

RESPONSE BY THE SENIOR SALARIES REVIEW BODY TO THE CALL FOR EVIDENCE BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE ON MPS' EXPENSES

Introduction

1. The Review Body on Senior Salaries (SSRB) is an independent body established in 1971 (as the Top Salaries Review Body) to advise the Government on the pay of various groups ('remit groups') of senior public sector workers. Currently the SSRB reports annually to the Prime Minister and the relevant Secretaries of State on the pay of:

- salaried holders of judicial office throughout the United Kingdom;
- senior military officers¹ throughout the United Kingdom;
- senior civil servants in England, Scotland and Wales; and
- senior managers (other than those on medical contracts) in English Primary Care Trusts, Ambulance Trusts, Strategic Health Authorities and Special Health Authorities.

In addition the SSRB reports when requested on the pay, pensions and allowances of Members of both Houses of Parliament, Members of the Devolved Parliament and Assemblies and of the Mayor of London and Members of the London Assembly. The SSRB has also carried out ad hoc reviews, for example of the remuneration of tribunals' judiciary and senior NHS managers in Northern Ireland. The SSRB's full terms of reference are at Appendix A.

2. The SSRB's reports are normally published as command documents and since 2001 have been made available on the website of the Office of Manpower Economics (OME)², together with reports of research commissioned by the SSRB.

3. The SSRB has ten members, appointed following advertisement and a selection procedure supervised by the Office of the Commissioner for Public Appointments. The current membership is listed at Appendix B. Members have a wide range of skills and backgrounds, including business and HR, and currently three are specialist labour market

¹ Senior military officers are those of the ranks of Rear Admiral, Major-General and Air Vice-Marshal and above

² www.ome.uk.com

economists. The secretariat is provided by the Office of Manpower Economics which is staffed by civil servants.

Responses to questions posed by the Committee on Standards in Public Life

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?

4. In our latest report on Parliamentary pay, pensions and allowances³ we set out the following principles for expenses:

- A clear distinction must be made between salary and reimbursement of expenses;
- Expenditure incurred wholly, exclusively and necessarily on parliamentary duties should be reimbursed subject to reasonable limits (ceilings, not entitlements); and
- Claims for reimbursement of expenditure should be appropriately substantiated.

We believe these still hold good. When we produced our 2007 report, we took at face value the statement in the Green Book (April 2005 edition) that any expenditure claimed from the allowances must be wholly, exclusively and necessarily incurred for the purpose of performing parliamentary duties. Recent events have obviously raised doubts about whether that condition has always been strictly observed. Full disclosure of expenses claims would both focus MPs' minds on that condition and provide assurance to the public that the system is not abused.

5. In the past, the House of Commons has sometimes 'cherry-picked' our proposals, implementing those it likes while rejecting others. For example:

- in 2004 we recommended a lower ceiling on staff costs where staff were employed outside London, but the House adopted the rate we had recommended for London staff for all MPs' staff, wherever they were based;
- in our 2007 report we recommended a modest staged increase in MPs' pay along with some tightening up of expenses. The House rejected the pay increase, under pressure

³ Review Body on Senior Salaries, *Review of parliamentary pay, pensions and allowances 2007*, Cm 7270

from the Government, but subsequently increased the London supplement to £7,500, more than twice the amount we had recommended;

- the House also failed to follow our proposal to limit payment of the resettlement grant to MPs who had been defeated at a General Election or whose seats had disappeared as a result of boundary changes;
- similarly the House did not accept our proposal to remove the element in Administrative and Office Expenditure for communications, following the introduction of a separate communications allowance;
- in 2008 the House rejected our proposal that MPs should be allowed to claim a maximum of £50 a month in total without supplying receipts (the previous rule had been that no receipts were required for any item costing less than £250). Instead the House decided that no receipts were required for any items under £25, without limit on the number of such items.

Our proposals had been intended as a balanced package but in our view the House destroyed that balance by its selective approach.

6. We have long argued that it is not in MPs' own interests that they be seen to set their own pay and allowances and the conditions of their pensions. We were therefore pleased when the House of Commons passed the resolution of 3 July 2008 which entrusted us with calculating an annual pay increase according to a formula (although we have some reservations about the formula adopted by the House) and with reviewing MPs' pay in the first year of a new Parliament, with our conclusions in each case applied automatically, that is, without any further vote by the House of Commons. We believe that similar arrangements should apply to expenses, which should be strictly a reimbursement of money necessarily spent on parliamentary duties. The system should be transparent and unambiguous for both MPs and taxpayers. We also believe that, in principle, the terms of MPs' pensions should also be set independently. At the Government's request we are currently reviewing the Parliamentary Contributory Pension Fund but under current arrangements, it is for the House to decide whether to accept our recommendations.

7. We believe there should be five distinct elements in any system for MPs' expenses that is to command public confidence and meet the legitimate needs of MPs.

- First, there should be an independent determination of the types of expenditure which should be reclaimable, based on a thorough understanding of how MPs work, and of their diversity.
- Next, the SSRB should continue to set reasonable limits or conditions for each type of expenditure. For example, we have previously recommended a ceiling on the amount MPs are allowed to spend on their staff, and a method of funding costs for constituency offices based on a maximum area and designed to ensure fair treatment of all MPs, regardless of the widely differing costs of commercial premises in different constituencies. There also needs to be a clear system for uprating the ceilings to take account of inflation (most types of MPs' expenses are currently indexed to a measure of inflation) and the SSRB should continue to review them periodically.
- Thirdly, there should be an independent mechanism for setting the detailed modalities for claiming, i.e. forms, frequency of claims, evidence required.
- Fourthly, there should be an independent body, not susceptible to pressure from MPs or Ministers, which processes claims, queries them where necessary, rules on novel or disputed cases and pays those which comply with the rules established under the three previous stages.
- Finally, there should be an independent audit process to verify that the claims processing has been carried out correctly and to check a random sample of MPs' claims and investigate any issues which cause concern.

8. Given the evidence that there has been widespread failure to abide by at least the spirit if not the letter of the current rules, we believe that expense claims of MPs should be published in way that provides sufficient transparency, for example on the designation of first and second homes, to restore public confidence. The level of disclosure needed will depend to some extent on the detail of a revised system. It should not be less than that now provided by the Scottish Parliament and there may be a case for going further.

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?

9. No. The Committee on Standards in Public Life should decide what expenses MPs should be able to recover and the SSRB should then set and periodically review the limits for each permitted type of expenditure. The Government's proposed Parliamentary Standards Authority could then be responsible for the Green Book and for paying claims.

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?

10. The MP's role is not defined and the emphasis seems to us to have shifted significantly over the years. We believe that many MPs now spend less time and effort scrutinising draft legislation and holding the executive to account and correspondingly more time acting as advisors, advocates or intermediaries for their constituents. We believe it would help to ensure that expenses are used wholly, exclusively and necessarily for parliamentary duties if those duties were clearly defined.

11. Expenses can be divided into two categories: those which are essential, because without them MPs without private means would be unable to do the job; and those which are not essential but which appear to be provided either to enable an MP to carry out additional activities which might add value to his or her performance of the role, or because they compensate to some extent for the unusual nature of an MP's job.

12. Expenditure in the first category includes:

- necessary travel within the constituency, between the constituency and Westminster, and elsewhere on parliamentary business;
- the unavoidable, additional costs incurred by staying away from the main home (whether that home is in London or the constituency) when necessary to carry out parliamentary duties;
- essential office costs i.e. stationery, postage, telephone, e-mail to enable MPs to respond to communications.

13. Expenditure in the second category includes:

- expenditure on staff and other office costs, and some elements of personal additional accommodation expenditure;
- European travel;
- travel for family members and civil partners;
- communications expenditure;
- resettlement grant.

Winding-up expenditure probably falls into both categories.

14. MPs without other financial means could not reasonably do the minimum that is expected of them without the expenditure in the first category. Expenditure in the second category is not strictly essential. For example, the provision of expenditure for staff allows MPs to do more research and to provide a better service to constituents. It is a matter of judgement whether and if so to what extent this is worthwhile. As we commented in our last parliamentary report:

“Although we have recommended an increase in staffing levels, in response to the findings of our consultants on workload and the evidence from MPs themselves, we are concerned that the volume of casework appears to be growing inexorably. Some MPs appear to welcome or accept this, at least in part because of the opportunity it offers for them to raise their profile with their constituents, although others feel that it detracts from their other roles of scrutinising legislation and holding the executive to account. The public reliance on MPs to intercede with public authorities could be seen as a failure on the part of those authorities to deal properly with their clients, as well as of ombudsmen and other appeal mechanisms. On the other hand it might be argued that some MPs could do more to encourage their constituents to pursue more appropriate avenues before seeking assistance from MPs. It is not for us to reach a

judgement on this but we believe it is time for serious consideration be given to the role of MPs and their staff as caseworkers and intermediaries with public authorities, not least because we suspect that in some cases employing more staff may lead to an increase in the volume of casework. In addition, the increasing numbers of MPs' staff are arguably an aid to incumbents since they increase the possibilities for contacts with and intervention on behalf of constituents." (Paragraph 5.20)

14. Expenditure on travel for family members and civil partners, to take another example, is clearly not strictly necessary but may help to relieve pressures on MPs from working away from home for significant periods. Again, it is a matter of judgement whether this is reasonable expenditure, and if so, at what level. Although the SSRB has in the past recommended or approved such allowances, it now appears to us that it would aid transparency if this type of expense, to which few if any other workers are entitled, were removed. The SSRB has long argued that expenses should not be used to provide disguised compensation for a salary which is set too low. The principle of strict and clear delineation between expenses and pay should be enforced.

15. However, there may be a risk that changes to MPs' terms and conditions, coupled to criticism of MPs because of perceived abuses of the current expenses regime, could affect the quality of candidates standing for election. In our 2007 report we noted that job evaluation exercises in 2003-04 and 2006-07 suggested that MPs' total reward (after taking account of the respective values of pension schemes) was about 10 per cent lower than the average of a basket of similarly weighted public sector posts. Nevertheless, we believed there were some non-financial benefits of being an MP compared to other jobs which went some way to compensating for a lower salary and which helped to ensure that there was little or no difficulty in recruiting sufficient suitable candidates to stand for election. We are due to conduct a thorough review of MPs' pay in the first year after the next General Election. We shall need to examine whether the pay and benefits of being an MP have changed and whether they are still sufficient to recruit and retain suitable candidates.

16. We recorded our concerns about communications expenditure in our 2007 report:

"We heard from MPs who were concerned that the allowance would provide a means of greater contact and influence with constituents that would give incumbent MPs an

unfair advantage at a General Election. The allowance could also increase the volume of correspondence an MP receives and subsequently apply more pressure on Staffing Expenditure to cope with the extra workload. At this stage it is too early to judge; we will consider this allowance more substantially in our next review. However, we are again encouraged by the guidance the House authorities have issued on the use of the allowance which makes clear that it is not to be used for personal or party campaigning.” (Paragraph 5.39)

Moreover, as noted above, the House did not follow our linked proposal to reduce Administrative and Office Expenditure which already contained an element for communications.

17. We note that MPs are now allowed to claim £25 per night subsistence for every night they are away from their main home on parliamentary business. This provision appears to have been introduced as a replacement for the previous understanding that up to £400 a month could be claimed for food. Leaving aside that the new arrangement is difficult to verify since no documentation is required, we have some difficulty in understanding why it is necessary. If an MP is receiving expenses for maintaining a second home, there should be no need for additional subsistence when staying there. Moreover, we understand that canteens and restaurants in the Palace of Westminster are subsidised.

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?

18. Clearly the arrangements for policing the expenses system are not adequate. As suggested in the answer to question 1 above, there should be an independent mechanism for setting the detailed modalities for claiming, i.e. forms, frequency of claims, evidence required, together with an independent body, not susceptible to pressure from MPs or Ministers, which processes claims, queries them where necessary, rules on novel or disputed cases and pays those which comply with the rules established under the three previous stages.

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?

19. Whether mortgage interest should continue to be reimbursed is one of the most difficult issues. In our 2007 report we assumed, wrongly, as it transpires, that since any property bought with the assistance of personal additional accommodation expenditure was by definition a second home, then any gain on sale would be subject to Capital Gains Tax. We also pointed out that if arrangements were to be changed so that any gain were at least shared with the taxpayer, then the quid pro quo would surely be to require the taxpayer to make good any loss incurred by an MP, thus reducing the incentive for MPs to achieve value for money when buying or selling.

20. The simplest approach is probably to follow the example of the Scottish Parliament. There, only rent and hotels are reimbursed; mortgage interest is excluded from reimbursement, even though rented or hotel accommodation might be more expensive on average in the long run. However, other possible approaches might include reimbursing only a proportion of mortgage interest, in the expectation that there will ultimately be a capital gain, or excluding all property maintenance from reimbursement, because it is difficult in practice to distinguish between maintenance and improvement.

21. In any event, the amount which can be claimed for time spent away from home should remain capped and the categories of expenditure eligible for reimbursement should be reviewed and probably reduced, not least to remove the suspicion that the cost of items intended for an MP's main home can be recovered.

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?

22. We do not favour such an approach. It would blur the distinction between pay and expenses and result in arbitrary gains or losses for some MPs. The information available to us in 2007 suggested around 10% of MPs claimed less than 20% of the maximum permitted Additional Costs Allowance, as it was then, and most of those claimed nothing at all. There would also be presentational difficulties in adding a sum to salaries to compensate for loss of

expenses, since such an amount would presumably have to be grossed up to allow for tax. It could also have a significant effect on pensions unless it were paid as a non-pensionable supplement.

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?

23. We do not have any evidence on which to base answers to these questions. We understand that the House authorities already provide payroll services for MPs' staff and that some IT equipment is purchased centrally. The House has decided that MPs' staff should be employed centrally rather than by MPs themselves, although this poses some legal and practical problems.

24. We believe that an MP should not be allowed to rent an office from a partner, family members (including a spouse or civil partner), a close business associate or a company in which the MP or a family member has an interest (other than as an ordinary investor). The Green Book already applies this restriction to the renting of second homes and we see no reason not to apply it also to the renting of offices. Moreover, the Green Book requires an independent valuation if an MP rents an office from a political organisation. We think it would assist transparency and help to ensure value for money for the taxpayer if all MPs renting offices were required to obtain independent, qualified verification that the rent is reasonable.

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?

25. As indicated above, we continue to favour the reimbursement of properly substantiated expenses. There is nothing wrong with such a system in principle provided that receipts are submitted and that the condition of "wholly, exclusively and necessarily incurred for the purpose of performing parliamentary duties" is strictly applied.

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

26. A test or tests for determining which is the second home should take account of the facts that MPs have different circumstances and that those circumstances may change. We believe the proposed Parliamentary Standards Authority should determine which is an MP's second home by applying a series of tests such as:

- where the MP pays full council tax
- whether the MP has registered his or her main home with HM Revenue and Customs
- where an MP lives when the House is not sitting (weekends, parliamentary recesses)
- where the MP lived before being elected
- if the MP left office immediately, where would he or she live?
- if the MP has a family, where does the family spend most of its time?
- if the MP has children at day school, where do those children go to school?

27. An MP should be able to ask the Parliamentary Standards Authority to change the designation if the MP's circumstances, and in particular family circumstances, change in such a way as to justify a change in the designation, but it should be understood that such changes will be relatively rare and must not in any circumstances be made with a view to personal gain. If mortgage interest were no longer to be reimbursed, the attractions of 'flipping' first and second homes would in any case be much reduced.

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

28. Again, this is a difficult issue. At the time of our 2007 report we had no evidence of abuse in this area. Subsequently there has been a prominent case where the House found that a member had abused the staffing allowances by purporting to employ family members. We reluctantly come to the conclusion that, as in the German Bundestag, MPs should no longer be allowed to employ family members. Again, we think this measure is necessary to help

restore public confidence, even though we believe most MPs who employ family members do so entirely legitimately. Nevertheless, the public is now understandably suspicious of an arrangement whereby an MP can award jobs paid from public money to family members.

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

29. Before recent media coverage of MPs' expenses we had argued that, while in other areas of the public sector as well as in the private sector it has been good practice for some time for expenses to be paid only on production of receipts for all expenditure, it was reasonable for MPs to have petty cash for minor items. However, in the interests of transparency, we recommended that the House should agree that in future each MP should not be able to claim more than £50 in total each month for items without receipts. Instead, the House took a different approach, requiring receipts for each item costing £25 or more. This was potentially less rigorous than our proposed approach since there is no limit on the monthly value that can be claimed for items costing less than £25.

30. We now believe that all claims should be accompanied by receipts, to help restore public confidence. Moreover, MPs should make personal declarations that expenditure has been incurred wholly, exclusively and necessarily for carrying out their parliamentary duties. If the requirement to provide receipts for everything resulted in a disproportionate burden on the organisation responsible for paying expense claims, it could adopt a sampling approach to checking receipts for amounts below a defined level.

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?

31. A high level of disclosure is now needed to restore public confidence.

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?

32. In recommending a salary for MPs, SSRB worked on the basis that being an MP is a full-time job and MPs should be paid accordingly. However, we have long taken the view that where someone has more than one post paid out of public funds, for example someone who is both an MP and a member of a devolved assembly, then the lower salary should be

abated by two-thirds. We have not taken evidence or considered in depth whether the salary of an MP who has outside private sector earnings should be similarly abated. We can see that in principle there is an argument that someone who does not work full-time as an MP because of other paid activities should not receive the full salary, but we should need to hear a full range of views before reaching a conclusion on this point. In any case we support greater transparency about the extent of MPs' commitments outside the House so that their constituents can make informed decisions at elections.

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

33. See paragraph 16 above.

Appendix A

Review Body on Senior Salaries – Terms of reference

The Review Body on Top Salaries (TSRB) was appointed in May 1971 and renamed the Review Body on Senior Salaries (SSRB) in July 1993, with revised terms of reference. The terms of reference were revised again in 1998 as a consequence of the Government's Comprehensive Spending Review, in 2001 to allow the devolved bodies direct access to the Review Body's advice and in 2007 to add certain NHS managers to the remit.

The terms of reference are:

The Review Body on Senior Salaries provides independent advice to the Prime Minister, the Lord Chancellor, the Secretary of State for Defence and the Secretary of State for Health on the remuneration of holders of judicial office; senior civil servants; senior officers of the armed forces; very senior managers in the NHS⁴; and other such public appointments as may from time to time be specified.

The Review Body also advises the Prime Minister from time to time on the pay and pensions of Members of Parliament and their allowances; on Peers' allowances; and on the pay, pensions and allowances of Ministers and others whose pay is determined by the Ministerial and Other Salaries Act 1975. If asked to do so by the Presiding Officer and the First Minister of the Scottish Parliament jointly; or by the Speaker of the Northern Ireland Assembly; or by the Presiding Officer of the National Assembly for Wales; or by the Mayor of London and the Chair of the Greater London Assembly jointly; the Review Body also from time to time advises those bodies on the pay, pensions and allowances of their members and office holders.

In reaching its recommendations, the Review Body is to have regard to the following considerations:

⁴ NHS Very Senior Managers in England are chief executives, executive directors (except medical directors), and other senior managers with board level responsibility who report directly to the chief executive, in: Strategic Health Authorities, Special Health Authorities, Primary Care Trusts and Ambulance Trusts.

the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities;

regional/local variations in labour markets and their effects on the recruitment and retention of staff;

Government policies for improving the public services including the requirement on departments to meet the output targets for the delivery of departmental services;

the funds available to departments as set out in the Government's departmental expenditure limits;

the Government's inflation target.

In making recommendations, the Review Body shall consider any factors that the Government and other witnesses may draw to its attention. In particular it shall have regard to:

differences in terms and conditions of employment between the public and private sector and between the remit groups, taking account of relative job security and the value of benefits in kind;

changes in national pay systems, including flexibility and the reward of success; and job weight in differentiating the remuneration of particular posts;

the need to maintain broad linkage between the remuneration of the three main remit groups, while allowing sufficient flexibility to take account of the circumstances of each group; and

the relevant legal obligations, including anti-discrimination legislation regarding age, gender, race, sexual orientation, religion and belief and disability.

The Review Body may make other recommendations as it sees fit:

to ensure that, as appropriate, the remuneration of the remit groups relates coherently to that of their subordinates, encourages efficiency and effectiveness, and takes account of the different management and organisational structures that may be in place from time to time;

to relate reward to performance where appropriate;

to maintain the confidence of those covered by the Review Body's remit that its recommendations have been properly and fairly determined; and

to ensure that the remuneration of those covered by the remit is consistent with the Government's equal opportunities policy.

The Review Body will take account of the evidence it receives about wider economic considerations and the affordability of its recommendations.

Appendix B

Senior Salaries Review Body

Bill Cockburn CBE TD
Professor Richard Disney
Martin Fish
Professor David Greenaway
Michael Langley
Professor David Metcalf CBE
Sir Peter North CBE QC
Christopher Stephens
Bruce Warman
Paul Williams