



Commissioner for Ethical Standards in Public Life in Scotland

CONDUCT of MEMBERS of the SCOTTISH PARLIAMENT

Report by

the Commissioner for Ethical Standards in Public Life in Scotland

on

complaint no. MSP/2144/18-19/6

Complainer:- Mr Ricky Taylor

Respondent:- Mr Peter Chapman MSP

8 October 2018

Commissioner for Ethical Standards in Public Life in Scotland

Thistle House, 91 Haymarket Terrace, Edinburgh EH12 5HE

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CONDUCT of MEMBERS of the SCOTTISH PARLIAMENT

Report to the Scottish Parliament on complaint no. MSP/2144/18-19/6

Complainer: - Mr Ricky Taylor

Respondent: - Mr Peter Chapman MSP

1.0 Introduction

- 1.1 The Code of Conduct for Members of the Scottish Parliament ("the Code") has been approved by the Scottish Parliament under its Standing Orders to provide a set of principles and standards for its Members.
- 1.2 For the purpose of considering this complaint, the relevant provisions of the Code are contained in Section 4 - Paid Advocacy and Section 5 - Lobbying. The relevant edition of the Code is edition 7 which was approved by the Parliament on 30 August 2017. Excerpts from the Code are replicated in this Report.
- 1.3 The investigation of the complaint has been undertaken in terms of the Scottish Parliamentary Standards Commissioner Act 2002 ("the 2002 Act") and the Directions by the Standards Procedures and Public Appointments Committee dated 1 March 2012.
- 1.4 This Report falls to be submitted to the Parliament in terms of section 9 of the 2002 Act.

2.0 Complaint

- 2.1 The complainer is Mr Ricky Taylor ("the complainer") and his complaint is about Mr Peter Chapman MSP ("the respondent").
- 2.2 The respondent is an MSP for North East Scotland. He was elected on 5 May 2016 and is a member of the Scottish Conservative and Unionist Party. The respondent was the party's spokesperson for the rural economy until he resigned from that position on 16 May 2018. The respondent remains a member of the Rural Economy and Connectivity Committee.
- 2.3 The complaint alleges that the respondent may have breached the Code by failing to disclose his shareholding in Aberdeen Northern Marts Group ("the company") when making representations on behalf of the company to members of the Garioch Area Committee of Aberdeenshire Council ahead of their consideration of a planning application relating to the development of the company's site at Thainstone Business Centre in Inverurie. The respondent's Register of Interests records his ownership of 50,000 (fifty thousand) shares with a value of £1 (one pound) each in the company.
- 2.4 The complaint alleges that the respondent's conduct amounted to paid advocacy as defined in section 4 of the Code. The basis for the allegation is the respondent's entitlement to receive interest annually on his shareholding at up to 2% above bank base rate. The complainer has calculated that the respondent could therefore receive up to £1,250.00 (one thousand two hundred and fifty pounds) per annum by way of

interest on his shareholding and alleges that this should be treated as a benefit in terms of the rules on paid advocacy.

- 2.5 The complaint was made by email with a letter attached dated 17 May (received 22 May) 2018. The email and enclosure are attached to this Report as **Appendix 1**. Although not expressly mentioned in the complaint, consideration has also been given to the provisions set out in section 5 of the Code on Lobbying and Access to MSPs.

3.0 Response

- 3.1 The respondent wrote to me on 17 May 2018 (in advance of my receipt of the complaint) referring to possible misconduct on his part and confirmed that he had resigned from his position as spokesperson on the rural economy in the light of the circumstances surrounding his contacting the councillors without disclosing his registered interest in the company. On 24 May, he sent an email attaching the letter of 17 May in response to the complaint. The letter is attached as **Appendix 2**. The respondent accepts that he lobbied in support of the planning application, albeit he does not accept that his actions would lead to any personal benefit. He subsequently confirmed the dates of his approaches to the councillors. A copy of the respondent's Register of Interests, which confirms his financial interest in the company is attached as **Appendix 3**.

4.0 Admissibility of the complaint and subsequent proceedings

- 4.1 Stage 1 of the investigation of a complaint requires an assessment of admissibility. In assessing admissibility, the key tests are whether the complaint is relevant, whether the complaint meets the requirements for form, content and execution and whether the complaint warrants further investigation if it appears after an initial investigation that the evidence is sufficient to suggest that the conduct complained about may have taken place.
- 4.2 I determined that the complaint was relevant and admissible and notified the respondent and the Clerk to the Standards, Procedures and Public Appointments Committee to that effect on 4 July 2018 and confirmed that I would be proceeding with my investigation. Copies of my letters are set out in **Appendix 4**.
- 4.3 The next step of the investigative process would usually have consisted of an interview with the respondent (and any other relevant witnesses) to enable me to determine whether or not the alleged conduct had taken place and involved a breach of the Code.
- 4.4 However, because of the possibility of criminal penalties under the Interests of Members of the Scottish Parliament Act 2006 if paid advocacy has taken place, I decided to suspend any further action and referred this matter to the Procurator Fiscal in terms of Direction 15 of the Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2012. This makes provision for the Procurator Fiscal to consider whether or not the respondent's conduct would, if proved, constitute a criminal offence.

- 4.5 The Procurator Fiscal wrote to me on 23 August 2018 to confirm that the matter should be passed back to the Commissioner. This notification is set out in **Appendix 5** of this Report.
- 4.6 I then invited the respondent to attend for interview, which he did on 27 September 2018. No other interviews were arranged. At the interview, the respondent provided me with clarification of his actions, including his involvement with the company and the reasons for proceeding as he did.

5.0 Investigations and Findings

Investigation

- 5.1 At interview, the respondent confirmed that he had undertaken the lobbying as alleged over the weekend of 5-8 May 2018. By way of background, he explained that he had been a director of the Company for approximately two years until 9 August 2016 and that he had knowledge of the potential benefits of the proposed development of the company's site at Inverurie. He was aware that an earlier application for the development had been refused permission and, that the proposed development was being re-considered by the Council's Area Committee following an appeal against the original refusal.
- 5.2 The respondent said that he had been approached by the company's Chief Executive, whom he knew, in advance of the application being considered by the Council's Garioch Area Committee. The respondent had been a member of Aberdeenshire Council; roughly half of the members of the Area Committee were known to him. He agreed to contact all the members of the Committee to set out what he understood to be the importance and potential benefits of the development, with a view to encouraging the councillors to view the planning application positively.
- 5.3 The respondent said that he was prepared to do this because he was a supporter of the planned development. He recognised its importance to farmers in the area and to the economy in the north east and the perceived benefit of re-siting the abattoir further away from the town of Inverurie. He said that he did not do so in return for, or in expectation of receiving, any personal benefit.
- 5.4 The respondent confirmed at interview that he had attempted to contact all members of the Area Committee by telephone. He spoke to those who answered, and left a message with others. He introduced himself as an MSP representing the farming community in the north east and as his party's spokesperson on the rural economy.
- 5.5 The respondent's recollection was that he had mentioned his shareholding to some of those whom he contacted. However, he thought that he had not done so on all occasions. He regarded this as an oversight on his part, but pointed out that the shareholding was publicly available in his register of interests. In hindsight, he did feel that he had acted inappropriately in not making his financial interest clear. That was why he felt he had to resign as party spokesperson.
- 5.6 The respondent explained that the company is a co-operative and that the value of the shares is fixed. He confirmed that he and other shareholders could receive a return on their shares by way of interest at a rate

determined by the company's directors. This was variable but could not exceed 2% above the bank base rate. The respondent was confident that a decision to grant planning permission for the proposed development could not affect the value of his shareholding in the company. His view was that it would have no impact on the level of interest paid to shareholders. The respondent, therefore, refuted any suggestion that the extension or development of the Mart would have a beneficial effect for him.

- 5.7 The respondent also confirmed that there was potential for all members of the company to receive a periodic bonus in respect of the volume of animals sent to market. However, this had little or no relevance given the nature of his farming activities.
- 5.8 The company's Annual Report and Accounts for the year ended 31 December 2016 describes it as "one of the UK's largest farmer-owned agri-business, playing a major role in Scotland's agricultural economy". The total called up share capital as at 31 December 2016 was in excess of £5.4 million. The company's principal activity is the operation of livestock marts throughout the north and north east of Scotland. During 2016, there were four wholly owned subsidiaries, including Aberdeen and Northern (Estates) Limited, which trades as an estate agency, Thainstone Events Limited, which is a catering company and a vehicle sales and leasing company, Thainstone Leasing Company Limited. There were also five non-trading subsidiaries and investments in three other undertakings. The annual turnover was almost £125 million and the trading profit is shown as £470,000. The respondent resigned from his position on the company's board in the course of the year.

Findings

- 5.9 Having completed the investigation in this case and considered the respondent's representations, I have found the following facts to be admitted or proved on the balance of probabilities:-
- (i) The respondent holds 50,000 shares of £1 each in value in the company, as declared in his Register of Interests;
 - (ii) The company is a co-operative in which the value of the shares is fixed;
 - (iii) Shareholders in the company are entitled to receive interest on their shareholdings at a rate determined by the directors but not exceeding 2% above bank base rate;
 - (iv) The respondent resigned from his position as a Director of the company on 9 August 2016;
 - (v) The respondent was asked by the company's Chief Executive to approach the members of the Garioch Area Committee of Aberdeenshire Council ahead of their consideration of a planning application for permission to develop the company's site at Thainstone, Inverurie;
 - (vi) The respondent made telephone calls to all councillors who were members of the Area Committee to set out the company's and his view of the importance and potential benefits of the proposed development;
 - (vii) The respondent introduced himself as an MSP representing farming interests in the north east and as his party's spokesperson on the rural economy;

- (viii) The respondent was acting in the capacity of a Member when he made the telephone calls;
- (ix) The respondent conveyed his view directly to councillors who answered his call and left a message for others;
- (x) The respondent did not declare his shareholding in the company in some of the telephone calls to councillors;
- (xi) The respondent viewed the absence of a declaration of his shareholding as an oversight and resigned as party spokesperson for the rural economy on 16 May 2018.

6.0 The Code

- 6.1 The provisions of the Code which have been considered in the assessment of the complaint are set out in **Appendix 6**.

7.0 Discussion and Conclusion

- 7.1 Section 14 of the 2006 Act (Prohibition of Paid Advocacy) specifies what constitutes Paid Advocacy and is therefore forbidden. Paragraphs 1 to 6 of the Code narrate in further detail the provisions of the Act and the terms of the resulting Code obligations.
- 7.2 Section 14 of the Interests of Members of the Scottish Parliament Act 2006 ("the 2006 Act") sets out a wide definition of paid advocacy, including the initiation of any cause or matter on behalf of any person by any means in consideration of any payment or benefit in kind. It expressly covers "the doing of anything by a member in the capacity of a member, whether or not in any proceedings of the Parliament" (section 14(2)).
- 7.3 It is clear that the respondent agreed to make representations to councillors on behalf of the company, with a view to influencing their consideration of a planning application on behalf of the company. It is also clear that he introduced himself to the councillors as a local MSP with an interest in farming in the north east. These actions clearly involved the doing of something by the respondent in the capacity of a member, albeit not in any proceedings of the Parliament.
- 7.4 However, I accept the respondent's evidence that he did not do so in order to, or in the expectation of, receiving any benefit from the company. There is no evidence of any benefit having been offered to him, or received by him, in return for contacting the councillors.
- 7.5 The value of shares in the company is fixed, and would not be affected by the outcome of the planning application. Furthermore, I am not persuaded that there is or could be any connection between the respondent's actions and the level of interest which would subsequently be paid to him by the company in respect of his shareholding. The level of interest is set annually by the directors of the company and is paid to all shareholders. Although the respondent's shareholding is significant, it represents less than 1% of the total share capital. I do not consider that the respondent acted in consideration of any payment or benefit in kind. Therefore, in my opinion, there is no evidence to suggest that the respondent's actions amounted to Paid Advocacy, as prohibited by section 4 of the Code.

- 7.6 I would also observe that the respondent's perceived oversight in failing to declare his shareholding when making telephone calls to councillors does not appear to involve any breach of the Code. The requirements to declare interests, as set out in section 3 of the Code, only apply where a Member is taking part in any proceedings of the Parliament. That was clearly not the case when the respondent made contact with councillors on the Area Committee.
- 7.7 Reference has been made in the complaint to lobbying, to which section 5 of the Code refers. Paragraph 1 of that section prohibits the doing of anything which contravenes the Code in relation to contact with any person or organisation who lobbies. The respondent was, in effect, lobbied by the Chief Executive of the company. However, as set out in this Report, I have concluded that the respondent's actions did not involve any breach of the Code.
- 7.8 Paragraph 2 of section 5 refers to acting in a way which could discredit the Parliament in relation to such contact. As there has been no breach of the Code, I do not consider that there is any basis for concluding that the respondent has acted in a way which could discredit the Parliament. The Lobbying (Scotland) Act 2016 does not place any obligation on the respondent in these circumstances, and the respondent certainly understood the basis on which he was being lobbied. I have therefore concluded that the respondent's conduct did not involve any breach of the requirements of section 5 of the Code.
- 7.9 I have concluded on the information available to me and in particular having regard to the findings in fact set out in paragraph 5.9 of this Report, and the considerations narrated in part 7 of this Report that the actions of the respondent, Mr Peter Chapman MSP, as outlined in the complaint, did not involve a breach of any provision of the Code.

Bill Thomson
Commissioner

8 October 2018

Mr Bill Thomson
Commissioner for the Ethical Standards in Public life in Scotland
Thistle House
91 Haymarket Terrace
Edinburgh EH12 5HE
17th May 2108

22 MAY 2018

OFFICE OF PSOS

Breach Code of Conduct for MSPs, Section 4 Paid Advocacy

Dear Mr Thomson,

I write to bring to your attention a potential breach of the above part of the MSP's Code of Conduct by Peter Chapman MSP.

As has been reported in the media this morning, Peter Chapman has resigned his position as the Conservatives' Rural Economy Spokesperson after he admitted to phoning local councillors to lobby for a planning application to be approved. The planning application had been lodged with Aberdeenshire Council by the ANM Group, in which Peter Chapman holds 50,000 £1 shares, according to his register of interests.

Furthermore, it is detailed on ANM Group's website that return on ANM shares is up to 2% above the base rate (0.5%) per annum, therefore a maximum of 2.5% - meaning that Mr Chapman would stand to make a profit of up to £1,250 per year as a result of his shareholding.

Section 4 of the MSPs Code of Conduct on Paid Advocacy states:

"1. Paid Advocacy is not permitted."

"3. The provisions of the Act relating to paid advocacy provide that a member may not, in consideration of any payment or benefit in kind, advocate or initiate any cause, or matter, on behalf of any person or urge any other member to advocate or initiate any cause, or matter, on behalf of any person."

"4. Any payment or benefit in kind means any payment or benefit in kind which the member receives, agrees to receive or requests and which may reasonably be considered to result in some benefit, or if and when made or given, would result in 7th Edition, 30 August 2017 some benefit, for that member (except a vote for that member in an election to the Parliament). This also includes any payments or benefit in kind which the member's spouse, civil partner or cohabitant receives, agrees to receive or requests and which may reasonably be considered to be provided in connection with the Parliamentary duties of that member and to benefit that member in some way (or, if and when made or given, would result in some benefit to that member)."

Given that Paid Advocacy is not permitted, and that the code of conduct prohibits "any payment or benefit in kind", it is my belief that Mr Chapman's attempts to lobby councillors over a planning decision in which he has a clear interest in is a breach of the code of conduct in relation to paid advocacy. Mr Chapman stands to profit from his shareholding in ANM Group, therefore his attempts to influence a planning decision on their behalf, using his

position as an MSP, is a clear contravention of his responsibilities as an MSP.

Furthermore, Mr Chapman has already admitted wrongdoing by standing down from his position as the Conservatives' Rural Economy Spokesperson, confirming that he should have declared his

financial interest in the firm in question before lobbying for the planning application to be approved by Aberdeenshire Council. Therefore, it would appear that he has breached the rules which MSPs are expected to abide by.

I would be grateful if you could consider this complaint in reference to the relevant rules and legislation, and consider any action if necessary.

Yours sincerely,

Ricky Taylor

From: [REDACTED] on behalf of Chapman P (Peter), MSP <Peter.Chapman.msp@parliament.scot>
Sent: 24 May 2018 16:51
To: investigations@ethicalstandards.org.uk
Subject: RE: Complaint Reference MSP/2144/18-19/6
Attachments: Letter to Commissioner for Ethical Standards in Public Life in Scotland.pdf

Good afternoon,

See attached a letter I had previously sent to the Ethical Standards Commissioner. This is the only information I have to add to this complaint.

Yours Sincerely



Peter Chapman MSP
Member of the Scottish Parliament for North East Scotland
80 Rosemount Place
Aberdeen
01224 644432



From: investigations@ethicalstandards.org.uk [mailto:investigations@ethicalstandards.org.uk]
Sent: 24 May 2018 16:41
To: Chapman P (Peter), MSP <Peter.Chapman.msp@parliament.scot>
Subject: Complaint Reference MSP/2144/18-19/6

Dear Mr Chapman

Please see the attached letter and appendix for your information.

Yours sincerely

[REDACTED]

Casework Coordinator
Commissioner for Ethical Standards in Public Life in Scotland
Thistle House
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Edinburgh EH12 5HE
Tel: 0300 011 0550
www.ethicalstandards.org.uk

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The Scottish Parliament
Pàrlamaid na h-Alba

Commissioner for Ethical Standards in Public Life in Scotland
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HE

Thursday 17th May 2018

To whom it may concern,

I am writing to you today regarding a recent action of mine that I suspect may come to the Commissioner for Ethical Standards in Public Life.

At the request of Aberdeen Northern Mart Groups management, I spoke to several members of Aberdeenshire Council's Garioch Area Committee about a planning application from the ANM Group for an expansion of the Mart Business Centre. I did so in my position as spokesperson for the Rural Economy and Connectivity, as this would be a significant boost for agricultural business in the area.

As a local farmer, I am a member of the farming co-operative. I own 50,000 shares in the group. My investment is not linked to the company's performance, and I would not stand to gain anything if the expansion were to go ahead. All shareholders accrue interest at 2% above the base rate (0.5%) per annum.

I did however fail to declare this interest in the conversations with councillors, which took place prior to a meeting to discuss the application. It's quite clear with hindsight that I should have made my financial interest in the phone calls clear and that it was a foolish oversight on my behalf not to do so.

I failed to maintain the high standards of transparency that is expected of MSPs and as a result, I have resigned in my post as Scottish Conservative spokesperson for Rural Economy and Connectivity.

It was not my intention to hide this as the details of my investment on the Scottish Parliament register of interests.

I deeply regret this incident and I only hope people will see it for what it is: an honest mistake taken while trying to help my local constituents and the Aberdeenshire economy.

Please do not hesitate to contact me if you require any further information on this matter should a complaint be received.

Yours Sincerely



Peter Chapman MSP

Member of the Scottish Parliament for the North East region



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-

Register of Interests

Member's Name: Peter Chapman

Constituency: North East Scotland

Date on which initial statement lodged: 30 May 2016

- [Guidance for MSPs: how to update the Register of Interests \(111KB pdf\)](#)



All MSPs are required to provide details of their interests under the [Interests of Members of the Scottish Parliament Act 2006 \(asp 12\)](#). The Register of Interests of Members of the Scottish Parliament lists details of interests registered under categories such as remuneration, heritable property and gifts. More information about the exact nature of information required under each category of interest can be found at Volume 2: sections 1 and 2 of the [Code of Conduct for Members of the Scottish Parliament](#).

Information on the exact nature of the requirement under each category can be found in the [Interests of Members of the Scottish Parliament Act 2006 \(asp 12\)](#).

Remuneration and related undertaking:

I am a partner of Peter Chapman and Co. (of South Redbog, Strichen, Fraserburgh, AB43 6RP), a farming partnership. I receive remuneration in the form of utilities for my home, which are paid by the partnership to a value of between £5,001 and £10,000 per annum. I also receive interest payments on my stake in the partnership of between £5,001 and £10,000 per annum. I expect to spend 2 days per month in this role. [Amended interest 05 September 2016]

Until 9 August 2016 I was a director of Aberdeen and Northern Marts (of Thainstone Centre, Inverurie, AB51 5XZ), a livestock auction mart. I received the equivalent of £3,000 per annum and spent 2 days per month in this role. [Amended interest 05 September 2016]

I am a director of Chapmans Chickens Ltd. (of South Redbog, Strichen, Fraserburgh, AB43 6RP), a poultry rearing company. Until 3 July 2016 I received £25,000 per

annum and spent 2 days per month in this role. I no longer receive remuneration or spend any time in this role. [Amended interest 05 September 2016, Amended interest 17 April 2018]

Gifts:

No registrable interests

Overseas visits:

No registrable interests

Controlled transactions:

No registrable interests

Heritable property:

[Ceased interest removed from entry: 05 September 2017]

[Ceased interest removed from entry: 05 September 2017]

[Ceased interest removed from entry: 05 September 2017]

[Ceased interest removed from entry: 05 September 2017]

Interest in shares:

[Ceased interest removed from entry: 05 September 2017]

I own ordinary shares in Redbogs Renewables Ltd, a wind energy company, with a value of £350,000 which represents 7% of the issued share capital. [Amended interest 05 September 2016]

I own 50,000 £1 ordinary shares in Aberdeen and Northern Marts Group, an auction business involved in the auctioning of livestock and agricultural machinery, with a value of £50,000. [Registered interest 17 April 2018]

Voluntary:

I am a member of NFU Scotland.

I own 10 £1 shares in Chapman's Chickens, a poultry rearing company of Aberdeenshire. [Registered 05 September 2016]

Contact

- [Full Contact Details](#)
- Email: [Peter Chapman](#)

Further information

Email our **Public Information Service** for more information.



Commissioner for Ethical Standards in Public Life in Scotland

CONFIDENTIAL

Ms Katy Orr
Clerk to the Standards, Procedures
& Public Appointments Committee
The Scottish Parliament
Room TGO1
Edinburgh
EH99 1SP

Reference: MSP/2144/18-19/6/DW

4 July 2018

Dear Ms Orr

Public Standards
Code of Conduct for Members of the Scottish Parliament
Complaint against Mr Peter Chapman MSP
by Mr Ricky Taylor

I have received a complaint from Mr Ricky Taylor alleging that Mr Peter Chapman MSP has breached the MSP Code of Conduct in lobbying members of the Planning Authority about the grant of planning consent for a development in which he had an alleged interest. Section 4 (Paid Advocacy) of the Code refers.

I write to inform the Standards, Procedures and Public Appointments Committee that in terms of the section 7(2) of the Scottish Parliamentary Standards Commissioner Act 2002, I have found the complaint is admissible and, therefore, I intend to continue consideration of the matter.

I will write to you further in due course.

Yours sincerely



Bill Thomson
Commissioner

Commissioner for Ethical Standards in Public Life in Scotland

Thistle House, 91 Haymarket Terrace, Edinburgh EH12 5HE

T: 0300 011 0550 E: investigations@ethicalstandards.org.uk W: <http://www.ethicalstandards.org.uk>



Commissioner for Ethical Standards in Public Life in Scotland

CONFIDENTIAL

Mr Peter Chapman MSP
The Scottish Parliament
Edinburgh
EH99 1SP

Reference: MSP/2144/18-19/6/DW

4 July 2018

Dear Mr Chapman

Public Standards
Code of Conduct for Members of the Scottish Parliament
Complaint by Mr Ricky Taylor

I refer to our correspondence regarding the complaint about you from Mr Ricky Taylor.

Having considered the terms of the complaint, I have concluded that - for the purposes of the Scottish Parliamentary Standards Commissioner Act 2002 - the complaint is admissible and, therefore I intend to continue consideration of the matter.

I am writing to the Clerk of the Standards, Procedures and Public Appointments Committee to confirm this interim conclusion.

I wish to progress the investigation expeditiously and will write to you again as soon as possible regarding progress.

If you have any queries, please contact the office by telephone 0300 011 0550 or email investigations@ethicalstandards.org.uk

I should also be grateful if you would treat this matter on a confidential basis.

Yours sincerely



Bill Thomson
Commissioner

Commissioner for Ethical Standards in Public Life in Scotland

Thistle House, 91 Haymarket Terrace, Edinburgh EH12 5HE

T: 0300 011 0550 E: investigations@ethicalstandards.org.uk W: <http://www.ethicalstandards.org.uk>

E.7. 16-06-11

[REDACTED]

From: Richardson, Andrew (PF, Lothian & Borders)
<Andrew.Richardson@[REDACTED]>
Sent: 23 August 2018 10:30
To: investigations@ethicalstandards.org.uk
Cc: _Lothian and Borders Management Support
Subject: RE: Complaint reference MSP/2144/18-19/6

Categories: [REDACTED]

[REDACTED]

Crown Counsel asked for further information before making a decision. Ultimately they have instructed that the matter should be passed back to the Commissioner to deal with as he thinks is appropriate.

I hope this is sufficient for your purposes, but if you require any more information please let me know.

Andrew

Andrew Richardson
Procurator Fiscal (Lothian & Borders)
0300 020 2737



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

From: Richardson, Andrew (PF, Lothian & Borders)
Sent: 24 July 2018 15:08
To: 'investigations@ethicalstandards.org.uk'
Cc: _Lothian and Borders Management Support
Subject: RE: Complaint reference MSP/2144/18-19/6

From: _PFO Edinburgh
Sent: 17 July 2018 15:40
To: _Lothian and Borders Management Support
Cc: Richardson, Andrew (PF, Lothian & Borders)
Subject: FW: Complaint reference MSP/2144/18-19/6

[REDACTED]

Thank you for this. I've submitted my report to Crown Counsel and would expect to hear back from them before the end of the week.

Andrew

From: investigations@ethicalstandards.org.uk [mailto:investigations@ethicalstandards.org.uk]
Sent: 17 July 2018 15:37
To: _PFO Edinburgh
Subject: Complaint reference MSP/2144/18-19/6

Dear Mr Richardson

Please see the attached documents for your information.

Yours sincerely



Casework Coordinator
Commissioner for Ethical Standards in Public Life in Scotland
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91 Haymarket Terrace
Edinburgh EH12 5HE
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www.ethicalstandards.org.uk

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SECTION 4: PAID ADVOCACY

The Statutory Requirements

Section 14, Prohibition of paid advocacy etc.

(1) A member shall not by any means, in consideration of any payment or benefit in kind--

(a) advocate or initiate any cause or matter on behalf of any person; or

(b) urge any other member to advocate or initiate any cause or matter on behalf of any person.

(2) For the purposes of subsection (1)--

(a) "any means" shall be construed as the doing of anything by a member in the capacity of a member, whether or not in any proceedings of the Parliament; and

(b) "any payment or benefit in kind" means any payment or benefit in kind--

(i) which the member receives, agrees to receive or requests and which falls within subsection (2A); or

(ii) which the member's spouse, civil partner or cohabitant receives, agrees to receive or requests and which falls within subsection (2B).

(2A) A payment or benefit in kind falls within this subsection if, after taking account of all the circumstances, it may reasonably be considered that the payment or benefit results (or, if and when made or given, would result) in some benefit to the member, other than a vote for that member in any election to the Parliament.

(2B) A payment or benefit in kind falls within this subsection if, after taking account of all the circumstances, it may reasonably be considered that the payment or benefit--

(a) is being provided (or, if and when made or given, would be provided) in connection with the Parliamentary duties of the member; and

(b) results (or, if and when made or given, would result) in some benefit to that member,

(3) Subsection (1) shall not prevent a member receiving, agreeing to receive or requesting assistance in connection with any of the following matters--

(a) the preparation of a Member's Bill or of any amendment to a Bill, or any other matter relating to a Bill (whether before, during or after its passage in the Parliament and before it is submitted for Royal Assent); or

(b) a debate upon subordinate legislation (whether before or after its making); or

(c) a legislative consent motion.

1. Paid advocacy is not permitted.

2. Section 14 of the Interests of Members of the Scottish Parliament Act 2006 sets out what constitutes paid advocacy and is, therefore, forbidden and also sets out what assistance to a member is permitted.

3. The provisions of the Act relating to paid advocacy provide that a member may not, in consideration of any payment or benefit in kind, advocate or initiate any cause, or matter, on behalf of any person or urge any other member to advocate or initiate any cause, or matter, on behalf of any person.

4. "Any payment or benefit in kind" means any payment or benefit in kind which the member receives, agrees to receive or requests and which may reasonably be considered to result in some benefit, or if and when made or given, would result in some benefit, for that member (except a vote for that member in an election to the Parliament). This also includes any payments or benefit in kind which the member's spouse, civil partner or cohabitant receives, agrees to receive or requests and which may reasonably be considered to be provided in connection with the Parliamentary duties of that member and to benefit that member in some way (or, if and when made or given, would result in some benefit to that member).

5. Section 14(3) of the Act describes the kinds of assistance which members may receive, agree to receive or request without being in breach of the paid advocacy provisions. Those provisions do not apply to—

- assistance provided to a member in the preparation of a Member's Bill,
- assistance with amendments to any Bill, or
- a debate on subordinate legislation or a legislative consent motion.

Sanctions and offences for failure to comply with the rule on paid advocacy

6. Failure to comply with the paid advocacy rule may result in the Parliament excluding a member from proceedings for such period as it considers appropriate (section 16 of the Act), or applying a sanction to the member (section 17A). A member may also be guilty of a criminal offence in terms of section 17 of the Act. A member found guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

SECTION 5: LOBBYING AND ACCESS TO MSPs

Rules

1. A member should not, in relation to contact with any person or organisation who lobbies, do anything which contravenes this Code of Conduct (the Code) or any other relevant rule of the Parliament or any statutory provision.

2. A member should not, in relation to contact with any person or organisation who lobbies, act in any way which could discredit the Parliament.

3. 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 commercial lobbyist either as a representative or to provide strategic advice. In particular, a member should not offer or accord preferential access or treatment to commercial lobbyists or their employers. Nor should commercial lobbyists or their employers be given to understand that preferential access or treatment might be forthcoming from an MSP or group or person within or connected with the Parliament.

4. Before taking any action as a result of being lobbied, a member should be satisfied about the identity of the person or organisation lobbying and the motive for lobbying. A member may choose to act in response to a commercial lobbyist but it is important that a member knows the basis on which he or she is being lobbied in order to ensure that any action the member takes complies with the standards set out in this Code.

Paragraphs 5-9 of section 5 of the Code are not reproduced.

10. 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 Parliamentary connection.



The Scottish Parliament
Pàrlamaid na h-Alba

Peter Chapman MSP
Member of the Scottish Parliament for North East Region

Sam Currie
Support Manager
Standards, Procedures and Public Appointments Committee
The Scottish Parliament
Edinburgh
EH99 1SP

19th October, 2018

Dear Sam,

The Commissioner for Ethical Standards in Public Life

I write to confirm that I agree with the Commissioner's findings in full and that I do not wish to make any representations regarding the Commissioner's findings to the Standards, Procedures and Public Appointments Committee.

Yours sincerely,

Peter Chapman MSP

Member of the Scottish Parliament for the North East Region
(Scottish Conservative and Unionist Party)
Local Office: 80 Rosemount Place, Aberdeen, AB25 2XN
Email: peter.chapman.msp@parliament.scot
Phone: 01224 644432

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www.facebook.com/PeterChapmanMSP



[@PeterChapmanMSP](https://twitter.com/PeterChapmanMSP)



The Scottish Parliament
Pàrlamaid na h-Alba

Peter Chapman MSP
Member of the Scottish Parliament for North East Region

Dear Mr Thomson,

In reply to your letter of the 6th November asking further questions about the circumstances of my complaint, I am quite happy to answer.

I do however wonder where the request for more information came from, as I am not aware that the standards committee requested more information.

You ask about annual bonuses paid to members based on the amount of commission paid on the sale of animals. I can confirm this is the only bonuses that are paid to members and they only go to people who have sold large numbers of stock that year and have therefore paid considerable sums in commission.

These bonuses are not guaranteed, but are at the discretion of the Board and if paid the threshold for payments is also at the Board's discretion based on the previous year's financial results.

I can confirm that I have never received anything under this scheme as my business does not sell large numbers of stock through the mart. We fatten all our cattle and they therefore go straight to slaughter rather than being traded through the mart.

The interest rates paid on shares held are also decided by the Board. Since there is no change in the value of Mart shares the only incentive to purchase more than minimum shareholding to be allowed to trade with the Mart is the interest payable. This is decided with reference to the Bank of England base rate and therefore the interest payable on bank deposits.

The general rule is that the mart will pay up to 2% above Bank of England base rate.

As you can imagine there has been very little change recently as we have had a long period of stable interest rates.

I have also attached a copy of the members book which details interest and bonus protocol.

I hope this answers your questions satisfactorily and that we can conclude this investigation swiftly and fairly.

Yours Sincerely

Peter Chapman MSP



MEMBERS' BENEFITS


ANM
GROUP





95%

of survey respondents agreed that: "ANM Group is committed to representing its members' interests and the industry as a whole."

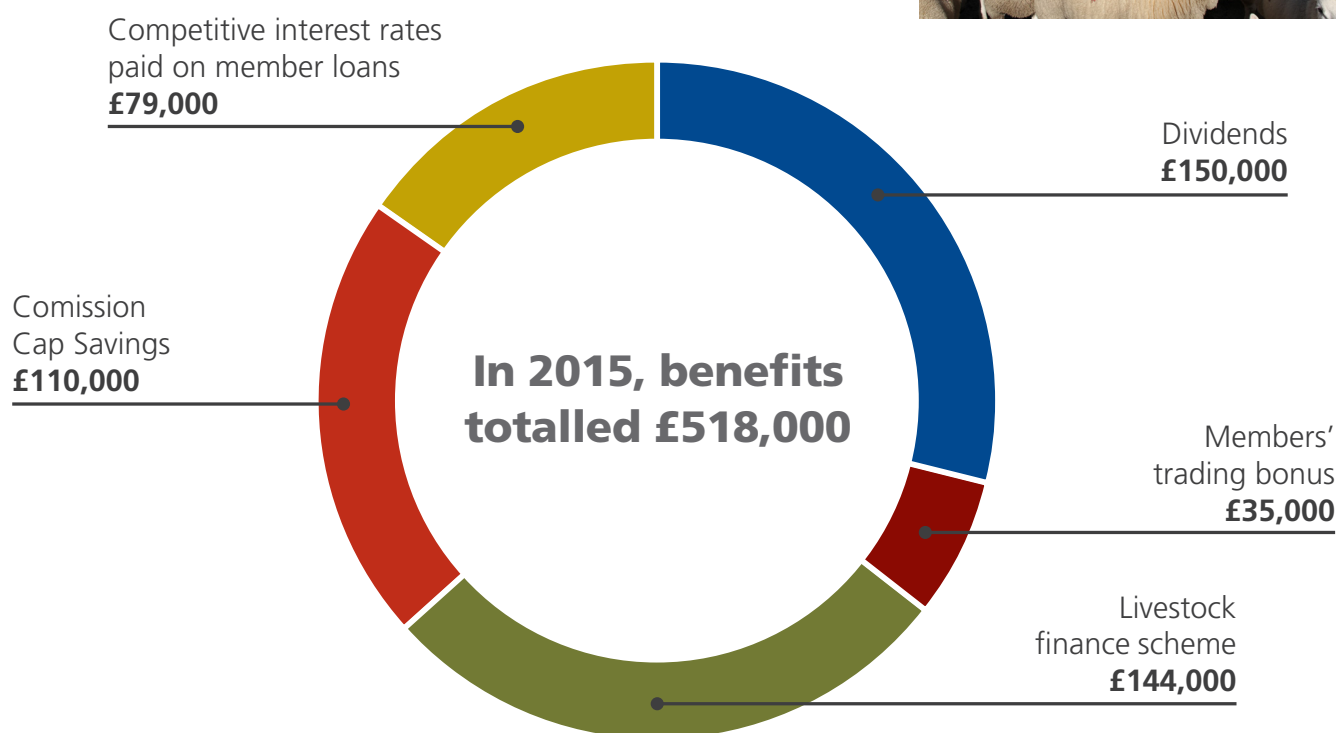
Join one of Scotland's most active and influential co-operative societies

ANM Group is one of the largest and most progressive farming, food and finance businesses in the UK.

With more than a century spent at the centre of the Scottish agricultural industry, our interests are in livestock auctioneering and marketing; the land market; commercial and industrial plant, machinery and equipment sales; as well as the catering and hospitality industry.

Using the expertise of our professional and highly skilled teams across all these divisions, and by working together, we make sure our 5,000 members see the best possible return – and the most benefit – for their businesses.

It's a first class service that our members value.



Benefits that make a real difference

A recent survey showed that 82% of respondents described ANM Group's services as either good or excellent, with an overall assessment of over 4 out of a maximum of 5.

We procure livestock from all over Scotland, from Angus to Caithness in the Highlands, and further north to the Orkney and Shetland islands. Our plant, machinery and equipment sales cover the whole of the UK, Europe and in to the USA.

Fair & effective marketing

- Our highly experienced and qualified teams are among the very best around.
- Our auction system's competitive price discovery brings buyers and sellers together to achieve true value: guaranteeing fairness and transparency.

Rewarding loyalty

- Members' shares deliver a return of up to 2% above Bank of England base rate.
- A trading bonus is often paid to members who use our services and pay commissions.

Results based on independent survey carried out by Scottish Agricultural Organisation Society (SAOS) 2016



Supporting farmers and the agricultural industry

We offer

- Simple and flexible finance to help farmers with livestock enterprises and livestock purchases.
- Financial support and advice, backed up by decades of industry experience, for members looking to start out in the agricultural industry.

Our leadership role

We work with and for our members representing their interests at stakeholder level with the Scottish Government through various initiatives, tackling issues that are important to them and for their businesses.

Knowledge transfer

Our ambitious Farm Profit Programme: Making Livestock Pay will lead a livestock farming revival by sharing best practice to improve performance and profitability in the sector.



Favourable rates and discounts group-wide for members

- Through the **Members' Loan Scheme**, members can assist the group at rates in excess of bank interest rates.
- **Competitive commission rates** are available across all our divisions, with caps on commission charges.
- Substantial discounts are available when buying a car or commercial vehicle through our **Members' Vehicle Purchase Scheme**.
- **10% discounted stay** at Burnside House, Dornoch – our attractive stone villa accommodating up to eight guests, offering access to the best of the highlands and in close proximity to Royal Dornoch Golf Club (the fifth best golf club in the world).
- **10% discount** for a range of pay and play and membership packages at Maverston golf course at Urquhart, near Elgin – fast becoming an established golfing destination.
- Our Porterhouse Steakhouse & Coffee Bar offers a **10% discount to members on evening meals** and **favourable rates for corporate events** held in the restaurant.





82%

of respondents described ANM Group's services as either good or excellent with an overall assessment of over 4 out of a maximum of 5.

Contact us
to find out
more about
how you,
and your
business,
can benefit
as a member.

A £200 minimum
shareholding is required



Livestock marketing
Aberdeen & Northern Marts



Maverston
Estate & Golf Course



Rural and commercial property
Aberdeen & Northern Estates



Events and catering
Thainstone Events



Auction, appraisal and valuation services
Thainstone Specialist Auctions



Porterhouse
Steakhouse & Coffee Bar

ANM Group

Thainstone Centre
Inverurie
Aberdeenshire, AB51 5XZ

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E: info@anmgroup.co.uk
www.anmgroup.co.uk

To find out more about group
activities, or to access members'
benefits contact Alan Donald or
Avril McLeod on 01467 623 752





ANM
GROUP
ESTABLISHED 1872

14 November 2018

Mr Bill Thomson
Commissioner for Ethical Standards in Public Life in Scotland
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HE

15 NOV 2018
OFFICE OF PSCS

Dear Mr Thomson

Code of Conduct for Members of the Scottish parliament
Complaint Against Peter Chapman MSP

I refer to your letter dated 6 November 2018 requesting information in relation to the above and I now respond to your queries as follows.

Turning to your first point regarding a periodic bonus you refer to that may be paid to Mr Chapman as a result of the volume of his animals sent to the mart. I confirm that at each financial year end, the board will consider paying its members a discretionary trading bonus based on the value of commissions members have paid throughout the year. This is of course dependent on the business returning a surplus at year end. I can confirm that no discretionary trading bonus has been paid to Mr Chapman in the last two financial years.

I also confirm there is no potential for further bonuses that could be paid to Mr Chapman as a result of his shareholding in the ANM Group.

In terms of dividends paid to shareholders, it is stated in the group's rules and constitution that members will be paid a dividend at a rate not exceeding two percent above the base lending rate being charged by the Clydesdale Bank Plc. A recommendation for the level of dividend paid is brought to the board for approval by the group's auditors and group accountant annually, following the completion of their audit at the financial year end.

I trust this clarifies the position.

Yours sincerely

Grant Rogerson
Chief Executive