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Groupe d'États contre la corruption

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## FOURTH EVALUATION ROUND

Corruption prevention in respect of members of  
parliament, judges and prosecutors

### COMPLIANCE REPORT

### UNITED KINGDOM

Adopted by GRECO at its 66<sup>th</sup> Plenary Meeting  
(Strasbourg, 8-12 December 2014)

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## **I. INTRODUCTION**

1. The Compliance Report assesses the measures taken by the authorities of the United Kingdom to implement the recommendations issued in the Fourth Round Evaluation Report on the United Kingdom which was adopted at GRECO's 57<sup>th</sup> Plenary Meeting (15-19 October 2012) and made public on 6 March 2013, following authorisation by the United Kingdom ([Greco Eval IV Rep \(2012\) 2E](#)). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. As required by GRECO's Rules of Procedure, the authorities of the United Kingdom submitted a Situation Report on measures taken to implement the recommendations. This report was received on 11 July 2014 and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected Ireland and Slovenia to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Aileen HARRINGTON, on behalf of Ireland and Mr Matjaž MEŠNJAK, on behalf of Slovenia. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
4. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

## **II. ANALYSIS**

5. GRECO addressed eight recommendations to the United Kingdom in its Evaluation Report. Compliance with these recommendations is dealt with below.

### *Corruption prevention in respect of members of parliament*

6. As a point of information of relevance for all recommendations concerning the House of Commons, the authorities of the United Kingdom submit that the House of Commons Committee on Standards recommended revisions to the Code of Conduct and Guide to the Rules in its Third Report of Session 2012-13. This was prepared in the knowledge of the GRECO recommendations, although the timetable precluded explicit acknowledgement of these. Subsequently, the Standards Committee published a Report considering the GRECO recommendations in relation to the revised Rules. The Committee also republished the revised Guide and the Leader of the House said on 6 November 2014 that it was important that the House debates the report. Furthermore, the Committee has set up a Standards Review Sub-Committee to examine the current standards system, and this is expected to report early in 2015. This is in addition to the commitment already made to review the Code of Conduct and Guide once in every Parliament. Both the Standards Committee and the Standards Review Sub-Committee are seized of the GRECO recommendations.

### **Recommendation i.**

7. *GRECO recommended that, pending any introduction of an accountability system for staff conduct, it should be made clear that Members of the House of Commons and Members of the House of Lords can be responsible for the conduct of their staff when carrying out official duties on behalf of the Member and that, unless otherwise*

*specified, the conduct of the staff should be judged against the standards expected of the Members. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.*

8. The authorities report that the Committee on Standards and Privileges has confirmed that the staff of members of the *House of Commons*, who are individually employed by the MPs, are accountable to that member and proposed making this clear by specifying in a draft revised Guide to the Rules relating to the Conduct of Members that "Members are personally responsible for their adherence to the Code even when breaches may have been caused by the actions of a member of staff". In December 2012, the Committee on Standards and Privileges had put on record in its report to the House of Commons, which included the revised guide, that the Committee "will continue to hold MPs responsible for the actions of their staff, when it is appropriate to do so". This is set out in the Third Report of Session 2012-2013. The authorities also submit that members of the House of Commons have already been held responsible if, through the actions of their staff, the registration rules are breached, documents leaked etc. In a recent case, a six-month suspension was recommended, in effect forcing the member to resign. One of the concerns of this case was that the MP had endorsed material drafted by an associate which breached the rules of the House. The member in question was held accountable for proposals made by someone who was not even paid for their activities. This high profile case makes clear, according to the authorities, that MPs are responsible for the conduct of those they employ, or with whom they work.
  
9. The authorities submit as far as the *House of Lords* is concerned, that recommendation i was considered by the Sub-Committee on Lords' Conduct as well as by the Committee for Privileges and Conduct. The latter Committee proposed to the House of Lords new rules on the conduct of members' staff. The proposal, which was published on 27 January 2014, addressed the registration of members' staff interests. Previously, members' staff were required to register only the name of persons or organisations employing them in a case where that employer was engaged in parliamentary lobbying. The Committee for Privileges and Conduct pointed out that there can be a reasonable perception that anyone employing a person who is also working for a member of the House could gain some advantage not available to others. The Committee advised that such employment should therefore be publicly known by way of entry on the Register of Members' Staff Interests which is published on the Internet. As a result, the Committee recommended that all members' staff in possession of a parliamentary photo-pass should register the name of any third party who is employing them. As the report makes clear, the requirement for Members' staff to register any other financial interest in businesses or organisations involved in parliamentary lobbying remains. The Committee also recommended lowering the threshold for members' staff to register gifts, benefits and hospitality given to them which arises from their work in Parliament from £300 to £140. The proposed changes were agreed by the House on 6 March 2014 and are now in force. In addition, a new Code of Conduct for Members' Staff was proposed by the Committee and agreed by the House on 13 May 2014. It requires, *inter alia*, members' staff to conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the House of Lords; prohibits members' staff from taking any action which would risk undermining any member's compliance with the Code of Conduct for Members; it requires members' staff to register in the Register of Members' Staff Interests financial interests in businesses or organisations involved in parliamentary lobbying, gifts or benefits which relate to or arise from the individual's work in Parliament. It also contains the aforementioned requirements for members' staff to register employment outside the House as well as gifts, benefits and hospitality. The Registrar of Lords' Interests is available to advise members and their staff about the requirements of the new Code. Complaints about

failure to comply with the new Code may be made to the Commissioner for Standards. In the event of breach, the Commissioner's reports will be made to the Sub-Committee on Lords' Conduct, which then reports to the Committee for Privileges and Conduct in the same way as reports on members' conduct. Members' staff found to have breached the Code may have their parliamentary pass suspended or withdrawn.

10. The authorities furthermore report that GRECO's Evaluation Report has been considered by the *Northern Ireland Assembly's* Committee on Standards and Privileges at a number of meetings during 2013 and 2014. On 10 March 2014, the Committee announced, via its website, a notice in the Northern Ireland papers and through written correspondence to stakeholders in the run-up to the announcement that it was to review the Northern Ireland Assembly's Code of Conduct. The Code and Guide to the Rules Relating to the Conduct of Members "regulates the official life of members of the Northern Ireland Assembly" and "aims to support and promote the good conduct of Members by adopting high ethical standards and providing the necessary accountability mechanisms". The Terms of Reference of the review of the code include bringing forward to the Assembly for its approval a new Code of Conduct. As part of the review, the Committee has drafted an Issues Paper (IP) exploring the extent to which there may be scope for members' staff to act in a manner that places private interest before public interest when carrying out official duties on behalf of the member for whom they work. The Committee believes that there are certain steps that it could take to address this risk. Firstly, as set out at paragraph 109 of the IP, the Code of Conduct could specifically prohibit members from allowing their staff to place private interest before public interest when carrying out official duties on behalf of members. The standards expected of Members in this regard should also apply to their staff. Any member found to have breached such a rule could be sanctioned by the Assembly. The Committee decided to give this possibility careful consideration. Secondly, as stated in paragraph 110 of the IP, Members could be required to register any gifts and benefits received by their staff relating to their role as employees of the member. The Committee has also explored whether there are other requirements in relation to members' interests and their staff that might be introduced. In paragraph 111 of the IP, the Committee acknowledges that members, as employers, have a particular responsibility to ensure the proper conduct of their staff and to take action where misconduct occurs. Paragraph 112 of the IP sets out the Committee's concerns regarding the fairness of holding a member responsible for the conduct of his or her staff in circumstances where s/he was unaware of what had occurred. The Committee notes, however, that the Scottish Parliament is clear that members are responsible for the behaviour of their staff within the Parliamentary estate. This issue was raised during the Committee's visit to the Scottish Parliament on 1 May 2014. A new Code of Conduct is likely to be agreed in January 2015 and it is likely to place upon members a requirement to ensure that staff upholds the standards expected of members.
11. Finally, the authorities report that the *National Assembly for Wales* has in place a Code of Conduct for Assembly Members' Support Staff (AMSS) to be signed by staff which forms part of their conditions of employment by the member, and is based on the Nolan Principles of Standards in Public Life. This Code came into effect in 2007 and covers key areas, such as propriety, confidentiality, outside occupations and working with others. Breaches of the Code may result in disciplinary action up to and including dismissal. This Assembly was the first legislature in the United Kingdom to develop such a Code of Conduct.
12. GRECO takes note of the information provided. It is pleased to learn that pertinent bodies of the various parliamentary assemblies concerned have taken concrete actions in order to clarify the situation and/or to deal with the matter of

accountability of parliamentarians' staff, which was highlighted in the Evaluation Report. In respect of the House of Commons, no specific code/guidelines for the staff as such is yet in place; however, the Committee on Standards and Privileges has confirmed that such staff, are accountable to their respective MP. To make this clear, the Committee has proposed specifying this in a revised Guide to the Rules relating to the Conduct of MPs that "*members are personally responsible for their adherence to the Code even when breaches may have been caused by the actions of a member of staff*". Although this has not yet been adopted by the House, the Committee on Standards already put on record in its 2013 Report to the House of Commons that it "will continue to hold MPs responsible for the actions of their staff, when it is appropriate to do so". The authorities also submit that MPs in the House of Commons have been held responsible for the actions of their staff, for example, when registration rules have been violated, documents leaked etc. In a recent case, a six-month suspension was recommended, in effect forcing the MP to resign as a result of an associate's actions. GRECO welcomes the clarification that MPs *de facto* are responsible for the conduct of their staff and that there are recent cases to evidence this. It furthermore welcomes that this rule is also to be included in the revised Guide to the Rules on MPs conduct. Despite the fact that the revised Guide has not yet been adopted, GRECO concludes that the authorities have made it clear the MPs in the House of Commons can be made responsible for the conduct of their staff. Consequently, this part of the recommendation has been dealt with in a satisfactory manner.

13. In respect of the House of Lords, GRECO notes that a new Code of Conduct for Members' Staff was agreed by the House on 13 May 2014. It requires, *inter alia*, members' staff to conduct themselves in a manner as to maintain and strengthen the integrity of the House of Lords. It prohibits members' staff from taking any action which would risk undermining Lords' compliance with their Code of Conduct and it requires members' staff to register in the Register of Members' Staff financial interests in respect of businesses, lobbying, gifts etc. which relate to their activities in Parliament. GRECO welcomes this positive development in the House of Lords of establishing an accountability mechanism dedicated to the staff of Lords. This part of the recommendation has thus been implemented satisfactorily.
14. GRECO also notes that measures are under way in the Northern Ireland Assembly; the Committee on Standards and Privileges has taken the lead in reviewing the Assembly's Code of Conduct in order to broaden it to cover members' staff as well. To this end, the Committee has drafted an Issue Paper exploring the extent to which there may be scope for members' staff to act in a manner that places private interest before public interest when carrying out official duties on behalf of the member for whom they work. The authorities submit that it is likely that a new Code will be agreed by the Assembly in January 2015. GRECO welcomes this positive development in Northern Ireland, aiming at establishing an accountability system for members' staff. Although looking forward to the final result of this process, GRECO notes that the recommendation as far as the Northern Ireland is concerned, has been complied with as this part of the recommendation was limited to inviting the Northern Ireland Assembly to take action.
15. GRECO is furthermore pleased to note that the National Assembly for Wales since 2007 has a Code of Conduct for Assembly Members' Support Staff, based on the "Nolan Principles of Standards in Public Life", covering areas, such as propriety, confidentiality, outside occupations and working with others. The intention of this part of the recommendation was thus already complied with at the time of adoption of the Evaluation Report.

16. To sum up, positive developments in line with the recommendation in respect of all the pertinent assemblies have been demonstrated.
17. GRECO concludes that recommendation i has been dealt with in a satisfactory manner.

**Recommendation ii.**

18. *GRECO recommended that consideration be given to lowering the thresholds for reporting financial holdings (such as stocks and shares). The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.*
19. The authorities report that in respect of the *House of Commons*, this recommendation was considered by the previous Parliamentary Commissioner for Standards and the Committee on Standards and Privileges in their work on the Guide to the Rules relating to the conduct of Members that took place in December 2012. The Standards and Privileges Committee's Proposed Revisions to the Guide to the Rules relating to the Conduct of Members which, if approved, will reduce thresholds for reporting most registrable interests. Furthermore, the Parliamentary Commissioner for Standards recommended, and the Committee accepted, that the threshold for holdings of 15% or less of a company's issued share capital should be reformulated from "greater in value than a parliamentary salary" to "greater in value than £70,000". Holdings will remain registrable if they are greater than 15% of the company's issued share capital, whatever their value. The Committee on Standards advised, in its March 2013 report on action taken in response to the GRECO recommendations, that it had considered the threshold for registration carefully. It discusses the GET's concern that declarations of interests would give the public little or no notice of the interest before the member acted, and that the purpose of the Registers is to give public notice of those interests which might be thought to influence a member's conduct. It emphasised that the Register was public, and that it was not a full declaration of wealth. The Committee considered carefully the balance between privacy and openness, and the need to make sure that significant interests were not hidden by a greater number of trivial ones. In this respect, the Committee noted that while small shareholdings are not automatically registrable, paragraph 57 of the current Guide notes that "it is sometimes appropriate to register shareholdings" falling outside the relevant categories, if they meet the test of relevance. The Committee undertook to keep under review the potential for a series of holdings under the registration limit aggregating in value and so influencing conduct.
20. The authorities also report that the Sub-Committee on Lords' Conduct (*House of Lords*) considered this recommendation in May 2013. It reported to the Committee for Privileges and Conduct, which considered the matter in July 2013. The Committee for Privileges and Conduct's report on the matter was published in January 2014. The report on Amendments to the Code of Conduct and the Guide to the Code, states at paragraph 11 on page 7: "We [the Committee for Privileges and Conduct] have considered a suggestion from GRECO that the threshold for the registration of shareholdings in any public or private company should be reduced. The current threshold for such registration is any shareholding which either (a) amounts to a controlling interest or (b) does not amount to a controlling interest, but which exceeds £50,000 in value. We have reviewed the matter carefully and have found no evidence that this threshold gives rise to any misgivings. We therefore recommend no change". The authorities added that as with the House of Commons Code, it is possible for members of the House of Lords to register interests which fall below the threshold for registering shareholdings in the Register of Lords' Interests which "might be thought by a reasonable member of the public

to influence a Member's parliamentary conduct". In the event that a member had significant shareholdings in several companies in the same sector, but each shareholding was below the £50,000 threshold it is likely that such a member would be advised to register those interests in this category. The authorities add that as the Sub-Committee on Lords' Conduct is charged with keeping the Code and Guide under review, if the threshold for registration of shareholdings were to cause difficulties in future, then the Sub-Committee would be able to propose suitable amendments.

21. Furthermore, the authorities submit that the threshold for registering shareholdings (£24,000) is lower in the Northern Ireland Assembly than in any of the other UK legislatures. The Committee on Standards and Privileges noted in its Issues Paper published in March 2014 (also referred to under recommendation i) that, nonetheless, it accepts GRECO's recommendation, and is giving consideration to lowering this threshold further, as a part of the current review. This matter was discussed again on 11 June 2014 by the Committee and the outcome is to be submitted to the Assembly in January 2015.
22. As far as the *Scottish Parliament* is concerned, the authorities state that the Standards, Procedures and Public Appointments Committee considered the threshold for registering financial holdings (shares) on 5 June 2014 and agreed not to recommend any changes to the current threshold of a market value of £28,760 or where the total nominal value of the shares is greater than one percent of the total nominal value of the issued shared capital, as this was considered sufficient to capture significant interests.
23. Finally, the authorities report that this recommendation was considered by the National Assembly for Wales' Standards of Conduct Committee on 9 July 2013. The Committee proposed that the Commissioner for Standards be asked to review this area as part of the ongoing review of the Code of Conduct. The Commissioner for Standards is currently undertaking a review on the registration and declaration of interests and a letter with reference to GRECO's recommendation was submitted to all MPs in January 2014. The Commissioner has consulted with all of the political groups at the Assembly, and the Commissioner's report was considered by the Standards of Conduct Committee in July 2014. The National Assembly for Wales Standards of Conduct Committee considered the lowering of thresholds for reporting financial holdings (such as stocks and shares) as part of their review into the registration and declaration of members' interests. Assembly Members are currently required to register shareholdings where they either have a market value greater than 1% of the issued share-capital; or have a value exceeding fifty percent of an Assembly Member's basic gross annual salary (currently £26,926). The Committee decided this was an appropriate level; however, it has recognised the need to register share options at the same level as actual shares, and to introduce the requirement for blind trusts to be registered.
24. GRECO takes note that all the relevant entities have considered the matter of lowering the threshold for reporting financial holdings (such as stocks and shares). Although it is clear that GRECO's position and reasoning have been taken into account, the considerations have not resulted in any changes to lower the thresholds in any of the pertinent assemblies. GRECO regrets the outcome of these considerations but notes that the requirement of this recommendation ("to consider") has been adequately addressed. That said, GRECO urges the authorities to keep this matter under review.
25. GRECO concludes that recommendation ii has been dealt with in a satisfactory manner.

### **Recommendation iii.**

26. *GRECO recommended (i) providing clearer guidance for Members of the House of Commons and the House of Lords concerning the acceptance of gifts, and (ii) that consideration be paid to lowering the current thresholds for registering accepted gifts. The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.*
27. The authorities stress that the Code of Conduct and Guide to the Rules for Members of the *House of Commons* makes clear at paragraphs 37–41 of the Guide under the heading ‘Gift, benefits and hospitality’, that any gift to a member, the member’s spouse or partner, or any material benefit, over the threshold value is to be registered. The rule means that members must register any gift, or other benefit, which in any way relates to membership of the House and which is given free, or at a cost below that generally available to members of the public whenever the value of the gift or benefit is greater than the threshold amount. Members are also to register any similar gift or benefit which is received by any company or organisation in which the member - or the member and his/her spouse/partner jointly - have a controlling interest. This also applies to gifts and other benefits from the same source in the course of a calendar year which cumulatively are of a value greater than the threshold value. However, the Committee on Standards made it clear that any acceptance of a gift could engage the lobbying rules described in the Guide to the Rules. The Committee also advised members to consider carefully the proportionality and appropriateness of any gifts or hospitality they receive, bearing in mind the requirements of the Code and Guide<sup>1</sup>. The authorities add that the induction meetings with parties and MPs following the next elections will provide opportunities to explore questions about the proportionality and appropriateness of gifts, and alert them to the fact that the Office of the Parliamentary Commissioner for Standards is available to offer advice on the Code and rules in particular cases. Moreover, the Standards and Privileges Committee proposed to lower the thresholds for registering gifts by more than half (from approximately £660 to £300) from a single source in a calendar year. This part of the proposed revised Guide awaits consideration. The definition of gifts in the proposed revision is wide, and includes hospitality and material benefits. The same threshold of over £300 in terms of registration applies to gifts and benefits received from sources outside the UK. Gifts also need to be declared in relevant proceedings; the revised Guide to the Rules sets out the relevant Declaration Rules.
28. As far as the *House of Lords* is concerned, the authorities explain that under paragraphs 8 and 14 of the Code of Conduct, it would be contrary to the Code for a member to accept any gift, benefit or hospitality in return for exercising parliamentary influence, advice, services or acting as an advocate in any proceedings in the House. This prohibition applies to a gift of any value, however small. A complaint that a member has not complied with this prohibition would be investigated by the Commissioner for Standards. Where acceptance of a gift or benefit has no bearing on such matters, it still needs to be registered if its value is above the a set threshold and if it substantially relates to membership of the House. Other gifts may still need to be declared in relevant proceedings. The Sub-Committee on Lords’ Conduct considered recommendation iii in May 2013, and reported to the Committee for Privileges and Conduct, which considered the matter shortly thereafter. In their Report, published in January 2014, the Committee for Privileges and Conduct agreed with the finding of GRECO “that the threshold for registering gifts, benefits and hospitality which relate substantially to membership of the House should be reduced” and recommended that the threshold for the

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<sup>1</sup> Committee on Standards, First Report of Session 2012–13, Guide to the Rules relating to the conduct of Members: GRECO Report and other developments, HC 724, para 16.



registration of gifts etc. to members should be lowered from £500 to £140. The lower threshold was approved by the House of Lords on 6 March 2014. At the same time the House agreed to amend the Guide of the Code of Conduct in respect of members dealing with lobbyists pertaining specifically to gifts: "Members should decline all but the most insignificant or incidental hospitality, benefit or gift offered by a lobbyist."

29. In respect of *Northern Ireland*, the authorities underline that the Code of Conduct currently deals with potential conflicts of interest arising from gifts by ensuring transparency, rather than creating restrictions on what kinds of gift can be accepted. However, the "Advocacy Rule" also provided for in the Code of Conduct means that paid advocacy is not permitted. The rule provides that no member shall, in any proceeding of the Assembly, in return for any payment or benefit, either (a) advocate or initiate any cause or matter on behalf of any outside body or individual, or (b) urge any other assembly member to do so. As part of the review of the Code of Conduct, the Northern Ireland Assembly's Committee on Standards and Privileges Committee is considering whether there are any circumstances in which, or categories of persons from whom (for example, lobbyists), the receipt of a gift might be perceived as compromising the integrity of an MP. It also considered whether the current threshold for registration of gifts (currently £240) remains appropriate. It discussed these issues again at a meeting on 11 June 2014. The new Code of Conduct is expected to be agreed by January 2015.
30. As far as the *Scottish Parliament* is concerned, the authorities state that the Standards, Procedures and Public Appointments Committee considered this recommendation on 10 October 2013 and 19 December 2013, when it agreed to recommend that the Scottish Parliament reduce the threshold for registering gifts from 1% of a member's salary at the start of the parliamentary session (currently £570) to half of that value. This proposal is expected to be voted on by Parliament in January 2015. Furthermore, the authorities stress that guidance on accepting gifts is already included in the Code as follows. Section 7(2.6) reads: "*Over and above compliance with the statutory provisions, members should treat with caution any offer of hospitality, a gift, a favour or benefit. Members are not prohibited from accepting reasonable hospitality or modest tokens of goodwill, particularly where refusal could cause offence. But a member should not accept any offer that might reasonably be thought to influence the member's judgment in carrying out Parliamentary duties. The value of any benefit, its connection to a member's Parliamentary duties, its source, the transparency of its receipt and the frequency of receipt of similar offers may all be factors which could be relevant to this judgment. (Members should also have regard to the standards in relation to acceptance of hospitality and gifts set out in the section of the Code on lobbying and access to Members of the Scottish Parliament at paragraph 5.1.6, as well as the requirement to register gifts set out at section 2.3 of the Code)*". Section 5 reads: "*Members should decline all but the most insignificant or incidental hospitality, benefit or gift if the member is aware that it is offered by a commercial lobbyist. Section 7 of the Code on General Conduct states that a member should not accept any offer that might reasonably be thought to influence the member's judgment in carrying out Parliamentary duties. Since the basis on which many people believe that commercial lobbyists sell their services is by claiming to provide clients with influence over decision-makers, it might reasonably be thought that acceptance of a benefit of any significance from such a source could influence a member's judgment in carrying out Parliamentary duties. (If a member only becomes aware of its source after receiving hospitality, a benefit or gift, then the member should consider reimbursing the costs of any hospitality or benefit or returning any gift)*".

31. The authorities report that recommendation iii was considered by the *National Assembly for Wales*' Standards of Conduct Committee on 9 July 2013. The Committee considered the lowering of the current thresholds for registering accepted gifts as part of their review into the registration and the declaration of members' interests. However, the Committee decided that the current level (above 0.5% of a Member's basis annual salary, i.e. £269) was appropriate and decided not to lower it.
32. GRECO takes note of the information provided. As far as the first part of the recommendation is concerned GRECO notes that the concern raised in the Evaluation Report was that very little was found at the time by way of advice or counselling to members as to their expected conduct when receiving gifts. This matter was considered particularly important as there is no general ban in any of the assemblies on members receiving gifts as such (Evaluation Report, paragraph 45). The measures reported now are largely connected with clarifying existing rules or to connecting this matter to the obligation of reporting of gifts. GRECO notes that some guidance exists in the various assemblies, for example, in order to prevent MPs from seeking to confer exclusive benefits in return for gifts and the link between gifts and lobbying has also been highlighted by the assemblies; however, GRECO is pleased to note that the Scottish Parliament has presented a more developed guidance on the acceptance of gifts to its Code of Conduct (Section 7(2.6)), in line with the recommendation, for which it should be commended. GRECO also notes that the House of Lords has introduced guidance to members on gifts from lobbyists. Further work is underway in the Northern Ireland Assembly, although this Assembly was only invited to take measures. It follows that full compliance with this part of the recommendation requires further measures (or more complete information) by the House of Commons and the House of Lords. As far as the second part of the recommendation is concerned, it is to be welcomed that all the pertinent bodies of the parliamentary assemblies have considered the thresholds of "their" respective assemblies for registering accepted gifts in accordance with the recommendation. As a result, it appears that the large majority of these bodies has proposed to lower these thresholds considerably. In respect of the House of Lords, the Committee proposal has already been implemented and the threshold has been reduced to a level that applies to that of ministers (from £500 to £140). GRECO welcomes this significant change and hopes very much that final decisions on these matters will follow shortly in the other assemblies where this matter is still pending. That said, the second part of the recommendation has been dealt with in a satisfactory manner by all assemblies.
33. GRECO concludes that recommendation iii has been partly implemented.

**Recommendation iv.**

34. *GRECO recommended that the Codes of Conduct and the guidance for both the Commons and the Lords be reviewed in order to ensure that the Members of both Houses (and their staff) have appropriate standards/guidance for dealing with lobbyists and others whose intent is to sway public policy on behalf of specific interests. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.*
35. The authorities report that when dealing with the issue of regulating lobbying, the Committee on Standards and Privileges of the *House of Commons* has stated that "access to the policy-making process is fundamental to the proper conduct of public life and the development of sound policy". The Committee has furthermore stated that the challenge is to ensure that such representations are properly made, and that they do not give rise to impropriety. The Committee considered that the rules on lobbying are to be considered within the context of the system as a whole and in

the light of transparency in parliamentary decision-making which is emphasised in the United Kingdom. The Committee's "Proposed Revisions to the Guide to the Rules relating to the Conduct of Members" (explained in paragraph 6, above) strikes a balance between prevention of improper lobbying and the democratic right to representation in Government. The authorities submit that the revised Guide to the Rules will, if approved, increase transparency further by clarifying the rules on the registration of gifts and hospitality, including benefits given to third party organisations; requiring Members to register family members involved in lobbying in the public sector and extending the requirement to declare interests on all occasions when significant hospitality is offered at a function in a room booked on the Parliamentary Estate. A new regulatory regime for All-Party Parliamentary Groups was agreed by the House of Commons on 13 May 2014 on the basis of a report from the Committee on Standards. This is designed to reduce the risk of these being used as a conduit for lobbying. This regime is expected to be introduced in full in the next Parliament (May 2015). The induction meetings with parties and individual Members envisaged after the next election will also provide opportunities for Members to consider the appropriate standards in respect of engagement with lobbyists.

36. The authorities also refer to the measures taken by the *House of Lords* in respect of this recommendation. It was considered by the Sub-Committee on Lords' Conduct on two separate occasions and by the Committee for Privileges and Conduct on two separate occasions. The latter committee reported in January 2014 to the House that it accepted GRECO's recommendation that members of the House of Lords should have appropriate guidance on dealing with lobbyists. The Committee proposed amendments to the Guide to the Code of Conduct for Members. Moreover, texts relating to lobbying were also inserted in the new Code of Conduct for Members' staff. The House of Lords adopted the following texts on 6 March 2014.

*The Guide to the Code of Conduct:*

*Paragraph 21: "Members may not, in return for payment or other incentive or reward, assist outside organisations or persons in influencing Parliament. This includes seeking by means of participation in proceedings of the House to confer exclusive benefit upon the organisation (the "no paid advocacy rule"); or making use of their position to arrange meetings with a view to any person lobbying Members of either House, ministers or officials".*

*Paragraph 30A: "The Committee on Standards in Public Life has concluded that lobbying has an important part to play in securing "the democratic right to make representations to government and to have access to the policymaking process [which] is fundamental to the proper conduct of public life and the development of sound policy." Many organisations play an important role in informing members of the House of Lords. However, some lobbying can give rise to a suspicion of improper influence over Parliament. Members must have regard to such public perceptions. Members' dealings with lobbyists should always be governed by the principles of integrity and openness.*

*Paragraph 30B: "Members should take particular care not to give the impression of giving greater weight to representations because they come from paid lobbyists; representations should be given such weight as they deserve based on their intrinsic merit. Members must, in their dealings with lobbyists, observe the prohibitions on paid advocacy and on the provision of parliamentary advice or services for payment or other reward. Members should decline all but the most insignificant or incidental hospitality, benefit or gift offered by a lobbyist."*

*Code of Conduct for Members' Staff:*

*"Members' staff shall not make use of their access to the member who sponsors their pass, to other members (of either House) or to the parliamentary estate to further the interests of an outside person or body from whom they have received or expect to receive payment or other incentive or reward."*

37. The authorities also report that the Committee on Standards and Privileges of the *Northern Ireland Assembly*, having considered GRECO's recommendation, has accepted its validity, and is to bring forward proposals for appropriate standards/guidance for Members and their staff when dealing with lobbyists and others whose intent is to sway public policy on behalf of specific interests. The proposals for standards/guidance for members and their staff when dealing with lobbyists are planned to be included within the new Code of Conduct which the Committee expects the Assembly to agree upon in January 2015.
38. In respect of the *National Assembly of Wales*, the authorities report that this recommendation has triggered a review of arrangements regarding lobbying by the Commissioner for Standards during the first part of 2013, on behalf of the Standards of Conduct Committee. Following the review, the Standards of Conduct Committee produced a report on Lobbying and Cross Party Groups, in May 2013, recommending that members of the National Assembly be provided with guidance on lobbying (a Code of Practice for Assembly Members on contact with lobbyists). The guidance was adopted by a resolution of the Assembly on 26 June 2013 (see Appendix). The authorities add that new rules on the operation of Cross-Party Groups, which came into force on 23 September 2013, require that such groups provide an annual report and statement which are to include a list of all professional lobbyists the group has met the preceding year.
39. GRECO notes the measures taken. It welcomes that the relevant committees of the assemblies have dealt with the need to establish codes of conduct and guidance to ensure appropriate standards for members and their staff in dealing with lobbyists whose intent is to sway public policy on behalf of specific interest groups. GRECO notes that the Scottish Parliament, at the time of adoption of the Evaluation Report, already had such standards in place and that since 2013 this is also the case with the National Assembly of Wales (see Appendix). Furthermore, guidance has been agreed by the House of Lords (paragraph 35). The recommendation has thus been complied with by these three assemblies. Moreover, positive measures are underway in the House of Commons and it would appear that the Northern Ireland Assembly has also entered into such a process. It follows that further measures are expected in the near future. GRECO notes that, as far as the Assembly of Northern Ireland is concerned, the requirement of the recommendation has been met as this Assembly was only invited to take measures. However, further measures are to be taken in the House of Commons in order for the United Kingdom to comply fully with this recommendation.
40. GRECO concludes that recommendation iv has been partly implemented.

**Recommendation v.**

41. *GRECO recommended (i) reviewing the available disciplinary sanctions for misconduct of Members of the House of Commons and Members of the House of Lords in order to ensure that they are effective, proportionate and dissuasive; and (ii) better describing in the relevant guidance to the Codes of Conduct the applicable sanctions for breaches of the rules.*
42. The authorities stress at the outset that parliamentarians in the United Kingdom enjoy no special immunity from general criminal law. Members of parliament can be, and have been, prosecuted for criminal offences, including offences relating to parliamentary activities. Furthermore, the Committee on Standards and Privileges (*House of Commons*) considers that criminal proceedings against MPs are to take precedence over the House's own disciplinary proceedings, and has agreed to refer cases to the police, when appropriate. This position was agreed with the Metropolitan Police, in 2008 and re-confirmed in 2013.

43. As regards the sanctions prescribed for breaches of the Code of Conduct, the authorities report that no changes have been made. In its First Report of Session 2012-13, the Committee on Standards considered this recommendation and concluded that the sanctions were appropriate considering that the House does not deal with criminal conduct, that the standard of proof used is lower than in criminal cases, the elected status of members, and the need for consistency over time. However, the Committee has made it clear that it would use its power to make minor changes to the Guide to the Rules to reflect a decision of the House by inserting a footnote into the Guide drawing attention to the existing provision to withhold salary (and the fact that it has never been used). The authorities also state that in June 2014, the Government announced the introduction of a Bill on the recall of members of parliament, which, if passed, would provide Parliament with an additional disciplinary power, namely the ability to agree that an MP may be subject to a recall petition under certain conditions. Currently, the Government aims to secure passage of the Recall of MPs Bill by March 2015. In addition, the Standards Review Sub-Committee is expected to address the question of sanctions when it reports in early 2015, and has asked specifically for comments on the sanctions regime in its call for evidence.
44. As far as the *House of Lords* is concerned, the authorities report that the current recommendation has been considered by the Sub-Committee on Lords' conduct on four separate occasions and by the Committee for Privileges and Conduct on two separate occasions. The latter committee reported its findings to the House in May 2014. In addition to the sanctions already existing at the time of the adoption of the Evaluation Report, such as censure, suspension and disqualification, the House has taken some further steps to address this recommendation. In 2013, the Committee, which supervises financial support for members, recommended two new sanctions for breaches of the Code of Conduct: (1) denial of access for a specified period to the system of financial support for members and (2) denial of access for a specified period to the facilities of the House. These new sanctions were agreed by the House on 16 January 2014. Moreover, the House of Lords Reform Act 2014, adopted on 14 May 2014, provides that a member who is sentenced to imprisonment for more than one year ceases to be a member of the House. In its report on "Further amendments to the Code of Conduct and the Guide to the Code of Conduct", published in May 2014, the Committee for Privileges and Conduct set out a scheme to address situations where a member is sentenced to imprisonment but does not cease to be a member under the House of Lords Reform Act 2014. In such cases the member will automatically be deemed to have breached the Code of Conduct. The matter would then be referred to the Sub-Committee on Lords' Conduct for it to recommend an appropriate sanction.
45. GRECO takes note of the information provided. It acknowledges that parliamentarians in the United Kingdom do not enjoy any form of immunity from criminal offences, including offences relating to parliamentary activities. It also notes that the Committee on Standards of the House of Commons considered this recommendation in 2012 but concluded that the current sanctions were appropriate for which reason no pertinent measures aiming at reviewing the available disciplinary sanctions have been taken. GRECO welcomes that the Standards Review Sub-Committee currently considers the matter and is expected to address the question on sanctions in a report in early 2015. Furthermore, the on-going work by the Government on "the Recall of MPs Bill" planned to be issued in March 2015, may also have an impact on an overall assessment of the situation. It follows that the recommendation, as far as the House of Commons is concerned, has not been more than partly implemented. GRECO welcomes the measures taken by the House of Lords in establishing two new sanctions and also the new legislation on the House of Lords Reform Act 2014, with a range of disciplinary measures at the

disposal of the House. It follows that the House of Lords has complied with the intentions of the recommendation.

46. GRECO concludes that recommendation v has been partly implemented.

*Corruption prevention in respect of judges*

**Recommendation vi.**

47. *GRECO recommended in order to ensure security of tenure for judicial office holders, that the number of fee-paid judges is reviewed with a view to reducing it in favour of salaried judges, particularly at first in relation to the High Court and district level.*
48. The authorities stress that recruitment of fee-paid judges, together with salaried judges, is currently decided on a case-by-case basis to ensure that recruitment is only undertaken where there is sufficient need. Appointments for both salaried and fee-paid judges are made via a meritorious, transparent and independent processes run by the Judicial Appointment Commission, a non-departmental public body. Moreover, fee-paid judges are currently used across the courts and tribunals in a way that provides a degree of operational flexibility in terms of workload and short-term needs. These roles are also regarded as a means of securing judicial experience as a potential route into the salaried judiciary. Moreover, although fee-paid judges are technically appointed for limited terms (usually five years), these appointments are subject to an automatic renewal as provided for by statute (Part 4 Schedule 13 of the Crime and Courts Act 2013) unless there are specified ground for not doing so as set out in the Statute and in the conditions of the appointments. Furthermore, the authorities wish to point out that rather than comparing the number of fee-paid judges which currently represents some 60% of all judges, it is more appropriate to consider the proportion of "sitting days". The judicial sitting day statistics for 2012-13, estimate that 20% of days were sat by fee-paid judges (including recorders) and 15%, excluding recorders.
49. Furthermore, the authorities report there is current litigation with more than 1,800 cases in England, Wales, Scotland and Northern Ireland that relates to equal treatment, the entitlement of pensions and other benefits of fee-paid judicial offices. The litigation, which flows from a Supreme Court judgment<sup>2</sup>, will have significant implications in terms of increasing the cost of eligible fee-paid office holders and their terms and conditions. Litigation ("O'Brian-litigation") is continuing simultaneously in the Employment Tribunal, Employment Appeal Tribunal and the Court of Appeal. Further, the authorities submit that there are a number of significant on-going reforms to the justice system in England and Wales, which are likely to impact on the practical operation of the courts and tribunals; for example, the recent introduction of family justice reforms designed to enable cases to be processed more efficiently. The authorities also refer to the reform programme for HM Courts & Tribunals Service (HMCTS) which is to introduce change, through investment, particularly to the infrastructure and operations of the courts and tribunals. Moreover, the Government, in partnership with the judiciary, is carefully considering the implications of these issues; the Lord Chancellor, the Lord Chief Justice (LCJ) and the Senior President of the Tribunals (SPT) have set up a Steering Group to consider the future provision of judges, develop a strategic reform which is to include the terms and conditions of salaried and fee-paid judicial office holders in the context of recent employment law decisions, the promotion of diversity and deployment of the judiciary across the courts and tribunals. This work, currently at an early stage, is being conducted under agreed terms of reference which

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<sup>2</sup> "O'Brian v. Ministry of Justice, year, no???"

emphasises the importance of judicial independence, and will amongst other elements, assess the role of fee-paid judges and the way in which salaried and fee-paid roles are utilised to ensure the best provision of the judiciary in the delivery of justice.

50. The authorities add that taken as a whole, these changes will have significant implications for the operation of the judiciary as part of the broader justice system. They submit that the recommendation of GRECO has been considered in the light of this situation and continues to be given careful consideration by the Government, in partnership with the Judiciary, in particular, the implications of these issues for the Judiciary, including the judges. The independence of the judiciary, and Ministers' duty to uphold that, are enshrined in the Constitutional Reform Act 2005 and this responsibility is one that the Government takes extremely seriously, according to the authorities.
51. The authorities also submit that similar to the position in England & Wales, fee-paid judges are deployed in Northern Ireland to provide operational flexibility and to cover short term resource needs. The "O'Brien litigation" will have significant implications also for the employment terms of the fee-paid judiciary in Northern Ireland and officials there will liaise with those in England & Wales to consider any changes affecting the future provision of judges. In particular, the findings of the Ministry of Justice Steering Group will assess their impact in Northern Ireland.
52. As far as the judiciary of *Scotland* is concerned, the authorities report that the use of fee-paid judges has been declining in Scotland steadily since 2010 following the Scottish Civil Court Review, which recommended that the use of fee-paid judges drawn from lawyers in practice should be reduced, if not eliminated. In June 2012, a new Lord President of the Court of Session was appointed. Since his appointment, it has been made clear that the use of temporary judges was to decrease. The intention has been to reduce the use of fee-paid judges and not thereafter invite them to sit and, instead to rely on judges sitting in retirement, or temporary judges drawn from other salaried judicial office holders and sheriffs. The authorities refer to statistics indicating, *inter alia*, that the use of temporary judges in 2011/2012 was 109.5 days, which diminished in 2012/2013 to 24 days and in April-December 2013 to 0. In respect of part-time sheriffs, the figures show in 2011/2012 4 083 days, in 2012/2013 3 649 days and in April-December 2013, 2 281 days. Separately, the reduction in reliance on part-time sheriffs has continued. This has been achieved by introducing clearer guidelines for court staff as to when the use of a part-time sheriff may be considered; by organising court programmes to match more effectively the total number of days of sittings to the availability of salaried sheriffs; and by the Sheriff Principal, who has statutory duty for the efficient disposal of business in the sheriffdom and by closely monitoring the use of part-time sheriffs in the sheriffdom. The Scottish Court Service now expects to limit part-time fee-paid sittings to no more than 3 200 days in any one year.
53. GRECO takes note of the information provided. As a starting point, GRECO reiterates its strong concern that save in exceptional circumstances, judges should enjoy security of tenure until pensionable retirement. This is a principle which is internationally recognised and it aims at preserving the independence of the judiciary as well as the impartiality of the judges. GRECO notes as far as England, Wales and Northern Ireland are concerned, that the use of fee-paid judges is a means for a more flexible use of judicial resources in order to address fluctuating caseloads, which may be rather unpredictable from time to time. Furthermore, a fee-paid judicial post allows almost automatically for a renewed employment contract for a new term of office. Moreover, these positions are means of gaining judicial experience and a potential route into the salaried judiciary. GRECO also acknowledges that the proportion of the use of fee-paid judges in court hearings

(20% of the total "sitting days") is relevant in addition to the proportion of fee-paid judges as compared to the total number of judges (60% fee-paid judges). Moreover, GRECO notes with interest that the situation of fee-paid judges is part of an ongoing litigation process in respect of their benefits and that this matter is part of a wider discussion concerning judicial reform in the United Kingdom, involving the Government and representatives of the Judiciary (the Lord Chancellor, the Lord Chief Justice and the Senior President of the Tribunals) and that a steering group has been mandated to consider future provisions of judges. GRECO accepts that the information provided and the measures underway are partly compliant with the recommendation as far as England, Wales and Northern Ireland are concerned; nevertheless, it urges the authorities concerned to continue their considerations in respect of this recommendation. That said, GRECO wishes to commend the authorities in Scotland for their dedicated action in order to reduce the use of temporary judges. The achievements in Scotland, which are in compliance with the current recommendation, may serve as a model for the other parts of the United Kingdom.

54. GRECO concludes that recommendation vi has been partly implemented.

**Recommendation vii.**

55. *GRECO recommended that the available guidance and counselling on judicial ethics be enhanced, in order to ensure that future training programmes include a systematic component on ethics, expected conduct, corruption prevention and conflicts of interest and related matters.*
56. The authorities report that the College's Judicial Directors of Training have made recommendations to the various bodies concerned in support of GRECO's recommendation; these have been accepted and have been implemented or are in the process of implementation as set out below. Insofar as statutory responsibility for judicial training is concerned, for courts' judiciary this is the responsibility of the Lord Chief Justice and for tribunals' judiciary the Senior President of Tribunals. The responsibility for around 37 000 judicial office-holders is delegated operationally to the Judicial College with training organised at both induction and continuation levels. The Judicial College Board is chaired by a Court of Appeal judge with senior members of the judiciary ensuring that courses delivered meet judicial training needs. A Sub-Committee structure supports their decision making; of particular relevance are the Courts Committee and Tribunals Committees which recommend the programmes that meet those needs and the Diversity and Development Committee that considers issues of training policy, particularly cross jurisdictional issues such as those in this recommendation.
57. The authorities furthermore report that the content of court and tribunal courses about judge craft have been revised and piloted as a new cross jurisdictional two day course called, "Business of Judging (BoJ)". Following successful evaluation with adaptations made from feedback, it is now an established mainstream prospectus course available to all salaried and fee-paid judges sitting in courts and tribunals. It includes a specific module entitled 'Judicial Conduct and Ethics', which contains seven in-and-out-of-court scenarios, filmed using professional actors designed to raise ethical and conduct dilemmas. The issues covered build on the experience of judicial complaints dealt with by the "Judicial Conduct Investigations Office". The seminar is designed for intensive small group discussions and enables judges to engage with problems which are common to all jurisdictions, to practice the judicial skills required to deal with them and to learn from other judges. The authorities stress that the feedback from participants on the pilot courses has invariably highlighted the considerable benefits of cross-jurisdictional training of this kind. The



courses, which are held at regular intervals, currently have become an established part of the training programme and form part of the 2015-16 prospectus.

58. Furthermore it is pointed out by the authorities that the Judicial College has established its "Learning Management System" (LMS), which is available to all judicial office holders. It is home to course materials and comprises judicial e-libraries which are available to all. Complementing the above course, materials and guidance concerning judicial ethics are available within the e-library, including the now revised "Guide to Judicial Conduct" and the Bangalore Principles. The Guide to Judicial Conduct was drafted by a working group of judges set up by the Judges' Council and was published by the Judges' Council following extensive consultation with the judiciary. In 2013, the guide was revised and it will continue to evolve to keep up with future changes and public expectation. The guide has been made available to the public. It is intended to offer assistance to judges on issues rather than to prescribe a detailed code, and to establish principles from which judges can make their own decisions and so maintain their judicial independence. It is considered a valuable tool in assisting judges deal with difficult ethical dilemmas.
59. The authorities also put forward that in order to improve the induction training, the Judicial College has developed orientation courses for new judges and as a way forward to cover large numbers as quickly as possible in a systematic way, it is an e-learning programme which is available online from the LMS in early 2015. Filming and production of the Orientation Programme e-learning is nearly complete. It is designed as an introduction to judging for newly appointed, salaried or fee-paid judges in courts or tribunals who have no previous experience of sitting, and complements their jurisdiction-specific induction training. It is broken down into nine parts, one of which is entitled "Independence and Deontology". This part gives an overview of the two types of judicial independence, constitutional and personal.
60. Turning to developments in *Northern Ireland*, the authorities report that the Judicial Studies Board (JSB) has agreed on the following initiatives to ensure a systematic and comprehensive training component, within its overall programme of training on judicial ethics, following this recommendation:
- Continue to ensure that the 'Statement of Ethics for Judiciary in Northern Ireland' and 'Protocol on Judicial Discipline' are issued to new judicial appointees, as well as maintaining access to electronic versions of these documents on the Judicial Intranet;
  - Liaise with presiding judicial officers at each judicial tier to ensure that all judges remain aware of the standards required of them in relation to their ethical conduct;
  - Arrange a specific training seminar on conflicts of interest and judicial ethics generally for all existing members of the judiciary to ensure full ongoing awareness of the ethical requirements for judicial office holders, such a seminar to be repeated periodically by way of refresher;
  - Include a specific component in the induction training course for all new judges dealing with judicial ethics;
  - Liaise with colleagues in England & Wales (Judicial College) and Scotland (Judicial Institute) regarding similar training offered in those jurisdictions and share training ideas/approaches to ensure best practice; and
  - Liaise with the Judicial Complaints Office to identify any specific areas where further training in judicial ethics may be required on an individual or group basis.
61. The authorities also report that the Judicial Institute for *Scotland*, mindful of GRECO's recommendation and separately, in fulfilment of its domestic obligation to provide training and education for all judicial office holders in relation to judicial ethics, has considered the recommendation and taken the following steps. The

Institute is continuing to provide a copy of the "Statement of Principles of Judicial Ethics for the Scottish Judiciary" (revised in May 2013) to all newly appointed judicial office holders. Furthermore, new judicial office holders are under a mandatory obligation to attend an induction course with a two-hour interactive component which addresses the specific content of the Statement of Principles. This interactive lecture is accompanied by a presentation illustrating the ethical principles by which judges are to conduct themselves in Scotland. The Scottish Statement is based on international texts, such as the Bangalore Principles. The Statement is available also to the public on the Scottish Judiciary website. The programme of continuing professional development, training and education for judges continues to place judicial ethics at the centre of development for all judges. For senators, sheriffs principal, sheriffs and part-time sheriffs, two judicial ethics courses were held in 2013. From October 2012 to December 2013, training was delivered to approximately 150 Justices of the Peace (JPs), which included judicial ethics as a central component. The authorities also refer to a number of training courses held in 2012-2014.

62. GRECO takes note of the extensive information provided by the authorities. It notes that the entities responsible for judicial training in the United Kingdom have taken considerable measures in order to update and further develop their training of the judiciary. As already noted in the Evaluation Report, training of judges as such has become an increasingly important matter for the judiciary in recent years. The information provided in the current report indicates that the wide concept of judicial ethics has now become an integrated part of training sessions in respect of induction training as well as the in-service training. GRECO welcomes this development which is fully in line with the call for a systemic approach to dealing with ethical issues when formulating training curricula, as highlighted in the Evaluation Report (paragraph 140). Furthermore, GRECO notes that by using - in addition to traditional methods of training (e.g. courses, seminars etc.) - modern electronic means (e-learning), as is the case in the United Kingdom, the potential of reaching more judges becomes greater and, at the same time, these matters also become more accessible to the wider public. GRECO takes the view that the available guidance and counselling have been generally enhanced by the measures taken and that future training programmes for judges largely comprise the components mentioned in the current recommendation in a systematic way. The authorities are encouraged to continue this promising process.
63. GRECO concludes that recommendation vii has been dealt with in a satisfactory manner.

*Corruption prevention in respect of prosecutors*

**Recommendation viii.**

64. *GRECO recommended that regular in-service training on ethics for prosecutors be introduced.*
65. The authorities report in respect of *England and Wales*, that the Crown Prosecution Service (CPS) has considered GRECO's recommendation over a six month period (December 2013-May 2014), and in response, agreed in May 2014 to develop and fund an in-service ethics training course for prosecutors. This in-service course will commence in 2015. The authorities stress that CPS prosecutors are qualified solicitors and barristers (regulated by the Solicitors Regulation Authority (SRA) and Bar Standards Board (BSB) respectively), and that they work within a robust professional regulatory framework that seeks to ensure their compliance with high ethical standards. Training undertaken by prosecutors incorporates the following documents with an ethics dimension: SRA Principles of Regulation, SRA Code of

Conduct, BSB Code of Conduct (set out in the BSB Handbook), BSB Code Guidance, Farquharson Guidelines for the Prosecution Advocate, Statement of Ethical Principles for the Public Prosecutor, CPS National Standards of Advocacy, Criminal Procedure Rules / Criminal Practice Directions; and a Code for Crown Prosecutors. Separately, the CPS has prepared a document entitled "Ethics summaries and other professional conduct", dated 21 May 2014 (submitted to GRECO). This identifies content which relates to ethics, corruption, and other professional conduct specific to CPS prosecutors. It also references various e-learning products dealing with protecting information and counter-fraud, bribery and corruption prosecutors have completed over the last few years (2009-2014) referred to below. Additionally, compulsory e-learning courses covering ethical or professional conduct issues were made available to prosecutors between 2009 and 2014.

66. The authorities also report that the *Northern Ireland* Public Prosecution Service (PPS) considered this recommendation when the GRECO report was first issued and then again in December 2013 and in February/ March 2014. They explain that when appointed, all PPS prosecutors are given induction training which includes training on ethics. The prosecutors are all trained solicitors or barristers, and are subject to their own professional bodies' regulation and Continuing Legal Development requirements. The induction training provided includes modules on the role of the prosecutor and the requirement for fairness and integrity. Furthermore, the PPS issues a Code for Prosecutors to all of its prosecutors; it contains within it a Code of Ethics by which Prosecutors must abide. The Code for Prosecutors is a statutory document under section 37 of the Justice (Northern Ireland) Act 2002. The Code for Prosecutors is the key document provided to all prosecutors. The Code of Ethics was developed with guidance from international standards of the United Nations and the Council of Europe. Every Prosecutor's annual performance agreement requires that they will familiarise themselves with the Policies of the PPS and the International Association of Prosecutors' Code of Professional Conduct, and all are provided with the PPS Code for Prosecutors and instructed to act in accordance with it, including the Code of Ethics. Moreover, the PPS provides its staff with regular guidance on a range of policy areas, and with training associated with those policies. In addition, the PPS, as part of the Northern Ireland Civil Service, requires its senior management to embody the values which, in the PPS, include a commitment to 'independence, fairness and impartiality'. The PPS has provided its Legal Staff with an Instruction on the Conduct of Consultations with witnesses which, specifically, and for the first time, provides guidance to avoid either coaching a witness or the impression of coaching, a key ethical aspect of the Service's role as prosecutors (29 May 2014). Furthermore, almost 40 legal staff attended the Northern Ireland Law Society Advanced Advocacy Course, a key element of which for the past two years, has been an ethics module. The PPS regularly trains its prosecutors on new policies and legal guidance as and when policies are announced and developed and the courses almost always comprise an ethical dimension.
67. As far as the *Scottish* Crown Office and Procurator Fiscal Service (COPFS) is concerned, the authorities submit that this recommendation was considered in 2012/2013 and then again on a number of separate occasions during the first half of 2014. As a result, COPFS will develop and implement from April 2015 new learning materials on ethics for prosecutors. The authorities note that upon joining Scotland's Prosecution Service, all prosecutors are provided with induction training which includes training in the Civil Service Code of Conduct (which is also covered in training on the new Competency Framework); COPFS core values; COPFS commitment to victims and witnesses; data protection, confidentiality and other security issues. Furthermore, upon appointment, all prosecutors are also required to undertake a two-day training course on diversity matters and expectations on standards of behaviour. COPFS trainee prosecutors are given some specific training on ethics through their professional education. In addition, COPFS training

comprises a course on ethics and etiquette in court preparation. Upon joining COPFS, advocate deputies are given specific training which includes a security awareness component and a course on the Roles and Responsibilities of the Crown Counsel which covers ethical and other considerations relevant to "marking" (prosecutorial decision-making about whether to prosecute a case, which charges to bring and which court to address) and plea negotiation.

68. Finally, in direct response to GRECO's recommendation, COPFS' training division, the People and Learning Unit, has, in conjunction with Human Resources and the Serious and Organised Crime Division, produced a draft information bulletin which sets out consolidated guidance for all staff on what can be done to identify and combat corruption. This is part of COPFS' policy of combating corruption across the entire Department and highlighting the dangers of corruption as well as providing a range of resources aimed at determining how best to prevent corruption - and deal with it when it arises. The bulletin provides guidance for individual members of staff in relation to avoiding/reporting corruption and for managers in relation to investigating allegations of corruption. It includes advice and guidance for all staff, but specifically for prosecutors. The bulletin was completed and rolled out in October 2014. It is intended to expand the guidance for prosecutors by April 2015 to ensure that the resource and associated training will be brought to their attention in order to ensure that the GRECO recommendation is fully met.
69. GRECO welcomes the extended measures that have been detailed by the authorities and those which were already in place before the adoption of the Evaluation Report. It is pleased that the authorities have now provided information which clearly complements the description in the Evaluation Report. In addition, GRECO notes that considerable efforts have been made to develop the ethical side of the training of prosecutors in all services concerned, both as regards training materials and the actual training. GRECO was particularly interested in the training package "Ethics summaries and other professional conduct" developed in this respect by the CPS (England and Wales), which is a good example of a comprehensive document that should be available to any prosecutor. Moreover, the ambition in the various services is that the ethical training will be provided regularly. To this should be added that the prosecution services, similar to the judiciary, apply e-learning systems in order to reach as many prosecutors as possible and to cater for the continued provision of the training.
70. GRECO concludes that recommendation viii has been implemented satisfactorily.

### **III. CONCLUSIONS**

71. **In view of the foregoing, GRECO concludes that the United Kingdom has implemented satisfactorily or dealt with in a satisfactory manner four of the eight recommendations contained in the Fourth Round Evaluation Report.** The remaining four recommendations have been partly implemented.
72. More specifically, recommendations i and ii have been dealt with in a satisfactory manner, recommendations vii and viii have been implemented satisfactorily and recommendations iii-vi have been partly implemented.
73. With respect to members of parliament, it is to be welcomed that all recommendations have been considered within the various parliamentary structures of the United Kingdom. While most of the issues raised by GRECO in the Evaluation Report have been acknowledged by the relevant authorities, the final results have not yet been achieved in all the parliamentary assemblies concerned. GRECO notes, for example, that in the House of Commons, a possible revision of the Code of Conduct and Guide to the Rules is under discussion following the GRECO

recommendations and that similar activities are on-going in some of the devolved institutions as well. More particularly, the question of establishing accountability for staff of members of parliament has been solved by establishing separate codes of conduct for such staff in two legislatures (House Lords and the Assembly for Wales); some steps have been taken in other legislatures and several proposals are pending. It would appear that the thresholds in respect of gifts to be reported are declining; the House of Lords has already decided to apply a considerably lower level of threshold for such reporting. The establishment of guidelines for parliamentarians when receiving gifts is another area under consideration in the United Kingdom, which in certain assemblies has been connected to the need for guidance concerning lobbying. Further progress is expected in respect of disciplinary sanctions against Members of Parliament.

74. GRECO welcomes, as far as judges and prosecutors are concerned, that considerable efforts have been made in order to develop future training including substantial elements of ethics. The authorities have shown that a range of important measures, for example, to develop new training material, and the use of e-learning have been put in place. It would appear that the training of judges and prosecutors now covers elements of judicial ethics, often put in a real context where the participants are required to be active. Above all, it is to be welcomed that the new training will be provided regularly and that it will cover induction as well as in-service training. The use of fee-paid judges (as opposed to salaried judges) in England, Wales and Northern Ireland remains rather high; however, the actual use of such judges and their possible future employment conditions have been addressed by the authorities and it would appear that on-going judicial reforms have a potential to address this matter further in the context of judicial independence and impartiality. At the same time it is noteworthy that the judicial authorities in Scotland have managed to decrease the use of fee—paid judges considerably.
75. In view of the above, GRECO notes that in the current absence of final achievements in respect of a number of recommendations, further progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months and, it would appear that substantial reforms are underway in respect of a number of the pending recommendations. GRECO invites the Head of delegation of the United Kingdom to submit additional information regarding the implementation of recommendations iii-vi by 30 June 2016.
76. Finally, GRECO invites the authorities of the United Kingdom to authorise, as soon as possible, the publication of the report and to make it public.

## **APPENDIX (English only)**

### **NATIONAL ASSEMBLY FOR WALES' GUIDANCE ON LOBBYING AND ACCESS TO ASSEMBLY MEMBERS**

1. This guidance is intended to supplement and complement the requirements of the National Assembly for Wales' Code of Conduct for Assembly Members.

2. An Assembly Member should not, in relation to contact with any person or organisation who lobbies, do anything which contravenes the National Assembly for Wales' Code of Conduct for Assembly Members, or any other relevant rule or resolution of the Assembly or any statutory provision.

3. A Member should not, in relation to contact with any person or organisation who lobbies, act in any way which could bring the National Assembly for Wales, or its Members generally, into disrepute.

4. The public must be assured that no person or organisation will gain better access to, or treatment by, any Member as a result of employing a professional lobbyist<sup>3</sup> either as a representative or to provide strategic advice. In particular, a Member should not offer or accord preferential access or treatment to professional lobbyists or their employers. Nor should professional lobbyists or their employers be given to understand that preferential access or treatment might be forthcoming from another Assembly Member or group or person within, or connected with the National Assembly for Wales.

5. Before taking any action as a result of being lobbied, a Member should be satisfied about the identity of the person or organisation who is lobbying and the motive for lobbying. An Assembly Member may choose to act in response to a professional lobbyist but it is important that the Member knows the basis on which the Member is being lobbied in order to ensure that any action the Member takes complies with the standards set out in the Code of Conduct for Assembly Members.

6. There is currently no voluntary or statutory scheme for registering professional lobbyists operating in Wales. Before agreeing to meet with a person or organisation that the Member believes may be a professional lobbyist, the Member may wish to find out whether the lobbyist is a member of a professional body registering information about who its members represent, and which has a professional code of conduct for its members. This would include public affairs bodies such as Public Affairs Cymru (PAC) and the Association of Professional Political Consultants (APPC). If the lobbyist is not a member of such a professional body, the Assembly Member must decide whether or not to meet with that individual.

7. In addition, Members should consider taking one or more of the following steps:

- keeping a record of all meetings with persons considered to be undertaking lobbying activity;
- requiring the person undertaking the lobbying activity to make a record of the meeting, and provide for the Member to have access to that record at any future time should it be called for, before agreeing to meet with them,
- arranging for a member of their support staff to take notes at any meetings with persons considered to be undertaking lobbying activity.

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<sup>3</sup> 7 For the purposes of this guidance, a „professional lobbyist“ would include „all those who undertake lobbying activity, i.e. activity aimed at seeking to influence Members, on a professional basis and in a paid role“. This includes in-house lobbyists, charities, trades associations and other organisations that employ staff to undertake lobbying activity, individual lobbyists, as well as consultancies and agencies that either lobby directly on behalf of clients or advise their clients on undertaking lobbying activity.

8. The Code of Conduct for Assembly Members sets out the standards expected in relation to acceptance of hospitality, gifts and benefits. In addition to this and the statutory provisions in the Government of Wales Act 2006, Members:

- should not accept any paid work which would involve them lobbying on behalf of any person or organisation or any clients of a person or organisation;
- should not accept any paid work to provide services as a parliamentary strategist, adviser or consultant, for example advising on National Assembly for Wales affairs or on how to influence the National Assembly for Wales and its Members. (This does not prevent a Member from being remunerated for activity which may arise because of, or in relation to, membership of the Assembly, such as journalism or broadcasting, involving political comment or involvement in representative or presentational work, such as participation in delegations, conferences or other events);
- should decline all but the most insignificant or incidental hospitality, benefit or gift if the Member is aware that it is offered by a professional lobbyist. Standards of personal conduct and general principles of conduct identified by the Committee on Standards in Public Life are set out in the Code of Conduct for Assembly Members. These include the requirement that a Member should “never accept any financial inducement as an incentive or reward for exercising parliamentary influence”, the “no paid advocacy” rule, and “not to place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.” Since the basis on which many people believe that professional lobbyists sell their services is by claiming to provide clients with influence over decision-makers, it might reasonably be thought that acceptance of a benefit of any significance from such a source could influence a Member’s judgement in carrying out their official duties. (If a Member only becomes aware of its source after receiving hospitality, a benefit or gift, then the Member should consider reimbursing the costs of any hospitality or benefit or returning any gift.)

9. Members may participate in events for which others are charged a fee to attend. Participation, for example, in a conference or seminar for which delegates are charged a fee may be a useful means of a Member gathering a range of views on a topic. There could be some concern, however, that events falling into this category could be a means of „buying“ access to Assembly Members. It is important that there should be no grounds for such a perception. No preferential treatment should, therefore, be offered or accorded any person or organisation as a result of having made initial contact with an Assembly Members at such an event.

10. Members should not participate in any event if they are aware, or become aware, that the organisers are promoting the event on the basis that those paying to attend the event are „buying“ influence over Assembly Members or that they can expect to receive better subsequent access to, or treatment by Assembly Members, than would be accorded to any other person or organisation.

11. When agreeing to sponsor the hosting of any event, meeting or exhibition on the Assembly Estate, Members must at all times comply with the requirements of both the National Assembly for Wales Events Guidelines and the Terms and Conditions for events, which are sent to event organisers and copied to the sponsoring Member. The sponsoring Member or their representative must attend the event, exhibition or meeting, and responsibility for the event rests with the Member who is sponsoring the booking.

12. Members should ensure that staff working for them are aware of and apply these rules and guidelines when acting on a Member’s behalf or in any National Assembly for Wales connection.