

# THE CODE OF CONDUCT FOR MEMBERS OF THE SCOTTISH PARLIAMENT

## INTRODUCTION

1. The Code of Conduct for Members of the Scottish Parliament (“the Code of Conduct” or “the Code”) sets out the standards of conduct for members of the Scottish Parliament in relation to their Parliamentary duties as an MSP.
2. The Code of Conduct is enforceable. In other words, every MSP is required to understand and comply with its rules. A breach of the Code could lead to sanctions being imposed on a MSP.
3. There are some activities which are not covered by the Code. The Code does not cover—
  - 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 acting as Ministers of the Scottish Government and carrying out functions of the Scottish Government covered by the Ministerial Code
4. If a member is uncertain about how the rules apply, they can ask the Standards Clerks for advice. Members may also choose to consult their own legal advisers. On detailed financial and commercial matters, they may wish to seek advice from other relevant professionals.
5. The Code of Conduct is accompanied by guidance. This additional material does not form part of the Code and is not enforceable.



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## SECTION 1: REGISTRATION OF INTERESTS

### Introduction

1. The Code of Conduct (the Code) provides details of the requirements for the registration of members' interests. Further information can be found in the associated guidance.

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

2. 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.

3. 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).

4. [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 \(PPERA\)](#). These changes ended the dual reporting of certain financial interests, to both the Electoral Commission and the Scottish Parliament.

5. The PPERA requirements about permissible donations and regulation of loans and related transactions still apply. Written guidance on these requirements is available and advice can also be obtained from the Electoral Commission.

### Registrable interests

6. The 2006 Act sets out the circumstances in which financial interests must be registered. These are commonly referred to as 'registrable interests'.

7. It is the responsibility of each member to ensure that they comply with the Act. Penalties and criminal sanctions may apply in the event of non-compliance with the requirements for registration.

8. If a member is uncertain about any aspect of the operation of the Act or the Code, the Standards Clerks ([standards.clerks@parliament.scot](mailto:standards.clerks@parliament.scot)) may be asked for advice. Members may additionally wish to seek independent legal and other professional advice prior to registration.

### Access to the Register

9. The Register only applies to the current session of the Parliament. At the beginning of each new session a new Register is set up for both new and returning members.

10. The Register is available online. Each member's current register entry is published as part of their Parliament web pages.

11. Snapshots of the full register are published annually on the Parliament's website.

12. Old register entries are kept for a ten year period (after amendment or deletion).

13. Under PPERA, the Electoral Commission is required to maintain its own register. The Electoral Commission obtains 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).

### **Initial registration of interests**

14. After an election, members must register interests by lodging written statements with the Standards Clerks.

15. 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.

16. Controlled transactions (loans, credit facilities, etc.) do not require to be registered if entered into by the member before the date on which they were returned.

17. 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 and restated below). A member must decide whether any interest meets that test.

### **The prejudice test**

18. 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.

19. 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**

20. The written statement contains guidance to assist completion. Copies are available from the Standards Clerks. Following return, 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”).

21. 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.

22. Section 18 of the 2006 Act sets out special arrangements applying to the Lord Advocate and Solicitor General for Scotland who, under section 39(8)(b) of the Scotland Act, are included as members for the purposes of the Register and also required to submit written statements of their registrable interests.

23. If the member has no registrable interests, the Act provides that a written declaration must be lodged with the Standards Clerks to that effect. 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. Alternatively, Members can email the Standards Clerks from their own Parliamentary email account to indicate that they have nothing to register.

### **Registration of interests acquired after date that the member is returned**

24. Where an interest is acquired after the initial registration, the procedure is largely the same as for initial registration. A member must register an acquired interest by lodging a further written statement within 30 days beginning with the date of acquisition.

25. 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. Alternatively, Members can email the Standards Clerks from their own Parliamentary email account with the details of the interest they wish to register.

26. 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 limit. 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 5 April each year thereafter. Members therefore need to ensure that such interests are revalued as at each 5 April.

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

27. 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**

28. 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 becoming aware that registration was required. It should be noted that the obligation to register such an interest persists even where the member has subsequently disposed of the interest.

29. Members should rectify omissions as quickly as possible and should contact the Standards Clerks as soon as 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.

## **Voluntary registration**

30. A member may register on a voluntary basis an interest which does not require to be registered by lodging a written statement or emailing the Standards Clerks at any time.

31. 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**

32. Following initial registration, 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.

## **Deletion of interests from the Register**

33. A member may instruct deletion of a registered interest from the Register if it is a ceased interest. 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.

34. 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.

35. The only entries 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.

36. Where a member wishes to have a ceased interest removed from the Register, the member should lodge with the Standards Clerks a written notice, in signed hard



copy or by email from their personal Scottish Parliament account, identifying the ceased interest and giving the date that it became a ceased interest.

37. 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.

38. 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.

39. Certain information will remain on the Electoral Commission's register even if it has been deleted from the Scottish Parliament register.

### **Deletion of controlled transaction entries from the Register**

40. Members must notify the Standards Clerks of the ending of a controlled transaction within 30 days.

### **Amending an interest**

41. 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 2006 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.

42. 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.

### **Sanctions and offences for non-registration**

43. Where a member fails to register an interest by failure to lodge a written statement in respect of a 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. 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.

44. 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.

45. 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.

46. Finally, in terms of section 17 of the 2006 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 if they come to light in the course of an investigation of a complaint. 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

### Introduction

1. The Schedule to the [Interests of Members of the Scottish Parliament Act 2006](#) (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 of this Code for the general requirements in relation to registration.

### **Remuneration and related undertaking – Schedule, paragraph 2**

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

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

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

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

(1A) Where a member is, or was—

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

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

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

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

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

#### **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.

## **Remuneration and related undertaking**

### *Remuneration*

2. 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 following offices is expressly excluded—

- a member of the Scottish Executive or a junior Scottish Minister
- Presiding Officer
- deputy Presiding Officer
- member of the Parliamentary corporation
- Convener or deputy Convener of a committee of the Parliament
- member of a committee of the Parliament.

3. Expenses, including those that represent reimbursement of costs incurred, fall within the definition of remuneration—

- Remuneration, consisting solely of expenses, which does not exceed 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.
- Expenses received from a single source, which in aggregate during a parliamentary session exceed the specified limit, are registrable.

4. 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.

5. Where a member receives expenses at the same time as receiving other remuneration (for example, a fee) from the same source these expenses are always registrable regardless of the sum involved.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. For the purposes of initial registration, remuneration must be registered under each category ((1)( a)-(f)) 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.)

15. 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.

16. 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. Paragraphs 41 and 42 of Section 1 of this Code provide further information on amending interests.

17. Members must also register any new remuneration for work undertaken after the date of return as a newly acquired interest.

18. Remuneration received on or after the date of a member's return 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.

#### *Late registrations*

19. Members must 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.

### *Ceased interests*

20. A member may not cease an interest that consists of remuneration. Such interests will therefore remain on the register for the duration of the session.

21. 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.

### *Related undertaking – non-remunerated directorships*

22. 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.

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. The Interests Act defines parent undertakings or subsidiary undertakings by reference to the Companies Act 2006.

24. 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.

### *Partnerships – non-remunerated partners*

25. Members are 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. 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.

## **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.”.

## Gifts

26. There are two categories of gift which are registrable.

27. Firstly, any gift with a value on the date the gift is made which exceeds 0.5% of a member’s salary at the beginning of the current parliamentary session (rounded down to the nearest £10) must be registered where the gift also meets the prejudice test.

28. 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 them.

29. Secondly, members must register any gift (or sponsorship within the meaning of PPERA schedule 7, para 3) 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.

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

31. 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.

32. A gift can be any tangible item such as glassware or jewellery, to gifts of money or residential property and 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).

33. 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). Gifts to spouses and cohabitantes are not registrable.

#### *Financial and material support*

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

35. 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 a person other than the member. (See volunteer services at paragraph 38, below).

36. 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.

37. 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*

38. 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.

#### *Volunteer services*

39. 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*

40. Members are not required to register donations towards the member's election expenses even if they exceed the gifts thresholds as long as—

(a) the donor intended them to be used to meet the election expenses of the member in relation to the member's election to the Scottish Parliament; or the election expenses of the member in relation to any UK Parliamentary election at which the member stands as a candidate. This exemption only applies if the expenses fall to be included in the candidate spending return for the election in question.

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.

41. 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.

42. Expenses acquired by a member before they are returned are not registrable under PPERA.

43. 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.

44. 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.

45. 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*

46. 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.

47. 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*

48. 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).

49. 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.

50. 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.

#### *Late registrations*

51. 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.

## **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.

### **Loans, credit facilities, etc.**

52. 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 with a credit limit 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.

53. 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.

54. 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.

55. 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.

56. 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.

57. 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.

58. 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.

### **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.”

## **Overseas visits**

59. 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).

60. 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.

61. 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.

62. 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).

63. 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.

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

65. 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.

66. 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, UK visits 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.

67. Members should note that committee travel outwith the UK may need 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.

68. 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.

69. 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.

## **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.

## **Heritable property**

70. A heritable property which exceeds either the market value threshold or from which income has been received by the member or by anyone else 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). 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.

71. 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 5<sup>th</sup> April after the initial relevant date is also a relevant date.

72. In relation to income-based registration, registration is required where any income is yielded 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.

73. 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 and inform the Standards Clerks.

74. 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.

75. 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.

76. 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.

77. 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.

78. 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.

79. 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.

80. 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.

81. 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. 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.

82. 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 the guidance on late registration.

### **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.

## **Interest in Shares**

83. 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.

84. 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). 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.

85. Calculation of the relevant date for shares works in the same way as for heritable property (above).

86. 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. 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.

87. 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. 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.

88. Where a member disposes of shares before being returned but the prejudice test applies, 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.

89. 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.

90. 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.

91. 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.

92. 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.

93. 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.

94. 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.

95. 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 the guidance on late registration.

### **Responsibility of the Member**

96. 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. 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.



## SECTION 3: DECLARATION OF INTERESTS

### The statutory requirements

1. Sections 12 and 13 of the 2006 Act set out the legal requirements in relation to declaration of interests.

#### 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 [the Scotland 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.*

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

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.

4. 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.

5. Declarations may be either oral or written. The Interests of Members of the Scottish Parliament Act 2006 (Declaration of Interests) Determination 2007 sets out when oral and written declarations apply.

#### Oral declarations

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. This includes initiating, contributing to or intervening in any debate whether—

- during a meeting of the Parliament; or

- during a meeting of a Parliamentary committee (or a joint committee meeting or sub-committee meeting).

7. 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 determination mentioned in paragraph 5 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.

8. 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 of which only they will be aware prior to the registration being published.

### **Written declarations**

9. 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 described above, 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. The Guidance on the Code of Conduct includes instructions on how this is done.

10. 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.

11. Members should be aware that other requirements of the Act, for example, in relation to paid advocacy, also apply to voting and other proceedings.

### **Failure to comply with or contravention of the rules on declaration of interests**

12. 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. 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

### 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.

1. Paid advocacy is not permitted.

2. Section 14 of the [Interests of Members of the Scottish Parliament Act 2006](#) sets out what constitutes paid advocacy and is, therefore, forbidden and also sets out what assistance to a member is permitted.

3. 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. “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).

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,
- assistance with amendments to any Bill, or
- a debate on subordinate legislation or a legislative consent motion.

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

6. 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

### Rules

1. A member should not, in relation to contact with any person or organisation who lobbies, do anything which contravenes this Code of Conduct (the Code) or any other relevant rule of the Parliament or any statutory provision.
2. A member should not, in relation to contact with any person or organisation who lobbies, act in any way which could discredit the Parliament.
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 an MSP or group or person within or connected with the Parliament.
4. Before taking any action as a result of being lobbied, a member should be satisfied about the identity of the person or organisation lobbying and the motive for lobbying. A member may choose to act in response to a commercial lobbyist but it is important that a member knows the basis on which he or she is being lobbied in order to ensure that any action the member takes complies with the standards set out in this Code.
5. Members should be aware of the provisions of the [Lobbying \(Scotland\) Act 2016](#). The Act is designed to improve transparency of lobbying contact between organisations and—
  - Members of the Scottish Parliament;
  - Scottish Government Ministers;
  - The Permanent Secretary of the Scottish Government; and
  - Scottish Government Special Advisers
6. 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; and
  - consider arranging for an assistant or researcher to take notes at any meetings with lobbyists.
7. This section of the Code on General Conduct sets out the standards expected in relation to acceptance of hospitality, gifts and benefits. In addition to this and the statutory provisions in the 2006 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. The section 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.)

8. 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.

9. 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](#).

10. 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.

## **SECTION 6: CROSS-PARTY GROUPS (CPGs)**

### **Introduction**

1. CPGs provide an opportunity for Members of the Scottish Parliament (MSPs) to engage with external stakeholders on a particular subject.
2. CPGs are not formal parliamentary business and should not be confused with the Parliament's committee system.
3. CPGs are formed and led by MSPs although it is expected that groups will also have non-MSP members.
4. CPGs do not have any power to introduce issues formally into the parliamentary or government systems.
5. CPGs do not have access to any financial or staffing resources, other than is necessary for all CPGs to meet in the Parliament.
6. Any queries about the rules for CPGs, meeting notifications or documentation should be emailed to the Standards Clerks at [crosspartygroup@parliament.scot](mailto:crosspartygroup@parliament.scot).
7. CPGs must comply with the following rules. CPGs must also comply with any relevant policies that are set by the Scottish Parliamentary Corporate Body (SPCB). These policies are set out in the [library of policies](#) created by the SPCB on the Scottish Parliament website.

### **Membership and office bearers**

8. Any MSP may be a member of a CPG. A CPG must have at least 5 MSP members including 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 (the Committee) in certain circumstances.
9. CPGs may also have members who are not MSPs. Non-MSP membership is split into two categories: individuals and organisations. Where someone joins a CPG 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 CPG. Any decisions about membership, including whether to limit the number of non-MSP members, are a matter for the Group itself.
10. 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 at every subsequent Annual General Meeting (AGM).. The re-election of office bearers should be held at the Annual General Meeting (AGM). Beyond these requirements, any decisions about the structure of office bearer positions are a matter for the Group itself.

11. Any changes to the membership or office bearers of a CPG must be notified to Standards Clerks within 30 days of the change. Changes to officer bearers or MSP membership must be notified by the Convener of the Group, or the Convener's authorised signatory. Any changes to the non-MSP membership can be notified by the secretary of the Group.

### **Establishment of CPGs**

12. Once a CPG has the required MSP membership for a Group, an initial meeting should be held. The date and time of this meeting must be notified to the Standards Clerks at least 10 calendar days before the meeting taking place. The meeting will be added to the Parliament's website by the Standards Clerks.

13. Two MSPs, who intend to be members of the Group, must attend the initial meeting. This meeting should be used to elect the office bearers, confirm the name and purpose of the Group, confirm the membership of the Group and discuss all other information that must be added to the registration form. Minutes of this meeting must be taken.

14. After this initial meeting Groups cannot meet again, formally, until the Group has been accorded recognition by the Committee.

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

### **Registration of CPGs**

16. No later than 30 calendar days after the initial meeting, the Convener of the proposed Group, or the Convener's authorised signatory, must submit a completed registration form to the Standards Clerks.

17. The registration form sets out the information that a proposed Group must provide.

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

18. Once the registration form has been received by Standards Clerks one of the proposed Group's MSP office bearers (usually the Convener) will be invited to attend a meeting of the Committee to explain the justification for the proposed Group.

19. The Committee will pay particular attention to a proposed Group's purpose. If the Committee considers that a proposed Group is not in the public interest but is intended, 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.

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

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

21. 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.

22. A Group seeking to re-register must hold an initial meeting and elect office bearers. Following the initial meeting the Convener of the proposed Group, or the Convener's authorised signatory, must submit a completed registration form to the Standards Clerks.

23. 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). For example, a Group may be referred to the Committee if it had failed to comply with the Code of Conduct in the previous Session.

24. 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 including 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, it is the organisation that is the member and not the individuals that attend from that organisation. An individual or organisation is not a member of a Group until Standards Clerks have been informed.
- *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.

25. Groups that do not require further scrutiny will be re-registered.

26. 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 Committee. The Convener will decide whether the Group can be re-registered or if the application should be considered by the Committee.

### **Operation of CPGs**

27. All CPGs must hold at least two formal meetings per year, and one of these must be the AGM.

28. All meetings, including the initial meeting, must be notified to the Standards Clerks at least 10 calendar days before the meeting. Details of all meetings will be published on the Parliament's website.

29. CPGs must hold an AGM within 11-13 months of the date that the Group was established (in the current session) and subsequently between 11 and 13 months after each AGM..

30. The AGM must be used to re-elect the office bearers and to review the work the Group has carried out over the preceding year.

31. Within 30 calendar days of holding an AGM, the Convener of a Group, or the Convener's authorised signatory, must submit a completed annual return form to the Standards Clerks. The information that Groups are required to provide are as set out in the annual return form.

32. All meetings 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 count towards this requirement.

33. Attendance and participation by non-MSPs who are not registered members of a Group is at the discretion of the Group and therefore Groups are within their rights to refuse non-members entry to the meeting.

34. 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.

35. Each recognised Group will have a page created on the Parliament website.

36. CPGs must provide minutes of all meetings to the Standards Clerks, including the initial meeting. 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.

37. Groups may provide agendas of meetings to the Standards Clerks to be published on their web page.

38. No papers other than registration forms, annual return forms, minutes and agendas 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.

39. Groups may form sub-groups to focus on particular elements of the Group's purpose. A meeting of a sub-group must be notified to Standards Clerks 10 calendar days before the meeting and two MSP members must be in attendance at the sub-group meeting. Any decisions made by a sub-group must be ratified at a subsequent meeting of the full Group.

#### *Change of name or purpose of CPGs*

40. Any proposal to change the name or purpose of the Group must be drawn to the attention of the Committee. The Committee will consider the proposed change and decide if recognition should still be accorded to the Group.

#### *Financial benefits*

41. If a Group receives secretariat support from an employee of an external organisation, the value of any time that employee spends on supporting CPG 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.

42. 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 Committee—

- a full client list (if a consultancy/public affairs firm) and
- 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).

#### **Use of Parliamentary facilities**

43. CPGs must respect the limitations on the use of Parliamentary facilities—

- MSPs, but not other members of CPGs, may make reasonable use of the Parliament's telephone, fax, photocopying, IT facilities and Parliamentary stationery in pursuit of CPG business. Groups may only use the Parliament's IT facilities 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 other than to book meeting rooms; and
- MSPs who are members of a CPG 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.

### **Compliance with the Code of Conduct of Members of the Scottish Parliament (the Code)**

44. The Convener of a Group is primarily responsible for ensuring that the Group complies with the Code. 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.

45. To assist Groups in complying with the requirements of the Code, the Standards Clerks can provide guidance and advice.

46. The Committee will regularly consider information on whether Groups are complying with the Code.

47. Complaints that a Group has not complied with the Code will be considered in by the Committee. Failure to comply with the Code could lead to a Group's recognition being withdrawn or to sanctions being imposed on individual MSPs.

48. MSP members of a Group should 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: MSPs' GENERAL CONDUCT**

1. Members must comply with the requirements of this Code of Conduct (the Code), with the Standing Orders, and with any other decision of the Parliament relating to the conduct of MSPs.
2. This section of the Code sets out some rules on general conduct which MSPs must follow.

### **SPCB policies**

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

### **Expenses**

4. 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.

### **Treatment of others**

5. Members must treat other MSPs with courtesy and respect.
6. In addition, Members must treat parliamentary staff (which includes contractors providing services to the Parliament) together with the staff of MSPs with courtesy and respect. 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.

### **Use of parliamentary staff**

7. 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.
8. 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.

### **Conduct in the Chamber and committees**

9. Members must conduct themselves in accordance with the following Standing Orders rules during meetings in the Chamber and, as appropriate, in committee meetings.

“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)

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

11. 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.

### **Confidentiality rules**

12. 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.

13. 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.

14. Members must not 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.

15. Unless the Parliament or the relevant committee has agreed otherwise, members must not 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.

16. 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.

### **Awareness of MSPs' staff**

17. 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.

18. 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.



## SECTION 8: ENGAGING WITH CONSTITUENTS

1. This section of the Code of Conduct (the Code) sets out the rules which MSPs must follow when they are engaging with constituents.

### Taking on constituents' cases

2. An MSP must take on a constituent's case when approached, unless they have a legitimate reason for declining it. Examples of legitimate reasons are—

- The constituent has asked the MSP to take inappropriate action;
- The case would lead to a conflict of interest with the MSP's existing casework;
- The case is contrary to the MSP's political beliefs.

3. If an MSP declines to take on a constituent's case, they would be expected to inform the constituent of this.

4. A MSP must not deal with a constituency case or constituency issue outwith their constituency / region unless by prior agreement.

5. Regional MSPs must work in more than two constituencies within their region.

6. Regional MSPs are expected to deal with any matter raised by any constituent within their region (unless they have a legitimate reason for not doing so).

7. MSPs must respect individual privacy when representing constituents' interests. The exception is where there are overwhelming and lawful reasons in the wider public interest for disclosure to be made to a relevant authority. An example is where an MSP is made aware of criminal activity.

### Describing MSPs

8. MSPs should not misrepresent the basis on which they were elected or the area they serve.

9. Constituency MSPs 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.”

10. Regional MSPs must not describe themselves as a “local” MSP for (or having a particular interest in) only part of the region for which they were elected.

11. Constituency MSPs should not describe themselves as the sole MSP for a particular area or constituency.

## **MSPs' staff**

12. MSPs must ensure their staff or others working on their behalf with constituents conform to these rules.

## **SECTION 9: ENFORCEMENT OF THE RULES**

### **Disclosure**

1. 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 the guidance on the Code of Conduct (the Code)).
2. 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.
3. Where, during the period when the restriction on disclosure 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.

### **Complaints**

4. Complaints, in relation to the conduct of Members of the Scottish Parliament under the Code, 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’.

### **Excluded Complaints**

5. Section 3(2) of the Scottish Parliamentary Standards Commissioner Act 2002 excludes certain complaints from the remit of the Ethical Standards Commissioner.
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: Engaging with constituents: these are to be referred to the Presiding Officer.
- (c) Complaints about a member's use of the Reimbursement of Members' Expenses Scheme: these are to be referred to the Scottish Parliamentary Corporate Body (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 should 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.

### **Making a complaint about engagement with constituents**

7. Any complaint against a member (including one about their staff or others working for them) in respect of Section 8 of the Code - Engaging with Constituents should in the first instance be made to the Presiding Officer. Any complaint made under this section should meet the requirements set out in Section 9, paragraph 1 of the Guidance on the Code. 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. In considering a complaint the Presiding Officer may contact the member(s) concerned to seek a response to the conduct complained about.

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



10. 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.

11. 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.

12. 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 in any way other than that described above (in particular via the media) to avoid any suggestion of prejudging the issue.