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FOI Request no: 2019-629655

28 June 2019

Dear Requester

## **REQUEST FOR INFORMATION ON THE REGISTER OF INTERESTS FOR MSPS**

We acknowledge your request dated 21 June 2019 for the following information concerning the Register of Interests for MSPs:

- 1) Is there any official requirement to declare membership of Freemasonry, or an interest in Freemasonry?*
- 2) Has this been discussed in The Scottish Parliament, or elsewhere, and if so, what was the outcome?*
- 3) Given the influence of Scottish Rite Freemasonry has the Scottish Parliament issued any policy documents regarding MSPs who are members of Freemasonry? It seems it is necessary to declare an interest in this for transparency and the public interest.*

Your request has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

Dealing with each part of your request in turn, the position is as follows:

- 1) The [Interests of Members of the Scottish Parliament Act 2006](#) sets out the statutory requirements that apply to the registration and declaration of the interests of MSPs. The Act sets out the circumstances in which financial interests must be registered. These interests are commonly referred to as “registrable interests”. The types of financial interest which must be registered are those which might be thought to influence a member’s actions, speeches or votes in the Parliament. There is no requirement in this Act to register or

declare any interest in relation to Freemasonry. An MSP may register on a voluntary basis an interest which does not require to be registered and some MSPs refer to membership of organisations in the “Voluntary” sector of the register, but there is no requirement to do so.

2) A number of discussions were identified as having taken place at the Standards Committee of the Scottish Parliament in relation to the Interests of Members of the Scottish Parliament. These are all in publicly available documents and can be accessed at the links that we have provided below. We have set out beneath each link the relevant paragraphs applicable to your request.

**Standards Committee, 2<sup>nd</sup> Report 2002** [Report on Replacing the Members' Interests Order: Interim Proposals for Consultation](#), SP Paper 512

Relevant paragraphs:

*30. The Committee is particularly keen to seek the views of interested parties on whether the replacement legislation should contain a provision requiring the mandatory registration of non-pecuniary interests. The Committee notes the argument that such interests could potentially wield the same influence over a Member's participation in Parliamentary proceedings as a pecuniary interest. The Committee has also noted concerns in relation to membership of organisations such as the Freemasons which, rightly or wrongly, may be perceived by some observers as 'secret societies'. The National Assembly for Wales currently requires Members to register membership of the Freemasons. However, the legality of the provision has been challenged in two cases which have been considered by the European Court of Human Rights. The Assembly's Standards of Conduct Committee is currently considering the implications of these judgements.*

*31. In its work on the declaration and registration of interests in the House of Lords, the Neill Committee argued that non-pecuniary interests were relevant on the ground that they provided a 'more complete picture of the standpoint of the Member'<sup>11</sup>. However, it could be argued that such a provision would be disproportionate and that the current voluntary approach to the registration and declaration of non-pecuniary interests is sufficient. Moreover, whilst registration of non-pecuniary interests could be argued to give greater transparency, it would render the day to day operation of the Register unwieldy and significantly increase the burden of registration on Members as well as the scope for genuine error.*

*32. There might also be complex definitional issues in setting out exactly which non-pecuniary interests should be registrable. The replacement legislation could restrict the requirement to register to a limited class of non-pecuniary interest. This would mirror the approach taken by some Australian legislatures for example, where registration*

*of positions held in or membership of trade associations, professional organisations and trade unions is required. Another approach would be that used in the draft Code of Conduct for Councillors, where non-pecuniary interests are defined as those which the public might reasonably think could influence a councillor's actions. Similarly, in the Victoria Parliament Members are required to disclose all interests, pecuniary or otherwise, that may appear to raise a material conflict with their public duties. Arguably, this would provide less clarity to MSPs than restricting the requirement to positions held/membership of trade and professional organisations and trade unions.*

*33. The Committee also notes that there was considerable opposition to the registration of non-pecuniary interests from a majority of MSPs who responded to the Committee's consultation paper. Many respondents felt that such a provision would be disproportionate.*

*34. The Committee believes that if the replacement legislation is to contain a provision requiring the registration and declaration of non-pecuniary interests, contravention of this provision should not be a criminal offence. This approach would be consistent with the CSG Working Group's recommendations on the registration and declaration of such interests.*

*35. As indicated above, the Committee wishes to invite evidence on the registration of non-pecuniary interests before finalising its proposals on this matter.*

**Standards Committee, 5<sup>th</sup> Report 2002** [Submission to the Committee on Standards in Public Life](#), SP Paper 575

Relevant paragraph:

*52. The Committee has also indicated that it wishes to consult interested parties on whether Members should be required to register non-pecuniary interests such as the membership of professional bodies, trade unions or other organisations such as the Freemasons. These interests may currently be registered on a voluntary basis by MSPs.*

**Standards Committee, 7<sup>th</sup> Report 2002** [Report on Replacing the Members' Interests Order: Proposal for a Committee Bill](#), **SP Paper 621**

Relevant paragraph:

*43. The Committee has decided to recommend that the replacement legislation adopts the approach used in the Ethical Standards legislation: Members should be required to register interests which the public might reasonably think could influence an MSP's actions. This will be supplemented by extensive guidance in the Code of Conduct*

*which will provide illustrative examples. These are likely to include positions held in or membership of professional bodies, trade unions, pressure groups, the Freemasons, and cultural and sporting organisations.*

**Standards Committee, [1<sup>st</sup> Report 2005, Replacing the Members' Interests Order](#), SP Paper 266**

Relevant paragraphs:

*5. In response to the issues raised at these meetings by Members, the Committee decided to consult to gain a wider perspective on the matters highlighted. A consultation document was published during July 2004, 'Consultation Paper 2004 (Session 2) Replacing the Members' Interests Order'.<sup>3</sup> Thirty two responses were received from interested parties. The majority of responses, twenty two in total, were from individuals. The organisations which responded were the Faculty of Advocates, Scottish Peoples Mission, Movement for a Register of Freemasons, the Scottish Consumer Council, Scottish Conservative and Unionist Party, Committee on Standards in Public Life and the Registry of Members' Interests House of Commons and the Grand Lodge of Ancient Free and Accepted Masons of Scotland. Both the Faculty of Advocates and the Committee on Standards in Public Life did not feel it was appropriate for them to comment. In addition the Committee considered Petition PE 761 from Mr Hugh Sinclair.*

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

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

*48. By far, this issue provoked the largest response from respondents to the Committee's consultation. Nineteen of the thirty two respondents highlighted the need to disclose non pecuniary interests. These submissions can be seen in Annex B.*

*49. The Committee recognises that there are complex issues in defining exactly which non-financial interests should be registrable. As such, the Committee has opted for the proposed Bill to adopt the*

*approach used in the Ethical Standards legislation and which also links into the overriding purpose of registration of interests. The Committee therefore proposes that Members should be required to register non-financial interests which the public might reasonably think could influence an MSP's actions, using the objective influence test discussed at paragraphs 13 to 16 above.*

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

[Passage of the Interests of Members of the Scottish Parliament Bill 2006 SP Bill 44 \(session 3\), subsequently 2006 asp 12](#)

This document brings together in a single place all the official parliamentary documents relating to the Passage of the Interests of Members of the Scottish Parliament Bill 2006 SP Bill 44 which became an Act of the Scottish Parliament ([The Interests of Members of the Scottish Parliament Act 2006](#)). There are a number of references to freemasonry in this document.

3) The Scottish Parliament does not hold records of any policy documents regarding membership of Freemasonry by MSPs. As we do not hold this information we have provided a notice that this information is not held by the Scottish Parliament in line with the technical requirements under FOI(S)A.

In keeping with our FOI procedures, this information may also be posted on the Parliament's disclosure log (usually within 24 hours). For further details on the Parliament's Disclosure Log and the information released under FOI, visit:

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We would welcome feedback or comment on how we handled your request. Please feel free to contact the Head of Information Governance at The Scottish Parliament, Edinburgh, EH99 1SP or by e-mail at [foi.officer@parliament.scot](mailto:foi.officer@parliament.scot)

Please find below Annex A, which explains how we handle FOI requests and reviews.

Yours sincerely

Robin Davidson  
Information Compliance Officer

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The Scottish Parliament  
Edinburgh  
EH99 1SP

Telephone: 0131 348 6913 (Calls using the Text Relay service are welcome.)

E-mail: [foi.officer@parliament.scot](mailto:foi.officer@parliament.scot)

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Post: The Office of the Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

Email: [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal)

Telephone: 01334 464610

Fax: 01334 464611

Website: [www.itspublicknowledge.info](http://www.itspublicknowledge.info)

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### **How to contact us**

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