The Committee will meet at 10.45 am in Committee Room 5.

1. **Declaration of interests:** The newest member of the Committee will be invited to declare any relevant interests.

2. **Items in private:** The Committee will consider whether to take items 7 and 8 in private.

3. **Cross-Party Groups:** The Committee will consider applications to establish—
   - a Cross-Party Group on Diabetes;
   - a Cross-Party Group on Food; and
   - a Cross-Party Group on Tartan Day.

4. **Cross-Party Groups:** The Committee will resume its consideration of an application to establish a Cross-Party Group on Loss of Consultant Led Services in Scotland – Solutions.

5. **Cross-Party Groups:** The Committee will consider its policy in relation to the use of the Parliament’s internet site to create links to external websites.

6. **Replacing the Members’ Interests Order:** The Committee will consider a draft report.

7. **Complaint:** The Committee will consider a report from the Scottish Parliamentary Standards Commissioner concerning the status of a complaint at Stage 1 of the investigative process.
8. **Scottish Parliamentary Standards Commissioner Act**: The Committee will consider draft Directions under the Scottish Parliamentary Standards Commissioner Act 2002.

Jennifer Smart  
Clerk to the Standards Committee  
Room TG.01  
Ext: 85239  
email: jennifer.smart@scottish.parliament.uk

*******************************************************************************

Please find attached papers on the following:

**Agenda item 3**

**Cross-Party Groups**—

Registration Form – Diabetes  
Note by the Clerk (private paper)  
ST/S2/04/13/3  
ST/S2/04/13/3a

Registration Form - Food  
Note by the Clerk (private paper)  
ST/S2/04/13/3b  
ST/S2/04/13/3c

Registration Form – Tartan Day  
Note by the Clerk (private paper)  
ST/S2/04/13/3d  
ST/S2/04/13/3e

Alphabetical list of Cross-Party Groups  
ST/S2/04/13/3f

**Agenda item 4**

**Cross-Party Groups**—

Note by the Clerk  
Registration Form (previously submitted for 10th Meeting 2004, 29 June).  
ST/S2/04/13/4  
ST/S2/04/13/4a

Extract from the Official Report, 29 June 2004  
Letter from Jean Turner MSP  
ST/S2/04/13/4b  
ST/S2/04/13/4c

**Agenda item 5**

**Cross-Party Groups**—

Note by the Clerk  
ST/S2/04/13/5
Example of Cross-Party Group web page

Agenda item 6
Replacing the Members’ Interests Order—
Note by the Clerk
Draft report

Agenda item 7
Complaint—
Note by the Clerk (private paper)
Letter from the Scottish Parliamentary Standards Commissioner (private paper)
Report by the Scottish Parliamentary Standards Commissioner (private paper)

Agenda item 8
Scottish Parliamentary Standards Commissioner Act—
Note by the Clerk (private paper)
Draft Directions (private paper)
Letter from the Scottish Parliamentary Standards Commissioner (private paper)
CROSS-PARTY GROUPS IN THE SCOTTISH PARLIAMENT

REGISTRATION FORM – RG1

1. GROUP NAME *Code of Conduct 8.5.6*

Cross-Party Group in the Scottish Parliament on Diabetes

2. GROUP PURPOSE *Code of Conduct 8.2.5 and 8.3, Rule 1*

To provide a platform for parliamentarians to discuss all issues relating to diabetes; to liaise with those affected by the condition, organisations representing their interests and health workers dealing with diabetes; and to promote good practice and raise specific issues of concern.

3. GROUP MEMBERS *Code of Conduct 8.3, Rules 2, 3, 8, 9 & 10*

<table>
<thead>
<tr>
<th>MSPs</th>
<th>Non-MSPs</th>
</tr>
</thead>
<tbody>
<tr>
<td>David Davidson</td>
<td>Alan McGinley</td>
</tr>
<tr>
<td>Phil Gallie</td>
<td>Diabetes UK Scotland</td>
</tr>
<tr>
<td>Nanette Milne</td>
<td>Audrey Birt</td>
</tr>
<tr>
<td>Christine Grahame</td>
<td>Diabetes UK Scotland</td>
</tr>
<tr>
<td>Shiona Baird</td>
<td>Stephen Fyfe</td>
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</tr>
<tr>
<td>Carolyn Leckie</td>
<td>John Hughes</td>
</tr>
<tr>
<td>Karen Whitefield</td>
<td>Scottish Diabetes</td>
</tr>
<tr>
<td>Roseanna Cunningham</td>
<td>Alison Culpan</td>
</tr>
<tr>
<td>John Swinburne</td>
<td>Industry Group</td>
</tr>
<tr>
<td>Jean Turner</td>
<td>Rachel Roberston</td>
</tr>
<tr>
<td>Mike Pringle</td>
<td>GPC International</td>
</tr>
<tr>
<td>Margaret Mitchell</td>
<td>Lubna Kerr</td>
</tr>
<tr>
<td></td>
<td>Research Pharmacist</td>
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</table>
## Organisations

<table>
<thead>
<tr>
<th>Diabetes UK Scotland</th>
</tr>
</thead>
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<td>Scottish Diabetes Industry Group</td>
</tr>
<tr>
<td>CPG International</td>
</tr>
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*Code of Conduct 8.3, Rule 4*

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<td>Christine Grahame MSP</td>
</tr>
<tr>
<td>Secretary/Treasurer</td>
<td>Alan McGinley</td>
</tr>
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### 5. FINANCIAL OR OTHER BENEFITS RECEIVED  
*Code of Conduct 8.4.8*

The group must register any financial or other material benefit received by the group from whatever source, where the value of the financial sum or benefit from any single source exceeds £250 in any one calendar year. This includes donations, sponsorship, subscriptions, hospitality, gifts, visits, provision of services or accommodation or staff assistance. The value of use of Parliamentary facilities need not be registered.

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| Amount per group member per year | N/A |

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If a group makes use of staff issued with a Parliamentary pass, any paid activity undertaken by those staff where the employer benefits from the pass holder’s access to the Parliament must be registered. There is no need to state the amount of remuneration. The requirement relates both to staff employed directly by the group and to staff employed by an outside organisation to provide assistance to the group.

| Staff name |  |
| Title of post |  |
| Name and address of employer organisation |  |
| Type of employer organisation |  |

8. GROUP CONTACT *Code of Conduct 8.4.4 and 8.5.1 – 8.5.5*
Please give the full details of an elected official of the group who is an MSP who will be the contact for registration matters for the group. Initially this must be the Member who signs the declaration on compliance with the rules on behalf of the group. If a group subsequently changes the designated contact, the office of the Standards Clerk must be informed within 7 days of the change.

| Name | David Davidson MSP |
| Parliamentary address | The Scottish Parliament
                        Edinburgh
                        EH99 1SP |
| Telephone number | 0131 348 5653 |
| Constituency Office telephone number | 01569 762 785 |
CROSS-PARTY GROUPS IN THE SCOTTISH PARLIAMENT

REGISTRATION FORM – RG1

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<thead>
<tr>
<th>1. GROUP NAME</th>
<th>Code of Conduct 8.5.6</th>
<th>Groups that have undertaken to comply with the rules on Cross-Party Groups may use the words Cross-Party Group in the Scottish Parliament in their title.</th>
</tr>
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<tr>
<td>Cross Party Group on Food</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>2. GROUP PURPOSE</th>
<th>Code of Conduct 8.2.5 and 8.3, Rule 1</th>
<th>A brief statement of the main purpose of the group.  Groups are reminded that the Standards Committee will look very carefully at the proposed purpose of a group to satisfy itself that its purpose is Parliamentary in nature and of genuine public interest.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The purpose of the Group is</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• to raise awareness of food issues from production through to consumption in Scotland and their importance to the consumer, the economy, the environment and to the health of the Scottish population.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• to act as a policy forum for discussion and up-dating on food issues in Scotland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• to contribute to policy development on a range of food issues in Scotland</td>
<td></td>
<td></td>
</tr>
</tbody>
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3. GROUP MEMBERS Code of Conduct 8.3, Rules 2, 3, 8, 9 & 10
When listing members, who are MSPs, only the MSP’s name need be given. For members from outwith the Parliament, the name of the member and any employer they represent must be given.

<table>
<thead>
<tr>
<th>MSPs</th>
<th>Non-MSPs : Individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shiona Baird</td>
<td>Nick Mac’An’t Saoir Parliamentary Assistant</td>
</tr>
<tr>
<td>Richard Baker</td>
<td>Neil Cardwell</td>
</tr>
<tr>
<td>Chris Ballance</td>
<td>Stephen Smith</td>
</tr>
<tr>
<td>Frances Curran</td>
<td>Felicity Garvie</td>
</tr>
<tr>
<td>Fergus Ewing</td>
<td>Bill Scott</td>
</tr>
<tr>
<td>Rob Gibson</td>
<td></td>
</tr>
<tr>
<td>Donald Gorrie</td>
<td></td>
</tr>
<tr>
<td>Robin Harper</td>
<td></td>
</tr>
<tr>
<td>Rosie Kane</td>
<td></td>
</tr>
<tr>
<td>Richard Lochhead</td>
<td></td>
</tr>
<tr>
<td>Stewart Maxwell</td>
<td></td>
</tr>
<tr>
<td>Elaine Murray</td>
<td></td>
</tr>
<tr>
<td>Nora Radcliffe</td>
<td></td>
</tr>
<tr>
<td>Mark Ruskell</td>
<td></td>
</tr>
<tr>
<td>Mary Scanlon</td>
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<tr>
<td>Eleanor Scott</td>
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<td>John Scott</td>
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<td></td>
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<tr>
<td>Jamie Stone</td>
<td></td>
</tr>
<tr>
<td>Jean Turner</td>
<td></td>
</tr>
</tbody>
</table>
### 3. GROUP MEMBERS contd.

#### Non MSPs: Organisations

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aberdeenshire Council</td>
<td>Ian Sandison</td>
</tr>
<tr>
<td>Co op and Mutuality Scotland</td>
<td>Claire Brady, Jim Lee</td>
</tr>
<tr>
<td>CoSLA - Convention of Scottish Local Authorities</td>
<td>Tom Young</td>
</tr>
<tr>
<td>Edinburgh Community Food Initiative</td>
<td>Ian Shankland</td>
</tr>
<tr>
<td>FSA - Food Standards Agency Scotland</td>
<td>Caroline Ferguson</td>
</tr>
<tr>
<td>Forth Valley Food Links</td>
<td>Alex Fowles</td>
</tr>
<tr>
<td>Glasgow City Council</td>
<td>David Melvin, Francis McMeeking</td>
</tr>
<tr>
<td>GPC International - Public Affairs Consultancy</td>
<td>Jennifer Wilkie</td>
</tr>
<tr>
<td>Healthy Choices Award Scheme</td>
<td>Claire Brown</td>
</tr>
<tr>
<td>Highlands and Islands Enterprise</td>
<td>Bob Stubbs</td>
</tr>
<tr>
<td>McGrigors</td>
<td>Ulrike Muller</td>
</tr>
<tr>
<td>QMS - Quality Meat Scotland</td>
<td>Jan Polley, Laurent Vernet</td>
</tr>
<tr>
<td>Scottish Agricultural College</td>
<td>Ceri Ritchie</td>
</tr>
<tr>
<td>SAOS co-operating enterprises</td>
<td></td>
</tr>
<tr>
<td>- Scottish Agricultural Organisation Society</td>
<td>Richard Taylor</td>
</tr>
<tr>
<td>Scottish Community Diet Project</td>
<td>Bill Gray</td>
</tr>
<tr>
<td>Scottish Consumer Council</td>
<td>Mary Lawton, Graeme Millar</td>
</tr>
<tr>
<td>Scottish Enterprise</td>
<td>Maggie McGinlay</td>
</tr>
<tr>
<td>Scottish Executive</td>
<td>Maureen Bruce, Gillian Kynoch</td>
</tr>
<tr>
<td>SFDF - Scottish Food and Drink Federation</td>
<td>Steven Birrell, Flora McLean</td>
</tr>
<tr>
<td>Scottish Food Guide</td>
<td>Wendy Barrie</td>
</tr>
<tr>
<td>SOPA - Scottish Organic Producers Association</td>
<td>Nick Cooke</td>
</tr>
<tr>
<td>Scottish Procurement Directorate</td>
<td>Ian Moore</td>
</tr>
<tr>
<td>Scottish Retail Consortium</td>
<td>Elinor Jayne</td>
</tr>
<tr>
<td>Seafish</td>
<td>John Harman, Claire Matthews</td>
</tr>
<tr>
<td>SEERAD - Scottish Executive Department</td>
<td>David Middleton</td>
</tr>
<tr>
<td>Soil Association</td>
<td>Anna Ashmole, Carey Coombs</td>
</tr>
<tr>
<td>Tartan Silk Ltd - (Sports and leisure centres)</td>
<td>Martin Hunt</td>
</tr>
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4. GROUP OFFICERS  *Code of Conduct 8.3, Rule 4*
Please amend titles as necessary e.g. to indicate joint office holders, or preferred titles.

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<table>
<thead>
<tr>
<th>Name</th>
<th>Nora Radcliffe MSP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parliamentary address</td>
<td>Room 3.04</td>
</tr>
<tr>
<td>Telephone number</td>
<td>0131 348 5804</td>
</tr>
<tr>
<td>Constituency Office telephone number</td>
<td>01467 672220</td>
</tr>
</tbody>
</table>
**CROSS-PARTY GROUPS IN THE SCOTTISH PARLIAMENT**

**REGISTRATION FORM – RG1**

**1. GROUP NAME** *Code of Conduct 8.5.6*
Groups that have undertaken to comply with the rules on Cross-Party Groups may use the words *Cross-Party Group in the Scottish Parliament* in their title.

Cross-Party Group on Tartan Day

**2. GROUP PURPOSE** *Code of Conduct 8.2.5 and 8.3, Rule 1*
A brief statement of the main purpose of the group. Groups are reminded that the Standards Committee will look very carefully at the proposed purpose of a group to satisfy itself that its purpose is Parliamentary in nature and of genuine public interest.

To provide a platform for Parliamentarians to discuss and promote suitable annual celebration of the historical enactment of the Arbroath Declaration made on 6 April 1320, to renew the close historical, cultural, trading and other links between Scotland and the rest of the world with particular attention being paid to countries where the Scottish Diaspora is greatest and to encourage individual and international friendship and goodwill through Tartan Day celebrations both in Scotland and worldwide.

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</tr>
<tr>
<td>Colin Fox</td>
<td></td>
</tr>
<tr>
<td>Frank McAveety</td>
<td></td>
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<tr>
<td>Brian Monteith</td>
<td></td>
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<tr>
<td>Eleanor Scott</td>
<td></td>
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<tr>
<td>Jamie Stone</td>
<td></td>
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<tr>
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</tr>
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<table>
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</thead>
</table>
### Title of post

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</tr>
</thead>
<tbody>
<tr>
<td>Parliamentary address</td>
<td>MSP block M1.20</td>
</tr>
<tr>
<td>Telephone number</td>
<td>0131 348 5690</td>
</tr>
<tr>
<td>Constituency Office telephone number</td>
<td>01241 439 369</td>
</tr>
</tbody>
</table>
CROSS-PARTY GROUPS IN THE SCOTTISH PARLIAMENT
(in alphabetical order and as at December 2004)

Affordable Housing
Animal Welfare
Architecture and the Built Environment
Asthma
Autistic Spectrum Disorder
Borders Rail
Cancer
Children and Young People
Chronic Pain
Construction
Crofting
Cuba
Culture and Media
Cycling
Deafness
Disability
Drug and Alcohol Misuse
Epilepsy
Funerals and Bereavement
Gaelic
Human Rights
International Development Group
Kidney Disease
Learning Disability
Lupus
M.E.
Men’s Violence against Women and Children
Mental Health
Nuclear Disarmament
Oil and Gas
Older People and Ageing
Palestine
Palliative Care
Refugees and Asylum Seekers
Renewable Energy
Scots Language
Scottish Contemporary Music Industry
Scottish Economy
Scottish Traditional Arts
Sexual Health
Sport
Strategic Rail Services for Scotland
Survivors of Childhood Sexual Abuse
Tackling Debt
Textiles, Clothing and Footwear
Tibet
Tobacco Control
Visual Impairment
Wastes Management
Women

49 groups
THIRTEENTH MEETING OF THE STANDARDS COMMITTEE
CROSS-PARTY GROUP ON LOSS OF CONSULTANT LED SERVICES IN
SCOTLAND - SOLUTIONS

Introduction

1. The Committee has received a request from the proposed Cross-Party Group on
Loss of Consultant Led Services in Scotland - Solutions seeking agreement for
Rule 2 of Section 8.3 of the Code of Conduct for MSPs to be modified or waived.

2. Rule 2 states:

“The Group’s membership must be open to all Members of the Parliament and must
include at least 5 MSPs of which at least one Member must be from each of the parties or
groups represented in the Parliamentary Bureau. In circumstances where the Standards
Committee considers it is merited in relation to a particular Group, this rule may be
modified or waived.”

Precedents for agreeing to a waiver

3. During Session 1, the rule was modified on two occasions. At the 8th Meeting
2000 (3 May), the Committee considered an application from a proposed Cross-
Party Group on Nuclear Disarmament. Although the proposed Group had been
unable to attract any Conservative MSPs, Patricia Ferguson MSP (then a member
of the Standards Committee) noted that:

“However, [the Group] has made an attempt to encourage and invite members of that
party to join, although those efforts have been rejected. It has taken all reasonable steps.”
(Official Report, Column 535)

4. The Committee also noted that the Group had support from all other parties in the
Parliament including the smaller parties not represented in the Parliamentary
Bureau and subsequently approved the application to establish the Group.

5. The rule was also waived for the Cross-Party Group (CPG) on Palestine (1st
Meeting 2003, 29 January). Following the resignation from the CPG by its
Conservative MSP member, the Group was unable to recruit a replacement.

6. In the current Session, the Committee has agreed to waive the rule for the CPG
on Scottish Contemporary Music Industry (2nd Meeting 2004, 10 February). The
group had been unable to attract a Liberal Democrat member following the re-
establishment of the Group at the start of the Session. The Convener of the Group
wrote to the Committee stating that although many Members seemed supportive
of the Group’s work, “…they are so busy that they are unable to make a
commitment to another Cross-Party Group.”

Proposed Cross-Party Group on Loss of Consultant Led Services in Scotland -
Solutions

7. The attached letter from the intended Convener of the Cross-Party Group on Loss
Of Consultant Led Services In Scotland - Solutions details the reason why the
Group is unable to meet the membership requirement of Rule 2 in Section 8.3 and outlines the steps it has taken to resolve this situation.

The Committee is invited to;
- consider the request to modify or waive Rule 2 of Section 8.3 of the Code of Conduct in respect of this Cross-Party Group;
- and to consider whether it wishes to accord recognition to the proposed Group.

STANDARDS COMMITTEE CLERKS
DECEMBER 2004
To Convener of the Standards Committee

02 December 2004

Dear Brian,

Re: re registration of proposed cross–party group on Loss of Consultant led services Scotland / Solutions

As you know I put forward this proposed group before the summer recess and due to the last minute resignation of a labour party member, the application failed.

I have sent a new e-mail to all MSPs about the application for the Proposed Cross party Group and have spoken to labour MSPs in person but no one was willing to commit at this time.

Based on the advice you gave me at the last meeting and given the above circumstances I would like to apply for a waiver since I have had positive feedback from all other parties and groups.

Yours sincerely

Dr. Jean Turner, MSP
THIRTEENTH MEETING OF THE STANDARDS COMMITTEE
CROSS-PARTY GROUPS AND REQUESTS FOR LINKS TO EXTERNAL SITES ON THE PARLIAMENT’S WEBSITE

Introduction

1. The Committee recently received a request from the secretary of a Cross-Party Group for links to be set up from the Parliament’s website to eleven external websites.

2. In the few cases since 2002 where a similar request has been made, the request has been for only one link and has been made by an MSP who will take responsibility for the content of the external site.

Current policy

3. The rules in the Code of Conduct for MSPs ask Cross-Party Groups to respect the limitations on the use of Parliamentary facilities but allow Groups to make “reasonable use of the Parliament’s IT facilities in pursuit of CPG business” (section 8.3, Rule 12). ‘IT facilities’ has been understood to mean the use of the Parliament’s email system, for example, but could also mean the use of the Parliament’s website.

4. Cross-Party Groups (CPGs) are represented on the Parliament’s website by a homepage (http://www.scottish.parliament.uk/msp/crossPartyGroups/index.htm) and a page for each Group. Each Group’s page has space for the Group to add in links to papers relevant to its business and links to external sites relevant to its business. The policy is based on guidance received by the clerks in 2002 from the then Director of Communications in the Parliament.

Advice from the Parliament’s Directorate of Access and Information

5. The clerks sought the views of the Parliament’s Director of the Access and Information (this Directorate has responsibility for the content and integrity of the Parliament’s website) on whether a request for a number of links from one CPG page would be practical or problematical.

6. A separate policy issue is whether such a request is consistent with “reasonable use” of the Parliament’s website and facilities and the balancing of the rules in the Code of Conduct for CPGs to make “reasonable use of the Parliament’s IT facilities in pursuit of CPG business” with the Parliament’s desire to be accessible and to ‘share power’.

7. The following is the advice from the Directorate of Access and Information regarding practical issues:

“We are generally cautious about adding links to external websites for two reasons: (a) they need maintenance, i.e. to be checked from time to time or reset
on the request of a user, and (b) we don't want to deal with complaints about their suitability/completeness etc.

If we are to go ahead with this we need a standard disclaimer on the CPG page saying that we are not responsible for the link or maintaining the links and directing complaints/comments about the links to the CPG - with the contact for each CPG page being clearly indicated.

If CPGs would like links on their pages, it would seem reasonable that they only do so after an agreement about who is going to deal with maintenance and correspondence about them i.e. the CPG secretary.

8. The Directorate is largely content to add links from the Parliament’s site to external websites but noted that, following the relaunch of the Parliament’s website, there were a number of complaints about ‘broken links’ to other sites. Given that one attraction of websites is the continual update of information and presentation, caution may need to be applied in agreeing to add links.

Conclusion

9. If the Committee is content to adopt the above approach, a draft letter (Annexe 1) is attached which could be issued to the MSP convener of a CPG in the event of a request to establish links from the Parliament’s site to external websites.

10. If the Committee is content to adopt the above approach but to limit the number of links to one per CPG page, the draft letter attached can be revised to reflect this decision.

The Committee is invited to agree its policy in response to requests for links to be added to the Parliament’s website to external websites.

STANDARDS COMMITTEE CLERKS
DECEMBER 2004
Scottish Parliament website – suggested letter of agreement

Links from the Scottish Parliament web site as requested by the Cross-Party Group in the Scottish Parliament on ..........................................................

Name of MSP Convener:...........................................................................

I request the following link/s to be set up from the page on the website of the Scottish Parliament of the above named Cross-Party Group:

[insert URL addresses]

- I understand and accept that the Scottish Parliament is not responsible for the content of external internet sites.
- I understand that, from time to time, the Scottish Parliament may revise the content of its website and this may result in links to external sites being broken and, whilst the Parliament will endeavour to re-establish the link, the responsibility for notifying the Parliament of broken links lies with me.
- I understand and agree that complaints about the content of external sites (linked by this request) will be directed in the first instance to me.
- The Scottish Parliament reserves the right to refuse to establish links to an external site.

Signed:..............................................................MSP

Date:..........................................................................................
Introduction

1. At its 12th Meeting 2004 (9 November), the Committee agreed the outstanding policy issues in relation to its proposed Act of the Scottish Parliament to replace the existing transitional order, the Members’ Interests Order (MIO).

Parliamentary process

2. The purpose of the attached report is to make a proposal to Parliament for a Committee Bill, under Rule 9.15 of Standing Orders, to give effect to that Act. Rule 9.15.5 states

“A proposal for a Bill under this Rule shall be made in the form of a report setting out the Committee’s recommendations as to the provisions to be contained in the Bill, together with an explanation of the need for the Bill.”

3. The report to Parliament must be sufficiently detailed to enable the subsequent drafting of a Bill that reflects the policy issues that the Committee has agreed. Once the Bill has been drafted, it will be presented to the Committee (with the accompanying Explanatory Notes) for approval before the formal process of introduction to the Parliament.

Timetable

4. It is anticipated that the Act will be in place by the end of this Session of the Parliament in 2007. The proposed timeframe is shown below:

Spring 2005  
Publication of report to the Parliament setting out the recommendations on the content of the Bill.

Debate in Parliament on the Committee’s report. Subject to the agreement of the Parliament, the Committee instructs a team of legal draftsmen to produce a Bill.

Summer 2005  
Drafting of the Bill takes place.

Committee agrees to the draft Bill.

Autumn 2005  
The Bill is introduced into Parliament and will be considered by other relevant Committees (the Finance Committee and possibly the Subordinate Legislation Committee).

Parliament debates the general principles of the Bill. Subject to the agreement of the Parliament, the Bill proceeds to Stage 2.
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winter 2005</td>
<td>Bill considered at Stage 2 (it is anticipated that an <em>ad hoc</em> Committee would be formed for this Stage).</td>
</tr>
<tr>
<td>Spring 2006</td>
<td>Bill considered by a Committee of the Whole Parliament at Stage 3, followed by a debate on a motion that the Bill be passed.</td>
</tr>
<tr>
<td>Summer 2006</td>
<td>If passed at Stage 3, the Bill becomes an Act of the Scottish Parliament when it receives Royal Assent.</td>
</tr>
<tr>
<td>January 2007</td>
<td>The Parliament produces guidance to enable MSPs and others to familiarise themselves with what MSPs will be expected to register in the new Session.</td>
</tr>
<tr>
<td>May 2007</td>
<td>Members are returned following the election and will register their interests in accordance with the new legislation.</td>
</tr>
</tbody>
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The Committee is invited to consider and agree the draft report attached.

STANDARDS COMMITTEE CLERKS
DECEMBER 2004
The Committee reports to the Parliament as follows—

**Background**

1. Section 39 of the Scotland Act 1998 requires provision to be made by or under an Act of the Scottish Parliament for a Register of Members’ Interests and sets out the provisions which must be included. The same section also prescribes offences in respect of the contravention of these provisions.


3. In the first Parliamentary session, the former Standards Committee reviewed the MIO and its operation in practice. The Committee developed draft legislation to replace the MIO. On 3 October 2002 the Committee’s proposal to introduce a Committee Bill was debated and approved by the Parliament. However, due to pressure on the Parliamentary timetable in the final months of the first session it was not possible to introduce a Bill, although the Committee published a draft Bill in March 2003 to inform the work of its successors.

4. When the second Parliamentary session commenced in 2003, the current Standards Committee agreed to review the provisions of the draft Bill. Discussions on the content of legislation to replace the MIO took place at meetings of the Committee on 9 March, 20 April, 25 May and 29 June 2004.

5. In response to the issues raised at these meetings by Members, the Committee decided to consult to gain a wider perspective on the matters highlighted. A consultation document was published during July 2004, ‘Consultation Paper 2004 (Session 2) Replacing the Members’ Interests Order’. Thirty responses were received from interested parties. The majority of responses,

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2. [http://www.scottish.parliament.uk/S1/official_report/cttee/stan-03/str03-01-01.htm](http://www.scottish.parliament.uk/S1/official_report/cttee/stan-03/str03-01-01.htm)
twenty two in total, were from individuals. The organisations which responded were the Faculty of Advocates, Scottish Peoples Mission, Movement for a Register of Freemasons, the Scottish Consumer Council, Scottish Conservative and Unionist Party, Committee on Standards in Public Life and the Registry of Members’ Interests House of Commons and the Grand Lodge of Ancient Free and Accepted Masons of Scotland. Both the Faculty of Advocates and the Committee on Standards in Public Life did not feel it was appropriate for them to comment. In addition the Committee considered Petition PE 761 from Mr Hugh Sinclair.

6. Responses to the consultation were considered at the Committee’s meetings on 26 October and 9 November 2004.

7. The written evidence is shown in Annex XX.

8. The purpose of this report is to set out the current Standards Committee's recommendations on the content of replacement legislation for the MIO and to make a proposal for a Committee Bill under Rule 9.15 of Standing Orders.

Purpose of the Register of Members’ interests

9. Paragraph 4.1.1 of the Code of Conduct sets out the purpose of the Register of Members’ Interests as follows:

   The main purpose of the Register is to provide information about certain financial interests of Members which might reasonably be thought by others to influence Members’ actions, speeches or votes in the Parliament or other actions taken in their capacity as Members.

10. Each Member is required to lodge a statement for the Register. The Register must be printed and published. It is kept in printed form by the Clerk of the Parliament and published on the internet.

Categories of registrable interests

11. The provisions on existing categories of registrable interests are set out in the Schedule to the MIO. Members are currently required to register interests under the following heads: Remuneration; Related Undertakings; Election Expenses; Sponsorship; Gifts; Overseas Visits; Heritable Property and Interest in Shares.

The Committee’s proposals

12. On the whole the Committee was content with the structure and layout of the draft Bill agreed by the previous Standards Committee. For that reason the Standards Committee agrees with and adopts the former Committee’s position where no comment has been made in this report. Most of the current Committee’s consideration was concentrated on resolving discreet policy issues in relation to:

   • the test to be applied when declaring or registering interests;
   • registration of registrable interests at date of return;
• deletion of interests from the register;
• declaration of interests outwith Parliamentary proceedings;
• paid advocacy;
• gifts;
• heritable property;
• interest in shares;
• future interests; and
• non-financial interests.

These policy issues are considered in detail in the following paragraphs.

**The test to be applied**

13. The MIO currently requires Members to apply an influence test when deciding whether they need to make a declaration of interest prior to participating in proceedings for example contributing in a debate. The previous Committee recognised that the MIO was unclear about whether that test was to be applied objectively or subjectively and considered that an objective influence test was appropriate.

14. The current Committee believes that any influence test should be as straightforward as possible for Members enabling them to decide reasonably and clearly whether or not they would appear to be able to participate in Parliamentary proceedings without being subject to influence, if they hold a relevant interest.

15. The Committee is minded to recommend that judgment would have to be made by the individual Member but this judgment would have to be exercised on an objective basis as opposed to a subjective one. It will be for each Member to ask themselves, not whether they would or might be influenced by the interest but, whether a fair minded and informed observer would conclude that their impartiality would be or appear to be prejudiced by the interest. This is in practice no different from the current position on declaring an interest prior to participation in Parliamentary proceedings.

16. In relation to registering an interest the Committee considered that different tests may be required for different categories of interest. In most cases e.g. remuneration and sponsorship the description of an interest itself will be sufficient to trigger the requirement for registration in order to satisfy the main purpose of the register. This is because where a Member holds an interest of that description there would, at the very least, be the appearance of influence. For other interests, e.g. interest in shares and heritable property, a monetary limit is proposed as a determining factor of whether there would appear to be an influence. In relation to the registration of gifts, non-pecuniary interests and ceased interests this Committee recommends that an objective influence test should be applied.
17. The purpose of having a test for registering gifts is to exclude such things as inter-family gifts. To require registration of such gifts was considered to be an unreasonable interference with private and family life. In the absence of such a test it would be necessary to register all such gifts or to list the relationships that would be exempt from the registration requirements.

18. In relation to gifts and shares the registration requirements also apply to gifts to or interests in shares held by a Member’s spouse or cohabitee. The Committee considers that the requirement to register in such cases should only apply when the Member can reasonably be expected to know about the gift or shareholding. This covers the situation when for example a Member and their spouse are separated.

Registration of registrable interests at date of return

19. At present, Members are required to register the registrable interests held by them on the date that they were returned as Members.

20. The Committee considered whether Members should be required to register and declare an interest held prior to an election but disposed of shortly before becoming an MSP. At its meeting on the 9 November, the Committee agreed that new Members should apply the objective influence test in such circumstances. The Member should register the interest where it could reasonably be considered that it might prejudice or give the appearance of prejudicing the Member’s participation in Parliamentary proceedings.

21. Another related issue examined by the Committee was whether to prescribe a period prior to the election where disposed of interests require to be registered. The Committee is content that the objective influence test provides sufficient flexibility and places appropriate responsibility on Members rather than creating an artificial cut-off period.

Deletion of interests from the register

22. Article 4(7) of the current MIO sets out the procedure for Members to notify the clerks of a ceased interest but does not make any provision setting out when an interest might be considered to have ceased. Paragraph 4.2.23 of the Code of Conduct states that this is a matter for the individual Member’s own judgement.

23. When discussing the issues above, the Committee considered in detail how Members identify when a registered interest has ceased and how this should be recorded in the Register of Interests.

24. The Committee is clear that it should be the Member’s decision when an interest has ceased, using the objective influence test. As referred to earlier, Members would have to judge when an interest would no longer be reasonably considered to prejudice or give the appearance of prejudicing the ability of the Member to participate in a disinterested manner in proceedings of the Parliament relating to that matter.

4 Standards Committee, 9 November 2004, OR Col 342
25. The current practice is that once a Member has decided that an interest has ceased, the clerks are advised in writing and the clerks mark in the “live” register that the interest has ceased. The interest remains on the register with this note until May of each year. After which the entry in the register is recorded simply as ‘Ceased interest removed from entry: date’. Members of the public who wish to find out what ceased interests a Member held could inspect the “historic” register. However the Committee believes that the cessation of interests could be made more transparent for the public. As such, the Committee concluded that after a Member has lodged the written statement the entry should be marked in the “live” register as ceased and remain in that register for twelve months from the date the written statement is received by the clerk.\(^5\) Thereafter it can be removed from the “live” register and a note made on the register showing the date of the removal of the ceased interest.

**Declaration of interests outwith Parliamentary proceedings**

26. Section 39 of the Scotland Act requires provision to be made for declaration of interests before a Member takes part in proceedings of the Parliament. Article 5 of the MIO reflects the statutory provisions on the declaration of interests. Essentially, a Member must make an oral declaration of a registrable interest where that interest would prejudice or give the appearance of prejudicing his or her ability to participate in a disinterested manner in proceedings of the Parliament relating to a particular matter. Failure to declare an interest is a criminal offence.

27. The previous Committee’s draft Bill sets out when and how Members must make declarations of their interests in proceedings of the Parliament. The Committee at its meeting on 9 November considered a connected issue concerning whether Members should be required to declare registrable interests outwith Parliamentary proceedings.

28. The Committee considers it to be good practice for Members to declare interests in dealings outwith Parliament and as such believes there should be some form of requirement to do so. However, the Committee considered that failure to declare an interest outwith Parliamentary proceedings should not be a criminal offence but should be subject only to Parliamentary sanction. The Committee therefore suggests that the matter be dealt with under the Code of Conduct rather than under the Committee’s proposed Bill.\(^6\)

**Paid advocacy**

29. The MIO contains provisions on paid advocacy. At present paid advocacy takes place where a Member undertakes a Parliamentary action such as lodging a Written Question or proposing a Member’s Bill in return for payment or other benefit. The MIO provision on paid advocacy is extremely wide and its strict interpretation could have far reaching consequences for the conduct of Parliamentary business. This was the subject of adverse comment in the Court of Session in November 1999 in the Petition of Whaley and others, which involved consideration of the paid advocacy rule in the MIO.

\(^5\) Standards Committee, 9 November 2004, OR Col 342
\(^6\) Standards Committee, 9 November 2004, OR Col 343
30. The Committee proposes that the replacement legislation should make it clear that paid advocacy only takes place where there is a connection between receipt of a payment or benefit which represents a personal gain to the Member and the Member undertaking action in his or her capacity as an MSP.

31. It is the Committee’s recommendation that the paid advocacy prohibition should not prevent a Member from receiving assistance in connection with the preparation of a Member’s Bill or amendments to any Bill provided that such assistance is neither accepted by nor given to the Member in return for promoting the Bill or amendment. An MSP might also wish to seek assistance in relation to a debate concerning the approval or annulment of an item of subordinate legislation or a debate on a Sewel motion concerning whether or not Westminster should legislate for Scotland in relation to a devolved matter. Such assistance should also be excepted.

**Gifts**

32. The MIO requires that all gifts over £250 received by a Member or their spouse or cohabitee must be registered.

33. The Committee has considered whether and on what basis the current threshold of £250 for the registration of gifts should be reviewed. The consultation paper sought comments on whether the threshold should be set at 0.5% or 1% of an MSP’s salary.

34. Respondents to the Committee’s consultation thought that gifts of any value should be registered. The main reason presented was any gift may be considered by the public as having a prejudicial effect on an MSP and consequently the public would only have confidence in elected Members if all gifts were registered.

35. The Committee notes that the House of Commons' Code of Conduct sets the threshold at 1% of an MP’s salary and that the Consultative Steering Group Working Group recommended a lower threshold of 0.5%.

36. Given that a balance has to be drawn between placing an unreasonable administrative burden on Members and transparency, the Committee is minded to recommend setting the threshold at the lower level. Expressing the threshold as a percentage of a Member's basic salary would remove the need to review the threshold in the future to ensure that it was not devalued by inflation.

37. The Committee therefore recommends this approach is adopted in the proposed Bill, and that Members be required to register gifts in excess of 0.5% of their salary (at current rates this would be £251). To provide greater transparency the exact figure should be published at the beginning of the year so that both Members and the public are aware of the threshold value for gifts. In addition the Committee recommends the application of an objective influence test for the reason set out at paragraph 17 above.

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7 Standards Committee, 26 October 2004, OR Col 310
Heritable property

38. Members are currently required to register interests in heritable property. This is land or any right or interest in or over land, including houses and other buildings. Property used as a residential home by the Member, Member’s spouse or cohabitee is excepted from the registration requirement. The threshold for registration as set out in the MIO is a market value greater than £25,000 or income greater than £4,000 per annum. Members are required to register the location of any registrable heritable property and to provide an estimate of its market value, which should be updated annually on 5 April. The Committee considers that the market value should be altered from £25,000 and in future be expressed as 50% of an MSP’s salary (2004/05 salary £50,300) to allow for inflation. As with gifts the monetary value will be published at the beginning of each year.

39. In its initial discussions the Committee considered also exempting from registration heritable property formerly used as a residential home which is for sale and unoccupied. Before coming to a final view, the Committee sought views on this matter. One of the responses, provided by the Registrar of Members’ Interests in the House of Commons, advised that when the Committee on Standards and Privileges reviews this aspect of the Code it would look at setting a time limit after which the property must be registered.\(^8\) The Committee is attracted to this approach as it deals with the difficulties presented by the current procedure without being open-ended. The Committee therefore recommends that for a period of twelve months where a Member’s former residential home is unoccupied and for sale it does not require to be registered.

40. Under the MIO Members are also required to specify, where appropriate, the value of any income from the property. Members are not required to specify the identity of tenants from whom they receive rental income.

41. Although the MIO places an obligation on Members to disclose certain information, the Committee feels it is unfair for the personal affairs of a member of the public to be inadvertently put into the public domain through, for example, an MSP registering rental income from their tenant in a property. Many of the consultees would prefer all such income to be disclosed. However the Committee did not receive any responses which specifically addressed this issue of concern. To avoid disclosure of specific values the Committee recommends that the Bill should provide for a determination to be made banding income levels and requiring registration within a band as opposed to an exact amount. The determination could if appropriate set a minimum amount below which registration is not required.

Interest in shares

42. The MIO requires Members to register their own and their partner’s shareholdings and the shareholdings of any person who is subject to the control or direction of a Member in respect of the shareholding. The threshold for registration is where the nominal value (that is the share price at issue) is greater than 1% of the issued share capital or has a nominal value in excess of £25,000. Government

\(^8\) Registrar, House of Commons, Written Submission, 29 September 2004, page 2
securities, fixed-interest bonds, fixed-interest securities and unit trusts are excluded from the requirements.

43. The majority of respondents who commented on this aspect of the consultation paper supported a market value as opposed to nominal value. The Committee believes that its legislation should reflect this position, the market value of a shareholding being a more appropriate measurement as the nominal and market values often differ markedly and the former is a poor measure of the true value of a shareholding. The Committee propose registration be required for market value when the value of the holding is above a figure equivalent to 50% of an MSP’s salary (2004/05 salary £50,300) and that assessment should be made on an annual basis at the beginning of the financial year. Again the monetary value of the threshold figure will be published each year. No change is proposed to the threshold of 1% of the issued share capital and the type of shareholdings that are caught by the current rules.

Future interests

44. Both the MIO and the Code are silent on whether interests which a Member expects to receive in the future should be registered, although the provisions on paid advocacy apply where a Member ‘expects to receive any remuneration’ (Article 6 of the MIO refers). The previous committee suggested making provision for registration of future interests.

45. Even though the majority of respondents considered that all future interests should be registered, none tackled the potential problems in their submissions. For example, registration might breach commercial confidentiality. The Committee also recognises that it might be problematic for Members to describe the interest with sufficient clarity (for example in terms of value) until the interest has actually been acquired. Moreover, the Committee also considers that such a requirement may impose a burden on Members which is not proportionate to the objective of transparency which it is intended to serve. There is also a concern that any such provision would not be easy to interpret and Members may be unclear as to their duties. In the face of these difficulties the Committee recommends that MSPs should not be required to register future interests. This does not prevent Members who are able to quantify such interests from voluntarily registering them.

Non-pecuniary interests

46. Paragraph 4.2.12 of the Code of Conduct encourages Members to register non-financial interests which might be thought by others to influence their actions in the Parliament. Such interests are currently registered on a voluntary basis with a significant number of MSPs registering interests such as their membership of professional bodies in the ‘Miscellaneous’ category of the Register. Members registering interests in this manner are not required to declare them in relevant proceedings, although they may do so on a voluntary basis.

47. The Committee notes that the Ethical Standards in Public Life etc (Scotland) Act 2000 requires councillors and members of certain other public bodies to
register non-financial interests. The Committee is mindful of the need for a consistency of approach. At the same time, the Committee wishes to ensure that any scheme is workable and provides sufficient clarity for both MSPs and the public.

48. By far, this issue provoked the largest response from respondents to the Committee’s consultation. A number of respondents highlighted links with specific organisations as being required to be disclosed. These submissions can be seen in Annex XXX.

49. The Committee recognises that there are complex issues in defining exactly which non-financial interests should be registrable. As such, the Committee has opted for the proposed Bill to adopt the approach used in the Ethical Standards legislation and which also links into the overriding purpose of registration of interests. The Committee therefore proposes that Members should be required to register non-financial interests which the public might reasonably think could influence an MSP’s actions, using the objective influence test discussed at paragraphs 13 to 16 above.

50. The Committee also recommends that contravention of any provision requiring the registration and declaration of non-financial interests should not be a criminal offence. This approach is consistent with the Consultative Steering Group’s recommendations on the registration and declaration of such interests. Instead, a Member would be subject to the complaints procedures established under the Scottish Parliamentary Standards Commissioner Act 2002. If found to have breached the rules on the registration and declaration of non-financial interests a Member would be subject to the range of Parliamentary sanctions as set out in section 10 of the Code of Conduct for MSPs.

Conclusion

51. The rules on the registration and declaration of Members’ interests and paid advocacy underpin the standards framework in the Parliament. They are an essential component in ensuring the accountability of Members for their Parliamentary actions and should reflect the high expectations which the Scottish people have of their elected representatives’ conduct. The Committee is resolved that the replacement Members’ interests legislation should be rigorous, transparent and proportionate.

52. The Parliament has already imposed a robust compliance regime through the Scottish Parliamentary Standards Commissioner Act 2002. The Standards Commissioner will be responsible for investigating complaints against Members which relate to the Members’ interests framework.

53. The proposals outlined in this report will complement those investigative procedures and build on the existing provisions in the MIO, the work done by the previous committee in relation to the production of a draft Bill in session 1 and the Parliament’s experience of operating the rules on Members’ interests since May 1999.
54. The Committee intends that any replacement Members' interests legislation should establish clear and unassailable standards of conduct for Members to adhere to in their Parliamentary duties. The Committee believes that together with the investigative arrangements in the Scottish Parliamentary Standards Commissioner Act 2002, the rigorous substantive requirements set out in this proposal for a Members' Interests Committee Bill will buttress public confidence in the integrity of its elected representatives.