

COMMITTEE ON STANDARDS IN PUBLIC LIFE – REVIEW OF PARLIAMENTARY ALLOWANCES

RESPONSE TO QUESTIONS: FROM NICK HARVEY MP

1. What are the necessary elements of a system which both supports MPs properly in the performance of their important and demanding role and commands public confidence?

The key principle is that the systems of reimbursement should be comparable to what would happen in the rest of the economy – in comparable situations in both private and public sectors. The best way to judge this is by giving an enhanced role to outside experts, of which the SSRB is an egregious but not unique example. The peculiar needs of MPs should then be grafted onto normal practices as best possible, but without recourse to unduly novel or exotic variations. Practice in other Parliaments should be monitored.

2. Is it right that the House of Commons should be in a position to determine the nature and size of its own expenses scheme? If not, what are the alternatives? Who should be responsible for approving the content of the Green Book which sets out the basic rules?

A more effective combination of internal and external input is desirable: some sort of double lock should exist. MPs should not be able to invent new allowances, nor authorise big hikes in their level or scope. So it would seem reasonable for the new Parliamentary Standards Authority – advised by the SSRB periodically – to put forward plans and present draft rules. The initial calibration of a new regime now rests with your Committee.

But a sovereign Parliament must ultimately take responsibility for its use of resources. So an ability to fine tune some of the detail when outside bodies report, especially when MPs can see that something is problematic or impractical, must remain. The PSA proposing, and Parliament ratifying, may be the best modus operandi.

3. Are the range of expenses which are currently reimbursable correct? Are the correct judgements being made about the resources MPs need to perform their jobs effectively?

Broadly YES, the right things are reimbursed. The one thing which struck me as odd when I arrived from a commercial background, and still does, is that whereas MPs accept business/official hospitality from everyone we meet in any walk of life, we cannot offer any back to anyone by way of reciprocation – other than at our personal expense. This is probably not the right climate – economically or politically – to make extra resources available, but to allow a modest level of entertaining with the existing AOE budget would seem justifiable, within clear rules.

4. Are the arrangements for policing the expenses system adequate? If not, how should they be reinforced? Is there adequate independent involvement? Are the new arrangements for internal and external audit introduced at the beginning of this financial year adequate?

The new arrangements should be given a chance. Putting the NAO external audit onto a full scope basis, comparable with the rest of the public sector, is a big step forward. It allows them to go “behind the MP’s signature” for the first time and probe how claimed resources have actually been used. The zero threshold for receipts also transforms the accountability. The House’s Internal Audit Service, with its private sector partner (currently PwC) also has an enhanced role. And detected anomalies now have a route through to the disciplinary system operated by the Commissioner for Standards. Give it some time to bed in, and then let us review it.

5. If it is the right principle that MPs should not expect any element of personal financial advantage through the claiming of personal expenses, what approach should be taken in situations such as the support of mortgage interest which does offer the possibility of such advantage but which may nevertheless provide better value for money to the tax payer?

Allowing mortgage interest to be claimed as an additional option, alongside hotel bills or flat rentals, undoubtedly offers better value to the tax payer, and a much better range of accommodation options for MPs. It stands to reason that if one rents a flat then the rent payment will have to cover the landlord's mortgage, an agent/ property manager's fee, and – probably – a profit element to the landlord. If the MP simply claims mortgage interest himself then two of those elements are stripped out. A brief examination of the property market swiftly demonstrates that renting property is more expensive – like for like – than buying.

If a capital appreciation takes place on the property, then capital gains tax becomes payable either on that property or on the MP's other home, depending on the MP's and – importantly – their spouse's varying circumstances. Either way CGT accrues somewhere as a direct consequence, so the tax payer – having already secured better value for money on the original payment – then additionally recovers some of the outlay.

If making a capital gain is seen by some as a “crime”, then it is a “victimless crime” because it does not add in any way to the tax payer's burden: it is simply a function of market movement. The MP has borne all the risk, which may prove painful for some in the current market, and maintained the property in marketable condition. The tax payer could not be expected to bear any capital loss. The fair and equitable sharing of any capital gain is through the CGT system.

6. However logical the approach to reimbursement of expenses, is it possible that its implementation throws up so many difficulties, including difficulties of explanation to the wider public, that there is a case for considering a radical simplification which costs the same or less than the current arrangements? Would it be acceptable for some increase in the level of basic pay to form part of that?

In the case of assistance with additional accommodation costs then this is undoubtedly so: please see my answer at (8) below. But I cannot see that any such argument obtains with any of the other allowances.

7. Where reimbursement is made in respect of expenses such as the cost of running an office, should this payment continue to be made as an additional personal expenses allowance to MPs? Or could the payment be made directly by the House authorities or in some other way? Is there a case for more centralised procurement through the House of Commons authorities? If so in which areas might such procurement take place?

This would be highly desirable from an operational perspective. The SSRB proposed such a scheme in its 2007 report, and the MEC carried forward the proposal in its report to the House in July 2008. The House endorsed the idea.

Many if not most MPs operate out of grotty and woefully sub-standard constituency offices, which in many cases would risk failing health and safety inspections and are appalling working environments for their staff. Bringing them all up to a common and acceptable standard, and separating them from local party offices, would be highly desirable objectives. In Australia, a government property agency manages a nationwide estate of Parliamentarians' offices, which pass from one MP to the next irrespective of party allegiance.

The MEC has recently been persuaded, however, that although highly desirable it would simply be so expensive that it would impose an unacceptable burden on the taxpayer. Instead, to meet the complaint that some areas of the country have very high office rents which can't be afforded out of a uniform office allowance, we have resolved instead to make additional funds available in those areas which can objectively be shown to have unusually high rents.

8. What is the best way of providing recompense to those MPs who inevitably have to spend time away from their main home on Parliamentary business?

Much of the recent controversy about MPs' allowances has focused on the Additional Costs Allowance (ACA). But, despite all the adverse publicity, even the harshest critics rarely go so far as to suggest that MPs should not be reimbursed at all for the costs which they incur in working away from their main home on a regular basis. It is usual in other jobs for such costs to be met by employers.

Indeed the vast majority of members of the public with whom I have discussed the issue have offered me exactly the same response: "there should be a sum set by independent experts and then you just get on with it." They may possibly have a rather different view from mine about the appropriate sum, but that is a very common view. I agree.

During last year's MEC review we took evidence from a range of experts about such reimbursements in other organisations. A consistent picture was painted by those whom we consulted:

- a) For short term and ad hoc working commitments away from home it is usual for employers to reimburse directly the actual costs which an employee has incurred, upon presentation of receipts. Often the employer will organise the booking of, or make direct payment to, the hotels.
- b) Where these working commitments become more regular, however, it is more common for an employer *either* to procure and pay for a flat, which is made available for the use of the employee, *or* to agree a daily sum with the employee, who then makes their own accommodation arrangement and settles bills without further reference to employers. The HMRC will usually accept that such agreed daily sums can be paid without a taxable profit element but will normally only permit such arrangements for up to two years.
- c) In other circumstances it is general practice for an employer and employee to negotiate an agreed lump sum to cover the additional costs incurred in working in two locations, and for this to form part of the employee's remuneration package. This might be consolidated into salary, in which case it would become pensionable, or it might stand separately as a block sum—not pensionable, and reversible if the co-location should end and a normal pattern of work resume. In either case, salary or block sum, they are taxable and the gross sum negotiated would aim to deliver to the employee net the necessary recompense to cover their outgoings.

On the basis of this evidence it could be argued that some of the difficulties MPs now find themselves in have come about as a result of superimposing in recent years the reimbursement logic described in (a) above onto a block sum system as described in (c), which is what the original recommendation for the ACA in 1971 actually proposed. Indeed it could be said that the ACA has ceased to be an "allowance" at all, but has become rather more a "budget" against which reimbursement can be claimed.

In my view MPs should be reimbursed on the same basis as the rest of the population in comparable circumstances, which argues firmly that we should adopt the taxable lump sum approach in (c) above.

The question then turns to one of quantum. The logical starting point is usually the cost of a hotel room. For managerial and professional staff this is generally a three or four star hotel, depending on the location and availability. The second element is commonly the reimbursement of "subsistence" costs. These are the costs of eating "out" because work commitments prevent eating meals at home, and minor and incidental out-of-pocket expenses (in the case of MPs this might include an occasional taxi fare after a late sitting).

We investigated the costs of rooms in a range of hotels within easy reach of the House of Commons, both as "walk-in" customers, but also on the basis of a regular corporate arrangement with the hotel—which is probably a more valid comparison. We also took evidence as to the sums paid by a range of organisations to cover accommodation and subsistence costs of employees sent on business to work in central London:

Cost comparators	Daily rate
Accommodation	
Charing Cross hotel (Govt rate)	£187
Novotel Lambeth Road (Govt rate)	£127
City Inn (Westminster)	£200
Horseguards Hotel	£281
Marriott Count Hall (Govt rate)	£226
F & CO Accommodation (Inner London)	£120
Subsistence	
F & CO (including £3 for incidentals)	£28
Department of Health (including £5 for incidentals)	£25.50
Department of Work & Pensions (including £5 for incidentals)	£26
Crown Prosecution Service (including £5 for incidentals)	£26
House of Commons staff—daily meal rate when working away from Westminster	£20.50
Average annual rent and essential associated cost in Pimlico/Kennington	£18,000 pa

On the basis of these figures, the MEC concluded that a nightly accommodation rate of £140 and a daily subsistence rate of £30 would be appropriate and reasonable for MPs staying in central London.

A less generous proposition I would advance would be £125 accommodation and £25 subsistence.

The question then arises as to how many nights a year this support should be available. The logical starting point is the parliamentary calendar. The number of days the House sits varies from year to year, but the average is around 160. Of these, 16 are usually Fridays when attendance is limited, and most MPs return to their main home by Friday night. So there is no case for paying for Friday night accommodation. Beyond that, patterns vary from MP to MP and from week to week. Many MPs regularly spend either Sunday or Thursday nights (or both) in London, while others do not. In all cases, however, MPs will also spend some time at Westminster during parliamentary recesses, attending to parliamentary and committee work. So taking all these factors in the round, the MEC judgement was that accommodation costs should be reimbursed for a maximum of 140 nights a year.

A less generous proposition I would advance would be 126 nights, based on 36 weeks at 3½ nights a week – as a rough average.

The MEC multiple of £140 (accommodation) plus £30 (subsistence) times 140 nights came to £23,800 as an annual figure. This was close to but marginally less than the actual ACA (£24,006 for 2008–09), reinforcing the judgement of the SSRB in 2007 that the ACA is at about the right level.

My proposal of £125 (accommodation) plus £25 subsistence times 126 nights would come to £18,900. If that were grossed up to allow for 41% tax and NI, this would suggest a taxable lump sum of £32,034.

On that basis I would actually propose – for MPs outside London – a taxable and non-pensionable lump sum initially set at £30,000, linked to RPI.

This would produce a net sum for MPs of £17,700, a savage cut of 27% on this year's PAAE (perhaps nearer to 29% if introduced next year), and a corresponding saving to the tax payer.

In return for this huge reduction, and the MPs renouncing their tax privilege and moving onto the same basis as everyone else, the tax payer would relinquish the recently acquired right to probe into MPs' domestic expenditure (but this would remain for all other allowances).

My alternative proposal would be to pay £16,000 untaxed (like the recently imposed £1250 pcm limit) as a core fixed cost of accommodation; and pay the London Costs Allowance of £7,500 to all MPs – with this being available to help pay for variable costs like utilities, maintenance, subsistence and cleaning. This would cut MPs' entitlement by 16%, with a corresponding reduction in tax payers' burden, but leave the fixed costs reportable.

9. How much discretion should the system allow about issues like the designation of second homes?

Under my proposal the concept would vanish. If we don't go down that line, then in time we should aim to make all MPs claim the second home allowance in London – but with a good transition period.

10. Is it acceptable that MPs should be able to employ spouses or other family members? If so, what safeguards are necessary?

There has been public debate and concern about MPs employing members of their family or their partners. While such a thing might be virtually unheard of in most aspects of the public service, or indeed in large companies, it is entirely commonplace in small and family firms. In some ways, the culture of an MP's office operation is not unlike that of a small firm.

I observe with confidence that many MPs' spouses working either in the House or in constituencies—or both, like the Member—are first class employees. Many of them work similar long hours to the Member, serving and making themselves available to constituents way beyond what could be expected of any other employee. They will often share with their spouse mutual knowledge of the work undertaken by the Member, knowledge of the constituency, and the requirement to live in two places. They are often very high calibre people who may have sacrificed promising careers elsewhere to help their spouse make a success of their parliamentary work, and in so doing accept salaries below their market value. So it would seem entirely perverse to rule out employment of some of the best employees who could possibly be found and who represent excellent value for tax payers' money.

If a relative is capable, qualified and able to do the job then there should be no restriction. But the MP should be required to demonstrate that the relative is genuinely carrying out the role, has a proper contract and relevant job description and is paid at a fair rate.

The change to the Register of Members' Interests from 1 August 2008, requiring that the employment of relatives as staff should be fully disclosed in the Register, together with details of their employment, has significantly increased transparency in this regard.

11. Should receipts be required to support all claims for reimbursable expenditure?

YES – and they are now.

12. What level of detail of expenses claims should be routinely available to the public without the need to make Freedom of Information Act requests for it?

With the exception of accommodation costs, **DOWN TO TRANSACTION LEVEL** – published quarterly as per the Scottish Parliament, and now introduced at Westminster with effect from 1 April 2009.

13. Is it acceptable or desirable that MPs should be able to receive remuneration for activities outside Parliament? If so, should that be reflected in any way in the treatment of their Parliamentary pay and expenses? Is there a need for further regulation or guidance on these activities?

In many ways it would be preferable for MPs not to have outside earnings, but this would produce a profoundly serious disincentive to many talented people from standing for Parliament. The only way to mitigate that would be a massive increase in MPs' pay – at the very least doubling it – which isn't remotely feasible in the current economic and political climate. A compromise, addressing your query about further regulation, might be to limit the level of outside earnings and amount of time spent on outside work, in return for a much more limited increase in salary.

14. Should MPs be reimbursed for expenditure incurred on newsletters and other material designed to inform the public about their work?

YES – it would seem perverse to provide MPs with the resources to research their policy views and issue campaigns, and to present these to Parliament, the media and others, but not allow them some resources with which to report these to their constituents. This is a common concept in other Parliaments and in local government, and can be argued to have a positive effect in demystifying Westminster as well as enabling MPs to give an account of themselves.

Critical to the legitimacy of using public funds for these purposes is the absolute requirement that the material issued must not be party political in content. Policing such a prohibition clearly entails a degree of subjective judgement, so it is also essential that MPs should err on the side of caution when issuing material paid for from public funds.

The Communications Allowance is intended for pro-active communication with constituents, while the pre-paid envelopes and stationery are for reactive communication. Use of the Communications Allowance, and before its creation the use of the IEP for the same purposes, has been the subject of several complaints to the Parliamentary Commissioner for Standards. Prior to his leaving office on 31 December 2007, the former Commissioner Sir Philip Mawer made some recommendations for improving the operation of the Allowance. These have now been enacted.

There is however in my view an argument for prohibiting the use of the allowance for MPs to operate websites as, with the best will in the world, it is very difficult for them to remain non-party political, even if only through links and indirect content. Even carrying MPs' news releases is likely to make them partisan.