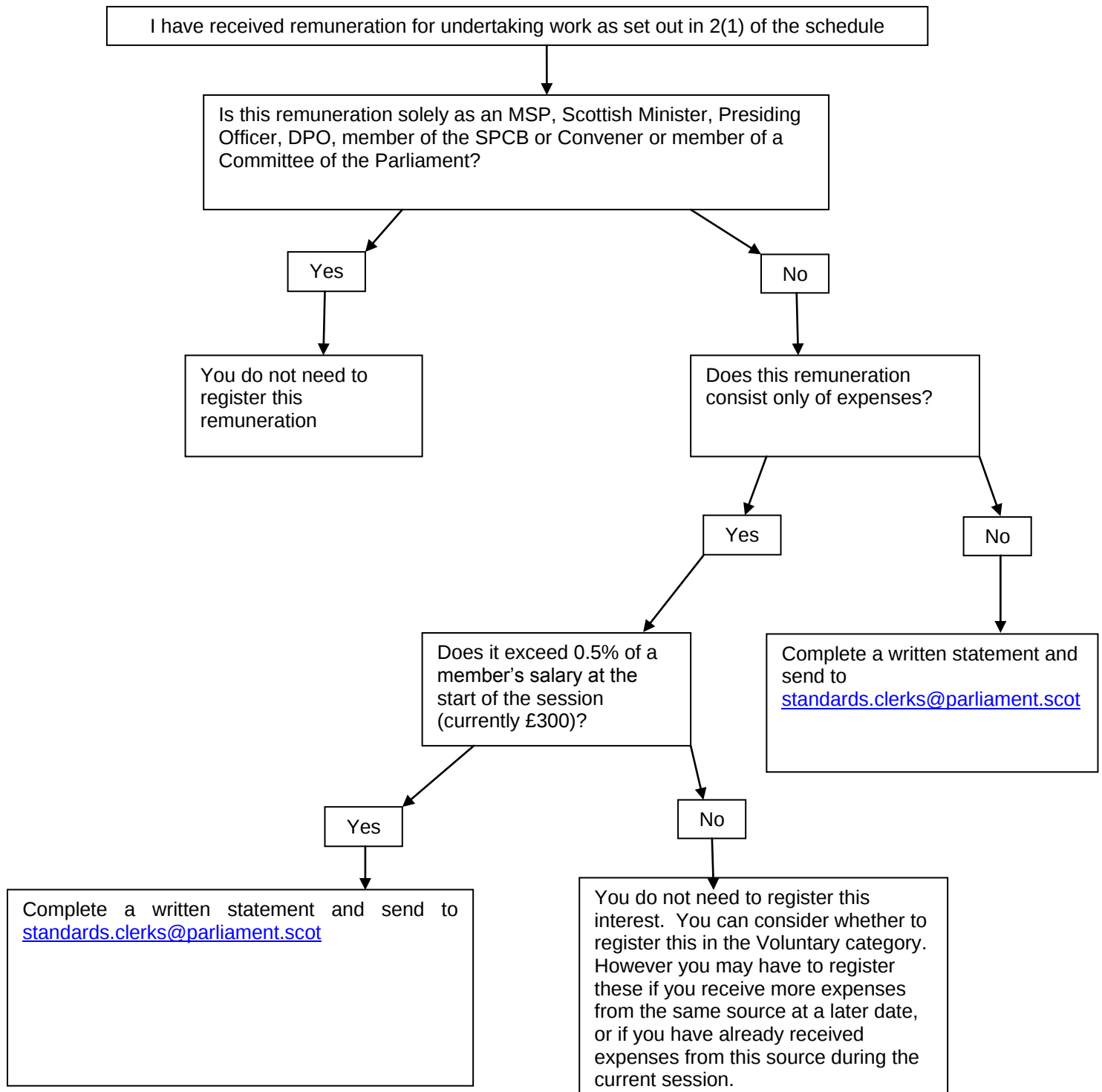
SECTION 2: CATEGORIES OF REGISTRABLE INTERESTS

Guidance

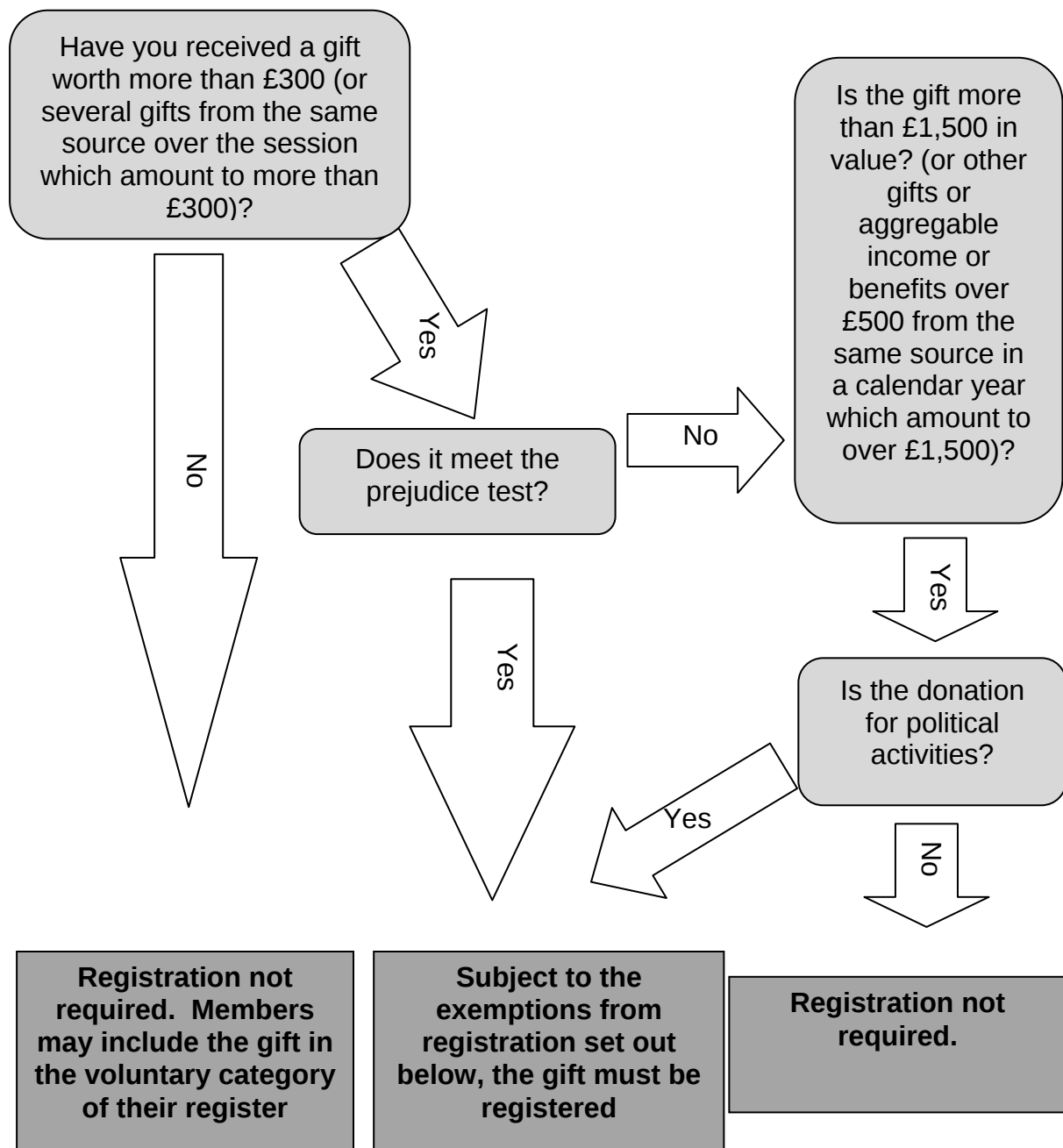
Flowcharts to aid the identification of registrable interests

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



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

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

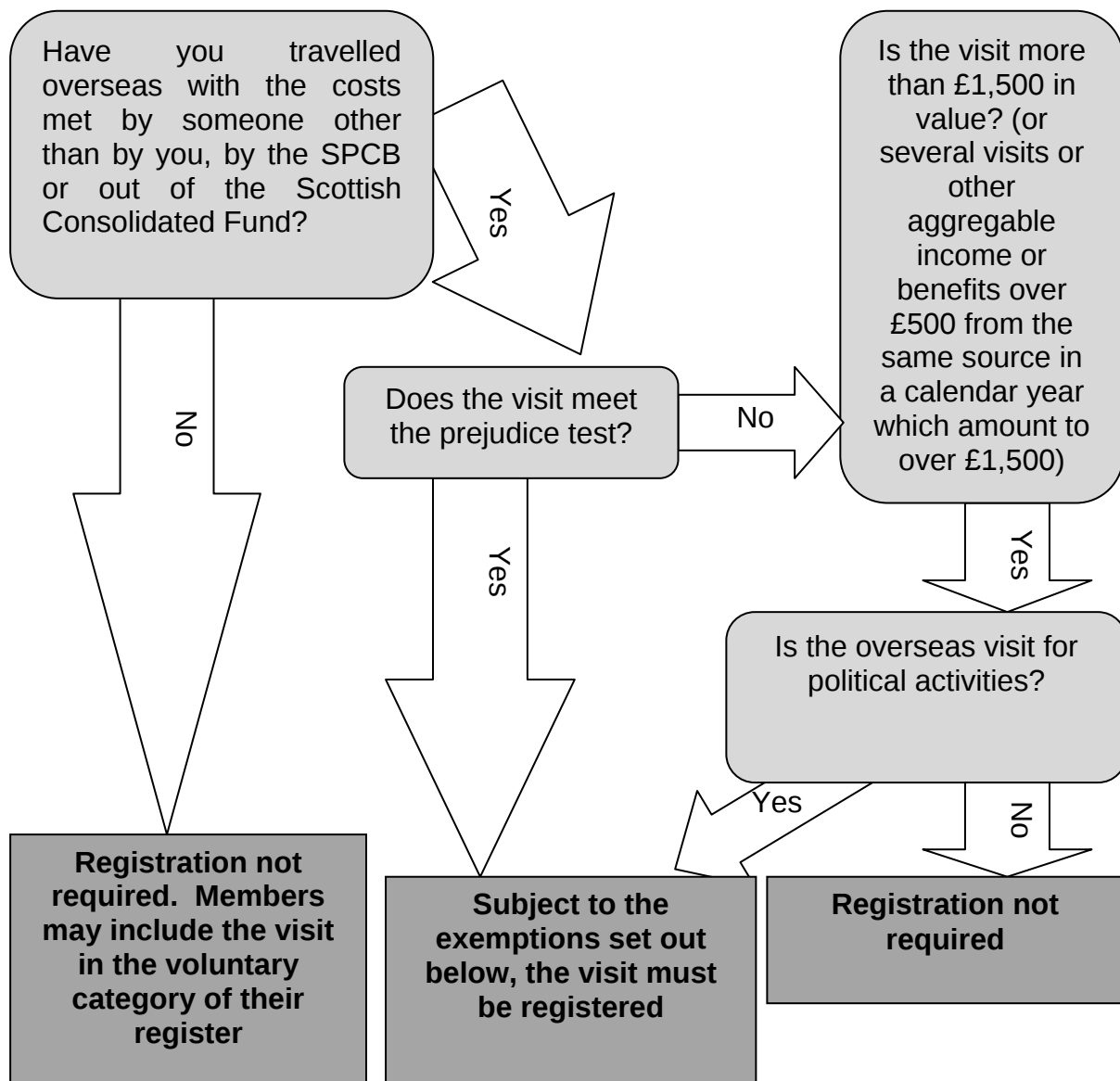
PPERA requires that members only accept donations over £500 for political activities from a permissible source (see section 54 of, and paragraphs 6 to 9 of Schedule 7 to, PPERA). If the donation is not from a permissible source it must be returned to the donor or forwarded to the Electoral Commission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

Name: Mette Christensen

Email: mchristensen@electoralcommission.org.uk

Tel: 0131 225 0209

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 £300). As outlined above, the prejudice test would apply to this category of gift.

Members' Interests: 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.

Guidance from the Electoral Commission

This guidance has been provided by the Electoral Commission to explain what amounts to “political activities”, the concept of “sponsorship” under PPERA which will need to be indicated on the written statement where it arises, and the PPERA controls on permissibility of donations and controlled transactions (loans, credit facilities etc.) which will continue to be enforced by the Electoral Commission.

Political activities:

Legislative references:

PPERA Schedule 7 Part 1(donations) Schedule 7A (loans)

The PPERA rules on donations and loans only cover those that are offered to, and used by you in connection with your political activities as an MSP. Your political activities as an MSP include both your political activities as a member of a registered political party and the activities that you carry out in connection with the office of MSP.

Common examples of what constitute political activities for an MSP include:

- carrying out research on a particular policy that you are promoting in the Scottish Parliament
- holding an event in your constituency or region to bring together different groups and individuals to discuss a particular issue or policy
- visiting another country to understand how a particular policy works there
- seeking election to an internal party office

The activities listed below **do not** constitute political activities:

- activities you carry out specifically in connection with any Ministerial office held
- parliamentary duties provided the costs arising in connection with those duties are recoverable or funded under the Members' Expenses Scheme

This means that any financial support you receive in connection with the activities above is not considered a donation or loan under PPERA.

The examples provided above are not exhaustive. In all cases, you should make an honest and reasonable assessment based on the facts as to whether a donation or loan has been received in connection with your political activities.

If you are not sure whether what you are doing is ‘political activity’ please contact the Standards Clerks for advice.

Sponsorship

Legislative references:

PPERA Schedule 7 Part 1 Paragraph 3. Also refer to Section 161 (Interpretation: Donations)

PPERA contains a distinct concept of sponsorship. Sponsorship with a value of more than £500 must come from a permissible source, and sponsorship for political activities with a value of over £1,500 (singly or in aggregate) must be registered. Members are required to indicate on the written statement form where a gift is sponsorship.

Sponsorship is support given to an MSP or any person for the benefit of the MSP to meet certain, expressly defined costs, including expenses in connection with:

- any conference, meeting or other event organised by or on behalf of the MSP
- the preparation, production, or distribution of a publication by or on behalf of the MSP, or
- any study or research organised by or on behalf of the MSP

Where a payment does not amount to sponsorship, it may still be a donation.

Sponsorship is treated in the same way as a donation, meaning that payments over £500 can only be accepted from a permissible donor (see Managing donations to political parties).

Sponsorship must be reported if the amount you accept from one source exceeds £1,500.

Certain things are excluded as counting as sponsorship, but may still be registrable as gifts. These are:

- Admission charges for conferences or other events
- The purchase price of publications, and
- Commercial rate payments for adverts in publications only (payments relating to other types of advertising such as banners should be treated as sponsorship if they help to meet the costs of the event).

When calculating the value of sponsorship, the full amount of the payment received should be taken into account and reported if over the thresholds above. No deduction for any commercial value, or any benefit to the sponsor etc, should be made.

Permissibility

Legislative references:

PPERA Schedule 7 Paragraph 8 (donations), gives effect to sections 56-60 of PERA for the purposes of the Schedule. Section 56, which covers the acceptance

or return of donations refers to “permissible donors”, which for the purposes of that part of PPERA are set out in Section 54(2). Schedule 7A Paragraph 4(3) (loans) states that an authorised participant in a controlled transaction (loans, credit facilities, etc.) is the same as a permissible donors in section 54(2).

The Electoral Commission is responsible for regulating the rules in relation to permissibility of donations for political activities. Any advice on permissibility should be sought from the Electoral Commission:

Mette Christensen:

Tel: 0131 225 0209

Email: mchristensen@electoralcommission.org.uk

Guidance:

Donations

When you receive any donation of more than £500 for political activities, you must immediately make sure that you know who the donor is and that the donation is from a permissible source.

When you receive a donation, you have 30 days to decide if you can retain it (and to register it in the Register of Members’ Interests where it is retained).

You should ask yourself:

- ‘am I sure that I know who this donation is from?’
- ‘is the donor permissible?’

If:

- the donation is not from a permissible donor (see below), or
- for any reason you cannot be sure of the true identity of the source

you must return it to the donor within the 30 day period beginning with the date on which you received the donation.

If you receive a donation from a source which you cannot identify (for example an anonymous cash donation of £750), you must return it to either:

- the person who transferred the donation to you; or
- the financial institution used to transfer the donation

If you cannot identify either the person who transferred the donation to you, or the financial institution used to transfer the donation, you must send the donation to the Electoral Commission.

Loans, credit facilities, etc

You must only accept loans, credit facilities, etc for political activities from permissible lenders. You must make sure that the lender is permissible **before** you

enter into the loan as there is no equivalent 30 day period for checking the permissibility of loans. Entering into a loan that isn't permissible is a criminal offence. You should also carry out regular checks throughout the term of the loan to make sure that your lender is still permissible. This is because the lender must remain permissible for the whole period of the loan.

Donations given on behalf of others

If you are given a donation on behalf of someone else, the person giving you the donation (the agent) must tell you:

- that the donation is on behalf of someone else
- the actual donor's details

An example of someone acting as an agent is where an event organiser is handing over the proceeds from a dinner held specifically to raise funds for your political activities.

If you have reason to believe that someone might be acting as an agent but has not told you, you should find out the facts so that you can make the right checks. **If you are uncertain who the actual donor is you must not accept the donation.**

When do you 'receive' a donation?

You usually 'receive' a donation on the day you take ownership of it. For example:

- if you are given a cheque, you receive the donation on the date that the cheque clears.
- if a donation is transferred directly into your bank account you receive the donation on the date that you check your account or are notified of its receipt by the bank, whichever is earlier.
- if you are given free goods or services – such as the provision of a computer free of charge, you receive the donation when you take ownership of the item

When do you 'accept' a donation or loan for the purposes of PPERA's permissibility controls (separate from registration under the Interests Act)

Type	Acceptance date
Donation	For the purposes of PPERA's permissibility controls (rather than registration under the Interests Act), you are deemed to have accepted a donation 30 days from its initial receipt (if you haven't returned it to the donor or forwarded it onto the Electoral Commission before then) or on the date you complete your permissibility checks and decide to keep the donation as the donor is permissible, whichever is the earlier.
Loan	You 'accept' a loan on the date you enter into the loan or agreement. If the terms of the loan change

	at any time, you should record the date on which they changed
Overseas Visit	You 'accept' a donation towards the qualifying costs of an overseas visit on the date when the visit begins

As a summary, you may only accept donations and loans from the following permissible sources:

- Individuals on a UK electoral register (including overseas electors and bequests)
- UK registered companies incorporated within the European Union (EU) and carrying on business in the UK
- Great Britain registered political parties
- UK registered trade unions
- UK registered building societies
- UK registered limited liability partnerships that carry on business in the UK
- UK registered friendly societies
- UK based unincorporated associations that carry on business or other activities in the UK

What doesn't count as a donation for the purpose of PPERA's permissibility controls?

Under PPERA, there are some specific types of payment and services to MSPs that are exempt from the rules on permissible donations. These are:

- volunteer time spent support you as an MSP
- any payment out of public funds for your personal security as an MSP
- remuneration or allowances paid to you as an MSP, such as your salary or payments to meet your business costs or expenses from the Scottish Parliament member's expenses scheme
- any interest accruing from a donation. For example, any interest from a donation that is received and subsequently returned as impermissible is not considered a donation
- facilities you are entitled to as a candidate at an election, such as a free postal facility
- a donation towards your election expenses as a candidate at an election

Detailed guidance on how to check permissibility of donations and loans

Donations and loans from individuals

What makes an individual permissible?

Individuals must be on a UK electoral register at the time the donation is received. This includes overseas electors.

How do you check permissibility?

You can use the electoral register to check if an individual is permissible. You can arrange to view a copy of the electoral register with the local authority in which the donor appears on the electoral register.

You can find out which local authority you need to contact by entering the donor's postcode on the [aboutmyvote](http://aboutmyvote.gov.uk) website.

You must check the register and monthly updates carefully to make sure that the person is on the register on the date you received the donation.

Donations and loans from companies

What makes a company permissible?

A company is permissible if it is:

- registered as a company at Companies House
- incorporated in a Member State of the EU, and
- carrying on business in the UK

You must be sure that the company meets all three criteria.

How do I check company registration and EU incorporation?

You should check the register at Companies House, using the free Webcheck service at www.gov.uk/companies-house.

You should look at the full register entry for the company.

To check that the company is permissible, you need to look at its registered number.

Some companies will have a number only. Other companies have a letter as a prefix to the number.

The table below shows you if a company with a particular prefix is permissible, as long as it is also carrying on business in the UK.

Prefix letter	Is it permissible?
None	Yes
NI, SC	Yes
FC, NF, SF	Yes, if 'country of origin' on the register entry is an EU Member State
OC3, SO3	Yes, as a limited liability partnership – see separate section below
IP, SP, NP	Maybe – see industrial and provident societies in the 'Other types of donor' section on page 32
RC	Maybe – you should check with Companies House
Any other prefix	No

How do you check if the company is carrying out business in the UK?

You must be satisfied that the company is carrying on business in the UK. The business can be non-profit-making.

Even if you have direct personal knowledge of the company, you should check the Companies House register to see if:

- the company is in liquidation, dormant, or about to be struck off
- the company's accounts and annual return are overdue

A company may still be carrying on business if it is in liquidation, dormant or late in filing documents, but you should make extra checks to satisfy yourself that this is the case.

For any company, you should consider looking at:

- the company's website
- relevant trade, telephone directories or reputable websites
- the latest accounts filed at Companies House

If after carrying out your checks you are still uncertain that a company is permissible, please email [or](#) call us for advice.

Donations and loans from Limited Liability partnerships

What makes a limited liability partnership permissible?

A limited liability partnership (LLP) is permissible if it is:

- registered as an LLP at Companies House
- carrying on business in the UK

How do you check permissibility?

You should check the register at Companies House, using the free Webcheck service at www.gov.uk/companies-house.

You need to look at the LLP's registered number. Only numbers beginning with OC3 or SO3 are permissible LLPs.

As with companies, you must be satisfied that the LLP is carrying on business in the UK. You can find more information in the previous section 'How do you check if the company is carrying on business in the UK?'

Donations and loans from unincorporated associations

What makes an unincorporated association a permissible?

An unincorporated association is permissible if:

- it has more than one member
- the main office is in the UK
- it is carrying on business or other activities in the UK

How do you check permissibility?

There is no register of unincorporated associations. Permissibility is a matter of fact in each case.

In general, an unincorporated association should have:

- an identifiable membership, and
- rules or a constitution, and
- a separate existence from its members

For example, members' clubs are sometimes unincorporated associations.

If you are not sure that an association meets the criteria, you should consider whether the donation or loan is actually from an individual (or individuals) within it (rather than the association) or if someone within the association is acting as an agent for others.

If you think this is the case, you must check the permissibility of all individuals who have contributed more than £500

You can find more information on carrying on business in the previous section 'How do you check if the company is carrying on business in the UK?'

If you would like further advice on checking the permissibility of unincorporated associations in specific cases, please contact the Electoral Commission.

The table below shows you how to check permissibility for other types of donor:

Type of donor	Requirement	Where to check
Political party	The party must be registered on the Great Britain register of political parties	The Electoral Commission: http://www.electoralcommission.org.uk
Trade union	Listed as a trade union by the Certification Officer	The Certification Officer www.certoffice.org
Building society	A building society within the meaning of the Building Societies	The Financial Services Authority http://mutuals.fsa.gov.uk

	Act 1986	
Friendly/ industrial provident society	Registered under the Friendly Societies Act 1974 or the Industrial and Provident	The Financial Services Authority http://mutuals.fsa.gov.uk

SECTION 3: DECLARATIONS OF INTERESTS

Guidance

When should I declare an interest?

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

“Miscellaneous” entries

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

How a declaration should be made

Oral declaration

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

Procedure in meetings of the Parliament

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

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

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

Procedure in committees and sub-committees

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

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

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

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

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

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

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

Although such relationships are not registrable members should, as good practice, also inform the committee of any business or personal relationships they might have with any advisers or witnesses to the committee. This should be done in advance of the witness addressing the committee. In the case of an adviser, and where the identity of any potential adviser is known to committee members, a member should advise the clerk to the committee of the relationship prior to the appointment of the adviser so that this can be brought to the attention of the committee. If the committee subsequently decides that the adviser be appointed, there is no need for the member to re-inform the committee about this relationship.

3.8 A member's work in the Parliament may not have any relevance to the interests that member may have registered and consequently the member may never need to declare an interest during proceedings.

Written declaration of an interest

3.9 A written declaration of relevant interest is required when:

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

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

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

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

Voting

3.13 If a member does nothing other than attend a meeting of the Parliament or its committees, joint committees and sub-committees and vote but not contribute to the meeting in any other way, it has been determined by Parliament that a member does

not require to make an oral declaration, providing the relevant interest is already registered.

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

Responsibility of the member

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

SECTION 4: PAID ADVOCACY

Guidance

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

Purpose of the paid advocacy provision

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

Guidance

Introduction

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

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

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

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

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

5.6 There is, however, some uneasiness about the way in which lobbying may be practised. At the heart of public concern is the nature of the relationship between elected members and those who seek to influence them. It is important, therefore, to ensure that those relationships are handled with complete propriety so as to maintain the confidence of the public in the decision-making and integrity of its representatives in the Parliament. It is essential that there is transparency in the relationships between members and lobbyists, in line with the Parliament’s core principles of accessibility and openness. This is particularly important where commercial lobbyists are employed to advise organisations or companies in the presentation of their arguments.

5.7 The Code sets out how members should conduct themselves in their contacts with those who lobby or seek to lobby them. It is designed to encourage proper interaction between members, those they represent and interest groups. As well as setting standards for MSPs' conduct in relation to lobbyists, they are designed to demonstrate that access to the Parliament and its members is open to all.

Statutory rules in relation to contacts with lobbyists

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

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

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

5.11 If a member has concerns about the approach or methods used by any person or organisation in their contacts with the member, guidance should be sought from the Standards clerks.

SECTION 6: GUIDANCE ON CROSS-PARTY GROUPS

Introduction

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

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

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

Waiver or modification of the MSP membership requirements

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

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

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

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

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

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

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

6.8 The Convener of the proposed Cross-Party Group will normally be invited to attend the meeting at which the SPPA Committee considers the Group's application.

The SPPA Committee will consider the information provided by the Cross-Party Group or proposed Cross-Party Group and decide whether to grant the waiver or modification. The Cross-Party Group or proposed Cross-Party Group will be notified in writing of the Committee's decision.

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

Election of office bearers

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

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

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

6.13 The advertisement should use the following form of words—

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

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

Meetings at which fewer than 2 MSP members are present

6.15 Section 6.4.5 of the Code requires that at least 2 MSP members of a Group must be present in order for a meeting to be quorate. It is, however, recognised that there are circumstances in which it may not be possible to meet this requirement.

6.16 Non-quorate, informal meetings of a Group can be held in the event of the quorum not being met. This ensures that all Cross-Party Group members who are able to attend can participate in the planned discussions and exchange of information however—

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

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

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

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

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

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

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

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

6.23 However, the usefulness of the Cross-Party Group pages to both Cross-Party Group members and other interested parties is largely determined by the information that is provided to the Standards clerks for inclusion on each page. It is strongly recommended that Cross-Party Groups make use of the Parliament's webpage to

ensure that information is available and accessible to all those who may have an interest in the Cross-Party Group system.

Use of the reimbursement of members' expenses scheme

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

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

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

Cross-Party Groups and guidance on filming/photography

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

- The filming/photography can only be used to raise awareness of the purpose of the Cross-Party Group (CPG). The filming/photography should not be used to suggest parliamentary support for a particular campaign or initiative.
- The filming/photography must not
 - be used in connection with party political purposes
 - distort or alter images in reproduction
 - be used for satirical purposes
 - be used for competitions
 - be used in connection with advertising endorsement or other commercial uses
- The filming/photography should be carried out respecting the privacy of other Members, other meeting attendees and building users. Members, meeting attendees and building users should not be the focus of a shot or recording unless prior permission has been obtained from the individuals concerned.
- Meeting attendees should be notified in advance when filming/photography is taking place and for what purpose the images will be used. Individuals should be given the option of opting out of shots.
- When children under the age of 16 are being filmed/photographed the permission of the parent/guardian should be obtained in writing by the meeting organiser in advance of the filming/photography taking place.

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

Cross-Party Groups and meeting room booking policy

General Policy

6.27 Scottish Parliament meeting rooms may be used for CPG meetings.

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

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

Eligibility

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

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

Cancellations

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

6.32 Repeated instances of a room being booked and not subsequently used (a “no-show”), may result in the removal of meeting facilities to the meeting organiser.

CROSS-PARTY GROUP REGISTRATION FORM

NAME OF CROSS-PARTY GROUP	
Cross-Party Group on <SUBJECT>	
PURPOSE OF THE GROUP AND PROPOSED DISCUSSION TOPICS	
1. Please state the purpose of the Group. 2. Please also provide a brief explanation of the purpose of the Group and why the purpose is in the public interest. 3. Please also provide details of any overlaps with the purpose of existing Cross-Party Groups and an explanation of why, regardless of any such overlap, the Group should be established. 4. Please also provide an indication of the topics which the Group anticipates discussing in the forthcoming 12 months.	
MSP MEMBERS OF THE GROUP	
Please provide names and party designation of all MSP members of the Group.	
NON-MSP MEMBERS OF THE GROUP	
For organisational members please provide only the name of the organisation, it is not necessary to provide the name(s) of individuals who may represent the organisation at meetings of the Group.	
Individuals	
Organisations	
GROUP OFFICE BEARERS	
Please provide names for all office bearers. The minimum requirement is that two of the office bearers are MSPs and one of these is Convener – beyond this it is a matter for the Group to decide upon the office bearers it wishes to have. It is permissible to have more than one individual elected to each office, for example, co-conveners or multiple deputy conveners.	
Convener	
Deputy Convener	
Secretary	
Treasurer	

FINANCIAL BENEFITS OR OTHER BENEFITS

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

--

SUBSCRIPTION CHARGED BY THE GROUP

Please provide details of the amount to be charged and the purpose for which the subscription is intended to be used.

--

CONVENER CONTACT DETAILS

Name	
Parliamentary address	
Telephone number	

STATEMENT ON COMPLIANCE WITH THE CODE OF CONDUCT

I declare that the Cross-Party Group on <SUBJECT> is constituted and will comply with the terms of Section 6 of the Code of Conduct for Members of the Scottish Parliament.

Signed	
Date	

CROSS-PARTY GROUP ANNUAL RETURN

NAME OF CROSS-PARTY GROUP	
Cross-Party Group on <SUBJECT>	
DATE GROUP ESTABLISHED (the date of establishment is the date in this parliamentary session that the Group held its initial meeting, where the office bearers were elected and not the date that the Group was accorded recognition. All Groups should hold their AGMs on, or before, the anniversary of this date.)	
DATE OF MOST RECENT AGM	
DATE OF PRECEDING AGM [this date is required to aid clerks in verifying that the most recent AGM has taken place within 11-13 months of the previous AGM]	
DATE ANNUAL RETURN SUBMITTED	
GROUP MEETINGS AND ACTIVITIES	
Please provide details of each meeting of the Group including the date of the meeting, a brief description of the main subjects discussed and the MSP and non-MSP attendance figures. Details of any other activities, such as visits undertaken by the Group or papers/report published by the Group should also be provided.	
MSP MEMBERS OF THE GROUP	
Please provide names and party designations of all MSP members of the Group.	
NON-MSP MEMBERS OF THE GROUP	
For organisational members please provide only the name of the organisation, it is not necessary to provide the name(s) of individuals who may represent the organisation at meetings of the Group.	
Individuals	

Organisations	
GROUP OFFICE BEARERS Please provide names for all office bearers. The minimum requirement is that two of the office bearers are MSPs and one of these is Convener – beyond this it is a matter for the Group to decide upon the office bearers it wishes to have. It is permissible to have more than one individual elected to each office, for example, co-conveners or multiple deputy conveners.	
Convener	
Deputy Convener	
Secretary	
Treasurer	
FINANCIAL BENEFITS OR OTHER BENEFITS RECEIVED BY THE GROUP Please provide details of any financial or material benefit(s) received from a single source in a calendar year which has a value, either singly or cumulatively, of more than £500. This includes donations, gifts, hospitality or visits and material assistance such as secretariat support. Details of material support should include the name of the individual providing support, the value of this support over the year, an estimate of the time spent providing this support and the name of the organisation that this individual is employed by / affiliated to in providing this support. Groups should provide details of the date on which the benefit was received, the value of the benefit and a brief description of the benefit.	
If the Group is not disclosing any financial information please tick the box to confirm that the Group has considered the support received, but concluded it totalled under the threshold for disclosure (£500). ☐	
SUBSCRIPTION CHARGED BY THE GROUP Please provide details of the amount charged and the purpose for which the subscription is intended to be used.	
CONVENER CONTACT DETAILS	
Name	
Parliamentary address	
Telephone number	

Complaints process for CPGs

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

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

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

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

Complaints process

- **Step 1** – the Convener establishes whether the complaint falls within the responsibilities of the SPPA Committee and whether it meets the admissibility criteria set out in Section 9.1 of volume 3. Where a complaint is not admissible, the Convener will dismiss it at this stage.
- **Step 2** – where a complaint is admissible, the Convener writes to the complainer confirming this and advising how it will be investigated. If necessary further information is requested from the complainer at this point. The complainer will be advised that the information they provide, including their name, may be published if the Committee decides the complaint requires a formal report to Parliament. The complainer will also be advised that the complaint should remain confidential while it is being investigated.
- **Step 3** – where necessary the Convener writes to the Convener of the CPG being complained about inviting them to respond and provide relevant evidence. The CPG Convener would also be informed that such correspondence could become public and that the complaint should remain confidential. The CPG Convener may involve the secretary to the group and other office-holders in preparing a response. If the complaint relates to the behaviour of an individual MSP in the group then that individual may be invited to provide a separate response to the complaint.
- **Step 4** – once the Convener is content that sufficient information is available, the Convener reports to the Committee.
- **Step 5** – the Committee considers the Convener's report on the complaint and agrees how to deal with it. Available options include—
 - a) *Dismiss the complaint* if there has been no breach of the Code;

- b) *Find that there has been a breach of the Code but that the breach does not warrant any of the actions listed under paragraphs c to e.* The Group may be advised of any steps they must take to comply with the Code. The Committee may (but will not necessarily) publish the complaint letter, correspondence and the Committee's conclusions;
- c) *Remove recognition from the Group.* Any decision about removing recognition will be made at an SPPA Committee meeting, announced publicly and set out in a Committee report. When considering this option, the Committee will first give the CPG an opportunity to make representations either orally or in writing.
- d) *Find that there has been a breach of the Code which warrants sanctions being imposed on an individual MSP.* If the Committee wishes to recommend imposing sanctions on the Convener or another group member, the Committee will make this decision at an SPPA Committee meeting, announce it publicly and publish a report recommending to Parliament that sanctions be imposed. This would be followed by a Parliamentary debate and vote on the proposed sanctions. If sanctions are being considered, the MSP will first be given an opportunity to make representations either orally or in writing.
- e) *Find that the matter should be referred to the Commissioner for further investigation.* If, exceptionally, the Committee considers that the facts of the matter require further investigation, the Ethical Standards Commissioner may be directed to investigate the complaint and report to the Committee.

SECTION 7: GENERAL CONDUCT AND CONDUCT IN THE CHAMBER OR IN COMMITTEE

Guidance

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

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

Use of Social Media

Conduct in the Chamber and in Committee

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

Treatment of other MSPs and of other MSPs' staff

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

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

Confidentiality requirements in relation to social media

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

7.7 Further guidance on the use of social media is available at Section 8.25 to 8.32 of this guidance.

Confidentiality requirements

7.8 Certain information may be agreed as ‘confidential’ by committees or sub-committees. This is not through any desire to withhold information from the public. Rather, there are a number of difficulties which could arise through the unauthorised disclosure of confidential material:

- public discussion of draft reports might give preliminary views a status they do not warrant and lead to recommendations or findings not adopted by the committee being prematurely attributed to it;
- early release of information about a committee report could also result in unfair party political advantage;
- it may be difficult for members to freely deliberate on the content of a draft report;
- it may be difficult to get witnesses to give evidence in confidence if members are shown to be incapable of treating their proceedings in confidence;
- it could lead to a loss of mutual trust between members and a breakdown of confidence in the operation of the committee.

7.9 Published committee reports are available to MSPs on the Parliament website. Members of the public can access published reports on the website or they can be purchased from Stationery Office outlets. The relevant clerk should be contacted about the availability of other documents.

Guidance issued by the Presiding Officer on Conduct

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

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

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

(a) Conduct in the Chamber

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

General courtesy and noise levels – Members must conduct themselves in a courteous and respectful manner. Please pay attention to the impact of your entry and exit from the Chamber, particularly at Decision Time and Time for Reflection, and to noise levels more generally. During debates and questions, the Presiding Officers will give a certain amount of latitude in the interests of encouraging debate and avoiding excessive formality. However, that does not mean that the Presiding Officers condone behaviour that prevents other Members or the visiting public from following a debate. Do not cross the well of the Chamber. Please do not turn you back on the Chair as this has an impact on the sightlines of the Presiding Officers.

Use of language and behaviour – Members shall at all times ensure that their choice of language in the Chamber is appropriate and meets the high standards expected by the general public. It is for the Presiding Officers to make judgements on these matters and all Members must respect the decisions of the Chair. The Parliament's Standing Orders provide for sanctions in relation to these matters. Members should refer to other Members by their full name, refrain from the use of 'nicknames' and speak through the Chair, i.e. do not refer to other Members in the second person, e.g. "you".

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

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

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

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

(b) Conduct in committee meetings

The above guidance relating to conduct in the Chamber is applicable in formal and informal meetings of the parliamentary committees at the discretion of the convener of the committee.

SECTION 8: ENGAGEMENT AND LIAISON WITH CONSTITUENTS

Supporting constituents – responsibilities under equalities legislation

8.1 Members should ensure that reasonable adjustments are made for disabled constituents including those with a mental health or physical condition who want a member to take on casework on their behalf. The adjustments should be in line with legal obligations members are required to meet under the Equality Act 2010.

8.2 Common examples of reasonable adjustments include: ensuring venues for constituency offices and surgeries are accessible; and providing support to assist constituents set out the nature of their casework request (either through constituency office staff, provision of communication support services or using advocacy organisations such as the Citizens Advice Bureau).

8.3 [Further guidance](#) is available from the Equalities Manager in relation to supporting a constituent with a mental health condition. This includes details of tailored means of support dependant on the requirements of the individual. It is important that Members are aware of the types of mental health conditions that may be experienced by people in the community. The awareness is not about having an expertise of each condition, it is about recognising signs of a mental health condition and to know how to approach situations where a Member is concerned that someone needs help with their mental health. The guidance provides information on this. In addition, should an individual come to a Member in a state of distress or a Member fears for the individual's wellbeing, the guidance provides options for appropriate professional assistance.

8.4 In addition, the Standards Clerks, in conjunction with the Parliament's Equalities Manager, can provide further support to members seeking advice as to whether reasonable adjustments have been fully implemented, to allow the Member to be satisfied that they have met their legal duty.

8.5 Should an individual want to make a complaint in relation to a Member's engagement with them as a constituent, but is not in a position to set out a complaint in writing, they can contact the Parliament's Public Information team by telephone, Text Relay or email for assistance. Alternatively they can contact advocacy organisations such as the Citizens Advice Bureau.

Unacceptable actions – guidance for members and their offices

Introduction

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

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

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

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

Defining unacceptable behaviour

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

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

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

Aggressive and abusive language

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

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

Aggressive and abusive behaviour

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

8.16 It is understood that members may be unwilling to report a constituent to the relevant authority (for example, local police or the Parliament's police unit) because of concerns about protecting the privacy of the constituent. However, members must

take into account not only their own personal safety but also that of any staff who are working in members' offices.

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

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

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

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

Unreasonable demands and persistence

8.21 Some unacceptable behaviour does not involve any threatening actions but simply involves unreasonable demands which, if met, would impact detrimentally on the member's other responsibilities and which also may not assist the constituent in progressing their case.

8.22 What constitute unreasonable demands may depend on the circumstances surrounding the behaviour but could include demanding responses or action within an unreasonable timescale, repeated phone calls or letters to the member or continuing refusal to accept a decision made in relation to a case.

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

8.24 If the constituent refuses to accept the decision of the member, the member may warn the constituent that future phone calls will not be accepted or that correspondence on the same issue will be filed and a simple acknowledgement

issued. The member is advised to respond to the constituent if the constituent provides significant new information relating to the case.

Use of Social Media

How you describe yourself

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

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

Staff access to your social media accounts

8.27 Members are responsible for the behaviour of their staff within the Parliamentary complex and in their dealings with other members, other members' staff, and Parliamentary staff (section 7.6.1). Members are also responsible for ensuring that their staff comply with the terms of Section 8 of the Code of Conduct in relation to engagement and liaison with constituents.

8.28 If a member intends to allow staff to update and post content on social media accounts, they should ensure that staff are also aware of this guidance.

Responding to aggressive or abusive comments

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

8.30 Members who receive such comments should be aware of the principles underpinning the guidance on unacceptable actions set out in Volume 3 of the Code of Conduct.

8.31 Members may also wish to ensure that they know how to make use of the reporting and/or blocking tools offered by the social media they use.

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

Further guidance

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

8.34 More specific advice can be sought from the clerks to the Standards, Procedures and Public Appointments Committee.

SECTION 9: ENFORCEMENT OF THE RULES

Guidance

Making a complaint

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

- be made in writing to the Commissioner for Ethical Standards in Public Life in Scotland (“the Commissioner”) (or, in relation to Excluded Complaints under paragraph 9.49, in writing to the authority indicated in that paragraph);
- be signed by the Complainer;
- state the Complainer’s name and address;
- be made by an individual person (“the Complainer”);
- name the member who is the subject of the complaint, or where the complaint refers to a Cross-Party Group, the name of the Group;
- set out the facts relevant to the conduct complained about;
- be accompanied by any supporting evidence which the Complainer wishes to submit; and
- be made within one year from the date when the Complainer could reasonably have become aware of the conduct complained about.⁵

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 Commissioner⁶ or, in relation to an Excluded Complaint under paragraph 9.1.6 of the Code, by the authority indicated in that paragraph.

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

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

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.

⁵ Section 6(5)

⁶ Sections 7(3), 7(4), 7(6) and 7(8)

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 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

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.

9.8 Stages 1 and 2 of the procedure are set out in detail in the Scottish Parliamentary Standards Commissioner Act 2002. That Act, as amended by the Scottish Parliamentary Commissions and Commissioners etc. Act 2010, is reproduced in its entirety in Volume 4.

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.⁷

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.⁸

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.⁹

Admissibility

9.12 The Commissioner will investigate and determine whether or not a complaint is admissible.¹⁰

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);¹¹
- is not a Procedurally Defective Complaint¹² 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.¹³

⁷ Section 7(1)

⁸ Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

⁹ Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

¹⁰ Section 6(1)

¹¹ Sections 3(3), 6(2)(a), and 6(4)

¹² Sections 6(2)(b) and 6(5)

¹³ Sections 6(2)(c) and 6(6)

Stage 1 – procedure

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

9.15 A complaint which appears to the Commissioner to be irrelevant will be dismissed by the Commissioner.¹⁴

9.16 The Commissioner will investigate whether a relevant complaint warrants further investigation.¹⁵

9.17 If the Commissioner finds that a relevant complaint does not warrant further investigation, the Commissioner will dismiss the complaint.¹⁶

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.¹⁷ 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.¹⁸

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.¹⁹ The Commissioner must comply with any such direction.²⁰

Anonymous Complaints and Undirected Complaints

9.20 Paragraphs 9.21 to 9.23 apply to 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.

¹⁴ Section 7(3)

¹⁵ Sections 6(1), 6(6) and 7(6)

¹⁶ Sections 7(3) and 7(6) and the Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002

¹⁷ Section 7(4)

¹⁸ Section 7(5)

¹⁹ Section 7(7) and Rule 3A.3

²⁰ Section 7(8)

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.²¹ 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.²²

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 Complaint²³ and to investigate whether the complaint warrants further investigation. The Commissioner must comply with any such direction.²⁴

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 2.²⁵

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 2.²⁶

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.²⁷

²¹ Sections 7(4) and 7(6), Rule 3A.4 and the Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002

²² Section 7(5)

²³ Section 7(7) and Rule 3A.3

²⁴ Section 7(8)

²⁵ Section 7(2)(a)

²⁶ Sections 7(2)(b) and 7(9)

²⁷ Sections 7(3); 7(6); and 7(8)

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.²⁸ 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).²⁹

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 1.³⁰

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 2006.³¹

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;³² and
- tape-record the interview.³³

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—

²⁸ Section 7(11)

²⁹ Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

³⁰ Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

³¹ Sections 3, 5, 6, 12, 13 and 14

³² Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

³³ Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

- the purpose of the interview;
- the powers of the Commissioner to call for witnesses and evidence;³⁴
- 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).³⁵

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.³⁶

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.³⁷

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.³⁸

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.³⁹ The representations of the member will be annexed to the report in as far as they are not given effect to in the report.⁴⁰

³⁴ Section 13(1)

³⁵ Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

³⁶ Section 8(3)

³⁷ Section 9(1)

³⁸ Section 9(2)

³⁹ Section 9(3)

⁴⁰ Section 9(3)

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

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

9.38 The Standards, Procedures and Public Appointments Committee will consider in private any report of the Commissioner under paragraph 9.34 and any representations by the member concerned about the Commissioner’s findings in fact or the Commissioner’s conclusion. This is in order to ensure the privacy of any further investigation into the complaint.

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

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

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

9.41 The Commissioner will carry out such further investigations as the Standards, Procedures and Public Appointments Committee may direct.⁴¹

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.

⁴¹ Section 10(2) and Rule 3A.3

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 Parliament⁴² 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.⁴³

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.⁴⁴

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 continue⁴⁵. The Commissioner will report his decision to the Committee which will direct the Commissioner either to continue investigating the complaint or to cease investigation.⁴⁶

⁴² Rule 1.7

⁴³ Section 11(1)

⁴⁴ Section 11(2)

⁴⁵ Section 11(3)

⁴⁶ Sections 11(5) and 11(6) and Rules 3A.3

Excluded complaints

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

General role of Standards, Procedures and Public Appointments Committee in relation to conduct

9.50 Standing Orders Rule 6.4.1 states:

Rule 6.4 Standards, Procedures and Public Appointments Committee

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

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

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

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

(d) matters relating to public appointments in Scotland.

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

Sanctions

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

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

Parliamentary sanctions

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

(1) If a member—

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

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

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

The Interests of Members of the Scottish Parliament Act 2006, at section 16, states:

Where a member fails to comply with, or contravenes, 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.

9.58 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.

9.59 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.

9.60 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

9.61 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.”

9.62 This means that a member is guilty of an offence if that member, 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.

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

9.64 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

9.65 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.

9.66 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

9.67 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

9.68 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.

9.69 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

9.70 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

9.71 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.

9.72 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 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.

9.73 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.

9.74 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.

VOLUME 4

Annexes

ANNEXE 1

Scotland Act 1998 c. 46

Members' interests

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

(2) Provision shall be made—

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

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

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

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

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

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

(4A) Any requirement or prohibition (however expressed) imposed by provision made in pursuance of subsections (2) to (4) may be subject to such exceptions as are specified in the provision.

(5) Provision may be made for—

(a) excluding a member from the proceedings of the Parliament,

(b) imposing on a member such other sanctions as the Parliament considers appropriate,

if the member fails to comply with, or contravenes, any provision made in pursuance of subsections (2) to (4) or this subsection.

(5A) Provision made under subsection (5) may include provision that a sanction is not to be imposed in such circumstances as are specified in the provision.

(6) Provision made under subsection (5) may include provision that the member is guilty of an offence.

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

(8) In this section—

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

(b) references to members of the Parliament include references to the Lord Advocate and the Solicitor General for Scotland, whether or not they are such members.

ANNEXE 2

Interests of Members of the Scottish Parliament Act 2006

The Interests of Members of the Scottish Parliament Act 2006 ('2006 Act') was amended by the Interests of Members of the Scottish Parliament (Amendment) Act 2016 ('2016 Act').

The links below show the 2006 Act and the 2016 Act. A version of the amended Act will become available in due course. Meanwhile, both Acts should be read together.

Interests of Members of the Scottish Parliament Act 2006:

<http://www.legislation.gov.uk/asp/2006/12/data.pdf>

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

<http://www.legislation.gov.uk/asp/2016/4/contents/enacted>

These versions have been extracted from legislation.gov.uk (<http://www.legislation.gov.uk/aboutus>) and are made available further to the UK Government's Open Government Licence.

ANNEXE 3

THE SCOTTISH PARLIAMENT

The Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2016

The Scottish Parliament, in exercise of the powers conferred by sections 4(1), 4(2) and 8A(6) of the Interests of Members of the Scottish Parliament Act 2006, on the 2nd day of February 2016 made the following Determination. This replaces the Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2010:

Citation and commencement

1. This Determination may be cited as the Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2016 and shall have effect from 25 March 2016.

Interpretation

2. In this Determination—

“the Act” means the Interests of Members of the Scottish Parliament Act 2006 (asp 12);

“the Code of Conduct” means the Code of Conduct for Members of the Scottish Parliament, as amended by the Parliament by resolution on 2 February 2016;

“written statement” means the written statement which members are required to lodge under sections 3(3), 5(2) or 6(2) of the Act or may lodge under section 7 of the Act and the written notice which members are required to lodge under section 8A(5) of the Act.

Form of written statement

3. A written statement shall be in the form set out in Annexe 3 of Volume 4 of the Code of Conduct.

Content of written statement

4. A written statement shall contain the information required in the form set out in Annexe 3 of Volume 4 of the Code of Conduct and for the purposes of registration includes only those parts of the statement completed by a member.

REGISTER OF INTERESTS OF MEMBERS OF THE SCOTTISH PARLIAMENT

WRITTEN STATEMENT OF INTERESTS

PLEASE NOTE: Statements (including nil returns) must be returned to the Standards Clerks—

- a. In the case of initial registration by members (section 3) no later than 30 days after you take the oath of allegiance or make the solemn affirmation. As the thirtieth day falls on a Saturday, statements should be returned to the Standards Clerks by Friday 10 June 2016;
- b. In the case of interests acquired by members on or after the date of return (sections 3 and 5) within 30 days beginning with the date you acquired the interest;
- c. In the case of Scottish Law Officers (section 18) in accordance with that section; and
- d. In the case of late registrations (section 6) within 7 days of becoming aware the interest ought to have been registered.

NAME:	
CONSTITUENCY / REGION:	

1. The Register of Members Interests

The Interests of Members of the Scottish Parliament Act ('the Act') requires a Member to register any registrable interests or to declare that the Member has no such interest. You must register any interest by lodging a written statement with the Clerk. Written statements lodged by you form the basis of your entry in the **Register of Interests of Members of the Scottish Parliament ('the Register')**.

Under section 11(3) of the Act, the Register must be made available for public inspection. It will be available on the Scottish Parliament's website.

Please take the time to familiarise yourself with the requirements of the Act and the Code of Conduct. Any Member who takes part in any proceedings of the Parliament without having complied with, or in contravention of, sections 3, 5, 6, 8A(4) and (5), 13, 14, or a measure taken under sections 15 or 16 of the Act is guilty of a criminal offence. The maximum penalty for an offence under this Act, as specified in section 17 of the Act, is a fine not exceeding level 5 on the standard scale.

Failure to comply with the requirements of the Act may also (in terms of sections 15, 16 and 17A) result in a Member being prevented, restricted or excluded from participation in proceedings of the Parliament or exclusion from premises, withdrawal of facilities and services, withdrawal of salary and allowances in certain circumstances, and censure.

Amongst other things the Code of Conduct provides detailed information on how to comply with the Act, including the criteria for registration under each of the categories of

registrable interest (Volume 2, Section 2); the requirements to update your register throughout the Parliamentary session (Volume 2, Section 1); and how to declare your interests in advance of taking part in Parliamentary proceedings (Volume 2, Section 3).

The Act, which sets out the categories of registrable interest, was amended by the Parliament at the end of Session 4. This includes the addition of new requirements so that members do not have to report interests to both the Parliament and the Electoral Commission. Therefore, those Members who have been members in previous Parliamentary sessions should familiarise themselves with the changes to the Act and the Code.

2. Registration requirements under the Act

Interests to be registered

The interests that require to be registered are those set out in the Schedule to the Act which you—

- (1) had at the date you were returned; or
- (2) acquired on the date on which you were returned; or
- (3) with the exception of controlled transactions, had before you were returned but no longer have, where the interest meets the prejudice test (section 3(2)) – (please note that such gifts and overseas visits which are over £1,500 (either singly or in aggregate) and for political activities but do not meet the prejudice test do not have to be registered); or
- (4) have acquired since the date you were returned.

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

The Parliament has determined what information you **must** provide but you may provide additional details for your entry if you wish.

Declaration that no registrable interests are held (section 3)

If you have no registrable interests you are still required to make a written declaration to that effect. You can do so by completing and lodging this form.

Late registration (section 6)

If, after submitting your statement, you become aware of a registrable interest which was not included, you should immediately contact the Standards Clerks. The Act requires you to lodge a further written statement registering that interest within 7 days of becoming aware of it. If you have in the meantime taken part in proceedings of the Parliament, you should be aware that you may already have committed a criminal offence and could also become subject to parliamentary sanctions.

Further, if you lodge a statement 7 days or more after becoming aware of the unregistered interest you may have committed a further offence and may become subject to further Parliamentary sanctions.

3. Completion and submission of the written statement

The written statement form is split into 6 categories (and a section for voluntary interests)—

- Remuneration and Related Undertaking
- Gifts
- Loans, credit facilities, etc
- Overseas Visits
- Heritable Property
- Interest in Shares
- Voluntary

For each category of interest, the form asks you to indicate whether you have an interest in the relevant category and then goes on to set out a series of questions regarding the specific information that should be provided for that category. Any part of the form that you are required to complete has been shaded in grey.

Please go through this form, in conjunction with the Act and the Code of Conduct, and complete each grey-shaded section as appropriate before signing and dating where indicated on page 29. If there is not enough space in any section of this form additional sheets may be attached, but each sheet should be clearly marked with your name and also signed and dated.

Once you have completed this form, and any additional sheets as necessary, the document should be sent to the Standards Clerks in Room TG.01. This form may also be completed electronically and sent to—

Standards.clerks@parliament.scot

Upon receipt of the completed form, the Standards Clerks will draft a Register of Interests for each member. Each member will be sent a copy of their Register of Interests. Under the terms of the Act, the Register of Interests will be published on Monday 11 July 2016.

4. Who to contact for further information

Further advice and assistance on any matter relating to this form can be obtained from the Standards Clerks by e-mail standards.clerks@parliament.scot, or the following numbers:

Dougie Wands: 85239;
Joanna Hardy: 85177;
Alastair Macfie: 85183;
Sam Currie: 86924

Members are advised to seek advice from the Standards Clerks if they are uncertain about whether an interest is registrable, or about which category an interest should be registered in. Members may also choose to consult their own legal or other advisers. If you are in any doubt about whether or not to register an interest, the guiding principle is to err on the side of caution.

REMUNERATION AND RELATED UNDERTAKING

For details of what constitutes a registrable interest under the remuneration and related undertaking category and details of exemptions to the requirement to register please refer to the schedule to the 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 (£300).

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

Name and Office:		
Do you receive remuneration by virtue of:	Yes	No
a) being employed		
b) being self-employed		
c) being the holder of any office		
d) being the director of an undertaking		
e) being a partner in a firm		
f) undertaking a trade, profession or vocation?		

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

1. Into which category (a-f) does this interest fall?	
2. What is the name of the employer, business, body, undertaking or firm or name under which the trade, profession or vocation is carried out?	
3. 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 2 above?	
4. What position do you hold?	
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?	
6. What is the regularity of the work you undertake (for example, the number of hours or days worked per week or month)?	
7. Is there any relevant additional information that you wish to provide?	

RELATED UNDERTAKING

Are you:	Yes	No
a) a director of a related undertaking but do not receive remuneration as such a director?		
b) a partner in a firm but do not receive remuneration as such a partner?		

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 (£300) 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 2.3.6 of Code and paragraph 6A of the Schedule to Interests Act) andthey 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 (£300) 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 accept donations over £500 for political activities only 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.

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 £300). As outlined above, the prejudice test would apply to this category of gift.

Name and Office:		
	Yes	No
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 (£300)? 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 <u>also</u> 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 of the donor 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: _____
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: http://www.electoralcommission.org.uk/_data/assets/pdf_file/0004/153859/fs-sponsorship.pdf	
10. Is there any relevant additional information that you wish to provide?	

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 2.5, 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:		
	Yes	No
(a) Have you made a visit outside the United Kingdom which meets the prejudice test?		
(b) Are the costs of the overseas visit over £1,500 (either singly or cumulatively) and if so, is it for political activities?		

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:	

a) the destination, and b) the purpose of the visit?	
3. What is the name of the person or organisation who met any of the costs of the visit?	
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 overseas visit 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)	
5. What were the costs of the visit?	
6. Is there any relevant additional information that you wish to provide?	

CONTROLLED TRANSACTIONS (LOANS, CREDIT FACILITIES, ETC)⁴³

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, PERA). 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 PERA) and

at the time the member enters into the transaction the member intends to use any money or benefit obtained in consequence of the controlled transaction in connection with the member’s political activities as a member or as a member of a political party or both.

Members are only required to register with the Scottish Parliament controlled transactions entered into on or after the date of return.⁴⁴

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

⁴³ A separate form is available for registering “connected transactions”.

⁴⁴ 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.

Name and Office:		
	Yes	No
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.⁴⁵	
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;	

⁴⁵ 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.

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.⁴⁶	
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?⁴⁷	
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.⁴⁸	
10. Are you registering the loan or credit facility as a result of an	

⁴⁶ 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.

⁴⁷ 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.

⁴⁸ 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.

aggregation? (see note 1 above)	
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?⁴⁹	
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:_____

⁴⁹ 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.⁵⁰

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 or 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 £1,500 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

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.

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.⁵¹

Name and Office:		
	Yes	No
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.	

⁵¹ 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.⁵²	
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,	

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.

please give details.	
9. If you answered “yes” to B above, will the participant receive consideration from you? If yes, please give details.	
10. Are you registering the connected transaction as a result of an aggregation? (see note 4 above)	
11. Does the security given include rights over property? If yes, please provide details of the property.	
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: _____

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.⁵³

Please complete the following:

1. Name and Office:	
2. What is the loan reference number?	
3. What was the date on which the controlled transaction was registered?	
4. What is the value of the loan/maximum credit limit?	
5. What is the date of the change?	
6. Was the transaction ended?	
7. Is there a change to: a) participants in the transaction;⁵⁴ b) the details of an existing participant as previously provided (e.g. address).	
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).	

⁵³ 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).

⁵⁴ Members should contact the Electoral Commission immediately if they have reason to believe an unauthorised participant may have become a party to the transaction.

9. Is there any relevant additional information that you wish to provide?	
10. Please sign this declaration: 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.	Signed: _____ Dated: _____

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 2.6, 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.

Name and Office:		
	Yes	No
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 (£30,340); 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?	
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2. What is the location of the property (by area, for example by local authority area if in Scotland)?	
3. What is the type of the property (for example, flat, house, commercial, industrial, domestic, commercial, agricultural)?	
4. 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)?	
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?	
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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 2.7, 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.

Name and Office:		
	Yes	No
Do you or a relevant person have an interest in shares and: 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; Or 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 (£30,340)?		

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 dispose of the shares (if before the date of your return)?	
5. What is the nature of the business undertaken by the company or other body in which you hold shares?	
6. What is the market value and/or percentage of the issued share capital of the company or other body?	
7. Is there any relevant additional information that you wish to provide?	

VOLUNTARY

You may choose to provide details in this section of any interest, not falling within any of the previous sections, which you wish to register, perhaps because you consider that the interest might be thought by others to influence your actions.

	Yes	No
Do you have any such interests?		

If you answered yes, please insert details below:

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Signed	
Date	

ANNEXE 3

THE SCOTTISH PARLIAMENT

The Interests of Members of the Scottish Parliament Act 2006 (Publication of Register of Interests) Determination 2007

The Scottish Parliament, in exercise of the powers conferred by section 11(1) of the Interests of Members of the Scottish Parliament Act 2006, on the 25th day of January 2007 made the following Determination:

Citation and commencement

1. This Determination may be cited as the Interests of Members of the Scottish Parliament Act 2006 (Publication of Register of Interests) Determination 2007 and shall have effect from 3 April 2007.

Interpretation

2. In this Determination—

“the Act” means the Interests of Members of the Scottish Parliament Act 2006⁽⁵⁵⁾;

“Clerk” means the Clerk of the Parliament; and

“register” means the Register of Interests of Members of the Scottish Parliament, established under section 1(1) of the Act.

Manner and interval of publication of the Register

3. The Clerk shall publish the register by—

(a) reproducing the information which appears in it in respect of each member’s entry on that member’s page on the Scottish Parliament website; and

(b) updating that information in respect of any amendment to the register by the operation of sections 4(5), 8(3), 8(4), 9(2), 9(3) and 9(5) of the Act⁽⁵⁶⁾ at intervals which correspond with the relevant time limits specified under sections 4(5), 8(3), 8(4) and 9(2) of the Act and, in relation to an amendment by the Clerk under sections 9(3) and 9(5), within 30 days of such an amendment.

⁽⁵⁵⁾ 2006 asp 12.

⁽⁵⁶⁾ Sections 4(5), 8(3) and 9(2) of the Act require the Clerk to register an interest or amend an entry in the register within 30 days of the statement or notice, as the case may be, being lodged. Section 8(4) requires the Clerk to amend an entry in the register by deletion not less than twelve months after a notice has been lodged under section 8(3). Sections 9(3) and (5) provide for the amendment of entries in the Register by the Clerk to correct clerical or typographical errors and to remove the entry when a member ceases to be a member.

ANNEXE 3

THE SCOTTISH PARLIAMENT

The Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2016

The Scottish Parliament, in exercise of the powers conferred by sections 4(1), 4(2) and 8A(6) of the Interests of Members of the Scottish Parliament Act 2006, on the 2nd day of February 2016 made the following Determination. This replaces the Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2010:

Citation and commencement

1. This Determination may be cited as the Interests of Members of the Scottish Parliament Act 2006 (Form and Content of Written Statement) Determination 2016 and shall have effect from 25 March 2016.

Interpretation

2. In this Determination—

“the Act” means the Interests of Members of the Scottish Parliament Act 2006 (asp 12);

“the Code of Conduct” means the Code of Conduct for Members of the Scottish Parliament, as amended by the Parliament by resolution on 2 February 2016;

“written statement” means the written statement which members are required to lodge under sections 3(3), 5(2) or 6(2) of the Act or may lodge under section 7 of the Act and the written notice which members are required to lodge under section 8A(5) of the Act.

Form of written statement

3. A written statement shall be in the form set out in Annexe 3 of Volume 4 of the Code of Conduct.

Content of written statement

4. A written statement shall contain the information required in the form set out in Annexe 3 of Volume 4 of the Code of Conduct and for the purposes of registration includes only those parts of the statement completed by a member.

ANNEXE 3

THE SCOTTISH PARLIAMENT

The Interests of Members of the Scottish Parliament Act 2006 (Declaration of Interests) Determination 2007

The Scottish Parliament, in exercise of the powers conferred by section 13(2) of the Interests of Members of the Scottish Parliament Act 2006, on the 25th day of January 2007 made the following Determination:

Citation and commencement

1. This Determination may be cited as the Interests of Members of the Scottish Parliament Act 2006 (Declaration of Interests) Determination 2007 and shall have effect from 3 April 2007.

Interpretation

2. In this Determination—

“Clerk” means the Clerk of the Parliament; and

“Parliament” includes a committee, sub-committee or joint committee of the Scottish Parliament.

Oral declaration of interest

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

Written declaration of interest

4. Where a member has a declarable interest in any matter and takes part in a meeting of the Parliament relating to that matter only by attending and voting at that meeting, that member must, prior to voting, have made a written declaration of that interest either by virtue of that interest being registered in the entry relating to that member in the Register of Interests of Members of the Scottish Parliament or in any other case by lodging a written declaration of that interest with the Clerk.
5. Where a member has a declarable interest in any matter, and takes part in any proceedings of the Parliament relating to that matter otherwise than as provided in paragraphs 3 and 4, the member must lodge with the Clerk a written declaration of that interest before taking part in those proceedings.
6. For the purposes of paragraph 5, taking part in proceedings of the Parliament includes any of the following—
 - a. lodging questions for oral or written answer,

- b. lodging motions or amendments to motions,
- c. introducing a Bill, or lodging a proposal for a Member's Bill,
- d. lodging amendments to Bills, or
- e. (e) adding the member's name in support of any of the proceedings referred to in sub-paragraphs (a) – (d).

ANNEXE 4

Scottish Parliamentary Standards Commissioner Act 2002.

The link below is a version of the Act at April 2016 and is subject to amendment.

<http://www.legislation.gov.uk/asp/2002/16/data.pdf>

This version has been extracted from legislation.gov.uk (<http://www.legislation.gov.uk/aboutus>) and is made available further to the UK Government's Open Government Licence.

ANNEXE 5

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002

DIRECTIONS BY THE STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

In exercise of the powers conferred by sections 4 and 7(6) of the Scottish Parliamentary Standards Commissioner Act 2002 (“the 2002 Act”)⁵⁷ and by virtue of Rule 3A.2 of the Standing Orders of the Scottish Parliament the Standards, Procedures and Public Appointments Committee of the Scottish Parliament (“the Committee”) gives the following directions to the Public Standards Commissioner for Scotland⁵⁸ (“the Commissioner”).

Citation and commencement

1. These Directions may be cited as the “The 2012 Directions to the Public Standards Commissioner for Scotland” and shall come into force on 9 March 2012.

Direction under section 7(6)

2. For the purposes of section 7(6) of the 2002 Act the specified classes of complaint are cases in which the complaint fails to meet one or more of the specified requirements because they—
 - (a) are not signed by the complainer;
 - (b) do not state the name of the complainer;
 - (c) do not state the address of the complainer; or
 - (d) do not name the member of the Parliament concerned.

Direction under section 4

3. For the purposes of section 4 of the 2002 Act the Committee gives the Commissioner the following direction:

Information as to name of a complainer

- (1) In considering whether it would be inappropriate to inform a member of the name of a complainer under section 7(1)(c) of the 2002 Act and without prejudice to any other matter that the Commissioner considers relevant, the Commissioner shall -

⁵⁷ asp 16

⁵⁸ The Public Standards Commissioner for Scotland is appointed in terms of section 1(3) of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11).

- (a) have regard to whether or not the complainer is or appears to be a vulnerable person;
 - (b) have regard to any reasons given by the complainer as to why the member complained about should not be informed of the name of the complainer; and
 - (c) consider whether informing the member of the name of the complainer would be likely to prejudice an investigation into the complaint.
- (2) Where the Commissioner receives a complaint about the conduct of a member and considers that it would be inappropriate to inform that member of the name of the complainer under section 7(1)(c) of the 2002 Act, the Commissioner shall make a report on the matter to the Committee setting out the reasons for that decision.

Interviews

- (3) At least 48 hours before interviewing any person for the first time in the course of an investigation, the Commissioner shall notify that person in writing of—
- (a) the purpose of the interview;
 - (b) the powers of the Commissioner under section 13(1) of the 2002 Act;
 - (c) the procedure to be followed in connection with the investigation of the complaint, including that the interview will be tape-recorded;
 - (d) the right of that person to have a third party present at the interview; and
 - (e) the right of that person to have his or her views conveyed through an interpreter.
- (4) A notification transmitted by electronic means is to be treated as being in writing for the purposes of subparagraph (3) if it has been recorded and is capable of being reproduced in legible form.
- (5) The Commissioner shall allow any person interviewed to have—
- (a) third party present; and
 - (b) his or her views conveyed through an interpreter.
- (6) If the Commissioner interviews any person in the course of an investigation, the Commissioner shall have regard to whether or not that person appears to be a vulnerable person.

- (7) For the purposes of subparagraphs (1) and (6) “vulnerable person” means any person who by reason of age, infirmity, illness, disability or any other circumstance appears to the Commissioner to be in need of care or attention.
- (8) The Commissioner shall make and keep a tape-recorded record of any interviews that are carried out in the course of any investigation.
- (9) No summary of an interview with a witness shall be included in any report by the Commissioner to the Committee unless the witness has been given a copy of the draft summary and an opportunity to make representations about the draft summary. The Commissioner shall annexe to the report to the Committee any representations which are not given effect to in the summary.

Documents and records

- (10) The Commissioner shall keep (whether in written or electronic form) details of each interview which is carried out in the course of any investigation.
- (11) The Commissioner shall keep each document which is considered in the course of any investigation unless the document requires to be returned to the person who provided it. If the Commissioner requires to return any document, the Commissioner shall make and keep a copy of it.
- (12) All documents and records shall be kept for a minimum period of five years from the date on which the complaint was dismissed by the Commissioner or, as the case may be, the Commissioner’s report upon the outcome of the investigation was made. If the Commissioner is directed to carry out further investigation under section 10 of the 2002 Act, the documents and records shall be kept for a minimum period of five years from the date on which the Commissioner’s report on the further investigation was made.
- (13) The Commissioner may destroy the documents and records after the period mentioned in subparagraph (12), unless the Committee instructs the Commissioner to keep the documents and records for a further specified period.
- (14) In subparagraphs (11), (12) and (13) of this direction “document” means anything in which information is recorded in any form.

Criminal offences

- (15) If the Commissioner is satisfied in relation to any complaint that the member has committed the conduct complained about and that the conduct would, if proved, constitute a criminal offence, the Commissioner shall—

- (a) suspend investigation and consideration of the complaint;
 - (b) submit a report to the Procurator Fiscal; and
 - (c) notify the Committee.
- (16) The Commissioner shall resume investigation and consideration of a complaint in respect of which investigation and consideration has been suspended under subparagraph (15)(a)—
- (a) at the conclusion of any criminal proceedings instituted in consequence of the report by the Commissioner;
 - (b) on receipt of confirmation from the Procurator Fiscal that no such proceedings will be raised; or
 - (c) on receipt of confirmation from the Procurator Fiscal that the Commissioner may do so.

Reports under sections 7(11) or 8(3) of the 2002 Act

- (17) The Commissioner shall send a copy of any report submitted to the Committee under sections 7(11) or 8(3) of the 2002 Act to—
- the complainer (if the complainer's name and address is known), and
 - to the member concerned (if the identity of the member is known),
 - unless the Commissioner considers that to do so would prejudice the outcome of any investigation.

Enquiries about complaints

- (18) Where—
- (a) the Commissioner receives an enquiry about a complaint; and
 - (b) a member is named in the enquiry,
- the Commissioner may indicate whether or not a complaint concerning that member has been received (by the Commissioner).

Revocation

4. The following Directions are revoked:

- (a) the Scottish Parliamentary Standards Commissioner Act 2002 (Transitional Provision) Direction 2003;

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Commissioner Act 2002**

- (b) the Scottish Parliamentary Standards Commissioner Act 2002
(Specification Under Section 7(6)) Directions 2002;
- (c) the Scottish Parliamentary Standards Commissioner Act 2002
(Procedures, Reporting and Other Matters) Directions 2002 and
- (d) the Scottish Parliamentary Standards Commissioner Act 2002
(Enquiries about Complaints) Direction 2004.

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Scottish Parliament
Edinburgh
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