



The Scottish Parliament  
Pàrlamaid na h-Alba

## **Standards, Procedures and Public Appointments Committee**

Professor Miller  
By email

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Dear Mr Miller

Following on from my previous correspondence, I am writing to inform you of the outcome of the Committee's deliberations on your complaint against the Cross Party Groups on Health Inequalities and Chronic Pain. I attach again for your reference the complaints process that the Committee has followed.

As set out in my last letter, my focus in providing findings to the Committee for its consideration has been the elements of your complaint that engage rules of the Code of Conduct for Members of the Scottish Parliament (specifically Section 6). However, for context, all Committee members were issued with a copy of your full complaint and follow-on correspondence from you, and also with letters from the Co-Conveners of each Group expressing their view on the complaint.

I thought it would be helpful to set out in some detail below the issues considered by the Committee before setting out our conclusions. The deliberations focused on your concern that it 'seems arguable that the time [the Secretary] donates might be regarded as a cost on the Wellbeing Alliance' and that on this basis the associated value of this support should be disclosed.

### *Relevant rules of the Code of Conduct*

Rule 6.3.2 of the Code of Conduct sets out the information that a proposed group must provide in its registration form, including:

Details of any financial benefits (including material assistance such as secretariat support) received from a single source that have a value, either singly or cumulatively, of over £500 per year.

Rule 6.3.8 states that:

As noted at 6.3.2, there can be a value, and therefore a financial benefit to a Group in the provision of secretariat support. If a Group receives secretariat support from an employee of an external organisation, the value of any time that employee spends on supporting Cross-Party Group activities should be calculated and, if over £500 per year, registered. The only exception to this is where the secretariat is provided by an individual in their own time; in these circumstances it is not considered that any financial benefit is received by the Group.

Similarly, information on financial benefits must be provided where a CPG re-registers (6.3.14) and in each annual return form (6.4.7).

It is clear from these rules that, if an individual is providing material support on behalf of a particular organisation, this should be stated in the registration form or re-registration information (if more than £500) and in subsequent annual returns.

Your complaint raises issues of transparency: the Code rules are based on the principle that information published by groups should make clear the nature and value of any significant support they receive. The Committee's monitoring of Cross Party Groups prioritises transparency. One of the opening sections of the Committee's Review of Cross Party Groups states that:

*The Cross-Party Group system forms an important part of the work of MSPs and Cross-Party Groups undertake very valuable work, allowing for information sharing and collaboration within the policy community and providing MSPs with information that aids them in scrutinising the Scottish Government in committees, in the chamber and through written questions.*

*However, to maintain this system, it is important to ensure that the regulation of Cross-Party Groups provides openness and transparency for both Cross-Party Group stakeholders and the wider public and continues to be viewed as an opportunity for organisations and individuals to engage directly with MSPs and the work of the Parliament.*

*The Committee considers that the recommendations outlined below will deliver robust regulation that will allow the Cross-Party Group system to prosper and continue to reflect the key principles of openness and transparency that are an essential part of the Scottish Parliament.*

This sentiment informs the rules of the Code on Cross Party Groups, including those of relevance to this complaint.

It would appear that the Secretary to the Groups is working for them on behalf of an organisation of which she is Director but considers that the work undertaken as Secretary should be regarded as being provided in a 'voluntary' capacity because it is completed in her own time.

The responses from the Co-Conveners make clear that the work undertaken by the Secretary is valued by the Co-Conveners and that she has their full support, including their support for the declaration that she provides her support on a voluntary basis. Jackie Baillie MSP's letter states:

*Firstly let me say at the outset that the work undertaken by Jacquie Forde as Secretary of the Cross Party Group is entirely voluntary. Whilst she is a Director of the Wellbeing Alliance, her work is part-time. She deals with the work arising from the Cross Party Group in her own time.*

The Committee has considered whether it is satisfied that Secretariat support for these Groups has been provided on a voluntary basis.

In considering the status of the secretarial support for these Groups, it was noted that the Secretary of these Groups is not listed as an individual member in the membership lists on either of the annual returns; however the Wellbeing Alliance is listed as an organisation member of both Groups.

In addition, the Secretary of these Groups is listed on the annual return form for the Health Inequalities Group as representing the Wellbeing Alliance under the Secretary section and also in the financial support section (it also states that support is provided in a voluntary capacity).

The Code requires clarity in non-MSP membership lists as to the capacity in which an individual is on a Group. Rule 6.4.2 (Operation of Groups) states:

Groups may also have members who are not MSPs. Non-MSP membership is split into two categories: individuals and organisations. Where someone joins a Cross-Party Group in connection with a role they have in, or to represent the views of, a specific organisation, it is the organisation that is considered to be the member of the Cross-Party Group.

Similarly, as listed in the criteria for re-registrations in rule 6.3.14:

- *Non-MSP membership:* There are two categories of membership, individual and organisational. For organisational members, if a Group has listed names of individuals who may represent the organisation at meetings, the registration will be updated so that only the name of the organisation is given and the Group informed. The balance of MSP to non-MSP members must be "Parliamentary in nature".

The rules are clear, in relation to membership, that an individual cannot be on a Group both as an individual and as a representative of an organisation. A person must not be listed in the membership of a group in an individual capacity and also attend as the representative of an organisation. This is to ensure that an individual does not receive disproportionate voting rights - the ability to vote twice, once representing an organisation and once as an individual.

### *Committee conclusion*

The rules provide for an individual to provide secretariat to a group either as an individual in a voluntary capacity or as an employee of an organisation. They do not allow for an individual to volunteer their time on behalf of an organisation.

Rule 6.3.8 states that employees of organisations should include an assessment of their time in the section of the annual return on financial benefits, and that the ‘only *exception* to this is where the secretariat is provided by an *individual* in their own time’ (the rule is reproduced in full above). It was noted, in considering this rule, that in this case the Secretary is not an employee of an organisation but is the self-employed Director of the organisation now known as the Wellbeing Alliance.

The Committee considers that, where the secretariat is provided by a secretary in an individual voluntary capacity, being listed as an individual in the membership lists should be a pre-requisite. On that basis, someone listed as representing an organisation on a group could not then consider themselves to be the secretary in a voluntary capacity.

On this basis, the Committee considers that there has been a breach of rule 6.3.8 but that this breach is not sufficiently serious to impose sanctions. Rather the Committee recommends that the Secretary to the Groups should be given the opportunity to decide whether to change the status of her membership to ‘individual’ (as opposed to on behalf of any organisation) or to assess the value of her time spent supporting the Groups and, if independently or cumulatively with other financial benefits they are in excess of £500, to detail these figures in addendums to the most recent annual returns from the Groups. I have written to the Co-Conveners of both Groups inviting them to address this recommendation, in consultation with the Secretary.

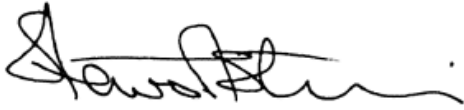
The Committee wishes to note that attributing a financial value to secretariat support is not intended to discourage any organisation from providing support or to imply any impropriety; it is simply intended to ensure that there is transparency about where a Group’s support comes from.

The Committee is aware that, the revised rules for Cross Party Groups have been in place for a relatively short period of time and, therefore, other Cross Party Groups could perhaps benefit from having the specifics of how rule 6.3.8 should be implemented raised with them. To ensure compliance from other groups with this rule, the Committee has also agreed to revise best practice guidance to include a section on the application of this rule and to re-issue the guidance in full to all Groups.

These steps mark the end of the Committee’s consideration of your complaints. In order to ensure the Committee’s work is as open and transparent and possible, your full complaint letter, responses from Group Co-Conveners and this letter will be posted on the Committee’s Cross Party Group Compliance page on its website:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/76171.aspx>

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Stewart Stevenson', with a horizontal line crossing through the middle of the name.

Stewart Stevenson MSP  
Convener  
Standards, Procedures and Public Appointments Committee

## Complaints process for CPGs

This guidance sets out the approach that the SPPA Committee will take to any complaints received about Cross Party Groups.

The process is intended to allow the SPPA Committee to respond fairly and proportionately to any complaints received. It therefore provides for a more informal approach to investigating minor complaints whilst allowing the Committee to undertake formal consideration where necessary, including imposing sanctions.

Complaints about the use of parliamentary resources by CPGs will be considered by the SPCB and are not covered by this process. The process outlined in this guidance only applies to complaints which do not relate to parliamentary resources but to other rules in Section 6 of Volume 2.

The Committee has delegated steps 1 to 4 to the Convener. These responsibilities can also be delegated to the Deputy Convener if required.

### Complaints process

- **Step 1** – the Convener establishes whether the complaint falls within the responsibilities of the SPPA Committee and whether it meets the admissibility criteria set out in Section 9.1 of volume 3. Where a complaint is not admissible, the Convener will dismiss it at this stage.
- **Step 2** – where a complaint is admissible, the Convener writes to the complainer confirming this and advising how it will be investigated. If necessary further information is requested from the complainer at this point. The complainer will be advised that the information they provide, including their name, may be published if the Committee decides the complaint requires a formal report to Parliament. The complainer will also be advised that the complaint should remain confidential while it is being investigated.
- **Step 3** – where necessary the Convener writes to the Convener of the CPG being complained about inviting them to respond and provide relevant evidence. The CPG Convener would also be informed that such correspondence could become public and that the complaint should remain confidential. The CPG Convener may involve the secretary to the group and other office-holders in preparing a response. If the complaint relates to the behaviour of an individual MSP in the group then that individual may be invited to provide a separate response to the complaint.
- **Step 4** – once the Convener is content that sufficient information is available, the Convener reports to the Committee.
- **Step 5** – the Committee considers the Convener's report on the complaint and agrees how to deal with it. Available options include—
  - a) *Dismiss the complaint* if there has been no breach of the Code;

- b) *Find that there has been a breach of the Code but that the breach is not sufficiently serious to impose sanctions.* The Group may be advised of any steps they must take to comply with the Code. The Committee may (but will not necessarily) publish the complaint letter, correspondence and the Committee's conclusions;
- c) *Remove recognition from the Group.* Any decision about removing recognition will be made at an SPPA Committee meeting, announced publicly and set out in a Committee report. When considering this option, the Committee will first give the CPG an opportunity to make representations either orally or in writing.
- d) *Find that there has been a breach of the Code which warrants sanctions being imposed on an individual MSP.* If the Committee wishes to recommend imposing sanctions on the Convener or another group member, the Committee will make this decision at an SPPA Committee meeting, announce it publicly and publish a report recommending to Parliament that sanctions be imposed. This would be followed by a Parliamentary debate and vote on the proposed sanctions. If sanctions are being considered, the MSP will first be given an opportunity to make representations either orally or in writing.
- e) *Find that the matter should be referred to the Commissioner for further investigation.* If, exceptionally, the Committee considers that the facts of the matter require further investigation, the Standards Commissioner may be directed to investigate the complaint and report to the Committee.