

A Proposal and Case for Further Research with respect to the Review of MPs' Expenses.

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This paper sets out a case for the CSPL to consider undertaking a short research project on public attitudes to MPs expenses using focus groups. The proposal is based on a view about the type of difficulty that MPs allowances and expenses raise. Essentially, the problem is that regulation inevitably permits a range of behaviour, some of which obeys the letter but not the spirit of the regulation. The system of representation is theoretically meant to allow constituencies to censure MPs for conduct of which they do not approve (even if it is technically permissible) by de-selecting them or voting them out of office. In fact, the partisan character of elections makes it extremely difficult for voters to act in this way. As a result, without a sense of effective sanctions against offenders, evidence of and scandals over poor behaviour inevitably produce a general loss of confidence in the political system. Addressing that problem is not identical to establishing a better set of rules.

In such cases the CSPL may contribute at three distinct levels:

1. to review existing regulations and make recommendations for changes
2. to articulate in detail the principles of public life as they apply in this area
3. to ensure that both 1 and 2 reflect the concerns and the deeper judgments of the general public about the principles of the political system and the issues they see as central to this range of questions concerning salaries, allowances and expenses.

Although the Committee has called for evidence from members of the public, a more systematic attempt to solicit public attitudes and to press them with respect to some of the complexities that need to be addressed would ensure that the Committee's recommendations and their judgments about the appropriate ethos for MPs in these matters will meet public concerns, prove robust, and will help re-establish confidence in our representative institutions.

This paper proposes that the Committee runs a series of focus groups that both explore people's understanding of the issues and their attitudes towards them, and that engage in a deliberative process to test proposed alternative regulations and principles. The involvement of experts, including, where possible, MPs, would prove highly valuable.

There is an issue of timing. Such research takes time. But there is also a problem in letting the pressure of events (and government concern to be seen as solving the problem) drive the pace of the inquiry. The Committee may want to consider issuing an interim recommendation dealing with some of the more egregious issues while insisting that for this financial year there must be full transparency about all claims made. This would give MPs an opportunity to demonstrate self-restraint while also allowing a fuller public discussion of some of the issues and further research that can underpin a revised scheme.

The principle of supporting representatives:

Most modern representative democracies are committed to the principle that anybody, irrespective of background or income, should be able stand and serve as a Member of

Parliament. For this to be possible, it is accepted that those who do serve should be paid a salary. They should also be paid certain ‘office’ expenses to allow them to meet their constituency and parliamentary obligations and, because they are differentially placed in terms of the cost of their attendance of Parliament, there should be provision for travelling, accommodation and other expenses.

Salaries are paid as a matter of entitlement not as a matter of need and MPs are at liberty to have other sources of income. Other employments create potential conflicts of interests that need to be declared and they raise questions about whether an MP is devoting sufficient time to his/her responsibilities as an MP. This suggests that MPs’ constituents have grounds for being appraised of the other demands on their MP’s time so that they are able to make fully informed decisions in re-selecting and electing or not electing a member. Direct regulation, such as stipulating the number of hours in a week, or weeks in a year, for which an MP could receive other income, is highly contentious, difficult to devise in watertight form, can create perverse incentives (more MPs would work to that limit), and cannot guarantee that MPs will spend more time on their parliamentary and constituency duties. Rules (whatever they are) inevitably *permit* a range of behaviour while being designed to *achieve* a particular subset of that range. In theory that gap should be filled by MPs’ public accountability. In practice there is a major issue about how effectively the electoral system enables constituencies to hold their MPs to account for their personal conduct. The evidence suggests that the difference an incumbent MP can make to a national voting trend in his or her own constituency is slight. While the party system remains the most powerful shaper of voting in Britain it will only be in very exceptional cases that an MP’s integrity, commitment or performance might prove decisive in electoral choice. Moreover, an election in which ethical issues did become central might have a seriously destabilising impact on the party and political system more widely.

With respect to office expenses and allowances, direct regulation also has to be coupled with public judgment. Rules and regulation, coupled with a system of mandatory reporting, are intended to support the performance of parliamentary and constituency functions. With both allowances and expenses, however, there is a potential gap between the entitlement and the efficient and justified use of public resources. The latter cannot be directly regulated because it relies on the integrity and motivation of the incumbent, and the assessment of that is a matter for peer, party and public judgment.

For example, politics often involves close personal ties that lead to the appointment of staff on the basis of past relationships, rather than wholly on the basis of merit. At times this includes the appointment of partners, spouses or relatives. This seems to go against equal opportunities legislation, and it also risks abuse (as in the Conway case). Yet it seems intrinsic to politics that teams work to get people elected and those elected want to continue working with their teams. What seems to be needed in this case and more generally is a clear statement of the entitlements, a clear statement of the purposes of those entitlements and the grounds for claims against them; and a process of publicity to ensure that constituencies and parties have the chance to evaluate the claims that people have made in the name of meeting their parliamentary and constituency responsibilities.

Again, however, that assumes that accountability to one's constituency and the broader public is reasonably effective – and precise – which it cannot be in a party-based political system.

The current system of expenses is a further example. It creates a clear set of entitlements that different people respond to in different ways. It seems that some treat them as rights to income; some treat them as allowances to be claimed only when doing so is absolutely necessary; and there are intermediary positions. Leaving aside those who actively cheat on their claims, the central problem is that in claiming what they are entitled to, some are complying with the letter but not the principles underlying the regulations. And this means that disclosure of expense claims produces media and public outrage.

Reforming regulation:

The rules are clearly wrong. They don't just compensate for unavoidable expense, they offer too much latitude in interpretation, and the monitoring of claims seems to be extremely weak. Moreover, self-regulation makes the rules seem self-serving and that weakens public confidence in the system. But a third problem is that better rules will not by themselves necessarily produce only what the underlying principles require. The aim ought to be to provide a set of entitlements that ensure that MPs working on a regular basis in two places at considerable distances apart are not incurring substantial personal expense as a result. Even with dramatically tightened rules, however, some MPs may benefit from the allowances while devoting relatively little time and effort to their parliamentary and constituency work; others may use their time in London to generate other income, so that the taxpayer is basically subsidizing their other employment; and some may claim on the basis of need and others on the basis of entitlement (and it is impossible to contour a set of rules to ensure that entitlement is wholly matched to need given differentials in family circumstances, employments, and people's distinctive sense of their responsibilities and their entitlements).

The natural response to the current situation is to change entitlements, or introduce a flat rate allowance system. But neither option is likely to be free of difficulty, since any rule that creates entitlements will be imperfectly contoured to the complexity of individual cases, will create incentives for some to do things and incur expenses that they would not otherwise do, and will inevitably fall short of guaranteeing the kind of public spirited behaviour that members of the public want to see in their MPs. All of which is to say that rules alone cannot create integrity (not least since it is not integrity if it is merely as response to rules); the mechanisms for constituents to hold their representatives accountable on issues of integrity are very blunt; and media scandals on such issues often seem to damage public confidence in general rather than facilitating the effective accountability of the individual concerned.

Two different sets of ends are being pursued in the Inquiry: one is concerned with creating and sustaining a system that allows MPs to do their jobs efficiently without massive disparities in what it costs them to do so; the second is maintaining public confidence in their representatives' probity and in their political institutions. It is common to think that a clear set of responses to the former problem will then solve the

latter. Whether it will do so, however, depends heavily on what the state of public opinion really is. We do not know what the public really think a reasonable expenses and allowance system would be or how far they appreciate (or could be helped to appreciate) the complexities of the issues. If we do not know that, then it is possible that whatever alternative system is designed will fail to restore public confidence. If it is not restored then greater transparency will further weaken the system. Without a clear sense of what members of the public think about these issues – and a clear sense of what, with reflection and discussion and a degree of leadership, they can be brought to recognise on these issues - we will not be in a position to say what set of regulations will command and restore confidence.

To meet this concern, the Committee should give serious consideration to undertaking empirical work, using focus groups, to press in depth some of the issues associated with the system of allowances and expenses so as to identify people's major concerns and to explore ways in which these might be met. The issues are complex, but if changes are to restore public confidence they must be changes that ordinary members of the public can acknowledge as sensible. It is because the issues are complex that a quick large-scale survey of attitudes is likely to report levels of anger and frustration rather than being able to tap deeper attitudes and understanding. Focus groups will not necessarily dig deeper, but if there is a deliberative dimension, which provides clear information about the current regulations, the range of claims, the principles underlying the system, and the problems of policing the gap between compliance and integrity, then it should be possible to explore at greater depth both the core of public concerns and a number of possibilities for reform. We would also favour considering the involvement of expert members in the groups – if possible, the inclusion of MPs.

The under-determination of probity by regulation is not a temporary problem. It is persistent issue in domains where expectations of people are high, open-ended, and demand a degree of selflessness, integrity and honesty and where there are few mechanisms that hold them to account for how far they meet these expectations. In this situation it is crucial that MPs have a clear sense of what the public expects of them, and that the public is confident that their considered expectations are accurately articulated. Effectively what is needed is an articulation of the principles of political office that reflects public expectations and concerns while responding to the requirements of the job and to its place in the representative system. This will not guarantee probity, but it may go a long way to restore confidence and to instil a sense of responsibility amongst those in this position of trust.

The system of allowances can be substantially improved. But we have to be clear what kinds of 'abuse' people are most concerned about if we are to address public confidence in the political system. Assessing public opinion on such issues cannot solve the accountability problem in our representative system but it can guide reform of the system and, in doing so, it can help articulate for MPs the principles and expectations that they must meet to retain the public's trust.