

## Review of MPs' Expenses

### Evidence submitted by Sir Philip Mawer to the Committee on Standards in Public Life

#### 1: Introduction and Overview

1. I welcome the opportunity to give evidence to the Committee's review, a review which is long overdue. I submit my evidence **not** as the Prime Minister's Independent Adviser on Ministers' Interests but in a purely personal capacity, drawing in particular on my experience as Parliamentary Commissioner for Standards from 2002-07. I hope that my contribution proves helpful to the Committee in carrying out its very demanding task.
2. The recent furore over MPs' allowances is a car crash which has long been waiting to happen. Not only the reputation of many decent MPs but that of the "Mother of Parliaments" itself has been seriously damaged in the wreckage.
3. The crisis is not the fault of Government, nor of any one political party, but the result of a collective failure of leadership in the House of Commons itself. Previous opportunities to make the fundamental reforms needed have not been taken. Those reforms which have been adopted have failed to deal adequately with the underlying problems. Both these failures and the way in which the House has responded to the crisis caused by the Daily Telegraph's revelations have exposed the institutional problem which both Houses of Parliament have in responding effectively and coherently to a major internal and external challenge.
4. I suggest that what must now happen to begin to restore the reputation of Parliament is clear:
  - i) The action taken by the political parties in respect of their own MPs is welcome but piecemeal, and risks resulting in injustice to individuals. All claims made by MPs, information about which has been published by the Daily Telegraph - along with all subsequent claims made by Members prior to the outcome of your Committee's review - should be independently screened according to a common standard to see if they are in accord with the spirit as well as the letter of the existing rules.
  - ii) The existing system of allowances should be replaced, following root and branch review by your Committee, by a new one which:
    - Ensures fair and appropriate treatment of MPs, while protecting public funds from exploitation for personal gain.

- Is proportionate in providing transparency and accountability in the way public money is spent.
- Includes provision for the effective and independent audit of claims.
- Ends the right of MPs to set their own terms of service.

iii) Members should be held individually accountable by their constituents, not least through the ballot box at the next general election, both for their conduct in respect of their own claims and for the attitude they take to the implementation of your Committee's recommendations.

5. It is vital both that the opportunity for reform is taken and that the new arrangements which result are well thought through. There is a danger that, in the face of understandable public anger, changes will be rushed or inadequate. I hope the Committee's review will provide a context in which it will be possible to restore some sense of perspective to the public debate and for the issues to be given balanced as well as effective consideration. I welcome the Committee's recognition that the issues are not all clear cut and its intention to base its conclusions on firm evidence rather than emotion, and am grateful for the opportunity to contribute to the evidence before it.

## **2: Relevant Experience as Parliamentary Commissioner**

6. I am conscious that, having occupied the post of Parliamentary Commissioner for Standards for almost 6 years, the Committee (and the public) may fairly ask me what I did during that period to point out the inadequacies of the pay and allowances system. Although I did not have access as Commissioner to the kind of information recently published by the Telegraph, but could only investigate when I received a complaint against an individual MP, a number of the reports which I wrote during that period identified inadequacies in the existing system and recommended changes. For example:

- i) Following my report to the Committee on Standards and Privileges on Mr Michael Trend<sup>1</sup>, receipts were required for the first time for certain types of expenditure and an attempt was made to clarify the rules on what constituted a Member's main home.
- ii) My reports on complaints against Mr Clive Betts and Mr Iain Duncan Smith<sup>2</sup> led to clarification of the rules on the employment of staff.

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<sup>1</sup> Third Report of Session 2002-03, HC 435.

<sup>2</sup> Fifth Report of Session 2002-03, HC 947; and Fourth Report of Session 2003-04, HC 476.

- iii) My report on Mr Derek Conway<sup>3</sup> exposed the improper use of the staffing allowance in that case in relation to a family member.

In addition, following a string of complaints relating to the Communications Allowance, I submitted recommendations on the reform of that allowance which were subsequently published by the Committee on Standards and Privileges appended to its Third Report of Session 2007-08, HC 232. I referred to matters related to allowances in a number of my published Annual Reports to the House and my concern about these matters was also made public in an interview with “The Times” (published, as I recall, on 2 January 2007).

7. In addition, in July 2006, I submitted an unpublished paper to the Committee on Standards and Privileges which identified key outstanding issues of concern relating to allowances, with a particular focus on the Additional Costs Allowance (now PAAE). Following discussion of that paper and other action by the Standards and Privileges Committee, and with the full approval of that Committee, its Chairman and I gave both written and oral evidence to the Senior Salaries Review Body (SSRB). The written evidence was appended to the Committee’s First Report of Session 2006-07 (HC 330). The main thrust of my oral evidence was the need to develop a comprehensive package of reforms covering pay and allowances which would end the unacceptable practices which had developed around some aspects of the then regime and establish a defensible set of arrangements for the future.
8. I recount this brief history both to bring out that the Committee on Standards and Privileges and I sought to identify the risk to the House’s reputation presented by the existing allowance arrangements and to press for change, and to indicate that, partly as a result, some changes were made. It did not, of course, lie in the power of that Committee (and was certainly not in my power) to implement the extent of change needed. That was a matter for the House as a whole, advised by the Members Estimates Committee, chaired by Mr Speaker, which was advised in turn by the then Speaker’s Advisory Panel on Members’ Allowances.
9. It would be wrong not to acknowledge the efforts made by the Members Estimate Committee in the summer of 2008 to effect improvements in the House’s expense arrangements, efforts which followed publication in 2007 of the report of the SSRB. Having said that, whilst the proposals made would have effected a number of improvements (e.g. in respect of audit and assurance), they did not constitute the thorough reform necessary to remedy the defects revealed by recently published stories. In large part, they would simply have placed an improved layer of regulation on top of what was a fundamentally unsatisfactory system. However, even these limited reforms were rejected by the House.

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<sup>3</sup> Fourth Report of Session 2007-08, HC 280.

### 3: Some Key Factors which have led to the Present Situation

10. The Committee's Issues and Questions Paper identifies one key factor which has led to the situation – the fact that at the end of the day, Parliament decides the pattern of and rules relating to its Members' allowances. Although the House of Commons has recently resolved to delegate its power to set its Members' pay to the SSRB, this is, on my understanding, a self-denying ordinance, which could be revoked at any time. Although I do not favour, for constitutional reasons, weakening the ultimate Sovereignty of Parliament (or the doctrine of "exclusive cognisance"), I do favour restricting it or hedging it about in this area. I say this because, in my experience, constitutional argument has up to this point often been used to block necessary reform. So Parliamentary sovereignty and exclusive cognisance have been used to fend off serious external scrutiny. Similarly, the position of the MP as an independent office-holder and the tradition of the "honourable Member" have been used to avoid accountability and suppress internal challenge.
11. I would add the following as among other factors responsible for the current position:
- History – not least the refusal of successive Governments, for political reasons, to pay MPs what the SSRB has recommended, coupled with their willingness to use allowances as a back-door means of increasing pay;
  - Culture – the consequential development of a pernicious culture in which certain allowances (notably the second home allowance) were seen as a supplement to pay, a maximum to be claimed up to rather than reimbursement for expenses necessarily and properly incurred;
  - Partisan advantage – some of the changes to the system which have been made, and some which are currently being urged, reflect perceptions of what will work to a particular political party's advantage, as witness, for example, the current debate around the communications allowance for MPs.

### 4: Principles which should Guide Reform

12. I endorse the Guiding Principles and Presumptions set out in paragraphs 1.10 – 1.13 and at Annex A of the Committee's Issues and Questions paper. I would add to these that, in any profession, remuneration and expense arrangements are generally shaped not only by the needs of the job (presuming that these can be defined reasonably precisely) and by requirements of financial accountability, but by the need to ensure that people of the right calibre, whatever their background, can be recruited. One of the most worrying but currently uncertain effects of recent events is the extent to which good people from all walks of life will be deterred from offering themselves for membership of either House of Parliament. That is why I would urge that any

new arrangements are not only fit for purpose and ensure proper public accountability but are:

- As clear and simple as possible;
- Flexible, in that while the principles on which they are based are clear, they allow scope for adjustment to suit individual circumstances;
- Treat MPs appropriately, giving them freedom to decide how they will go about doing their job and answer to their constituents for doing so;
- Do not depend wholly on slavish adherence to rules but require Members to exercise judgement in applying the principles of selflessness, integrity and honesty (the ‘Nolan’ principles) which should underlie them.

I make this latter point because recent events have underlined the extent to which a purely rules-based approach – “what I did was entirely within the rules of the House” – is ultimately morally unconvincing. Members cannot escape their responsibility to make judgements, within a clear framework of rules, not only about what is right in respect of their own interests but of the wider public interest.

## 5: Suggestions for Reform

13. I set out briefly below the rationale of and my main proposals for reform, on which I should be happy to elaborate as necessary.
14. A Clear View of the Nature and Purpose of Parliament – and of the House of Commons in particular, should guide the Committee’s review. The recommendations the Committee makes will help shape the House of the future. For example, in my submission, being an MP is not a career in the conventional sense. Although many MPs serve during the lifetime of more than one Parliament, many others do not. Nor should Parliament be peopled solely by “career politicians”. The remuneration regime should not discriminate between Members either on the basis of whether or not they have independent means or of the number of hours they devote to their duties as a Member. The latter is a matter on which they should be accountable to their constituents.
15. A Comprehensive Package – the present review should look at pay and expenses arrangements together, as related aspects of a comprehensive package of reforms. Certain additional costs are inevitably going to arise from the duties and role of an MP for which it would not be sensible to make separate identifiable provision in a new expenses scheme, but which have to be recognised and reimbursed in some way. If a modest one-off increase in pay is necessary in order to achieve a fair result, this should be accepted. However, once the new package has been identified, a sharper and clearer distinction between pay and expenses should be embodied in any new remuneration system.

16. A new independent body – should be established to decide remuneration (pay and expenses) arrangements for both Houses of Parliament. The body could be serviced by the Office of Manpower Economics, as is the SSRB. It should include MPs and peers but have a majority of independent members and an independent chair.
17. The new body should have a clear measure of independence, e.g. by being established on a statutory basis. It could also administer – but, if it does, should not audit compliance with – the rules. Establishing the new body would have some cost implications but I believe these would be relatively small and a price worth paying in terms of public confidence in a reformed system.
18. Accommodation Costs (PAAE) – MPs will inevitably need a home in London and should also have one in their constituency (if different). It would not be a satisfactory solution to this issue for Parliament to buy and manage accommodation for Members in London. Government departments long ago gave up, for good reason, being housing providers and the circumstances of individual Members vary widely.
19. It is probably not now politically possible to absorb the current second home allowance into MPs’ pay. So the main options are to pay all MPs a taxable flat-rate overnight subsistence allowance, which they can spend as they wish, or to limit the scope of Members’ expenditure on housing for which reimbursement can be claimed. If the latter option is chosen, and mortgage interest continues to be reimbursable, it will have to be recognised that, if MPs are not to benefit from any capital gain on a property, the taxpayer has to be prepared to carry the risk if property values fall.
20. “Flipping” and the fact that nomination of a main home does not currently have to be aligned with any election made for Capital Gains Tax purposes have been strongly criticised. The way of dealing with this would seem to be to:
  - Limit the circumstances in which a Member can change the designation of their main home, and
  - Ensure that the designation of “main home” is aligned for both Parliamentary and tax purposes.
21. Members who live within the London Weighting area should not be able to claim PAAE but should be entitled to an enhanced London Weighting allowance.
22. Administrative Support – MPs should be free to appoint staff of their own choosing to support them, provided the people concerned are qualified and able to do the job,

actually do it, and are provided with a reasonable (not excessive) level of reimbursement appropriate to the weight of the work they do. Contracts for such staff should be held and administered centrally by the House.

23. There has recently been much objection to family members working for MPs. Many such people work long and hard hours with a heightened sense of personal commitment to the Member they serve.
24. That said, it is probably no longer acceptable for MPs to employ family members as staff. I suggest that the practice should be phased out over a period, while recognising that this will simply mean that many such people simply go to work for another Member who is a friend of the one to whom they are related.
25. Office Support – I am not aware of major problems in respect of the non-staff elements of the existing Administrative and Office expenditure (AOE) reimbursement arrangements. Provided those arrangements are policed effectively to ensure, for example, that constituency offices are rented on a market basis, that the purpose of all expenditure is clear and transparent, and that there is no use of the allowance to subsidise domestic or party interests, the present system does not seem to need significant adjustment.
26. Travel expenditure – the main concerns in this area have focussed on:
- The marked variation in expenditure by different MPs, some representing, for example, adjacent constituencies;
  - Multiple submission of mileage or other travel claims by Members who, it is alleged, have shared a single vehicle to travel to their constituencies or from their constituencies to London;
  - Reimbursement of travel for family members.

The introduction of the House of Commons Travel Card is a positive step in encouraging the use of public transport and “greener” travel options. Members should also be given a budget for travel and encouraged to learn better practice from each other. Greater transparency in respect of claims made should both help ensure better practice and help end any undesirable behaviour.

27. Communications Expenditure – the principal problem in respect of this allowance lies in policing the boundary between Parliamentary and party political activity. I set out some proposals for improving regulation in this area in my memorandum attached to the Third Report of the Committee on Standards and Privileges of Session 2007-08 (HC 232).

28. Leaving Parliament – I have not studied arrangements in this area in detail and do not therefore offer any specific proposals in respect of the arrangements currently in place. However, I am clear that some provision will continue to be justified for those Members who stand down or lose their seat at a General Election. Many MPs do not survive long in their seats and the process of re-entry into “ordinary” life can be difficult, as a study undertaken some years ago by the University of Leeds for the Association of Former MPs showed.
29. Ministers – The principle must be that Ministers, like other Members, should pay in full for at least one of their residences. Given this, the Government’s recent proposal that Ministers who live in “grace and favour” residences should not qualify for Parliamentary assistance towards a second home seems right.
30. Administration and Enforcement – it is very clear that more rigorous administration and improved audit of claims are essential. In brief, I would favour:
- Requiring receipts for all expenditure over £25;
  - Handing responsibility for interpreting as well as setting the rules to the new independent body I propose in paragraphs 15 – 16 above;
  - Continuing with “full scope” external audit by the NAO, as introduced in April this year;
  - Leaving enforcement with the Parliamentary Commissioner for Standards.
- Whichever body is responsible for administering claims, it is clear that the staff concerned will need to be fully supported in seeking to apply the rules.
31. In view of what has occurred, I would also favour publishing Members’ claims, as in the Scottish Parliament. Not only will this be a powerful incentive to Members to police themselves and a powerful reassurance to the public but the Scottish experience appears to suggest that the fears that have been expressed about such a move are ill-founded.
32. Miscellaneous Support – transparency is also vital in respect of the sources of any support Members may receive other than from public funds.

## 6: Conclusion

33. The expenses scandal has proved a major shock to confidence in our political institutions. The damage will take years to restore. New remuneration (pay and expenses) arrangements are an essential part of effecting a restoration and the opportunity for radical change must be taken. However, they are only part of what is needed. Only if the public sees that MPs conduct themselves with the same standards of reasonableness, prudence and respect for the public purse that they (Members) expect from others will there be hope of a lasting improvement.

**Sir Philip Mawer**

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