

# The Code of Conduct together with the Guide to the Rules Relating to the Conduct of Members

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# The Code of Conduct together with the Guide to the Rules Relating to the Conduct of Members

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# Introduction

This document is the Northern Ireland Assembly's Code of Conduct together with the Guide to the Rules Relating to the Conduct of Members.

The purpose of the Code of Conduct of the Northern Ireland Assembly (the Code) is to assist Members in the discharge of their obligations to the Assembly, their constituents and the public at large. The Code of Conduct includes the Principles of Conduct and the Rules to the Code of Conduct.

The purpose of the Guide to the Rules Relating to the Conduct of Members (the Guide) is to assist Members in discharging the duties placed upon them by the Code of Conduct agreed by the Assembly. The Guide includes an explanation of the requirements in relation to the registration of interests, declaration of interests and the Advocacy Rule.

Also included is a discrete Complaints Procedure and the Resolution of the Assembly relating to the Conduct of Members of 14 December 1999. Members are still bound by the terms of this resolution, except for where its requirements have been amended by this new Code and Guide.

# The Code of Conduct for Members of the Northern Ireland Assembly

## Purpose of the Code

The purpose of the Code of Conduct of the Northern Ireland Assembly ('the Code') is to assist Members in the discharge of their obligations to the Northern Ireland Assembly (the Assembly), their constituents and the public at large.

The Code aims to:

- Provide guidance to Members and to the public on the standards of conduct expected of Members in discharging their duties as Members of the Assembly;
- Ensure public confidence and trust in the integrity of Members by establishing openness and accountability as the key elements of the Code;
- Provide a transparent system to ensure that Members place the public interest ahead of their private interests and to provide greater clarity to Members on how to reconcile the two; and
- Maintain the integrity of the Assembly by holding its Members to the high ethical standards expected of them by the whole community in Northern Ireland.

## Scope

It is important to note that this Code aims to cover the conduct of all Members with respect to anything Members say or do in their capacity as an elected Member of the Assembly. However, it does not, for example, cover:

- The conduct or activities of Members in their private and family life;
- Allegations in respect of the conduct of Ministers, where such an allegation is essentially an allegation that falls within the scope of the Ministerial Code of Conduct and where the allegation does not clearly overlap with the Minister's conduct and duties as a Member; or
- Conduct or comments made by Members in the Chamber when the Assembly is sitting (other than that referred to in Standing Order 70).

Furthermore, Members are entitled to legally express any political opinion that they may hold. In doing so, however, Members should have regard to the Principles of Conduct and should not express opinions in a manner that is manifestly in conflict with the Principles of Conduct.

It is also important to understand that the obligations of Members detailed in this Code are complementary to those that apply to all Members by virtue of the procedural and other rules of the Assembly including the rulings of the Speaker.

## Principles of Conduct

Members shall observe the following principles of conduct, which include principles based upon the general principles of conduct identified by the Committee on Standards in Public Life as applying to holders of public office, and further principles agreed by the Assembly:

### **Public Duty**

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

Members have a general duty to act in the interests of the community as a whole.

Members have a special duty to their constituents and are responsible to the electorate who are the final arbiter of their conduct as public representatives.

### **Selflessness**

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

### **Integrity**

Members should not place themselves under any financial or other obligation to outside individuals or organisations which might reasonably be thought by others to influence them in the performance of their duties as a Member of the Assembly.

### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members of the Assembly should make choices on merit.

### **Accountability**

Members are accountable for their decisions and actions to the people of Northern Ireland and must submit themselves to whatever scrutiny is appropriate to their office.

### **Openness**

Members should be as open as possible about the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demand it.

### **Honesty**

Members should act honestly. They have a duty to declare any private interests relating to their public duties. Members should take steps to resolve any conflicts between their private interests and public duties at once and in a way that protects the public interest.

### **Leadership**

Members should promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of the people of Northern Ireland, and to ensure the integrity of the Assembly and its Members in conducting business.

### **Equality**

Members should promote equality of opportunity and not discriminate against any person by treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependents.

### **Promoting Good Relations**

Members will act in a way that is conducive to promoting good relations by providing a positive example for the wider community to follow by acting justly and promoting a culture of respect for the law.

### **Respect**

It is acknowledged that the exchange of ideas, and opinions on policies may be robust but this should be kept in context and not extend to individuals being subjected to unreasonable

and excessive personal attack. Members should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, Members and the Assembly itself. Members should therefore show respect and consideration for others at all times.

### **Good Working Relationships**

#### ■ Between Members

Members should work responsibly with other Members of the Assembly for the benefit of the whole community. Members must treat other Members and the staff of other Members with courtesy and respect. Members must abide by the Assembly Standing Orders and should promote an effective working environment within the Assembly.

#### ■ Between Members and Assembly staff

The relationship between Members and Assembly staff must at all times be professional, courteous and based on mutual respect. This also applies to contract staff at the Assembly.

## **Rules of the Code of Conduct**

Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and never undertake any action which would bring the Assembly into disrepute.

The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the Assembly, or to any Committee of the Assembly, is contrary to law. Any Member who is offered a bribe as described above shall refer the matter to the appropriate authority and to the Committee on Standards and Privileges.

Members shall fulfil conscientiously the requirements of the Assembly in respect of the registration of interests in the Register of Members' Interests and shall always draw attention to any relevant interest in any proceeding of the Assembly or its Committees, or in any communications with Ministers, Government Departments or Executive Agencies.

In any activities with, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.

No Member shall, in return for payment or benefit, advocate or initiate any cause or matter on behalf of any outside body or individual in any proceeding of the Assembly. Furthermore, Members shall not, in return for benefit or payment, urge any other Member to do so.

No improper use shall be made of any payment or allowance made to Members for public purposes and the administrative rules applying to such payments, allowances and resources must be strictly observed.

Members shall at all times observe and comply with any guidance or instructions of any kind approved by the Assembly, or issued by the Commission or Assembly Directorates on its behalf or with its authority.

Members must bear in mind that information which they receive in confidence in the course of their Assembly duties should be used only in connection with those duties, and that such information must never be used for the purpose of financial gain. Members shall be mindful

of the Data Protection Act and their duty of confidentiality in respect of information provided by constituents.

## Duties in respect of the Assembly Commissioner for Standards and the Committee on Standards and Privileges

The application of this Code shall be a matter for the Assembly, the Committee on Standards and Privileges and the Commissioner.

Members shall co-operate at all times with any investigation into their conduct by or under the authority of the Assembly. Any substantiated allegation of non-compliance with an investigation will constitute a breach of the Code of Conduct.

No Member shall lobby a member of the Committee on Standards and Privileges, or the Commissioner in a manner calculated or intended to influence their consideration of a complaint alleging a breach of this Code.



# The Guide to the Rules Relating to the Conduct of Members

## Introduction

1. The purpose of this Guide is to assist Members in discharging the duties placed upon them by the Code of Conduct agreed by the Assembly. It replaces the Guide approved by a Resolution of the Assembly on 14 December 1999 and amended on 15 October 2001. The rules within this Guide derive their authority from a Resolution of the Assembly and are therefore enforceable by the Assembly.
2. No written guidance can provide for all circumstances and the examples provided do not therefore constitute an exhaustive list. When in doubt Members should seek the advice of the Clerk of Standards who, if necessary, will seek adjudication from the Committee on Standards and Privileges.
3. The Guide is divided into four sections dealing with (1) Registration of Members' Interests (paragraphs 7 to 17); (2) the Categories of Registrable Interest (paragraph 18 to 80); (3) Declaration of Members' Interests (paragraphs 81 to 94); (4) the Advocacy Rule (paragraphs 95 to 102).
4. The Code of Conduct provides a framework within which acceptable conduct should be judged and to assist Members in the discharge of their obligations to the Assembly, their constituents and the public at large. This Guide contains guidelines (paragraphs 95 to 102) to assist Members in applying the Advocacy Rule. Paragraph 102 deals with the conflict of interest that may arise when a Member holding a relevant financial interest takes part in a delegation involving the source of that interest.
5. The Assembly has two distinct but related methods for the disclosure of the personal financial interests of its Members: registration of interests in a Register which is open for public inspection; and declaration of interest in the course of making a speech or asking questions in the Assembly Chamber or in Committee, or participation in any other proceedings of the Assembly.
  - The main purpose of the Register is to give public notification on a continuous basis of those financial interests held by Members which might be thought to influence their conduct in carrying out their Assembly duties.
  - The main purpose of declaration of Members' interests is to ensure fellow Members of the Assembly and the public are made aware, at the appropriate time when a Member is making a speech or asking questions, written or oral, in the Assembly Chamber or in Committee or participating in any other proceedings of the Assembly, of any past, present or expected future financial interest, direct or indirect, which might reasonably be thought to be relevant to those proceedings.
6. Northern Ireland Ministers and junior Ministers are subject to the rules of registration, declaration and lobbying in the same way as other Members. The requirements of the Assembly's Code of Conduct also continue to apply to the conduct of Ministers. In addition, however, Ministers are also subject to the Ministerial Code of Conduct in order to ensure that, inter alia, no conflict arises, nor appears to arise, between their private interests and their public duties. The Committee on Standards and Privileges will not investigate alleged breaches of the Ministerial Code of Conduct. Neither will the Committee on Standards and Privileges investigate an alleged breach of the Assembly's Code of Conduct in respect of the conduct of Ministers, where such an allegation is essentially an allegation that falls within the scope of the Ministerial Code of Conduct and where the allegation does not clearly overlap with the Minister's conduct and duties as a Member.

## Registration of Members' Interests

7. The rules within this Guide derive their authority from a Resolution of the Assembly on 23 June 2009 and are therefore enforceable by the Assembly. It replaces the Guide approved by a Resolution of the Assembly on 14 December 1999 and amended on 15 October 2001. Under this Resolution of 23 June 2009, Members are required to register their financial interests in a Register of Members' Interests. The duty of compiling the Register rests with the Clerk of Standards.

### Definition of the Register's Purpose

8. The main purpose of the Register of Members' Interests is to provide information of any financial interests or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in the Assembly, or actions taken in his or her capacity as a Member of the Assembly. Provision is also made for the registration of non-financial interests and other such information as the Assembly may from time to time require to be included. The registration form specifies twelve categories of registrable interests which are described below. Apart from the specific rules, there is a more general obligation upon Members to keep the overall definition of the Register's purpose in mind when registering their interests.

### Duties of Members in Respect of Registration

9. After an election of the Assembly, Members are required to complete a registration form and submit it to the Clerk of Standards within three months of taking their seats in accordance with Standing Orders. Members taking their seats in accordance with section 35 of the Northern Ireland Act 1998 must also complete a registration form within three months of taking their seats. After the initial publication of the Register, (or, in the case of Members returned in accordance with section 35 of the Northern Ireland Act 1998, after their initial registration) it is the responsibility of Members to notify changes in their registrable interests within four weeks of each change occurring in accordance with Standing Orders.
10. Any Member having a registrable interest which has not at the time been registered, shall not undertake any action, speech or proceeding (save voting) of the Assembly to which the registration would be relevant until notification has been given to the Clerk of Standards of that interest. Members who have a relevant unregistered interest may vote but should register the interest immediately afterwards (see paragraph 94 for further guidance).
11. The sole responsibility for complying with the duties placed upon them by this Guide rests with Members. Members are responsible for making a full disclosure of their interests, and if they have relevant interests which do not fall clearly into one or other of the specified categories, they are nonetheless expected to register them. Members may at any time seek the advice and guidance from the Clerk of Standards on the registration and declaration of interests.
12. Failure to register an interest may be an offence under section 43 of the Northern Ireland Act 1998. The Committee on Standards and Privileges may refer to the Public Prosecution Service complaints received in respect of such an alleged failure.

### Publication and Public Inspection

13. The Register is published soon after the beginning of a new Assembly, under the authority of the Committee on Standards and Privileges. The Register will be published in electronic format on the Assembly's website. Hard copies will be retained by the Clerk of Standards and the Assembly Library. The Register is available for public inspection in the office of the Clerk of Standards. Hard copies will be made available upon request.

14. At the discretion of the Clerk of Standards, copies of individual entries in the Register may be supplied on request. However, the employment agreements deposited with the Clerk which relate to registered interests (paragraph 34) are available for personal inspection only.

### **Adding and Deleting Interests**

15. A Member may request in writing that his/her entry in the Register of Interests is amended.
16. Where this involves adding an interest the Member must lodge a written notice with the Clerk of Standards. The Member must indicate the nature of the interest, the category under which it should be registered, and the date at which the interest was acquired.
17. Where a Member wishes to have a ceased interest removed from the Register the Member must lodge a written notice with the Clerk of Standards identifying the ceased interest and giving the date that it became a ceased interest. The Clerk of Standards will amend the Member's entry to record the relevant interest as a ceased interest, the date it became a ceased interest and the date on which the amendment was made in the Register. Not less than 12 months after the notice is lodged the Clerk of Standards will further amend the Register by deleting the interest and sending a copy of the amended entry to the Member.

## **The Categories of Registrable Interest**

### **Part 1**

#### **Category 1**

Directorships: Remunerated directorships in public and private companies including directorships which are individually remunerated, but where remuneration is paid through another company in the same group.

18. In this Category, and in others, "remuneration" includes not only salaries and fees, but also the receipt of any taxable expenses, allowances, or benefits, such as the provision of a company car. It is necessary to register the name of the company in which the directorship is held and to give a broad indication of the company's business, where that is not self-evident from its name. In addition to any remunerated directorships, a Member is also required to register any directorships he or she holds which are themselves unremunerated but where the companies in question are associated with, or subsidiaries of, a company in which he or she holds a remunerated directorship.
19. Companies which have not begun to trade or which have ceased trading need not be registered, either under this Category or under Category 9 (shareholdings). "Not trading" should, however, be interpreted in a strict sense; if a company is engaged in any transaction additional to those required by law to keep it in being, then a remunerated directorship in that company should be registered. If a Member wishes to register a directorship in a company which is not trading the Member should make the position clear by adding the words "not trading" after the name of the company.
20. Any provision to clients of services in respect of the registered directorship which depend essentially upon, or arise out of, the Member's position as a Member of the Assembly should be registered under this Category.
21. All clients to which personal services are provided in this regard should be listed together with the nature of the client's business in each case. Where a Member receives remuneration from a company or partnership engaged in consultancy business which itself has clients, the Member should list any of those clients to whom personal services or advice is provided, either directly or indirectly. Members should also consider the requirement to deposit an employment agreement; the details of this requirement are set out at paragraphs 34 to 36.

22. The types of services which are intended to be covered here include those connected with any Assembly proceeding, or other services relating to membership. A Member who has clients in a non-Assembly professional capacity (for example as a doctor, solicitor or accountant) is not required to register those clients, provided it is clear beyond doubt that the services which are being provided do not arise out of or relate in any manner to membership of the Assembly.
23. Members are required to register how many hours they work on average per week/month in respect of each registered Directorship.
24. Members are also required to register the amount of any remuneration they receive in respect of each registered Directorship. Where appropriate, Members may simply register at the outset that they receive £x per week/month/quarter/annum. It is the gross amount that should be registered. However, where remuneration is received on an exceptional, irregular or ad hoc basis, or where payments are routine but the amount varies considerably, such figures should be registered individually within four weeks of their receipt. Again it is the gross amount that should be registered.
25. There is no requirement, however, to register remuneration from a single source which, in the course of a calendar year, does not exceed 0.5% of the current salary of an Assembly Member (currently £240).
26. Members who are unclear about how they should register their details as required by this category, should consult the Clerk of Standards for advice.

## **Category 2**

Remunerated Employment, Office, Profession, etc: Employment, office, trade, profession or vocation which is remunerated or in which the Member has any financial interest.

27. All employment outside the Assembly and any sources of remuneration which do not fall clearly within any other Category should be registered here. When registering employment, Members should not simply state the employer company and the nature of its business, but should also indicate the nature of the post which they hold in the company or the services for which the company remunerates them. Members who have paid posts as consultants or advisers should indicate the nature of the consultancy, for example “management consultant”, “legal adviser”, “public affairs consultant”.
28. Members who have previously practised a profession may wish to register that profession under this Category with a bracketed remark such as “[non-practising]” after the entry. This is particularly desirable in cases of sleeping partnerships and where it is likely that the Member will resume the profession at a later stage.
29. Where the remunerated employment involves any provision to clients of services which depend essentially upon, or arise out of, the Member’s position as a Member of the Assembly but is not as a result of a remunerated Directorship (Category 1) it should be registered under this Category. If this is the case, the requirements under paragraphs 21 and 22 also apply to this category. Members should also consider the requirement to deposit an employment agreement; the details of this requirement are set out at paragraphs 34 to 36.
30. Members are required to register how many hours they work on average per week/month in respect of each entry registered under this category. There is no need to register the hours worked in respect of any remuneration which relates to work carried out before 12 October 2009 or in respect of work carried out before becoming a Member.
31. Members are also required to register the amount of any remuneration they receive in respect of each entry. Where appropriate, Members may simply register at the outset that they receive on average/approximately £x per week/month/quarter/annum. It is the gross amount

that should be registered. However, where remuneration is received on an exceptional, irregular or ad hoc basis, or where payments are routine but the amount varies considerably, such figures should be registered individually within four weeks of their receipt. Again it is the gross amount that should be registered. However, in the case of self-employed sole traders it will be acceptable to simply register the end year net profit, as reported in the financial statement of the business.

32. There is no requirement, however, to register remuneration from a single source which, in the course of a calendar year, does not exceed 0.5% of the current salary of an Assembly Member (currently £240).
33. Members who are unclear about how they should register their details as required by this category, should consult the Clerk of Standards for advice.

### **Employment Agreements**

34. Members should deposit certain employment agreements with the Clerk of Standards. Any Member who has an existing agreement or proposes to enter into an agreement which involves the provision of services in his or her capacity as a Member of the Assembly should:
  - a) ensure, that the agreement does not breach the Advocacy Rule (see paragraphs 95 - 102);
  - b) put any such agreement in written form;
  - c) deposit a full copy of the agreement with the Clerk of Standards. The agreement should indicate the nature of the services to be provided and specify the fees or benefits the Member is to receive;
  - d) make the appropriate entry in the Register of Members' Interests; and
  - e) declare the interest when it is appropriate to do so (see paragraphs 81 - 94).

Deposited agreements may be inspected in the Office of the Clerk of Standards. The terms of the Resolution of the Assembly of 14 December 1999, do not permit the taking of copies.

35. The requirement for employment agreements to be put in writing will apply principally to any arrangement whereby a Member may offer advice about Assembly matters. It should also include frequent, as opposed to merely occasional, commitments outside the Assembly which arise directly from membership of the Assembly. For example, a regular, paid newspaper column or television programme would have to be the subject of a written agreement, but ad hoc current affairs or news interviews or intermittent panel appearances would not.
36. A regular paid newspaper column, or regular contribution to a radio or television programme, need not be the subject of a written agreement if its subject is wholly unrelated to Assembly or public affairs (e.g. a sports column).

### **Category 3**

Elected/Public Office: Members are required to register their membership of all elected and public offices whether it is remunerated or not, or if expenses only are payable.

37. Membership of all public offices, including Membership of the United Kingdom Parliament, or ministerial office must be declared. The only office that is not necessary to register is Membership of the Assembly.
38. Membership of all public bodies, including acting in a voluntary capacity or in a public body, e.g. city, district or borough councils, education and library boards, health and social services boards or health trusts, boards of governors of schools, other non departmental public bodies, etc must be registered.

39. Members are required to register how many hours they work on average per week/month in respect of each entry registered under this category.
40. Members are also required to register the amount of any remuneration they receive in respect of each entry. Where appropriate, Members may simply register at the outset that they receive on average/approximately £x per week/month/quarter/annum. However, where remuneration is received on an exceptional, irregular or ad hoc basis, or where payments are routine but the amount varies considerably, such figures should be registered individually within four weeks of their receipt.
41. There is no requirement, however, to register remuneration from a single source which, in the course of a calendar year, does not exceed 0.5% of the current salary of an Assembly Member (currently £240).
42. Members who are unclear about how they should register their details as required by this category, should consult the Clerk of Standards for advice.

#### Category 4

Electoral Support and Political Donations: Members are required to register under this category:

- a) any donations, loans or credit received by a Member's constituency party or association, or relevant grouping of associations, which is linked either to candidacy at an election or to membership of the Assembly; and
- b) any other form of financial or material benefit (including loans or credit) received by a Member in support of his or her role as a Member of the Assembly

amounting to more than £1000 from a single source, whether as a single transaction or as multiple transactions of more than £200 during the course of the calendar year.

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, should not be registered.

43. This Category deals with financial donations or other forms of support from a 'single source' which in this context means from a company, trade union, professional body, trade association, other organisation or individual. Subsection (b) relates to other forms of support, which is interpreted to cover support from companies, organisations or individuals from which the Member receives any financial or material benefit in support of his or her role as a Member of the Assembly. Members should register any specific forms of support which they receive irrespective of whether this includes personal payment. If a company is a donor the nature of its business should be indicated.
44. Political donations which Members are required to report to the Electoral Commission should be entered under this Category unless -
  - a) it would be more appropriate to enter them under another Category, such as Category 5 (Gifts, Benefits and Hospitality (UK) or Category 6 (Overseas Visits);or
  - b) they are exempt from registration.
45. Members should register non-cash donations. These are defined as goods or services given to a holder of elective office without charge or at a discount of more than 10% of the normal commercial value. This might for example include the provision of services of a research



assistant or secretary whose salary, in whole or in part, is met by an external organisation or individual.

46. The provision of free or subsidised accommodation for the Member's use, other than accommodation provided solely by the constituency party, should be registered, as appropriate, either in this section or under Category 5 "Gifts, benefits and hospitality"; except that accommodation provided by a local authority at no cost, or at a subsidised cost, to a Member for the sole purpose of holding constituency surgeries is exempt from registration. However, under the Political Parties, Elections and Referendums Act 2000 (PPERA), Members should not accept the use of council premises which would amount to a donation in kind of more than £200 per booking.
47. Electoral Support and Political Donations made to Members of the Assembly should also be registered where they relate to leadership contests within their own parties.
- 47a. Members are not required to register participation in the Northern Ireland Assembly Legislative Strengthening Trust's Professional Development Programme for Members.

### Category 5

Gifts, benefits and hospitality (UK): Any gift to the Member or the Member's partner, or any material benefit of a value greater than 0.5% of the current salary of an Assembly Member (currently £240), from any company, organisation or person within the UK which in any way relates to membership of the Assembly (including those received in a ministerial capacity) or to a Member's political activity.

48. The specified financial value above which tangible gifts (such as money, jewellery, glassware etc.) and other benefits (such as hospitality, tickets to sporting or cultural events, relief from indebtedness, loan concessions, provision of services etc.) must be registered is 0.5% of the current salary of an Assembly Member, (currently £240).
49. Gifts or benefits from a single source, over the course of a calendar year, whose cumulative value exceeds 0.5% of Member's current Assembly salary should also be registered.
50. Benefits, such as tickets to sporting or cultural events, received by another person together with or on behalf of a Member should be registered as if they have been received by the Member. Gifts, or other benefits, received from another Member of the Assembly are registrable in the same way as those from anyone else.
51. Any gifts, hospitality, material benefits 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 should be registered.
52. The rule means that any gift, or other benefit, which in any way relates to membership of the Assembly or a Member's political activities and which is given gratis, or at a cost below that generally available to members of the public, should be registered whenever the value of the gift or benefit is greater than the amount specified in paragraph 48. Any similar gift or benefit which is received by any company or organisation in which the Member, or the Member and the Member's partner jointly, have a controlling interest should also be registered.
53. Although hospitality from public bodies (Her Majesty's Government, any of the devolved institutions in Scotland, Wales or Northern Ireland or non-departmental bodies including Members' local or health authorities), if valued at over £200, is considered impermissible under PERA, the Electoral Commission recognises that such hospitality from these sources is in many cases part of Members' duties and therefore forms part of their remuneration and allowances, which do not need to be reported under PERA. Under the rules of the Assembly such hospitality, and hospitality from the government of the Republic of Ireland, is

not registrable, but in any case of doubt the Electoral Commission should be consulted as to permissibility before acceptance.

54. Gifts and material benefits in this Category (and other Categories) are exempt from registration if they do not relate in any way to membership of the Assembly or a Member's political activities. The extent to which this exemption applies in any particular case is necessarily a matter of judgement. Both the possible motive of the giver and the use to which the gift is put have to be considered: if it is clear on both counts that the gift or benefit is entirely unrelated to membership of the Assembly or the Member's political activities, or would not reasonably be thought by others to be so related, it need not be registered. If there is any doubt it should be registered.
55. Where a gift is registered the Member is required to provide the nature of the gift and the date it was received.

### **Category 6**

Overseas visits: With certain specified exceptions, overseas visits made by the Member or the Member's partner, or dependent children, relating to or in any way arising out of membership of the Assembly (including those made in a ministerial capacity), or to the Member's political activity, where the cost of the visit was not wholly borne by the Member, or by United Kingdom or Northern Ireland public funds.

56. The Member should enter in the Register the date, destination and purpose of the visit and the name of the Government, organisation, company or individual which met the cost. Where only part of the cost was borne by an outside source (for example the cost of accommodation but not the cost of travel), those details should be stated briefly. When an overseas visit was arranged by a registered All-Party Group or by a party group, it is not sufficient to name the group as the sponsor of the visit; the Government, organisation, company or person ultimately meeting the cost should be specified.
57. The following categories of visit, which are mainly paid for from Northern Ireland public funds or which involve reciprocity with other Governments or Parliaments, together with any hospitality associated with such a visit and available to all participants, are exempt from registration:
- (a) Visits which are paid for by, or which are undertaken on behalf of, the Northern Ireland Executive or which are made on behalf of an international organisation to which the Assembly belongs;
  - (b) Visits abroad with, or on behalf of, a Committee of the Assembly or the Assembly Commission;
  - (c) Visits undertaken under the auspices of the Commonwealth Parliamentary Association, the Inter-Parliamentary Union (or the British-Irish Parliamentary Body) or the Westminster Foundation for Democracy;
  - (d) Visits arranged and paid for wholly by a Member's own political party;
  - (e) Visits paid for wholly by an institution of the European Union or by a political group of the European Parliament;
  - (f) Visits as part of an Industry and Parliament Trust fellowship or the NI Assembly Business Trust.
  - (g) Visits undertaken as part of the Northern Ireland Assembly Legislative Strengthening Trust's Professional Development Programme for Members.



58. Visits which are entirely unconnected with membership of the Assembly or whose cost does not exceed 0.5% of the current salary of an Assembly Member (currently £240), are also exempt from registration.

### Category 7

Overseas benefits and gifts: Any gift to the Member or the Member's partner or dependent children or any material benefit of a value greater than 0.5% of the current salary of an Assembly Member (currently £240), from any company, organisation or person outside of the UK which in any way relates to membership of the Assembly (including those received in a ministerial capacity) or to a Member's political activity.

59. The financial limits and guidelines which apply to the previous Category also apply here. Members should enter a cross-reference under this Category where an interest already entered in Categories 1 or 2 entails the receipt of payments abroad. There are legal restrictions on Members accepting benefits from abroad in connection with their political activities, about which they may wish to take advice from the Electoral Commission.

### Category 8

Land and Property: Any land or property – owned solely or jointly with a third-party - either within or outside of Northern Ireland, other than any home used for personal residential purposes of the Member, or the Member's partner or any dependent child of the Member, which is of a substantial value or from which a substantial income is derived must be registered. The nature of the property should be indicated.

60. For the purposes of this category:
- “substantial value” is defined as a total property portfolio of a value equivalent to, or greater than, 100% of the current Member's Assembly salary (currently £48,000).
  - “substantial income” is defined as an income from all property holdings equivalent to, or greater than, 10% of the Member's current Assembly salary (currently £4,800).
61. A farm on which the Member has a residence should be registered because it has a substantial value aside from the residential use. Entries should be reasonably specific as to the nature of the property and its general location, for example:
- “Woodland in Fermanagh”
  - “Dairy Farm in Armagh”
  - “3 residential rented properties in Bangor”
62. A Member must register any property which he/she holds as a trustee only when the Member has a beneficial interest in the income or assets of the relevant trust.
63. A Member does not have to register his/her home if it is used solely for residential purposes. However, it will have to be registered if it provides rental income that contributes to the Member's income from his/her total property portfolio being substantial. All other properties that contribute to this total income will also have to be registered.
64. Members who own second homes but who do not receive an income from them may also register them under this category.

## Category 9 – Shareholdings

Shareholdings: Shareholdings held by the Member, either personally, or with or on behalf of the Member's partner or dependent children, in any public or private company or other body where either:

- a) the nominal value of the shares at the relevant date is, or was, greater than 1% of the total nominal value of the issued share capital<sup>1</sup> of the company or other body; or
- b) the market value of the shares at the relevant date exceeds, or exceeded, 50% of the current salary of an Assembly Member (currently £24,000) on that date.

- 65. For each registrable shareholding, the entry should state the name of the company or body, briefly indicate the nature of its business, and make clear which of the criteria for registration is applicable.
- 66. The value of a shareholding is determined by the market price of the share on the preceding 5 April; but if the market price cannot be ascertained (e.g. because the company is unquoted and there is no market in the shares), the nominal value of the shareholding should be taken instead. The Member must then obtain a new valuation on each subsequent 5 April. If the value continues to exceed the relevant proportion of salary, then the shares should continue to be registered. If they fall under that value then the Member may have the interest removed from the Register.
- 67. In considering whether to register any shareholdings falling outside (a) and (b) Members should have regard to the definition of the main purpose of the Register: "to provide information of any financial interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in the Assembly, or actions taken in his or her capacity as a Member of the Assembly". If a Member considers that any shareholding which he or she holds falls within this definition, the Member should register the shareholding either in this Category or under Category 10.
- 68. Identifiable shareholdings of a registrable value which are held within a trust or personal pension plan should also be registered.

## Category 10

Miscellaneous Interests: Any relevant financial interest not falling clearly within one of the above categories.

- 69. Members should register here any financial interests which might reasonably be thought by others to influence a Member's actions, speeches or votes in the Assembly, or actions taken in his or her capacity as a Member of the Assembly but which do not fall clearly into any of the above Categories. It is a cardinal principle that Members are responsible for making a full disclosure of their own interests in the Register; and if they have relevant interests which do not fall clearly into one or other of the specified Categories, they will nonetheless be expected to register them.
- 70. Members should also register in this category membership of any occupational pension schemes. However, it should be noted that not all pensions offered by employers are occupational pensions. An employer may offer a stakeholder pension or a personal pension through a group personal pension arrangement. These pensions are not called occupational pensions even though the employer may contribute. There is no requirement to register such pensions. An occupational pension which should be registered is therefore either an

<sup>1</sup> The total value of the shares issued by the company and made available to the public for purchase i.e. number of issued shares multiplied by nominal value of shares.

occupational salary-related scheme or an occupational defined contribution scheme. There is no requirement to register the Assembly Members' Pension Scheme as the option of this benefit is common to all Members.

### Category 11

Unremunerated Interests: Any relevant non-financial interest.

71. Members should register any unremunerated interests which might reasonably be thought by others to influence a Member's actions, speeches or votes in the Assembly, or actions taken in his or her capacity as a Member of the Assembly, even though the Member receives no financial benefit.
72. Members are required to register unremunerated directorships, e.g. directorships of charitable trusts, professional bodies, learned societies or sporting or artistic organisations, where such a body might directly benefit from public funds or from a decision taken by the Assembly. Where a Member considers that an unremunerated interest, other than a directorship, which the Member holds might be thought by others to influence his or her actions in a similar manner to a remunerated interest, such an interest should be registered here.

## Part 2

### Category 12

Family members who benefit from Office Cost Expenditure.

73. For the purposes of this Category the Member should register family members who benefit directly or indirectly in any way from any Office Cost Expenditure (e.g. through employment). The requirement to register a family member extends to any person where the Member knows of, or might reasonably be expected to know of, any relationship, past or present:
  - by marriage, or partnership equivalent to marriage; or
  - by blood.
74. There is no need, however, to register children if a Member is in receipt of the childcare allowance.
75. In order to strike a balance between the conflicting considerations of transparency and privacy where a relationship and other relevant information needs to be registered, the Member should simply state the nature of the relationship and the way in which the person benefits. For example,
 

*"I employ my wife as a Researcher".*
76. Members must also register the circumstances where former spouses, civil partners and their children benefit in any way.
77. In cases where the relevant relationship ends but there is still a benefit then the requirement to register will continue to apply for a period of one year.
78. Where a Member uses any of their Office Cost Expenditure in a way that benefits a family member of another MLA then this must also be registered. For example,
 

*"I employ the granddaughter of [MLA's name] as my Research Assistant".*
79. In the case where a family member is employed either for work experience or on a casual basis then this is exempt from registration if the total annual payments from the Office Cost Expenditure to the individual concerned do not exceed 0.5% of the current salary of an Assembly Member (currently £240). Likewise where a family member benefits in any other

way from a Member using their Office Cost Expenditure, this will be exempt from registration if the total annual amount of payments does not exceed 0.5% of the current salary of an Assembly Member (currently £240).

80. The Committee has recommended that details of standard job descriptions and salary bands be provided for guidance on the Assembly website. When these become available they will be accessible by a web link which will be inserted into the online Code and Guide.

## Declaration of Members' Interests

### Rules of the Assembly

81. Members should declare any relevant interest financial or otherwise or benefit of whatever nature, whether direct or indirect, in debate, or other proceedings. The same rule places a duty on Members to disclose to Ministers, or servants of the Crown, all relevant interests. The term 'servants of the Crown' should be interpreted as applying to the staff of executive agencies as well as to all staff employed in government departments.

### Past and potential interests

82. The rule relating to declaration of interest is broader in scope than the rules relating to the registration of interests in two important respects. As well as current interests, Members are required to declare both relevant past interests and relevant interests which they may be expecting to have. In practice only interests held in the recent past, i.e. those contained in the current printed edition of the Register, need normally be considered for declaration. Expected future interests, on the other hand, may be more significant. Where, for example, a Member is debating legislation or making representations to a Minister on a matter from which he or she has a reasonable expectation of personal financial advantage, openness is essential. In deciding when a possible future benefit is sufficiently tangible to necessitate declaration, the key word in the rule which the Member must bear in mind is "expecting". Where a Member's plans or degree of involvement in a project have passed beyond vague hopes and aspirations and reached the stage where there is a reasonable expectation that a financial benefit will accrue, then a declaration explaining the situation should be made.

### Relevance

83. It is the responsibility of the Member, having regard to the rules of the Assembly, to judge whether a financial interest is sufficiently relevant to a particular debate, proceeding, meeting or other activity to require a declaration. The basic test of relevance should be the same for declaration as it is for registration of an interest; namely, that a financial interest should be declared if it might reasonably be thought by others to influence the speech, representation or communication in question. A declaration should be brief but should make specific reference to the nature of the Members' interest.
84. No difficulty should arise in any proceeding of the Assembly or its Committees in which the Member has an opportunity to speak. Such proceedings, in addition to debates in the Assembly, include debates in Committees, the presentation of a Public Petition, and meetings of Committees at which evidence is heard. On all such occasions the Member will declare the interest at the beginning of his or her remarks and it will be a matter of judgement, if the interest is already recorded in the Register, whether he or she simply draws attention to this or makes a fuller disclosure. Any declaration should be sufficiently informative to enable a listener to understand the nature of the Member's financial interest.
85. In a debate in the Assembly the Member should declare an interest briefly, usually at the beginning of his or her speech. If the Assembly is dealing with a Committee stage of a Bill it will normally be sufficient for the Member to declare a relevant interest when speaking for the first time. It will not be necessary for a declaration to be repeated at subsequent sittings except when the Member speaks on an Amendment to which the interest is particularly

relevant. When giving notice of an Amendment or a Motion, giving notice of the presentation of a Bill or adding a name to an Amendment or Motion, Members should declare any relevant interest in the appropriate manner (see paragraphs 87-90 below).

#### **Interests of Family members**

86. Members should also give consideration to whether it would be appropriate to declare relevant interests of family members. Members should declare known relevant interests, financial or otherwise, of immediate relatives if these interests might reasonably be thought by others to influence the Member's speech, representation or communication in question.

#### **Declaration of an interest in respect of written notices**

87. Declaration of relevant interest is required on Forthcoming Business or the Order Paper when tabling any written notice, i.e.:
- (a) Questions (for oral or written answer, including Questions for urgent oral answer);
  - (b) A notice for the presentation of a Bill;
  - (c) Any other Motions, Amendments, or names added in support of them;
  - (d) Amendment to Bills (whether to be considered in the Assembly or in a Committee) and any names added in support of them.
88. Whenever such an interest is declared, the symbol "[R]" is printed after the Member's name on the Forthcoming Business or Order Paper. The Office accepting the written notice (including any written notice of a Member adding his or her name to a Motion or Amendment) assumes that no interest is declarable unless the notice clearly indicates a declaration; this should be done by inserting "[R]" after the Member's name on the Motion or Amendment, or adjournment debate topic as the case may be, or filling in the appropriate box which appears on the form for Assembly Questions.
89. "Relevant interests" which should be declared include any interest which the Member is required to register in the Register of Members' Interests, or which the Member should declare in debate. It will therefore usually be the case that the interest to which the Member is drawing the attention of the Assembly will already be entered in the Register. Provided it is readily apparent which of the Member's registered interests are applicable, the Member need take no further action. If this is not the case, or if the interest is a new interest which is not yet available for inspection in the Register, then the Member when giving notice should attach to that notice a brief written description of the interest which is being declared. This will then be available for inspection by Members in the office where the notice was given i.e. the Business Office or the Bill Office.
90. All Members need to exercise particular care when invited to add their names to any Motions or Amendments and to ensure that they have considered whether they have a relevant declarable interest. Given the informal way in which support for Motions and Amendments is often sought, the need for declaration may not be foremost in Members' minds, but great care needs to be exercised by Members in these circumstances.

#### **Declaration of interest in Committees**

91. Members of Committees on any matter or Bill must adhere to the following rules:
- (a) when a member of a Committee, particularly the Chairman, has a financial or other interest which is directly affected by a particular inquiry or when he or she considers that a personal interest may reflect upon the work of the Committee or its subsequent Report, the Member should consider whether he/she should stand aside from the Committee proceeding relating to it;

- (b) before proceeding to business, the Chair of the Committee should invite all members of the Committee to declare any interests they may have which relate to the terms of reference of that Committee, or which are likely to be relevant to a substantial part of the work which the Committee may be expected to undertake;
  - (c) a Member should make a declaration of interest at an early stage in any inquiry to which that interest particularly relates. If the interest is especially relevant to one witness or a group of witnesses appearing before the Committee, the interest should be declared again at the appropriate session of evidence;
  - (d) a Member is required to declare an interest when asking any questions which relate directly, or which might reasonably be thought by others to relate directly, to the financial or other interest he or she holds. Such a declaration must be made irrespective of any declaration having been made at an earlier meeting of the Committee. One such declaration is sufficient for any questions asked of the same witness during one evidence session;
  - (e) although the main purpose of declaration of interest is to inform colleagues, it is right that witnesses and the public, if the Committee is meeting in public, should also be informed. When a Committee meets in public, declaration of interest should be in public session. When a Committee meets in private and regularly takes oral evidence, declaration should be made when witnesses are present;
  - (f) in making any declaration a Member should clearly identify the nature of the financial interest. The form in which a declaration of interest is made, and its extent, must be primarily for the individual Member. A casual reference is not sufficient. A Member should make a declaration in clear terms and should ensure that such a declaration is entered in the Minutes of Proceedings of the Committee;
  - (g) it is perfectly acceptable for a Member, when declaring an interest which is registered in the Register of Members' Interests to refer to his or her entry in the Register;
  - (h) it is important to declare any interest at the beginning or during each Committee meeting. It is not intended to create a situation where the proceedings of Committees are frequently interrupted by declarations. The interests that a Member is required to register may not be at all relevant to his or her work on the Committee and consequently may never need to be declared during its proceedings.
92. Where the subject matter of an inquiry of a Committee is of direct concern to an outside body in which a Member has a financial interest, the Member must consider whether on grounds of conflict of interest it is proper to take part in the inquiry. The Member must also consider whether the relationship of his or her interest to the subject of the inquiry is so close that it is not possible to participate effectively in the inquiry without crossing the borderline into advocacy.

**Other occasions when declaration of interest should be considered**

93. The requirement to declare a relevant interest at the appropriate time covers almost every aspect of a Member's Assembly duties extending to correspondence and meetings with Ministers and public officials. Frankness with colleagues is also important. It should be a matter of honour that a financial interest is declared not only, as at present, in debate in the Assembly and its Committees but also whenever a Member is attempting to influence his or her fellow Members, whether in unofficial committees and gatherings or at any kind of sponsored occasion, with or without entertainment, or simply in correspondence or conversation. Above all it should be disclosed when a Member is dealing with Ministers or civil servants, and this obligation becomes of paramount importance when another government is involved either directly or indirectly.



**Divisions**

94. For the purpose of taking part in any division in the Assembly or in Committee, it is sufficient for the relevant interest to be disclosed in the Register of Members' Interests. A Member should seek to ensure prior to a vote taking place that any relevant interest is registered, or, where it is not, should register the interest immediately after the vote. Members should not vote where to do so would be a breach of the advocacy rule. With regard to divisions and interests that would not normally be registered, these interests should be registered under either Category 10 or 11 (Miscellaneous or Unremunerated Interests) with a reference to the division to which the interest relates. Members are free at any time to seek the advice and guidance of the Clerk of Standards on the registering and declaring of interests.

**The Advocacy Rule**

95. Paid advocacy is not permitted. No Member shall, in any proceeding of the Assembly, in return for payment or benefit:
- advocate or initiate any cause or matter on behalf of any outside body or individual;
  - urge any other Member of the Assembly to do so.

If a financial interest or material benefit is required to be registered in the Register of Members' Interests, or declared in debate, it falls within the scope of the rule. The following guidelines will assist Members in applying the rule.

**Assembly proceedings**

96. When a Member is taking part in any Assembly proceeding or making any approach to a Minister or servant of the Crown, advocacy is prohibited which seeks to confer benefit exclusively upon a body (or individual) outside the Assembly, from which the Member has received, is receiving, or expects to receive a financial or material benefit, or upon any registrable client of such a body (or individual). Otherwise a Member may speak freely on matters which relate to the affairs and interests of a body (or individual) from which he or she receives a financial or material benefit, provided the benefit is properly registered and declared.
97. It would be regarded as a very serious breach of the rule if a Member failed to register or declare an interest which was relevant to the proceeding he/she initiated.

[Note: "Initiating an Assembly proceeding" includes:

- presenting a Bill;
- presenting a Petition;
- tabling and asking an Assembly Question, including any supplementary questions to such a Question;
- initiating, or seeking to initiate an adjournment (or other debate);
- tabling or moving any Motion;
- tabling or moving an Amendment to a Bill;
- proposing a draft Report, or moving an Amendment to a draft Report, in a Committee;
- giving any written notice, or adding a name to such notice, or making an application for an emergency debate.

A similar consideration applies in the case of approaches to Ministers or civil servants]

**Constituency issues**

98. Irrespective of any relevant interest which the Member is required to register or declare, he or she may pursue any constituency interest in any proceeding of the Assembly, except that:

- (a) where the Member has a financial relationship with a company or body in the Member's constituency the guidelines above relating to Assembly proceedings shall apply;
- (b) where the Member is an adviser to a trade association, or to a professional (or other representative) body, the Member should avoid using a constituency interest as the means by which to raise a matter which relates primarily to the wider industrial, professional or other interest and which the Member would otherwise be unable to pursue.

**Parameters to the operation of the Advocacy Rule.**

99. The following parameters to the operation of the rule exist:

- (a) Registrable interests: The rule applies with equal effect to any registrable or declarable financial or material benefit irrespective of the source of that benefit (i.e. no distinction is drawn between financial or material benefits received from a company, a representative organisation, a charity, a foreign government or any other source). Similarly, no distinction should be drawn in the application of the rule to different categories of registrable or declarable benefit (except for the provision below relating to Private Members' Bills, to overseas visits, and to membership of other elected bodies). Non-financial interests registered by Members do not fall within the scope of the Resolution agreed by the Assembly on 14 December 1999 and the Advocacy Rule does not apply to them.
- (b) Past, present, and future benefits: Unlike the Register, which lists current benefits, or benefits received in the immediate past, the Resolution of 14 December 1999 also refers, as does the rule on declaration, to past and expected future benefits. It is difficult to contemplate circumstances where any benefit received some time in the past, particularly an interest which is not in the current printed Register, could be sufficiently relevant to be taken into account under the rule (see (d) below). Expected future interests, on the other hand, may be more significant. For example, Members expecting to derive direct financial benefit from particular legislation should, as well as declaring the interest in debate as appropriate, not seek to move Amendments relevant to the expected future interest. The same consideration applies to other proceedings.
- (c) Continuing benefits: Continuing benefits, i.e. directorships, other employment, and sponsorship, can be divested to release a Member with immediate effect from the restrictions imposed by the Advocacy Rule, provided that the benefit is disposed of and there is no expectation of renewal.
- (d) "One-off" benefits: From the publication of the first edition of the Register, which will include the date of registration, the rule will apply to "one-off" registrable benefits, both visits and gifts, from the day upon which the interest was acquired until one year after it is registered.
- (e) Family benefits: The rule includes relevant payments or benefits in kind to a Member's family, including a civil partner or cohabitant, but any payment to a member of the family of any Member which arises out of the family member's own occupation is not regarded as a benefit for the purposes of the rule.
- (f) Private Members' Bills: Members who seek to introduce and proceed with a Private Members' Bill are not prevented from doing so by reason of the fact that they receive free or subsidised assistance from an organisation connected with the purpose of the Bill provided the Member had no pre-existing financial relationship with the organisation which is registered, or is required to be registered.
- (g) Overseas Visits: Although, except as set out in paragraph 57, overseas visits must be registered and declared, such visits shall not be taken into account when applying the rule.



- (h) Membership of other elected bodies: Membership of the House of Commons and local authorities in the UK shall not be taken into account when applying the rule.
- (i) Ministers: The restrictions imposed by the rule do not apply to Ministers when acting in the Assembly as Ministers.

100. The financial interests of Members are extremely varied, as the Register demonstrates. Each Member will need to apply the Advocacy Rule and the guidelines to his or her particular circumstances. When in doubt, Members will be able to seek advice of the Clerk, or the Committee on Standards and Privileges. However, some illustrative examples of the application of the guidelines may be of value:

- (a) A Member who is a director of a company may not seek particular preference for that company (e.g. tax relief, subsidies, restriction of competition) in any proceeding of the Assembly.
- (b) In the case of trade associations, staff associations, professional bodies, charities (or any similar representative organisation):
  - (i) Membership alone of any representative organisation does not entail any restrictions under the rule.
  - (ii) A Member who is, for example, a remunerated adviser:
    - May not advocate measures for the exclusive benefit of that organisation; nor speak or act in support of a campaign exclusively for the benefit of the representative organisation or its membership (e.g. a campaign for special tax relief, or for enhanced pay and numbers);
    - May speak or act in support of a campaign which is of particular interest to the representative organisation (e.g. in the case of an animal welfare organisation, a campaign to prohibit the importation of animal fur, or prohibit blood sports; in the case of a charity for cancer research, a campaign for the prohibition of smoking).
- (c) When a Member has a problem involving a company within his or her constituency the Member may take any Assembly action to resolve that problem, even though he or she may hold a remunerated position with a body representing the relevant sector of the industry regionally or nationally, or with another company outside the constituency in the same industrial sector. Similarly a Member who has a remunerated interest with a representative association is not restricted in any way in taking up the case of a constituent who is a member of that association, or is employed by a member of that association. The only circumstances when the Member's actions are restricted are when the Member has a registrable interest with the company concerned in which case the guidelines provide that the Member forfeits the special position he or she has as a constituency Member.
- (d) Members are reminded that when accepting foreign visits they should be mindful of the reputation of the Assembly. However, the knowledge obtained by Members on such visits can often be of value to the Assembly as a whole. While it is desirable that Members should be able to use that knowledge in debate in the Assembly there is a point at which promoting the interests, of e.g. a foreign Government from which hospitality has been received, crosses the line between informed comment and lobbying for reward or consideration. Members may not, for example, either initiate or advocate in debate increased United Kingdom financial assistance to a Government from which they have recently received hospitality. Nor may the Member advocate any other measure in the Assembly which seeks to bring exclusive benefit to the host Government. Subject to this constraint Members could, having declared their interest, raise matters relating to their experiences in the country either in a speech or by initiating any other proceeding. Similarly they could raise matters relating to the problems of the country generally, or make use of any local insight they have obtained

into regional problems (e.g. the situation in the Middle East or in South East Asia, economic or social problems or an external threat or information they have obtained on local developments or initiatives).

- (e) A Member whose visit was funded by a non-governmental organisation (NGO) or other agency would not be inhibited in initiating proceedings relating to its work unless the Member sought to raise matters which relate specifically and directly to the affairs and interests of the NGO or agency itself, rather than the problems it was dealing with. In debate the Member could go even wider – only a matter which was for the exclusive benefit of the NGO or agency e.g. a request for a grant-in-aid to the particular organisation could not be pursued.
- (f) Under the Advocacy Rule, a Member who is receiving free office accommodation provided by a local authority should not advocate measures for the exclusive benefit of the local authority itself (as distinct from the interests of those whom the local authority represents). In practice, since Members also have a paramount duty to represent their constituents there will be few occasions when the application of the rule will place a limit on a Member's Assembly actions. In any event, accommodation provided solely for the purpose of holding constituency surgeries is exempt from registration and therefore from the application of the Advocacy Rule.

#### **Responsibility of the Member**

- 101. In common with the rules of the Assembly relating to registration and declaration of interests the main responsibility for observation of the Advocacy Rule lies with the individual Member. The Select Committee on Standards in Public Life stated in its Second Report that "it is important to make clear that it will not be the function of the Chair to enforce the ban on paid advocacy during speeches, either by interrupting a Member thought to be contravening it, or by declining to call him. Complaints will be a matter for the Commissioner to investigate in the first instance". The Speaker should decline to receive points of order relating to the Advocacy Rule.

#### **Delegations**

- 102. The Resolution agreed by the Assembly on 14 December 1999 restricts the extent to which any Member with a paid interest may participate in, or accompany, a delegation to Ministers or public officials relating to that interest. A Member should not initiate, or participate in, or attend any such delegation where the problem to be addressed affects only the body with which the Member has a relevant interest, except when that problem relates primarily to a constituency matter.

# Complaints Procedure

## Introduction

1. All complaints that a breach of the Code of Conduct has occurred should be submitted to the Northern Ireland Assembly Commissioner for Standards (“the Commissioner”). The Commissioner shall consider any complaint received as per the requirements of any directions given by the Committee on Standards and Privileges (“the Committee”).
2. The Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (General Procedures) Direction 2012 sets out the general procedure to be followed by the Commissioner when investigating and reporting on complaints, as well as other functions. That direction, which came into force on 12 November 2012, is set out in full at **Annex 1**.
3. The Commissioner’s address is Room 283, Parliament Buildings, Stormont, Ballymiscaw, Belfast BT4 3XX.

## Admissible complaints

4. The Commissioner may investigate a complaint only where that complaint is admissible.
5. An admissible complaint must—
  - (a) be made in writing;
  - (b) state the name and postal address of the complainant;
  - (c) name the Member who is the subject of the complaint;
  - (d) include an allegation that a breach of the Code of Conduct has occurred;
  - (e) state which part of the Code of Conduct the complainant alleges to have been breached;
  - (f) be substantiated (i.e. include enough supporting evidence to establish a prima facie case that a breach of the Code of Conduct has occurred);
  - (g) relate to alleged conduct which falls within the scope of the Code of Conduct; and
  - (h) be made within one year from the date when the complainant ought reasonably to have made the complaint.
6. In addition a complaint about a former Member is not admissible unless—
  - (a) the complaint is made within four weeks of the former Member having ceased to be a Member; and
  - (b) the Commissioner, having due regard to value for money considerations and the nature of the complaint, believes that it is in the public interest for the complaint to be investigated.

## Role of the Commissioner

6. The Commissioner shall undertake an investigation into an admissible complaint with a view to—
  - (a) establishing all the relevant facts in relation to the potential breach of the Code of Conduct; and

- (b) forming a view whether or not a breach of the Code of Conduct has occurred.
7. The Commissioner shall report to the Committee on an investigation into a complaint. The Commissioner's report shall include, inter alia,—
- (a) the details of the investigation carried out by the Commissioner;
  - (b) the facts established by the Commissioner in his investigation, with references to evidence as appropriate;
  - (c) the Commissioner's reasoned decision, including his or her view as to whether or not a breach of the Code of Conduct has occurred;

## Role of the Committee on Standards and Privileges

8. Before the Committee considers a report on a complaint from the Commissioner, it shall arrange for the Member who is the subject of the investigation to be provided with a copy of the Commissioner's report. The Member shall be entitled to provide the Committee with comments in writing and to appear before the Committee to make comments in person before the Committee determines whether or not a breach of the Code of Conduct has occurred.
9. Following receipt of a report from the Commissioner, the Committee may request the Commissioner to carry out such further investigation as may be specified in the request, and the Commissioner shall report to the Committee—
- (a) on the outcome of the further investigation; or
  - (b) that on considering the request the Commissioner has concluded that the further investigation would be unnecessary and the reasons for that conclusion.
10. As part of its deliberations on the findings of the Commissioner's report, the Committee may decide to invite the Member who is the subject of the investigation, or any other person, to submit evidence or appear before the Committee and give oral evidence.
11. The Committee and the Assembly are not bound by the facts found, nor the conclusions reached, by the Commissioner in any report. The Committee shall determine whether or not a breach of the Code of Conduct has occurred.
12. The Committee shall publish a report setting out its decision together with its reasons for coming to that decision. Where the Committee does not agree with the Commissioner in relation to his or her view as to whether or not a breach of the Code of Conduct has occurred the Committee shall set out these reasons in the report.
13. Where it appears to the Committee that the Member has failed to comply with any provision of the Code of Conduct the Committee may include in its report a recommendation that a sanction be imposed upon the Member.
14. Sanctions may include, but are not limited to –
- (a) a requirement that the Member apologise to the Assembly;
  - (b) censure of the Member by the Assembly;
  - (c) exclusion of the Member from proceedings of the Assembly for a specified period;
  - (d) withdrawal of any of the Member's rights and privileges as a Member for that period;
- and for the avoidance of doubt, the rights and privileges withdrawn under sub-paragraph (d) may include the rights to salary and allowances.

15. The Committee shall publish the Commissioner's report on an investigation into a complaint against a Member as soon as reasonably practicable, as per the requirements of the 2011 Act. The Commissioner's report shall be included as an annex to the Committee's report.
16. Where it considers it appropriate, the Committee may refer matters to the police or to such other public body for their consideration.

### Role of the Assembly

17. In consideration of a report from the Committee recommending the imposition of a sanction upon a Member, the Assembly may impose a sanction upon that Member.
18. The decision of the Assembly will be final and there will be no right of appeal.

### Rectification

19. Standing Orders and the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (General Procedures) Direction 2012 provide for the rectification of minor errors which are the subject of a complaint. Further detail is set out in section 8 of the direction at Annex 1.

# Annex 1

## Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011

### Direction by the Committee on Standards and Privileges on General Procedures

In exercise of the power conferred by section 24(2)(a) of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011, and Standing Order 69A(3)(c), the Committee on Standards and Privileges gives the following direction to the Northern Ireland Assembly Commissioner for Standards.

#### **1. Citation and commencement**

- 1.1. This direction may be cited as the “Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (General Procedures) Direction 2012” and shall come into force on Monday 12 November 2012.

#### **2. Interpretation**

- 2.1. In this Direction –

“the Act” means the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011;

“Code of Conduct” has the same meaning as in section 17(3) of the Act;

“the Commissioner” means the Northern Ireland Assembly Commissioner for Standards established by section 16 of the Act;

“Commissioner investigation” means an investigation under section 17(1)(b) of the Act;

“the Committee” means the Committee on Standards and Privileges;

“Complaint” means a complaint to the Commissioner that, at a relevant time, a breach of the Code of Conduct has occurred;

“Day” means calendar day;

“Member” means a Member of the Northern Ireland Assembly, and includes a former Member;

“Referral” means a referral to the Commissioner made by the Committee or the Clerk to the Assembly under Standing Order 69A(5);

“Relevant time” has the same meaning as in section 17(3) of the Act.

- 2.2. The singular includes the plural.

#### **3. Complaints**

- 3.1. The Commissioner may investigate a complaint only where that complaint is admissible.

- 3.2. Subject to sub-paragraphs 3-7, an admissible complaint must—

- (a) be made in writing;
- (b) state the name and postal address of the complainant;

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- (c) name the Member who is the subject of the complaint;
  - (d) include an allegation that a breach of the Code of Conduct has occurred;
  - (e) state which part of the Code of Conduct the complainant alleges to have been breached;
  - (f) be substantiated (i.e. include enough supporting evidence to establish a prima facie case that a breach of the Code of Conduct has occurred);
  - (g) relate to alleged conduct which falls within the scope of the Code of Conduct; and
  - (h) be made within one year from the date when the complainant ought reasonably to have made the complaint.
- 3.3. The Commissioner must make arrangements to facilitate any complainant who is not able to submit their complaint in writing, for example due to disability or language difficulties.
- 3.4. If the Commissioner receives a complaint which does not satisfy one or more of the criteria set out at sub-paragraph 2(a)-(f), he or she must issue a written notice informing the complainant of any additional information required to satisfy those criteria.
- 3.5. If a notice is issued by the Commissioner under sub-paragraph 4, and the complainant fails within 21 days to provide sufficient additional information to render the complaint admissible, the complaint to which that notice relates is not admissible.
- 3.6. A complaint based on a media report is not substantiated within the meaning of sub-paragraph 2(f), except where the Commissioner decides that the media report itself establishes a prima facie case that a breach of the Code of Conduct has occurred.
- 3.7. A complaint about a former Member is not admissible unless—
- (a) the complaint is made within four weeks of the former Member having ceased to be a Member; and
  - (b) the Commissioner, having due regard to value for money considerations and the nature of the complaint, believes that it is in the public interest for the complaint to be investigated.
- 3.8. Where the Commissioner decides that a complaint is trivial or vexatious, or substantially repeats allegations that have previously been investigated (unless there is additional evidence in support of those allegations), he or she may decide that that complaint is not admissible.
- 3.9. Where the Commissioner decides for any reason that a complaint is not admissible, he or she must write to the Committee enclosing a copy of the complaint and all related papers and giving reasons for his or her decision.
- 3.10. Where the Committee disagrees with a decision of the Commissioner that a complaint is not admissible, and decides that the complaint is admissible, the Commissioner must be informed of the Committee's decision and must reconsider the admissibility of the complaint, having due regard to the Committee's decision ('reconsideration').
- 3.11. On reconsideration—
- (a) if the Commissioner decides that the complaint is admissible, the Commissioner must investigate the complaint; or
  - (b) if the Commissioner again decides that the complaint is not admissible, the Commissioner must write to the Committee and give reasons for that decision.
- 3.12. A complaint relating to an allegation that a Member has failed to register or declare an interest must be dealt with in accordance with paragraph 8.
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- 3.13. Where the Commissioner decides that a complaint would more appropriately be investigated by the police or such other public body as he or she deems appropriate, he or she must advise the complainant to contact that body.

#### **4. Referrals**

- 4.1. The Commissioner must investigate a referral in accordance with the terms of reference of the referral.
- 4.2. Where the terms of reference of a referral are inconsistent with these Directions, those terms of reference are to prevail.

#### **5. Commissioner investigations**

- 5.1. The Commissioner must not—
- (a) initiate a Commissioner investigation unless he decides that there is a prima facie case that a breach of the Code of Conduct has occurred;
  - (b) make generalised or speculative inquiries in relation to Members' conduct for the purposes of enabling him or her to initiate a Commissioner investigation;
  - (c) initiate a Commissioner investigation more than one year after the date on which he or she might reasonably have initiated that investigation.
  - (d) initiate a Commissioner investigation into a former Member unless that investigation—
    - (i) is initiated within four weeks of the former Member having ceased to be a Member; and
    - (ii) the Commissioner, having due regard to value for money considerations and the nature of the breach of the Code of Conduct that the Commissioner believes may have occurred, believes that it is in the public interest for the investigation to be initiated.

#### **6. Investigations: general procedure**

- 6.1. This paragraph applies to an investigation on—
- (a) a complaint;
  - (b) a referral, where the terms of reference of that referral require the Commissioner to form a view whether or not a breach of the Code of Conduct has occurred; and
  - (c) a Commissioner investigation.
- 6.2. Sub-paragraphs 3 and 8-13 apply to a referral where the terms of reference of that referral do not require the Commissioner to establish whether or not a breach of the Code of Conduct has occurred.
- 6.3. The Commissioner must conduct a full and thorough investigation and must at all times act in accordance with the principles of natural justice and fairness.
- 6.4. The Commissioner must undertake an investigation with a view to—
- (a) establishing all the relevant facts in relation to the potential breach of the Code of Conduct; and
  - (b) forming a view whether or not a breach of the Code of Conduct has occurred.
- 6.5. The Commissioner may form a view that a breach of the Code of Conduct has occurred only if he is satisfied on the balance of probabilities that such a breach has occurred.



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- 6.6. Where the Commissioner begins a complaint investigation, he or she must write to—
- (a) the complainant, and inform him or her that an investigation is to be carried out into the complaint;
  - (b) the Member who is the subject of the complaint, enclosing a copy of the complaint, and inform him or her that an investigation is to be carried out into the complaint; and
  - (c) the Clerk to the Committee, advising that an admissible complaint has been received and that an investigation is to be carried out; and providing details of the complaint.
- 6.7. Where the Commissioner begins a Commissioner investigation, he or she must write to—
- (a) the Member who is to be the subject of the investigation, informing him or her of the decision to initiate an investigation and providing details of the prima facie case that a breach of the Code of Conduct has occurred; and
  - (b) the Clerk to the Committee, advising him or her of the decision to initiate an investigation and providing details of the reason for initiating an investigation.
- 6.8. Before interviewing or requesting any evidence from any person for the first time in the course of an investigation, the Commissioner must notify that person in writing of—
- (a) the purpose of the interview or the request;
  - (b) the powers of the Commissioner to call for witnesses and evidence; and
  - (c) the procedure to be followed in connection with the investigation.
- 6.9. When interviewing a person ('the interviewee'), the Commissioner—
- (a) must ensure that a full note of the interview is taken, or that what is said is recorded;
  - (b) must provide the interviewee with a copy of the note, or as the case may be, recording;
  - (c) must allow the interviewee 14 days to suggest any revisions to that note or recording; and
  - (d) may in his or her discretion accept or reject any revision proposed by the interviewee.
- 6.10. Where during an investigation the Commissioner decides that a Member's conduct should be investigated by the police or other public body, the Commissioner may liaise with the police or such other public body as he or she deems appropriate.
- 6.11. If at any time some or all of the subject matter of an investigation becomes the subject of proceedings by the police or other relevant public body the Commissioner may, and in the case of criminal proceedings must, suspend his or her investigation until those proceedings end.
- 6.12. If during an investigation the Commissioner uncovers material evidence which is inconsistent with any statement or other representation made by the Member who is the subject of the investigation, the Commissioner must invite the Member to make representations on that inconsistency.
- 6.13. Before finalising his or her report on an investigation, the Commissioner must provide the Member who is the subject of the investigation with an opportunity to challenge any findings of fact made by the Commissioner.
- 7. Reports to the Committee**
- 7.1. All reports by the Commissioner to the Committee on a complaint, referrals or Commissioner investigation must set out –
- (a) the details of the investigation carried out by the Commissioner;
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- (b) the facts established by the Commissioner in his investigation, with references to evidence as appropriate;
  - (c) any findings of fact which are challenged under sub-paragraph 6.13;
  - (d) any revision proposed by an interviewee in accordance with sub-paragraph 6.9 and rejected by the Commissioner;
  - (e) the Commissioner's reasoned decision, including (except on a referral where sub-paragraph 6.4 does not apply) his or her view as to whether or not a breach of the Code of Conduct has occurred; and
  - (f) all evidence which has been obtained as part of the Commissioner's investigation and which has been used by him or her in the consideration of the matter.
- 7.2. A report by the Commissioner to the Committee on a complaint investigation must also set out the details of the complaint, and the relevant elements of the Code of Conduct to which the complaint relates.
- 7.3. A report by the Commissioner to the Committee on a referral must also set out the terms of reference of the referral.
- 7.4. A report by the Commissioner to the Committee on a Commissioner investigation must also set out the reasons for the investigation, including the detail of the prima facie case that a breach of the Code of Conduct has occurred and the relevant elements of the Code of Conduct to which the investigation relates.
- 7.5. A report made by the Commissioner may also make such recommendations as the Commissioner thinks fit, except that the Commissioner may not include any specific recommendation for the imposition of a sanction.
- 8. Rectification**
- 8.1. Where an admissible complaint relates to an allegation that a Member has failed to register or declare an interest, and the Commissioner decides that the interest concerned is minor, or that the failure to register or declare an interest may be inadvertent, the Commissioner must seek to resolve the complaint through the procedure set out in this paragraph ('the rectification procedure').
- 8.2. The Commissioner must write to the Member who is the subject of the complaint, indicating that he intends to resolve the complaint by use of the rectification procedure, and requiring the Member to show—
- (a) that the interest concerned was minor or that the failure to register or declare that interest was inadvertent; and
  - (b) that he or she acknowledges the failure and either undertakes to apologise for it or has apologised for it.
- 8.3. Where, after writing to the Member in accordance with sub-paragraph 2, the Commissioner decides that a complaint may be resolved through the rectification procedure, the Commissioner must write to the Committee—
- (a) setting out the details of the complaint, and of the relevant elements of the Code of Conduct to which the complaint relates;
  - (b) setting out the reasons why the Commissioner is satisfied that the failure was minor or inadvertent;

- (c) setting out the evidence that the Member who is the subject of the complaint acknowledges the failure and has either undertaken to apologise for it or has apologised for it; and
  - (d) recommending rectification.
- 8.4. Should the Committee decide that the rectification procedure is not appropriate, the Commissioner must be informed of this decision, and he or she may—
  - (a) investigate the complaint in accordance with paragraph 6; or
  - (b) decide that the complaint is inadmissible in accordance with sub-paragraph 3.8 (and sub-paragraphs 3.9-3.11 apply to such a decision).
- 8.5. Where—
  - (a) the Commissioner at any stage decides that the interest was not minor or that the failure was not inadvertent; or
  - (b) the Member who is the subject of the complaint does not acknowledge the failure or apologise or undertake to apologise for it
 sub-paragraph 3.12 shall cease to apply.
- 9. Complaints or Matters transferred to the Commissioner from the interim Commissioner**
- 9.1. Nothing in this Direction shall effect the operation of section 34 of the Act.
- 10. Record Keeping**
- 10.1. The Commissioner must keep full and accurate records in respect of the exercise of any of his or her functions, including investigative functions.
- 10.2. The Commissioner must at the conclusion of each investigation transfer all records of that investigation to the Northern Ireland Assembly Commission.

**Signed**

**Alastair Ross MLA**

**Chairperson of the Committee on Standards and Privileges**

**Date 7th November 2012**

## Annex 2

### Resolution of the Assembly Relating to the Conduct of Members - 14 December 1999

Resolved that,

a Approval is given to:

- (i) The Code of Conduct contained in Assembly Paper NIA 1;
- (ii) The Guide to the Rules relating to the Conduct of Members contained in Assembly Paper NIA 1; and
- (iii) The Committee on Standards and Privileges to make such minor amendments to the Guide to the Rules as appear to it to be justified by experience or necessarily reflect decisions of the Assembly; and to report such amended versions of the Guide to the Assembly.

#### **Registration and Declaration of Members' Interests**

- b. Every Member of the Assembly shall furnish to the Clerk of Standards such particulars of his or her registrable interests as shall be required, and shall notify to the Clerk of Standards any alterations which may occur therein, and the Clerk of Standards shall cause these particulars to be entered in a Register of Members' Interests which shall be available for inspection by the public.
- c. In any debate or proceeding of the Assembly or its Committees or transactions or communications which a Member may have with other Members, Ministers, or servants of the Crown, he or she shall disclose any relevant interest or benefit of whatever nature, whether direct or indirect, that he or she may have had, may have or may be expecting to have. For these purposes:
  - (i) any interest disclosed in a copy of the Register of Members' Interests shall be regarded as sufficient disclosure for the purpose of taking part in any division in the Assembly or in any of its Committees;
  - (ii) the term 'proceeding' shall be deemed not to include the asking of a supplementary question.
- d. It is the personal responsibility of each Member to have regard to his or her public position and the good name of the Northern Ireland Assembly in any work he or she undertakes or any interests he or she acquires. The scope of the requirement to register remunerated trades, professions or vocations includes any remunerated activity in the fields of public relations and political and Assembly advice and consultancy; in particular, in regard to the registration and declaring of clients the services which require such registration and, where appropriate, declaration, include, as well as any action connected with any proceedings in the Assembly or its Committees, the sponsoring of functions in Parliament Buildings, making representations to Ministers, Civil Servants and other Members, accompanying delegations to Ministers and the like.
- e. No difficulty should arise in any proceeding of the Assembly or its Committees in which the Member has an opportunity to speak. Such proceedings, in addition to debates in the Assembly, includes debates in Committees, the presentation of a Public Petition, and meetings of Committees at which evidence is heard. On all such occasions the Member will declare his or her interest at the beginning of his or her remarks. It will be a matter for the Member's judgement, if the interest is already recorded in the Register, whether he or she

simply draws attention to this or makes a rather fuller disclosure. Declarations of interest made in Committees shall be recorded in their Minutes of Proceedings.

- f. Any Member proposing to enter into an agreement which involves the provision of services in his or her capacity as a Member of the Northern Ireland Assembly shall conclude such an agreement only if it conforms to the Code of Conduct for Members; and a full copy of any such agreement including the fees or benefits payable in bands of: up to £1,000, £1,000-£5,000, £5,000-£10,000, and thereafter in bands of £5,000, shall be deposited with the Clerk of Standards at the same time as it is registered in the Register of Members' Interests and made available for inspection by the public.
- g. Any Member who has an existing agreement involving the provision of services in his or her capacity as a Member of the Northern Ireland Assembly which conforms to the Code of Conduct for Members, but which is not in written form, shall take steps to put the agreement in written form; and within three months of the date of this Resolution a full copy of any such agreement including the fees or benefits payable in bands of: up to £1,000, £1,000-£5,000, £5,000-£10,000, and thereafter in bands of £5,000 shall be deposited with the Clerk of Standards and registered in the Register of Members' Interests and made available for inspection by the public.

#### **Advocacy**

- h. It is inconsistent with the dignity of the Assembly, with the duty of a Member to his or her constituents, and with the maintenance of the privilege of freedom of speech, for any Member of the Assembly to enter into any contractual agreement with an outside body, controlling or limiting the Member's complete independence and freedom of action in the Northern Ireland Assembly or stipulating that he shall act in any way as the representative of such outside body in regard to any matters to be transacted in the Northern Ireland Assembly; the duty of a Member being to his or her constituents and to Northern Ireland as a whole, rather than to any particular section thereof and that in particular no Member of the Assembly shall, in consideration of any remuneration, fee, payment, reward or benefit in kind, direct or indirect, which the Member or any member of his or her family has received, is receiving, or expects to receive:
  - (i) advocate or initiate any cause or matter on behalf of any outside body or individual, or
  - (ii) urge any other Member of the Northern Ireland Assembly, including Ministers, to do so, by means of any speech, Question, Motion, introduction of a Bill or amendment to a Motion or Bill.
- i. A Member with a paid interest should not initiate or participate in, including attendance, a delegation where the problem affects only the body from which he has a paid interest







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