

26 May 2009

Sir Christopher Kelly  
Review of MPs' Expenses  
The Committee on Standards in Public Life  
35 Great Smith Street  
London SW1P 3BQ

Dear Sir Christopher

I am writing in response to your **Review of MPs' expenses – Issues and Questions**.

In this context I write as:

1. A director of the largest provider of specialist face to face payroll training for employers in the United Kingdom and to this extent we train in excess of 4,000 people a year. This is achieved largely through one or two day public or in-house courses. The objective of the training is to give trainees the practical information they need in order that they can produce payrolls and returns of expenses and benefits that are compliant with current legislation. You can find more information about our organisation by visiting - <http://www.thelearncentre.co.uk/> Indeed, we count the House of Commons and National Audit Office among our clients.
2. An individual who travels extensively within the United Kingdom as part of my job and who is fully conversant with the legislation relating to travel and subsistence
3. A tax payer.

We are increasingly being asked by delegates on our courses – why are MPs treated differently from everyone else when it comes to expense claims?

For this we have no answer.

However, we do have this conundrum:

- MPs are representatives of the electorate and their salaries and expenses are paid for by the taxpayer. They set their own rules in relation to expenses which apply exclusively to them.
- Why should they have a more generous expense regime than they themselves allow the taxpayer through the legislation they pass and which they deem sufficient for everyone else in the UK?

Our starting point is that the rules which apply to everyone else should also apply to MPs. We may not like the rules imposed on us, we may think they are restrictive and not generous enough and at times over complex, but they work.

Not to apply those rules to MPs will lead to accusations that the Animal Farm analogy applies - all people are equal but some are more equal than others.

To apply the rules that all other taxpayers in the UK are bound by will make MPs:

- Appreciate the impact of the legislation they pass
- Be seen as being fair and enhance the electorate's view of them thereby satisfying the objective of paragraph 1.4 in your introduction.

We agree wholeheartedly with your committee's guiding principles and presumptions.

## **1 Introduction**

### **Scope of the inquiry**

Whilst we respect the scope of the inquiry, we cannot see that any resolution to the expenses issue can be reached without looking at the wider issue of remuneration.

We fully agree with the scope in the context of pensions and effectiveness.

### **Guiding principles and presumptions.**

The guiding principles and presumptions set out in paragraph 1.10 really get to the point in terms of the future. Those presumptions are ones that should apply to all sectors of business and industry, not just to MPs and they lead eventually to our own submission.

## **3 Background on pay and allowances**

### **Reimbursement of expenses**

Throughout the following submission we refer to the legislation which is applicable to employees and do recognise that Members of Parliament are not employees by definition. However, there is an overriding similarity in approach when considering expenses.

The Green Book states that "*Parliamentary allowances are designed to ensure that Members are reimbursed for costs properly incurred in the performance of their duties*".

Employees are, for personal taxation purposes, largely bound by the Income Tax Earnings and Pensions Act [ITEPA] 2003

Section 336 of ITEPA states

*The general rule is that a deduction from earnings is allowed for an amount if—*

- (a) The employee is obliged to incur and pay it as holder of the employment, and*
- (b) The amount is incurred wholly, exclusively and necessarily in the performance of the duties of the employment.*

These conditions require that

- The duties of the employment must require the employee to incur the expenditure and the act giving rise to the expenditure must be done in the actual performance of such duties
- All holders of the particular employment must incur the expenses and it must not be possible to perform the duties of the employment without incurring the expense
- The expenditure may not serve a dual purpose, i.e. both a business purposes and a non-business purpose
- The expenditure must be solely attributable to the performance of the duties and any other purpose secured from the expenditure must be merely incidental.

To take advantage of these provisions, the employee or the employer must demonstrate to the satisfaction of HMRC that the expenses are genuinely business related. There are several tests, a strict general rule that applies to general business expenses, and other more specific rules that apply to business travel expenses.

### **Accommodation**

In para 3.12 of the Review document, the assertion is made that MPs are expected to spend time working both in Parliament and in their local constituency. They are, therefore, allowed to claim expenditure on accommodation away from their main home.

There are many employees who are in a similar situation but no allowance is made for this in tax terms.

In the HMRC 490 Guide to Employee Travel, reference is made to *People with more than one workplace at the same time*. One of the examples given refers to:

*“Florence is employed as an office manager by a firm of architects. The firm operates from offices in Bristol and Bath. Florence spends each morning at the office in Bristol and each afternoon at the office in Bath. Each office is a permanent workplace. Florence is not entitled to relief for the cost of travel between her home and either of the offices.*

*However, travel between the two workplaces is travel in the performance of her duties. So relief is available for the full cost of this travel.”*

The analogy to MPs sits well and we contend that accommodation should not be permitted tax free.

However, from a business perspective many employers would pay the expenses incurred for any accommodation and then meet the tax liability through a PAYE Settlement Agreement which is a scheme introduced by HMRC in 1996.

We suggest that:

- Without doubt in our mind, an MPs’ main home should be their family home which, as a taxpayer, I would hope would be in or very near their constituency. No expenses at all should be allowed for costs against that main residence. The rationale being that a payment to, or on behalf of, an employee towards the employee’s additional household costs incurred while the employee is performing duties of the employment at home is taxable and should be reported to HMRC. However, there is a statutory

exemption. Under ITEPA s316A, no liability to income tax arises where an employer makes a payment to an employee in respect of reasonable additional “household expenses” which the employee incurs in carrying out duties of the employment at home under “home working arrangements”. HMRC currently set the amount that can be claimed without the need for receipts at £3 per week.

- Accommodation needed to enable an MP to attend Parliament should be provided on the basis of hotels or accommodation provided by Parliament. Applying this rule would eliminate all of the controversy surrounding mortgage interest payments, maintenance, furnishings. We do accept that under current tax legislation a taxable benefit may arise, but this could be dealt with by:
  1. Settling any tax or NI liability through a PAYE Settlement Agreement, or
  2. Approving a statutory exemption under Regulatory powersWhatever method is introduced for the future, there must be clear guidelines to ensure there is no abuse of the system. We would suggest:
  1. The equivalent of four star hotels for which we are sure attractive rates could be negotiated.
  2. Claims to be made for meals, including a reasonable drink with the meal (half bottle of wine) but only payable against receipts
  3. No other claims in respect of accommodation but £5 per night to be paid for Personal Incidental Expenditure as set out under ITEPA s240, s241, s268.
- No accommodation should be provided at tax payers expense for MPs whose constituencies are less than 90 minutes public transport away from Parliament
- MPs should not be incentivised for simply “turning up for work”. Whilst we are aware of employers who may pay a small incentive to employees who have no absences due to sickness, we are not aware of employers who pay additional sums of money to employees who just turn up on the day.

### **Administrative and office support**

It seems perfectly logical that MPs would need to run offices either at Westminster or at their constituency or both.

#### *Staff*

There is a strong argument for permitting MPs to employ family members as staff. However, with the recent unfortunate adverse publicity being given to MPs and their expense claims it seems it would be prudent to apply the rule now being introduced by The European Parliament. After all, those in power should engage with rather than alienate those to whom they should be accountable and show some humility.

We have no view about the most appropriate method of recruiting support staff.

#### *Other Office Support*

We have no problem with MPs being reimbursed for the equipment they need as set out in 3.28. Indeed, this could even be extended to desks and chairs.

Whilst it might seem logical for central procurement to purchase furniture etc, there is the counter argument that this could increase the actual costs considerably because of the additional administration. After all, we have all heard of light bulb replacements costing 50p

for the bulb and £150 for labour. It would seem better for MPs to provide their own equipment but for Parliament to set limits to ensure antiques are not purchased at the tax payer's expense.

However, HMRC have certain rules which apply in the normal business environment.

- Telephones – separate business lines are allowable as long as private use is insignificant
- Where an employer and an employee formally agree that the employee will work some or all of the time at home, the employer may pay the additional household expenses incurred by the employee as a result of the arrangement without a tax liability arising. The employer may agree a scale rate for such payments with the tax office, in which case no records need be kept of the actual expenses incurred. Otherwise, the employer must report the payments on form P11D and the employee may claim tax relief. However, instead of calculating the costs of a home worker exactly, employers may make a regular modest payment without having to justify the amount paid. From 6 April 2008, the rate that may be paid in this way was increased to £3 per week.

We suggest that:

- MPs are subjected to the same rules applicable to employees who work from their own home.

## **Travel Expenditure**

### *MPs' own travel expenses*

It is arguable that the current policy of reimbursing all of the MPs' travel expenses could in some instances give rise to a taxable benefit because of HMRC's rules (3.36)

However, the current rules would appear to be realistic as long as claims are based on actual expenditure.

There are two ways round this:

1. Settle any tax or NI liability through a PAYE Settlement Agreement though this would be seen as still being an additional burden on the tax payer, or
2. Pay an additional taxable and NICable allowance to MPs based on a scale which is dependent on how far their constituency is from Parliament.

### *MPs' family travel expenses*

No expenses (3.37) should be permitted for spouses, civil partners or their children at all. Any such costs should be born by the MP.

## **Communication expenditure**

No comment as long as the money is used for the purposes set out by Parliament and that is not abused

## Leaving Parliament

We imagine that very few MPs take on the role with no expectation of being re-elected at a point in the future. And so, the comparison with fixed-term workers would not seem relevant.

Having said that, a guarantee of a payment equivalent to at least 6 months pay after such a short period would seem extravagant compared with what happens in industry. Especially as MPs enter into the role knowing that they may not be re-elected next time.

Our view, employment legislation provides for a payment of Statutory Redundancy Pay if an employee is made redundant. MPs should be treated in exactly the same way. After all, it is Parliament, through Regulations, that sets the amount employers must pay with the weekly figure currently set at £350. Applying this figure to MPs would bring home to them how small a sum of money this is in today's economic climate and may make Parliament think about using the powers it has under the 2006 Work and Families Act to increase the amount by a significant figure.

## Ministers

Ministers with “grace and favour” accommodation should not be able to claim expenses for their constituency home.

There is already legislation in place to provide that no tax liability will arise in certain circumstances

- **For the better performance of the duties of employment** – ITEPA s99 - The provision of living accommodation is exempt from a tax charge if
  1. it is necessary for the proper performance of the employee's duties that the employee should reside in it, or
  2. It is provided for the better performance of the duties of the employment, and it is customary for employers to provide living accommodation for employees in that type of employment.
- **Accommodation provided as a result of a security threat** – ITEPA s100 - The provision of living accommodation is exempt from a tax charge if
  1. there is a “special” threat to the security of the employee,
  2. special security arrangements are in force, and
  3. The employee lives in the accommodation as part of those arrangements.
- **Chevening House** – ITEPA s101 - Chevening House is the official country residence of the Foreign Secretary. No tax charge arises on accommodation provided at Chevening House, or at any other premises held on the trusts of the trust instrument set out in the *Chevening Estate Act 1959*, where the employee is a person nominated in accordance with those trusts.

Additional Regulations could be drawn up if none of the above exemptions are appropriate.

## Northern Ireland

Our previous comments apply regarding an attendance allowance.

## 4 Administration and enforcement

## **Receipts**

We support the Governments proposal that all expenditure should be supported by receipts. This is common practice within the business environment and HMRC require receipts to be produced for all expenses when they carry out compliance visits.

True, some receipts do go missing and, as an individual, I would be guilty on the rare occasion. However, this should be the exception and certainly not provided for in any procedures.

In our view, it is vitally important that MPs should be treated no differently to the taxpayer. Keeping MPs to the same tax regime would make them appreciate the impact of the legislation they pass and the way in which the Civil Servants for whom they have responsibility operate.

## **Interpretation of the rules**

Making MPs subject to the same rules as the taxpayer would simplify the rules considerably resulting in fewer appeals if claims are turned down.

Appeals and further appeals procedures appears to be an extremely bureaucratic process and would be very rare in commerce.

A simple procedure should be able to provide clear unmistakable guidelines.

## **Audit and assurance**

We concur with the procedures that came into force on 1 April 2009

## **Enforcement**

As an independent officer, the Parliamentary Commissioner for Standards would seem to be an appropriate person to investigate any breaches. However, we are less certain about the ongoing involvement of the Committee on Standards who could not be seen as independent.

Our suggestion would be for the Parliamentary Commissioner to report breaches to the National Audit Office.

## **Openness and transparency**

We do not believe MPs should be held up to public humiliation as has happened recently, albeit it can be argued with much justification that they brought it on themselves because of the level of betrayal. We do, however, firmly believe MPs must be held accountable and therefore, redaction of information must be extremely limited.

The Committee has a very difficult task on its hands here because the level of trust awarded to MPs by the taxpayer is extremely low.

At the very minimum, MPs expenditure should be reported as a total cost under different headings such as – travel, hotels, subsistence, entertaining, office equipment etc.

## **5 Other issues**

### **Outside interests**

We agree with the findings of the 1995 report from the Committee on Standards. MPs with other interests do bring more to the role than would be the case if they had none.

With one minor qualification, we further agree with the proposals set out in 5.4.

Our qualification is that MPs should also have to declare roles which are not paid because of the potential conflict of interest this could bring.

### **Conclusion**

We turn full circle to our premise that - To apply the rules that all other taxpayers in the UK are bound by will:

- Make MPs appreciate the impact of the legislation they pass
- Make MPs be seen as being fair and enhance the electorate's view of them thereby satisfying the objective of paragraph 1.4 in your introduction.

We respectively make our submission

Yours sincerely

K Gurr

**Education Director**