



The Scottish Parliament
Pàrlamaid na h-Alba

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**Standards, Procedures and Public Appointments
Committee
Comataidh Inbhean**

**Complaint against Kenneth Gibson
MSP**



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Standards, Procedures and Public Appointments Committee

The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—

- (a) the practice and procedures of the Parliament in relation to its business;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members; and
- (d) matters relating to public appointments in Scotland; and
- (e) matters relating to the regulation of lobbying.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/standards-committee.aspx>



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Introduction

1. The Committee met on 9 and 16 March 2017 to consider complaints from Mr Ian Gemmell and Mr Charles Vass about Kenneth Gibson MSP. The complaints were as follows—
2. The complaint from Mr Gemmell was that Kenneth Gibson MSP failed to—
 - declare his financial interests as registered property owner and landlord during parliamentary consideration of the Private Housing (Tenancies) Scotland Bill "the Bill". In particular, Mr Gemmell focuses on a meeting of the Parliament's Finance Committee on 11 November 2015;
 - register appropriate rental income;
 - register increased property value;
 - register "pay" made to a relative;
 - register employment of a relative; and
 - register interest in spouse's property.
3. The complaint from Mr Vass was that Kenneth Gibson MSP failed to register and declare as an owner and landlord in Glasgow.
4. The Commissioner for Ethical Standards in Public Life investigated the complaints and found that Kenneth Gibson MSP had failed to make an oral declaration of a registered interest as a property owner and landlord during parliamentary consideration of the Bill and, this being the case, Kenneth Gibson MSP was in breach of the relevant provisions of the Interests of the Members of the Scottish Parliament Act 2006 and the Code of Conduct.
5. In respect of all of the other elements of the complaints, the Commissioner concluded that there was no evidence of any breach of the Code.
6. The procedures followed by the Commissioner, and the Committee, in considering complaints are set out in full in the Code of Conduct.¹ The conduct complained about constitutes a breach of Sections 13(1) and 17(1) (a) of the Interests of Members of the Scottish Parliament Act 2006. In accordance with the Directions made under the Scottish Parliamentary Standards Commissioner Act 2002, the Commissioner submitted a report to the Procurator Fiscal, who indicated that, since the relevant meeting took place in November 2015, the alleged offence was timebarred from criminal proceedings.
7. Annexe B to this report containing the Commissioner's full report and appendices is incorporated in and forms part of this report.

Decisions of the Committee

8. The Committee is unanimous in the decisions reached on the complaint. Firstly, it agrees with the findings in fact and conclusion of the Commissioner. Secondly, it admonishes Kenneth Gibson for his failure to make an oral declaration of a registered financial interest. However, the Committee does not consider that the breach justifies the imposition of sanctions on Kenneth Gibson on this occasion. In reaching the decision on sanctions, the Committee was mindful of the fact that the property was registered in accordance with the requirements of the Register and that it is a matter of judgement for the member on whether a registered interest is sufficiently relevant to particular proceedings to require a declaration.

Conclusion

9. In general terms, the Committee regards the oral declaration of registered interests to represent an important aspect of parliamentary transparency and accountability.
10. The relevant wording in the Code of Conduct is as follows—
 - ” 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.
 - ” 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.²
11. The Committee regards any breach of the Act and the Code as a serious matter and notes that, in recent weeks, the Presiding Officer has ruled on a number of points of order relating to Members' responsibilities in this regard.
12. The Committee, by way of this report, reminds MSPs of their responsibilities under the 2006 Act and the Code of Conduct.

Annexe A - Extracts from Minutes

6th Meeting, 2017 (Session 5), Thursday 9 March 2017

Decision on taking business in private: The Committee agreed to take item 6 in private.

Decision on taking business in private: The Committee agreed to take future consideration of reports from the Commissioner for Ethical Standards in Public Life in Scotland, and its own draft reports on the complaints, in private at future meetings. The Committee also agreed to take future consideration of a draft report and draft Standing Order rule changes on mandatory committees' remits in private at future meetings.

Complaint (in private): The Committee considered a report from the Commissioner for Ethical Standards in Public Life in Scotland.

7th Meeting, 2017 (Session 5), Thursday 16 March 2017

Complaint (in private): The Committee continued its consideration of a report from the Commissioner for Ethical Standards in Public Life in Scotland.

Complaint: The Committee announced its decision at Stage 3 on a report from the Commissioner for Ethical Standards in Public Life in Scotland.

Complaint (in private): The Committee agreed its draft report

Annexe B - Report from the Commissioner for Ethical Standards in Public Life in Scotland

[Link to the Report from the Commissioner for Ethical Standards in Public Life in Scotland
\(13MB pdf\)](#)

- 1 [Code of Conduct for MSPs - Volume 3, Section 9: Enforcement of the Rules](#)
- 2 [Code of Conduct for MSPs – Volume 2, Section 3: Declaration of Interests](#)

