



House of Commons
Committee on
Standards and Privileges

Audit and Assurance of MPs' Allowances (Cm 7460)

Seventeenth Report of Session
2007-08

*Report and appendix, together with formal
minutes*

*Ordered by The House of Commons
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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.

Current membership

Rt Hon Sir George Young Bt MP (*Conservative, North West Hampshire*) (Chairman)
Rt Hon Kevin Barron MP (*Labour, Rother Valley*)
Rt Hon David Curry MP (*Conservative, Skipton & Ripon*)
Mr Andrew Dismore MP (*Labour, Hendon*)
Nick Harvey MP (*Liberal Democrat, North Devon*)
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Mr Chris Mullin MP (*Labour, Sunderland South*)
The Hon Nicholas Soames MP (*Conservative, Mid Sussex*)
Mr Paddy Tipping MP (*Labour, Sherwood*)
Dr Alan Whitehead MP (*Labour, Southampton Test*)

Powers

The constitution and powers of the Committee are set out in Standing Order No. 149. In particular, the Committee has power to order the attendance of any Member of Parliament before the committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before the Committee. The Committee has power to refuse to allow its public proceedings to be broadcast. The Law Officers, if they are Members of Parliament, may attend and take part in the Committee's proceedings, but may not vote.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: www.parliament.uk/sandp. A list of Reports of the Committee in the present Parliament is at the back of this volume.

Committee staff

The current staff of the Committee are Dr Christopher Ward (Clerk), Mrs Sarah Hartwell-Naguib (Second Clerk) and Ms Jane Cooper (Secretary).

Contacts

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Contents

Report	<i>Page</i>
Audit and Assurance of MPs' Allowances (Cm 7460)	2
Introduction	2
The Government's proposals to improve compliance	3
Employment of Members' children	5
Appendix: Observations by the Parliamentary Commissioner for Standards on 'Audit and Assurance of MPs' Allowances' (Cm 7460)	6
Formal minutes	8
Reports from the Committee on Standards and Privileges in the current Parliament	9

Audit and Assurance of MPs' Allowances (Cm 7460)

Introduction

1. In August 2008, the Government published a Command Paper entitled 'Audit and Assurance of MPs' Allowances'.¹ It sought to build on decisions taken by the House on 3 and 16 July 2008 to improve financial control and audit of Members' allowances. The Government Paper is a consultation document, primarily addressed to Members of the House.

2. We strongly support the general aims of strengthening controls over expenditure and improving the level of assurance provided by both the internal and external audits. Our overall approach is that there should be transparency and accountability on the part of Members in respect of whatever arrangements the House puts in place, and clear rules and guidance to minimise the scope for unintentional non-compliance.

3. The Government's paper also includes three specific proposals for consultation:

- Whether the Additional Costs Allowance should be changed so that the reasonable reimbursement of the costs of furniture and other household goods be capped at 10% of the ACA in any one year;
- Whether the threshold for the requirement to produce a receipt for expenditure met from Parliamentary allowances should be further reduced, to zero; and
- Whether Members' children should be banned from paid employment in their parent's constituency or parliamentary offices, or in any other role relating to the parent's work as a Member.

4. Our interest in the proposals is twofold, one specific and the other general. The specific interest relates to the proposal to ban the paid employment by Members of their children, where the Government seeks to base its argument in part on our Seventh Report of the current Session.² More generally, we have an interest in the potential impact of the proposals as a whole on the operation of the standards system. Our interests are therefore primarily in the proposals to secure improved compliance.

5. A number of the Government's suggestions may have an impact on the work of the Parliamentary Commissioner for Standards. We have therefore invited him to comment on the Government's proposals. His observations are reproduced as an Appendix to this report.

1 Cm. 7460.

2 HC 436.

6. In his observations, the Commissioner has identified three key elements that in his opinion need to be maintained to ensure that effective oversight is retained:

- Members should retain personal responsibility for their decisions in respect of their use of allowances;
- The Commissioner should retain the authority to form his own view on the interpretation of the rules of the House as applied to any specific complaint; and
- There should be an identified complainant when serious breaches of the rules are reported to the Commissioner. The complainant should specify the nature of the alleged breach of the rules and provide sufficient evidence to substantiate it. The Commissioner must be free to form his own independent conclusions on the allegations.

We agree with the Commissioner in the importance of these three elements, which underpin a number of our specific comments.

The Government's proposals to improve compliance

7. The Government's proposals would develop the decisions of the House of 3 and 16 July in four main areas:

- An enhanced role for the Advisory Panel on Members' Allowances (APMA);
- A more robust external audit by the National Audit Office (NAO);
- A robust approach by the Department of Resources (DR) in relation to applying and enforcing the rules; and
- The possible use of the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges to investigate potentially serious breaches of the rules uncovered through the audit process.

8. On APMA, the House agreed on 16 July that it should prepare a redraft of the Green Book setting out the detailed rules and guidance on entitlements to allowances. Its recommendations will then be considered by the Members' Estimate Committee (MEC) and it will thereafter keep the Green Book under review.³ The Government also proposes that APMA should oversee the work of DR in setting the rules and interpreting them in hard cases,⁴ including where DR and individual Members are unable to reach agreement.⁵

9. There are a number of difficulties from our perspective with the proposal to involve APMA through an oversight role in this area, and particularly in giving it a role in making decisions in individual cases. These include the implied reduction in the degree of

3 Cm 7460, paragraph 30.

4 *Ibid*, paragraph 61.

5 *Ibid*, paragraph 60.

responsibility retained by the Member; the risk of its involvement being seen as importing a political dimension; and the potential for different bodies (APMA and this Committee) to take differing views. We share the Commissioner's view that responsibility must in all cases remain with the Member.

10. We nonetheless recognise that there is a view amongst Members that the present arrangements within DR for offering advice on allowance matters are unsatisfactory. We also accept that if DR is to have a greater enforcement role, there needs to be a separation of the enforcement and the advisory sides.

11. The key question is how to enhance the quality of advice and decisions on the eligibility of claims made by Members while at the same time enhancing confidence outside the House that allowances are being used properly. On advice to Members, we believe that a better way forward would be to improve the advisory processes in DR, for example by publishing guidance and arranging for advice on specific cases to be given by a much more senior official, independent of the enforcement side.

12. It is essential that the responsibility for the final decision on what to claim remains with the Member concerned. Clearly, a Member who has sought advice from the appropriate channels in good faith and sought to follow it has exercised due diligence. In the event of a complaint we will recognise this. The principle of accountability nonetheless requires that Members retain the ultimate responsibility for their actions.

13. The Government identifies a number of possible routes by which non-compliance with the allowance rules may emerge.⁶ Besides these (non-compliance found as part of the external audit process and complaints to the Parliamentary Commissioner for Standards) we would add two further scenarios: irregularities discovered through the enhanced internal audit of ACA claims,⁷ and irregularities discovered by DR and possibly other departments of the House in the course of other work.⁸ Our predecessors made proposals in 2005 for handling irregularities coming to the notice of the House authorities other than by way of complaint to the Commissioner, but these were not taken forward at the time.⁹

14. A firmer approach by DR to applying and enforcing the rules ought in principle to have the effect of reducing both the scope for complaints and the number of irregularities emerging through the audit processes, internal and external. However, as the audits are apparently to be based on papers supplied by Members to DR, the Government's proposals will not provide greater assurance than at present as to the precise use made of the resources paid for out of allowances.¹⁰ This is the root of a steady stream of complaints to the Commissioner, particularly in relation to use of the Communications Allowance.

6 *Ibid*, paragraph 58.

7 *Ibid*, paragraph 35.

8 For an example, see the Committee's First Report, Session 2005–06, (HC 419).

9 Fourth Report, Session 2004–05, (HC 472).

10 Cm 7460, paragraph 50.

15. We have no difficulty in principle with the proposal that MEC or MEAC as appropriate report to the Parliamentary Commissioner for Standards cases of alleged non-compliance with the allowance rules, provided that in all cases a complainant is identified, who sets out the complaint and provides the evidence. **The Commissioner must, however, remain free to conduct his own independent investigation, as in the case of other complaints.** Also, in order to avoid a potential lacuna in respect of irregularities discovered by the House authorities outside the audit framework, the Government may wish to look again at the proposals made by our predecessors in 2005.¹¹ Again a complainant would need to be identified.

Employment of Members' children

16. The Government is consulting on a proposal that Members' children should no longer be able to gain paid employment in their parent's constituency or parliamentary offices, or in any other role relating to their parent's work as a Member.¹²

17. The Government argument in paragraph 69 of the White Paper to support a ban on the employment of children rests in part on a quotation incorrectly attributed to this Committee—the quotation is in fact from evidence submitted to us by the Committee on Standards in Public Life as part of our consultation on our proposal, now implemented by the House, to require Members to include in the Register of Members' Interests details of relatives employed through the allowances.

18. The consultation document, in advancing the proposal that Members should no longer be able to employ their children, seeks in particular to argue that children under 18 and young adults are unlikely to have the skills, experience and qualifications to make them the most appropriate person to work for the Member. The document is silent on the employment of other relatives, apart from spouses, where it thinks a case can be made.¹³

19. A case can be made for banning the employment of all relatives, though we have not supported such a step. The paper, however, asserts that there is a case for banning the employment of one category of relative, namely Members' children. We do not accept that there is any logic in this proposition.

20. It will be a matter for the House to decide if it wishes to prohibit Members from employing their children, or any other category of relative. However, whatever view the House comes to, we shall seek to ensure that there is transparency in the arrangements, as we did when concerns arose on this matter by bringing forward proposals, now fully implemented, for registration of the details of relatives employed by Members.

11 Paragraph 13.

12 Cm 7460, paragraph 70.

13 *Ibid*, paragraph 69.

Appendix: Observations by the Parliamentary Commissioner for Standards on 'Audit and Assurance of MPs' Allowances' (Cm 7460)

1. This note offers the Committee my views on the Memorandum from the Leader of the House: Audit and Assurance of MPs' Expenses (Cm 7460), published in early August. I have confined my views to matters which affect my Office.
2. In general, I value anything that provides greater clarity and transparency in the operation of the rules and guidance for Members' expenses. If reviewing and rewriting the rules, and greater scrutiny of expenses, achieves these objectives, then I believe that would be a welcome development, providing greater reassurance and predictability to Members and the public alike.
3. I consider it important however that the fundamental elements of the Commissioner's Office, as agreed by the House, are recognised. They should not be substantially changed unless the House so decides.
4. The key elements are that the Office is there to take complaints about individual named Members from other Members and from the public; that the Commissioner must decide independently whether to investigate the complaint and if so how to conduct that investigation; he must come to his own conclusion on the basis of the evidence he seeks and receives and, when he finds a breach of the rules, he should normally report his independent finding to the Committee for it to consider and to decide on any penalty.
5. It is possible to maintain that system under the proposals put forward by the Leader of the House as long as the House ensures that certain key elements in the current arrangements are preserved.
6. These key elements are as follows:
 - a. Members should retain personal responsibility for their decisions in respect of their use of allowances. Thus, if a Member makes a reference to the Advisory Panel on Members Allowances where the Member cannot reach agreement with the House authorities on the interpretation of the rules (paragraph 61 of the Green Paper), the Member, and not the Advisory Panel, must remain accountable for any complaint subsequently received in respect of his or her use of allowances based on that rule. Without that, no member

of the public has an effective avenue of complaint to an independent authority. And there seems little disincentive to Members to take their case to the Panel for a definitive ruling if the effect were to insulate them from any subsequent complaint.

- b. The Commissioner should retain the authority to form his own view on the interpretation of the rules of the House as applied to any specific complaint. Clearly, the advice of the Panel would carry considerable weight in the Commissioner's consideration of a subsequent complaint. But if the Commissioner is not entitled to form his own view on the facts of a case, then there is effectively no independent avenue for complaints. And it should be possible for the Commissioner to identify relevant facts during his inquiry which were not available to the Panel and which could, objectively, affect the outcome.
 - c. There should be an identified complainant when serious breaches of the rules are reported to the Commissioner by the MEC (paragraph 64 of the Green Paper). The role of the complainant is to identify the nature of the alleged breach of the rules by the Member of Parliament and the evidence on which that allegation is based. In this case, the complainant could be a member of the MEC. As with point (b) above, the Commissioner should be able to conduct his own inquiries into the allegations and reach his own independent conclusions: he should not be required to accept without question the audit's findings. His role is both to determine the facts and to apply those facts to the rules of the House in order to decide whether, in his independent view, there has been a breach of those rules. The Committee on Standards and Privileges' role is to consider the Commissioner's findings and, on the basis of that consideration, recommend any appropriate penalties to the House. Penalties are not a matter for the Commissioner.
7. The Committee may wish to consider the three suggested elements set out in this paper which, in my judgement, would need to be preserved if the independent role of the Commissioner is to remain intact alongside the Green Paper's proposals.

Formal minutes

Tuesday 28 October 2008

Members present:

Sir George Young, in the Chair

Mr Kevin Barron
Mr David Curry
Mr Andrew Dismore
Nick Harvey

Mr Chris Mullin
The Hon Nicholas Soames
Mr Paddy Tipping

Draft Report [Audit and Assurance of MPs' Allowances (Cm 7460)], 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.

Paragraph 2 read, amended and agreed to.

Paragraphs 3 to 5 read and agreed to.

Paragraph 6 read, amended and agreed to.

Paragraphs 7 to 14 read and agreed to.

Paragraph 15 read, amended and agreed to.

Paragraph 16 read and agreed to.

Paragraphs 17 and 18 read, amended and agreed to.

A paragraph—(*The Chairman*)—brought up, read the first and second time and inserted.

Paragraph 19 read and agreed to (now paragraph 20).

A Paper was ordered to be appended to the Report.

Ordered, That the Report, as amended, and Appendix be the Seventeenth Report of the Committee to the House.

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

[Adjourned till Tuesday 11 November 2008 at 9.30 am

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

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 Rt Hon Ed Balls and Rt Hon Yvette Cooper	HC 1044
Fifteenth Report	Additional Cost Allowance: Main Homes	HC 1127
Sixteenth Report	Conduct of Mr Mark Hunter	HC 1128
Seventeenth Report	Audit and Assurance of MPs' Allowances (Cm 7460)	HC 1138

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