

Standards of Conduct Committee

Meeting Venue:
Committee Room 1 – Senedd

Meeting date:
22 October 2013

Meeting time:
09:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

1 Introduction and apologies

2 Review of Code of Conduct and Associated Guidance: Register of Members' Financial Interests (9.35 – 10.50) (Pages 1 - 25)

SOC(4)-06-13 Paper 1

- Gerard Elias QC, Commissioner for Standards
- Gareth Rogers, Head of Table Office

3 Papers to note (Pages 26 - 41)

Minutes from 9 July 2013 meeting

SOC(4)-06-13 papers 2, 3, 4 & 5

- An Update from Research Service on the UK Lobbying Bill
- Correspondence between Presiding Officer and Andrew Lansley on Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill
- Letter from Presiding Officer to Wayne David on Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill
- Letter from Chwarae Teg on Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill

Agenda Item 2

Comisiynydd Safonau

Commissioner for Standards

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



Standards of Conduct Committee

SOC(4)-06-13: Paper 1

Note for Meeting to be held on 22 October 2013

To: Mick Antoniw, Chair, Committee for Standards of Conduct

From: Gerard Elias QC, Commissioner

- 1 Further to the helpful paper on **Registration & Declaration of Interests** tabled by Gareth Rogers for the last Committee Meeting, may I submit this note as a bullet point aide memoire for discussion.
- 2 I envisage that the Committee on Standards may invite me to go out to consultation with Members, Assembly Officials & other interested parties in relation to any proposed changes to the system for Registration or Declaration of Interests.
- 3 In this event, it would be helpful to have a “steer” from the Committee in at least some of the areas highlighted by Gareth Rogers and I have set out below a list, with the briefest comment to provide discussion points, of what seem to me to be the more important areas.
- 4 The Committee will also wish to bear in mind that the Greco Report of March 2013 makes certain specific recommendations in this area which deserve consideration – I have listed these also below.

Gareth Rogers’ Paper (Annex A)

It is perhaps worth keeping in mind the principle behind Registration and Declaration, namely (as Greco puts it)

“The main purpose of the Register is to give public notification on a continuous basis of those financial interests/material benefits held by Members which might be thought to influence their parliamentary conduct or actions.”

**Category (ii) Remunerated Employment, Office, Trade, Profession, etc.
(Para 10 – 13)**

- Why should pension income not be included?

**Category (v) Contracts with the Assembly
(Para 14 – 18)**

- “Member’s knowledge”
- Limit? Gift limit is £270

**Category (vi) financial sponsorship
(Para 17 – 20)**

- How are “contributions” to be considered – to the member, the party, etc etc..?
- Is not the aim, transparency, to catch the significant individual or corporate donors, however it is dressed up?

**Category (ix) shareholdings
(Para 21 – 23)**

- Blind trusts – what is the purpose of registration of these?
- Share options – is not the value of an option at any given time, the buy or sell value of the exercised option? If so, should this not be explicitly stated in the Rules?

**Category (x) Public Bodies
(Para 24 – 28)**

- “Membership” - need for clarity of definition? If so, what?

**Registration of Dependent Children
(Para 30 – 32)**

- Dependent Children – NA only UK parliament to require this.
- Age limit?
- Private life versus need for openness re any remuneration received as a result of a Member’s influence/ activities etc.?

Receipt of public funds by Members

(Para 33 – 35)

- Receipt of public money – should they be registered separately irrespective of whether they are already to be found e.g. in employment already registered?

Agreements for the Provision of Services – SO2.12

(Para 36 – 38)

- It is thought this rule has never been used – is it being breached/ is it necessary?

Declarations of Interests

(Para 39 – 41)

- Is the wording fit for purpose in 2013?

General

- The paper highlights the need for AMs to clearly understand their personal responsibility in this area, whatever advice they may or may not have taken. If in doubt, Register! Is this agreed and does it need to be underlined further?

Greco Report March 2013 (Annex B)

Para 41 – “Greco recommends that consideration be given to lowering the thresholds for reporting financial holdings”.

- Note this was directed principally at London, albeit with invitation to Wales, S & NI to take action:
- Currently - Commons £66k/Lords £50k/NAW £27k/NI £21.5k/Scotland ££29k

Para 46 – “consideration be given to lowering the current thresholds for registering accepted gifts”

- Again directed principally at Commons £660/ Lords £500 and Scotland £575. Report notes that Wales and NI are markedly lower (£270 & £215) but compares this with limit of UK Ministers £140.
- Just a thought - a gift of £270 equates to approaching 10 times the national minimum wage.

Gerard Elias QC, Commissioner for Standards 24.09.13

Standards of Conduct Committee

SOC(4)-06-13: Paper 1 - Annex A - Tuesday 22 October 2013

Register of Members' Financial Interests

1. The purpose of this paper is to inform the Standards of Conduct Committee of specific issues and difficulties that have arisen in relation to the Rules on the Registration and Declaration of Members' Interests and to invite the Committee to consider a review of the Rules on Registration and Declaration of Members' Interests, to be prioritised as part of the current review of standards procedures.

Background

2. Section 36 of the Government of Wales Act 2006 (the Act) requires the Assembly's Standing Orders to include provision for a register of Members interests and for that register to be published and made available to the public. The specific requirements for the Registration of Members' Interests are set out in the Assembly's Standing Order 2. The Standing Order requirements are supplemented by the 'Guidance on the Registration and Declaration of members' Financial and Other Interests', which is approved by resolution of the Assembly in Plenary. Standing Order 2 and the detailed Guidance are attached at Annex 1 and 2. Throughout this paper the Standing Order requirements and the Guidance are referred to collectively as the Rules on Registration and Declaration. Failure to correctly register Members' interest is potentially a criminal offence under Section 36(7) of the Act.

3. In accordance with Standing Order 22.2, the Standards Committee must "supervise the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests...and the form and content of the Register and the Records". Under this remit the Committee has responsibility for preparing and maintaining the Rules on Registration and Declaration of Members' Interests.

4. In 2001, the Standards Committee commissioned an overarching review of the Standards regime of the National Assembly for Wales, which was undertaken by Professor Diana Woodhouse of Oxford Brookes University¹. This review, and its recommendations, laid the foundation for the current Rules on Registration and Declaration, as well as the Code of Conduct and the Committee's Complaints Procedure.

¹ The Report of the Woodhouse review is available on the Assembly's website: <http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-previous-committees/bus-committees-first-std-home/bus-committees-first-std-reports.htm>

5. Responsibility for providing advice to Members on the interpretation of the Rules lies with the designated Registrar of Members' Interests. This role is currently undertaken by the Head of Legislation and Chamber Services, with the day to day advice provided on the Registrar's behalf by the Table Office.

General Review of the Rules

6. The Rules on Registration and Declaration have not been reviewed or revised for a number of years. There is a need to update the Rules to reflect correct and current terminology. For example, in a number of categories the Rules refer to 'the Assembly' where it would be more appropriate to now refer to the Welsh Government and/or the Assembly Commission (in practice, the rules are interpreted to refer to the Welsh Government / Commission but changes should be made formally to Standing Orders and Guidance).

7. This paper also outlines a number of areas that have caused Members difficulty, or where concern has been raised on the content of the Rules. Following consideration of these issues by the Committee, there may also be a need to revise the Rules to reflect any changes proposed.

Q1. Is the Committee content for the Registrar to make minor amendments to the Guidance to use correct terminology where needed?

Q2. The Committee is invited to consider reviewing the Rules and guidance on Registration and Declaration to address the issues set out in this paper and any others considered appropriate, as part of the Committee's review of standards procedures.

Specific Issues Identified by the Registrar

8. In the final period of the Third Assembly, and during the early stages of the Fourth Assembly, a number of issues were experienced by the Registrar's Office in relation to the rules on the Registration of Members' Interests. These issues were predominantly raised by Assembly Members and relate specifically to how the Rules affected them. However, queries have also been received from outside the Assembly, and issues have been raised in the media.

9. The specific issues identified are highlighted below. In fulfilling our role as Registrars, we are able to provide Members with advice on how the current Rules should be interpreted, taking advice from Legal Services where appropriate. The Committee may, however, wish to consider the principles that lie behind these issues and decide whether they wish to make minimal changes to strengthen the Rules; or more substantial changes as part of a wider review of the Rules.

Category (ii) Remunerated Employment, Office, Trade, Profession, etc.

Standing Order Requirement:

Employment, office, trade, profession or vocation (apart from membership of the Assembly) for which the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, is remunerated, or in which the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, has any pecuniary interest.

10. The status of Pensions within Category (ii) has been an issue for some time. Some Members choose to register the receipt of pensions others have chosen not to.

11. The Standing Orders and the Rules are silent on pensions, and Members are therefore required to interpret the Rules in this respect. The current Rules do not provide a definition of what constitutes 'remuneration', and it is therefore open to interpretation.

12. The Standing Orders state that Members must register details of "Employment, office, trade, profession or vocation (apart from membership of the Assembly), for which the Member is remunerated or in which the Member has any pecuniary interest.". The Rules go further and suggest that Members should also register any sources of remuneration which do not fall clearly within any other category.

13. In relation to a pension from a particular organisation, it is clear that the pension is being paid because of past employment. It can therefore be argued that although a Member is in receipt of a pension, it is not remuneration for 'employment, office, trade, etc.' as that employment is no longer current. However the Rules state that Members should also register any source of remuneration that does not clearly fall within any other category. The receipt of the pension could therefore be regarded as remuneration that does not fall within any other category, so there could be a case to register the pension under this category.²

Q3. The Committee is invited to consider whether the definition of "remuneration" should be clarified to make the position on pensions more clear.

Category (v) Contracts with the Assembly

Standing Order Requirement

Any remuneration or other material benefit which a Member or, to the

² The UK Parliament Rules on Registration specifically state that "Pensions are not in themselves registrable, but identifiable holdings in a self-invested personal pension fund, if of registrable value, are registrable...".

Member's knowledge, the Member's partner or any dependent child of the Member, receives from any public or private company or other body which has tendered for, is tendering for, or has, a contract with the Assembly.

14. Concern has been raised by Members that it is not always easy to establish whether any 'public or private company or other body' from which they receive some form of remuneration or material benefit 'has tendered for, is tendering for, or has, a contract with the Assembly'. Members have questioned whether it is a reasonable requirement in particular when it may not be possible to establish this due to the commercial confidentiality associated with specific contracts.

16. One way of addressing this issue would be to add a caveat to the Rules (as in other Categories) to specify that registration is required is **'to the Member's knowledge'** the body has tendered for, is tendering for, or has, a contract with the Assembly. This form of words is used in relation to the interests of partners and dependent children of Members.

16. There is also **no** threshold associated with this category, and therefore remuneration or other material benefit **of any amount** would need to be registered, if it was received from a 'body' that has tendered for, is tendering for, or has, a contract with the Assembly. This would therefore include any gifts or hospitality which are not registrable under Category (iv) as they fall below the threshold³ for that particular Category.

Q6. The Committee is invited to consider whether (a) the rules for category (v) should be revised to make it clear that any contract must be 'to the Members' knowledge' and (b) a threshold be applied to this category.

Category (vi) financial sponsorship

Standing Order Requirement

Financial sponsorship (a) as a candidate for election to the Assembly, where to the knowledge of the Member the sponsorship in any case exceeds 25 per cent of the candidate's election expenses, or (b) as a Member of the Assembly by any person or organisation. In registering such an interest, a Member must state whether any such sponsorship includes any payment to the Member or any material benefit or advantage.

17. This category, and the associated Rules, are both difficult to understand and difficult to meet in practice. A number of members experienced difficulty in determining whether financial sponsorship received met the criteria stated in the Rules. The Rules state that a Member is required to register/declare the

³ The threshold for registering Gifts, Hospitality, material benefit or advantage under category (vi) is 0.5 per cent of the basic gross annual salary for an Assembly Member, which currently equates to approx. £269.

source of **any contribution** to his or her election expenses in excess of 25 per cent of the total of such expenses.

18. Members must also register and declare **any substantial donations** which are made by an organisation or company on a regular basis to their constituency party **when such donations⁴ are linked directly to their own candidacy or membership of the Assembly**. However, donations made directly to a constituency party as an expression of general political support, not linked to the Member's candidacy or membership of the Assembly, do not come within the Assembly's resolution.

19. In many of the discussions the Registrar had with Members, there was some uncertainty whether contributions made to a constituency party were directly linked to individual candidacy or as a general expression of support. In most cases therefore Members have taken a 'blanket approach' and registered that their election expenses were met by the relevant political party.

20. Responsibility for ensuring that registrations are made correctly lies wholly with Assembly Members, and in relation to this category Members must try to establish whether contributions made to the party relate directly to their candidacy. The Registrar cannot give advice on whether registration is formally required without knowing the nature of the contributions made.

Q8. The Committee is invited to consider whether the Rules should be reviewed to clarify the requirements for Members to register financial sponsorship.

Category (ix) shareholdings

Standing Order Requirement

The names of companies or other bodies in which the Member has, either alone or with or on behalf of the Member's partner or any dependent child of the Member, a beneficial interest, or in which, to the Member's knowledge, the Member's partner or a dependent child of the Member has a beneficial interest, in shareholdings of a market value greater than one per cent of the issued share capital, or less than one per cent but more than an amount specified in any resolution of the Assembly⁵.

21. This category generally works well and the Rules are clear. However, for the first time in the Fourth Assembly, two issues were raised which related to 'blind trusts' and 'share options'.

⁴ The Assembly resolved on 19th May 1999 that "donations are to be regarded as financial sponsorship if such donations in any year are directly linked to a person's candidacy for election to, or membership of, the Assembly and amount to at least £500 in value (and references above to donations include a single donation)".

⁵ The Assembly resolved on 10 May 2006 that "registration is required in respect of shareholdings with a market value less than 1% of the issued share capital where the value of those shareholdings exceeds 50 per cent of the basic gross annual Assembly salary for an Assembly Member" at the preceding 5th April.

In relation to 'blind trusts' a question was asked as to whether information regarding shares held in 'blind trusts' should be registered.

22. A 'blind trust' is generally accepted as a trust in which the executors have full discretion over the assets, and the trust beneficiaries have no knowledge of the holdings of the trust. Blind trusts are created to avoid any potential conflict of interest between the duties of a public officeholder and his or her choice of investment portfolio. In practice therefore it is not possible for a Member to register the names of any companies or other bodies in which they hold shares (as required by the Rules) as this information would not be known to the Member through a Blind Trust. However, the issue and use of blind trusts has generated some criticism in the UK Parliament particularly in relation to UK Ministers.

23. The Assembly's current Rules are silent on this matter. As such Members who hold shares in a blind trust are not required to register the blind trust itself. Members are unable to register information on specific names of companies (as required by the current Rules) as this information will not be known.

The second matter relates to 'share options'. The Guidance on shareholdings does not go in to any detail on share options other than to state that interests in shareholdings include share options. As there are no different or specific rules relating to share options, then the approach we have taken is that the specific provisions of the guidance must relate to options in the same way as to shareholdings. However, valuing share options is not straight forward.

Where a person holds a share options they have the 'option' to buy or sell shares at a pre-agreed price. I.e. they could be bought at a pre-agreed price which is below the current market value, but once acquired would be worth the current market value. However, shares already purchased through certain 'option' schemes could also be sold at a pre-agreed price should the value drop. This makes it very unclear when share options should be valued in different circumstances.

In considering this, there may be scope to add further detail to the guidance in relation to share options to clarify the situation. However, this may require seeking specific financial advice to ensure that the interpretation of share options is correct and consistent with current practice, etc.

Q11. The Committee is invited to consider whether the Rules be amended to (a) require members to Register that they hold shares in a blind trust; and (b) add clarity over the registration of share options.

Category (x) Public Bodies

Standing Order Requirement

Paid or unpaid membership or chairmanship by the Member or, to the Member's knowledge, the Member's partner or any dependant child of the Member, of any body funded in whole or in part by the Assembly⁶.

24. There are a number of issues associated with this category that would benefit from clarification.

25. The guidance on this category states that: 'the Assembly has extensive funding powers in relation to public bodies and any formal association that a Member has with such bodies as a member or chair should be registered. Where the Assembly Member or, to the Member's knowledge, the Member's partner or any dependant child of the Member, has an association with a voluntary body or other body as a member or a chair which receives funding from the Assembly, that should be registered/declared.'

26. There has always been difficulty in assessing whether particular 'bodies' are in receipt of Assembly funds. For some bodies it can be clear, but for others it is not. There is added difficulty as bodies could also be indirectly funded, and therefore the link back to Assembly funds can be difficult to trace. This has led to Assembly Members registering membership of bodies that may not require registration.

27. It is also not clear what 'membership' means as there is no definition. The Rules relate to Members having an association as a 'member' or 'chair' – but should membership of a body include all positions that would constitute an association (for example patron or president). Again many Members have chosen to register their positions as patron / president although they argue that this is not strictly membership of a body.

28. The guidance informs Members that they can seek advice from the Presiding Officer / Clerk, etc. on whether a body is funded by the Assembly. This is the only instance where the Guidance suggests that Members may rely on advice from the Presiding Officer. As noted above, it may not always be possible to establish whether a 'body' is in receipt of Assembly funds, and therefore not possible for the Presiding Officer / Clerk to give definitive advice. It is ultimately a members own responsibility to ensure compliance with the rules, and this may need to be flagged up more clearly in the guidance.

Q13 – The Committee is invited to consider whether the Rules should be amended to include a clear definition of 'membership'?

Q12 – The Committee may wish to consider whether the guidance in this area should be revised to make it clear that although the Presiding

⁶ A body funded wholly or in part by the Assembly, means any body that receives funding from the Welsh Assembly Government or the Assembly Commission.

Officer / Clerk can give advice, responsibility ultimately rests with the Member.

Registration of Dependent Children

30. Several Members have expressed concern that the current Rules require Members to register the interests of their 'dependent children'. A dependent child is defined as "any person who, at the time of registration is under the age of sixteen or is under the age of nineteen and receiving full-time education by attendance at a recognised educational establishment...and is a child of the Member...".

31. Particular concern has been expressed in relation to the **employment** of dependent children, although there has been some concern regarding the registration of the interests of dependent children generally. Children can in practice hold part time employment from the age of thirteen, and questions have been raised as to whether it is appropriate to register the employment of children of that age. The National Assembly for Wales is the only legislature in the UK that requires the registration of the employment of dependent children.

32. There are currently three members who have registered the employment of their dependent children. Further registrations were made in the Second and Third Assemblies. Although the details entered in the Register can be made relatively general, it will always be clear that it is the employment of the dependent child that is being registered.

Q14. Is the Committee content that the interests of dependent children should be registered, and if so is the definition of dependent children still appropriate – should the age limit be changed?

Receipt of public funds by Members

33. The Registrar received a number of queries in the Third Assembly, and again in the Fourth Assembly, relating to the receipt of 'public funds' by Assembly Members or their partners, and whether these should be specifically and/or separately registered. One specific area that highlights this issue is the receipt of subsidies by farmers, which is one issue that was highlighted in the press in the Third Assembly, and which generated some criticism from outside organisations.

34. This was carefully considered by the Registrar's office in the Third Assembly, as the Rules are silent on this particular matter. In relation to the Rules that are in place, we are clear that Assembly Members are not required to register specifically or separately the fact that they receive farming subsidies. Members in the Third Assembly and in the Fourth Assembly have correctly Registered details of their farming businesses, they are not required to identify or register the subsidies they receive.

35. The case above highlights one area that affects a number of Assembly Members, however this issue is not limited to subsidies received by farmers as the principle is the same for any 'public funds' received by Assembly Members or their partners. The Committee may wish to consider whether this is a matter than requires more detailed consideration.

Q16. The Committee is invited to consider whether the current Rules should be reviewed, in particular whether:

(a) they should include a specific statement that receipt of public funds are not required to be registered if part of overall remuneration received for employment already registered; and (b) whether the receipt of specific 'public funds' should be registered specifically and/or separately by Assembly Members?

Agreements for the Provision of Services – SO2.12

36. The Rules contain provisions that require Members to deposit with the Presiding Officer a copy of any agreement they enter into for the provision of services in the Member's capacity as an Assembly Member. Such an agreement would include, for example, a continuing paid commitment to produce a newspaper column or to take part in a radio or television programme about matters concerning the Assembly – but not to occasional engagements where there is no on-going commitment to provide a service, such as ad hoc current affairs or news interviews or intermittent panel appearances.

37. The Registrar's office has not received any queries in respect of this provision and no issues have been raised. No formal agreements have been deposited with the Presiding Officer in accordance with the Rules.

38. The fact that no Member has deposited an agreement may simply be that no such agreements have been entered into, but the concern is that it could be due to a lack of clarity on the Rules.

Q19. The Committee is invited to consider whether the Rules on Agreements for the Provision of Services should be clarified.

Declarations of Interests

Standing Order Requirement

2.6 In the circumstances specified in Standing Order 2, before taking part in any Assembly proceedings, a Member must make an oral declaration of any financial interest which he or she has, or may be expecting to have, or which, to the Member's knowledge, the Member's partner or any dependent child of

the Member has, or may be expecting to have in any matter arising in those proceedings.

2.7 An oral declaration under Standing Order 2.6 must be made in relation to any interest which is specified in paragraph 5 of the Annex to Standing Order 2 if a particular decision in those proceedings might result in a direct financial advantage to the Member, or, to the Member's knowledge, the Member's partner or any dependent child of the Member, greater than that which might accrue to persons affected by the decision generally.

39. The current Rules, as set out in Standing Order 2, provide very limited parameters for the formal declaration of interests before taking part in Assembly proceedings. In practice, the wording of current Standing Orders means that it is highly unlikely that there will ever be an occasion where a formal declaration is required. The Rules are limited as Members are only required to make a formal declaration 'if a **particular decision in those proceedings** might result in a **direct financial advantage** to the Member ... **greater than that which might accrue to persons affected by the decision generally.**'

40. The nature of Assembly proceedings has changed since the Rules were established, particularly due to formal separation of Government and legislature through the Government of Wales Act 2006. Decisions made in Assembly proceedings now differ in nature with the Welsh Ministers having delegated responsibility through the 2006 Act. Very few decisions are likely to result in a direct financial advantage to a Member over and above the general population.

41. The Committee may wish to consider whether the Rules on the Declaration of Interests are fit for purpose, or whether a wider, perhaps more general, approach should be taken.

Q21. The Committee is invited to consider whether the Rules for the Declaration of Interests prior to taking part in Assembly Proceedings should be reviewed.

Recommendation

42. The Committee is invited to:

a) consider the specific issues and difficulties that have arisen in relation to the Rules on the Registration and Declaration of Members' Interests, as highlighted in the paper; and

b) agree to prioritise a wider review of the Rules on Registration and Declaration of Members' Interests, and the associated guidance, as part of the current review of standards procedures.

**STANDING ORDER 2 – Financial and Other Interests of Members
Registration of Financial and Other Interests**

2.1 The Presiding Officer must maintain and publish a Register of Interests of Members and copies must be available for inspection by Members and by the public.

2.2 The interests set out in the Annex to Standing Order 2 must be registered in the Register of Interests by completion of a form prescribed by the Presiding Officer.

2.3 Within eight weeks of a Member taking the oath of allegiance or making the corresponding affirmation, he or she must complete the form prescribed by the Presiding Officer, setting out all the particulars of the interests required to be registered by Standing Order 2; and must sign the form and deliver it to the Clerk.

2.4 Within four weeks of any change occurring, a Member must notify the Presiding Officer of the change in his or her registered interests by completing the form prescribed by the Presiding Officer and must sign the form and deliver it to the Clerk.

2.5 A Member may deliver the form referred to in Standing Order 2.3 or 2.4 by taking it to the Clerk or arranging for another person to do so or by post, but the form is not to be regarded as having been delivered until it is received by the Clerk.

Declaration of Interests before Taking Part in Any Assembly Proceedings

2.6 In the circumstances specified in Standing Order 2, before taking part in any Assembly proceedings, a Member must make an oral declaration of any financial interest which he or she has, or may be expecting to have, or which, to the Member's knowledge, the Member's partner or any dependent child of the Member has, or may be expecting to have in any matter arising in those proceedings.

2.7 An oral declaration under Standing Order 2.6 must be made in relation to any interest which is specified in paragraph 5 of the Annex to Standing Order 2 if a particular decision in those proceedings might result in a direct financial advantage to the Member, or, to the Member's knowledge, the Member's partner or any dependent child of the Member, greater than that which might accrue to persons affected by the decision generally.

Lobbying for Reward or Consideration

2.8 A Member must not advocate or initiate any cause or matter on behalf of any body or individual in any Assembly proceedings, or urge any other

Member to advocate or initiate any cause or matter in any such proceedings, in return for any payment or benefit in kind, direct or indirect, which the Member, or to the Member's knowledge his or her partner or any dependent child of the Member, has received or expects to receive.

Prohibition of Voting

2.9 Where a Member is required under Standing Order 2.6 to declare an interest in a matter before taking part in any Assembly proceedings, that Member must not vote on any proposal relating to that matter in those proceedings. Standing Order 2.9 does not apply in relation to the exercise of a casting vote under Standing Order 6.20.

Exclusion of Members and Withdrawal of Rights and Privileges

2.10 After consideration of any report put before it by the committee responsible for the functions specified in Standing Order 22 relating to a Member's compliance with Standing Order 2, the Assembly may, on a motion proposed by the chair of the committee responsible for the functions specified in Standing Order 22, resolve to exclude that Member from any Assembly proceedings for a period specified in the motion.

2.11 During the period of a Member's exclusion, he or she is not entitled to receive any salary from the Assembly and is not permitted to attend any Assembly proceedings.

Agreements for the Provision of Services

2.12 Any Member who has, or who proposes to enter into, an agreement involving the provision of services in the Member's capacity as a Member must ensure that the agreement:

- (i) is not in breach of Standing Order 2.8;
- (ii) is in writing;
- (iii) indicates the nature of the services to be provided; and
- (iv) specifies the payment or benefit to be received.

2.13 As soon as may be after entering into such an agreement, and in any event within four weeks of that date, the Member must provide the Presiding Officer with a copy of the agreement, and the copy must be open to inspection by other Members and by the public.

STANDING ORDER 2 – Financial and Other Interests of Members: Annex
The interests which are to be registered in the Register of Interests of
Members and which for the purposes of Standing Order 2.6 are to be
declared before taking part in any Assembly proceedings.

General

1. Members should, in listing their registrable interests, have regard to any relevant resolutions, codes of practice or guidance notes which the Assembly may have adopted on this matter.

2. Any remunerated activity in the areas of public relations and political advice and consultancy relating to the functions of the Assembly must be included in that part of the register relating to remunerated employment, office or profession. Such activity includes any action connected with any Assembly proceedings, sponsoring of functions in the Assembly buildings, and making representations to the government, or any member of that government or of its staff.

3. The majority of the interests specified in the categories below include a reference to interests independently possessed by or given to the partner or any dependent child of the Member, and these must also be registered if such interests are known to the Member.

4. For the purposes of the registration and declaration of interests under Standing Order 2 specified in this Annex:

(i) a Member's partner means a spouse, civil partner or one of a couple whether of the same sex or of the opposite sex who although not married to each other are living together and treat each other as spouses; and

(ii) a dependent child is any person who, at the time of registration is under the age of sixteen or is under the age of nineteen and receiving full-time education by attendance at a recognised educational establishment and is:

- (a) a child of the Member;
- (b) a step-child of the Member by marriage or by civil partnership;
- (c) a child legally adopted by the Member;
- (d) a child whom the Member intends legally to adopt; or
- (e) a child who, for at least the previous six calendar months, has been financially supported by the Member.

The Registrable Interests

5. The registrable interests are:

(i) remunerated directorships held by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, in public and private companies including directorships which are individually unremunerated but where remuneration is paid through another company in the same group;

(ii) employment, office, trade, profession or vocation (apart from membership of the Assembly) for which the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, is remunerated, or in which the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, has any pecuniary interest;

(iii) the names of clients when the interests referred to in paragraphs (i) and (ii) above include services by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, which arise out of, or are related in any manner to, his or her membership of the Assembly;

(iv) gifts, hospitality, material benefits or advantage above a value specified in any resolution of the Assembly received by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, from any company, organisation or person which arise out of, or are related in any manner to, membership of the Assembly;

(v) any remuneration or other material benefit which a Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, receives from any public or private company or other body which has tendered for, is tendering for, or has, a contract with the Assembly;

(vi) financial sponsorship (a) as a candidate for election to the Assembly, where to the knowledge of the Member the sponsorship in any case exceeds 25 per cent of the candidate's election expenses, or (b) as a Member of the Assembly by any person or organisation. In registering such an interest, a Member must state whether any such sponsorship includes any payment to the Member or any material benefit or advantage;

(vii) subject to any resolution of the Assembly, overseas visits made by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, which arise out of, or are related in any manner to, membership of the Assembly where the cost of any such visit has not been wholly borne by the Member or from funds provided by the Assembly or by Parliament or by any organisation of which the Assembly is a member;

(viii) any land and property of the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, which has a substantial value as specified in any resolution of the Assembly or from which a substantial income is derived other than any home used for the personal residential purposes of the Member, the Member's partner or any dependent child of the Member;

(ix) the names of companies or other bodies in which the Member has, either alone or with or on behalf of the Member's partner or any dependent child of the Member, a beneficial interest, or in which, to the Member's knowledge, the Member's partner or a dependent child of the Member has a beneficial interest, in shareholdings of a market value greater than one per cent of the issued share capital, or less than one per cent but more than an amount specified in any resolution of the Assembly;

(x) paid or unpaid membership or chairmanship by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, of any body funded in whole or in part out of funds provided by the Assembly.

Guidance for Assembly Members on the Registration, Declaration and Recording of Members' Financial and Other Interests.

[Available in the reference document]

their wider public lives unless such conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally. The Commons Commissioner may not investigate a specific matter which is considered to cause significant damage to the reputation and integrity of the House which relates only to the conduct of a Member in their private and personal lives. The Committee on Standards and Privileges has power to consider any matters relating to the conduct of members, and could consider cases where it considered personal conduct caused significant damage to the reputation and integrity of the House.

35. The aforementioned ethical rules are largely replicated in the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly, each of which has its own Code of Conduct. As regards the operation of the enforcement machinery in the devolved institutions, they all have dedicated Commissioners and Committees, but there is a notable difference as compared to the Westminster system: in Scotland, Wales and Northern Ireland, breaches in respect of registration and declaration of interests, along with paid advocacy, are criminal offences.

Conflicts of interest and disclosure requirements

36. Potential conflicts of interest for Members of Parliament are addressed by the Codes of Conduct pertaining to each House. The Codes focus on the official conduct of Members rather than on limitations on their private interests and activities which may give rise to the question of conflicts. The Codes state that Members should base their conduct on consideration of the public interest, and resolve any conflict between their personal interest and the public interest at once, and in favour of the public interest. In addition, there is some specific guidance on certain actions, for example on standing aside from a Select Committee inquiry if the Member has a direct financial interest, and using parliamentary resources for other than parliamentary work. There are very few restrictions on the outside remunerated occupations/activities/interests a Member may have. There is an outright ban in both Houses on paid advocacy and there are certain other official positions that a Member of the House of Commons is prohibited from holding (see also paragraph 47).

37. Both the House of Lords and the House of Commons primarily address conflicts of interest by favouring transparency of Members' interests and activities over regulation of their non-parliamentary actions. They do so through the institution of a registration system requiring the written, publicly available disclosure of certain types of financial and other interests coupled with an additional requirement of oral declarations in the course of parliamentary proceedings (and on the public record of the proceeding), or in any communication with Ministers, Government departments, or public officials/public office holders.

38. It is notable that those who are candidates for seats in the House of Commons, if not already incumbents, are not required to declare all the interests that would be reportable if elected¹⁵. Thus those who elect them are not able to judge the particular outside interests that the individual candidate may bring to office if successful. This state of affairs merits some further reflection by the authorities.

Registration of assets, income, liabilities and interests

39. As noted above, Members of both Houses are responsible for making a full disclosure of their interests that may be related to their parliamentary duties. In particular, they are responsible for completing a registration form and submitting it to

¹⁵ Guidance for candidates to voluntarily declare their interests was published before the last parliamentary general election in 2010. Decisions have not yet been taken on whether to repeat the exercise for future elections.

the Registrar of Members' Financial Interests (House of Commons) and the Registrar of Lords' Interests (House of Lords), respectively, within one month of taking their seats. Thereafter it is the responsibility of Members to keep their entries up-to-date and to report any change in their registrable interests within four weeks of the change occurring. In each House there is a Registrar available to answer Members' questions about registrable interests.

40. The main purpose of the Register is to give public notification on a continuous basis of those financial interests/material benefits held by Members which might be thought to influence their parliamentary conduct or actions. The twelve categories of financial interests that require registration are set forth in guidance for both Houses (Table 1) and extend to family members, as applicable (Table 2). Certain categories of financial interests are still subject to threshold values before triggering registration (see also Table 3). For example, there are no limitations on the number or value of company shares, bonds and notes which can be held by Members of Parliament as long as they are reported when their value reaches a certain threshold.

Table 1-Categories of Registrable Interests

Category	House of Commons	House of Lords	National Assembly for Wales	Northern Ireland Assembly	Scottish Parliament
Directorships	✓	✓	✓	✓	✓
Remunerated employment/ Remuneration received from companies tendering for/ providing services to the assembly	✓	✓	✓	✓	✓
Clients	✓	✓	✓	✓	
Sponsorships	✓	✓	✓	✓ ¹⁶	
Gifts, benefits and hospitality	✓	✓	✓	✓	✓
Overseas visits	✓	✓	✓	✓	✓
Overseas benefits and gifts	✓	✓		✓	
Land and property	✓	✓	✓ ¹⁷	✓	✓ ¹⁸
Shareholdings	✓	✓	✓	✓	✓
Controlled transactions (loans and credit arrangements)	✓	✓		✓ ¹⁹	
Miscellaneous (any relevant interests, not falling within one of the above categories)	✓	✓		✓	
Family members employed through parliamentary expenses	✓		✓	✓ ²⁰	✓ ²¹
Paid or unpaid membership to body funded by the assembly ²²			✓		
Elected/public office				✓	

¹⁶ This category is headed as "electoral support and political donations".

¹⁷ There is an exemption from registration for land and property used for the personal residential purposes of the Member, Member's spouse or dependent children.

¹⁸ This category is headed as "heritable property".

¹⁹ These details shall be registered under the category of "electoral support and political donations."

²⁰ In Northern Ireland, this category applies not just to those family members who are employed through the Assembly's Office Cost Expenditure but also to those who benefit in any way (e.g. those who are paid for the provision of any good or service).

²¹ The Scottish Parliamentary Corporate Body decided in 2011 that no new arrangements regarding family members could be entered into, but that existing arrangements could continue until the next Scottish Parliament election, at that time scheduled for 2015. Thereafter, there would be no employment of family members. Any existing arrangements must be declared in the public register set up for that purpose.

²² Please note that these can be registered under either "Miscellaneous" or "Non-financial interest" categories in other assemblies.

Non-financial interests (e.g. unremunerated directorships, membership of public bodies such as hospital trusts, acting as office-holder or trustee in pressure group, trade union, NGO, etc.)		✓	✓	✓	
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Table 2-Categories of Interests of Relatives requiring registration

Category	House of Commons	House of Lords	National Assembly for Wales	Northern Ireland Assembly ²³	Scottish Parliament
Directorships			Spouse or dependent children		
Remunerated employment			Spouse or dependent children		
Clients			Spouse or dependent children		
Gifts, benefits and Hospitality	Spouse and any other person with or on behalf of themselves	Spouse	Spouse or dependent children	Spouse	
Overseas visits	Spouse	Spouse	Spouse or dependent children	Spouse or dependent children	
Overseas benefits and gifts	Spouse and any other person with or on behalf of themselves	Spouse		Spouse or dependent children	
Land and Property	Spouse	Spouse	Spouse or dependent children	Jointly owned ²⁴	
Shareholdings	Held with or on behalf of spouse, partner or dependent children	Held with or on behalf of the members' Spouse or dependent children	Spouse or dependent children	Held with or on behalf of the members' spouse or dependent children	
Paid or Unpaid Membership to body funded by the assembly			Spouse or dependent children		
Remuneration received from companies tendering for providing service to the assembly			Spouse or dependent children		

* Note: spouse is also understood as partner of a Member.

²³It is only those gifts, benefits or hospitality (including visits) received by the spouse/or dependent children of the Member, which relate to the Member's membership of the Assembly or political activity.

²⁴ There is an exemption for land and property used for residential purposes by the Member, Member's spouse or dependent children.

Table 3-Registration Thresholds

Category	House of Commons	House of Lords	National Assembly for Wales	Northern Ireland Assembly	Scottish Parliament
Annual salaries as of 1 January 2012 ²⁵	£65,738		£53,852	£43,101	£57,520
Directorships	Over 0.1% of salary (£66) ²⁶	All		0.5 % of salary (£215.5)	1 % of salary (£575.2)
Remunerated employment	Over 0.1% of salary (£66)	Over £1,000 per annum		0.5 % of salary (£215.5)	1 % of salary (£575.2)
Sponsorships	Over £1,500. in donations of over £500	£500	Exceeding 25% of the candidate's total election expenses	£1,000	
Gifts, benefits and Hospitality	Over 1 % of salary (£660)	£500	0.5 % of salary (£269.26)	0.5 % of salary (£215.5)	1 % of salary (£575.2)
Overseas visits	Over 1 % of salary (£660)	£500		0.5 % of salary (£215.5)	
Overseas benefits and gifts	Over 1 % of salary (£660)			0.5 % of salary (£215.5)	
Land and Property	Value greater than the current parliamentary salary (£66,000) or Income greater than 10 % of the current parliamentary salary (£6,600)	Has a capital value of more than £250,000- from which an income of more than £5,000 a year is derived	Value greater than the current parliamentary salary (£53,852) or Income greater than 10 % of the current parliamentary salary (£5,385.2)	Value greater than the current parliamentary salary (£43,101) or Income greater than 10 % of the current parliamentary salary (£4,310)	50 % of salary (£28,760)
Shareholdings	Greater than the 15 % of the issued share capital of the company or 15% or less of the issued capital, but greater than the current parliamentary salary (£66,000)	Amounting to a controlling interest or not amounting to a controlling interest but exceeding £50,000 in value	With a market value less than 1 % of the issued share capital where the value of those shareholdings exceed 50% of the basic gross annual salary (£26,926)	The nominal value of the shares is greater than 1 % of the total nominal value of the issued share capital or the market value or the shares exceeds 50 % the current salary of an assembly member (£21,550)	The nominal value of the shares is greater than 1 % of the total nominal value of the issued share capital or the market value of the shares exceeds 50 % (£28,760) the current salary of an assembly member
Controlled Transactions	Loans over £1,500	Loans over £500 (on terms not generally available to members of the public)			

²⁵ All figures in parenthesis are calculated on the basis of annual salary levels in 2012.

²⁶ Payments of £66 or less become registrable if in that calendar year the Member receives over 1% of the parliamentary salary (£660) from a single source. As per Resolution of 30 April 2009, amended on 7 February 2011 (<http://www.publications.parliament.uk/pa/cm201011/cmvote/vp110207.pdf>).

Category	House of Commons	House of Lords	National Assembly for Wales	Northern Ireland Assembly	Scottish Parliament
Miscellaneous		£500			
Family members employed through parliamentary allowances ²⁷	1 % of salary (£660)			0.5 % of salary (£215.5)	
Elected/Public Office				0.5 % of salary (£215.5)	

41. In the GET's view, the thresholds for reporting financial holdings are high. For example, an MP could have an investment of £60,000 (approximately 76,000 EUR) in each of 10 mobile phone service providers and none would appear on his or her registration statement under the category of shareholdings. The authorities argue that in spite of the thresholds for reporting financial holdings the Member would be expected, firstly, to abide by the general obligation upon Members to keep the overall definition of the Register's purpose (openness) in mind when registering their interests; if certain interests do not fall clearly into one of the specified categories, Members are nevertheless expected to register such interests under "miscellaneous". In addition, the Member would be required to declare an interest in the industry before engaging in parliamentary activities affecting mobile phone service providers according to the rules on declaration. That however, would give the public little or no notice of the interest before the Member acted and the purpose of the Registers is to give public notice of those interests which might be thought to influence a Member's conduct. The GET takes account of these arguments, but is not fully convinced that these are sufficient, and efficient, safeguards for openness and transparency of a Member's financial interests, not only in theory, but also in practice. The GET notes that the high threshold for reporting these types of interests (as opposed to remunerated services) reflects a policy priority on registering interests where actual payments are involved (earned income, lobbying for a fee, and expenses), rather than investments. However, the GET is of the view that a Member may be more influenced by the effect of a matter on his/her stocks than by the receipt of a payment for a speech. **GRECO recommends that consideration be given to lowering the thresholds for reporting financial holdings (such as stocks and shares). The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.**

42. The GET did not come across evidence suggesting any general or systemic difficulties in adherence to the rules on the registration of financial interests in the devolved institutions of Scotland, Wales and Northern Ireland. The rules on the registration of non-financial interests (e.g. membership of professional bodies, trade unions and other organisations) differ: provision has been made in Wales and Northern Ireland to register a range of non-financial interests; Scotland has the least onerous requirements with respect to non-financial interests which, as in Westminster, are only subject to voluntary registration (for a comparative overview of registration requirements, see also the tables included above). Another notable difference, as compared to the system in Westminster, is that the responsible Commissioners in the devolved institutions do not have any role with respect to the creation and maintenance of the respective register of interests.

²⁷ The requirement to register family members applies not just to those family members who are employed through the Assembly's Office Cost Expenditure but also to those who benefit in any way (e.g. those who are paid for the provision of any good or service). They are also registered with IPSA.

Standards of Conduct Committee

Meeting Venue: Committee Room 1 – Senedd

Meeting date: Tuesday, 9 July 2013

Meeting time: 09:30 – 10:19

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



This meeting can be viewed on Senedd TV at:

http://www.senedd.tv/archiveplayer.jsf?v=en_200000_09_07_2013&t=0&l=en

Concise Minutes:

Assembly Members:

Mick Antoniw (Chair)
Llyr Gruffydd
Mark Isherwood
Kirsty Williams

Witnesses:

Committee Staff:

Lara Date (Clerk)
Sarah Bartlett (Deputy Clerk)
Joanest Jackson (Legal Advisor)
Owain Roberts (Researcher)
Gareth Rogers (Official)

TRANSCRIPT

View the [meeting transcript](#).

1 Introduction and apologies

No apologies were received. The Standards Commissioner, Gerard Elias QC, was not in attendance but submitted a paper for the Committee's consideration (Item 4).

2 Chair's items

The Chair reminded Members of the invitation to the first Standards Commissioner for Wales' Lecture on Tuesday 16 July. The lecture 'Standards in Public Life, how the National Assembly for Wales needs to be a beacon' would be delivered by the Rt. Hon. Lord Judge, Chief Justice of England and Wales.

The Chair noted that the Commissioner's Annual report for 2012-13 was expected to be published and laid before the Assembly on Monday 15 July. A link to the report would also be available on the Committee's website.

3 Consider GRECO Report Recommendations

The Chair noted that there were five recommendations to the National Assembly for Wales in the report.

The Committee considered a paper on the report and noted that the recommendations on shareholdings and gifts should be considered again when reviewing the registration of interests in the autumn. It was also noted that the recommendation relating to conduct of Members' support staff should be taken into consideration as part of the review of standards procedures and the Members' Code of Conduct.

4 Standards Commissioner's Update on Review of Code of Conduct and associated guidance

The Committee considered the paper from the Commissioner. The paper updated the Committee on the second phase of the review of standards procedures.

The Committee agreed that the Commissioner should proceed with a piece of work on the Standing Orders, Code of Conduct and associated guidance dealing with Registrable Interests and make recommendations to the Committee in this area. The Chair noted that this would be considered further at the next meeting.

The Committee noted and agreed the initial draft Code of Conduct sections provided by the Commissioner – the Preamble & Section 1 of the proposed new Code.

5 Papers to note

The Committee noted the papers.

5.1 SOC(4)-05-13 – Paper 3 – Report on Lobbying and Cross-party Groups – Letter from Presiding Officer

5.2 SOC(4)-05-13 – Paper 4 – Report on Lobbying and Cross-Party Groups – Letter from Chair of Remuneration Board

5.3 SOC(4)-05-13 – Paper 5 – Letter from Presiding Officer on Sanctions

5.4 SOC(4)-05-13 – Paper 6 – Response from Committee Chair to Presiding Officer on Sanctions



Standards of Conduct Committee

The UK Lobbying Bill - an update

Date of paper

22 October 2013

This briefing has been produced by the Research Service [in conjunction with for use by the Standards of Conduct Committee.

For further information, contact Alys Thomas in the Research Service
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Research
Service

Committee Reference: SC(4)-6-13

1. Introduction

The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill (“the Bill”) was introduced to the House of Commons on 17 July 2013. It received its Second Reading on 4 and 5 September 2013 and was considered by a Committee of the Whole House on 9, 10 and 11 September 2013. Report Stage in the House of Commons took place on 8 and 9 October 2013 and it received its Third Reading on 9 October 2013. The Bill is now in the Lords and receives its Second Reading on 22 October 2013.

The Bill is intended to introduce a **statutory register of consultant lobbyists** and establish a **Registrar** to enforce the registration requirements. Election campaign spending by those not standing for election or registered as political parties would be more heavily regulated and the legal requirements placed on trade unions in relation to their obligation to keep their list of members up to date would be strengthened.

The Committee has considered whether the Assembly’s arrangements for regulating lobbyists are robust and concurred with the view of Standards Commissioner that:

the arrangements currently in place for regulating lobbying, as it relates to Members of the National Assembly, are essentially sufficiently robust and fit for purpose.¹

The Committee’s recommendation for **strengthened guidance on lobbying** was agreed by Plenary on **26 June 2013** and the guidance has been in place since 23 September 2013.²

The Bill **does not contain a requirement for devolved bodies to have a register of lobbyists**. However, other provisions in the Bill will have an impact in Wales.

The Research Service has produced a [paper on the Bill](#), including views expressed during Second Reading. This Briefing provides **an update** to the paper.

2. The Bill

The Bill:

- establishes a **register of professional lobbyists** and a **Registrar of lobbyists** to supervise and enforce the registration requirements.
- changes the **legal requirements for people or organisations who campaign in relation to elections** but are not standing as candidates or a registered political party.
- changes the **legal requirements in relation to trade unions’ obligations** to keep their list of members up to date.

Part 1 of the Bill extends to **the whole United Kingdom**. The requirement to register applies to all consultant lobbyists engaged in lobbying UK Government Ministers and Permanent Secretaries, regardless of where the lobbying takes place or where the consultant lobbyist is based.

¹ [Standards Committee’s Report 03-13 to the Assembly on Lobbying and Cross-Party Groups, May 2013 \[accessed 11 June 2013\]](#)

² [RoP, 26 June 2013 \[accessed 6 September 2013\]](#)

Committee Reference: SC(4)-6-13

However, Part 1 does not make any provision in relation to those who lobby the Devolved Administrations and Legislatures. It deals only with reserved matters and does not require the consent of the devolved legislatures. **The Assembly, therefore, will not be required to have a register of lobbyists.**

Part 2 of the Bill extends to **the whole of the United Kingdom**, deals only with reserved matters and **does not need the consent of the devolved legislatures**. Certain amendments also extend to Gibraltar.

The provisions on Trade Unions' registers of members, which are inserted into the *Trade Union and Labour Relations (Consolidation) Act 1992* ("TULRCA") by **Part 3**, will extend to **England and Wales and to Scotland** but not to Northern Ireland, where it is a devolved matter.

3. Progress of the Bill

Part 2 of the Bill is the most controversial part as the third sector is of the view that this will restrict the activities of voluntary organisations. Furthermore, the Electoral Commission has concerns about its own role in enforcing this part of the Bill. Some minor changes were made to the Bill at Committee Stage but the UK Government promised that amendments would be tabled at **Report Stage** to address concerns that definitions in the Bill relating to "for election purposes" could restrict campaigning organisations in campaigning that was not intended to promote or procure the success of a party or candidate.

Ahead of the **Third Reading**, the National Council for Voluntary Organisations (NCVO) wrote to MPs saying that the amendments the UK Government had brought forward did not go far enough. The Wales Council for Voluntary Action (WCVA) supports the NCVO's position.³ Responding to the publication of the UK Government's amendments, Sir Stuart Etherington, the Chief Executive of NCVO said:

The government's commitment to address the legitimate concerns of many charities and other voluntary organisations remains welcome, however, the proposed amendments do not go far enough. The assurances given by ministers on the floor of the house to ensure that charities will still be able to support specific policies that might also be advocated by political parties have not been met.

Legal advice provided to NCVO indicates that the proposed amendments put forward by the government will mean that much campaigning activity by charities and other voluntary groups will still be covered by this excessively bureaucratic and burdensome regime.

"The amendments leave a great deal of uncertainty and ambiguity. In short, many organisations including small community groups, will be required to consult the Electoral Commission before undertaking campaigning activity in an election period in order to ensure they are not falling foul of the new regulations."⁴

³ [WCVA, *Lobbying Bill moves to Lords, 11 October 2013* \[accessed 15 October 2013\]](#)

⁴ [NCVO, *Lobbying bill amendments do not go far enough. Joint statement from NCVO and ACEVO, 4 October 2013* \[accessed 15 October 2013\]](#)

Committee Reference: SC(4)-6-13

A diverse coalition of prominent charities, campaign groups, academics, think tanks and online networks has launched an independent Commission in response to concerns about the Bill. [The Commission on Civil Society and Democratic Engagement](#) will take evidence from across the UK and will ensure the widest range of views are heard on this issue in a very tight timescale. It will then make recommendations to Parliament about appropriate regulation of non-party campaigning activity ahead of elections – in time for the **Committee Stage of the Bill in the House of Lords in November**.

MPs from Wales, Scotland and Northern Ireland continued to express concern during Report Stage and Third Reading about the implications for devolved legislatures. Wayne David MP tabled two unsuccessful amendments to compel the UK Government to assess the impact of the Bill on the devolved institutions:

In essence, what I am saying is that the relationship between the Bill and the devolved institutions is not straightforward. Some provisions will apply to them, but others will not. There will inevitably be some confusion, but it is vital to ensure that there is not excessive confusion about what does and does not apply to the devolved institutions, and about how the legislation will work in practice. We therefore call for a report to be laid before both Houses with a proper assessment of the impact that part 2 will have on third-party engagement with the devolved institutions.

There is a complex relationship between the devolved and non-devolved institutions in this country. We all know that an important referendum is taking place in Scotland next year. We also know with near certainty, because of the Fixed-term Parliaments Act 2011, when the next general election will be. The two periods concerned are bound to overlap and there will inevitably be a great deal of confusion about which measures apply, what moneys may be spent, what moneys apply to one campaign but not to another and what moneys apply to both campaigns.⁵

The Deputy Leader of the House, Tom Brake MP, replied:

Only some of the part 2 provisions apply to third parties campaigning in elections to the devolved Administrations. At the time of the Bill's introduction, the Government published an impact assessment to accompany it. The analysis has been thorough. To require the Government to undertake another analysis at a later date serves no purpose. In addition, the Electoral Commission already has a statutory function of reporting on the conduct of elections under current legislation. As part of that function, the Government would expect the commission to examine the impact of changes to rules on third-party campaigning at future elections. It would not be for the Government to duplicate the role of the independent regulator.⁶

⁵ [HC Debates, 9 October 2013, Col. 172 \[accessed 15 October 2013\]](#)

⁶ [HC Debates, 9 October 2013, Col. 194 \[accessed 15 October 2013\]](#)

Rt Hon Andrew Lansley CBE MP
Leader of the House
House of Commons
LONDON
SW1A 0AA

17 September 2013

Dear Mr Lansley

Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill

As Presiding Officer of the National Assembly for Wales, I am writing to share concerns about the impact this Bill will have on the ability of charities and third sector organisations, in Wales, to campaign and lobby elected representatives.

In May 2012 I wrote to the then Secretary of State, Cheryl Gillan MP, seeking assurances that the National Assembly for Wales would not be included in any future legislation relating to a register of lobbyists given the robust systems we already have in place. I am grateful that the UK Government has fulfilled its commitment on this issue in that Part 1 of the Bill, which establishes a register of consultant lobbyists and a Registrar of lobbyists to supervise and enforce the registration requirements, **does not affect the Assembly**. Although the Bill extends to Wales, the requirement to register applies only to consultant lobbyists who lobby UK Government Ministers and Permanent Secretaries.

However, the provisions of the Bill that deal with non-party campaigning do affect campaigning in elections to the National Assembly. I wish to express my concern, which I have communicated to the Secretary of State for Wales, about the impact on the political process for some Welsh organisations as a result of this Bill. I appreciate that this is not a devolved matter but, as

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

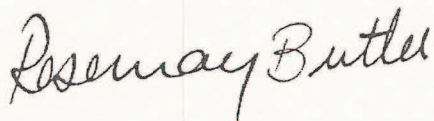
Presiding Officer of the National Assembly for Wales, my duty is to ensure that the right governance structures are in place to ensure openness and transparency for those who engage with Wales's law-making institution.

I am pleased to note that the limit for expenditure on non-party campaigns in relation to National Assembly elections remains unchanged at £30,000 in the Bill. I also understand that the Electoral Commission has indicated that this cap will continue to apply over the four-month period leading up to a National Assembly election (a shorter period than that relating to UK Parliamentary elections). I would appreciate your assurance that this sum will remain unaffected by the Bill.

However, I am concerned at the widening of what is defined as expenditure counting towards that limit, and towards the threshold for registering with the Electoral Commission. I also note that the limits which apply to the amount that a person or body other than a political party may spend on election campaigning, before that person/body is required to register with the Electoral Commission, are proposed to be reduced to £2,000 and £5,000 for Wales and England respectively.

I also note the concerns that have been raised by third sector bodies such as the WCVA about the definition of 'activities for election purposes' which could capture a range of the day-to-day activities charities carry out, entirely legitimately, as part of their campaigning and policy/advocacy work. This concern is shared by the Electoral Commission which believes that this could have a "significant effect" in Wales. I understand that amendments are proposed to reflect these concerns and would appreciate any information you may be able to share in this regard.

Yours sincerely



Rosemary Butler AM
Presiding Officer

27 SEP 2013

P0580



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Our Ref: 325346

24 September 2013

Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill

Thank you for your letter dated 17 September 2013, regarding concerns you have in relation to the Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill. Specifically, you have concerns over the impact the Bill will have on the ability of charities and third sector organisations in Wales.

I would like to address directly the concerns expressed and provide some assurance that it is not the Government's intention for the legislation to impact on charities. Only campaigning by third parties, whether charities, voluntary organisations or community groups, which promotes or procures electoral success or otherwise enhances the standing of parties or candidates would be regulated. This is substantially the same as the current definition.

It is not the intention of the Bill to prevent charities, voluntary organisations or community groups from engaging or influencing public policy. The Bill will bring greater transparency where third parties campaign at an election in a way which supports a particular political party of its candidates, by requiring expenditure on those campaigns to be fully recorded and disclosed.

However, the Government does understand the concern which charities and voluntary organisations have raised. As mentioned, it is not the intention of the Government to make the normal and important work of these groups subject to regulation. The Government confirmed during the committee stage of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill that it will bring forward amendments to ensure the Bill is clear in this respect.

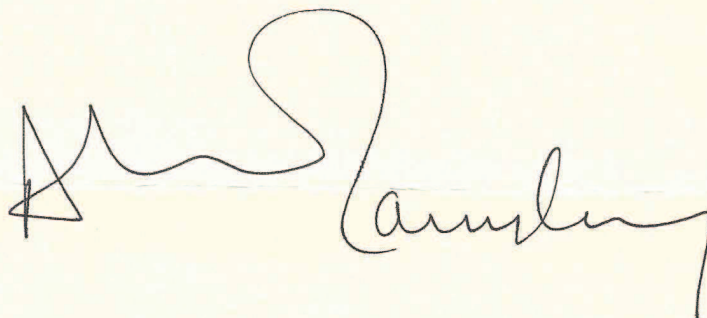
As you note in your letter, the Bill extends the range of activities which count towards controlled expenditure to include rallies, media work and market research. This provision takes forward a recommendation of the independent Electoral Commission in its report '*A regulatory review of the UK's party and election finance laws – Recommendations for change*' published in June 2013.

In relation to the reduced registration thresholds, it is true that this will result in a greater number of third parties having to register their intention to campaign in the political process. If money is to be spent on promoting or procuring the electoral success of a political party or candidate, it is right that those funds are accounted for and transparent.

Finally, I would like to confirm that the Bill does not change the limit of £30,000 that third parties can spend in relation to National Assembly elections. I can also confirm that the cap will continue to apply over the four-month period leading up to a National Assembly election.

I hope this reassures you as to the intent or purpose of the Bill.

Yours ever,

A handwritten signature in black ink, appearing to read 'Andrew Lansley', written in a cursive style.

Rt Hon Andrew Lansley CBE MP
Leader of the House of Commons

Rosemary Butler AM
Presiding Officer
National Assembly for Wales

Wayne David MP
House of Commons
LONDON
SW1A 0AA

12 September 2013

Dear Wayne

Thank you for your letter dated 29 August regarding the Westminster Government's Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill.

I share your concerns about the impact this Bill will have on the ability of charities and third sector organisations, in Wales, to campaign and lobby elected representatives.

That is why I wrote to the then Secretary of State, Cheryl Gillan MP, in May 2012, seeking assurances that the National Assembly for Wales would not be included in any future legislation relating to a register of lobbyists.

I received assurances from the Wales Office that this would be the case. I am pleased to see that the UK Government has fulfilled its commitment on this issue - Part 1 of the Bill, which establishes a register of consultant lobbyists and a Registrar of lobbyists to supervise and enforce the registration requirements, **does not affect the Assembly**. Although the Bill extends to Wales, the requirement to register applies only to consultant lobbyists who lobby UK Government Ministers and Permanent Secretaries.

Therefore, lobbyists groups who target only Welsh Government Ministers and Assembly Members will not be required to register. Nor will in-house lobbyists who work for a charity or other voluntary organisation.

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

You may also be aware that the National Assembly's Standards of Conduct Committee supported my position in April of this year, when it reported that the Assembly already has robust systems in place to ensure transparency and openness in the way that Assembly Members deal with external organisations and individuals.

The Committee recommended a strengthening of guidance to Members on lobbying and the adoption of new rules for the operation of Cross Party Groups (CPGs), but felt that the system was already robust enough to render a register of lobbyists unnecessary at this time.

However, the provisions of the Bill that deal with non-party campaigning do affect campaigning in elections to the National Assembly. I share some of your concerns about the impact on the political process for some Welsh organisations as a result of this Bill. This is not a devolved matter but, as Presiding Officer of the National Assembly for Wales, my duty is to ensure that the right governance structures are in place to ensure openness and transparency for those who engage with Wales's law-making institution. Therefore, I intend to write to the Leader of the Commons to express my concerns. I am pleased to note that the limit for expenditure on non-party campaigns in relation to National Assembly elections remains unchanged at £30,000 in the Bill. However, I am concerned at the radical widening of what is defined as expenditure counting towards that limit, and towards the threshold for registering with the Electoral Commission. I will be raising this point with the Leader of the House.

I should like to clarify two points. In your letter you say that "financial limits on expenditure for "campaigns" in Wales will be substantially less than in England - £2000 [as opposed to] £5000 in England". I am advised that the figures you cite here are not limits on campaign expenditure, but rather limits on the amount that a third party (a person or body other than a political party) may spend on election campaigning before they are required to register with the Electoral Commission.

I am also advised that, although the figure for Wales is lower than for England, this is similar to the present situation where the figure is £10,000 for England and £5,000 for Wales.



Llywydd
Presiding Officer

I also note the concerns that have been raised by third sector bodies such as the WCVA about the definition of 'activities for election purposes' which could capture a range of the day-to-day activities charities carry out, entirely legitimately, as part of their campaigning and policy/advocacy work. This concern is shared by the Electoral Commission which believes that this could have a "significant effect" in Wales. I understand that the UK Government will be amending the Bill to reflect these concerns.

Yours sincerely

+ Best wishes

Rosemary

Rosemary Butler AM
Presiding Officer



Anchor Court,
Keen Road,
Cardiff,
CF14 2QS

10th September 2013

Dear colleagues,

Re: Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill

I am writing to raise my concerns about the impact that the proposed lobbying bill will have on third sector organisations in Wales. As a charity that supports women in the Welsh economy, we believe in open and transparent lobbying and support the overall aim of the Bill. However, under current proposals, the Bill will prevent the third sector from properly representing stakeholders at decision making level.

We can see from the Section 1 proposals that the levels of campaign spend required for registration with the Electoral Commission are reduced which will force more third sector organisations to join a register in order to carry out lobbying activity. This will place an additional financial burden on small organisations and will also subject them to reporting processes. Many charities are already struggling to achieve more for less and this will place additional pressure on resource.

As an organisation with very specific expertise, we are often asked to comment on issues that affect women in Wales. We are particularly concerned that the proposals set out in Section 2 of the Bill will limit our ability to raise awareness of the disproportionate impact of policy decisions on our stakeholders. The proposals stand to prevent charitable organisations from engaging in meaningful debate around policy issues during the run up to an election which is such an integral part of democracy.

Furthermore, we believe that there has not been sufficient consultation with the sector before taking proposals forward. We support the amendment to assess the impacts on devolved nations before imposing the legislation in Wales and urge that a further equality impact assessment is carried out before the bill is passed.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Joy Kent', with a stylized flourish at the end.

Joy Kent

Chief Executive