



House of Commons  
Committee on  
Standards and Privileges

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**Conduct of Ed Balls  
and Yvette Cooper**

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**Fourteenth Report of Session 2007-08**

*Report and appendices, together with formal  
minutes*

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## The Committee on Standards and Privileges

The Committee on Standards and Privileges is appointed by the House of Commons to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

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### Committee staff

The current staff of the Committee are Dr Christopher Ward (Clerk), Mr Keith Neary (Second Clerk) and Ms Jane Cooper (Secretary).

### Contacts

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# Contents

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<b>Report</b>	<i>Page</i>
<b>Conduct of Ed Balls and Yvette Cooper</b>	<b>3</b>
<b>Appendix 1: Memorandum from the Parliamentary Commissioner for Standards</b>	<b>4</b>
<b>Appendix 2: Letter to the Clerk of the Committee from Ed Balls and Yvette Cooper, 6 October 2008</b>	<b>55</b>
<b>Formal minutes</b>	<b>57</b>
<b>Reports from the Committee on Standards and Privileges in the current Parliament</b>	<b>58</b>



## Conduct of Ed Balls and Yvette Cooper

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1. We have received a memorandum from the Parliamentary Commissioner for Standards on the outcome of his investigation of a complaint against Ed Balls, the Member for Normanton, and Yvette Cooper, the Member for Pontefract and Castleford, by Mr Malcolm Moss, the Member for North East Cambridgeshire. The Commissioner's report is reproduced at Appendix 1.

2. We have shown Mr Balls and Ms Cooper copies of the Commissioner's report. Their observations are reproduced at Appendix 2. In accordance with our usual practice, we are publishing the Commissioner's report and the related papers.

3. The basis of the complaint was that Mr Balls and Ms Cooper may each have incorrectly identified their main home for the purpose of claims against the Additional Costs Allowance (ACA) for the costs of their second home. **The Commissioner has dismissed the complaint, having concluded in the light of his investigation that "Ms Cooper and Mr Balls made reasonable decisions on the basis of their own circumstances in declaring their property in Castleford to be their main home".**<sup>1</sup> He has nonetheless reported to us on this complaint, commenting "The issue turns on the interpretation of the rules in the Green Book about the identification of a Member's main home. In view of the wider implications for the application of these rules, I have thought it right to put my conclusions to the Committee. I have also taken the opportunity to address some wider issues which are not directly part of the complaint".<sup>2</sup>

4. In the light of his investigation of this complaint, the Commissioner has endorsed the principle set out in the Green Book as the primary test for determining a Member's main residence for ACA purposes, namely that "if you have more than one home, your main home will normally be the one where you spend more nights than any other".<sup>3</sup> He comments "As long as this is not taken as a rigid rule ... that seems to me to be an acceptable guide".<sup>4</sup> **We agree with the Commissioner in this conclusion.**

5. The Commissioner has also commented on other aspects of the criteria for identifying a Member's main home in cases where the normal test may not be considered appropriate,<sup>5</sup> and on the application of the ACA to Members who share a secondary home.<sup>6</sup> **We shall consider the Commissioner's observations on these matters carefully and, in order not to delay our report on the complaint, we shall report separately on them.**

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1 Appendix 1, paragraph 87.

2 *Ibid*, paragraph 74.

3 Green Book, paragraph 3.9.1 (see Appendix 1, paragraph 9).

4 Appendix 1, paragraph 90.

5 *Ibid*, paragraphs 91-92.

6 *Ibid*, paragraphs 93-95.

# Appendix 1: Memorandum from the Parliamentary Commissioner for Standards

## Contents

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<b>Report</b>	<i>Page</i>
<b>Complaint against Rt Hon Ed Balls and Rt Hon Yvette Cooper</b>	<b>6</b>
Introduction	6
The Complaint	6
Relevant Provisions of the Code	7
My Inquiries	10
Findings of Fact	22
Conclusions	24
(a) <i>Was the identification of their main home a simple matter of fact?</i>	24
(b) <i>Were they required to identify their main home as the place where they spent more nights than any other?</i>	25
(c) <i>Did they properly take advice from the Department of Finance and Administration?</i>	26
(d) <i>Overall, was their designation consistent with the rules of the House?</i>	26
Other Considerations	26
<i>The criteria for identifying a main home</i>	27
<i>Joint Claims</i>	27
<b>Written evidence received by the Parliamentary Commissioner for Standards</b>	<b>29</b>
1. Article in Mail on Sunday, published 23 September 2007	29
2. Letter to the Commissioner from Mr Malcolm Moss MP, 4 February 2008	32
3. Letter to Mr Balls (with a similar letter to Ms Cooper) from the Commissioner, 6 February 2008	32
4. Letter to the Commissioner from Mr Balls and Ms Cooper, 28 February 2008	33
5. Article in Wakefield Express, published 8 February 2008	36
6. Letter to the Department of Finance and Administration from Mr Balls, 20 July 2005	36
7. Letter to the Director of Operations, Department of Resources, from the Commissioner, 3 March 2008	36
8. Letter to the Commissioner from the Acting Director of Operations, Department of Resources, 7 April 2008	37
9. Circular letter to all Ministers and Office Holders receiving the Additional Costs Allowance from the Director of Operations, Department of Finance and Administration, 26 February 2004	38
10. Letter to the Assistant Director of Operations, Department of Resources, from Mr Balls and Ms Cooper, 18 March 2008	39
11. Note of Meeting between Mr Balls and Ms Cooper and the Department of Finance and Administration, 9 June 2005	40

12. Letter to Mr Balls (and a similar letter to Ms Cooper) from the Commissioner, 9 April 2008	41
13. Letter to the Commissioner from Ms Cooper, 6 June 2008	41
14. Letter to a Senior Payments Officer in the Fees Office from Ms Cooper, 6 February 2004	42
15. Letter to a Senior Payments Officer, Fees Office, from Ms Cooper, 22 March 2004	42
16. Letter to the Commissioner from Mr Balls and Ms Cooper, 6 June 2008	42
17. Letter to the Acting Director of Operations, Department of Resources, from the Commissioner, 19 June 2008	44
18. Letter to the Commissioner from the Acting Director of Operations, Department of Resources, 26 June 2008	44
19. Letter to Mr Balls (and a similar letter to Ms Cooper) from the Commissioner, 26 June 2008	45
20. Letter to the Commissioner from Mr Balls and Ms Cooper, 10 July 2008	45
21. Letter to the Acting Director of Operations, Department of Resources, from the Commissioner, 16 July 2008	50
22. Letter to Ms Cooper from the Commissioner, 16 July 2008	50
23. Letter to the Commissioner from Mr Balls (on behalf of himself and Ms Cooper), 22 July 2008	51
24. Letter to Mr Balls (copied to Ms Cooper) from the Commissioner, 24 July 2008	52
25. Schedule of Time Spent in London, Castleford and Away	52
26. Letter to the Commissioner from the Acting Director of Operations, Department of Resources, 28 July 2008	54

# Complaint against Rt Hon Ed Balls and Rt Hon Yvette Cooper

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## Introduction

1. This memorandum reports my conclusions on a complaint that the Rt Hon Ed Balls (the Member for Normanton) and the Rt Hon Yvette Cooper (the Member for Pontefract and Castleford) incorrectly identified their main home for the purposes of claims for the costs of their second home under the Additional Costs Allowance provided to Members of Parliament for this purpose. Ms Cooper and Mr Balls have been married to each other since 1998. Ms Cooper has been a Member since the 1997 General Election, and Mr Balls since the 2005 General Election.

2. The *Mail on Sunday* published an article on 23 September 2007 suggesting that Mr Balls and Ms Cooper had identified their home in Yorkshire as their main home so that they could claim for the costs of a recently purchased house in London which, the paper suggested, was in an area which would provide their children with the prospect of a better quality of state education.<sup>1</sup> The article suggested that the lack of a strict test for what constitutes a main home allowed Mr Balls and Ms Cooper to argue that they were not in breach of the Commons regulations. An Opposition Member of Parliament was quoted as saying that they might not have broken the rules absolutely, but they had clearly broken their spirit. A friend of Mr Balls and Ms Cooper was quoted as saying that they genuinely regarded Yorkshire as their main home.

3. I received a complaint dated 4 February 2008 from Mr Malcolm Moss (the Member for North East Cambridgeshire) based on this newspaper article.<sup>2</sup>

## The Complaint

4. Mr Malcolm Moss's letter of 4 February referred back to the newspaper article of 23 September 2007. He referred to the requirements for the payment of the Additional Costs Allowance set out in the Green Book on Parliamentary Salaries, Allowances and Pensions.<sup>3</sup> He sought my "*ruling as whether in this instance the spirit of the rules or even the letter of the rules has been breached*" given that Mr Balls and Ms Cooper had said that their main home was in Yorkshire when it appeared that their children went to school in London and that the main home designation had been changed from London to Yorkshire in the past few years.

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1 WE 1.

2 WE 2.

3 See paragraphs 6-17 below.

## Relevant Provisions of the Code

5. Paragraph 14 of the Code of Conduct for Members of Parliament provides as follows:

“Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services.”

6. The Green Book on Parliamentary Salaries, Allowances and Pensions published in April 2005 sets out the purpose of the Additional Costs Allowance in paragraph 3.1.1 as follows:

“The additional costs allowance (ACA) reimburses Members of Parliament for expenses wholly, exclusively and necessarily incurred when staying overnight away from their main UK residence (referred to below as their main home) for the purpose of performing Parliamentary duties. **This excludes expenses that have been incurred for purely personal or political purposes.**”

7. Eligibility for the Additional Costs Allowance is set out in paragraph 3.2.1 as follows:

“You can claim ACA if:

- a) You have stayed overnight in the UK away from your only or main home, and
- b) This was for the purpose of performing your Parliamentary duties, and
- c) You have necessarily incurred additional costs in so doing, ...”

8. Paragraph 3.3.1 covers the location of overnight stays as follows:

“If your main home is in the constituency, you can claim ACA for overnight stays in London—or in another part of the constituency if reasonably necessary in view of the distance from your only or main home.

If your main home is in London you can claim for overnight stays in the constituency.

If your main home is neither in London nor the constituency you can choose in which of these areas to claim ACA.

See section 3.9.1 for definition of your main home.”

9. The definition of “*main home*” referred to in paragraph 3.1.1 and 3.3.1 is set out in paragraph 3.9.1 as follows:

“When you enter Parliament we will ask you to give the address of your main UK home on form ACA1 for the purposes of ACA and travel entitlements. Members are expected to locate their main homes in the UK. It is your responsibility to tell us if

your main home changes. This will remain your main home unless you tell us otherwise.

The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other. If there is any doubt about which is your main home, please consult the Department of Finance and Administration.”

10. The 2005 edition of the Green Book quoted above differs in some respects from the relevant rules set out in the Green Book published in June 2003. Paragraph 3.1.1 of the June 2003 Green Book provides as follows:

“The additional costs allowance (ACA) reimburses Members of Parliament for expenses wholly, exclusively and necessarily incurred when staying overnight away from their main residence (referred to below as their main home) for the purpose of performing Parliamentary duties. This excludes expenses that have been incurred for purely personal or political purposes”.

11. Paragraph 3.2.1 on eligibility provides as follows:

“You can claim ACA if:

- a) You have stayed overnight away from your only main home, and
- b) This was for the purpose of performing your Parliamentary duties, and
- c) You have necessarily incurred additional costs in so doing. ...”

12. Paragraph 3.3.1 of the 2003 Green Book deals with the location of overnight stays as follows:

“If your main home is in the constituency, you can claim ACA for overnight stays in London—or in another party of the constituency if reasonably necessary in view of the distance from your only or main home.

If your main home is in London you can claim for overnight stays in the constituency.

If your main home is neither in London nor the constituency you can choose in which of these areas to claim ACA.

If you are a Minister or paid office holder (see list in section 4 of the London supplement), you can claim ACA only for overnight stays in the constituency.

See section 3.9.1 for definition of your main home.”

13. Paragraph 3.9.1 sets out the following definitions:

“When you enter Parliament we will ask you to give the address of your main home for the purposes of ACA and travel entitlements. It is your responsibility to tell us if this changes. This will remain your main home unless you tell us otherwise.

If you are a Minister or office holder (see definition in section 4 of the London Supplement) then your main home is deemed to be in London. Unless you are provided with an official residence, you will receive London supplement with your salary, and you may be eligible to claim ACA in the constituency.

For other Members, the location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other. If there is any doubt about which is your main home please consult the Department of Finance and Administration.”

14. The main differences between the 2003 and 2005 versions of the Green Book are to make clear that the main home must be in the United Kingdom (not a relevant factor in this inquiry) and to change the requirement in the 2003 version that Ministers could claim Additional Costs Allowance for overnight stays only in their constituency. A letter was sent to all Ministers and office holders from the then Director of Operations at the Department of Finance and Administration dated 26 February 2004 which stated that the restriction which deemed Ministers to have their main home in London had now been removed and that in future the Additional Costs Allowance rules would be the same for all Members.

15. The current, July 2006, edition of the Green Book follows closely the provisions in the April 2005 edition set out above. There is however an additional section in Section 3 headed ‘Principles’. Paragraph 3.3.1 of the 2006 edition includes the following principle:

“You must ensure that arrangements for your ACA claims are above reproach and that there can be no grounds for a suggestion of misuse of public money. Members should bear in mind the need to obtain value for money from accommodation, goods or services funded from the allowances.”

16. Mr Speaker provides an introduction to each edition of the Green Book. His introduction to the April 2005 edition included the following paragraph:

“Members themselves are responsible for ensuring that their use of allowances is above reproach. They should seek advice in cases of doubt and read the Green Book with care. In cases of doubt or difficulty about any aspect of the allowances or how they can be used, please contact the Department of Finance and Administration. The Members Estimate Committee, which I chair, has recently restated the Department’s authority to interpret and enforce these rules.”

17. A paragraph in the same terms was included in Mr Speaker’s introduction to the July 2006 edition. The June 2003 edition covered similar ground in Mr Speaker’s introduction as follows:

“Members themselves are responsible for ensuring that their use of allowances is above reproach. They should seek advice in cases of doubt and read the Green Book with care. The Finance and Administration Department is there to relieve Members

of the bulk of the day to day administration of Parliamentary allowances whilst helping Members to provide the necessary accountability.”

## My Inquiries

18. Where I receive a complaint based solely on a newspaper report, I consider very carefully whether that report provides sufficient evidence to merit at least a preliminary inquiry that there may have been a specified breach of the Code of Conduct or its associated rules. In accordance with the Guide to the Rules relating to the conduct of Members,<sup>4</sup> I would not normally regard a complaint founded upon no more than a newspaper story as a substantiated allegation. In this case, however, I considered that there was sufficient evidence in the newspaper report to merit at least a preliminary inquiry of Mr Balls and Ms Cooper about their arrangements for claiming the Additional Costs Allowance. I therefore wrote to each of them on 6 February 2008 inviting their comments on Mr Moss’s complaint.<sup>5</sup> I wrote also to Mr Moss to inform him that I had accepted his complaint for this purpose.

19. In my letters to Mr Balls and Ms Cooper I asked if they could set out the sequence of events which led them to decide on the location of their main home for the purpose of the Additional Costs Allowance; whether they had changed the location of their main home at any time as Members of Parliament, and if so what were the reasons; what advice if any they took from the House authorities before or after they had determined the location of their main home; how far they had met the guidance in the Green Book that their main home would normally be the one where they spent more nights than any other; and the level of claims they had made over the last three years against the Additional Costs Allowance.

20. Mr Balls and Ms Cooper responded jointly in a letter to me of 28 February.<sup>6</sup> They noted that Mr Moss had not written to them about the complaint until 7 February; that Mr Moss had not chosen to make his complaint when the newspaper article was published in September 2007; he had not sought at any time to raise the issue with them and that Mr Moss was quoted in a regional newspaper, the *Wakefield Express*, as saying that he had not accused the Members of doing anything wrong: “*It’s the fact the press was full of stories on the Tory side of expenses, which is why I have written this letter now*”.

21. Mr Balls and Ms Cooper said that, while they were absolutely clear that I needed the fullest possible answers to my questions, they were concerned to keep confidential the details of their family circumstances. More detailed information related to their children was set out in the annex to their letter which I have not attached to this memorandum. The annex describes briefly the arrangements which the family have for their children to travel between London and Yorkshire. The Members’ letter also annexed a copy of the

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4 Paragraph 84.

5 WE 3.

6 WE 4.

newspaper article of 8 February 2008 from the *Wakefield Express*,<sup>7</sup> a copy of a letter of 20 July 2005<sup>8</sup> from Mr Balls to the Operations Directorate in the Department of Finance and Administration and a copy of a declaration form for Ms Cooper of 7 January 2004, which included a manuscript statement from her as follows:

“I assume that the rule that Ministers have to designate their London address as their first home still applies otherwise I’ll switch them over.”

22. The Members noted that when Yvette Cooper became a Minister in October 1999, the rules at that time required Members of Parliament who were Ministers to list their main home as London. She therefore switched her claim for the Additional Costs Allowance from her home in London to her home in Yorkshire. The Members noted that the rules changed in early 2004, but they were not aware of this at the time. Ms Cooper had twice sought advice from the Fees Office, now part of the Department of Resources, on 6 February 2004 and again in March 2004. Since she had received no reply to either letter, she assumed that the rule was still in place. She therefore continued to claim on the basis of her London home until she and her husband reviewed the position following Mr Balls’ election to the House of Commons in May 2005.

23. Both Members met an official from the Department of Finance and Administration on 9 June 2005 to discuss their arrangements and to seek advice. The Members said that they agreed the arrangements for claiming the Additional Costs Allowance for their London home with the Department of Finance and Administration at that meeting on 9 June 2005 and confirmed the agreed arrangements in a letter from Mr Balls to the Department of Finance and Administration on 20 July 2005.<sup>9</sup>

24. In their letter to me of 28 February, the Members explained that their house in Castleford had been their family home for the past ten years having moved into it in February 1998. Generally when Parliament was sitting, they spent Monday to Thursday in London and Friday to Sunday in Yorkshire. Recesses were spent in Yorkshire. The number of nights they spent in either home depended on whether or not Parliament was sitting and on particular events and circumstances. In the ten week long summer recess in 2007, for example, they spent fewer than 20 nights in their London home, with the rest of the time working from Yorkshire and commuting down to London for the day on Government business or away on holiday from their Yorkshire home. Overall, however, in comparing the number of days they normally spent over the course of the year at home in Yorkshire and in London, they estimated that they spent roughly 60% of their days in Yorkshire and 40% of their days in London; and they spent about half their nights in London.

25. Given their unusual circumstances, and the variations from one month to another, Mr Balls and Ms Cooper had thought it right to consult the Fees Office, which they did on 9

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7 WE 5.

8 WE 6.

9 WE 6.

June 2005. If the Fees Office had at any time said that it thought there was a problem with their arrangements or that they should claim differently, they would of course have done so. The Fees Office confirmed to them, however, on the basis of their discussion that it would be in order for them to put in joint claims on their London property for the Additional Costs Allowance.

26. In 2004/05, when Mr Balls was not yet a Member of Parliament, Ms Cooper had claimed £19,428 from the Additional Costs Allowance on their Yorkshire home. In 2005/06 Ms Cooper claimed £14,234 and Mr Balls claimed £13,618; in 2006/07 Ms Cooper claimed £15,995 and Mr Balls claimed £15,979. Similar claims were likely to be submitted for the financial year 2007/08. The Members noted that they had not “*maximised our application*” as Mr Moss had claimed in his letter. They were not claiming the full amount on the London property, even though they believed they were entitled to do so. All claims had been accompanied by the usual bills and verified by the House of Commons Fees Office. They were paying Capital Gains Tax on the sale of their previous London home in 2007.

27. In conclusion, Mr Balls and Ms Cooper noted that they were “*both Members of Parliament and have established complicated family arrangements so that the whole family can stay together and so can return to our constituencies and our Yorkshire home at weekends and during recess*”. Given their unusual circumstances, and in order to ensure they complied with the Green Book, they had sought advice from the Fees Office at every stage and had followed that advice and would continue to do so.

28. Having considered the Members’ letter, I decided that I needed advice from the Department of Resources (which now included what was previously the Fees Office). I therefore wrote to the Director of Operations in the Department of Resources on 3 March inviting his comments.<sup>10</sup> I asked for information about notifying Ministers of the change in the rules for Ministers and their main homes in 2004 and to have any minutes of the meeting between officials of the then Department of Finance and Administration and the Members on 9 June 2005.

29. The Acting Director of Operations replied with his letter of 7 April.<sup>11</sup> He noted that in October 2003, following a review of how the Additional Costs Allowance was administered, all Members who claimed Additional Costs Allowance were asked to complete a new form. Ms Cooper completed hers on 7 January 2004. He confirmed that she annotated the form with a question about the Ministerial position, stating that if it had changed she would wish to switch her nomination. He could find no correspondence on the Department’s files indicating that a response was made to this. Neither had they been able to locate the letters of February and March 2004 referred to in the Member’s letter to me, although he had no doubt they were sent to the Department. The then Director of Operations had, however, written to all Ministers and office holders on 26 February 2004

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<sup>10</sup> WE 7.

<sup>11</sup> WE 8.

informing them of the change in the rules and that Ministers would henceforth be treated in the same way as other Members of Parliament. The Acting Director enclosed with his letter a copy of the circular letter to Ministers and office holders dated 26 February from the then Director of Operations;<sup>12</sup> a letter of 18 March 2008 from Mr Balls and Ms Cooper to the Assistant Director of Operations in the Department of Resources commenting on a note of their meeting with the Department on 9 June 2005;<sup>13</sup> and the note of that meeting prepared by an official of the then Department of Finance and Administration.<sup>14</sup>

30. The Acting Director confirmed that Ms Cooper and Mr Balls had sought advice from the Department in June 2005 about the designation of their main home and subsequently opted to revert to their Castleford address as their ‘main home’ for Additional Costs Allowance purposes. This was with the agreement of the Department following “*a frank discussion about their personal circumstances*”. They were advised they had four options—the Members could have main homes in two separate locations and claim the full allowance on both the London and the constituency properties; Mr Balls could purchase his own constituency property and keep their London home as their main home and each claim for their separate constituency properties; they could continue to treat their London property as their main home and claim for the single property in the constituency; or they could switch their main home to the constituency property and share costs relating to the London property. If they opted for either of the last two of these options, the official advised they share the costs rather than pay the designated costs individually.

31. Following that meeting, Mr Balls designated their Castleford home as his main home for ACA purposes on 25 June 2005, as did Ms Cooper on 25 July 2005. The Acting Director noted that, broadly speaking, their ACA claims shared the costs of their London property over the past three years. In conclusion, the Acting Director said that:

“I am content that both Ms Cooper and Mr Balls have acted within the rules of the allowance and that having sought advice from this Department justified their choice of their Castleford home as their main, family home.”

In addition, he had found no other issues in respect of the arrangements for the two properties which might suggest some other breach of the rules.

32. I wrote to Mr Balls and Ms Cooper on 9 April 2008 to let them have a copy of the Acting Director’s letter of 7 April.<sup>15</sup> I noted his conclusion that he was content that the Members had acted within the rules of the allowance. But I now needed independently to consider that conclusion. In particular, I needed to satisfy myself of the evidence behind the statement they had made to the official on 9 June 2005 that because (in effect) of the time they were spending in their constituencies, their constituency property should become their main home for ACA purposes. I needed to explore in more detail the

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12 WE 9.

13 WE 10.

14 WE 11.

15 WE 12.

estimates the Members had given me in their letter of 28 February of the proportion of days and nights they spent in each location.<sup>16</sup> I asked each Member to let me have the breakdown of the pattern of overnight stays in Yorkshire which they had predicted they would be spending, taking account of differences between work patterns in the Parliamentary session, in the recess, school terms and holiday periods, and to check against their diaries for the last financial year how far those predictions had been met. I asked Ms Cooper also whether she had any recollection of receiving the letter of 26 February 2004 from the Director of Operations in the Department of Finance and Administration and for copies of the letters she sent the Department in February and March 2004, if they were still available.

33. The Members sent me two letters of 6 June in response to my request. The first was from Ms Cooper responding to my questions about the position on the change to the rules for Ministers.<sup>17</sup> Ms Cooper said that she did not have any recollection of receiving or reading the letter of 26 February 2004 from the Department of Finance and Administration. She was aware, however, that in early 2004 the issue had been raised, which is why she had annotated her ACA declaration form in January 2004.<sup>18</sup> She also enclosed a redacted copy of her letter of 6 February 2004 which had said that she assumed that the rule that Ministers had to designate their London home address as their first home still applied and that she had therefore listed Castleford as her second home.<sup>19</sup> She added *“If these rules have changed could you please advise me.”* She also annexed a letter of 22 March 2004 to a Senior Payments Officer in the Fees Office<sup>20</sup> enclosing a copy of her letter of 6 February and requesting a speedy reply.<sup>21</sup> She had no record of receiving any response by the Fees Office to the letter or to the point about the Ministerial rules.

34. The second letter of 6 June was from both Ms Cooper and Mr Balls.<sup>22</sup> In respect of their predicted pattern of overnight stays, they pointed out that they did not set out precise predictions at the time of their discussions with the Fees Office. Nor was it suggested at any stage that they would need either precise predictions or retrospective measurement in order to determine where their second home should be designated. They noted that spending four to five nights a week in London while Parliament was sitting would require them to spend between 40% and 50% of their nights in London over the course of a year. They referred to their previous letter where they had estimated the breakdown of the number of days they normally spent in London and Yorkshire over the course of the year as roughly 60% Yorkshire and 40% London, with about half their nights usually slept in London.<sup>23</sup> When Parliament was sitting, they generally spent Friday, Saturday and Sunday

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16 WE 4.

17 WE 13.

18 “I assume that the rule that Ministers have to designate their London address as their first home still applies otherwise I’ll switch them over.”

19 WE 14.

20 WE 15.

21 WE 14.

22 WE 16.

23 WE 4.

in Yorkshire and Monday to Thursday in London. In school term-time they tended to travel down to London on a Sunday night and back on a Friday morning. At other times, they would travel back to Yorkshire on a Thursday night and down to London on a Monday morning. During Christmas, Easter, August and half-term and Bank Holiday recesses, they were based in Yorkshire. Once the school term started in September, they started spending time in London again on Departmental business, although this was interrupted by time in the constituency and in other parts of the country or abroad.

35. Checking that pattern in practice, they reported that they had spent each of the last three years' recesses based in Yorkshire, with the exception of the February half-term in 2006 and 2007 when they spent them partly in London. There were other variations in their patterns over the relevant years. Overall, Mr Balls had been slightly more likely to spend extra weekdays in Yorkshire than Ms Cooper, but had also taken more trips abroad for Departmental visits.

36. Taken together, in each of the three years in question they had spent more time in Yorkshire than in London in April, May, August and December and more time in London than Yorkshire in October, November and March. In January, July and September they had tended to spend about half their time in each place. The balance varied in February and June from one year to the next depending on half term recesses.

37. The Members' best estimate was that over the course of a year they had spent 40% of their days in London in 2005-06 and 45% of their days in London in 2006-07 and 2007-08. They spent just under half their nights in London in 2005-06 and half their nights in London in 2006-07 and 2007-08.

38. Referring to their discussions on 9 June 2005 with the Fees Office, they noted that they did not simply make a statement to the Fees Office that Yorkshire should be their main home on the basis of the time spent there. Instead, due to their unusual circumstances as two Members of Parliament with young children dividing their time between both homes, and with considerable variations in the time spent in each home, they followed the guidance in the Green Book, which was why they consulted the Fees Office in the first place rather than simply relying on what might normally be the case. The Fees Office did not ask them at that time to predict or record the precise pattern of days and nights spent. Nor did it suggest that such an assessment would be the only or final test of which home should be designated as their first or second home. Had they done so, the Members would have needed to change the designation of their second home from one month to the next or from one quarter to the next.

39. Referring to the complainant's original allegation that they were aiming to maximise their ACA claims, Mr Balls and Ms Cooper repeated that this was simply wrong. They did not claim the full allowances (in 2007-08 they had each claimed just over half the full ACA) and they could have claimed the same amount on their Yorkshire home. London was also designated as their second home for tax purposes and they had therefore paid significant Capital Gains Tax on moving house there in 2007. They concluded: "*It would in fact have*

*been to our financial advantage to designate Yorkshire rather than London as our second home”.*

40. Having considered the Members’ letters, I spoke to Ms Cooper at her request on 10 June. She asked whether their letter of 6 June provided the information I had sought. I said that regrettably it did not provide the estimate I had requested of the number of nights which they anticipated they would spend in their constituency home, compared to the number of nights they anticipated they would spend in their London home. I needed then to compare these estimates with the actual number of nights they had spent in their London home and their constituency home in the last financial year or such longer period as was convenient to them.

41. I met Mr Balls and Ms Cooper on 19 June to discuss with them the particular information which I was seeking. Following that meeting, I wrote to the Acting Director of Operations on 19 June about whether, because the Members made a joint claim against the ACA, the figures they were asked to provide me with for their overnight stays should be joint figures.<sup>24</sup> The Acting Director of Operations replied on 26 June.<sup>25</sup> He noted that there was no formal authority for joint claims against Members’ allowances. But the Green Book recognised occasions when Members might share costs. The principle was that the Department needed to be notified of the sharing arrangements so that they could check that subsequent claims were in accordance with them. Mr Balls and Ms Cooper followed a sharing arrangement. The notification of which property was their main home for ACA purposes was required from each Member individually. This was because it would be possible for a particular property to be one Member’s designated main home and another Member’s designated second home, if the facts justified this.

42. I wrote to Mr Balls and Ms Cooper on 26 June.<sup>26</sup> I noted that, while I understood they had a sharing arrangement for apportioning their claims under the ACA, notification of which was their main home for ACA purposes was required of each Member individually. I said it would be helpful, therefore, if they could identify only their own overnight stays in each location, and not add in those of their partner.

43. Following further discussion to clarify my request, Ms Cooper and Mr Balls wrote to me on 10 July with the detailed information I had requested and with a fuller statement of their position.<sup>27</sup> They apologised for the delay in replying. They stressed that they had been anxious to comply with both the letter and the spirit of the Green Book rules. They had both sought and relied on the advice of the Fees Office in making their ACA claims. At the meeting with the official from the Fees Office on 9 June 2005 they had explained in detail the complicated and unusual pattern of their lives, being two Members of Parliament married to each other with young children. They discussed the Green Book rules with the

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24 WE 17.

25 WE 18.

26 WE 19.

27 WE 20.

Fees Office and how they applied to their lives and they gave the Fees Office all the information it deemed necessary, and offered more. Following these detailed discussions with the Fees Office, and with its agreement, they proceeded to make ACA claims in respect of their second home in London. They noted that the Department of Resources had stated in its letter to me of 7 April that their decision to designate their property in Yorkshire as their main home was with the agreement of the Department following a frank discussion about their personal circumstances.<sup>28</sup> They noted that the Acting Director had also concluded that he was content that both Ms Cooper and Mr Balls had acted within the rules of the allowance and, having sought advice from the Department, justified their choice of their Yorkshire home as their main, family home. They noted too that the Acting Director had said that there were no other issues in respect of the arrangements for the two properties which might suggest some other breach of the rules.

44. The Members stated again that they were not motivated by financial gain in making their ACA claims on their London house rather than their Castleford home. They had never claimed the whole allowance. In 2005-06 they claimed between 63% and 65% each; in 2006-07 they claimed 72% each; and in 2007-08 they claimed 53% each (£12,219).

45. Mr Balls and Ms Cooper said that they had explained clearly in their letter of 28 February to me why it was that Ms Cooper had sought to change the designation of her second home back from Castleford to London, which had been where it was before she became a Minister in 1999.<sup>29</sup> They had followed the logic of their claim and declared London as their second home to HM Revenue and Customs, so that when it was sold the sale was subject to Capital Gains Tax even though for most of the relevant period this had not been their second home for ACA purposes. As a result of moving in 2007, they had therefore paid more in Capital Gains Tax than the total amount they had claimed in Additional Costs Allowance on the property over the last few years. Had they designated Castleford as their second home “*experience suggests that we could have made similar claims under the Green Book rules as they currently stand*”. And they would not have needed to pay any Capital Gains Tax (on the sale of their previous London home) as they had never had any intention of moving house in Castleford. It would, therefore, have been substantially to their financial advantage to treat London as their main home. They had not done so because, for them, Castleford was their main home. They therefore refuted the complainant’s allegation that they were able to maximise their ACA application by declaring London as their secondary residence. They noted that the complainant was reported as saying to their local newspaper that he had not accused them of doing anything wrong.

46. Turning to the Green Book, they noted there were three clear steps in the rules.<sup>30</sup> The first step was that “*the location of your main home will normally be a matter of fact*”. For them it was a matter of fact that their main home was in Castleford. If London had been

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28 WE 8.

29 WE 4.

30 See paragraph 13 above.

their main home they would have travelled back to London on a Friday night or Saturday lunchtime once constituency surgeries were finished. They would also not have expected their children to complete a long round trip each week, but would have left them in London. Instead, once their surgeries were finished, they came home to their property in Castleford. It was where they relaxed and where they ate Sunday lunch. It was their home. They effectively had no choice but for their children to go to school in London because they were both required to be in London Monday to Thursday when Parliament was sitting and they wanted to keep the family together. Nevertheless, they were clear they needed to comply with the House of Commons interpretation of “*main home*” for the purpose of the allowances and that what why they had turned to the second and third part of the rules.

47. The second part of the rules was “*If you have more than one home, your main home will normally be the one where you spend more nights than any other*”. The circumstances were not normal in this respect. They did not have a spouse and children living permanently at one end of the country or the other to define their main home. They were always aware that there would be substantial variations from one month to the next, and from one quarter to the next, in the number of nights they would spend in each of their homes. They were also aware that the number of nights they spent in each place did not fully reflect where they spent their time and where in practice they had their main home. Because of the need to travel to London on a Sunday night so the children could attend school on a Monday morning, they spent considerably more days than nights in Castleford. If the only issue were the number of nights, that could in theory have meant they would have needed to have changed their claims retrospectively if the precise number of nights changed. It could have meant changing their designation every few months. It could also have meant in theory that one of them would have had to treat Castleford as their main home and the other London.

48. So for all these reasons, and to address any doubt, they felt it necessary to seek the advice of the Fees Office before making any claims at all after the 2005 General Election.

49. They were clear with the Fees Office from the beginning that, over the course of the year, they would not be able to guarantee to spend a particular number of nights in London or in Castleford. They had not done any detailed calculations. At no time did the Fees Office suggest they should conduct detailed calculations of the precise number of nights they spent or would expect to spend in each place, or that they needed to conduct separate calculations.

50. Mr Balls and Ms Cooper discussed with the Fees Office their pattern of travel each week. They explained the differences between when Parliament was sitting and during the recess. They told the Fees Office that their best assessment based on the Parliamentary timetable was that they would need to spend up to half the nights of the year in London. The rest would be spent in Castleford or away on holiday from their Castleford home. They also discussed the fact that, for them, the number of nights was not an accurate reflection of the amount of time they spent in each place because of the need to travel down to London on Sunday night. They had also discussed with the Fees Office their expectation

that they would spend more days in Castleford than in London. The Fees Office had encouraged them to submit a joint claim on the same second home.

51. The Members confirmed that the pattern of their lives reflected the pattern they had discussed with the Fees Office in 2005. They had spent up to 50% of their nights in London, with the rest in Castleford or away. There had been substantial variation from one month to another in where they had spent their days and nights.

52. Mr Balls and Ms Cooper set out in an annex to the letter, following my request, more information on the number of days and nights they had spent in London, Castleford and elsewhere.<sup>31</sup> This annex covered the three years since their discussions with the Fees Office in 2005. The figures were their 'best estimates'. The Members did not hold records of where they spent every night and this information was, not surprisingly, not recorded in their work diaries. The figures were also heavily affected by the amount of time they had spent away on holiday or visiting relatives, and they did not have precise records of these. They had done their best to identify each of their overnight stays in each location, but it was not possible to do that with precise accuracy as they did not hold records of the occasional nights one Member spent in Castleford while the other was in London.

53. The Members noted that the annex showed that, over the course of 12 months, they had spent up to half their nights in London—as they had informed the Fees Office in June 2005; in each year they had spent more days in Castleford than in London and more nights in London than in Castleford. They had spent more days and nights in Castleford than London in the first half of each financial year; and more days and nights in London than in Castleford in the second half.

54. The Members then turned to the third part of the rule: *"If there is any doubt about which is your main home, please consult the Department of Finance and Administration"*. While the Members had no doubt about which was their main home, it was clear to them that there would be considerable variation in where they spent their time and also that the number of nights was not a full reflection of where they spent their time. They were clear about the need to comply fully with the House of Commons rules. *"In order to address any doubt we chose to consult extensively with the Fees Office and to follow their advice."* They assumed that the Department of Finance and Administration was the correct authority to tell them how the rule should be interpreted in situations where there was doubt. Had the rule said that where there was doubt they should consult the Parliamentary Commissioner or the Members Estimate Committee, they would have done so. They reiterated that they had discussed in detail the unusual pattern of their lives, the Green Book rules and how these applied to their lives and they gave the Fees Office all the information the Office deemed necessary and offered more. They noted that the Acting Director of Operations in the Department of Resources had declared himself satisfied that their decision to declare their Castleford home as their main home was in line with the rules.

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31 The finalised schedule of time spent in London, Castleford and away is at WE 25. To avoid confusion, the annex to Ms Cooper's and Mr Balls's letter of 10 July is not included in the written evidence.

55. Having considered the Members' letter and its annex, I wrote to the Acting Director of Operations in the Department of Resources on 16 July.<sup>32</sup> I invited his comments on the Members' response, including any comments on their interpretation of the Green Book rules. I asked for confirmation from the relevant official of the Members' recollection of their meeting with him on 9 June 2005, and for the Acting Director's comments on the identification of the Members' main home in the light of the detailed numerical information provided in their letter and annex. I attached to my letter an annex which summarised the statistical information provided by Ms Cooper and Mr Balls (not included in the written evidence, see footnote no.31).

56. I wrote on the same day to Ms Cooper, copied to Mr Balls, to acknowledge their letter of 10 July and to ask them to confirm the accuracy of the figures in my annex.<sup>33</sup> Mr Balls responded on behalf of himself and Ms Cooper with his letter of 22 July.<sup>34</sup> Mr Balls confirmed that he and Ms Cooper had each year made separate, signed declarations notifying the Fees Office of their main home for Additional Costs Allowance purposes. He noted that, when they met the Fees Office in June 2005, the Fees Office encouraged them to designate the same home and to submit a joint claim. They had done so.

57. Turning to the statistical information to the annex to my letter of 16 July, Mr Balls said it was simply not possible to be completely accurate about the figures. They had set out their best estimates of the pattern of their days and nights in order to give the best possible idea of the way they had spent their time. But there would undoubtedly be a margin of error involved in these estimates. They did not hold records of where they each spent every night and this information, not surprisingly, was not fully or reliably recorded in their work diaries. The figures they had given in their letter of 10 July were their best estimates for Ms Cooper. Based on these estimates, they had produced estimates for Mr Balls on the basis of the times when he had been elsewhere. Mr Balls concluded that he would be very concerned if the table was presented as precise or accurate figures when they had repeatedly stressed that they could only be estimates.

58. I replied to Mr Balls on 24 July.<sup>35</sup> I recognised the caveats and qualifications which he had made. I noted that I did not expect the issue to turn on the variation of a few nights or days either way. I included a revised annex which reflected the information he had given in his letter to me of 22 July and which included in a series of footnotes the qualifications and caveats he had made. I made one further revision to this annex following a telephone conversation with Mr Balls on 29 July.<sup>36</sup> I made the revised annex available to the Acting Director in the Department of Resources.

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32 WE 21.

33 WE 22.

34 WE 23.

35 WE 24.

36 WE 25.

59. The schedule of time spent showed that, across the three years from 2005-06 to 2007-08, the Members had spent between 145 and 157 nights a year in Castleford and between 159 and 182 nights a year in London. They had spent between 163 and 183 days a year in Castleford and between 137 and 159 days a year in London.

60. Before receiving the revised schedule, the Acting Director of Operations wrote to me with his letter of 28 July, in response to my letter to him on 16 July.<sup>37</sup> Referring to the meeting with an official on 9 June 2005, the Acting Director reiterated that at the time the Department accepted that both Members were acting properly and the meeting note was a brief minute of the meeting and of the general nature of the discussion. Some three years on, the official's recollection was that the Members presented a case for their property in Castleford to be their main home based on it being where they spent the majority of the time when not in Parliament and where they predominantly stayed when their children were not at school. The official did not ask Mr Balls or Ms Cooper to provide details of the number of days or nights spent in each home. This was not something he had asked other Members to do. The official was content that the Members had presented a reasonable and valid argument to support their selection, and did not feel it necessary to question the decision further.

61. The Acting Director noted that in his letter to me of 7 April he had confirmed that he was content that the Members had acted within the rules.<sup>38</sup> An analysis of the more detailed information I had provided showed that the estimated time spent in each location (taking the days away out of the equation) showed that the Members spent approximately 53% of their days and 47% of their nights in Yorkshire. This did not seem to the Acting Director "*to be significantly at odds with the guidance*".

62. The Acting Director also noted that the word "*normally*" in the guidance allowed for the possibility that a Member or Members could put forward a case that would be at variance with the guidance. Mr Balls and Ms Cooper had explained their family arrangements which showed that they used their Yorkshire home for purposes which suggested a link to the community over and above being a representative in Parliament. On balance, taking all the circumstances into account, the Acting Director confirmed that he believed that the Members had substantiated their reasons for designating their Castleford home as their main home and had not breached the rules by claiming the Additional Costs Allowance for costs associated with their London home.

63. The Acting Director concluded that the additional information provided greater clarity about their personal movements and did not lead him to reconsider his original conclusion that they had acted within the rules about the use of Parliamentary allowances.

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37 WE 26.

38 WE 8.

64. I wrote to the Members on 31 July to show them the Acting Director's letter.<sup>39</sup> The Acting Director wrote to me on 1 August to confirm that the revised schedule which I had sent him did not contain any information which would change the conclusion he had sent me with his letter of 28 July.

## Findings of Fact

65. Ms Cooper and Mr Balls have owned their property in Yorkshire since February 1998, just after their marriage. They have three children, currently of school age. They also own a property in London to which they moved in 2007 following the sale of their previous London property. They have paid Capital Gains Tax on the sale of that property.

66. Ms Cooper was elected to represent the constituency of Pontefract and Castleford in the General Election of June 1997. Following the acquisition of her Yorkshire property in 1998, Ms Cooper identified it as her main home for the purpose of claims against her London residence under the Additional Costs Allowance (ACA). When she became a Minister in October 1999, she changed the designation of her main home to her London property in accordance with the requirement at that time that all Ministers designate their home in London as their main home for ACA purposes. As a result she made claims under the ACA against her Yorkshire property.

67. The rule that Ministers' main homes should be deemed to be in London was removed in February 2004. All Ministers were informed of the change by a letter of 26 February 2004 from the then Director of Operations in the Department of Finance and Administration. Ms Cooper does not recall seeing that letter. She had, however, annotated her Additional Costs Allowance declaration form of 7 January 2004 with a statement that she assumed the rule that Ministers had to designate their London address as their first home still applied, otherwise she would "*switch them over*". She wrote to the Department on 6 February 2004 to the same effect. She sent the Department a reminder that she had not received a reply on 22 March 2004. There is no record of Ms Cooper having had a reply from the Department of Finance and Administration to any of these communications with the Department.

68. Mr Ed Balls was elected to represent the constituency of Normanton in the General Election of May 2005. At their request, Ms Cooper and Mr Balls had a meeting with an official from the Department of Finance and Administration on 9 June 2005 to discuss the identification of their main home for the purposes of their claims under the Additional Costs Allowance. At that point, Ms Cooper became aware of the change in the rules which had released Ministers of their obligation to designate their London properties as their main home. Ms Cooper and Mr Balls explained to the official their domestic and professional arrangements which resulted in them spending some of their time in London and some in Yorkshire. They explained their particular circumstances as two Members of

Parliament who wanted to keep their young family together. Having explained their circumstances in some detail, and the official having set out the options available to Members in designating their main home, the Members decided that they should designate their property in Castleford, West Yorkshire as their main home. The official was content with this decision. Accordingly, Mr Balls and Ms Cooper made separate declarations that Castleford was their main home on 25 June and 25 July 2005 respectively. These designations have continued in place to the present day.

69. At the time the Members made their declarations, they recognised that they were likely to have to spend around half of their nights in London, and, because they would spend some nights in other places, they would be spending a smaller proportion of nights in Castleford. But they expected their pattern to vary over the course of the year depending on when Parliament was sitting and their children's school holidays. They had decided that their children would need to go to school in London since they themselves had to be in London from Monday to Thursday when Parliament was sitting and they wanted to keep the family together. But they expected to spend weekends and holiday periods in Castleford and therefore to spend a substantial number of nights there. They considered Castleford as their main home, and not simply a base from which to conduct their constituency duties.

70. In practice, and on the basis of their best estimates, the Members have spent an annual average over the three years from 2005-06 of 151 nights in Castleford and 174 nights in London. Over the same period they have spent an annual average of 175 days in Castleford and 150 days in London. There is little difference between them in the number of days and nights each Member has spent in Yorkshire.

71. The Members have made the following claims against their Additional Costs Allowance: for Ms Cooper £14,234 in 2005-06; £15,995 in 2006-07 and £12,219 in 2007-08. For Mr Balls the claims have been £13,618 in 2005-06; £15,979 in 2006-07 and £12,219 in 2007-08.

72. Ms Cooper and Mr Balls consider that they have complied fully with the rules of the Green Book in identifying their property in Castleford as their main home. They consulted the Department of Finance and Administration, as suggested in the Green Book, because they believed their circumstances as two Members of Parliament married to each other and with young children, were not usual for Members of Parliament and so the normal provisions in the Green Book did not necessarily apply to their situation. They consider that the Department of Finance and Administration was content with the decision which they had each made in 2005 to declare their property in Castleford as their main home and to make claims against the Additional Costs Allowance for their property in London.

73. The Department of Resources confirm that the then Department of Finance and Administration agreed to the Members' decision in 2005 to designate their Castleford property as their main home and to make claims against the Additional Costs Allowance for their property in London. On the basis of the further information provided in the course of my inquiry, the Acting Director of Operations has concluded that, in his view,

the Members have acted within the rules about the use of Parliamentary allowances. He believes the Members have substantiated their reasons for designating their home in Castleford as their main home and have not breached the rules by claiming the Additional Costs Allowance for costs associated with their London home.

## Conclusions

74. This issue turns on the interpretation of the rules in the Green Book about the identification of a Member's main home. In view of the wider implications for the application of these rules, I have thought it right to put my conclusions to the Committee. I have also taken the opportunity to address some wider issues which are not directly part of the complaint.

75. The centre of the complaint is that the Members broke the spirit if not the letter of the rules by identifying their property in Castleford as their main home, in order to maximise the benefits they were able to receive from the Additional Costs Allowance.

76. I should make clear at the outset that I do not accept and there is no evidence to substantiate this allegation about the Members' motivation. The evidence points clearly to the Members making every effort to seek the advice of the then Department of Finance and Administration. I am satisfied that they have sought fully and sincerely to make their choice of home on the basis of their own circumstances and the application of those circumstances to the rules of the House. But it was their decision and it is right therefore that it is that decision which I have investigated. While Members are encouraged to seek the advice of the House authorities in cases of doubt, Members still remain responsible for the decisions they make as a result of that advice.

77. In coming to my conclusions, I have considered the following issues:

- a) Was the identification of their main home a simple matter of fact?
- b) Were they required to identify their main home as the place where they spent more nights than any other?
- c) Did they properly take advice from the Department of Finance and Administration?
- d) Overall, was their designation consistent with the rules of the House?

### ***(a) Was the identification of their main home a simple matter of fact?***

78. I do not believe that, given the particular circumstances of these two Members, the identification of their main home is a simple matter of fact. It is possible to imagine circumstances when that part of the rule clearly applies. If a Member has his or her family living permanently in their constituency home and has modest accommodation in London big enough only for themselves, and which they use only when Parliament is in session, then it would clearly seem to be a matter of fact that that Member's main home is in the constituency.

79. In the case of Ms Cooper and Mr Balls, however, they maintain two properties sufficient for them to conduct their family life in both London and in Castleford. Which is their main home is not a simple or self-evident fact. It is necessary to examine their arrangements more closely in accordance with the remaining provisions in the rules which assist Members in defining their main home.

80. There have been various suggestions made in the course of my inquiry for identifying the Members' main home as a matter of fact. The complainant has implied that the test is where a Member's children go to school. The Members have suggested among other things that where they eat Sunday lunch is significant. Where a Member feels emotionally or historically to be their home might be thought the main factor.

81. I do not find these arguments particularly helpful in establishing a Member's main home as a matter of fact. Underlying these various tests are either the particular circumstances of the case or an expression not of a fact but of an emotional tie. Those emotional ties and those particular circumstances will be different for each Member. They are not, I consider, helpful if they are applied as an objective test. They may, however, be relevant in assessing a Member's decision where the relevant objective tests are not met.

***(b) Were they required to identify their main home as the place where they spent more nights than any other?***

82. The rules provide that when the location of the main home is not a simple matter of fact (because the Member has more than one home) the objective test is that it is normally the one where they spend more nights than any other. I take that to mean more nights than the nights a Member spends in any other single place. It is an objective test in that it should be possible to identify where someone spends their nights. It is not an absolute requirement since the test is qualified. It is what "normally" applies. It allows for exceptions. Members are not therefore required to identify their main home as being the place where they spend more of their nights than anywhere else if they have a good reason for coming to a different decision.

83. In the case of Ms Cooper and Mr Balls it is clear that, neither in prospect nor in practice, have they spent more nights in Castleford than in any other location. They both expected to spend and have spent more nights in London than in any other location.

84. The Members do not—and cannot—rely therefore on their number of overnight stays to establish their main home as being in Castleford. For that they rest on their belief that their circumstances do not fit the normal pattern and on the fact that exceptions are allowed. It is on these exceptions that the Members rely. Under the rules they were entitled to do so.

***(c) Did they properly take advice from the Department of Finance and Administration?***

85. I consider the Members were right to recognise that there was an element of doubt about the identification of their main home and they were right, therefore, to take the advice of the Green Book and consult the Department of Finance and Administration. I am satisfied that the Members gave a reasonable account of their circumstances at their meeting with the Departmental official in June 2005. I believe it was acceptable to recognise that the situation of the two Members did not meet the normal expectation of the rules that a Member's main home is normally where they spend more nights than any other. I think it was reasonable for them to conclude that their circumstances were such as to allow them to identify their main home outside that normal provision.

86. No one factor in my judgement took them beyond this normal expectation. But, taken together, I believe it was reasonable that they should have applied the exception in the rules and that the Department of Finance and Administration should have agreed that they should do so. They were two Members of Parliament married to each other; they had three young children with whom they wanted to spend as much time as possible; as a result they were maintaining in effect two family homes; their constituencies were close together, allowing a single family home from which they could serve both their constituencies; and they maintained a pattern of life in Yorkshire which went beyond their constituency duties. I accept therefore that both Members viewed their Castleford home, which they had had since they were first married in 1998, as their consistent and continuing family home. I accept that their London property is viewed by them as a necessary consequence of their current circumstances as Members of Parliament bringing up a young family. The evidence they have provided shows that they each spend a substantial number of nights in their Castleford home (although fewer than they spend in London) and they spend more days in Castleford than they do in London. The gaps between the normal expectation in respect of overnight stays and their own circumstances is not so wide as to make unreasonable the exercise of the discretionary judgement allowed under the rules.

***(d) Overall, was their designation consistent with the rules of the House?***

**87. Overall my conclusion is that Ms Cooper and Mr Balls made reasonable decisions on the basis of their own circumstances in declaring their property in Castleford to be their main home. I conclude that that decision was fully in accordance with both the letter and the spirit of the rules of the House. I therefore dismiss the complaint.**

**Other Considerations**

88. There are some wider or related issues which, while not part of my examination of this complaint, have either arisen during the course of my inquiry or are related to it. They are:

- the criteria for identifying a main home;
- the application of the Additional Costs Allowance to Members who live together.

### *The criteria for identifying a main home*

89. Whilst Ms Cooper and Mr Balls did not themselves meet the normal criteria for identifying a main home, which is where the Member spends more of their nights than anywhere else, I consider on balance that that remains a reasonable general test. While I believe it was in this case significant where the Members spent their days, the night is the one time when a Member is at a single location with a clear address, and they are there for a recognised period of time. Inevitably it is a prospective measure and this could create difficulties, particularly for new Members who have yet to establish a pattern to their Parliamentary life. But Members can reasonably be expected to anticipate that pattern and might prudently check it against reality after the first year or so and, if necessary, then amend their designation.

90. The identification of where Members spend their days must in practice be more difficult, and therefore less reliable, to establish. It is simpler and clearer to identify where a Member normally spends their nights. As long as this is not taken as a rigid rule (and this rule allows for exceptions) that seems to me to be an acceptable guide.

91. In cases of doubt, I think it is reasonable to take account of a much wider range of factors, including where a Member spends their days, how long they have been in each property or location, the nature of the accommodation, their personal and domestic circumstances and what their links are to the communities in which their two properties are located.

92. There is one other factor, however, which I consider should be added to the mix and which should in future be used to help guide decisions. Paragraph 3.3.1 of the current rule requires that Members should bear in mind the need to obtain value for money from accommodation, as well as goods or services funded from the allowances.<sup>40</sup> I think it is reasonable that the Member, and when consulted the Department of Resources, should take into account the likely respective costs of identifying a Member's main home in either one or other location. Where there is genuine doubt about a main home and the considerations are evenly balanced, then the Member and the Department should give particular weight to ensuring that the home the Member designates as their main home results in a smaller claim on the Additional Costs Allowance than would be the case if they designated the other property. This is unlikely to be an exact calculation, but it should be possible to identify the likely costs and produce the equivalent of a business case that demonstrates that the Member's decision both reflects their particular circumstances and, having due regard to these, provides value for money for public funds.

### *Joint Claims*

93. It has not been necessary for me in considering this complaint to examine whether Members who claim jointly should each be able to claim up to the maximum amount

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<sup>40</sup> See paragraph 15 above.

under the Additional Costs Allowance for each Member. I recognise, however, that the Members Estimate Committee deferred consideration of this issue in case it was relevant to my investigation of this complaint.<sup>41</sup> I therefore offer the following comments.

94. I do not subscribe to the adage that two can live as cheaply as one. I do not believe, therefore, that if Members make joint claims, or claim separately in respect of the same accommodation, they should be confined only to a single allowance for that accommodation. But equally I am not convinced that, where Members share accommodation, they should each be able to claim up to the full single Member's allowance. Members sharing properties should have outgoings that are less than double that of a single Member to provide the same standard of accommodation and services. What a reduced shared allocation should be is a matter for further examination by others. Nor would I confine this only to Members who are married couples or who are the partner of another Member. It seems to me that once Members share properties with each other, even if they do not share other aspects of their lives, they should have a sharers allowance which is less than the sum of the allowances available to each Member singly.

95. Accordingly, I recommend that the House consider abating Members' individual Additional Costs Allowances where, for any reason, they share accommodation for which they make claims against that allowance.

*30 September 2008*

*John Lyon CB*

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41 Members Estimate Committee, Third Report of Session 2007-08, HC 578-1, paragraph 216.

# Written evidence received by the Parliamentary Commissioner for Standards

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## 1. Article in Mail on Sunday, published 23 September 2007

### *MINISTERS CASH IN ON TWO HOMES LOOPHOLE*

CABINET husband-and-wife team Ed Balls and Yvette Cooper were last night accused of exploiting Commons expenses rules to buy a £655,000 home and get their children into a top state school.

The pair, who were both promoted by Gordon Brown, have registered their four-bedroom North London house as a 'second home' under parliamentary rules, which entitles them to allowances of up to £44,000 a year to subsidise their [ ] mortgage.

They also have a 'weekend' property in Yorkshire, which they used to call their second home. But by instead declaring their more expensive London house to be their secondary residence, they can claim more money from taxpayers.

The couple recently moved from innercity [ ] to a smart Edwardian townhouse in a more fashionable area of London, close to better schools. The move, five months ago, came just 16 days after Mr Balls, the Children's Secretary, and his Housing Minister wife raised [ ] by remortgaging their Yorkshire home, which had been paid for by their Commons expenses.

They moved from [ ], whose schools are notorious for poor standards, to [ ], a neighbourhood fashionable with young, middle-class families. Their children now attend a sought-after primary school praised for its 'strong leadership'.

Opposition MPs last night accused the couple of profiting from the taxpayer and 'breaking the spirit' of the Commons rules.

But friends of the Ministers insisted that they complied fully with the rules and claimed the house move had nothing to do with finding better schools.

The expenses come on top of generous salaries. Mr Balls, 40, earns £137,579 a year while Ms Cooper, 38, is paid £100,578.

It is the latest in a string of controversies over the way MPs benefit from the Commons Additional Costs Allowance, designed to assist members in carrying out their parliamentary duties by subsidising overnight stays away from their main home either in their constituency or near Westminster.

Criticism of Mr Balls and Ms Cooper centres on their decision to change the property registered with Commons authorities as their 'secondary residence' on which they claim expenses.

The Commons Green Book governing allowances gives the following guidelines: 'The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other.'

Until 2005 the couple declared their weekend constituency property in Castleford, West Yorkshire, as their second home. This means that when they remortgaged the house earlier this year they were effectively realising profits from a house that had been subsidised by the taxpayer.

When Mr Balls was elected to Parliament two years ago, they changed their Yorkshire property to be their main home, allowing them to claim expenses on their London house.

Since moving to [ ], the couple have continued to maintain that London is their secondary residence—even though this is where their children go to school.

The loophole they are exploiting is potentially lucrative. If the couple, who represent neighbouring seats, claimed on their cheaper Yorkshire house with its smaller mortgage, they would be severely limited in the amount they would be entitled to receive.

Instead, however, they can claim the entire mortgage interest bill on their London home, which, assuming a standard six per cent rate, totals £26,000 a year. They can also ask to be reimbursed for furniture, white goods, utility bills, parking permits, home repairs—and even food.

This lack of a strict test for what constitutes a main home allows Mr Balls and Ms Cooper to argue they are not in breach of the Commons regulations.

But opposition MPs last night claimed that they were exploiting a loophole which should be closed. Lib Dem Norman Baker said: 'It seems clear that to all intents and purposes the house in [London] is their main home. Being a Minister is a full-time job and they are expected to live in London. Besides, it appears their children go to local schools.'

'It is clearly financially advantageous for them to maintain that their more expensive home in London is their second home—it means they can claim more money from the taxpayer. They may not have broken the rules absolutely but they have clearly broken their spirit.'

But a friend of the couple insisted: 'They genuinely regard Yorkshire as their main home. Yvette nominated it as her main home to the Commons authorities until she became a Minister in 1999. Their children were born there and they spend every moment they can there. But because of their jobs it is inevitable their children will be educated in London.'

'The couple had previously lived near [ ]. They moved back there because they had friends there and to provide more space for the children. The schools had nothing to do with it. They believe the school in [ ] their kids attended was just as good as the one in [ ].'

Each MP can claim a maximum of £22,000 a year under the Additional Costs Allowance. As a married couple there is nothing to stop Ms Cooper and Mr Balls pooling their allowances and putting in a combined claim of up to £44,000. In 2005-06, the last year for which figures are available, the two MPs between them received allowances worth a total of £27,000 - but these figures pre-date the new [ ] mortgage, as details of this year's claims have yet to be published.

The revelations will be particularly embarrassing because of the couple's Cabinet responsibilities.

As the Secretary of State responsible for schools, Mr Balls is committed to ending so-called 'white flight' where middle-class families quit the inner cities in search of better education. But critics will argue that one of the advantages of his own move to [ ] is the high quality of state schools there.

Mr Balls and Ms Cooper have three children, and it is understood the two elder ones now attend a [ ] school which Ofsted inspectors describe as a 'good' school with 'strong leadership'.

The youngsters previously went to school in [ ], although the couple refused to say which one. However, the primary nearest their former home is [ ], where Ofsted said that the 'vast majority' of children arrived in the nursery class unable to speak English.

[ ], which has a high number of ethnic-minority families, also faces a critical shortage of secondary school places, with pupils as young as 11 being forced take public buses to schools several boroughs away.

The children of Mr Balls and Ms Cooper can now expect to win places at [ ], rated in academic league tables as the best mixed state school in the London Borough of [ ], when they turn 11.

Ms Cooper, as the Housing Minister with rights to attend Cabinet, is responsible for controversial plans to build new homes on greenfield sites to help struggling young families.

The couple's own climb up the property ladder has mirrored their success within the Labour hierarchy.

Ms Cooper was first elected MP for Pontefract and Castleford as one of the 1997 'Blair Babes'. The following year she married her long-time partner Mr Balls, then Mr Brown's chief economic adviser.

At the same time, the couple paid [ ] for their constituency home, a modern house in Castleford. Land Registry documents show it was paid for with a mortgage of an undisclosed sum from [ ].

In 1999, the year their first child was born, they purchased their [ ] home, a 20-minute walk from the Commons, paying [ ] and taking out another loan with [ ].

Also in 1999, Ms Cooper was promoted from the backbenches to become Minister for Public Health. At that time, the rules determined that Ministers had to declare their London home as their main base, so Ms Cooper's Yorkshire house would have been the secondary residence on which to claim the ACA.

However, in 2004 the rules for Ministers were relaxed, bringing them into line with backbenchers who were allowed choose the location of their main homes.

In 2005, when Mr Balls was elected as MP for Normanton, the couple switched their 'secondary residence' to their house in [London] and begin claiming expenses on it.

On March 20 this year the couple released equity from their Castleford property by taking out a new mortgage [ ].

Then on April 5, Ms Cooper and Mr Balls completed the sale of their old [London] house for [ ], at the same time buying their new property [ ] . . . .

Land Registry documents show that they took out a mortgage for [ ]. The couple are believed to have extensively renovated the property.

Last night neighbours in [North London] said they frequently saw the Ministers entering and leaving their house. One man who lives opposite said: 'I see them quite a lot leaving the house in the morning and coming back in the evening just like any other busy couple round here. It's obviously their main home.'

However, a spokesman for the couple said: 'Ed and Yvette's home is in Castleford. Their second home, on which they make ACA claims, is in London. They have at all times acted within the Green Book rules and always in full consultation with the House of Commons authorities. They claim substantially less than they are entitled to under the rules.'

'The whole family travels between their Yorkshire home and London each week when Parliament is sitting. As they are all in London during the week, their children have always attended the nearest school to their London house.'

A spokesman for the Commons Department of Finance and Administration refused to comment on individual cases. He added: 'There is no written guidance issued to Members married to each other. We will provide advice on any aspect of allowances, and the Green Book encourages Members to seek it.'

Meanwhile, in a separate development, the Prime Minister was under pressure last night to explain why he had lifted the ban on Ministers holding directorships after it emerged that Lord Digby Jones, the former director general of the CBI appointed as a trade Minister by Mr Brown, was still listed as the director of a cleaning company.

A Channel 4 show, *Dispatches: Nice Work If You Can Get It*, presented by Peter Osborne, will examine in detail the loopholes and abuses of the Commons expenses system. It airs tomorrow at 8pm.

*23 September 2007*

## **2. Letter to the Commissioner from Mr Malcolm Moss MP, 4 February 2008**

I refer to an article which appeared in the Mail on Sunday on the 23rd September 2007 concerning the mortgage claim under Additional Costs Allowance (ACA) made by the married MPs, Ed Balls and Yvette Cooper.

These Members, now both Cabinet Ministers, were able to maximise their application for mortgage payments from the ACA by designating their “secondary residence” to be in London.

The Green Book defines the ACA in Section 3.1.1 as the allowance which reimburses MPs for expenses wholly, exclusively and necessarily incurred when staying overnight away from their main UK residence (referred to..... as their main home).

Later under “Definitions” in 3.11.1 the Book goes on to say that “the location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other.” Members are also required in the same section to give the address of their main home on entering Parliament.

I seek your ruling as whether in this instance the spirit of the rules or even the letter of the rules has been breached given that these MPs have said that their main home is in Yorkshire when it appears that their children go to school in London and the main home designation was changed from London to Yorkshire in the past few years. Prior to that change ACA mortgage costs had been claimed against a property in Yorkshire.

*4 February 2008*

## **3. Letter to Mr Balls (with a similar letter to Ms Cooper) from the Commissioner, 6 February 2008**

I would be grateful for your comments on a complaint I have received from Mr Malcolm Moss in respect of certain claims you were reported to have made against the Additional Costs Allowance.

I attach a copy of Mr Moss’s letter and its attachment of an article in the Mail on Sunday on 23 September 2007.

In essence, Mr Moss’s complaint is that you have made claims under the Additional Costs Allowance for overnight stays in London when, under the definition in the Green Book, your London home was in fact your main home.

Mr Moss’s letter sets out the relevant provisions in the Green Book. As you know, the Code of Conduct for Members of Parliaments provides in paragraph 14 as follows:

“Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services.”

The Green Book on Parliamentary Salaries, Allowances and Pensions sets out the purpose of the Additional Costs Allowance in Section 3.1.1 as follows:

“The additional costs allowance (ACA) reimburses Members of Parliament for expenses wholly, exclusively and necessarily incurred when staying overnight away from their main UK residence (referred to below as their main home) for the purpose of performing Parliamentary duties. This excludes expenses that have been incurred for purely personal or political purposes.”

The principles which apply are set out in paragraphs 3.3.1, 3.3.2 and 3.3.3 and I will not reproduce them here.

The definition of main home is set out in paragraph 3.11.1 as follows:

“The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other.

If there is any doubt about which is your main home, please consult the Department of Finance and Administration.”

In the light of this and of Mr Moss's complaint, I would be very grateful to receive your comments. In particular, it would be helpful to know:

the sequence of events which led you to decide for the purposes of the Additional Costs Allowance on the location of your main home, and the considerations that you took into account, including the advice given in the Green Book;

whether at any time as a Member of Parliament you have changed the location of your main home, and if so what were the reasons;

what advice, if any, you took from the House authorities before or after you had determined the location of your main home;

how far you have met the guidance in the Green Book that your main home "will normally be the one where you spend more nights than any other";

the level of claims you made over the last three years against the Additional Costs Allowance, and the reasons for those claims.

I would, of course, welcome any other comments you may wish to make.

I attach a copy of the Note which sets out the procedure which I follow in responding to complaints. I am informing Mr Moss that I am writing to you for your comments. If you would like to discuss any of this, please get in touch with me at the above address or telephone me.

I am copying this letter and Mr Moss's letter to the Department of Resources for information since I may need to consult them once I have received your reply. I would be grateful for your help on this matter.

*6 February 2008*

#### **4. Letter to the Commissioner from Mr Balls and Ms Cooper, 28 February 2008**

Thank you very much for your letter informing us of the complaint by Malcolm Moss MP, dated 4th February and received in your office on 5th February.

We see from paragraph 2 of the complaints investigation process that Mr Moss should have copied his letter to us at the time of making the complaint. The first we heard of the complaint was from the Daily Mail on 4th February. Mr Moss subsequently wrote to us, dated 7th February, which we received the following week (13th February).

We see that Mr Moss is quoting an article from the Mail on Sunday in September 2007 as the evidence for his complaint. We note that Mr Moss did not choose to make a complaint in September, nor has he sought, at any time in the intervening four months, to raise the issue with us.

We note, too, that Mr Moss has also spoken to the Wakefield Express, one of the newspapers which covers our constituencies, in which he said in the 8 February issue (cutting enclosed);

*“I haven’t accused them of doing anything wrong. It’s the fact the press was full of stories on the Tory side of expenses, which is why I have written this letter now.”*

#### **Additional Cost Allowance and second home**

You asked a series of questions—labelled a)-e) in your letter—around our additional cost allowance and our home, which we answer below.

To do so fully involves personal and family information. While we are absolutely clear that you need the fullest possible answers to these questions, we are concerned to keep the details of our family circumstances set out in this letter, and references to our children, confidential. More detailed information relating to our children is set out in an Annex [not reproduced in this Report] to this letter which we refer to below.

**b) whether at any time as a Member of Parliament you have changed the location of your main home, and if so what were the reasons;**

When Yvette became a Minister in October 1999, the rules at that time required MPs who were Ministers to list their main home as London, whether or not it accorded with the facts (Resolutions of 1971). She therefore switched her claim for the Additional Costs Allowance from our house in London to our home in Castleford.

We understand from the Fees Office that the rules changed, in fact, in early 2004, with the requirement on Ministers to declare London as their main home being dropped and Ministers being treated in the same way as other MPs.

Yvette was not aware of this—indeed she had sought clarification of the position twice, in a letter to [a senior Payments Officer] in the Fees Office dated 6 February 2004 and a further letter chasing a response when none had been received, in March 2004. In the February letter she asked “I assume the rule that Ministers have to designate their London address as their first home still applies”. As she received no reply to either letter, she assumed that the rule was still in place. She continued to claim on that basis until we reviewed the situation following Ed’s election to the House of Commons in May 2005 (see below).

- a) **the sequence of events which led you to decide for the purposes of the Additional Costs Allowance on the location of your main home, and the considerations that you took into account, including the advice given in the Green Book;**
- c) **what advice if any you took from the House authorities before or after you had determined the location of your main home;**
- d) **how far you have met the guidance in the Green Book that your main home will normally be the one where you spend most nights.**

The relevant paragraph in the Green Book states:

“The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other. If there is any doubt about which is your main home, please consult the Department of Finance and Administration.”

Following the 2005 election, when Ed was elected for the first time, and in line with the Green Book guidance set out above, we sought the advice of the Fees Office on our Additional Costs Allowance before making any claims.

We both met with [an official] from the Finance Department, in 7 Millbank at 11.15am on 9 June 2005, to discuss the details of the rules in the Green Book, the details of our family home in Yorkshire, our unusual circumstances—two MPs with young children—and to seek advice on what we should do to make sure our claims were in order.

Like all MPs, we effectively have to live in two places. But our house in Castleford has for the past ten years been our family home. We moved into our home in February 1998 just after we were married. Generally since 1997 when Parliament is sitting, we spend Monday to Thursday in London and Friday to Sunday in Yorkshire. Recesses are spent in Yorkshire—it is where we are normally based at Christmas/New Year, Easter and Summer holidays. All three of our children were born in Yorkshire, and we spent our time during maternity and paternity leave in Yorkshire.

It was clear to us at the time of our first claim as two MPs in 2005—given our pattern of living and travelling as two MPs with young children—that we did not fit into the “normal” pattern for most MPs.

As we discussed at that time in our meeting with the Fees Office in June 2005, in any one month, the number of nights will depend on whether or not Parliament is sitting and on particular events and circumstances that come up. So for example in the 10 week long summer recess this year we slept less than twenty nights in our London home, with the rest of the time working from Yorkshire, commuting down to London for the day on Government business or away on holiday from our Yorkshire home. On the other hand, over the next three months we expect nights to be split broadly 50:50, with considerably more days spent in Yorkshire.

If we compare the number of days we normally spend over the course of a year at home in Yorkshire and in London, then we estimate the breakdown is roughly 60% Yorkshire and 40% London; and over the course of a year we estimate that about half of our nights are usually slept in London.

Given our unusual family circumstances, the variations from one month to another, and the fact that we could not guarantee the number of nights we would definitely stay in Yorkshire and London in any one period, rather than rely on what might "normally" be the case, we decided to follow the clear recommendation of the Green Book — to consult the Fees Office. That is exactly what we did in our meeting of 9 June 2005 and we agreed the appropriate way forward with the Fees Office before submitting a claim.

If the Fees Office had at any time said to us they thought there was a problem with our arrangements or that we should claim differently, we would of course have done so. They did not. Instead, on the basis of that discussion, the House of Commons Fees Office confirmed to us that it would be in order for us to put in joint claims on our London property for the Additional Costs Allowance.

Ed wrote to the House of Commons Fees Office on 20 July 2005 to confirm the arrangements following those discussions—and we have proceeded on this basis ever since. If our arrangements were to change materially we would, of course, expect to consult the Fees Office again.

**e) the level of claims made over the last three years.**

In 2004/5 Yvette claimed £19,428 on the ACA on the Yorkshire home. Ed was not elected.

In 2005/6 Yvette claimed £14,234 on the ACA and Ed claimed £13,618. In 2006/7 Yvette claimed £15,995 and Ed claimed £15,979.

While the financial year 2007-08 is not yet complete, we have so far submitted similar claims to last year.

All these claims have been accompanied by the usual bills and verified by the House of Commons Fees Office. Like all MPs we claim for staying in London for the purpose of Parliamentary duties.

We have not, as Mr Moss claims in his letter, "maximised our application". You will note that Yvette's claim for London since 2005 is lower than before 2005 when she was claiming for Yorkshire. We are not claiming the full amount on the London property, even though we are entitled to do so. Our claims are significantly lower than those of many MPs who claim for properties in London, including MPs who share flats or houses with other MPs. We are paying capital gains tax due on the sale-purchase of our London home last year.

**"any further comments you may wish to add"**

It is certainly true that we do not fit into the conventional model of MPs. Neither of us has a spouse living in the constituency looking after the children while we spend the week in a Westminster flat. Nor do we have a spouse and children living in London while we travel to the constituency on a Friday or Saturday morning. We are both MPs and have established complicated family arrangements so that the whole family can stay together and so can return to our constituencies and our Yorkshire home at weekends and during recess.

Given these unusual circumstances, and in order to ensure we complied with the Green Book, we have sought advice from the Fees Office at every stage, have followed that advice, and will continue to do so.

If you would like any further information or to discuss our arrangements, please feel free to contact us.

*28 February 2008*

## 5. Article in Wakefield Express, published 8 February 2008

### MPs may be probed

Local MPs Ed Balls and Yvette Cooper may face a probe into their second home payments after a Tory MP called on a watchdog to investigate.

Normanton MP Ed Balls and Pontefract and Castleford MP Yvette Cooper came under fire last September after opposition MPs claimed they had “broken the spirit” of the rules governing allowances for homes.

The husband and wife team registered their weekday property in [ ], London as their second home under parliamentary regulations, allowing them up to £44,000 in annual housing allowances, although they did not use the full amount.

Their [Yorkshire] home on [ ] is listed as their main residence, despite the fact their three children go to school in London.

At the time, critics said the couple would receive less if their second home in London was listed as their main residence.

Now, after recent Tory claims scandals, Malcolm Moss, Conservative MP for North East Cambridgeshire, has written to John Lyon at the office of the Parliamentary Commissioner for Standards to look into the matter.

He said: “I am simply asking for direction as to whether they have broken the spirit or the letter of the rules. I am asking if it is within the rules to change the nomination of the main home.

“I haven’t accused them of doing anything wrong. It’s the fact the press was full of stories on the Tory side of expenses, which is why I have written this letter now.”

Mr Balls and his wife stand by their decisions, and say they have done nothing wrong.

The Normanton MP said: “Some Tory MPs seem to think all MPs should have their main home in London. Our kids were born in [Yorkshire] and Castleford is our family home.

“Unlike many MPs we do take our kids to and fro with us when we have to be in Westminster, but that’s because we think it’s important our family stays together. We’ve always made sure we abide by the rules on allowances.”

*8 February 2008*

## 6. Letter to the Department of Finance and Administration from Mr Balls, 20 July 2005

Further to our meeting a few weeks ago, please find enclosed ACA claim forms for Yvette and myself plus an explanatory note and receipts.

I am in my London office until Tuesday 26<sup>th</sup> July if you have any problems.

Many thanks for all your assistance.

*20 July 2005*

## 7. Letter to the Director of Operations, Department of Resources, from the Commissioner, 3 March 2008

I would be grateful for your advice on a complaint I have received about the use of the Additional Costs Allowance by Mr Ed Balls and Ms Yvette Cooper.

I sent you copies of the papers for information with my letter to Mr Balls and Ms Cooper on 6 February. I now enclose a copy of the letter of 4 February from the complainant, my letters of 6 February to Mr Balls and to Ms Cooper, and the joint reply I have received from them of 28 February.

I would welcome your comments on the sequence of events as set out in their letter, particularly in as much as it engaged the predecessors to your Department. You will see that Ms Cooper sought advice from the Department about the change in rules for Ministers and their main homes in 2004 and, since she did not receive a reply, she assumed the rules remained in place. I would welcome your comments on this and to know if the DFA sent any communications to Ministers, including Ms Cooper, in early 2004 to notify them of the change, and, if so, how it was phrased. Could you also let me know the date when Ms Cooper changed the description of her main home from London to Yorkshire?

Mr Balls and Ms Cooper refer also to a meeting on 9 June 2005 where they report that the Fees Office agreed the arrangements for the identification of their main home. It would be helpful to have your account of that meeting and what advice was given by the Department, together with any minutes you may have of that discussion.

The issue would appear to turn on whether Mr Balls and Ms Cooper have properly identified their main home, reflecting the guidance in the Green Book. If there were any other issues in respect of the arrangements for their two properties which might suggest some other breach of the rules, for example in respect of the mortgage arrangements for their London home, I would be grateful if you could let me know.

I believe you do need to see the annex to the letter which sets out fuller personal information about the arrangements for their family, but I would ask that you would treat it in the strictest confidence.

I look forward to hearing from you.

*3 March 2008*

## **8. Letter to the Commissioner from the Acting Director of Operations, Department of Resources, 7 April 2008**

Thank you for your letter of 3 March 2008 to [the Director of Operations] concerning the above complaint. This has been passed to me for a response.

You have asked for comments on the sequence of events outline by Ms Cooper and Mr Balls in their letter of the 28 February 2008 and information about any relevant correspondence about the use of ACA by Members holding Ministerial Office.

Ms Cooper is correct in saying that when she became a Minister in October 1999 she would have been required to change her pattern of claiming so that she claimed ACA against her constituency home with her London home designated as her main home. Mr Balls, following his election in May 2005, made no nomination until after he and Ms Cooper had sought advice from this Department. They then designated their Castletford home as their main home on 25 June (Mr Balls) and 25 July (Ms Cooper).

In October 2003, following a review of how the ACA was administered, all Members who claimed ACA were asked to complete the new ACA1 form; Ms Cooper completed hers on 7 January 2004 and forwarded it to this department. She did annotate this form with a question about the Ministerial position, stating that if it had changed she would wish to switch her nomination. We can find no correspondence in our files indicating that a response was made to this.

Ms Cooper states that she was unaware that the rules on ACA changed in 2004. She also says that she specifically wrote in February and March 2004 asking if there had been any change in the rules. Unfortunately, my staff have been unable to locate any letters from Ms Cooper about this matter but I have no reason to doubt that they were indeed sent. However, [ ] the former Director of Operations, wrote to all Ministers and Office Holders on 26 February 2004 (copy attached) informing them that the rules had altered and Ministers would now be treated in the same way as other Members of Parliament. It was then open to Ministers to adjust the nomination of their main home if they so wished.

Ms Cooper and Mr Balls sought advice from a member of my staff in June 2005 about the designation of their main home and subsequently opted to revert to their Castleford address as their main home. This was with the agreement of this department following a frank discussion about their personal circumstances. In fact the advice given was that they had four options open to them, namely:

- Both Members could have their main homes in two separate locations and each claim the full allowance on both the London and constituency properties.
- Mr Balls could purchase his own constituency property (which would be only 20 miles or so from Ms Cooper's). They could keep their London home as their main home and each claim for their separate constituency properties.
- They continue to treat their London property as their main home and claim for the single property in the constituency.
- They could switch their main home to the constituency property and share costs relating to the London property.

In addition we advised that, if opting for option 3 or 4, they share the costs rather than pay designated costs individually. Broadly speaking they have shared the costs over the past three years.

I enclose the file note of the meeting and a subsequent letter from Mr Balls and Ms Cooper clarifying it.

I am content that both Ms Cooper and Mr Balls have acted within the rules of the allowance and that having sought advice from this department justified their choice of their Castleford home as their main, family home.

You also asked if there were any other issues in respect of the arrangements for the two properties which might suggest some other breach of the rules. We have found none.

*7 April 2008*

## **9. Circular letter to all Ministers and Office Holders receiving the Additional Costs Allowance from the Director of Operations, Department of Finance and Administration, 26 February 2004**

I am writing to you about a change in the rules governing additional costs allowance (ACA) for Ministers and paid Office Holders.

Under the Resolutions of 20 December 1971, Ministers and paid Office Holders have been deemed to have their main homes in London, whether or not it accorded with the facts. This has prevented their claiming reimbursement of costs associated with overnight stays in the capital. This restriction has now been removed.

This change means that in future the ACA rules will now be the same for all Members. If you have not done so since July 2003, you now need to complete form ACA1 (available via the Intranet at <http://dfaweb.parliament.uk/dfaweb/forms/mp/claims/acal.pdf>) in order to designate a main home. Please submit this form by the end of March.

Your main home will normally be the home where you spend more nights than any other. You will be able to claim the additional costs allowance only if you are staying away from this address. If you spend more nights in your constituency home than in any other, you may be now able to claim for overnight stays in London.

If you want to change the nomination of your main home, please contact me or [ ], my deputy, so that we can advise you on the implications and on the documentation we will require.

*26 February 2004*

## 10. Letter to the Assistant Director of Operations, Department of Resources, from Mr Balls and Ms Cooper, 18 March 2008

Thank you for forwarding us a copy of the short note written by [an official in the Department of Finance and Administration] on 15 June 2005, following our meeting on 9 June 2005. When we spoke by telephone last week, we agreed that we would write to you to clarify a couple of points in that note.

We had a long and extensive discussion at the meeting in June 2005 about our family circumstances and travelling patterns, during which [the official] set out clearly all the different possible ways in which two married MPs can claim. Having now seen the brief points that [the official] summarised as a result, we are concerned that the memo is not a fully accurate reflection of that discussion.

The memo suggests that prior to the 2005 election, because Ed was spending most of his time in London and, because Yvette was dividing her time between London and Yorkshire we had decided that London should therefore be designated our main home. It then suggests that, because of Ed's election, we would now be spending more time in Yorkshire and that this was therefore the reason we had suggested designating Yorkshire as our main home.

In fact, the reason we had previously designated London as our main home since 1999 was because of the rules which said all Ministers had to list London in that way regardless of the facts. It was only in preparing for the meeting with [the official] in June 2005 that Yvette discovered that these rules had changed in 2004, despite her repeated enquiries to the Fees Office prior to the 2005 election. Your records will reflect this in her letters to the Fees Office in early 2004.

As we discussed with [the official] in that meeting, we have always seen our Castleford house as our family home and have both always spent considerable time there—with Ed often working from home there on a Friday, even while at the Treasury. Since 1997 we have normally spent Friday, Saturday and Sunday in Yorkshire when Parliament is sitting, as well as being based there in recesses and maternity/paternity leave when our children were born. Before Yvette became a Minister she listed our Castleford house as our main home and London as our second home.

However given the complexity of our family arrangements travelling to and fro with three young children, as well as the considerable variations in where we spend our time between one month and the next depending on whether Parliament is sitting, we sought the advice of the Fees Office before putting in any claims after the 2005 election so we could ensure we were following all the rules. That is why the designation was not changed until after Yvette had reviewed the position with Ed and after the meeting with [the official] on 9 June.

We appreciate that the discussions with [the official] on 9 June were extensive and have only been summarised in a short memo. It is also true that as an MP, Ed is better able to spend Fridays in the constituency than he was during some (but not all) of his time in the Treasury. During some periods at the Treasury, Ed normally worked at home in Yorkshire on a Friday. However during other periods, Ed needed to be in London on a Friday and travelled back to Yorkshire on Friday evening. The memo is therefore a fair reflection of the fact that as an MP, Ed is able consistently to spend more time in Yorkshire than throughout his time at the Treasury. We recognise therefore that the Fees Office may have viewed the changes in Ed's working patterns as a significant factor in advising us that our ACA claims continued to be in order and, that this is why it is recorded in this way on the memo. However we are concerned to clarify the position and the detail of our discussions at that meeting.

Thank you for your continued advice and assistance on this matter.

*18 March 2008*

## 11. Note of Meeting between Mr Balls and Ms Cooper and the Department of Finance and Administration, 9 June 2005

### **Background:**

Ms Cooper has been MP for Pontefract and Castleford since 1997. She has been claiming for costs relating to her constituency home, with her main home being in London,

Mr Balls was elected MP for the neighbouring constituency of Normanton in the recent General Election.

Ms Cooper and Mr Balls are married with a young family. They have a joint mortgage on each of their homes.

They both wanted to discuss the options available to them, ensuring that all ACA rules were being followed. They also wanted advice as to the best way to submit their monthly claims.

### **Options:**

All possible options were discussed, regardless of their validity:

- a. The two Members could have their main homes in two separate locations and each claim the full allowance on both the London and constituency properties.
- b. Mr Balls could purchase his own constituency property (which would be only 20 miles or so from Ms Cooper's). They could keep their London home as their main home and each claim for their separate constituency properties.
- c. They continue to treat their London property as their main home and claim for the single property in the constituency.
- d. They switch their main home to the constituency property and share costs relating to the London property.

Prior to his election, Mr Balls had worked at the Treasury and therefore spent most of his time in London. Ms Cooper divided her time between London and the constituency so felt that the London property should be classed as their main home.

However, since the election, both Members are able to spend more time in their respective constituencies and therefore suggested that their constituency property become their main home and they share the costs on their London property (option 4)

They then asked how they should divide their monthly claims. They were aware of possible future interest from the press regarding the use of their allowances.

They suggested that one of them could claim for the mortgage interest whilst the other claimed for general running costs (council tax, utility bills etc). However, I felt that this would produce an overall difference in the level of the allowance that they would claim, thereby increasing possible press interest.

As the money is coming from a joint account, I advised that they simply add up all relevant and allowable costs and split them equally. This would ensure that, over the course of an allowance year, they would claim identical amounts.

They agreed that this is how they would proceed. I requested that, prior to them submitting their first claim, that they complete new nomination forms and supply all relevant mortgage documentation relating to their London property.

15 June 2005

## 12. Letter to Mr Balls (and a similar letter to Ms Cooper) from the Commissioner, 9 April 2008

I have now heard from the Department of Resources commenting on the complaint made against you by Mr Malcolm Moss MP and, in particular, the letter which you sent me on 28 February.

I enclose a copy of their letter of 7 April together with its attachments.

As you will see, the Acting Director of Operations concludes that he is content that you have acted within the rules of the Allowance and that having sought advice from his department, you have justified your choice of your Castleford home as your main, family home.

I need now independently to consider that conclusion. While not suggesting any alternative conclusion, I think I do need to satisfy myself of the evidence behind the statement which you made in your meeting with [an official] on 9 June 2005 that, because (in effect) of the time you were spending in your constituency, your constituency property should become your main home. I recognise too the points put in your letter to Mr Chris Sear of 18 March 2008 about your working pattern before you became a Member of Parliament.

You say in your letter of 28 February 2008 that you estimate that over the course of a year you spend about 60% of your days in Castleford and about half your over-night stays there. It is that I believe I need to explore in a little more detail. It would be very helpful if you could:

1. let me have the breakdown of the pattern of overnight stays in Castleford which you predicted you would be spending, taking account of any differences between your work patterns in the Parliamentary Session, in the Recess, school terms (where applicable) and holiday periods away from both homes;
2. checking against your diary for the last financial year, how far those predictions have been met.

I appreciate that your diary commitments may be different from those of Ms Cooper and that is why I am writing separately to you and asking you each to undertake that exercise for me.

I appreciate that the requests in this letter will involve you in further work, for which I apologise. But I hope you will understand that I believe they are necessary in order authoritatively to resolve this complaint. I would, therefore, very much appreciate your help with this.

*9 April 2008*

## 13. Letter to the Commissioner from Ms Cooper, 6 June 2008

Thank you for your letter of 9 April. I apologise for the delay in replying. I have replied jointly with Ed on the main issues you raised.

You also asked me specific questions about the position on the change to rules for Ministers.

You said in your letter that you recognised I had continued to designate London as my second home up to June 2005 because of my understanding that that was the requirement for all Ministers.

You asked whether I had any record of receiving or recollection of reading the letter of 26 February 2004 from [the then Director of Operations]. I am afraid I don't. I was aware from parliamentary discussions in early 2004 that the issue of changing the ministerial rules had been raised but did not know whether any conclusion had been reached. That is why I annotated the ACA1 form in January 2004 and why I also raised the issue in correspondence in February and March 2004.

I enclose a copy of the annotated ACA1 form and a redacted copy of the letters from February and March. The remainder of the February letter refers to my concern that the Fees Office had over paid me at the end of 2003 and is not relevant to this inquiry. Although I recall that the overpayment was resolved by the Fees Office I have no record of any response by the Fees Office to the letter or to the point about the Ministerial rules.

I hope this is helpful.

*6 June 2008*

#### **14. Letter to a Senior Payments Officer in the Fees Office from Ms Cooper, 6 February 2004**

I enclose form ACA1. I assume that the rule that ministers have to designate their London address as their first home still applies and I have therefore listed [ ] Castleford as my second home. (If these rules have changed could you please advise me.)

...

*6 February 2004*

#### **15. Letter to a Senior Payments Officer, Fees Office, from Ms Cooper, 22 March 2004**

I wrote to you on 6 February 2004 but have not yet received a reply. I enclose a copy of my original letter and look forward to your speedy reply.

*22 March 2004*

#### **16. Letter to the Commissioner from Mr Balls and Ms Cooper, 6 June 2008**

Thank you for your letter of 9 April. We are very sorry for the delay in replying, which has simply been due to the competing demands from our ministerial and other responsibilities.

You wrote to us with a series of further questions, having informed us that the Acting Director of Operations at the Fees Office had concluded that in his view we had acted within the rules on our second home.

Whilst you wrote separately to us, we are sending this joint reply as most of the additional information you have asked for is the same. We have set out where there are differences, on the basis of our separate consideration of the points you raised.

You also asked Yvette further questions about the position before 2005 which she has responded to separately.

You asked us to set out our predicted pattern of overnight stays and then to check our diaries on how far those predictions had been met in practice. We are happy to provide you with this further information and have set out details below.

##### **i) predicted pattern of overnight stays**

It is worth pointing out that we did not set out precise predictions at the time of our discussions with the Fees Office. Nor was it suggested at any stage that we would need either precise predictions or retrospective measurement in order to determine where our second home should be designated.

However we did discuss the detailed pattern of our lives with the Fees Office, as the letter from [the Acting Director of Operations] makes clear and as we have set out below. Our discussions were also informed by an assessment of the parliamentary timetable as set out below.

Over the course of a year Parliament sits for 33-35 weeks. Like most MPs we tend to spend 4 days a week in London when Parliament is sitting. That would therefore require us to spend up to 40% of our days in London over the course of a year. Spending 4-5 nights a week in London while Parliament is sitting would require us to spend 40-50% of our nights in London over the course of a year.

As you will be aware we set out the broad pattern of our lives in our previous letter.

“If we compare the number of days we normally spend over the course of a year at home in Yorkshire and in London, then we estimate the breakdown is roughly 60% Yorkshire and 40% London; and over the course of a year we estimate that about half of our nights are usually slept in London.”

While Parliament is sitting, we generally spend Friday, Saturday and Sunday in Yorkshire, and Monday to Thursday in London. If it is also the school term then we tend to travel down to London on a Sunday night, and generally back on a Friday morning, though one of us sometimes travels back on a Thursday night. If it is not school term, if the children have inset days, are not well or if we are travelling separately from them due to constituency events, then we will both travel back to Yorkshire on a Thursday night and down to London on a Monday morning.

During the Christmas, Easter, August and half term and bank holidays recesses we are based in Yorkshire. Occasionally the school half term and Parliamentary half terms do not coincide and during those weeks we will have ad-hoc arrangements involving grandparents and considerable to-ing and froing

Once the school term starts in September we start spending time in London again on departmental business, although during this month it is usually interrupted by time in the constituency, visits round the country or abroad, and by the week spent at Party Conference.

### **ii) the pattern in practice**

We have looked as far as possible at the pattern of our days and nights over the last three years since our discussions with the Fees Office in 2005 to check whether they met with the pattern set out above and in our letters to you and to the Fees Office.

In each of those three years we have spent Christmas/New Year, Easter, Summer, Whitsun and bank holiday recesses based in Yorkshire. The February half term did not coincide with the children's half terms in 2006 or 2007 so we spent those recesses partly in London. We went on holiday for part of August with little time away at other times of the year. We did not spend as much of September in London as normal in 2007, and we each went on foreign trips in September 2006. Overall Ed has been slightly more likely to spend extra weekdays in Yorkshire than Yvette, but has also taken more trips abroad for departmental visits.

In practice that has meant that in each of the three years we have spent more time in Yorkshire than in London in April, May, August and December, and more time in London than Yorkshire in October, November and March. In January, July and September we have tended to spend around half our time in each place, whilst February and June have varied from one year to the next depending on the timing of half term recesses.

Our best estimate is that over the course of a year we spent 40% of days in London in 2005-6 and 45% of days in London in 2006-7 and 2007-8. And in line with our previous letters we spent just under half our nights in London in 2005-6 and half our nights in London in 2006-7 and 2007-8.

### **iii) the Fees Office discussions**

In your letter you say that you are seeking “the evidence behind the statement which you made in your meeting with [the official] on 9 June 2005 that because (in effect) of the time you were spending in your constituency, your constituency property should become your main home.”

The information you asked for above shows that our time over the last three years has indeed been spent in line with our earlier letter and in line with the information given to the Fees Office.

However, it is worth pointing out that we did not simply make a statement to the Fees Office that Yorkshire should be our main home on the basis of the time spent there.

Instead, as we explained in our previous letter, and also in our further letter to the Fees Office, due to our unusual circumstances as 2 MPs with young children, dividing our time between both homes, and with considerable variations in our time spent in each home, we followed the guidance in the Green Book.

That guidance says: “The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other. If there is any doubt about which is your main home, please consult the Department of Finance and Administration.”

That is why we consulted the Fees Office in the first place rather than simply rely on what might normally be the case. The Fees Office did not ask us at that time to predict or record the precise pattern of days and nights spent. Nor did they at any time suggest that such an assessment would be the only or final test of which home should be designated our first or second home. Had they done so we would have needed to change the designation of our second home from one month to the next or from one quarter to the next.

As you will recall, the crux of Malcolm Moss’s original allegation is that we have wrongly designated London as our second home so that we can “maximise our application”. As we pointed out previously, this is simply wrong. We do not claim the full allowances (in 2007/8 we have each claimed just over half the ACA) and we could claim the same amount on our Yorkshire home. London is also designated as our second home for tax purposes, and we have therefore paid significant capital gains tax on moving house last year. It would in fact have been to our financial advantage to designate Yorkshire rather than London as our second home.

*6 June 2008*

### **17. Letter to the Acting Director of Operations, Department of Resources, from the Commissioner, 19 June 2008**

I would be grateful for some information—and urgent advice—about the scope of the ACA for Members’ second homes.

I have asked Mr Balls and Ms Cooper each to let me have their predicted and actual nights spent in their main home against the number of nights they predicted and actually spent in their London home. They have said that, since theirs is a joint claim, the figures they provide me with should be joint figures. By that I take it to mean that, as long as one of the two of them is in their main home, that counts as a night in their main home. (I am less clear how they calculate nights spent in London, but perhaps it is on the same basis.) My question is whether they are right in their assertion that theirs is a joint claim against the ACA. Is that an approach which the DOR recognises and accepts? (It may be that, if Members do opt to combine their claims and split it down the middle—as I understand has happened in this case—then that could reinforce their argument that this is a joint claim.)

I would be very grateful for some urgent advice on this since if the approach they are taking is clearly unacceptable, then I ought to warn them of it.

*19 June 2008*

### **18. Letter to the Commissioner from the Acting Director of Operations, Department of Resources, 26 June 2008**

Thank you for your letter of 19 June.

There is no formal authority for joint claims against Members’ allowances. However, the Green Book does recognise occasions in which Members may share costs, e.g. para 3.5.3 about sharing accommodation for ACA purposes and 5.12.6 on the Incidental Expenses Provision. The principle is that the Department needs to be notified of the sharing arrangements so that we can check that subsequent claims are in accordance with them. There are several sharing arrangements in force for ACA purposes, including the one suggested to Mr Balls and Ms Cooper at the meeting in June 2005 to which I referred in my letter of 7 April 2008.

The notification of which is the main home for ACA purposes is required from each Member individually. It would be possible for a particular property to be one Member’s designated main home and another Member’s designated second home, if the facts justified this.

*26 June 2008*

## 19. Letter to Mr Balls (and a similar letter to Ms Cooper) from the Commissioner, 26 June 2008

Thank you for your letter of 6 June responding to my letter of 9 April about your overnight stays for the purposes of your claims under the Additional Costs Allowance.

I look forward to receiving further information about the number of nights you spent in your main home and in your London home. I should make clear that, while I understand you have a sharing arrangement for apportioning your claims under the Additional Costs Allowance between yourself and Ms Cooper, notification of which is your main home for ACA purposes is required of each Member individually. It would be helpful, therefore, if you could identify only your own overnight stays in each location and not add in those of your partner.

Any other information you would like to give me relevant to identification of your main home for the purposes of the allowance would, of course, be very welcome.

26 June 2008

## 20. Letter to the Commissioner from Mr Balls and Ms Cooper, 10 July 2008

Further to our letters to you of 28 February 2008 and 6 June 2008, our meeting of 18 June 2008 and your subsequent letters to us of 26 June 2008, we are writing, as agreed, to set out the further detailed information you have requested.

We are happy to be subject to the fullest scrutiny over our claims, and we have sought at all stages to cooperate with your office and the Fees Office over these issues.

We apologise for the delay in replying. We were keen to ensure the further information you had was as accurate as possible. This has taken us some time given the inevitable limitations in diary records and other pressures on our time.

### Advice from the Fees Office

It is important for us to stress to you in writing, as we said when we met, that, from the outset, we have been anxious to comply with both the letter and the spirit of the Green Book rules. So we welcome the fact that you are investigating the complaint from Mr Malcolm Moss. It is right and proper that MPs are scrutinised in this way, however uncomfortable the media attention may be.

As you will know from our previous correspondence, we have both sought and relied upon the advice of the Fees Office in making our ACA claims. We note that the Speaker's Foreword to the latest edition of the Green Book states: *"In cases of doubt or difficulty about any aspect of the allowances or how they can be used, please contact the Department of Fees and Administration. The Members Estimate Committee, which I chair, has recently restated the Department's authority to interpret and enforce these rules."*

As the Fees Office say in their file note of our meeting with [an official] dated 15 June 2005: *"They both wanted to discuss all the options available to them, ensuring that all ACA rules were being followed. They also wanted advice as to the best way to submit their monthly claims."*

At that meeting [with the official], we explained in detail to the Fees Office the complicated and unusual pattern of our lives, being two married MPs with young children. We discussed the Green Book rules with the Fees Office, we discussed how they applied to our lives, and we gave the Fees Office all the information they deemed necessary—and offered more.

It was following these detailed discussions with the Fees Office, and with their agreement, that we proceeded to make ACA claims on our second house in London.

We note that the Fees Office have confirmed to you that we did, indeed, follow their advice. Following our letter to you of 28 February 2008, you contacted the Fees Office, who replied in their letter to you of 7 April

2008. In that reply, the Fees Office state that our decision to designate Castleford as our main *home* “was with the agreement of this department following a frank discussion about their personal circumstances.”

The letter concludes: “I am content that both Ms Cooper and Mr Balls have acted within the rules of the allowance and that having sought advice from this department justified their choice of their Castleford home as their main, family home.” Indeed, the letter continues: “You also asked if there were any other issues in respect of the arrangements for the two properties which might suggest some other breach of the rules. We have found none.”

Notwithstanding the Fees Office view that we have complied with the rules, you have asked us to provide further details of our pattern of days and nights, which we set out below.

### **Financial advantage**

However, before setting out this further information, and given the original allegation by Mr Malcolm Moss that we have designated London as our second home in order to “maximize” our application, it is important that we state clearly once again that we were not motivated by financial gain in making our ACA claim on our London house rather than our [Yorkshire] home.

As we have set out to you in our letter of 6 June 2008, we have never claimed the whole allowance—in 2005/06 we claimed 63-65% per cent each; in 2006-07 we claimed 72 per cent each; and in 2007/08 we have claimed 53 per cent each (£12,219).

We explained clearly in our letter to you of 28 February why, following the rule change in 2004, Yvette sought to change her designation of her second home back from Castleford to London where it was before she became a Minister in 1999. The Fees Office confirms the accuracy of this in their letter to you of 7 April 2008.

Moreover, we have followed the logic of our claim and declared London as our second home with HMRC so that it is subject to capital gains tax, even though for most of the relevant period it was not our second home for ACA purposes. As a result of moving last year we have therefore paid more in capital gains tax than the total amount we have claimed in additional costs allowance on the property over the last few years.

Had we designated Castleford as our second home, experience suggests that we could have made similar claims under the Green Book rules as they currently stand. And we would not have needed to pay any capital gains tax as we have never had any intention of moving house in Castleford.

Therefore, it would have been substantially to our financial advantage to treat London as our main home and Castleford as our second home. We have not done so because, for us, Castleford is our main home.

We therefore entirely refute Mr Moss’s allegation that we “were able to maximize” our application by declaring London as our secondary residence. In fact, Mr Moss is reported as saying to our local newspaper: “I haven’t accused them of doing anything wrong. It’s the fact the press was full of stories on the Tory side of expenses which is why I have written this letter now.” (Wakefield Express, 2 February 2008)

### **The Green Book rules**

The Green Book states:

“The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other. If there is any doubt about which is your main home, please consult the Department of Finance and Administration.”

There are therefore three clear steps in the rules:

- a. “The location of your main home will normally be a matter of fact.”
- b. “If you have more than one home, your main home will normally be the one where you spend more nights than any other.”

- c. “If there is any doubt about which is your main home, please consult the Department of Finance and Administration.”

We take each step in turn.

**- The location of your main home will normally be a matter of fact.**

The first part of the rule is straightforward. For us, it is a matter of fact that our main home is in Castleford. We have no choice but to be in London from Monday to Thursday (and sometimes Friday) when Parliament is sitting. We also need to be in our constituencies on Fridays (and often Saturday mornings) for surgeries and constituency business.

If London was our main home we would then travel back down to London once surgeries were finished on a Friday night or Saturday lunchtime. And we would not make our children complete a 400 mile round trip each week, but would leave them in London instead. That is what many MPs whose main homes are in London do each week.

Instead, however, once our surgeries are finished, we come home to Castleford. And once our children finish school they come home to Castleford. That is where we take the children to their dance classes and football on a Saturday morning and where we relax at the weekend and eat Sunday lunch. It is our home.

We set out the pattern of our family life in our letter of 28 February. As we have explained to you in previous letters, we effectively have no choice but for our children to go to school in London. The reasons are because we are both required to be in London Monday to Thursday when Parliament is sitting, because as parents we believe our family ought to stay together and cannot leave our children at home in the constituency during the week, and because the Parliamentary and school terms are broadly aligned.

As we have set out in previous letters and in our meeting with the Fees Office in June 2005, even though Castleford is in practice our main home, we were clear that we needed to comply with the House of Commons interpretation of “main home” for the purposes of the allowances, and that is why we turned to the second and third part of the rules.

**- if you have more than one home, your main home will normally be the one where you spend more nights than any other.**

The second part of the rule says that “your main home will normally be the one where you spend more nights than any other.” The Green Book does not say that your main home will “always” or “only” be where you spend more nights than any other.

We have been clear from the beginning in our letters to you—and were clear in our discussions with the Fees Office in June 2005—that our circumstances are not normal in this respect. Unlike many MPs we do not have a spouse and children living permanently at one end of the country or the other to define our main home. Instead we all travel to and fro each week.

We were always aware that there would be substantial variations from one month to the next, and from one quarter to the next, in the number of nights we would spend in each place. Some months we spend more nights in London than Castleford. Some months we spend more nights in Castleford than in London.

We were also aware that the number of nights we spend in each place does not fully reflect where we spent our time and where in practice we have our main home. Because of the need to travel to London on a Sunday night so the children can go to school on Monday morning we therefore spend considerably more days than nights in Castleford. Before they started school we used to travel down on a Monday morning and back on a Thursday night. Since they started school we have been more likely to travel down on a Sunday night and back on a Friday morning, although our days remain the same.

We were aware too that if the only issue were the number of nights that could in theory have meant we would need to change our claims retrospectively if the precise number of nights changed. It could have meant changing our designation every few months. It could also have meant in theory that one of us would have to treat Castleford as our main home, and the other would have to treat London as our main home - which we felt, and indeed were advised by the Fees Office, would not have been appropriate.

So for all of these reasons, and in order to address any doubt, we felt it necessary to seek the advice of the Fees Office before making any claims at all after the 2005 election.

As set out in our previous letters to you, we were clear with the Fees Office from the beginning that, over the course of the year, we would not be able to guarantee to spend particular numbers of nights in London or Castleford. We had not done any detailed calculations, nor did the Fees Office at any time suggest we should do so.

We discussed with the Fees Office our patterns of travel each week, and explained the fact that when Parliament was sitting we would expect to spend up to 5 nights a week in Westminster, but that during recess we expected to be in Castleford. We told them—as we outlined in our letter to you of 28 February that the Fees Office has also seen—that our best assessment based on the Parliamentary timetable was that we would need to spend up to half the nights in the year in London. The rest would be spent in Yorkshire or away on holiday from our Castleford home. We also discussed the fact that, for us, the number of nights was not an accurate reflection of the amount of time we spent in each place because of the need to travel down on Sunday night rather than Monday morning so the children could go to school. We also discussed with the Fees Office our expectation that we would spend more days in Castleford than in London, as we confirmed in our letter to you of 28 February.

At no time did the Fees Office suggest we should conduct detailed calculations of the precise number of nights we spent, or would expect to spend, in each place. Even though we raised the issue of holidays, and of days and nights being different, again they did not say we needed to assess precisely how many days or nights we spent at home, on government trips, on holiday, visiting relatives or in London.

Nor did they suggest that we needed to conduct separate calculations. Quite the opposite—the Fees Office encouraged us to submit a joint claim on the same second home.

While we respect your view in your letter of 26 June 2008 that “notification of which is your main home for ACA purposes is required of each member individually”, it was the Fees Office who were anxious that we made a joint claim for the ACA rather than have two separate claims or two different designations.

You have asked us to set out how far, in fact, our lives have complied with the discussions we had with the Fees Office in 2005. They have done so.

As we set out to you in our letter of 6 June, the pattern of our lives has reflected the pattern we discussed with the Fees Office. So we have indeed spent up to 50% of our nights in London as a result of our parliamentary duties, with the rest in Castleford or away. We have also, as we set out in the 6 June letter, followed the overall pattern of spending recesses and weekends in Castleford, with occasional exceptions where the recess and school half term were not aligned. The consequence of this is that there has been, as we explained, substantial variation from one month to another in where we have spent our days and nights.

You have also asked us supply you with more information on the number of days and nights which we set out below. You asked us to look at the last financial year, which we have done. But for completeness we have also looked at the previous two years since the discussions with the Fees Office in 2005.

We have set out our best estimates in the attached annex. We hope you will understand that it is simply not possible to be completely accurate about these figures. As neither the Fees Office nor anyone else has ever suggested this information would be needed, we simply do not hold records on where we each spent every night and this information is, not surprisingly, not recorded in our work diaries.

For example, we do not have accurate records of days when one or other of us stayed overnight in Castleford on a Thursday or Sunday night. The figures you have asked for are also heavily affected by the amount of time we have spent away on holiday or visiting relatives. Yet we do not have precise records of things like the number of days we spent at Ed’s parents at Christmas, or which dates in August we spent at home in Yorkshire and which were spent at Yvette’s mum’s caravan in the Lake District. Therefore the annex provides our best estimates of the position based on analysis of our diaries and our recollections.

The numbers of days and nights from year to year has been affected by the number of days holiday we have taken, the number of weekends visiting family, the alignment of the school spring half term and parliamentary

recess, and the fact that at Easter 2007 we moved house in London rather than spending all week at home in Castleford as normal.

You have also asked us to “identify only your own overnight stays in each location and not add in those of your partner.” Again this is simply not possible to do with precise accuracy as we do not hold records of the occasional nights one of us spent in Yorkshire while the other was in London. But we have done our best to provide further details below.

Overall you will see from the annex:

- in each year, over the course of twelve months we have spent up to half our nights in London—exactly as we informed the Fees Office in June 2005 and set out to you in our previous letters;
- in each year, over the course of twelve months we have spent more days in Castleford than in London and more nights in London than in Castleford

Our diary analysis, and the parliamentary timetable, also suggests that in each of the past three years, we have spent more days and nights in Castleford than London in the first half of the financial year; but we have spent more days and nights in London than in Castleford in the second half of the financial year.

**- If there is any doubt about which is your main home, please consult the Department of Finance and Administration.**

As we have explained, for us there is no doubt about which is our main home. However, we were clear that, for us, there would be considerable variation in where we spent our time, and also that the number of nights was not a full reflection of where we spent our time. We were also clear about the need to comply fully with the House of Commons rules on which should be designated our main home. In order to address any doubt we chose to consult extensively with the Fees Office and to follow their advice.

This third part of the rule goes considerably further than the generic recommendation at the beginning of the Green Book to consult the Fees Office on allowances. It says that specifically on the issue of your main and second home, you should consult the Fees Office if there is doubt. Therefore we have assumed that on this particular rule the Department of Finance and Administration was the correct authority to tell us how the rule should be interpreted in situations where there is doubt.

Had the rules said that where there is doubt you should consult the Parliamentary Commissioner or the Members Estimate Committee, we would of course have done so.

Indeed, the Speaker’s Foreword to the latest edition of the Green Book states: “In cases of doubt or difficulty about any aspect of the allowances or how they can be used, please contact the Department of Fees and Administration. The Members Estimate Committee, which I chair, has recently restated the Department’s authority to interpret and enforce these rules.”

As we have set out above, we discussed in detail with the Fees Office the detailed and unusual pattern of our lives. We discussed the Green Book rules with the Fees Office, we discussed how they applied to our lives, and we gave the Fees Office all the information they deemed necessary and offered more.

The Fees Office has confirmed in their letter to you of 7 April 2008 that “detailed discussions were held” based on “a frank discussion about their personal circumstances”. They have seen our letters of 28 February 2008 in which we set out our recollection of all the discussions that took place. Given all the information in those letters as well as the original discussions, they have declared themselves satisfied that our decision to declare our Castleford home as our main home was in line with the rules, and that it was fully within the rules to treat London as our second home for ACA purposes.

As the Fees Office concludes in their letter to you of 7 April 2008, “I am content that both Ms Cooper and Mr Balls have acted within the rules of the allowance and that having sought advice from this department justified their choice of their Castleford home as their main, family home.”

Had the Fees Office asked for further information we would have provided it; and had the Fees Office given us alternative advice we would have followed it.

We are confident that all the information provided or offered to the Fees Office in June 2005 was accurate. We hope that you are satisfied that we have done our level best to provide you with as much further information as we can to support the advice provided by the Fees Office. Indeed, the information we are providing to you about the details of our home, family and private life goes well beyond anything that the Fees Office has ever asked us to provide before, during or subsequent to our claims.

We hope you will be satisfied that we have tried, at all times, to comply with the letter and the spirit of the Green Book rules and to follow the Fees Office advice and guidance.

We hope this is helpful.

*10 July 2008*

## **21. Letter to the Acting Director of Operations, Department of Resources, from the Commissioner, 16 July 2008**

I would welcome some further advice on the complaint against Mr Balls and Ms Cooper about the designation of their main home for the purposes of claims against the Additional Costs Allowance.

I was grateful for your letter of 7 April which set out the sequence of events involving the Department's contacts with Mr Balls and Ms Cooper over this matter. Thank you too for your letter of 26 June about joint claims which I have now shown to the Members.

I showed Mr Balls and Ms Cooper your letter of 7 April and invited them to let me have details about their predicted and actual pattern of overnight stays. I attach a copy of my letter of 9 April to Ms Cooper and of the same date to Mr Balls; a copy of her letter of 6 June from Ms Cooper, and of the same date from both Mr Balls and Ms Cooper; my letter to Ms Cooper of 26 June (I wrote in identical terms to Mr Balls) and their reply of 10 July. I attach also my letter of 16 July responding to the information provided in their letter of 10 July, together with its attachment.

I would welcome your comments on the Members' response. In particular, I would welcome any comments you had on the Members' interpretation of paragraph 3.11.1 of the Green Book. I would also be most grateful if you could arrange for me to have confirmation from the relevant official of the Members' recollection of their meeting with him on 9 June 2005. Was it clear to him at the time that the Members would not normally spend more nights in their main home than anywhere else; that they would be spending up to half their nights of the year in London, but that they expected to stay more days in Castleford than in London? The Members report that they had discussions about the Green Book rules and detailed discussions about their travel and the pattern of their lives. They told the Department that they could not guarantee to spend particular numbers of nights in London or Castleford. As the details of this discussion is understandably not recorded in the note prepared by the official, I would find it helpful to have his recollection of the discussion and, in particular, to know the basis on which he felt that they reached the choice of Castleford as their main home for the purposes of claims under the ACA.

It would also be helpful to have your comments on the identification of the Members' main home in the light of the detailed numerical information provided in their letter and annex.

Any other points or suggestions you wanted to make would, of course, be very welcome.

It would be most helpful if it were possible to receive a response to this letter within the next three weeks. I am most grateful for your help.

*16 July 2008*

## **22. Letter to Ms Cooper from the Commissioner, 16 July 2008**

Thank you very much for the letter from you and Ed Balls of 10 July with the detailed information about your pattern of overnight—and daytime—stays over the past three years. This was most helpful, as was the very full and clear explanation of your understanding of the position.

I am now showing your letter to the Department of Resources and inviting their comments both on your interpretation of the relevant rule in the Green Book (paragraph 3.11.1) and on your recollection of the discussions with an official from the Department of Finance and Administration in June 2005. You refer to my letter to you of 26 June in which I say that 'notification of which is your main home for ACA purposes is required of each Member individually'. I base that on advice I received from the Department of Resources. I enclose a copy of their letter of the same date which, I believe, distinguishes between notification of a Member's main home for ACA purposes and the handling of joint claims when sharing arrangements are in force.

Finally, I would be grateful if you could confirm the accuracy of the figures in the attached note which are derived from the annex to your last letter. I am sending this note to the Department of Resources so if it needs revising, please let me know as soon as possible.

I look forward to hearing from you.

*16 July 2008*

### **23. Letter to the Commissioner from Mr Balls (on behalf of himself and Ms Cooper), 22 July 2008**

Thank you for your further letter of 16 July following our detailed letter to you of 10 July. We look forward to your conclusions, following your further correspondence with the Fees Office.

We were interested to read the Fees Office letter to you of 26 June in response to your enquiry, and can confirm that we have fully followed its contents. We were not aware that anyone, including Malcolm Moss, had ever suggested we had not followed the rules in this regard. We can confirm that we have each made separate, signed declarations each year notifying the Fees Office of our main home for ACA purposes. When we met with the Fees Office in June 2005, and on the basis of our discussions, the Fees Office encouraged us to designate the same home, which we have both done. They were also very keen that we submitted a joint claim, which we have also done.

You also ask us to confirm the accuracy of the figures in your attached note which you have derived from the annex to our letter of 10 July. We have two concerns about this.

First, as we explained in our previous letter, it is simply not possible to be completely accurate about these figures. As we say in the annex to our 10 July letter, we have set out our best estimates of the pattern of our days and nights over the past three years in order to give you the best possible idea of the way we have spent our time. However there will undoubtedly be a margin of error involved in any of these estimates. As neither the Fees Office nor anyone else has ever suggested this information would be needed, we do not hold records on where we each spent every night and this information is, not surprisingly, not fully or reliably recorded in our work diaries.

Second, it is important there is no misunderstanding about what we said in our letter of 10 July about Ed's time as your table does not reflect our best estimates, and your use of ranges for Ed suggests a greater degree of accuracy in our estimates for Yvette than we are comfortable with.

We said in that annex that the figures were based on a shared analysis of our diaries and our recollections, which constitute the best estimate we can come up with for Yvette (who has largely spent nights in the same place as the children). In addition, in 2005-06 and 2007-08, we estimate that Ed spent up to five nights on a Sunday or Thursday either abroad or in Castleford, while Yvette and the children were in London. He also spent up to five nights either abroad or in London on a Friday/Saturday night while Yvette and the children were in Castleford.

But it is our recollection that Ed spent at least as many nights in Castleford on a Sunday-Thursday night away from the family as he spent in London alone on a Friday-Saturday night. So overall, while it is hard to be accurate, we estimate that in 2006-07 and 2007-08, Ed spent approximately 5 fewer nights in London than Yvette, 5 more nights away from Yvette and, in total, around the same number of nights in Castleford as Yvette.

It is the case, however, that in 2006-07 when Ed was a Treasury minister, he travelled extensively abroad and we estimate that, compared to Yvette, he spent a further 3 days/nights abroad away from Castleford and the family on a Friday/Saturday night; and 20 days/nights abroad and away from London and the family on a Monday-Thursday night.

Finally, you say in your letter that you are sharing your table with the Fees Office. We would be very concerned if this table was presented as precise or accurate figures which we have endorsed when, as you know, we have repeatedly stressed these can only be estimates. We would be grateful if you could also share this letter and our letter of 26 June with the Fees Office.

We hope this is helpful.

*22 July 2008*

## **24. Letter to Mr Balls (copied to Ms Cooper) from the Commissioner, 24 July 2008**

Thank you for your further letter of 22 July following mine to you of 16 July about the identification of time spent in your two properties.

I am grateful for the work you have done in identifying the days and nights you each spent in each location. I recognise the caveats you have made. I will clearly reflect them in any material I prepare on this complaint. Following my request, you have produced a table giving your best estimate (subject to all the qualifications you have made) of where you and Yvette Cooper spent your days and nights over each of the past three years. I believe I need figures for your stays in each of your home locations so that I have a clear indication of the balance of your overnight stays. Subject to all the qualifications you have made, it is that which you have helpfully provided and for which I am grateful. It was helpful too to have the information you provided on your pattern of days in your two homes. I hope you would accept – and perhaps be reassured – that I do not expect the issue to turn on the variation of a few nights or days either way.

While the attached annex does not stand alone from all the material you have provided in your letters in relation to this matter, I have revised it to reflect what you have said in your letter of 22 July, and to add your qualifications in the footnotes so that there can be no misunderstanding of what it represents.

I would welcome any further drafting revision you wanted to make to the attached annex. I have already shared all your letters with the Department of Resources, although I have no record of having received a letter from you of 26 June—I hope I am right in assuming that is a reference to your letter to me of 6 June.

Thank you again for your help with all this.

I am copying this letter to Yvette Cooper, and to the Acting Director in the Department of Resources.

*24 July 2008*

## **25. Schedule of Time Spent in London, Castleford and Away**

Best estimates of time spent in London, Castleford and away: Rt Hon Yvette Cooper MP and Rt Hon Ed Balls MP, 2005-6 to 2007-08

	Time spent in Castleford	Time spent in London	Time spent away	<b>Total</b>
2005-06				
Days				
YC	183	150	32	<b>365</b>
EB (See Note 4)	183	145	37	<b>365</b>
Nights				
YC	157	176	32	<b>365</b>

EB (See note 4)	157	171	37	365
<hr/>				
2006-07				
Days				
YC	170	157	38	365
EB (See note 5)	167	137	61	365
Nights				
YC	148	179	38	365
EB (See note 5)	145	159	61	365
<hr/>				
2007-08				
Days				
YC	173	159	34	366
EB (See note 4)	173	154	39	366
Nights				
YC	150	182	34	366
EB (See note 4)	150	177	39	366

Notes:

1. YC = Yvette Cooper; EB = Ed Balls

2. These figures are estimates only. ‘It is simply not possible to be completely accurate about these figures...We have set out our best estimates of the pattern of our days and nights over the past three years.... However there will undoubtedly be a margin of error involved in any of these estimates.’ ‘...figures were based on a shared analysis of our diaries and our recollections, which constitute the best estimate we can come up with for Yvette...’*Letter of 22 July.*

3. Estimates for EB have been derived from the estimates for YC, and would be affected by any changes to those estimates.

4. ‘...in 2005-06 and 2007-08 we estimate that Ed spent up to five nights on a Sunday or Thursday either abroad or in Castleford while Yvette and the children were in London. He also spent up to five nights either abroad or in London on a Friday/Saturday night while Yvette and the children were in Castleford. But it is our recollection that Ed spent at least as many nights in Castleford on a Sunday-Thursday night away from the family as he spent in London alone on a Friday-Saturday night. So overall, while it is hard to be accurate, we estimate that in 2005-06 and 2007-08 Ed spent approximately 5 fewer nights in London than Yvette, 5 more nights away than Yvette and, in total, around the same number of nights in Castleford as Yvette.’*Letter of 22 July.*

5. ... ‘in 2006–07, when Ed was a Treasury Minister, he travelled extensively abroad and we estimate that compared to Yvette, he spent a further 3 days/nights abroad away from Castleford and the family on a Friday/Saturday night; and 20 days/nights abroad and away from London and the family on a Monday-Thursday night.’ *Letter of 22 July.*

## 26. Letter to the Commissioner from the Acting Director of Operations, Department of Resources, 28 July 2008

Thank you for your letter of 16 July 2008 asking for further clarification about the selection of their main home by Mr Balls and Ms Cooper, and for copies of their letter to you of 22 July and your reply of 24 July.

You ask for clarification of discussions between officials and Mr Balls and Ms Cooper held at this office on 9 June 2005, and in particular whether explicit reference was made to the number of nights to be spent in either home. You also ask for comment about the Members' interpretation of paragraph 3.11.1 of the Green Book.

I have asked for clarification from [the relevant official] about his meeting of 9 June 2005 with Mr Balls and Ms Cooper, and the discussions they had. Firstly, I must re-iterate that at the time the Department accepted that both Members were acting properly and the meeting note, written by [that official] was a brief minute of that meeting and the general nature of the discussion. Some three years on, his recollection is that Mr Balls and Ms Cooper presented a case for Castleford to be their main home based on it being where they spent the majority of the time when not in Parliament and where they predominantly stayed when their children were not at school.

[The official] has confirmed that he did not ask Mr Balls or Ms Cooper to provide details of the number of days, or nights, spent in each home (this is not something we have asked other Members to do), and that he was content that they had presented a reasonable and valid argument to support their selection and, therefore, did not feel it necessary to question the decision further.

In my letter to you on 7 April, I confirmed that I was content that Mr Balls and Ms Cooper had acted within the rules. In their letters to you of the 6 June and 10 July 2008, they have given more detailed information about the use of their two homes.

The advice given in the Green Book says that, "If you have more than one home, your main home will normally be the one where you spend more nights than any other". A quick analysis of the estimated time spent in each location (taking the days away out of the equation) shows that Mr Balls and Ms Cooper spent approximately 53% of their days and 47% of their nights in Yorkshire. This does not seem to me to be significantly at odds with the guidance.

The word normally in the above guidance allows for the possibility that a Member, or on this occasion Members, can put forward a case that will be at variance with the guidance. In particular, they have explained their family arrangements which show that they use their Yorkshire home for purposes which suggest a link to the community over and above being a representative at Parliament. On balance and taking all the circumstances into account, as I have said before, I believe Mr Balls and Ms Cooper have substantiated their reasons for designating their Castleford home as their main home and have not breached the rules by claiming the ACA for costs associated with their London home.

This additional information provides greater clarity about their personal movements as a family and does not lead me to reconsider my original conclusion that they have acted within the rules about the use of parliamentary allowances.

I hope that this is helpful.

*28 July 2008*

## Appendix 2: Letter to the Clerk of the Committee from Ed Balls and Yvette Cooper, 6 October 2008

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Thank you for your letter of 2 October. We welcome the decision by the Parliamentary Commissioner for Standards to dismiss this complaint and his conclusion that our decision was “fully in accordance with both the letter and the spirit of the rules of the House” (paragraph 87), and the finding that he does “not accept and there is no evidence to substantiate” (paragraph 76) Mr Moss’ claim that we identified our house in Castleford as our main home in order to maximise our claims.

We have one factual point about the memorandum which concerns the statement in paragraph 83, “They both expected to spend...more nights in London than in any other location”. For the record this is not correct and is inconsistent with the rest of the memorandum. At no point have we said that when we spoke to the Fees Office we expected to spend more nights in London.

In fact, as the Commissioner states in paragraph 34, *“In respect of their predicted pattern of overnight stays, they pointed out that they did not set out precise predictions at the time of their discussions with the Fees Office. Nor was it suggested at any stage that they would need either precise predictions or retrospective measurement in order to determine where their second home should be designated. They noted that spending four or five nights a week in London while Parliament was sitting would require them to spend between 40% and 50% of their nights in London over the course of a year”*.

We would also like to note that in his memorandum the Commissioner has “also taken the opportunity to address some wider issues which are not directly part of the complaint” (paragraph 74). We are concerned that the memorandum does not sufficiently differentiate between the particular conclusions on the complaint against us and the wider points which are not based on the facts of our case.

We would like the committee to be clear that the points made by the Commissioner on ensuring the taxpayers interest is protected and on joint maximum claims are in no way based on any suggestion of a problem with our claims; first as the Commissioner states we “paid more in Capital Gains Tax than the total amount...claimed in Additional Costs Allowance on the property over the last few years” and “It would, therefore, have been substantially to their financial advantage to treat London as their main home.” (paragraph 45). Second and again as the Commissioner states we, “had never claimed the whole allowance. In 2005-06 they claimed between 63% and 65% each; in 2006-07 they claimed 72% each; and in 2007-08 they claimed 53% each” (paragraph 44).

We note that, unusually, it has been decided that the report is to be published despite the Commissioner having dismissed the case. We have both strongly supported greater transparency in MPs expenses and welcome the fact that there is a system of independent checks and we welcome the detail of the Commissioners memorandum as well as his conclusions.

We simply ask the Committee to note that as a consequence of this complaint, which has now been dismissed, there will be considerable details of our personal circumstances in the public domain - far more than we were asked to provide to the Department of Finance and Administration in the first place, or in fact than any other MP will have been asked for.

Thank you for giving us the opportunity to comment on the Commissioner's findings.

# Formal minutes

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**Tuesday 7 October 2008**

Members present:

Sir George Young, in the Chair

Mr Kevin Barron  
Mr David Curry  
Mr Andrew Dismore  
Nick Harvey  
Mr Elfyn Llwyd

Mr Chris Mullin  
The Hon Nicholas Soames  
Mr Paddy Tipping  
Dr Alan Whitehead

Draft Report [Conduct of Ed Balls and Yvette Cooper], proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraph 1 read and agreed to.

Paragraphs 2 and 3 read, amended and agreed to.

Paragraphs 4 and 5 read and agreed to.

Several Papers were ordered to be appended to the Report.

Resolved, That the Report, as amended, and Appendices be the Fourteenth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

[Adjourned till Tuesday 21 October 2008 at 9.30 am

# Reports from the Committee on Standards and Privileges in the current Parliament

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## Session 2007-08

First Report	Conduct of Mr Elfyn Llwyd, Mr Adam Price and Mr Hywel Williams	HC 94
Second Report	Conduct of Mr Norman Baker, Mr Malcolm Bruce and Mr Sadiq Khan	HC 182
Third Report	Publications funded from the Communications Allowance	HC 232
Fourth Report	Conduct of Mr Derek Conway	HC 280
Fifth Report	Conduct of Mr Peter Hain	HC 324
Sixth Report	Employment of family members through the Staffing Allowance: Proposals for consultation	HC 383
Seventh Report	Employment of family members through the Staffing Allowance	HC 436
Eighth Report	The Complaints System and the Criminal Law	HC 523
Ninth Report	Conduct of Mr Speaker	HC 559
Tenth Report	Conduct of Mr George Osborne	HC 560
Eleventh Report	Conduct of Sir Robert Smith	HC 646
Twelfth Report	Conduct of Sir Nicholas and Lady Winterton	HC 744
Thirteenth Report	Ending Dual Reporting of Donations: Interim Report	HC 989
Fourteenth Report	Conduct of Ed Balls and Yvette Cooper	HC 1044

## Session 2006-07

First Report	Evidence to the SSRB Review of Parliamentary pay, pensions and allowances	HC 330
Second Report	Conduct of Mr David Cameron	HC 429
Third Report	Complaints about alleged misuse of Parliamentary dining facilities	HC 431
Fourth Report	Conduct of Mr Julian Brazier	HC 682
Fifth Report	Handling of future complaints on misuse of the private dining facilities	HC 683
Sixth Report	Conduct of Mr George Galloway	HC 909
Seventh Report	Conduct of Mr Gregory Campbell	HC 992
Eighth Report	Conduct of Mr Martin Salter and Mr Rob Wilson	HC 1071

## Session 2005-06

First Report	Conduct of Mr Jonathan Sayeed	HC 419
Second Report	Conduct of Mr John Horam	HC 420
Third Report	Conduct of Mr Tony Baldry	HC 421

Fourth Report	Pay for Standing Committee Chairmen	HC 568
Fifth Report	Electoral Administration Bill: Simplification of Reporting Requirements	HC 807
Sixth Report	Mr Stephen Byers (Matter referred on 19 October 2005)	HC 854
Seventh Report	Conduct of Mr George Galloway	HC 1067
Eighth Report	Conduct of Mr Mark Lancaster	HC 1144
Ninth Report	Lobbying and All Party Groups	HC 1145
Tenth Report	Conduct of Mr Michael Foster (Worcester)	HC 1223
Eleventh Report	Conduct of Ms Emily Thornberry	HC 1367
Twelfth Report	Conduct of Nadine Dorries	HC 1368
Thirteenth Report	Conduct of Mr John Prescott	HC 1553
Fourteenth Report	Conduct of Dr Desmond Turner	HC 1578
Fifteenth Report	Conduct of Mr Eric Illsley	HC 1579
Sixteenth Report	Review of the Guide to the Rules Relating to the Conduct of Members: Consultation Document	HC 1580