

**Introduction**

1. Standing Order 18.14 requires the Chair of the House Committee to prepare guidance for its Members, as follows:-

*“18.14 The Chair of the Committee shall prepare and submit to the Assembly for its approval guidance (“the Code”) to:-*

*(a) the Committee on its terms of reference; and*

*(b) the members of the Committee on their responsibilities as members of the Committee.*

*The Code shall include guidance on the relationship of the Committee and its members with the Permanent Secretary and with the Clerk and the other staff in the Assembly Parliamentary Service. The Chair of the Committee shall issue a copy of the Code to each member of the Committee and shall seek to ensure that each member of the Committee complies with it.”*

**Terms of Reference**

2. The Committee’s terms of reference are set out in Standing Orders:-

*“18.2 Subject to the following provisions of this standing order, the Committee is responsible for:*

*(i) the provision to and for Members (including when acting in proceedings of the Assembly) of facilities, accommodation, staff and such other support services as are reasonably necessary for the better performance by Members of their position as Members of the Assembly, including in its capacity as a legislative body ;*

*(ii) the provision of translation services between English and Welsh for proceedings of the Assembly;*

*(iii) the preparation of guidance to Members on matters within the Committee’s responsibilities;*

*(iv) the provision of advice to the Assembly on matters relating to its terms of reference and to Members’ salaries, allowances and pensions;*

*(v) the preparation of a draft budget for the expenditure to be incurred by it and for the administration of the approved budget; and*

*(vi) the provision of such other services to and for Members of a similar nature to those described above including responsibility for any extension to the building where the Assembly normally meets in plenary session, as the Assembly may from time to time authorise by resolution in plenary.*

18.3 *Nothing in Standing Order 18.2 shall make it part of the Committee's terms of reference to have responsibility:*

*(i) in any field in which the Assembly has functions (within the meaning of section 57 of the Act); or*

*(ii) in respect of proceedings of the Assembly Cabinet.*

18.15 *Subject to Standing Order 18.16, nothing in this Standing Order shall make it part of the Committee's terms of reference to provide facilities, accommodation, staff or other support services or guidance to or for any Member when acting as an Assembly Minister or Assembly staff who are not part of the Assembly Parliamentary Service."*

### **Code of Conduct for Assembly Members**

3. Members of the House Committee continue to be bound by the Code of Conduct for Members of the Assembly and the seven principles of public life set out in that Code. Additional guidance for Members of the House Committee is set out below.

### **Relationship with Assembly Staff**

4. Assembly staff are civil servants. Members have a duty:

- to give fair consideration and due weight to informed and impartial advice from Assembly staff, as well as to other considerations and advice, in making decisions relevant to the House Committee's terms of reference;
- to uphold the political impartiality of the Civil Service, and not to ask staff to act in any way which would conflict with the Civil Service Code, a copy of which is provided for each Member;
- to ensure that any influence over appointments is not abused for partisan purposes;
- to observe the obligations of a good employer with regard to terms and conditions of those who serve them.

5. Assembly staff who give advice to the House Committee are under a duty to give that advice honestly and impartially to the House Committee without fear or favour. They should not be asked to engage in activities likely to call in question their political impartiality, or to give rise to the criticism that people paid from public funds are being used for party-political purposes.

6. The Accounting Officer Memorandum, issued by the Treasury under the Government of Wales Act 1998 Section 98, sets out specific personal responsibilities for the Assembly's Accounting Officer. The next two paragraphs deal with those responsibilities and the relationship of the House Committee with the Accounting Officer.

7. The Permanent Secretary is the Principal Accounting Officer for the National Assembly for Wales. The Clerk is appointed as an Additional Accounting Officer. The essence of the Accounting Officer role is a personal responsibility for the

propriety and regularity of the public finances for which he or she is answerable; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; for the efficient and effective use of resources and as to the lawfulness of any proposed action. Before making any decision in connection with their responsibilities, Members of the House Committee should give careful attention to any advice given by the Accounting Officer and/or Additional Accounting Officer in the context of these responsibilities.

8. Both the Accounting Officers have a particular responsibility to see that appropriate advice is tendered on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economical administration, efficiency and effectiveness and value for money. If the House Committee is contemplating a course of action which the Accounting Officers consider would breach the requirements of propriety or regularity, the Accounting Officers will set out in writing their objection to the proposal, the reasons for the objection and the duty to inform, in the case of the Clerk, the Permanent Secretary and the Auditor General for Wales and, in the case of the Permanent Secretary, the Auditor General for Wales, should the advice be overruled. If the House Committee decides nonetheless to proceed, the Clerk or, the Permanent Secretary will seek a written instruction to take the action in question and comply with the written instruction. The Accounting Officer will send the relevant papers to the Auditor General for Wales. A similar procedure applies where there are Accounting Officer concerns as regards the value for money of a proposed course of action.

### **Legal Advice**

9. The Counsel to the Assembly Parliamentary Service has responsibility for the day to day provision of legal advice and services to the Committee. The Counsel to the Assembly Parliamentary Service's opinion must be sought whenever there is any doubt about the legal powers available to the Committee to carry out a relevant function or the particular course of action proposed. Opinions and advice given by or through the Counsel to the Assembly Parliamentary Service must not be disclosed without his/her consent.

### **Welsh Administration Ombudsman**

10. Where a Member is considering referring a complaint to the Welsh Administration Ombudsman that relates to a matter within the Committees terms of reference, the Member should inform in advance the Chair of the Committee and the Clerk to the Assembly.

### **Members' Private Interests**

#### **General principle**

11. Members must ensure that no conflict arises, or appears to arise, between their public duties as Members of the House Committee and their private interests, financial or otherwise. As Assembly Members, Members of the House Committee are also bound by the rules on registration and declaration of interests set out in Standing Order 4 and the accompanying Annex. However, notwithstanding the provisions of Standing Order 4, Members are advised to advise the Clerk to the

Assembly of any interests which might be thought to give rise to a conflict with their particular duties as Members of the House Committee.

### **Responsibility for avoiding a conflict**

12. Although the Clerk to the Committee and Assembly Parliamentary Service staff will provide advice to Members if requested, it is the personal responsibility of each Member to decide whether and what action is needed to avoid a conflict or the perception of a conflict. If a Member participates in a House Committee decision whilst having an interest in the decision, the decision can be challenged in the Courts.
13. Where the Member has a private interest (whether financial or otherwise) in any matter before the House Committee, he or she should declare that interest at the meeting before the matter is discussed and remain entirely detached from the consideration of that business.
14. In some cases it may not be possible to avoid actual or perceived conflict of interest, for example, because of the nature or size of the Member's interest or the nature of the House Committee's work. In such a case, or in any case where, after taking legal advice and the advice of Clerk to the Committee, the Member is in doubt whether adequate steps have been or can be taken, he or she should consult the Chair. In such a case it may be necessary for the Member to step down from membership of the House Committee.
15. If an allegation is made that a Member has a conflict of interest (financial or otherwise), it must be for that Member to explain his or her position and justify what he or she has done. In doing so it is open to him or her to confirm (if that be the case) that they have consulted the Clerk to the Committee in accordance with the Code. The Member should however consult the Clerk to the Committee about the content of any statement before making it to ensure that there is agreement about the content and any disagreement should be referred to the Chair and the Clerk to the Assembly.
16. Where Members of the House Committee participate in House Committee discussions which might have an impact on their own constituencies, they should, take particular care to avoid any possible or perceived conflict of interest between their duty to act in the overall interests of the Assembly and any benefit to their constituency. If they believe that an actual or perceived conflict may exist, they should not participate in the decision.

### **Acceptance of gifts and hospitality**

17. It is a well established and recognised rule that no Member or public servant should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under an obligation. The same principle applies if gifts etc are offered to a member of their family, as defined in Assembly Standing Order 4.
18. This is primarily a matter which must be left to the good sense of Members. But any Member in doubt or difficulty over this should seek the Clerk to the Committee's guidance. In general, the following rules will apply as to the retention of any gifts

received by a Member in connection with his/her position on the House Committee:

- Receipt of gifts should, in all cases, be reported to the Clerk to the Assembly;
- Gifts below the value set from time to time by the Assembly (currently £125) may be retained by the recipient;
- Gifts of a higher value should be handed over to the Assembly for disposal, except where the following circumstances apply;
- The recipient may purchase the gift at its cash value (abated by the level set by the Assembly for gifts of small value). If the gift is worth more than this it should be declared in the Register of Members' Interests as well as to the Clerk.
- If the recipient wishes to reciprocate with, and pay for, a gift of equivalent value, the gift received may be retained.
- If appropriate, the gift may be displayed or used in the Assembly.
- If the disposal of the gift would cause offence or if it might be appropriate for the recipient to use or display the gift on some future occasion as a mark of politeness, then the gift should be retained in the Assembly for this purpose for a period of up to five years;
- Gifts received overseas worth more than the normal travellers' allowances should be declared at importation to Customs and Excise who will advise on any duty and tax liability. In general, if a Member wishes to retain a gift he or she will be liable for any tax or duty it may attract.
- Gifts given to Members in their capacity as members of the House Committee become the property of the Assembly and do not need to be declared in the Register of Members' Interests unless the Member wishes to keep the gift (if it is below the defined threshold) or to purchase it (see above). Gifts given to Members as Assembly Members fall within the rules in Standing Order 4 and Standing Orders Annex A.

19. In the event of a Member accepting hospitality on a scale or from a source so that it might reasonably be thought likely to influence their actions as a member of the House Committee, it should be declared in the Assembly's Register of Members' Interests. Registration of hospitality would normally be required for hospitality over the limits in value set by the Assembly.

#### **Provision of hospitality by the House Committee**

20. Any necessary and appropriate provision of hospitality by the Committee will be met out of public funds. Hospitality may be provided for outside organisations, visiting dignitaries and key events where it is deemed appropriate to make such a provision. Care should be taken to avoid any criticism that public funds are being used inappropriately.

## **Travel**

21. Members of the House Committee will be guided by the protocols adopted in relation to travel of Committee Members on Assembly business, and will follow the agreed procedure for approval and settling of relevant expenses.

## **Disclosure of Committee Proceedings or Information**

22. The Code of Conduct for Assembly Members provides that:-

*“Assembly Members must not prevent any person from gaining access to information which that person is entitled to by law, but must not disclose confidential information, including confidential information from Assembly Committees, without consent unless required to do so by law. Any such confidential material received by Members in the course of their Assembly duties should only be used in connection with those duties and must never be used for the purpose of financial gain.”*

23. The House Committee, of its nature, regularly deals with sensitive information, and Members will need to apply their minds to these principles when considering whether to disclose information arising from any Committee proceedings which take place in private. It may be necessary for Members to consult other Assembly Members about aspects of the House Committee’s considerations, and they should in so doing impress upon these Members the need to keep relevant information confidential.
24. The Committee’s minutes are published in accordance with Standing Orders, but it is not appropriate for Members publicly to reveal private discussions or confidential information by amplifying those minutes, in particular by ascribing views or statements to named Members or officials.
25. In considering requests for disclosure of information the Committee will need to apply the Assembly’s Code of Practice on Public Access to information. Notwithstanding the principles of openness pursued by the Code, Members should be aware of the confidentiality which attaches to certain types of information and should take particular care in respect of the following types of information:-
  - Commercially confidential information which, if released, may damage the business interests of a third party or the position of the Assembly in terms of current negotiations or binding agreements;
  - Information about the terms and conditions of employment of identifiable members of staff.