

PARLIAMENTARY STANDARDS ACT 2009

EXPLANATORY NOTES

BACKGROUND

Outline of the current system of MPs' allowances

3. Allowances for MPs have been set by a series of resolutions approved by the House of Commons over many years. The first allowances schemes related to stationery and travel. The scheme has grown over the years and the matters for which allowances are claimable have similarly expanded.
4. In January 2008, the Review Body on Senior Salaries (“the SSRB”) produced a *Review of parliamentary pay, pensions and allowances 2007* (January 2008) Cm 7270-I. That report made a range of recommendations concerning the way in which MPs’ allowances should be paid. The House considered the SSRB report on 24th January 2008, resolving to accept some of the recommendations and referring others to the Members Estimate Committee. The Members Estimate Committee published its report on the review of allowances on 25th June 2008.¹ It described its report as a “root and branch review” driven by the objectives of adequately equipping MPs and “to meet public expectations for clearer audit and transparency”.
5. The House of Commons debated this report on 2nd July 2008, accepting some of the recommendations but not others, and tasked the Advisory Panel on Members’ Allowances with setting out the conclusions of the House of Commons in a revised system of allowances. The Advisory Panel’s work was contained in a January 2009 report of the Members Estimate Committee.² On 22nd January 2009, the House resolved that the revised system of allowances should govern all expenditure on MPs’ allowances for claims on or after 1st April 2009 and empowered the Members Estimate Committee to make such modifications to previous House resolutions relating to MPs’ allowances “as are necessary to ensure that they are consistent with the provisions in the Green Book”.³
6. Also on 22nd January 2009, the House resolved to accept the arrangements for audit and assurance of MPs’ allowances set out in the report of the Members Estimate Audit Committee to the Members Estimate Committee (contained as annex 3 to the January 2009 report).⁴ Amongst other things, the Members Estimate Committee recommended that the current limitation on the scope of the audit by the National Audit Office should be removed. The effect of this is to bring about full scope audit, the same level of audit provided by the National Audit Office for other public sector bodies.
7. The current system of allowances is set out in *The Green Book: A guide to Members’ allowances* (“the Green Book”). The allowances scheme is designed to ensure MPs are

¹ Members Estimate Committee, *Review of Allowances* (Third report, 2007-08) HC 578-I.

² Members Estimate Committee, *Revised Green Book and audit of Members’ allowances* (First Report, 2008-09) HC 142 (<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmmemest/142/142.pdf>).

³ Set out in the Members Estimate Committee, *Consolidated list of provisions of the Resolutions of the House relating to expenditure charged to the Estimate for House of Commons: Members* (Second Report, 2008-09) HC 281.

⁴ House of Commons Hansard, 22nd January 2009, col 970 (<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090122/debtext/90122-0015.htm#0901224400014>).

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able to work effectively in Parliament and in their constituencies. It provides support for employing staff, servicing MPs' offices, overnight stays away from home while on Parliamentary duties, communicating with constituents, House stationery and postage, and travel.

8. The *Green Book* sets out certain principles, derived from the MPs' Code of Conduct, which MPs are to adhere to when making claims against parliamentary allowances. The principles are as follows.
 - a) Claims should be above reproach and must reflect actual usage of the resources being claimed.
 - b) Claims must only be made for expenditure that it was necessary for a Member to incur to ensure that he or she could properly perform his or her parliamentary duties.
 - c) Allowances are reimbursed only for the purpose of a Member carrying out his or her parliamentary duties. Claims cannot relate to party political activity of any sort, nor must any claim provide a benefit to a party political organisation.
 - d) It is not permissible for a Member to claim under any parliamentary allowance for anything that the Member is claiming from any other source.
 - e) Members must ensure that claims do not give rise to, or give the appearance of giving rise to, an improper personal financial benefit to themselves or anyone else.
 - f) Members are committed to openness about what expenditure has been incurred and for what purposes.
 - g) Individual Members take personal responsibility for all expenses incurred, for making claims and for keeping records, even if the administration of claims is delegated by them to others.
 - h) The requirement of ensuring value for money is central in claiming for accommodation, goods or services – Members should avoid purchases which could be seen as extravagant or luxurious.
 - i) Claims must be supported by documentary evidence, except where the House has agreed that such evidence is not necessary.
9. Parliamentary oversight of the *Green Book* is currently provided by two House of Commons committees: the Members Estimate Committee and the Committee on Members' Allowances. The Members Estimate Committee has the same membership as the House of Commons Commission, and is chaired by the Speaker of the House of Commons.
10. The functions of the Members Estimate Committee are: to codify and keep under review Commons resolutions and the *Green Book*; modify those provisions in the interests of clarity, consistency, accountability and effective administration, and conformity with current circumstances; and consider appeals against determinations by the Committee on Members' Allowances. (See Standing Order No. 152D.)
11. The functions of the Committee on Members' Allowances are: to advise the Members Estimate Committee on the discharge of its functions; advise the Speaker, the Members Estimate Committee and the Leader of the House on the development of the arrangements concerning MPs' allowances; approve practice notes on MPs' allowances; and determine (subject to an appeal to the Members Estimate Committee) the application of the rules in such cases as may be referred to them by Members. (See Standing Order No. 152G.)
12. The scheme set out in the *Green Book* is administered by the Commons Department of Resources, often referred to as the "Fees Office". As set out in the Standing Orders, if an

MP's expenses claim is refused by the Fees Office, the MP may appeal to the Committee on Members' Allowances. The MP may make a further appeal to the Members Estimate Committee.

Recent and ongoing developments concerning MPs' allowances

13. There have been a number of recent developments concerning MPs' allowances.
14. By motion dated 30th April 2009, the House has agreed that staff who work for MPs should be employed by the House "as a personal appointment and managed by the hon. Member". The House asked the House of Commons Commission to consider how the transfer can be made and to make recommendations by 29th October 2009.⁵
15. The Committee on Standards in Public Life ("the CSPL") has launched a review of MPs' expenses, publishing an issues and questions paper on 23rd April 2009.⁶ The CSPL asked for submissions of evidence and held public meetings in June and July.
16. The Speaker of the House of Commons announced a series of interim measures connected with MPs' allowances to take effect immediately without pre-empting the work of the CSPL.⁷ These interim measures relate to second homes, capital gains tax, the status of couples both of whom are MPs, mortgages, and staffing.

Outline of the current system of salaries for MPs

17. MPs have received a regular salary since 1911. For many years, these salaries were set by the House of Commons by resolution, although since the 1970s the SSRB has advised on the level of these salaries.
18. The origins of the current system lie in the Government's response to the January 2008 SSRB report *Review of Parliamentary Pay, Pensions and Allowances 2007*. In response to this review, the Government announced that it considered it "inappropriate that MPs should vote on their own pay and pensions."⁸
19. Sir John Baker, retiring chairman of the SSRB, was accordingly asked to conduct a review. He was asked to "make recommendations for a mechanism for independently determining the pay and pensions of MPs which does not involve MPs voting on their own pay".⁹ His report, published in June 2008, recommended that MPs' pay should be updated annually in line with the Public Sector Average Earnings Index, with a review by the SSRB each Parliament.
20. The current system for MPs' salaries is set out in the Commons resolutions of 3rd July 2008. The House resolved that MPs' salaries are to be increased annually through an uprating formula. Rather than using the Public Sector Average Earnings Index, the uprating formula is derived from the increase in a package of salaries for certain public sector workers. The increase in salary is achieved by the SSRB notifying the Speaker of the House of Commons of the percentage increase. The SSRB must also conduct a more general review of MPs' salaries in the first year of each new Parliament.
21. These salaries are separate from what an MP might additionally receive by virtue of holding ministerial office, as provided for in the Ministerial and other Salaries Act 1975.

⁵ See House of Commons Hansard, 30th April 2009, col 1133 (<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090430/debtext/90430-0019.htm#09043030000013>).

⁶ Available at http://www.public-standards.gov.uk/Library/I_Q_paper_13th_Inquiry_Final_copy.pdf.

⁷ See House of Commons Hansard, 19th May 2009, col 1421 (<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090519/debtext/90519-0016.htm#090519107000002>).

⁸ See House of Commons Hansard, 16th January 2008, col 32WS.

⁹ Sir John Baker CBE, *Review of Parliamentary Pay and Pensions* (June 2008) Cm 7416.

Outline of the current mechanisms for regulating standards in the House of Commons including the registration of MPs' financial interests

22. The Code of Conduct for MPs, which is based on the seven general principles identified by the CSPL,¹⁰ includes requirements for MPs to register and declare interests in the Register of Members' Financial Interests. The function of administering and applying the Code of Conduct is presently split between the House of Commons Committee on Standards and Privileges ("the Committee on Standards and Privileges"), the Parliamentary Commissioner for Standards ("the Standards Commissioner") and the House of Commons itself.
23. The current version of the Code of Conduct was agreed by the House of Commons in July 2005.¹¹ The purpose of the Code is to provide "guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties". It sets out the public duties undertaken by MPs, as well as the seven general principles identified by the CSPL.
24. Amongst other standards, the Code requires that MPs must "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". MPs must also fulfil the requirements of the House in respect of the registration of interests in the Register of Members' Financial Interests.
25. The Committee on Standards and Privileges is established under Standing Order No. 149. The functions of the Committee are to: consider specific matters relating to privileges referred to it by the House; oversee the work of the Standards Commissioner, examine the arrangements for the Register of Members' Financial Interests and other registers of interests and to consider any specific complaints made concerning registering or declaring of interests referred to it by the Standards Commissioner; consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in any code of conduct to which the House has agreed and which have been drawn to its attention by the Standards Commissioner; and recommend any modification to the Code of Conduct.
26. The Standards Commissioner is an Officer of the House, appointed by the House. Standing Order No. 150 provides that the Standards Commissioner is to: maintain the Register of Members' Financial Interests and any other register established by the House; provide confidential advice to MPs and other persons subject to registration; advise the Committee on Standards and Privileges and any MPs on the interpretation of the Code of Conduct or on questions of propriety; monitor the operation of the Code of Conduct and make recommendations on it; and "receive and, if he thinks fit, investigate specific complaints from Members and from members of the public in respect of: (i) the registration or declaration of interests, or, (ii) other aspects of the propriety of a Member's conduct, and to report to the Committee on Standards and Privileges".
27. At the conclusion of any investigation, the Standards Commissioner reports to the Committee on Standards and Privileges with a finding of fact and an opinion on whether there has been a breach of the Code. The Committee does not have to accept the Standards Commissioner's conclusions and can conduct its own investigation before issuing its report to the House of Commons.
28. Standing Order No. 150(3) provides that no report is to be made to the Committee on Standards and Privileges at the conclusion of an investigation if, for example, in a registration case the Standards Commissioner considers that the interest involved is minor, or the failure inadvertent and the MP has taken appropriate action. In addition,

¹⁰ Cm 2850-I, p 14. The seven general principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

¹¹ Contained, together with the version of the Guide to the Rules relating to the conduct of Members approved by the House of Commons on 9th February 2009, in HC 735 (<http://www.publications.parliament.uk/pa/cm200809/cmcode/735/735.pdf>).

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the Standards Commissioner must not report if the Commissioner and MP have agreed on how to secure “appropriate financial reimbursement” and the MP has made such reimbursement within a reasonable period of time.

29. It is the Committee, and not the Commissioner, that makes any recommendation to the House of Commons about the sanctions that should be imposed on an MP. The House of Commons is the ultimate arbiter in these matters and may choose not to accept the recommended sanction.
30. Although complaints relating to the conduct of Members are usually brought under the procedure described above, the House retains a power to deal with conduct that is not necessarily related to financial propriety (for example, disorderly behaviour or conduct wholly related to the privileges of Parliament).
31. The House of Commons has a range of disciplinary powers in the event of misconduct by an MP. The House may resolve to reprimand or admonish an MP, withhold his or her salary, or suspend or expel him or her.