

Submission to the Committee on Standards in Public Life Review of MPs' Expenses

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I have argued for reform of pay and allowances for many years: most aspects of pay and conditions should be removed from MPs' direct control and placed with an independent body. The Conservative Party's Democracy Task Force, on which I served, took the issue of 'trust in politics' as one of our key areas of enquiry; our report recommended, along with changes to the setting of MPs' pay and pensions, greater clarity and a more rigorous audit of allowances, in particular the Additional Costs Allowance.

The current crisis, however damaging, at least provides an opportunity to tackle the problems and scope for abuse that have built up within the system, not least because of sharp increases in some allowances and their coverage over the past decade. At the same time, there have been elements of hysteria surrounding the recent disclosures, and some of the debate that has flowed from them. Unfashionable though it may be to say it, my experience is that most MPs do not spend their time trying to maximise their gains from allowances; most try to represent both their constituents and their political convictions to the best of their ability. Even after recent disclosures, I am confident that Westminster remains one of the world's less corrupt legislatures.

The submission focuses on five issues:

- the need to ensure that new rules reinforce the independence of backbenchers, and the role of the Commons as an effective check on the executive; there is a danger that changes made in response to the current crisis could have the opposite effect. This has particular relevance to the question of outside interests;
- the implications of this approach to the reform of Personal Additional Accommodation Expenditure (PAAE - formerly the Additional Costs Allowance);
- the scope for abuse of staff allowances and the Communications Allowance. This is an area that has so far attracted remarkably little attention but is of great significance;
- employment of spouses and family members;
- finally, I would like to comment on a number of other issues raised by the review, many of them relating to the balance between regulation and transparency in developing a better system.

It would be unrealistic to expect the review to deliver a permanent solution to all the issues surrounding the funding of Members of Parliament and their activities. The role of MPs, and thus the sort of financial support that they require, has changed drastically over the last generation and will change again. However, it should be possible to give both MPs and the public better rules and much greater clarity as to how the rules operate. This can assist with a – necessarily slow – revival in the standing of Parliament.

It is vital that this is achieved. Britain will not attract the kind of people that Parliament needs – above all, those with success in and a deep understanding of other walks of life - to an institution with low public standing and subject to a myriad of ever-changing rules and an almost intimidatory disclosure regime. Many who wish to undertake public service already take the route of appointment to quangos or to the House of Lords; others stay out of public life altogether. There is unlikely ever to be a shortage of people attempting to become MPs. Quality and range of experience, however, are another matter. Whatever else, the legacy of this crisis, and of this review, must not be to reinforce the growth of a separate class of professional politicians drawn exclusively from those who will always volunteer. The review can contribute much if it removes some of the disincentives to public service as an MP which the current crisis reflects.

#### Reinforcing the independence of MPs

I have long been concerned that there are severe pressures militating against the House of Commons performing effectively its role of scrutiny and of being a check on the untrammelled power of the executive. The media has become the natural first port of call for government in presenting, and being examined on its measures. Meanwhile, MPs' constituency role has grown dramatically - a development that has coincided with, but has been much less remarked on, than growth of the 'presidential' executive and premiership. To take just one indicator, the numbers of letters received by MPs rose from 10 to 15 per week in the 1950s to around 300 per week when I wrote *Mr Blair's Poodle*, an examination of Parliament's shortcomings, almost a decade ago. The growth in communications – many now, of course, emails rather than letters – has continued since then. In many ways, this is a desirable development and an unsung enhancement of our political system; nonetheless, it leaves MPs with less time and energy to focus on their scrutiny role. Although there have been efforts to enhance the latter – notably through Select Committees – few would claim that the current position is adequate.

The current crisis risks accentuating the problem:

- there is a clear tension between the enhanced role of party leaders, who are competing with one another to dispense summary justice, and the independence of backbenchers;
- the growing culture of challenge to incumbent MPs is likely to lead to populist local campaigns by them to ward off risks of deselection. Once more, a reinforcement of an MP's local role has its positive aspects and builds on the developments of the last twenty-five years – but the pressure this puts on the scrutiny role has already been noted;
- the pressure generated by the *Daily Telegraph* revelations has produced a form of competitive bidding in austerity measures, leading to cuts in the PAAE (to be discussed in a later section) before this review has had time to examine the issue, and bids to curtail or even eliminate MPs' outside interests.

The latter issue – outside interests – has been put to the review for consideration. The argument for politicians who are exclusively focused on Parliament is beguiling. However, successive CSPL chairmen have come to the same view as that of the Nolan Committee's First Report: "The House of Commons would be less effective if all MPs were full-time professional politicians, and MPs should not be prevented from having outside employment." That judgement still holds.

It is right that there should be full disclosure about the nature of outside interests; MPs should be prepared to answer for the decisions they make as to how they allocate their time. But it would be a major error to ban outside interests, and it would be regrettable if increased disclosure resulted in candidates at future elections outbidding each other as to how little they would do outside their parliamentary role. There is a

huge range of experience concerning the issues that MPs have to consider and on which they legislate that cannot be gleaned from an occasional visit or briefing by trade and lobby groups, often self-interested. To take one obvious (and topical) example, there is no better way to understand the impact of the current recession on businesses than to share in decisions as to how a company copes with it. The impact of financial regulation on businesses over the past decade is another example.

More fundamentally, a ban on outside interests would leave MPs still more dependent on the executive; the power of patronage would now also embrace full control over members' incomes. It would also serve to reinforce the trend towards career professional politicians, a political class apart. The trend, already well advanced, towards the development of such a class has gone alongside, and almost certainly contributed to, the decline in the standing of Parliament in the eyes of the general public.

### Reforming PAAE

PAAE – formerly the Additional Costs Allowance – has been at the centre of the current crisis. Yet some allowance along these lines is a natural corollary of the rapid growth of MPs' constituency role and, with that, their having a two-centre job. Their role in London political life is not restricted to the times when Parliament is sitting; it is something of a relic of the era of club government that the issue is sometimes presented in this way. The allowance has been around since 1971, and has been gradually enhanced, with mortgage interest made admissible in 1985 and various upratings over the years (most notably a significant increase in the maximum allowable amount in 2001).

It will be a difficult but important task for the review to explain the necessity for an allowance of this kind. The cost has been significant, but the allowance has probably

been set at broadly the right level: it derives from independent advice about what was appropriate. The sharp reduction announced in May looks good but may leave the allowance too low. Nor is the British system unique in providing an allowance of this kind: many other countries have come up with similar approaches. Germany provides a good example, with a lump-sum expense allowance; this is seen as having both administrative simplicity and constitutional logic, reflecting the independence of Bundestag members.

There is a powerful logic to the German approach, but it is clearly inappropriate for our current circumstances, given the high level of public anger and distrust. (Nor would some aspects, such as the absence of necessity for receipts, be desirable under any circumstances). The allowance should therefore be set at an adequate level to cover some clearly-defined costs: mortgage interest, rent, service charges, council tax and utilities. An initial lump sum could be considered for the expenditures needed by a new MP to create a home. In principle (although the administrative practicalities need to be considered) the items bought should not be owned, but should remain the property of the House of Commons, matching the practice in the private sector. Should an MP at the end of his or her term wish to buy any of these items, it should be done at market prices. This approach would meet reasonable expense needs while avoiding abuses and, through its one-off approach, reduce the incentive for ‘flipping’.

There may be occasions when, for legitimate family or other reasons, an MP needs to change the designation of his or her primary residence. However, disclosure should work against the frequent changes that amount to an abuse. Despite press impressions to the contrary, the key issues on flipping have not been related to capital gains tax – the Inland Revenue rules work independently of parliamentary arrangements – but rather the use of frequent changes to maximise allowances.

## The abuse of staff allowances

While housing allowances have attracted most attention, there may be a much more serious misuse of public money taking place with respect to staffing allowances. Recent years have seen significant changes, notably the replacement of the Office Costs Allowance by the more generous Staffing Allowance and Incidental Expenses Provision in 2001. Meanwhile, a large number of MPs have moved their staff support out of Westminster into their constituencies. There is nothing wrong with that in principle; there may even be a cost saving, given space pressures on the parliamentary estate, and there is a logical link to the growth of the constituency role. However, this is acceptable only if the staff in question really are concentrating largely on constituency and parliamentary matters. If what is in fact being undertaken, often through contracts with local party organisations, is highly partisan activity, then we are seeing state funding of political parties by the back door and a potential entrenchment of incumbency advantage. The growth in state funding by stealth would be unacceptable. Whether or not it has a significant beneficial effect at the polls is another matter.

The principles and rules set out in the Green Book should prevent such activity taking place: “claims cannot relate to party political activity of any sort, nor must any claim provide a benefit to a party political organisation.” However, there are scant checks to enforce this. It is a worrying sign that the House of Commons was sufficiently brazen to pass the Communications Allowance, whose explicit effect is to blur the distinction between partisan and parliamentary business, and further to entrench incumbency.

A vigorous and comprehensive audit of work done from parliamentary allowances at the constituency level over the last few years should be initiated. A sense of proportion is needed: there will always be some overlap between party work and the work of parliamentary staff, and mutual assistance, but this relatively new and fast-growing area needs much deeper examination than has been the case hitherto. The

sums involved, and therefore potential for abuse, is very large. Without this, a major area of possible abuse will be left to grow, with all the attendant scope for damaging revelations later. The Communications Allowance should be scrapped.

### Employment of spouses and family members

I know a number of spouses, partners and relatives of MPs who work hard and deliver excellent value for public money. However, I am convinced that in the light of recent events, and in particular the Conway affair, that the problem of how this practice is perceived is too severe to ignore. We should follow the example of a number of other democracies – such as the United States Congress and the German Bundestag – in ending the practice.

Existing arrangements should be honoured, but future recruitment of this kind – whether by incumbent or new MPs – should be prohibited. Spouses, partners and relatives of MPs should also not be able to work for other Members, to avoid the danger of the rules being circumvented by reciprocal deals.

### Transparency and regulation

In rebuilding confidence, increased transparency can do much of the heavy lifting. Justice Brandeis was right: “sunlight is the best disinfectant.” In principle, I am prepared to see this taken further. It may be worth considering US practice, which has for some time required publication of financial disclosure forms by senior figures, including members of Congress. Many parliamentary colleagues may feel it is an intrusion. Perhaps it is, but it may be a necessary one. I am not clear how far it will lead to an increase in public trust, but nor can I see a strong objection, given the requirements of transparency in modern democracies. It may also assuage confusions which can arise such as that over CGT.

MPs also need a safe harbour: MPs and the public need to know that there is an agreed and fair set of rules, which can define what constitutes a reasonable claim. An MP should be able to seek confidential advice from an independent body before making a claim; once it is reimbursed, it will of course be subject to external scrutiny and audit. The parallel is with advice from an in-house resources department in the private sector or an accountant. Admittedly, the current system was supposed to tell MPs what was “within the rules”, and in a number of cases this has proved to be no proper defence against public outrage. However, better, more clearly-defined rules, coupled with the salutary awareness that disclosure will soon follow, should bring about more sensible judgements both by MPs and by those from whom they will – understandably – sometimes seek a second opinion.

## Conclusion

One of most refreshing aspects of British society is its long-held scepticism about the Establishment. There is a tradition of criticism and irreverence running from the eighteenth-century satirists and cartoonists to the present day. Sometimes, however, as in the days of Titus Oates, that critical scepticism risks spilling over into something harsher – what Macaulay called “the British public in one of its fits of morality.” Our current position is somewhere between these healthy and unhealthy poles, and reflects a series of incidents which have undermined the standing of the elites; some time ago the Royal Family with its marital problems, more recently the bankers, now Parliament.

There is a risk of injustice to individuals and damage to institutions arising from the current crisis. However, if properly handled, it could yet also be a source of much good. Even if questionable on grounds of strict logic, the link made between the expenses crisis and the need for wider reform (if Parliament costs us so much, it should do a better job of scrutiny than it does) would be beneficial, breaking the executive’s tourniquet on Parliament’s effectiveness – just a little. However, for this to be the case, we have to ensure that the measures taken in response to the crisis aid wider reform and enhance the independence of MPs, rather than working against them. The proposals in this paper aim to ensure that this happens.

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