

Rt Hon Sir George Young Bt MP



COMMITTEE ON STANDARDS AND PRIVILEGES

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HOUSE OF COMMONS
LONDON SW1A 0AA

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Sir Christopher Kelly
Committee on Standards in Public Life
35 Great Smith Street
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2 June 2009

Sir George Young

I enclose a memorandum of evidence to the CSPL's inquiry into MPs' expenses. As is made clear in the memorandum, although this submission presents my personal views, I make it after consultation with my colleagues on the Committee on Standards and Privileges and without prejudice to any views individual Members may wish to express in a their own submissions. I also wish to stress that nothing in this paper should be interpreted as being in any way related to any investigation into a complaint that the Commissioner may be carrying out, or to the Committee's consideration of the conclusions of such an investigation.

I look forward to giving oral evidence to your Committee.

G. Young

CHAIRMAN

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MEMORANDUM

Written evidence to the CSPL Review of MPs' Expenses from Sir George Young MP, Chairman of the Committee on Standards and Privileges

Introduction

1. The primary role of the Committee on Standards and Privileges, and the aspect of its work on which it spends most time, is enforcement of the House of Commons standards regime. Most obviously, this involves consideration of reports from the Parliamentary Commissioner for Standards arising from his investigation of complaints about the use made by Members of Parliament of the system of expenses and allowances. Since the last General Election, the Committee has published 32 reports on standards cases which have come to it as a result of investigations by the Commissioner and has published nine reports on other standards-related matters.

2. More generally, the Committee is charged, amongst other responsibilities, with considering 'any matter relating to the conduct of Members'. This means that, in addition to its enforcement role, there are three contexts in which the Committee has an interest in the system of allowances and expenses, and the levels at which they are set. These are the general reputational implications for the House; the need to maximise public confidence in the validity of these arrangements; and the need to ensure that the structure of the system is as simple as possible—both to minimise the scope for unintended errors, and to provide a clear basis for determining in particular cases whether there has been deliberate misuse. Both the Commissioner and the Committee have increased the educational and preventive work they carry out.

3. I make this submission after consultation with the Committee on Standards and Privileges, which I chair. It is without prejudice to any views individual Members may wish to express in a personal submission. Nothing in this paper should be interpreted as being in any way related to any investigation into a complaint that the Commissioner may be carrying out, or to the Committee's consideration of the conclusions of such an investigation.

General points

4. I agree strongly with the very first point made in the *Issues and Questions* paper—the fact that some of the reported behaviour of Members that has been the subject of public concern has been "within the rules" casts doubt on the appropriateness of those rules. Steps have already been taken to bring the Commons rules into line with reasonableness and common sense; but they also need to be brought closer to the rules that govern everyone else in their sphere of work. They should be simple to operate and audit, and they should be properly enforced to avoid a repetition of the types of claim that have recently damaged the reputation of the House.

5. As is evident from the amendments tabled in the names of all ten members of the Committee to the Government's motions on allowances debated on 30 April, the Committee's view has been that an independent review is essential. The House nonetheless took decisions on 30 April and has taken further decisions since on matters that are part of the CSPL's review. I trust that the CSPL will not feel constrained by those decisions and I look forward to reading its

recommendations. Ultimately, however, the House of Commons should remain responsible for the decision to introduce a new regime.

Response to specific questions raised by the CSPL

6. **Pay and allowances** The CSPL does not rule out considering a radical rebalancing between Members' pay and allowances—ie, abolishing the allowances and putting them into salary. I am not personally in favour of this solution. Members' expenses vary considerably according to the distance of their constituency from London and other factors outside their control. Neither an addition to salary nor a flat-rate allowance can adequately cater for these differences. This solution also confuses two essentially different matters—what is the intrinsic value of an MP's job; and what are the costs associated with performing that job satisfactorily. Such a consolidation has in any event been made more difficult by the recent decision to remove entitlement to PAAE (formerly ACA) from about 10% of Members.

7. **Accommodation** In my view, the position whereby Members were permitted to designate and to redesignate their main home was not sustainable, and has been at the root of much of the problem. Members should be able to claim only the extra accommodation costs necessarily incurred for the performance of their Parliamentary duties, and the freedom to 'flip' designations should be constrained.

8. Also in my view, stamp duty, valuation and solicitors' fees are part of the capital cost of buying a house and I am surprised that these have been claimable as an expense. In many cases, these costs are capitalised and may be subsumed within a mortgage. I do not think it would be acceptable to require Members to bear the loss when a second home declines in value between purchase and sale, but to surrender the gain if the value increases. Capital gains tax should be payable on any appreciation in value of a second home. I think in this case we should leave things as they are.

9. I think it is right to extend the definition of London outside inner London, given the change in the working hours of the House; but I hope the CSPL will consider the arguments behind the 20 mile limit that the House has adopted and the extent to which commuting is possible—something the House was unable to do in the time available.

10. **Members' staff** On the employment of family members, I have an interest and do not propose to give evidence on this unless invited to. The Committee's views on registration are on the record, in its Sixth Report of 2007-08.

11. The question of whether Members' staff should be employed by the House is not one for my Committee. However, as I said in my speech on 30 April, I think it would have been better to give the House an assessment of the consequences of central employment of staff and then invite it to make a decision on the principle, rather than the other way round.

12. **Administration and enforcement** I am surprised that there is no reference in the section headed 'Interpretation of the rules' to the role of the Commissioner, though reference is made later. The Commissioner's role under Standing Order No 150 to advise on interpretation of the code of conduct is an important component of the present regime.

13. The CSPL's previous inquiry, in 2002, concluded that "the fundamental structure of the current system for regulating standards of conduct in the House of Commons is sound." Recommendations made following that review to strengthen the role of the Commissioner and to reform the composition of the Committee on Standards and Privileges were implemented and in my view have worked well.

14. The administration of the system of allowances is, however, over-complicated and in my view requires streamlining and simplification. The rules on allowances are created by resolution of the House, but a multiplicity of other bodies is involved in drawing up, interpreting and applying those rules. These include the Members Estimate Committee (MEC), the Members Estimate Audit Committee (MEAC), the recently created Committee on Members' Allowances (MAC) and a newly established Operational Assurance Unit, which is part of the Department of Resources.

15. The recent proposal to set up an independent Parliamentary Standards Authority with responsibility for revising the Code of Conduct and for setting the rules that govern the payment of allowances would sweep away these complicated arrangements. I welcome the principle that lies behind the proposal. It remains unclear, however, how exactly the new body will be appointed and to whom it will be accountable. It will be necessary for the Authority's relationship with Parliament to be carefully defined.

16. I note that the Government has proposed that the work of the Parliamentary Commissioner for Standards "could" also be carried out under the auspices of the new Standards Authority. In my view, a fully independent and separate Commissioner's office would be preferable. If, however, it is considered appropriate that the rule-making and regulatory functions should be placed in the same body, the two must be kept scrupulously separate.

17. It is probable that the decisions of a statutory, independent Parliamentary Standards Authority would be liable to challenge in the courts. Very careful consideration needs to be given to the implications of this, especially if the functions of the Commissioner in relation to the conduct and interests of Members are to be subsumed within the Authority. The Government is still consulting on its proposal and Parliament will of course be able to take its own view, once a Bill is presented. The CSPL may wish to give further consideration to the regulatory apparatus, after it has completed its current inquiry.

18. Questions might reasonably be asked about why cases of apparent abuses of the system are now coming to light which were not previously discovered by the existing regulatory apparatus. The answer is twofold: first, the Commissioner may consider only cases which are the subject of a complaint, supported by sufficient evidence to serve as a basis for investigation; second, behaviour which has been regarded by some as an abuse was in fact within the rules as they were at the time. Publication of details of Members' claims, and changes to the rules over the past year, have helped to provide some of the transparency and clarity that is needed for a complaints-driven system to function effectively. More rigorous rules—both those announced recently and those which will come about as a result of the CSPL's review—should help further to restore confidence in the system.

19. Questions also continue to be raised about the extent to which there should be external involvement in the enforcement regime. I personally am not in favour of handing over the entire

role of the Committee on Standards and Privileges to an outside body, and I am pleased that no such move has been canvassed as part of the Government's proposals. However, the Committee has discussed the possibility that lay members might be appointed to serve on it. Although there is no unanimity of view as to how many lay members should be on the Committee, there is now recognition that such a step would enhance the way the Committee deals with standards cases and that it ought to improve confidence in its decisions. I would welcome discussion by the CSPL of this possibility.

20. In the Committee's view, it is important that the final decision as to what sanction, if any, to apply in a case where a Member is found to have breached the rules remains with the House. As the CSPL recognised in its Eighth Report, there are profound constitutional implications of any step to give an outside body power to impose punitive sanctions on Members for their conduct as Members.

21. Finally, I hope that the CSPL will consider whether the new Parliamentary Standards Authority should also have responsibility for enforcing the Ministerial Code of Conduct. It seems to me that it should, because all the reasons advanced in favour of independent oversight of Parliament apply equally to Ministers.

22. **Outside interests** I am not personally in favour of a House composed exclusively of full-time politicians, and think it would be sad if it was made so difficult to have outside interests that full-time politicians were the result. Ultimately, these matters are for the electorate of the Member concerned. Transparency is highly desirable in principle, but the complexity and burdensome nature of the changes made by the House on 30 April will make it difficult for Members to maintain outside interests, unless those interests are entirely unremunerated. They may also impact, accidentally, on Members with no outside interests.

23. In one important respect, the new requirements relating to registration of additional incomes are out of kilter with other parts of the House's registration regime. Whereas for most categories of registrable interest a *de minimis* threshold applies, usually of one percent of the basic Parliamentary salary, there is now no such threshold in respect of additional incomes. As things stand, from 1 July Members will be required to register even the smallest sums paid to them. Ironically, they will need to devote time to recording this information, time that could otherwise be spent on their Parliamentary duties. I hope that the CSPL will consider whether this is proportionate and reasonable.

24. There are also problems of definition, particularly of the "nature of the work carried out" and the number of hours worked—for example, should time spent travelling count towards the hours worked? These are real concerns, which I hope the CSPL will look at in detail.

Additional comment

25. I have a general point which I think needs to be made. Nearly all the comments being made about the expenses regime are based on perceptions of it before the publication of detailed receipts. I believe that the decision on publication of the receipts, and the knowledge that they will be published in the future, has already changed behaviour and will lead to some of the abuses coming to an end. I trust that the CSPL will take this point on board.

2 June 2009