

National Assembly for Wales
Standards of Conduct Committee

**Report 03-13 to the Assembly on
Lobbying and Cross-Party Groups**

May 2013



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

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The Standards Committee was established on 22 June 2011. The Committee's role is to carry out the functions set out in Standing Order 22. These include: the investigation of complaints referred to it by the Standards Commissioner; consideration of any matters of principle relating to the conduct of Members; establishing procedures for the investigation of complaints, and arrangements for the Register of Members' interests and other relevant public records determined by Standing Orders.

Current Committee membership



Mick Antoniw (Chair)
Welsh Labour
Pontypridd



Llyr Huws Gruffydd
Plaid Cymru
North Wales



Mark Isherwood
Welsh Conservatives
North Wales



Kirsty Williams
Welsh Liberal Democrats
Brecon and Radnorshire

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Recommendations

Recommendation 1. The Committee recommends that guidance on lobbying and access to Members is adopted by Assembly resolution.

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Recommendation 2. The Committee invites the First Minister for Wales to consider its findings and recommendations in relation to lobbying activity and Welsh Ministers.

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Recommendation 3. The Committee recommends that the current guidance for the operation of CPGs is replaced by stronger rules endorsed by the whole Assembly. The Committee recommends that the rules include a requirement to publish minutes of all meetings; hold an Annual General Meeting; and publish an annual financial statement setting out all expenses, benefits and hospitality received, and to list the provider(s), as well as listing any professional lobbyist or charitable organisation with whom it has met during the preceding year. All required information should be published together on the Cross Party Group pages on the Assembly's website.

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Recommendation 4. The Committee recommends that Cross Party Groups remain outside the purview of Standing Orders and be seen as being clearly separate from formal Assembly business.

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Recommendation 5. The Committee recommends that new rules on the operation of Cross-Party Groups emphasise the responsibility of Chairs of Cross-Party Groups, as elected members, for compliance with those rules.

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Recommendation 6. The Committee recommends that new Cross-Party Group rules take account of the Assembly's equality duties in relation to the provision of venues and resources for the purposes of disability access.

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Recommendation 7. The Committee recommends that the Assembly Commission notes the implications of the new rules for those aspects of Cross-Party Group activity that may be supported from central Assembly Commission funds.

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Recommendation 8. The Committee recommends that the Assembly's arrangements in relation to lobbying and the operation of cross-party groups are reviewed again before the end of the 4th Assembly, to ensure that these remain fit for purpose in the context of a dynamic devolution process. The Committee may wish to make future representations to the Presiding Officer, Welsh Government or other decision makers as a result of changes to the Assembly's devolved powers. (Page26)

1. Introduction

1. This report is made following an inquiry by the Standards of Conduct Committee into the current arrangements relating to lobbying at the National Assembly for Wales. These arrangements have been in place for some time, and the Committee wished to be satisfied that they remained fit-for-purpose in the context of increased legislative powers in the Fourth Assembly, and going forward.
2. The terms of reference of the inquiry were to:
 - assess whether the Assembly's current arrangements relating to lobbying are sufficiently robust and fit-for-purpose for the Fourth Assembly;
 - make recommendations to the Presiding Officer, the Assembly Commission and/or the Business Committee as to any further measures, either legislative or non-legislative, that should be considered to regulate lobbying activity in relation to individual Assembly Members;
 - advise the Presiding Officer of the Committee's findings in relation to the current arrangements regulating the operation of Cross Party Groups.
3. This report sets out the Committee's findings and resulting recommendations.

Background

4. The Presiding Officer wrote to the Committee Chair on 8 May 2012 (see Annex A) asking the Committee to “undertake a review to consider the regime that we have in place as it relates to Members, and if necessary, make recommendations about any additional arrangements that might be needed to strengthen them.”

5. The Presiding Officer undertook to consider any recommendations in the context of other related issues such as “arrangements for cross party groups and the need to protect the culture of the Assembly as an open and accessible institution.” The Committee notes that its recommendations will be for consideration, as appropriate, by the Presiding Officer, the Assembly Commission, which is responsible for governance arrangements, and the Business Committee in relation to Standing Order requirements.

6. The Committee’s findings should be viewed in the context of the UK Government (Cabinet Office) consultation *Introducing a statutory register of lobbyists*, published on 20 January 2012.¹ The consultation stated that “we will now be taking forward discussions with a view to including the Devolved Administrations and Legislatures within the scope of a statutory register.”²

7. On 15 March 2012 the Presiding Officer wrote on behalf of the Assembly to the then Secretary of State for Wales, The Right Honourable Cheryl Gillan MP, stating that:

“In my view the Assembly should be responsible for making any decisions on further governance arrangements...”

“We already have in place, in Wales, robust measures to govern the relationships Members have with outside organisations, but we must never be complacent. I believe that the Assembly’s Committee on Standards of Conduct is likely to want to consider whether any further safeguards are needed, in

¹ *Introducing a statutory register of lobbyists*, Cabinet Office, 20 January 2012.

² In Scotland, a Proposed Lobbying Transparency (Scotland) Bill was lodged on 6 July 2012 by Neil Findlay MSP. The Draft Proposal would require certain individuals and organisations who lobby MSPs, Scottish Ministers or relevant public officials, either on their own account or on behalf of third parties, to record relevant information about their lobbying activity in a published register. Consultation on the proposal closed on 7 November 2012.

conjunction with the Assembly's Commissioner for Standards, and, if so, whether these would require legislation.”

8. A summary of responses to the UK Government's consultation was published on 16 July 2012, and revised proposals in the form of a White Paper and Draft Bill are still awaited at time of writing.

The Approach

9. On 12 June 2012 the Standards of Conduct Committee and Standards Commissioner for Wales agreed that a review of the Assembly's arrangements in relation to lobbying activity should be given immediate consideration as part of the on-going review of Assembly standards procedures, even though it was noted that, during his time in office, no complaint had been raised with the Standards Commissioner for Wales in relation to lobbying. The Commissioner conducted a comprehensive consultation over the summer period, including internally with Members and the Welsh Government (see Annex B), and reported to the Committee in the autumn as to whether current arrangements were sufficiently robust.

Current arrangements

Commissioner's Assessment

10. In making his assessment, the Commissioner said that he had regard to the following:

- that it was the unanimous view of all those consultees who operate in Wales and/or in the National Assembly, that lobbying practices are essentially transparent and adequately policed and regulated;
- that Standing Orders provide for the Registration and Declaration of any "*gifts, hospitality, material benefits or advantage*" to the Member, a Member's partner or dependent child, and at a level (c. £279) substantially lower, bar one, than other United Kingdom Parliaments, albeit higher, but in line with the level provided for in the Northern Ireland Assembly;
- that Standing Order 2 of the National Assembly for Wales, specifically prohibits lobbying for reward or consideration (Standing Order 2.8) and provides for the availability of the sanction of exclusion of a Member in the event of breach (Standing Orders 2.10 and 2.11);
- that it is the fact that no complaint against a Member relating to lobbying has been made in recent years – or, so far as the Commissioner could ascertain, since the setting up of the National Assembly;
- that the criminal law provides for the improper receipt or giving of gifts or bribes from or to those in public office.

11. The Standards Commissioner for Wales concluded that he was:

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

12. In considering the Commissioner's assessment, the Committee particularly noted the importance of the following:

- the need to maintain the open culture of the Assembly and availability of its Members, so as not to fetter the democratic process;
- the need to maintain transparency to the public, decision makers and other interested parties in ascertaining what influences are brought to bear on their elected representatives. The public's right to access to information is very important;
- to avoid any temptation to introduce regulation for its own sake, and not to unnecessarily raise the burden on the public purse;
- the need to guard against complacency and ensure that the rules will remain sufficiently robust going forward – in particular in light of increased legislative powers and the outcome of the Silk Commission, including the possibility of future financial borrowing and/or tax-raising powers.

Committee View

13. Lobbying is an important aspect of the democratic process, and elected Members' ability to do their job effectively should not be restricted. The Committee concurred with the Standards Commissioner's assessment of the Assembly's current arrangements in relation to lobbying, and does not recommend any fundamental changes to those arrangements.

14. However, the need to guard against complacency is paramount. There were certain considerations that arose from the Commissioner's consultations and research, set out below in this report, that have led the Committee to recommend some actions to reinforce those arrangements for the future.

15. In making its recommendations the Committee stresses the importance of ensuring proportionality in any actions that are taken. This is important both in terms of the use of resources, and the burden placed upon Members and lobbyists in meeting any perceived problem in this area.

16. Devolution is not a static process, and this must also be taken into account. The Committee recognises that what may be appropriate and proportionate at this time may not remain so.

The purpose and value of a statutory register of lobbyists

Commissioner's Assessment

17. In representations to the Commissioner, and in written submissions to the UK Parliament, it has been conceded that openness and accountability are required if the lobbying process is to retain public confidence. For example, Public Affairs Cymru acknowledges that the publication of records of meetings with elected members or senior civil servants, by all who seek to engage with them, is vital to the greater openness required.

18. However, with regard to the UK Government's proposals to introduce a statutory register, the Commissioner noted that these appeared to have run into difficulties over the problem of agreeing the definition of a 'lobbyist', and a lot of consultation responses pointed away from a statutory register for that reason.

19. The lack of clarity over whether, for example, charities, academics, groups of residents, or single constituents could or should be categorised as lobbyists and made subject to regulation or registration raises concerns about ensuring that the democratic process is not made less open and Assembly Members less accessible to the electorate.

20. The Commissioner noted that the Parliamentary Select Committee on Political & Constitutional Reform had concluded that the Cabinet Office proposals for a statutory comprehensive register were unworkable. It favoured abandoning them in favour of a system of medium regulation that would include "all those who lobby professionally, in a paid role, and would require lobbyists to disclose the issues they are lobbying Government on."³

Committee View

21. The Committee has noted concerns raised by Public Affairs Cymru (PAC) about the definition of a 'lobbyist', recognising that lobbying activity may be carried out by in-house lobbyists and representatives of trade unions and other third sector organisations, as well as public

³ Political and Constitutional Reform 2nd Report – Introducing a statutory register of lobbyists – Vol 1, 13 July 2012.

affairs consultancies and individual commercial lobbyists. Although the PAC membership includes charities and bodies based outside Wales, it does not cover trade unions for example, and the organisation is concerned that there should be a 'level playing field' for all those trying to engage with Assembly Members.

22. The Committee acknowledges the difficulties of agreeing a common definition of 'lobbyist', particularly in the context of how the 60 elected Members of the National Assembly for Wales engage on a daily basis with a wide range of representatives of Welsh civic society. Individual Members must make daily judgements on who they engage with and how, in order to fulfil their role as elected politicians, and in the knowledge that they are subject to the Code of Conduct for Assembly Members.

23. The Political and Constitutional Reform Committee has not endorsed any particular definition of a lobbyist in advance of the UK Government coming forward with detailed proposals for a statutory register, but has said that "if it is the activity of lobbying that is defined, rather than what a lobbyist is, then it should be easier to require anyone who is carrying out the defined activity to be registered as a lobbyist."

24. For the purposes of developing an approach appropriate to Wales, focusing on *the activity of lobbying*, i.e. activity aimed at seeking to influence Members, points to developing a system that seeks as much as possible to cover "all those who undertake lobbying activity, on a professional basis and in a paid role." This would include in-house lobbyists, charities, trades associations and other organisations that employ staff to undertake lobbying activity, and individual lobbyists, as well as consultancies and agencies that either lobby directly on behalf of clients or advise their clients on undertaking lobbying activity.

A ‘Made in Wales’ approach

25. What has emerged from the Committee’s inquiry is a shared desire to find a satisfactory ‘made-in-Wales’ approach.

26. As already set out earlier in this report, the Committee does not consider it appropriate to simply accept the status quo of current arrangements. Equally it does not see evidence of the need to move towards legislating for a system of statutory registration at this time.

27. The Committee believes that it is important to have a system that gives as much transparency as possible about who professional lobbyists are meeting with, without any unnecessary burden on the public purse.

Codes of Practice

28. With regard to a code of practice, the UK government does not propose to combine any statutory Code of Conduct with a Register, preferring to leave the industry to regulate itself. The Commissioner and Committee note that Public Affairs Cymru has already introduced a Code of Conduct, on which the Standards Commissioner was consulted, and to which all its members in the private and voluntary sector are committed. The Committee welcomes the existence of such a code, which focuses on the importance of public affairs professionals in Wales acting with honesty, transparency and integrity.

Voluntary Registration of information on lobbying activity

29. The Committee has explored the idea of a proportionate regime of voluntary registration for professional lobbyists, with a focus on records of meetings between lobbyists and Members being kept. It supports the principle of professional lobbyists making the details of their members/employees, their clients and the areas of interest that they pursue publicly available.

30. The Committee also thinks it would be useful for more information to be made public by professional lobbyists about the amount of money spent in pursuit of each broad area of lobbying. It should be stressed that the Committee respects the rights of lobbyists not to be required to provide commercially confidential information about their fees, but an indication of the cost of any major events

specifically aimed at Assembly Members could be declared in the interests of transparency and the public's right to know.

31. By way of example, if a number of Assembly Members attended an event and then subsequently voted in plenary on an issue where the event organiser or their client had a strong commercial interest in the result, then that would be matter of public interest, even though individual Members might not be required to register their participation in that event in accordance with Standing Order rules and thresholds for registering interests.

32. The Committee is however strongly of the view that no unnecessarily onerous burden, in terms of time or resources, should be placed on smaller voluntary, charitable or third sector organisations or campaigners. The Committee and Commissioner favour an approach that will not raise the burden on the public purse. They also favour a system that does not impose an unnecessary burden on Assembly Members. The Commissioner himself noted "the almost impossible task of recording every informal meeting or of having to determine who is a lobbyist." At the same time the need to give the public the accountability required in this area is recognised.

33. In responding to the UK Government consultation on a statutory register the existing professional umbrella body in Wales, Public Affairs Cymru (PAC), said that it was keen to engage with the Assembly on developing Welsh proposals. The Committee Chair and Commissioner have therefore engaged in open and constructive dialogue with PAC about possible options for developing a transparent and workable system.

34. The Committee, Commissioner and PAC share a desire to promote greater transparency and openness about contact between Members and those engaged in lobbying activity. However, in exploring the various options for developing a voluntary system of registration, it has not been possible to identify a practical option that meets the test of proportionality, i.e. avoiding unnecessary burdens on either lobbyists, Members or the public purse.

35. In discussing initial proposals with PAC, its members have raised a number of valid concerns about taking the lead on a greater degree of self-regulation. The difficulties in defining 'who is a lobbyist', and 'what is a formal meeting with a lobbyist', present a significant 'grey

area' in defining who any formal registration process should cover. But there are also practical, administrative and resourcing issues to consider with introducing and maintaining a voluntary register, whether this was to be taken on by the industry or considered as an additional function of the Assembly Commission to be paid for through public funds. Having explored these options at some length, the Committee does not think that a voluntary register is a reasonable or proportionate response in Wales, at this time, to the concerns that have been raised about lobbying activity at UK level.

36. The Committee noted that any voluntary system of registration by professional lobbyists would not fully answer the question of how to regulate the activities in Wales of lobbyists based outside Wales, or who are not registered as a professional lobbyist. The Committee has therefore also considered whether there should be guidance to Members on contact with anyone they believe to be undertaking lobbying activity, to ensure that a record is kept of that meeting, who attended and what was discussed.

37. With respect to keeping records, the Commissioner has also stressed the importance of all those engaging in professional lobbying activity already keeping records, regardless of whether any registration system is introduced at some time in the future. At any time he might be required to investigate a complaint involving a Member and a lobbyist, and has legal investigatory powers to call witnesses and documents.

38. The Scottish Parliament Corporate Body, and to a lesser extent the Northern Ireland Assembly, both offer guidance to Members on the advocacy rule, and lobbying and access to the Members as it relates to their Members' Codes of Conduct.

39. The importance of having appropriate standards and guidance on lobbying is raised in a recent report by the Council of Europe's Group of States Against Corruption (GRECO) that evaluated arrangements in the UK. The report notes the code of practice that has been in place in the Scottish Parliament for some time, and goes on to state:

“Lobbying involves the actions of both the person who lobbies and the public official who is lobbied. For the process to be properly beneficial, both sides of the process need to act appropriately with regard to one another. Therefore, regardless

of the outcome of the aforementioned legislative proposal on a statutory register of lobbyists, *GRECO recommends that the Codes of Conduct and the guidance for both the Commons and the Lords be reviewed in order to ensure that the Members of both Houses (and their staff) have appropriate standards/guidance for dealing with lobbyists and others whose intent is to sway public policy on behalf of specific interests. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.*⁴

40. The Committee recommends that Members of the National Assembly for Wales are provided with guidance on lobbying (a code of practice for Assembly Members on contact with lobbyists) encouraging the recording of meetings. This is attached at Annex C. It is proposed that the guidance would be adopted by resolution of the Assembly in plenary. Subject to agreement the guidance could be issued alongside proposed new rules for Cross-Party Groups (see later in this report), to form a package of advice for Assembly Members.

41. It is the Committee's view that the actions proposed in this report could help to provide reassurance to the Welsh public about levels of openness and transparency, and the Standards Commissioner's ability to investigate any concerns that might be raised with him in the future with regard to lobbying. In line with the Committee's first recommendation, to maintain a watching brief on this issue, it is envisaged that every three years the Presiding Officer could take stock of the effectiveness of these arrangements and, if dissatisfied, invite the Standards of Conduct Committee to reconsider the question of whether statutory regulation was required.

Recommendation: The Committee recommends that guidance on lobbying and access to Members is adopted by Assembly resolution.

⁴ Fourth Evaluation Round – Corruption prevention in respect of Members of Parliament, judges and prosecutors, Report of the Group of States Against Corruption (GRECO), Published 6 March 2013.

Scrutiny of conduct of individual AMs and conduct of Welsh Ministers

42. The Committee noted that the focus of responses to the UK consultation on a statutory register of lobbyists tended to be on regulating access to Government Ministers, and registers introduced in other legislatures internationally were often to regulate access to the executive or to parliamentary buildings.

43. The Committee supports the idea of a code of practice for all Assembly Members on contact with lobbyists as being in the public interest. However, the Committee also wants to avoid a situation where the requirements on individual Assembly Members would be significantly greater than those on Welsh Ministers.

44. The obligations on individual Assembly Members and Welsh Ministers are different. Any differences should always be justified, and the Committee would be concerned about any further widening of the existing two-tier system of scrutiny of the conduct of individual Members and Ministers.

45. The lobbying of Ministers, rather than individual Assembly Members, represents the greatest potential reputational risk to the Assembly going forward, particularly in the context of the Assembly gaining financial powers in the future.

46. The Committee would therefore like to invite the First Minister to consider the merits of reviewing the Welsh Ministerial Code, specifically to make provision for:

- publishing information about meetings between Welsh Ministers and professional lobbyists in one place, to increase levels of public transparency (noting that this is already the practice in some other UK jurisdictions, and is something that the public affairs industry in Wales is also calling for);
- considering whether the current process of investigating complaints against Ministers under the Welsh Ministerial Code is sufficiently robust and transparent, or if it should be revised to increase levels of public confidence both in how complaints are handled and specifically on reporting the outcome of investigations.

47. The Committee acknowledges that the National Assembly for Wales' Commissioner for Standards Measure 2009 specifically prevents the Commissioner from undertaking any role in formally advising the First Minister on matters relating to the Ministerial Code. However, it invites the First Minister to give further consideration to the arguments put forward by the Committee on Standards in Public Life in its latest report - *Standards Matter* - on independent regulation, including that Wales and Northern Ireland should establish formal mechanisms for the independent investigation of alleged breaches of their ministerial codes and that the reports of any such investigations should be made publicly available.⁵

Recommendation: The Committee invites the First Minister for Wales to consider its findings and recommendations in relation to lobbying activity and Welsh Ministers.

48. The Committee and Commissioner also gave some consideration to the issue of jurisdictions requiring a 'cooling off period' for former Ministers, Members or senior civil servants becoming professional lobbyists, noting that the Commissioner had received some representations on this 'revolving door' issue. The Committee notes that the UK Advisory Committee on Business Appointments (ACOBA) advises former Welsh Ministers and former senior Crown Servants on appointments within two years of leaving office, and they must abide by that advice. The appointment is tested against the Business Appointment Rules. The Ministerial Code of May 2010 states that former Ministers are prohibited from lobbying Government for two years. In addition ACOBA may decide to recommend a waiting period and/or other restrictions on appointments. The 'revolving door' issue is one that the Committee may wish to consider again at a later date.

⁵ Standards matter: a review of best practice in promoting good behaviour in public life - report of the Committee on Standards in Public Life, January 2013.

Cross-Party Groups

49. The Committee noted that the Commissioner had received more representations from Members specifically on cross-party groups (CPGs), and some mild concerns had been expressed in relation to their operation.

Transparency and Accountability

50. The Committee stresses the importance and value of CPGs as part of the democratic process. It also agrees with the Commissioner's view that transparency in the way that groups operate is very important. The Committee believes that a requirement for CPGs to publish the minutes of their meetings, and an annual financial statement setting out expenses and benefits received, is a good way to achieve this greater transparency.

Recommendation: The Committee recommends that the current guidance for the operation of CPGs is replaced by stronger rules endorsed by the whole Assembly. The Committee recommends that the rules include a requirement to publish minutes of all meetings; hold an Annual General Meeting; and publish an annual financial statement setting out all expenses, benefits and hospitality received, and to list the provider(s), as well as listing any professional lobbyist or charitable organisation with whom it has met during the preceding year. All required information should be published together on the Cross Party Group pages on the Assembly's website.

51. The Committee notes the recommendations of the Speakers' Working Group on All Party Groups that clear distinctions are made between the work and reports of informal CPGs and those of formal parliamentary Committees. Currently CPGs are governed by Presiding Officer guidance, and Standing Orders are silent on Cross-Party Groups. The Committee is of the view that CPGs should not be given any formal status and therefore should not be governed by Standing Orders.

Recommendation: The Committee recommends that Cross Party Groups remain outside the purview of Standing Orders and be seen as being clearly separate from formal Assembly business.

52. The Committee considered the reputational and accountability issues surrounding the operation of Assembly CPGs, noting the importance of Chairs having full responsibility for the operation of those groups. The Committee recommends that the responsibility of the Chairs of CPGs for their operation should be emphasised. Chairs must be responsible for compliance with the rules, including ensuring that all communications about CPG functions on the Assembly estate are issued in the name of the Chair of the CPG and not an event sponsor or participant, and ensuring that all information required to be published is made available and kept updated in a timely manner.

53. Stronger rules provide a clear line of accountability for CPG activity, especially as group secretariat support may be provided by external bodies and it is important to avoid any possibility or perception of those bodies having undue influence on the business of Cross Party Groups or the use of publicly funded facilities or resources.

54. Regarding financial accountability, the Committee would like to avoid any unnecessary duplication between the requirements on individual Members to register interests under Standing Order 2, and the need for CPGs to be open about financial support received from external bodies. It is suggested that CPGs provide an annual report listing any relevant financial interests registered by individual Members of that group (this information can be easily found in the published Register) and that this should be supplemented by information about any additional payments to the group as a whole, e.g. for secretarial support or hospitality. This will enable differentiation between benefits to individual Members over the threshold, as opposed to payments to the group which would be a benefit shared equally amongst the group's membership. It will also give a cumulative picture of benefits accruing to the group over the period since its last AGM.

Recommendation: The Committee recommends that new rules on the operation of Cross-Party Groups emphasise the responsibility of Chairs of Cross-Party Groups, as elected members, for compliance with those rules.

Compliance

55. If new Rules for the operation of Cross-Party Groups are agreed by Assembly resolution then all Assembly Cross-Party Groups will be expected to comply with them. The rules themselves make it clear what is expected of Chairs of Cross-Party Groups and on what basis a group might be de-registered if the rules are consistently broken.

56. Day-to-day administration of the current guidance is a matter for Assembly Commission officials. The Committee sees no reason to depart from these arrangements as far as the day-to-day administration of new rules is concerned (for example reminding CPGs of the need to submit annual statements). The Committee is of the view that any decision to de-register a group for not complying with the administrative requirements of new rules, i.e. for Members to provide certain information in the public interest, will be made with the authority of the Presiding Officer as Chair of the Assembly Commission.

57. However, in the case of any complaint arising concerning personal standards of conduct in relation to a Members' involvement in Cross-Party Group activity, the Commissioner and/or Committee would clearly act to deal with that complaint. Under Standing Order 22.2(i)(d) the Committee has responsibility for dealing with any complaint referred to it by the Standards Commissioner that a Member has not complied with "*...any Assembly resolution relating to Members' standards of conduct*", and any such complaint would be dealt with in accordance with the agreed "Procedure for Dealing with Complaints Against Assembly Members".

58. Standing Order 2.10 allows for exclusion of a Member by the Assembly for non-compliance with Standing Order 2 (Financial and Other Interests of Members), on the recommendation of the Standards of Conduct Committee. The Commissioner and Committee can therefore take action if a complaint is made or potential breach is found of the rules in relation to the registration of monies, gifts, hospitality or other benefits received by Cross-Party Group members. This would include any failure to properly register benefits received as a member of a Cross-Party Group, which could also constitute a criminal offence.

Resources and Support for Cross-Party Group Activity

59. It is important not to introduce rules or regulations that would make it difficult for CPGs to operate effectively, for example in relation to disability access. The Committee recommends that the Assembly's duties in relation to the provision of venues and resources to CPGs for the purposes of disability access (for example the availability of induction loops or other support at meetings) are taken into account, to ensure that CPGs are not unnecessarily disadvantaged. The new rules of operation include information about the possible use of the Access Fund, a distinct Assembly Commission fund, separate from the financial support set out in the National Assembly Determination, which is available to allow Members to "engage with constituents with diverse needs."

Recommendation: The Committee recommends that new Cross-Party Group rules take account of the Assembly's equality duties in relation to the provision of venues and resources for the purposes of disability access.

60. The status given to Cross-Party Groups has implications for the way in which such groups may be resourced. Resources for Cross-Party Groups could potentially come from three funding sources:

- central funding from the budget administered by the Assembly Commission, and intended to support the core formal business of the Assembly;
- funding from within the Determination on Members' Pay and Allowances as determined by the independent Remuneration Board of the National Assembly for Wales;
- support from external individuals or organisations with an interest in the work of the Cross-Party Group in question.

61. The Committee is not recommending a change from the existing position of CPGs being considered clearly separate from formal Assembly proceedings. Current guidance therefore states that there is no Assembly Commission budget available to support CPGs. However there are already certain exceptions to this, including provision of rooms, the Access Fund, and provision of Welsh to English interpretation if requested. Where Commission resources are not

available to Members they would be left with the option of either making expenditure claims or using their office costs and allowances under the Determination to support their cross-party group activity (for example for necessary secretariat support), or relying on external bodies to provide all support.

62. It seems to the Committee that two main questions arise in relation to resources. Firstly, strengthening the rules on operation of CPGs and increasing the amount of information made available, will inevitably have some resource implication for the Assembly Commission. However, the only notable change from existing practice is the cost of making additional information available bilingually on the Assembly's website, e.g. notices and minutes of meetings and annual returns, and these proposed changes are not envisaged to be excessively onerous for the Translation and Reporting Service. The rules make clear that Cross-Party Groups must continue to respect the limitations on the use of Assembly facilities and resources.

63. Questions have also been raised by Members in plenary about the Commission's support for Cross-Party Groups to operate bilingually (e.g. providing interpretation and translating documents), suggesting that it will be helpful for greater clarity to be provided about this. This is provided for in the new rules.

64. Secondly, it is important that Members have clarity about the extent to which they may legitimately make expenditure claims, or use their office costs and allowances, to support their CPG activity. Officials responsible for giving guidance to Members on the use of their office costs and allowances must also have clear direction from the Remuneration Board on this point. The principles of financial support within the Determination on Members' Pay and Allowances state that "claims must only be made for expenditure necessarily incurred in order to enable performance of the Members' duties as an Assembly Member."

65. The Committee notes that the Remuneration Board has previously considered the criteria under which Members may make claims for reimbursement of travel undertaken to enable the 'performance of their duties as an Assembly Member'. Currently the relevant paragraph 5.1.2 of the Determination states that it must be "for a stated Assembly reason"; "related to a matter currently before the Assembly or one of its committees on which the Member serves"; or "pertinent

to a constituent or has general relevance in his or her constituency or region". Although the Board has indicated that it may make some changes to this wording when it next reviews the Determination,⁶ it also noted that Members will need to continue exercise their own judgement in this area. It is the Committee's view that Members' involvement in Cross-Party Groups will generally fall within the criteria of paragraph 5.1.2, and so in most cases Members will be entitled, at their discretion, to use their allowances in relation to Cross-Party Group activity (i.e. allowances for office costs, e.g. for translation; residential accommodation expenditure for overnight stays; members' travel; and staffing expenditure, e.g. for travel and/or overtime for support staff).

66. The Remuneration Board may wish to note the Committee's recommendations and rules for the operation of cross-party groups and consider whether it is of the view that there are any implications for the operation of the Determination on Members' Pay and Allowances as it relates to support for CPG activity.

Recommendation: The Committee recommends that the Assembly Commission notes the implications of the new rules for those aspects of Cross-Party Group activity that may be supported from central Assembly Commission funds.

67. The Committee has prepared new rules for consideration by the Assembly and these are attached at Annex D.

68. Although Assembly Standing Orders are silent on Cross-Party Groups, the Standards of Conduct Committee proposes that its role, and that of the Commissioner, in dealing with any personal conduct complaint arising from Cross-Party Group activity is recognised in the rules, which state that the Committee may from time-to-time receive a report from Assembly Commission officials on the operation of the rules. This is in line with the final recommendation in this report to maintain a watching brief on arrangements related to lobbying activity.

Recommendation: The Committee recommends that the Assembly's arrangements in relation to lobbying and the operation of cross-party groups are reviewed again before the end of the 4th Assembly, to ensure that these remain fit for purpose in the

⁶ Minutes of the National Assembly for Wales Remuneration Board Meeting, 23 March 2012.

context of a dynamic devolution process. The Committee may wish to make future representations to the Presiding Officer, Welsh Government or other decision makers as a result of changes to the Assembly's devolved powers.

Annex A

Mick Antoniw AM
Chair
Standards of Conduct Committee
National Assembly for Wales

8 May 2012

Dear Mick

Lobbying

Thank you for the constructive meeting on 1 May. Following receipt of a response from the Secretary of State for Wales, I thought that it was extremely useful to discuss the issues with you and Gerard Elias QC.

As agreed, I think it would be very useful if the Standards of Conduct Committee would undertake a review to consider the regime that we have in place as it relates to Members and, if necessary, make recommendations to me about any additional arrangements that might be needed to strengthen them. I will consider any recommendations in the context of other related issues such as arrangements for cross party groups and the need to protect the culture of the Assembly as an open and accessible institution. I think it would be useful if you could report by the autumn.

A copy of this letter is being sent to Gerard Elias QC, the Independent Standards Commissioner.

Rosemary Butler AC, Llywydd
Rosemary Butler AM, Presiding officer

Annex B

By email

19 June 2012

Dear Member,

At its meeting on 12 June 2012, the Standards Committee asked me to review the current arrangements in place with regards to lobbying at the National Assembly for Wales and to assess whether they are sufficiently robust and fit for purpose for the Fourth Assembly.

You will be aware that I have recently carried out a review of the Complaints Procedure for Assembly Members and the fruits of that have been sent to you recently. The next stage is for me to carry out a wider review of the Assembly's standards regulations generally, including the Code of Conduct, Standing Orders and any associated guidance.

It is the view of the Standards Committee that consideration of the lobbying arrangements can be undertaken as part of this general review, but given that it is thought the UK Government may soon come forward with proposals to introducing a statutory register of lobbyists, prioritising consideration of the arrangements for lobbying in Wales will allow the Committee to take a clear position on what it considers would be appropriate for the National Assembly.

I therefore propose to take this review forward over the Summer and report back to the Standards Committee with my findings at the beginning of October 2012.

I attach the terms of reference for this piece of work, as Annex A, from which you will see that your views on;

- The robustness and fitness for purpose of the current arrangements
- Any additional regulation thought necessary, and
- The adequacy of arrangements currently in place for Cross Party Groups

would be a very great assistance to me in my task. I hasten to add that these points are by no means all embracing.

I propose to obtain the views of various stakeholder groups and I am particularly keen to hear yours. I am happy to receive your comments in writing or in a meeting. You can email me at Standards.Commissioner@wales.gov.uk . I shall also hold two drop in sessions at the following times so that you can let me know your views;

Tuesday 3 July	10.30 - 1.30pm	Video Conference Room - 1 st floor - Ty Hywel
Wednesday 11 July	9.30 - 11.30 am	Room B003 - Ground floor - Ty Hywel

Alternatively, if it is more convenient for you, I am happy to make a personal appointment. Please contact my assistant, Jonathan Thomas, on 029 20898948, or email jonathan.thomas@wales.gov.uk and he will arrange an appointment for us to meet.

Yours sincerely,

Gerard Elias QC
Y Comisiynydd Safonau
Commissioner for Standards

Annex C

NATIONAL ASSEMBLY FOR WALES' GUIDANCE ON LOBBYING AND ACCESS TO ASSEMBLY MEMBERS

1. This guidance is intended to supplement and complement the requirements of the National Assembly for Wales' Code of Conduct for Assembly Members.
2. An Assembly Member should not, in relation to contact with any person or organisation who lobbies, do anything which contravenes the National Assembly for Wales' Code of Conduct for Assembly Members, or any other relevant rule or resolution of the Assembly or any statutory provision.
3. A Member should not, in relation to contact with any person or organisation who lobbies, act in any way which could bring the National Assembly for Wales, or its Members generally, into disrepute.
4. The public must be assured that no person or organisation will gain better access to, or treatment by, any Member as a result of employing a professional lobbyist⁷ either as a representative or to provide strategic advice. In particular, a Member should not offer or accord preferential access or treatment to professional lobbyists or their employers. Nor should professional lobbyists or their employers be given to understand that preferential access or treatment might be forthcoming from another Assembly Member or group or person within, or connected with the National Assembly for Wales.
5. Before taking any action as a result of being lobbied, a Member should be satisfied about the identity of the person or organisation who is lobbying and the motive for lobbying. An Assembly Member may choose to act in response to a professional lobbyist but it is important that the Member knows the basis on which the Member is being lobbied in order to ensure that any action the Member takes complies with the standards set out in the Code of Conduct for Assembly Members.
6. There is currently no voluntary or statutory scheme for registering professional lobbyists operating in Wales. Before agreeing

⁷ For the purposes of this guidance, a 'professional lobbyist' would include 'all those who undertake lobbying activity, i.e. activity aimed at seeking to influence Members, on a professional basis and in a paid role'. This includes in-house lobbyists, charities, trades associations and other organisations that employ staff to undertake lobbying activity, individual lobbyists, as well as consultancies and agencies that either lobby directly on behalf of clients or advise their clients on undertaking lobbying activity.

to meet with a person or organisation that the Member believes may be a professional lobbyist, the Member may wish to find out whether the lobbyist is a member of a professional body registering information about who its members represent, and which has a professional code of conduct for its members. This would include public affairs bodies such as Public Affairs Cymru (PAC) and the Association of Professional Political Consultants (APPC). If the lobbyist is not a member of such a professional body, the Assembly Member must decide whether or not to meet with that individual.

7. In addition, Members should consider taking one or more of the following steps:

- keeping a record of all meetings with persons considered to be undertaking lobbying activity;
- requiring the person undertaking the lobbying activity to make a record of the meeting, and provide for the Member to have access to that record at any future time should it be called for, before agreeing to meet with them,
- arranging for a member of their support staff to take notes at any meetings with persons considered to be undertaking lobbying activity.

8. The Code of Conduct for Assembly Members sets out the standards expected in relation to acceptance of hospitality, gifts and benefits. In addition to this and the statutory provisions in the Government of Wales Act 2006, Members:

- should not accept any paid work which would involve them lobbying on behalf of any person or organisation or any clients of a person or organisation;
- should not accept any paid work to provide services as a parliamentary strategist, adviser or consultant, for example advising on National Assembly for Wales affairs or on how to influence the National Assembly for Wales and its Members. (This does not prevent a Member from being remunerated for activity which may arise because of, or in relation to, membership of the Assembly, such as journalism or broadcasting, involving political comment or involvement in representative or presentational work, such as participation in delegations, conferences or other events);
- should decline all but the most insignificant or incidental hospitality, benefit or gift if the Member is aware that it is offered by a professional lobbyist. Standards of personal conduct and general principles of conduct identified by the Committee on Standards in Public Life are set out in the Code of Conduct for Assembly Members. These include the requirement that a Member should “never accept any financial inducement as an incentive or reward for exercising

parliamentary influence”, the “no paid advocacy” rule, and “not to place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.” Since the basis on which many people believe that professional lobbyists sell their services is by claiming to provide clients with influence over decision-makers, it might reasonably be thought that acceptance of a benefit of any significance from such a source could influence a Member’s judgement in carrying out their official duties. (If a Member only becomes aware of its source after receiving hospitality, a benefit or gift, then the Member should consider reimbursing the costs of any hospitality or benefit or returning any gift.)

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

10. Members should not participate in any event if they are aware, or become aware, that the organisers are promoting the event on the basis that those paying to attend the event are ‘buying’ influence over Assembly Members or that they can expect to receive better subsequent access to, or treatment by Assembly Members, than would be accorded to any other person or organisation.

11. When agreeing to sponsor the hosting of any event, meeting or exhibition on the Assembly Estate, Members must at all times comply with the requirements of both the National Assembly for Wales Events Guidelines and the Terms and Conditions for events, which are sent to event organisers and copied to the sponsoring Member. The sponsoring Member or their representative must attend the event, exhibition or meeting, and responsibility for the event rests with the Member who is sponsoring the booking.

12. Members should ensure that staff working for them are aware of and apply these rules and guidelines when acting on a Member’s behalf or in any National Assembly for Wales connection.

Annex D

NATIONAL ASSEMBLY FOR WALES' RULES FOR THE OPERATION OF CROSS PARTY GROUPS

1. Introduction

Cross-Party Groups are widely recognised as a valuable part of the democratic process. It is equally important that there is openness and transparency in the way that groups operate.

These rules for the operation of Cross-Party Groups replace the 'Presiding Officers' Guidelines on the Formation of Cross-Party Groups', which were made on 10 March 2004.

All existing Assembly Cross-Party Groups are subject to these new Rules from the date on which they come into effect.

2. Definition and Status

The purpose of Assembly Cross-Party Groups is to provide a forum for Assembly Members from different parties to meet in order to consider and discuss shared interests in particular subjects.

Cross-Party Groups are not formal Assembly groupings and are not, therefore, bound by any of the Assembly's Standing Orders. They have no formal role in policy development.

Cross-Party Groups may be set up by Members in respect of any subject area relevant to the Assembly, but should not attempt to replicate the functional areas covered by Assembly committees, nor do they have any of the powers of an Assembly Committee (e.g. they cannot summon witnesses or Ministers to attend meetings or to provide documentation, and they cannot use the National Assembly for Wales logo or branding).

3. Membership

A Group must include Members from at least three political party groups represented within the Assembly.

Groups may also include members from outside the Assembly. Membership of individuals from outside the Assembly is at the discretion of the Group.

4. Election of Office Holders

Each group should elect a Chair and a Secretary.

The Chair of the Group must be an Assembly Member. The Group's Secretary may be an Assembly Member, an Assembly Member's Support Staff, or an individual from outside the Assembly. However, in the case of the group appointing a Secretary who is not an Assembly Member, that person must not act without the prior approval of the Chair of the Group, and all notices, correspondence, documentation and other arrangements relating to the activities of the Group must be issued in the name of the Chair.

A group must normally meet to elect its office-holders. It is expected that office holders will initially be elected at an inaugural annual general meeting. However, office holders may also be elected at other meetings of the group. Following any election of an office-holder, the Chair of the group should notify the change within four weeks, using the registration form at annex A.

5. Registration

Following the holding of an inaugural AGM or election of office-holders by another means, Cross-Party Groups should register using the appropriate registration form. The form must be signed by the group's Chair and list the membership, which must include at least two other Assembly Members from two other party groups within the Assembly, and names of all Members of the group who are not Assembly Members.

The details on the registration forms will be published by Assembly Commission officials on the relevant Cross-Party Groups' section of the Assembly's website.

For the purposes of holding an Annual General Meeting, existing Assembly Cross-Party Groups will be expected to hold an AGM within 12 months of the date of these rules coming into effect. Groups registered after this date will be expected to hold an AGM within 12 months of registration.

6. Re-registration of Cross-Party Groups after a period of dissolution

Groups must re-register at the start of each new Assembly following elections.

7. Recording changes

The Chair of the group is responsible for notifying any changes to group details, including changes to office holders, by submitting an amended registration form. Changes should be notified within four weeks of coming into effect, and will be published on the relevant

Cross-Party Groups' section of the Assembly's website.

Holding Meetings

8. Use of Assembly Facilities and resources

Cross-Party Groups do not take precedence over formal Assembly business and so will have access to the Assembly's accommodation facilities only subject to availability.

Assembly Building room bookings for Cross-Party Group meetings must be made by the Chair of the Group. That Assembly Member will also be responsible for all meeting arrangements including meeting and escorting external members of the Group within the Assembly Building.

Cross-Party Groups do not have access to any of the Assembly Commission staffing services such as committee services, with the exception of Welsh to English simultaneous interpretation at meetings held on the Assembly Estate. This may be provided if requested by the Chair of the Group.

Cross-Party Groups must respect the limitations on the use of Assembly facilities and resources. Members may make reasonable use of the Assembly's telephone, fax, photocopying, IT facilities and Assembly stationery in pursuit of Cross-Party business or in order to fulfil the requirements of these rules, e.g. to provide information for publication on the Assembly's website.

The Chair of the Cross-Party Group will be responsible for ensuring that the group complies with the rules on use of Assembly facilities and resources. Outside organisations and individuals associated with Cross-Party Groups are not entitled to use the Assembly's resources.

9. Provision of information in the Official Languages of the Assembly

All information provided by the Assembly Commission about Cross-Party Groups that is required to be published on the National Assembly for Wales' website under these rules, will be available in English and Welsh subject to the provisions of the National Assembly for Wales (Official Languages) Act 2012 and related Assembly Commission Official Languages Scheme. This includes membership, meeting dates and venues, minutes of all meetings including the Annual General Meeting, and the annual financial statement.

Arrangements for translating any Cross-Party Group documentation that is not required to be published on the Assembly's website must be made by the Cross-Party Group itself.

10. Assembly Access Fund

The Access Fund has been established to ensure that Assembly Members have the necessary support to engage with constituents with diverse needs, and provide additional support to disabled Members and disabled support staff.

The Access Fund may not be used for the provision of text translation into the Assembly's official languages or Welsh to English interpretation for Member-sponsored events which are organised by external bodies.

If the Chair of a Cross Party Group considers that the CPG needs support to allow it to engage with constituents with diverse needs, for example to interpret a language that is not an official language of the Assembly, and this support cannot be provided from within the group's own membership, then they may wish to submit a business case to Members' Business Support for access to the Fund. Full guidance on the Access Fund can be found on the Members' Intranet. In submitting a business case for financial support the Chair should give consideration to the status of Cross-Party Groups, which do not constitute formal Assembly proceedings.

11. Advance Notice of Meetings

It will normally be for the Chair of the Group to undertake publicising meeting times, venues etc. If this is delegated to the group's Secretary, then that person must only act with the prior approval of the Chair of the Group, and all notices, correspondence, documentation and other arrangements relating to the activities of the Group must be issued in the name of the Chair.

The Chair of the Group should provide details of meeting times and venues to the designated Assembly Commission officials in order for these to be published on the Cross-Party Groups section of the website.

12. Financial Rules and Registering Interests

There will be no Assembly budget to cover the running costs of Cross-Party Groups, with the exception of provisions under sections 8-10 above. The members of the group must meet any other such costs themselves.

Cross-Party Groups must bear in mind the integrity of the Assembly in considering the acceptance of any monies, gifts, hospitality etc. from outside bodies. In particular, individual Members are required to comply with the rules on registration and declaration of financial interests in connection with any activity they undertake within, or on behalf of, Cross-Party Groups – as set out in Standing Order 2.

In particular Section 5 of the Annex to Standing Order 2 sets out the registrable interests. This includes; “(iv) gifts, hospitality, material benefits or advantage above a value specified in any resolution of the Assembly..” and “(v) any remuneration or other material benefit which a Member....receives from any public or private company or other body which has tendered for, is tendering for, or has, a contract with the Assembly.”

The Assembly resolved on 10 May 2006 that the specified financial values above which gifts, hospitality and any other benefits must be registered/declared is 0.5 per cent of the basic gross annual Assembly salary for an Assembly Member. Under the current Determination this amounts to anything over £269.26 (0.5% of £53,852).

An Assembly Member who takes part in Assembly proceedings without having complied with the rules on registration of interests commits a criminal offence under section 36 of the Government of Wales Act 2006.

In addition to the requirement for individual Members of Cross-Party Groups to register any monies, gifts, hospitality or other benefits from outside bodies in the Assembly’s Register of Interests (in accordance with Standing Order 2), the Cross-Party Group’s Annual Report should list all benefits received by the group as a whole, or its individual Members, from outside bodies. This includes any secretariat or other support or services provided to the group.

Members are also reminded of the provisions of Standing Order 2.8, which prohibits lobbying for reward or recognition and which, under Section 36 of the Government of Wales Act is a criminal offence. Lobbying for reward and recognition is defined in Standing Orders as advocating or initiating “any cause or matter on behalf of any body or individual in any proceedings of the Assembly, or “urging any other Member to advocate or initiate any cause or matter in any such proceedings, in return for any payment or benefit in kind, direct or indirect, which the Member, or to the Member’s knowledge his or her spouse, has received or expects to receive.”

13. Annual General Meeting and Annual Report and Financial Statement

The Chair of the Cross-Party Group must call an Annual General Meeting (AGM) of the group every 12 months, at which the group must nominate and vote for office holders (see ‘Election of Office Holders’ section above). The election of office holders must take place formally at the AGM even if office holder(s) have already been appointed at a recent meeting.

The first meeting of the group will be its inaugural AGM. After each subsequent AGM the Chair of the Cross-Party Group must, within 6 weeks, issue an Annual Report and Financial Statement. This report must include:

- The membership of the group and names of its office-holders;
- the number of times the group has met since the last AGM, who attended, and a summary of the issues discussed;
- all professional lobbyists, and voluntary or charitable organisations with whom the group has met during the preceding year;
- an Annual Financial Statement setting out the group's expenses, benefits and hospitality received. The statement must include a breakdown of costs of all goods and services provided, and benefits received, and the names of the provider(s).

The Annual Report and Financial Statement must be published on the Cross-Party Groups' section of the Assembly's website.

14. Minutes of Meetings

The Chair of the Cross-Party Group will be responsible for ensuring that the minutes of every meeting of the group are provided to the designated Assembly Commission officials within four weeks of the meeting taking place. The minutes must include details of where the meeting was held, who attended the meeting, including the names and titles of group office-holders such as the Chair and Secretary, group Members and external visitors or guests, and a brief description of the issues discussed. The minutes will be published on the relevant Cross-Party Groups' section of the Assembly's website.

15. Compliance with the Rules

While all Assembly Members who are members of a Cross-Party Group have a responsibility to ensure that the group conducts itself properly, the Chair of the Group, as signatory of the registration form, will be held primarily responsible for ensuring that the group complies with the rules.

Failure to comply with, or contravention of the rules on Cross-Party Groups covering registration, election of office-holders, holding of AGMs or provision of information required by the rules, could lead to withdrawal of recognition of the group on the authority of the Presiding Officer (the group would be de-registered and all details removed from the Assembly's website).

Any Member who has a concern about the interpretation of the Rules should consult the Assembly Commission official(s) responsible for handling registration of Cross-Party Groups in the first instance.

Any complaint concerning personal standards of conduct, the proper use of Assembly resources and/or the proper registration of interests in accordance with Standing Order 2, in relation to a Member's involvement in Cross-Party Group activity, will be handled by the Standards Commissioner and Standards of Conduct Committee in accordance with the National Assembly for Wales' Procedure for Dealing with Complaints against Assembly Members. This may lead to sanctions being imposed on an individual Member.

The Standards of Conduct Committee may from time to time consider a paper from the Commission officials dealing with the registration of information about the activities of Cross-Party Groups, and if necessary make recommendations to the Presiding Officer concerning compliance with these rules.