



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

to

the Scottish Parliament

on

complaint no. MSP/2005/16-17/17

Complainer:- Councillor David Aitchison

Respondent:- Mr Alexander Burnett, MSP

20 July 2017

Commissioner for Ethical Standards in Public Life in Scotland

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CONDUCT of MEMBERS of the SCOTTISH PARLIAMENT

Report on complaint no. MSP/1937/16-17/09 to the Scottish Parliament

Complainer: - Councillor David Aitchison

Respondent: - Mr Alexander Burnett 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. For the purpose of considering these complaints, the relevant edition of the Code is edition 6 which was approved by the Parliament on 29 April 2016.
- 1.2 Other relevant provisions relating to the conduct of MSPs for the period in question include: the Scotland Act 1998 - “the 1998 Act”; The Scotland Act 2012 – “the 2012 Act”; The Interests of Members of the Scottish Parliament Act 2006- “the 2006 Act”, as amended by the Interests of Members of the Scottish Parliament Act 2016 – “the 2016 Act”; and the Interests of Members of the Scottish Parliament Act 2006 (Declaration of Interests) Determination 2007 - “the Determination”.
- 1.3 The applicable provisions of Volumes 2 and 3 of the Code are set out in part 8 of this Report.
- 1.4 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.
- 1.5 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 Councillor David Aitchison of Aberdeenshire Council who is a member of the Scottish National Party (“the complainer”). His complaint is about Mr Alexander Burnett MSP (“the respondent”). Mr Burnett is an MSP (Scottish Conservative and Unionist) for the region of North East Scotland and was elected in May 2016. He is a member of the Environment, Climate Change and Land Committee and a substitute member of the Rural Economy and Connectivity Committee. He is also his party’s Shadow Spokesperson for Energy.
- 2.2 The complaint was made by complaint form dated 14 February 2017. This is attached as **Appendix 1**. The complaint deals with the alleged failure of the respondent to declare his registered business interests when submitting three Written Parliamentary Questions on 3 February 2017.
- 2.3 The complaint alleges that the respondent has relevant business interests relating to the recent revaluation of commercial rates which will involve consequential financial effects. It is the complainer’s submission that the

respondent's lodging of the Written Parliamentary Questions (references S5W-06883; S5W-06884 and S5W-06882) involved a conflict of interest. The complainer refers to the North Banchory Company ("NBC") and other unspecified companies. Reference is also made to the respondent having alleged business interests in "the Leys Estate". The complainer has made a calculation of the effects of the rates changes (increased financial liability related to the respondent's registered interests).

3.0 Response

- 3.1 The respondent provided an initial response to the complaint, dated 2 March 2017, including constituency correspondence (redacted) in support of his actions. He also submitted a letter dated 30 March 2017 following my request for clarification. The responses are attached as **Appendix 2**.
- 3.2 The respondent does not dispute that he submitted the three Parliamentary Questions to which the complainer has referred. In summary, his position is that he recognised that a conflict of interest was involved but, due to administrative circumstances within his office, the necessary documentation was not submitted to the Chamber Desk. He recognises that he had the ultimate responsibility and has made a full apology.
- 3.3 The respondent has emphasised that he posed the questions solely in response to concerns and questions raised by a number of constituents at his surgery who were concerned about how they would be affected by the revaluation.
- 3.4 The respondent has indicated his view that this complaint is of a political nature.

4.0 Admissibility of the complaints

- 4.1 Stage 1 of the investigation of a complaint requires an assessment of admissibility as set out in section 6 of the 2002 Act. 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 concluded that the details of the complaint and its apparent relevance to the respondent's obligations under the Code enabled me to find that the complaint was admissible. I wrote to the respondent and the Clerk to the SPPA Committee on 23 March 2017 to that effect. A copy of my letter is attached as **Appendix 3**.

5.0 Investigation and Findings

- 5.1 The complaint was clearly stated as were the responses. In those circumstances, I decided that an interview with the respondent was not required.
- 5.2 The three Written Parliamentary Questions were submitted by the respondent on 3 February 2017. The details are set out in **Appendix 4** and are referred to for their terms. Two of the questions queried the attitude of

the Scottish Government on the effects of the rating changes on small businesses. The third question was about the specific rating category of small hotels and inns.

- 5.3 The respondent's current Register of Interest is attached as **Appendix 5** and is referred to for its terms. The respondent has registered that he is Director and Chairman of NBC and of which he has full share ownership. He is also in receipt of remuneration from NBC.
- 5.4 He confirms that there is a rates increase for one commercial property owned by NBC. His Register of Interests also sets out his other business and property interests. At this point, he has indicated that he cannot confirm the extent of the financial effects of the revaluation on his other commercial properties connected to his business interests.
- 5.5 The respondent expects that those businesses which appear on his Register of Interests will be reporting the commercial rates payments as part of their management accounting. The respondent has also made clear that the Leys Estate is not a business in which he has any interest and so it does not appear in his Register.
- 5.6 It appears to me that the respondent, having registered his property interest in NBC and having acknowledged that the company is affected by specific commercial rates increases in commercial property resulting from the revaluation, had an interest to declare. The respondent may have other business interests which could be affected by changes to the system of rating for commercial properties; this has not been investigated.

The Code

- 5.7 Members are required to register interests in Heritable Property, Undertakings and Remuneration in the circumstances set out section 2 of the Code. These Code provisions derive from the applicable legislation. The respondent has registered such interests, as set out in Appendix 4 to this Report. Registered Interests must also be declared in specified circumstances.
- 5.8 The 2006 Act defines "declarable interest" in any matter as being "a registrable financial interest in that matter" which is registered in the entry relating to that member. Such an interest must be declared "before taking part in any proceedings relating to that matter" (section 13(1)). The 2006 Act, at section 13(2), confirms that declarations may be oral or written as provided for in such circumstances as the Parliament determines. In this instance, the respondent's obligation to make a declaration would be in respect of NBC and any of his other registered business interests which attracted additional liability for commercial rates, given the definition of "declarable interest" in section 12 of the 2006 Act.
- 5.9 The 2007 Determination has set out the specific circumstances in which oral or written declarations must be made in parliamentary proceedings. These are contained in paragraphs 3 (oral declarations) and 4, 5 and 6 (written declarations). In the circumstances of this complaint, paragraphs 5 and 6 apply. Paragraph 5 requires a written declaration to be lodged with the Clerk before taking part in proceedings. Section 6 defines "proceedings

of the Parliament”, as including the lodging of questions for oral or written answer.

5.10 The Code of Conduct at Volume 2 - sections 3.1.8 and 3.1.9 deals with the terms of the 2007 Declaration on written declarations of interest. Section 3.1.8 confirms that a declaration of interests must be made by the member by means of lodging with the Clerk (usually understood to be the clerks at the chamber desk) a written declaration of that interest before taking part in such proceedings (as set out in paragraph 3.1.9).

5.11 Relevant extracts from Volume 2 of the Code are set out in part 8 of this report, along with relevant paragraphs from the additional guidance set out in Volume 3 of the Code.

6.0 Conclusion

6.1 On the basis of my Investigation and Findings as contained in Section 5 (paragraphs 5.2 to 5.4) of this report, I have concluded, in respect of the complaint made by Councillor David Aitchison, that Mr Burnett is in breach of the requirement in section 13(1) of the 2006 Act and sections 3.1.8 and 3.1.9 of the Code to make a written declaration of his interests when giving notice of two out of the three Parliamentary Questions set out in Appendix 4 to this report.

6.2 The basis of this conclusion is that Questions S5W-06883 and S5W-06884 submitted by the respondent on 3 February 2017 dealt with the approach and the response of the Scottish Government to matters relevant to business rates in which, by virtue of his registered financial interest in NBC, the respondent had a declarable interest.

6.3 The third question (S5W-06882) related specifically to the assessment of business rates for smaller hotels and inns in rural areas, a matter in which I have found no evidence that the respondent had a declarable interest.

7.0 Draft Report

7.1 Following the investigation, I submitted my draft Report to the respondent on 9 June 2017 and invited his representations.

7.2 He replied on 14 July 2017 and that response is set out as **Appendix 6**. That response confirmed no issue was taken with the draft report.

Bill Thomson
Commissioner

20 July 2017

8.0 Extracts from Code of Conduct

Volume 2 Section 2: Categories of Registrable Interests

2.2 Remuneration and related undertaking

Remuneration

2.2.1 All remuneration received from the date of return as an MSP which falls into the categories (1) (a)-(f) and related undertakings which fall into categories (1A) (a) and (b) must be registered. Remuneration received solely as an MSP (i.e. MSPs' salary and allowances) or solely as a result of holding the various offices set out in paragraph (2) of this provision is expressly excluded.

2.2.2 Expenses fall within the definition of remuneration including expenses that represent reimbursement of costs incurred. Where a member receives expenses at the same time as receiving other remuneration (for example, a fee) from the same source these expenses are registrable.

2.2.3 Remuneration consisting solely of expenses not exceeding the specified limit (0.5% of a member's salary at the beginning of the current parliamentary session, rounded down to the nearest £10) is not registrable. Expenses received from a single source on a single occasion that exceed the specified limit are registrable. In addition, expenses received from a single source, which in aggregate during a parliamentary session exceed the specified limit, are registrable. Members should therefore keep a record of all expenses received from the date of the member's return, whether or not these are registrable at the time, so that they are aware if the aggregate expenses, from a single source, exceed the threshold for registration.

2.2.4 Remuneration received prior to the date of return as an MSP must also be registered if it meets the prejudice test. In terms of section 3(2) of the Act, an interest meets the prejudice test if, after taking into account all the circumstances, that interest is reasonably considered to prejudice, or to give the appearance of prejudicing, the ability of the member to participate in a disinterested manner in any proceedings of the Parliament.

2.2.5 Remuneration (including expenses exceeding the specified limit) received as an MP at Westminster or as an MEP should be registered where there is an overlap in the holding of both offices; as should any allowances paid in relation to Volume 2 – Code: Section 2 6th Edition, 29 April 2016 membership of the House of Lords or any other institution except the Scottish Parliament: for example, the Committee of the Regions.

2.2.6 When registering remuneration from employment, members must include the name of the employer, the employer's principal business address (if not a private individual), the nature of its business and the position that they hold.

2.2.7 When registering remuneration from self-employment or a partnership members must include the name and nature of the business or partnership. The principal business address of the partnership must also be

given. If a member is self-employed and carries on the business from the member's private address, that address need not be included.

2.2.8 When registering remuneration from being the holder of an office, members must provide the name of the organisation in which an office is held, its principal business address, the nature of its business and the position held. Such positions can be in private businesses or public sector organisations. Examples include being a director of a consultancy firm or being a member of an advisory board or committee.

2.2.9 When registering remuneration from a directorship, members must provide the name of the undertaking in which the directorship is held, its principal business address and the nature of its business.

2.2.10 Where registering remuneration from a trade, profession or vocation, members must provide any name under which the trade etc. is carried out and the regularity and nature of the activity. Where work is provided under contract to one particular person or body, it is suggested that the names of that person or body should be given (under the requirement for any relevant additional information). For example, a member who is contracted to write a series of newspaper articles should consider giving the name of the publication and the frequency of articles for which the member is paid as well as the remuneration itself.

2.2.11 One-off activities which members might undertake, such as speaking at a conference or writing a single newspaper article, do not constitute remuneration from a trade, profession or vocation even if the member receives a fee or expenses for doing so (although this could be registered under the voluntary category). However, if a member undertakes such an activity on a regular, remunerated basis, this may be considered remuneration from a trade, profession or vocation. There may be circumstances where a one off activity is registrable under another category (e.g. gifts) if a payment of money, or transfer of property, in return for that activity goes beyond normal commercial rates.

2.2.12 For the purposes of initial registration, remuneration under each category ((1)(a)-(f)) must be registered with reference to the gross amount per annum (or nearest estimate) that a member expects to receive from the date of return. That remuneration will then be expressed in that member's entry in the Register as being remuneration falling within the following bands—

up to £500

Volume 2 – Code: Section 2

6th Edition, 29 April 2016

between £501 - £1,000

between £1,001 - £2,000

between £2,001 - £3,000

between £3,001 - £5,000

and thereafter in intervals of £5,000.

(Members may specify an exact figure, instead of indicating a bandwidth, if they wish.)

2.2.13 In the case of remuneration received prior to the date of return and to which the prejudice test applies, the remuneration received must be registered within the relevant band for each year in which it was received.

2.2.14 Where remuneration is being received but the member does not know the exact amount that will be received, the member must register remuneration on the basis of what the member expects to receive. Where this later proves to be inaccurate, the member is encouraged to amend the entry by lodging an appropriate amendment so that the remuneration is shown within the appropriate band. Members are referred to Section 1.2.28 (Volume 2) of this Code for further details on making amendments.

2.2.15 Members must also register any new remuneration for work undertaken after the date of return as a newly acquired interest. Members should refer to Section 1.2.12 (Volume 2) of this Code for guidance on the registration of new interests. They must also take steps to register any remuneration that they have accidentally overlooked, or had not realised required to be registered, as soon as possible and in all cases, within seven days of becoming aware of it. Members should refer to Section 1.2.15 (Volume 2) of this Code for further guidance on late registration.

2.2.16 It is not necessary to register remuneration received prior to the date of return if this represents remuneration for activity undertaken solely before the member was returned, unless it meets the prejudice test. However, should a member receive remuneration on or after the date of their return, this is registrable, even if the activity was undertaken in advance of them becoming a member. Under the terms of the Act the relevant date that the interest is acquired is the date of receipt of payment.

2.2.17 Under the terms of the Act a member may not cease an interest that consists of remuneration (see Section 1.2.22 of Volume 2). Such interests will therefore remain on the register for the duration of the session.

2.2.18 Redundancy payments are registrable on receipt. Members are not required to register pensions. However, if a member wishes to, a pension may be registered voluntarily. There is a separate part of the written statement for registering voluntary interests. Members are referred to Section 1.2.17 of Volume 2 of the Code for guidance on voluntary registrations.

Volume 2 – Code: Section 2
6th Edition, 29 April 2016

Related undertaking

2.2.19 See the opening paragraphs in Section 2.2 above for all relevant definitions for the provisions on related undertakings.

2.2.20 Members are required to register any directorships which they hold, which are not remunerated, where the undertaking in which they hold a directorship is a parent or a subsidiary of an undertaking in which the member holds a remunerated directorship. Members are also required to register being a partner in a firm where the member does not, or did not, receive remuneration by virtue of being such a partner. This could be where a member is a sleeping partner in a business or a business whose operating profits are wholly reinvested in the business.

2.2.21 Members should be aware of the need to register any previous directorship or partnership which is no longer held by them if the holding of that position meets the prejudice test set out in section 3(2) of the Act.

2.2.22 The provisions of the Companies Act 2006 referred to above set out the circumstances where an undertaking is treated as a parent or subsidiary of another undertaking. Generally, this relates to voting rights, the right to remove a board of directors and dominant influence and control. Members who hold the position of a director in any such body are expected to be aware of what constitutes a related undertaking in terms of the Act and what constitutes a parent and subsidiary undertaking in terms of the Companies Act 2006. Judgement about what constitutes a related undertaking in company law is complicated. Where any member has a doubt about whether or not a particular directorship should be registered, they are strongly recommended to take independent professional advice.

2.2.23 Members are required to register the name of the related subsidiary or parent undertaking, the nature of its business, its principal business address and its relationship to the other undertaking in which the member is a director and from which the member receives remuneration. Members who are unremunerated partners in firms are required to register the name of the firm, its principal business address and the nature of its business. Any other unremunerated directorships which are not related in any way to a remunerated directorship do not require to be registered but they may be registered on a voluntary basis.

2.7: Interest in Shares– Schedule, paragraph 9

A member has a registrable interest:

(1) Where a member has, or had, an interest in shares, whether that interest is, or was, held by the member or by a relevant person, and sub-paragraph (2) applies.

(2) This sub-paragraph applies where either—

(a) the nominal value of the shares at the relevant date is, or was, greater than 1% of the total nominal value of the issued share capital of the company or other body; or

(b) the market value of the shares at the relevant date exceeds, or exceeded, the specified limit.

(3) Sub-paragraph (1) applies to an interest in shares, whether that interest is, or was, held by a member (or a relevant person)—

(a) solely in the name of the member (or relevant person);

(b) jointly with any other person or body; or

(c) as a trustee, whether or not jointly with other trustees where the member has an interest as a beneficiary of the trust.

(4) Sub-paragraph (1) does not apply to an interest in shares which forms part of the assets of a partnership and any income from that partnership is, or forms part of, remuneration registered under paragraph 2 of this Schedule.

(5) Where a member has ceased to have an interest in shares before the date on which the member was returned as a member, the relevant date is the date when the interest in such shares ceased to be so held.

(6) Where a member had an interest in shares at the date on which the member was returned as a member, the relevant date is—

(a) that date; and

(b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

(7) Where a member acquires an interest in shares after the date on which the member was returned as a member, the relevant date is—

(a) the date on which the interest in shares was acquired; and

(b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

Key definitions:

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;

an “interest in shares” means an interest in shares comprised in the share capital of a company or other body;

“relevant person” is a person who is subject to the control or direction of a member in respect of an interest in shares;

“specified limit” means 50% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.

Guidance on interest in shares

2.7.1 A member is required to register an interest in shares which the member or a relevant person (meaning a person subject to the control or direction of the member in respect of that interest) has or had. A relevant person can be a relative (such as a spouse or civil partner) or some other individual or body. Such a person may nominally own or hold the shares but can be said to be controlled or directed where, for example, only the member may authorise disposal of the shares or where the member ultimately benefits from any income or gain on disposal.

2.7.2 Registration is required where the nominal value of the shares at the relevant date is or was greater than 1% of the total nominal value of the issued share capital of the company or other body; or where the market value of the shares at the relevant date exceeds 50% of a member’s salary

at the start of the current parliamentary session (rounded down to the nearest £10 – currently £30,340).

Members are not required to register interests in shares which do not exceed either of the value thresholds; however, members may register these in the voluntary category if they wish.

2.7.3 Once again, the —relevant date is important in understanding when an interest in shares falls to be registered. Calculation of the relevant date for shares works in the same way as for heritable property (above).

2.7.4 A member considering whether registration of an existing shareholding at the date of return is required on the basis of market value must ascertain its value at that date. If it exceeds 50% of a member's salary at the start of the current parliamentary session the shareholding must be registered. Likewise, a member considering whether registration of an existing shareholding at the date of return is required on the basis of the nominal value of the shares must ascertain whether this value is greater than 1% of the total nominal value of the issued share capital of the company or other body at that date. In either case the member must then obtain a new valuation on each subsequent 5th April that the member continues to have the interest in shares. If the value continues to exceed the relevant threshold, then the shares should continue to be registered. If they fall under that threshold then the member may have the interest removed from the Register as a ceased interest (see Section 1.2.21 of Volume 2 of this Code).

Members who have a portfolio of shares must continue to track the value of shares as at each relevant date to ensure that all holdings continue to fall under the threshold for registration. Where a shareholding later exceeds that threshold, the shareholding must be registered as if it was an interest acquired after the date of the member's return and on the relevant date on which the value exceeded the threshold.

2.7.5 Where a member disposes of shares before being returned, the market or nominal value for the purpose of registration is the market or nominal value at the date of sale. Similarly, for shares newly acquired after the date of return, registration depends either on the nominal value on acquisition or the market value at acquisition against member's salary at the start of the current parliamentary session and the nominal value or market value against this salary on each subsequent 5th April that the member continues to have the interest in shares.

2.7.6 As with the Gifts and Heritable Property categories, a member may be required to register interests in shares disposed of before being returned as an MSP, if the member considers that the prejudice test is met. The member may therefore not be in receipt of a salary at the time the interest is acquired or disposed of. In these circumstances the threshold for registration relates to the salary of a member at the start of the parliamentary session in which the member is considering registration.

2.7.7 A member does not have to register shares which form part of the assets of a partnership where any income received by the member from that partnership is already registered as remuneration under paragraph 2 of the Schedule to the Act.

2.7.8 There may also be circumstances in which interests in shares could fall within the gifts category. Members are advised to seek advice from the Standards clerks if they are uncertain in which category an interest should be registered.

2.7.9 The requirement to register shares applies not just to shares that a member owns in their own name but to shareholdings in joint names (such as with a spouse or business partner) and to shareholdings held as a trustee but only where the member has a beneficial interest in the income or assets of the relevant trust.

2.7.10 When registering shares, members are required to provide details of the type of shares, the name of the company in which the shares are held, the company's business address and the nature of its business. Members do not have to provide the date of acquisition of shares held at the date of return but must provide dates where the shares have been disposed of or acquired as the case may be during the parliamentary session.

2.7.11 For shares registered on the basis of market value, members must provide a valuation on the relevant date. For shares registered on the basis of a proportion of nominal value, members must provide the percentage of the issued share capital of the company that the member holds. Where shares could be registered on the basis of both market value and nominal value the market value should also be provided as well as the percentage of overall share capital.

2.7.12 Shares in investment trusts are registrable if they meet the conditions outlined above. Members are not required to register units held in unit trusts.

Members are not required to register investments that would not be considered to be part of a share portfolio, such as cash savings, cash ISAs, government bonds (gilts) and corporate bonds. If a member wishes to, these holdings may be registered in the voluntary category. Members are referred to Section 1.2.17 of Volume 2 of the Code for guidance on voluntary registrations.

2.7.13 Members must also take steps to register any interest in shares that they have accidentally overlooked, or had not realised required to be registered, as soon as possible and in all cases, within seven days of becoming aware of it. Members should refer to Section 1.2.15 of Volume 2 of this Code for further guidance on late registration.

2.7: Responsibility of the Member

2.7.1 Responsibility for ensuring compliance with the requirements of the Act for registration of interests lies with the individual member. If a member is uncertain about how the rules apply, the Standards clerks may be asked for advice. A member may also choose to consult a personal legal adviser and, on detailed financial and commercial matters, a member may wish to seek advice from other relevant professionals. As explained in Section 1.2.28-30 of Volume 2, failure to comply with the requirements of registration will constitute a breach of the requirements of the Act and may be a criminal offence. It could also lead to sanctions being imposed on a

member by the Parliament. Enforcement of the Rules in the Code is explained in Volume 2, Section 9 and in Volume 3, Section 9 of the Code.

Volume 2 Section 3: Declaration Of Interests

3.1 The statutory requirements

1: The statutory requirements

Section 12, declarable interests

(1) In this Act, a “declarable interest” means a declarable financial interest.

(2) A member has a declarable financial interest in any matter if that member has, or had, a registrable financial interest in that matter which is registered in the entry relating to that member.

(3) A member has a financial interest for the purposes of paragraph (b) of section 39(2) of the 1998 Act if that member has a declarable financial interest.

Section 13, declaration of interests

(1) Any member who has a declarable interest in any matter shall declare that interest before taking part in any proceedings of the Parliament relating to that matter.

(2) For the purposes of subsection (1), a member shall declare an interest by making, in such circumstances as the Parliament may determine, either an oral or, as the case may be, a written declaration of that interest.

3.1.1 Sections 12 and 13 of the Act set out the legal requirements in relation to declaration of interests.

3.1.2 An interest about which a declaration must be made is referred to as a ‘declarable interest’.

3.1.3 Under the statutory requirements, a member has a ‘declarable interest’ in relation to any matter if that member has a registrable financial interest relating to it. Registrable financial interests are those which must be registered under one of the categories set out in the schedule to the Act. These categories are explained in Section 2 of the Code.

3.1.4 A member who has a ‘declarable interest’ in a matter must make a declaration of that interest in any proceedings of the Parliament which relate to that matter, before otherwise taking part in those proceedings.

3.1.5 Declarations may be either oral or written. The Parliament has determined the circumstances in which declarations should be oral and in which they should be written (as required in the Act). The Interests of Members of the Scottish Parliament Act 2006 (Declaration of Interests) Determination 2007 sets out when oral and written declarations apply.

3.1.6 Where a member has a declarable interest in any matter, the member must make an oral declaration of that interest before speaking in any meeting of the Parliament relating to that matter. The requirement applies:

- during a meeting of the Parliament (includes initiating, contributing to or intervening in any debate) (an oral declaration is required); and
- during a meeting of a Parliamentary committee (or a joint committee meeting or sub-committee meeting) (includes initiating, contributing to or intervening in any debate) (an oral declaration is required).

3.1.7 Where a member has a declarable interest in any matter and takes part in a meeting of the Parliament relating to that matter only by attending and voting at that meeting, that member must have, prior to the meeting, made a written declaration of that interest. Where the interest is already registered, the declaration is made by virtue of that interest being registered in the entry relating to that member in the Register of Interests of Members of the Scottish Parliament and no additional written declaration is required (see paragraph 3.1.13).

3.1.8 Where a member has a declarable interest in any matter, and takes part in any proceedings of the Parliament relating to that matter otherwise than as provided in paragraphs 3.1.6 and 3.1.7, the member must make and lodge with the Clerk (usually understood to be the clerks in the Chamber Desk) a written declaration of that interest before taking part in any such proceedings relating to that matter.

3.1.9 For the purposes of paragraph 3.1.8, taking part in proceedings of the Parliament includes any of the following—

- (a) lodging questions for oral or written answer,
- (b) lodging motions, amendments to motions,
- (c) introducing a Bill, or lodging a proposal for a Member's Bill,
- (d) lodging amendments to Bills, or
- (e) adding the member's name in support of any of the proceedings referred to in (a) to (d) above.

3.1.10 Before taking part in any proceedings of the Parliament a member should consider whether they have a 'declarable interest' in relation to the particular matter being addressed in those proceedings. The onus is on individual members to decide.

3.1.11 A member must declare an interest when speaking or intervening in a debate where that interest relates to the subject being debated. The Act requires that only such interests as actually appear in the member's entry in the Register must be declared (section 12(2)). Following the lodging of a written statement of an interest with the Standards clerks (in relation to initial registration, newly acquired interests, or late registrations), there

could be a period of up to 30 days before the statement actually appears on the Register and so becomes publicly known. In this situation, members are encouraged to make a declaration of that interest (either orally or in writing as appropriate to the proceedings) in order to avoid the suggestion of undue influence which only they will be aware of prior to the registration being published.

3.1.12 The Act refers to a member's participation in "any proceedings of the Parliament" relating to the 'declarable interest'. In this context, "proceedings of the Parliament" means all the actions noted above. Oral declarations are required only at meetings of the Parliament, its committees, joint committees and sub-committees.

3.1.13 A member is not required to make an oral declaration where the member simply attends or votes at a meeting but does nothing else. The effect of the Parliament's determination is that the member's register entry is sufficient declaration of their interest. If the member wishes to take part in the meeting in any way, other than simply attending or voting, they must make an oral declaration. Where the proceedings occur after the member has lodged a written statement with the clerks but before it is published in the Register, members are encouraged to make an oral declaration of that interest.

Volume 3 Guidance

Section 3: Declarations of Interests - Procedure in committees and sub-committees

3.5 It has been established as good practice that members of a committee (including committee substitutes) should declare interests relevant to the remit of that committee at the first meeting of the committee they attend or on the first occasion on which they address the committee, irrespective of the business before the committee at that meeting. The same applies to any MSPs who, although not members of the committee (or committee substitutes) expect to attend its meetings regularly.

3.6 Thereafter, a member must make a declaration at committee meetings wherever the requirements of section 13 of the Act apply.

3.7 The following procedures must be followed in declaring interests at committee meetings:

(a) Where a member has an interest relevant to the proceedings, the member must make an oral declaration of interest at each meeting of a committee in which that member participates. This is to allow the public attending any committee meeting to be aware of the member's interest. Where the member does nothing more than attend the committee meeting or vote at it, or both, no oral declaration is required, providing the interest appears in the member's entry in the Register. Parliament has determined that the member's entry in the Register is sufficient declaration of that interest.

(b) The declaration should be made at the start of the relevant agenda item or as soon as the member is able to make the declaration, but before otherwise participating in those proceedings

(c) A declaration must be made whether a committee meets in private or public. Where a relevant matter is discussed in both private and public at any single committee meeting, the declaration should, as good practice, be made during the public session even if it has already been made in private session.

COMPLAINT FORM

Please use this form if you wish to make a complaint alleging misconduct against:

- (a) a councillor; or
- (b) a member of a devolved public body; or
- (c) a MSP.

The complaint must be **legible** and **signed** by you.

14 FEB 2015

OFFICE OF PSCS

If you need help to complete the form, please telephone the Commissioner for Ethical Standards in Public Life in Scotland on **0300 011 0550**. Please note that we are an independent body, therefore are not able to assist you in formulating your complaint.

Your details

Title: Mr / Mrs / Ms / Councillor / Dr / Other (please specify)

First Name: David **Surname:** Aitchison

Address: [REDACTED]

Postcode: [REDACTED]

Phone number (Day): [REDACTED] **(Evening):** [REDACTED]

E-mail: [REDACTED]

Who are you complaining about? Please give the name of the councillor(s), member(s) or MSP(s) you consider has / have broken the Code of Conduct* and the name of their council or public body.

Name of the councillor/member/MSP body

Name of their council or public

(not applicable for MSPs)

Alexander Burnett MSP

* The Councillors' Code of Conduct or the Code of Conduct for the public body. You can read the Codes on the web-site www.publicstandardscommissioner.org.uk or we can send you a copy. The MSPs' Code of Conduct can be found in the following web address: http://www.scottish.parliament.uk/msp/conduct/code_final.pdf

What are you complaining about? The Commissioner shall, so far as possible, investigate your complaint confidentially. Please note, to enable a full and fair investigation it is likely that your complaint will be forwarded to the person you are complaining about and to a limited number of senior officers in the relevant council/body.

What is the misconduct about which you are complaining? Please describe each incident in as much detail as possible.

Alexander Burnett MSP failed to declare relevant interests in business rates when asking parliamentary questions about the impact of changes to business rates (S5W-06882, S5W-06883, and S5W-06884). Mr Burnett's registered interests show that he has an interest in a number of businesses that are set to be affected, including his Leys Estate and North Banchory Company.

The rate changes for 2017, according to the Scottish Assessors Association, will see his North Banchory Company's rates rise from £1,597.20 in 2016/17 to £3,122.20 in 2017/18. His Leys Estate will see its business rates rising from £11,011 to £20,737 over the same period.

He failed to declare these clear financial interests when asking about the implications of business rates changes.

Which part of the Code do you feel has been breached (list separately for each person which you are complaining)?

MSP code of conduct, Section 3.1.4.

On what date(s) did this happen? Normally, you should make a complaint within one year of the alleged misconduct.

Friday 3rd February 2017

Have you made a complaint about the alleged misconduct to any other public authority? For example to the council or body concerned, the Scottish Public Services Ombudsman or any Parliamentary Authority.

No

Supporting Evidence: Please attach copies of documents, names and details of witnesses and any other evidence that you feel is relevant to your complaint. Please **do not send** originals.

Declaration

I confirm that the information I have given in this form is correct to the best of my knowledge. I request that the Commissioner for Ethical Standards in Public Life in Scotland investigates this allegation.

Signed

Date:

13/2/17

Please send this form to: **Commissioner for Ethical Standards in Public Life in Scotland, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HE.**



The Scottish Parliament
Pàrlamaid na h-Alba

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

Office of Alexander Burnett MSP

Edinburgh
EH99 1SP

Alexander.burnett.msp@parliament.scot
www.alexanderburnett.com
0131 348 5642

2nd March 2017

Your reference : MSP/2005/16-17/17/DW

Dear Commissioner,

Thank you for the opportunity to comment on the complaint lodged against me by the SNP Councillor David Aitchison in respect of Parliamentary questions raised by me at the direct request of a constituent.

On 27th January 2017, two businesses in my constituency attended a surgery, I held in Banchory, raising concerns over the huge increases of business rates affecting the North East. During the meeting, I was requested to submit Written Questions to the Government regarding the conduct of local assessors in regards to business rates. I have attached a copy of this correspondence for your records. As you will see, following discussions with one of the businesses, questions were finalised and I approved these to be submitted by my new constituency caseworker on my behalf.

These questions were submitted for the benefit of my constituents, however a genuine staff error meant that the tick box 'I have a registered interest' was not selected when it should have been.

I of course take full responsibility for my new member of staff and she has now had training from the Chamber Desk. Unfortunately, this training being in Edinburgh and her being based in Banchory was only possible on 10th February, a week after she submitted these particular questions. I apologise for this error.

Despite this, I would however refute the claims that these were submitted for my own business interest.

I trust that it does not go unnoticed that this is the third complaint in almost as many months by a member of the SNP to attempt to impede my abilities to represent my constituents and waste public time and money.

I would be more than happy to provide any further information you should require or present myself for interview.

I look forward to hearing from you.

Kind regards,

Alexander Burnett - MSP for Aberdeenshire West

[REDACTED]

From: Burnett A (Alexander), MSP
Sent: 09 February 2017 11:50
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: WQs re business rates for hotels

Approved

[REDACTED] – pls record him on our spreadsheet (and speak to [REDACTED])

Alexander Burnett

MSP for Aberdeenshire West
Room [REDACTED]
The Scottish Parliament, Edinburgh, EH99 1SP
Office: 0131 3485 642
www.alexanderburnett.com

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From: [REDACTED]
Sent: 06 February 2017 11:30
To: Burnett A (Alexander), MSP <Alexander.Burnett.msp@parliament.scot>
Cc: [REDACTED]
Subject: WQs re business rates for hotels

For your approval:

TASG why smaller, independent, privately owned hotels and inn located in rural areas are assessed by SAA using the same model as larger, city centre chains; and further why assessment model for Hotels and Accommodation takes turnover derived from various elements of the business into account rather than the rental value based on location of the property in question

TASG why the SAA is not giving assessed businesses access to the data that SAA used to reach their "percentages to NAV" as stated in Practice Note 20

TASG why business rates are lower for larger business with unmaintained properties, and higher for smaller businesses with maintained and improved properties;

TASG why the 7 main categories for valuation of hotels in Practice Note 16 of the 2010 re-evaluation are being proposed to merge into 3 categories in 2017; and further why AA rating are becoming less significant in the rating system

Haywood considers filing a class action law suit against SAA Grampian for their misconduct. What are your thoughts?

[REDACTED]
Senior Constituency Caseworker
Office of Alexander Burnett MSP
Constituency MSP for Aberdeenshire West
Email: [REDACTED]@parliament.scot

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From: [REDACTED]
Sent: 06 February 2017 00:16
To: [REDACTED]
Cc: Burnett A (Alexander), MSP <Alexander.Burnett.msp@parliament.scot>
Subject: Re: Link to petition re business rates

Dear [REDACTED]
Further to my note below, please find attached, another extract from February's edition of the Scottish Licensed Trade News.

May I draw your attention to the feeble and quite disgraceful comments made by our Grampian Assessor, [REDACTED]

[REDACTED] says that "rateable values of licensed premises are assessed on the basis of their rental value". Well, yes they damn well should be, so why haven't they actually done this? If they had, then they would have realised how ludicrous it is that they think a pub in Aboyne would rent for £80,000 per annum, for example. They have absolutely NOT assessed on 'rental value'. If they claim they have, then why won't they show us the evidence? As a well known Business Agent told me recently "you couldn't give your place away at the moment". If rental value is the true means of setting rateable value, then I should be seeing a reduction given current trading conditions let alone a 90% increase. The SAA are not assessing as they should and they are not providing evidence. Please put the pressure on them.

To add insult to injury, [REDACTED] goes on to say that "to say that properties are valued on turnover, which many people made the mistake of doing (not sure if he is talking about us or his assessors here!), is incorrect". This is a blatant lie. This is exactly how my area assessor has valued my property. I provided her with turnover figures at the end of 2015. The Assessor has not been anywhere near Aboyne, let alone my property, so no local physical 'assessment' has occurred and no evidence of comparison with similar properties has been provided. Furthermore, I can mathematically correlate the percentages quoted in their 2017 guidelines together with the turnover figure I provided for 2015, to arrive at £80,000 exactly. So, for [REDACTED] to say that they haven't used turnover is an insulting mistruth. Please do not let the Government or the Assessor get away with a similar feeble and dishonest response to our questions.

[REDACTED] then says, if revaluations were done more often, "people probably wouldn't see much change year-on-year". This statement is insulting in many ways. Firstly, to suggest that we can all accept and accommodate a 7.5% year-on-year increase in our costs also suggest that he thinks we're all making a lot of money. If everything else went up 7.5% year-on-year, perhaps [REDACTED] could tell us how long a single digit margin businesses would survive. I haven't put my drinks costs up at all in three years and my room

rates have been slashed as a result of the down turn and mis-timed explosion in available rooms in Aberdeen. Secondly, during my redundancy consultations with staff, I wonder if he thinks that I should point out to them that they've done well to survive this long as if we'd have had more regular rates rises then they would have been out of work long ago?

Politics aside, the practical reality is that the real threat to businesses like mine at the moment is that our local (Grampian) assessor is out of control and doesn't know/understand what they are doing. They are not following the principles and guidelines of the rating process (hence my previous thoughts/comments on a Class Action) and they are certainly not practicing what they preach. Worse, they are treating the business community with contempt in trying to mislead us to believe that they are doing it right. They will cause severe and long lasting damage to our area if they are not brought under control. Please do what you can to expose their incompetence and move for a suspension of the April rises until a competent authority can take a look at things.

Sincerely,


Trade businesses could face closure if increased RVs implemented

Ministers must act on rates

« Continued from p1

have happened.

"So we're hoping Mr Mackay will understand that and give us some transitional relief."

Young suggested giving businesses several years to transition from the previous rates to the new structure rather than increasing immediately on April 1.

"The last thing we want is to see pubs and hotels close down, or to be unviable," said Young.

"The Scottish Government is always going on about tourism and how important it is to get people to Scotland – but they just won't come to Aberdeen and the north east because why would they? The place will be shut down."

Moray operator Graham Fleming echoed this when telling SLTN about the draft rateable value for his premises, the Beach Bar in Lossiemouth.

The current rateable value for the business is £13,500; according to the Scottish Assessors Association website the new draft rateable value is £42,750.

Fleming said he will struggle to pay his new business rates, which he said will also see his Sky Sports subscription increase as a result of the higher rateable value.

"This summer will be 30 years we've had the business," Fleming told SLTN.

"It's only in the last few years, as money's been freed up and available, and new loans have been made available to business, that we've been able to invest into the business for the future, for the longevity of the business, and then you get a hammer-blow."

"The consequence of hiking my rates is that I'll maybe be able to trade throughout the summer and into the

winter, and if I have a bad winter that'll be it."

Explaining the revaluation process Grampian assessor Ian Milton said the rateable values of licensed premises are assessed on the basis of their rental value, with hypothetical achievable turnover used as a criterion in calculating the rental value of the property.

"To say the properties are valued on turnover, which many people made the mistake of doing, is incorrect," said Milton. "It's merely used as a comparator. They're valued according to the rent, or annual value, that we believe these properties would attract."

He added that each revaluation is "a fresh look" at that property, with the last rateable value not taken into account.

"Each revaluation is essentially somebody pressing the reset button," he said.

"The assessors start again with the whole revaluation process. What they don't say is 'how much has something increased by?'"

Milton added that if revaluations were done more often "people probably wouldn't see much change year-on-year".

When asked about the potential closure of licensed premises as a result of business rates hikes, a spokeswoman for the Scottish Government said: "We value the licensed trade sector, which makes an important contribution to the Scottish economy."

"It has always shown itself to be resilient – and new figures show that pubs and restaurants in Scotland are less at risk of insolvency than the UK average."

"Scotland's pubs were also found to be 'the most stable in the UK' while Scotland's restaurant sector put in the second best performance."



• A letter was sent to Derek Mackay.

Socialist more sp

SOCIALISING is become more s consumers will information on eating and drink has claimed.

According to Series trends rep giant Diageo, fix will make way for moment socialist 2017, and people to opt for product and attitudes that unique about the

Business reclaim c

HOSPITALITY bus be in line for millio in pay-outs after a credit card fees.

The recent decis case between Sain Mastercard, could and other leisure b reclaiming "unfair merchant card fees legal firm Mackay M which said claims s sooner rather than

Hugh Stirling Ltd.

Special Custom Steel Fabric General Maintenance Design



On 4 Feb 2017, at 16:51, [REDACTED] wrote:

Thank you for this [REDACTED]

Question 1 is good.

The SAA may however refer us to the three (3) Categories in Practice Note 20 (this is their easy out on this question). The point I wish to make is that the range is too big within Category 1. It's a 'catch all' and compares remote location Inn's like mine to up to 50 room establishments in towns and larger urban areas. To emphasise the point, for the 2010 re-evaluation, Practice Note 16 'Valuation of Hotels' had seven (7) main categories as opposed to the three (3) proposed for 2017. Three separate categories from the 2010 guidance have effectively been merged into one category in 2017 i.e. Category 1. The SAA have made a feeble excuse about AA ratings becoming less significant (!?!!) to reduce the categorisation to make their job easier. The resulting impact is that properties like mine now become grouped with much larger locations sited in more populous areas and incur a %age to NAV value that is disproportionately high. The key point is however captured in that the assessors should assess my property and ones like it based on actual location, trading conditions, operating circumstances etc and it should be comparable to other similar sites in similar locations. Turnover should not come into it.

Question 2 good, no comment.

Question 3 good, no comment.

The more I look into this, the more I realise that the SAA are a large part of the problem. They have sought to make their life easy, developing an over simplistic model that they think enables them to sit on their backsides in front of a computer and not actually get out to the sites and assess properly. They are not fulfilling their obligations and I wonder if a Class Action is the way to challenge this? Your thoughts would be appreciated.

Kind regards,
[REDACTED]

On 3 Feb 2017, at 12:02, [REDACTED] wrote:
[REDACTED]

Below are the Written Questions we are submitting to the govt on your behalf – I hope they address all the concerns you outlined. We may be required to tweak the wording of the questions, but I will make sure the gist remains the same. Please let me know if you have any further points to add.

I will let you know when we receive the answers.

Kind regards,

[REDACTED]
Senior Constituency Caseworker
Office of Alexander Burnett MSP
Constituency MSP for Aberdeenshire West
Email: [REDACTED]@parliament.scot

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The Scottish Parliament: Making a positive difference to the lives of the people of Scotland Pàrlamaid na h-Alba: A' toirt deagh bhuaidh air beatha sluagh na h-Alba

From: Burnett A (Alexander), MSP

Sent: 03 February 2017 11:57

To: [REDACTED]

Subject: RE: Link to petition re business rates

approved

Alexander Burnett

MSP for Aberdeenshire West

Room [REDACTED]

The Scottish Parliament, Edinburgh, EH99 1SP

Office: 0131 3485 642

www.alexanderburnett.com

I send out occasional bulletins updating constituents on what I am doing as an MSP and will add your name to the list.

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From: [REDACTED]

Sent: 03 February 2017 11:09

To: Burnett A (Alexander), MSP <Alexander.Burnett.msp@parliament.scot>

Subject: RE: Link to petition re business rates

Alex,

TASGs drafts in response to [REDACTED] email.let me know if they are good to go.

- "The assessment model for Hotels and Accommodation Subjects is flawed - the assumption that "it is accepted practice that the rental value of an hotel is normally quantified by reference to the turnover derived from various elements of the business (2017 re-evaluation Practice Note 20 para 2.2)" is not accepted and is not in keeping with the core principle of the rating process. This model or assumption may hold good for certain groupings, for example City centre Hotel properties or for hosteleries that are owned by the large brewery chains, but a vast majority of smaller, independent Hotels and Inns are privately owned these days and whilst someone might pay £80,000 to lease a site in a City centre or in a large urban area, no-one will pay £80,000 to lease a +400 year old site in Aboyne, regardless of how successful it is, mainly due to the costs and risks of running a remote, labour intensive, single unit operation with no economy of scale and limited access to supply chain competition. In fact, if the SAA can find me a tenant who will rent The Boat Inn for £80,000 per annum,

then they can have the keys tomorrow! - the model is therefore not fit for purpose for all assets but their "accepted practice" statement is just an excuse to enable them to skirt around the fundamental principle of rating that is, business rates should be set based on how much it would cost to rent the establishment in question in the location in question. I know for a fact that the Grampian Assessor has not been to Aboyne to 'assess' properties because I have challenged her on it directly - they are not doing their job properly; "

TASG why smaller, independent, privately owned hotels and inn located in rural areas are assessed by SAA using the same model as larger, city centre chains; and further whether it should consider changing the assessment model for Hotels and Accommodation to take into account the rental value based on location of the property in question, rather than on the turnover derived from various elements of the business;

- SAA are not being transparent with the data and their assumptions - SAA should provide us with the raw data (the numbers and the source) that allowed them to reach their 'percentages to NAV' as stated in Practice Note 20. In 2010, Catering and Liquor was billed at 5.5%, in 2017 it is 8.5% minimum on a like for basis. This is a 55% increase. or 7% compounded per annum. Neither my turnover nor my profits (or my prices!!) have increased by 7% per annum over the period and whilst the SAA may be able to point to larger establishments and chains in City centres where this may have been the case, they can be assured that it is not the case in rural areas. if this was the case, then we would not be seeing the demise of the country pub/inn throughout the Nation;

TASG why the SAA is not giving assessed businesses access to the data that SAA used to reach their "percentages to NAV" as stated in Practice Note 20; and further whether it should allow for greater transparency of the valuation process.

- SAA (and Government) are penalising and dis-incentivising good operators and are not fulfilling their assessment duties properly - can the SAA justify how an establishment on the same street as mine yet in a much more prominent position, with 6x the number of letting rooms, function facilities that are +5x bigger, a public bar that is twice the size of mine and a restaurant that can seat more covers than mine, can be rated 22% lower? My asset is less than half the size of the asset along the street and so it might be more logical that the 'rent potential', and hence rateable value, would be half that of the other site. When challenged, the Grampian Assessor stated that the other site was tired and run down! The SAA (and hence the Scottish Government) are promoting mediocrity at best and asset stripping at worst. Those investing in quality, jobs and assets are being unfairly penalised - outcome likely to be loss of jobs, lowering of standards throughout the sector and good business going to the wall.

TASG why business rates are lower for larger business with unmaintained properties, and higher for smaller businesses with maintained and improved properties; and further why the new business rates penalise small businesses who have invested heavily in improving their business.

Senior Constituency Caseworker
Office of Alexander Burnett MSP
Constituency MSP for Aberdeenshire West
Email: [REDACTED]@parliament.scot

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From: [REDACTED]
Sent: 28 January 2017 17:21
To: [REDACTED]
Cc: [REDACTED]@cordiners-sawmills.com; Burnett A (Alexander), MSP
<Alexander.Burnett.msp@parliament.scot> [REDACTED]
[REDACTED]

Subject: Re: Link to petition re business rates

Dear [REDACTED]

I have signed the petition and passed it round to other contacts in the trade.

I would be happy to talk to your Press Office should my specific circumstances be of interest. However, I would like to reserve judgement on whether or not I would proceed with an article at this stage.

On the issue of the Written Question to Government regarding the assessor, the objectives from my point of view are:

- The assessment model for Hotels and Accommodation Subjects is flawed - the assumption that "it is accepted practice that the rental value of an hotel is normally quantified by reference to the turnover derived from various elements of the business (2017 re-evaluation Practice Note 20 para 2.2)" is not accepted and is not in keeping with the core principle of the rating process. This model or assumption may hold good for certain groupings, for example City centre Hotel properties or for hostelries that are owned by the large brewery chains, but a vast majority of smaller, independent Hotels and Inns are privately owned these days and whilst someone might pay £80,000 to lease a site in a City centre or in a large urban area, no-one will pay £80,000 to lease a +400 year old site in Aboyne, regardless of how successful it is, mainly due to the costs and risks of running a remote, labour intensive, single unit operation with no economy of scale and limited access to supply chain competition. In fact, if the SAA can find me a tenant who will rent The Boat Inn for £80,000 per annum, then they can have the keys tomorrow! - the model is therefore not fit for purpose for all assets but their "accepted practice" statement is just an excuse to enable them to skirt around the fundamental principle of rating that is, business rates should be set based on how much it would cost to rent the establishment in question in the location in question. I

know for a fact that the Grampian Assessor has not been to Aboyne to 'assess' properties because I have challenged her on it directly - they are not doing their job properly;

- SAA are not being transparent with the data and their assumptions - SAA should provide us with the raw data (the numbers and the source) that allowed them to reach their 'percentages to NAV' as stated in Practice Note 20. In 2010, Catering and Liquor was billed at 5.5%, in 2017 it is 8.5% minimum on a like for basis. This is a 55% increase. or 7% compounded per annum. Neither my turnover nor my profits (or my prices!!) have increased by 7% per annum over the period and whilst the SAA may be able to point to larger establishments and chains in City centres where this may have been the case, they can be assured that it is not the case in rural areas. if this was the case, then we would not be seeing the demise of the country pub/inn throughout the Nation;
- SAA (and Government) are penalising and dis-incentivising good operators and are not fulfilling their assessment duties properly - can the SAA justify how an establishment on the same street as mine yet in a much more prominent position, with 6x the number of letting rooms, function facilities that are +5x bigger, a public bar that is twice the size of mine and a restaurant that can seat more covers than mine, can be rated 22% lower? My asset is less than half the size of the asset along the street and so it might be more logical that the 'rent potential', and hence rateable value, would be half that of the other site. When challenged, the Grampian Assessor stated that the other site was tired and run down! The SAA (and hence the Scottish Government) are promoting mediocrity at best and asset stripping at worst. Those investing in quality, jobs and assets are being unfairly penalised - outcome likely to be loss of jobs, lowering of standards throughout the sector and good business going to the wall.

Not sure how many questions you can have, or if you can frame this all in one question!

Good luck and best regards,

On 27 Jan 2017, at 18:31,

wrote:

Dear Gentlemen,

Thanks again for taking the time to speak to Alex this morning. Apologies again for seeing both of you at the same time, but I think the discussion was fruitful as a team. As promised, here is the link to the petition: https://www.change.org/p/the-scottish-government-save-businesses-in-the-north-east-of-scotland?recruiter=669778628&utm_source=share_petition&utm_medium=copylink

Please feel free to pass this link on to other local businesses who may not be aware of this petition but would like to get involved.

If you are happy to tell your story, I will speak to Dave, our press secretary, to see if we can set something up. Let me know.

In the meantime we will send out a Written Question to the government regarding the conduct of local assessors. I'll keep you posted on their response.

Kind regards,


Senior Constituency Caseworker
Office of Alexander Burnett MSP
Constituency MSP for Aberdeenshire West
Email: @parliament.scot

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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

Office of Alexander Burnett MSP

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OFFICE OF PSOS

02 APR 2017

30th March 2017

Your reference : MSP/2005/16-17/17/DW

Dear Commissioner,

Thank you for allowing me to respond further to the allegations by Councillor David Aitchison.

He states that I have "an interest in a number of businesses that are set to be affected including his Leys Estate and North Banchory Company. (which) will see his North Banchory Company's rates rise from £1,597.20 in 2016/17 to £3122.20 in 2017/18. His Leys Estate will see its business rates rising from £11,011 to £20,737 over the same period".

Leys Estate is not a business in which I have an interest, hence it does not appear in my Register of Interests. I am not aware nor can comment on how it is affected by changes in business rates.

The rates charge of £3,122.20 for North Banchory Company relates to a basement it owns. I was not aware of this specific charge. North Banchory Company has other business rates charges which may have been affected upwards or downwards by the recent revaluations.

Business rates account for a very small proportion of overheads and as such are not reported as a specific item at the Board meeting I attend.

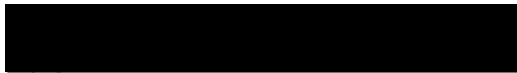
I cannot therefore confirm whether the estimate provided by the complainer accords with my own estimates because I have not undertaken any exercise to look at the effects of the revaluations on my own properties.

I would expect those businesses which appear on my Register of Interests to be reporting commercial rates payments as part of their normal management accounting review and commentary in due course.

The questions I raised were based entirely on complaints raised by constituents. I would be happy to share this information if required.

I look forward to hearing from you.

Kind regards,

A solid black rectangular box used to redact the signature of Alexander Burnett.

Alexander Burnett - MSP for Aberdeenshire West



Commissioner for Ethical Standards in Public Life in Scotland

CONFIDENTIAL

Mr Dougie Wands
Clerk to the Standards, Procedures
& Public Appointments Committee
The Scottish Parliament
Room TG01
Edinburgh
EH99 1SP

Reference: MSP/2005/16-17/17/DW

23 March 2017

Dear Mr Wands

Public Standards
Code of Conduct for Members of the Scottish Parliament
Complaint against Mr Alex Burnett MSP
by Councillor David Aitchison

I have received a complaint from Councillor David Aitchison alleging that Mr Alex Burnett MSP has failed to make appropriate declaration of financial interests in terms of Section 3 of Volume 2 of the Code of Conduct for MSPs.

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>

E.7. 16-06-11



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Question S5W-06883: Alexander Burnett, Aberdeenshire West, Scottish Conservative and Unionist Party, Date Lodged: 03/02/2017

To ask the Scottish Government what its position is on whether the Scottish Assessors Association should provide the businesses that it assesses with access to the data that it uses to reach its "percentages to NAV" calculations.

Current Status: Expected Answer date 03/03/2017

Question S5W-06884: Alexander Burnett, Aberdeenshire West, Scottish Conservative and Unionist Party, Date Lodged: 03/02/2017

To ask the Scottish Government what its response is to reports that small businesses that invest in improving their properties are being penalised by increased business rates.

Current Status: Expected Answer date 03/03/2017

Question S5W-06882: Alexander Burnett, Aberdeenshire West, Scottish Conservative and Unionist Party, Date Lodged: 03/02/2017

To ask the Scottish Government what its position is on whether the Scottish Assessors Association should assess smaller hotels and inns in rural areas on the turnover derived from various elements of the business rather than the model that it uses for larger chains.

Current Status: Expected Answer date 03/03/2017

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The Scottish Parliament
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Register of Interests

Member's Name: Alexander Burnett

Constituency: Aberdeenshire West

Date on which initial statement lodged: 08 June 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 Director and Chairman of North Banchory Company Limited, of Banchory Business Centre, Burn O'Bennie Road, Banchory, AB31 5ZU. This is a property development and letting company which also provides project management and energy consultancy services. I receive a basic salary of £6,120 per annum plus private medical insurance of approximately £1,500 per annum and, periodically, lump sum pension contributions. I do not expect to receive a pension contribution in the coming year and will register any contributions in the future in accordance with the rules. I expect to spend between 0 and 1 day per month on this role.

I own and am a sole trader of AJA Burnett Estate, a property leasing and forestry undertaking managed by Strutt & Parker, St Nicholas House, 68 Station Road, Banchory, AB31 5YJ. The level of profits and losses fluctuates. I anticipate to withdraw between £115,001 and £120,000 in way of personal remuneration in 2016/17 based on historical figures. I expect to spend between 0 and 1 day per month on this role.

I am a member of St Andrew Street Development, of Banchory Business Centre, Burn O'Bennie Road, Banchory, AB31 5ZU. This is a Limited Liability Partnership concerned with the ownership and rental of investment property. My share of profits for the year to 31 August 2015 was £4,400. I estimate that my share of profits for the year to 31 August 2016 will be between £5,001 and £10,000. I will not devote any time to this role.

I am an unpaid Director of Hill of Banchory ESCo Limited of Banchory Business Centre, Burn

O'Bennie Road, Banchory, AB31 5ZU. Hill of Banchory EScO Limited is a limited company providing heat energy to residential and commercial consumers and is a 100% owned subsidiary (related undertaking) of North Banchory Company Limited.

I am an unpaid Director of JIGSAW Energy Limited of Banchory Business Centre, Burn O'Bennie Road, Banchory, AB31 5ZU. JIGSAW Energy Limited is dormant limited company and is a 100% owned subsidiary (related undertaking) of North Banchory Company Limited.

Gifts:

No registrable interests

Overseas visits:

No registrable interests

Controlled transactions:

No registrable interests

Heritable property:

I own AJA Burnett Estate in Aberdeenshire which encompasses agricultural land, residential and commercial lettings, wayleaves and recreational, arts, sporting and forestry interests. The market value of the property is in the range £10,000,001 - £10,100,000. The property generates a gross annual income of between £640,001 and £650,000.

I am a Trustee and sole beneficiary of the Banchory Trust. The Trust owns property in Aberdeenshire with a market value of between £14,600,001 and £14,700,000. The Property generates a gross annual income of between £430,001 and £440,000. I do not expect to receive any income from the Banchory Trust this session.

I am a trustee and potential beneficiary of the Fordie Trust. The Trust owns property in Aberdeenshire with a market value of between £4,500,001 and £4,600,000. The Property generates a gross annual income of between £70,001 and £80,000. I do not expect to receive any income from the Fordie Trust this session.

Interest in shares:

I hold Ordinary £1 shares in North Banchory Company Limited, a property development and letting company which also provides project management and energy consultancy services. The shares represent 100% of the issued share capital, with a market value of approximately £9,889,626. I do not expect to receive any dividend from this company during this Session.

Through North Banchory Company Limited, I hold Ordinary £1 shares in Hill of Banchory EScO Limited, a company providing heat energy to residential and commercial consumers. The shares represent 100% of the issued share capital, with a market value of approximately £907,059. I do not expect to receive any dividend from this company during this Session.

Through North Banchory Company Limited, I hold an Ordinary £1 share in JIGSAW Energy Limited, a dormant company. The shares represent 100% of the issued share capital. The market value of the shares falls below the threshold for registration. I do not expect to receive any dividend from this company during this Session.

Through North Banchory Company Limited, I hold Ordinary £1 shares in Horn Enterprises Limited, a company involved in investment and financing of development opportunities. The shares represent 100% of the issued share capital. The market value of the shares falls below the threshold for registration. I do not expect to receive any dividend from this company during this Session.

I hold an Ordinary £1 share in St Nicholas Productions Limited, which promotes and engages in diversified theatrical, artistic and associated recreational enterprises connected with Leys Estate and the Banchory area, together with the provision of marketing and support services. The shares

represent 50% of the issued share capital. The market value of the shares falls below the threshold for registration. I do not expect to receive any dividend from this company during this Session.

I hold an Ordinary £1 share in The Wuid Chips Company Limited, a company supplying woodfuel and equipment for hire. The shares represent 50% of the issued share capital. The market value of the shares falls below the threshold for registration. I do not expect to receive any dividend from this company during this Session.

I hold Ordinary £1 shares in Inchmarlo Land Holdings Limited, a holding company. The shares represent 37.59% of the issued share capital. The market value of the shares falls below the threshold for registration. I do not expect to receive any dividend from this company during this Session.

Through Inchmarlo Land Holdings Limited, I hold "A" Ordinary £1 shares in Inchmarlo Land Company Limited, a property letting, managing and development company. The shares represent 19.7% of the issued share capital, with a market value of approximately £136,119. I do not expect to receive any dividend from this company during this Session.

I hold Ordinary £1 shares in Bancon Developments Holdings Limited, a company concerned with the building, contracting, dealing, developing and managing of property. The shares represent 37.59% of the issued share capital, with a market value of approximately £5,524,602. I do not expect to receive any dividend from this company during this Session.

I hold 100 Ordinary £1 shares in Deeside Woodlands Products, a cooperative concerned with the production of timber products. The shares represent 14.3% of the issued share capital. The market value of the shares falls below the threshold for registration. I do not expect to receive any dividend from this company during this Session.

Voluntary:

I am a director of St Nicholas Productions Limited.

I am a director of The Wuid Chips Company Limited.

I am a director of Bancon Developments Holdings Limited.

I am a director, member and shareholder of Deeside Woodland Products, a cooperative.

Contact

- [Full Contact Details](#)
- Email: [Alexander Burnett](#)

Further information

Email our [Public Information Service](#) for more information.

From: [REDACTED]
To: investigations@ethicalstandards.org.uk
Subject: Reference: MSP/2005/16-17/17
Date: 14 July 2017 15:02:34

Hello

I can confirm that Alexander Burnett MSP has no comments he wishes to make on the draft report that was sent to him regarding the above complaint.

Many thanks

[REDACTED]

[REDACTED]

Office Manager

Office of Alexander Burnett MSP

Constituency MSP for Aberdeenshire West

Tel: 0131 348 5643

Email: [REDACTED]@parliament.scot

LinkedIn: [REDACTED]

Alexander Burnett MSP may send out occasional bulletins updating constituents on what he is doing as an MSP and will add your name to the list.

Please respond to this with "unsubscribe" if you do not wish to receive them. You can also opt out at any time in the future.

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The information in this email may be confidential. If you think you have received this email in error please delete it and do not share its contents.

From: [Richardson, Andrew \(PF, Lothian & Borders\)](#)
To: investigations@ethicalstandards.org.uk
Subject: FW: MSP/2005/16-17/17 CONFIDENTIAL URGENT
Date: 28 June 2017 13:36:08

Amy

As you can see from the e-mail chain below John Dunn has passed this report on to me.

Crown Counsel's instructions have been obtained and they have indicated that we do not intend to prosecute this particular matter, and are content for the Commissioner to deal with. [REDACTED]

[REDACTED]
[REDACTED]

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

Andrew

Andrew Richardson
Procurator Fiscal (Lothian & Borders)
0844 561 3050

Calls cost 7p per minute plus your phone company's access charge

[REDACTED]

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