

Submission to the Committee on Standards in Public Life (CSPL)
on
the Review of MPs' Expenses
by
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1.1 I was originally asked to prepare a draft submission on behalf of *Parliament First*, an unofficial all-party group of MPs, whose object is strengthening Parliament in its dual role of the scrutiny of legislation and of the holding of the executive to account. This paper has been discussed in our group, but there is little consensus amongst MPs about the basic principles which should underpin a new expenses system. So this remains in my own name alone. I hope, however, it will provide a basis for discussion when representatives of *Parliament First* see Sir Christopher Kelly in the week commencing 8th June.

The Scope of the Inquiry and the Role of an MP

2.1 It is to be hoped that the Commons votes of 30th April on various aspects of MPs expenses, and other subsequent announcements made by the government (Statement, Leader of the House, 20th May) should not be taken as pre-emption of CSPL's inquiry. They should be regarded as interim arrangements or policies which CSPL should be free to contradict, in fulfilment of its original remit.

2.2 Although CSPL has excluded examination of constitution questions, the review cannot address the question of MPs' expenses without the fullest understanding of the duties and functions of MPs in our constitution and how best those duties and functions can be facilitated and strengthened in the modern world, since CSPL's recommendation will undoubtedly have an impact on the way MPs are able to carry out their duties.

2.3 The role of MPs has developed over many centuries, but the prime purpose of an MP has not altered. It is to protect the public interest and the freedom of the citizen in three ways –

- to hold the executive to account and to prevent the abuse of power;
- to scrutinise public spending and to ensure value for the taxpayer; and
- to ensure that legislation is well drafted and fit for purpose.

MPs have become increasingly ineffective in these vital functions, and much of the public anger now directed at MPs over expenses can be attributed to this wider failure. MPs have duties and functions that go well beyond “what the public want and demand from their MPs.”

2.4 In recent decades, the role of the ‘Private Member’ has been subsumed by the career politician. MPs sit shorter and shorter hours, an increasing number of decisions are taken elsewhere, in Whitehall or Brussels, and legislation increasingly passes through the House of Commons without being properly scrutinised. The ever-increasing expectation on MPs to act as super-councillors and public service ombudsmen must be funded by the taxpayer, or MPs would have no time to attend to their primary functions in Parliament, but

these arrangements must not compromise their independence from the executive and from their party leaders.

- 2.5 MPs are representatives, not party delegates. MPs must be accountable primarily to their voters. The role of ‘Private Members’ is to represent their constituency and the national interest at Westminster, not to represent their Westminster party in their constituency. MPs are not elected to behave as employees of some kind of corporation, but to exercise their individual judgement according to conscience and in the national interest. The role of MP need not be a full time job. Some MPs are also ministers. An MP’s role in Parliament is enhanced if he has other outside activities which keep him in touch with the rest of the economy. The proposal to require MPs to declare any such income and the time spent on earning it would be deter some extremely capable public spirited people from considering service as an MP (and is possibly intended to do so).
- 2.6 Increasing taxpayer funding for MPs’ offices and staff has led to an attempt to draw a line between Parliamentary activities and party activities. For example, partisan comments by an MP on a website or newsletter, which is funded by the expenses, is not allowed, but no such restriction can exist in the House of Commons itself. Similarly, a researcher or secretary employed at public expense is restricted to “parliamentary” work, when in reality his/her role, like that of MPs, is inevitably party political. At the same time, it is absurd that the office cost allowances can be used to make payments to local political parties¹.
- 2.7 It is also clear that, over the years the Additional Costs Allowance (ACA) (now called the Personal Additional Accommodation Expense, or PAAE) has become a substitute for a more open increase in the remuneration of MPs. Indeed, recommendations of the Senior Salaries Review Body (SSRB) have been secretly scaled back by successive governments, and MPs encouraged to make maximum use of allowances and expenses. Our lack of courage in confronting this issue openly and honestly is a direct cause of so much of the public criticism of the present system and MPs’ behaviour. CSPL has (rightly) excluded salaries from its consideration, but there can be no avoiding that any substantial change in financial support for MPs’ living arrangements will have to be reflected in a subsequent review of MPs’ overall remuneration.
- 2.8 In the final analysis, the process of restoring Parliament’s authority, integrity and respect falls to Parliament itself, but this inquiry is a vital first step. It would also greatly assist Parliament if CSPL recommended further steps which Parliament or CSPL could take, over time, to strengthen Parliament in its role, such as further inquiries which could be conducted by CSPL into the role and functions of Parliament and into the function and duties of MPs.

Basic Principles of the Inquiry

- 3.1 The challenge for CSPL is to base detailed conclusions upon the following basic principles: they must -

¹ I declare an interest: I have done this myself but now believe this practice should be stopped.

- 3.2.1 **strengthen MPs' independent capacity to represent the interests of their constituents, and the national interest, in their role of scrutinising legislation and holding the executive to account;**
- 3.2.2 **reflect that "Parliamentary duties" will differ for each MP, as they define their own roles in Westminster and in their constituencies in the interests of their constituents and according to their own political views and their personal circumstances;**
- 3.2.3 **command public support, holding MPs accountable for legitimate expenses they incur and claim; recognise that the nature of society has changed, from one that respects institutions, to one where all institutions are questioned and dissected and in which special tax privileges, privacy and secrecy are less tolerated in favour of equal tax treatment with other citizens, openness and transparency;**
- 3.2.4 **ensure that in future "expenses" are not, and cannot be seen as, a covert way of addressing the possible inadequacy of parliamentary salaries; that expenses should do no more than support the ability of MPs to do their job, at Westminster and in their constituencies and cease to be a means of increasing their capital or of raising their standard of living;**
- 3.2.5 **enable the House of Commons better to protect its reputation and that of its Members and Officers;**
- 3.2.6 **strengthen the accountability of MPs to the auditing authorities and for them to provide clear and unambiguous advice to MPs at the time when they submit their expense claims;**
- 3.2.7 **and protect MPs, their families and staff from unreasonable intrusion, so that any information which it is necessary for MPs to provide and have published, should not be open to misconstruction, misinterpretation, or ridicule.**

Recommendations

The principle recommendations are **highlighted in bold**.

- 4.1 **CSPL should report directly and publicly to Parliament.** CSPL is a Government-appointed body and the Prime Minister has tasked CSPL with their inquiry, but it should not place itself in the position of the Senior Salaries Review Board (SSRB), whose findings are privately submitted to the Leader of the House, then sent back by ministers for reconsideration and amendment before being published. It should also report its preliminary findings for consultation and debate by Parliament, before making its final determination. It will always remain for the House to accept or amend CSPL's recommendations, but ideally we should be able to accept their final recommendations without further amendment.
- 4.2 **Payments to reimburse MPs for the expenses of doing the job should be allowable for tax purposes on the same basis as for people in any other walk of life. If they are not so allowable, they should be taxed as income.**
- 4.3 **Therefore, the PAEE (formerly the ACA) as presently conceived should be abolished and instead be paid in the form of taxable salary.** It should be left to

individual MPs to decide for what living arrangements they wish to pay. Much of the debate about the PAEE/ACA has been about the need to provide for overnight accommodation at Westminster, but this alone would not provide for the flexibility according to MPs' individual and family circumstances. For example, it should be possible for MPs to choose to make their main home in Westminster, rather than in their constituency. HM Revenue and Customs (HMRC) have the necessary skills to look at each MP's circumstances and to decide what expenses are legitimately deductible for tax. HMRC would no doubt make their own informed judgements about broad categories of MPs, and this would remove the need for the House to make political judgements (such as about Inner- and Outer-London MPs). If any form of (taxable) second home allowance is to remain it would have to remain transparent and accountable. It is therefore hard to see how it could operate without the need for MPs to submit receipts for the minutiae of their daily lives, which would then be exposed to the public view and all the intrusion on family life that this involves. This is a strong argument against any kind of living expenses which have to be disbursed against receipts.

4.4 The rules on travel expenses for MPs should be brought into line with what would be expected in business. Spouses, partners and families should be treated no differently than they would be by any other business or civilian public body.

4.5 MPs should continue to employ their own staff. MPs' private office staff should not be employed by the House centrally. It is already clear that, when the House voted on 30th April on this issue, the decision to end the present system had not been thought through. It would further erode the concept of an individual MP being a 'Private Member' and their capacity to develop their independent judgement about government legislation or the performance of the ministers. When recruiting staff, MPs could only interview prospective staff on behalf of the House authorities, who might have the final say on who should be employed. The House may insist on MPs choosing from a central pool of staff already on their payroll, in order to mitigate redundancy costs. There would inevitably be disputes about the suitability of staff MPs might prefer to employ. Employment law would oblige the House to develop central policies on the employment of MPs staff, which it would be obliged to enforce. Employees' contracts of employment would be with the House authorities, so that in cases of dispute with their MP, the ultimate loyalty of staff would become divided. MPs are elected to serve their constituents and the nation and there should be no doubt that their staffs are similarly answerable through their MP-employer. The only case made for employment of MPs' staff by the House of Commons appears to be based on how the present arrangements are misrepresented in the media, rather than upon any matter of principle. Furthermore, this proposal was unpopular with MPs' staff who were not consulted before the vote on 30th April about a possible change to their terms of employment. The additional cost of the necessary human resources support for some 2,000 staff working for MPs appears not to have been considered. Finally, removing MPs from the reality of hiring and firing their own staff would further insulate us from the real world we should be seeking to represent.

4.6 The Communications Allowance is little more than excuse for MPs to exploit the benefits of incumbency and it should be abolished. The limitations placed

upon Official Paid postage and the introduction of the Communications Allowance was in response to a flagrant abuse of the previous rules for Official Paid postage. Given that each MP must now order their Official Paid envelopes separately, it must be easy for the authorities to clamp down on abuse, without the need to apply the excessive restriction of only one Official Paid reply for each constituent letter.

- 4.7 The House should provide an official web page for each MP, on which MPs should have complete freedom of speech, as in the House of Commons itself (though such utterances would not be privileged).** CPSL may also wish to consider whether MPs should be allowed to use taxpayers' money to fund leaflets for distribution in their constituencies or advertisements in their local papers.
- 4.8 The payments made by MPs to their constituency party, such as for renting office space or for the provision of services, should be abolished. MPs' constituency offices, if they are funded by the taxpayer, should not be used for party-political activity and an MP's constituency office should not be located in their party's constituency office.** There must be no impression that parliamentary expenses are being used as back-door funding for political parties.
- 4.9 The future oversight of MPs' expenses should be three-fold:**
- 4.9.1 No claim should be paid unless the Fees Office is certain that a claim complies with the rules and that the rules themselves are explicit in principle and detail.** Never again should MPs be left in a situation where claims can be paid according to rules which may be fluid or subject to wide interpretation.
- 4.9.2 External audit should be supervised by the National Audit Office.** This would allow for independent, specialised scrutiny by an organisation which already has a high reputation with the public.
- 4.9.3 Policy decisions about the expenses regime and its future development should be delegated to an independent body, such as CSPL or SSRB,** which must make robust and public recommendations for Parliament to consider, but final approval of those decisions must rest with Parliament rather than with an unelected quango. If Parliament were to consider itself unfit for ultimate responsibility for MPs expenses, it would forfeit even more of its moral authority.
- 4.10 CSPL's final recommendation should be to refer the question of MPs' pay and pension arrangements to SSRB for re-consideration, in the light whatever arrangements for expenses are finally adopted by the House.** On pay, it is vital to understand that persistent failure to allow SSRB effectively to address the issue of pay has contributed substantially to the present crisis. CSPL may also wish to consider recommending that whether an MP's salary should be abated according to the outside earnings he/she declares to HMRC. CSPL should further recommend that, like CSPL, SSRB should conduct their inquiry in public, and publicly report their findings and recommendations to the House (to Mr Speaker), not secretly to the Government (to the Leader of the House).

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