



HOUSE OF LORDS

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I am now in a position to respond to a number of the complaints which you made about certain Members of the House of Lords on 17 November 2009 and the further complaint which you made on 20 January 2010. The complaints all related to newspaper allegations that certain Members had made inappropriate use of the Members' reimbursement scheme.

I should first indicate that in June 2009 the House Committee (a Committee whose responsibilities include supervision of the system of financial support for Members) took the decision to refer the current system of financial support for Members, who as you will be aware are unsalaried, for external review by the independent Review Body on Senior Salaries (SSRB). The SSRB published its report on 26 November 2009 (Cm 7746) – http://www.ome.uk.com/Parliamentary_Pay__Allowances.aspx. On 14 December 2009 the House of Lords debated and agreed to take forward the proposals submitted by the SSRB. In the course of 2010, the current scheme will, therefore, be replaced by a new scheme with clearer definitions and rules.

I should also indicate that under a new Code of Conduct, which was agreed by the House of Lords on 30 November 2009 and which will take effect from 1 April 2010, complaints about Members' expenses will be considered by an independent House of Lords Commissioner for Standards.

My responsibility as Accounting Officer is to ensure that the Members' reimbursement scheme is administered in accordance with the resolutions of the House on which it is founded, taking account of decisions by the House Committee. It is not for me retrospectively to devise rules for the current scheme which have not been in place to-date.

The current scheme entitles Members to claim for travel and overnight subsistence in London when attending the House if "their main or only residence" is outside London. The principal complaint, both of the newspapers and yourself, has been that some Members have designated as their main residence a property which is not in practice their main residence in order to claim overnight subsistence.

A feature of the current scheme is that it operates without any clear definition of "main residence". However, I have taken the view that there must be a minimum threshold below which it would be inappropriate for a Member to designate a property as a "main or only residence" and consequently to claim overnight subsistence when staying in London. Bearing this in mind, I have sought to establish some essential criteria against which the case of each

individual Member can be considered. At my request, the House Committee has accordingly agreed a basis on which a threshold could be set below which the current scheme should not permit a claim bearing in mind any natural meaning of the term “main or only residence”. The threshold set by the Committee is that the main residence has to be visited with a degree of frequency: in the order of at least once a month, over the year, when the House is sitting. Time spent at the main residence when the House is in recess is also a relevant factor. Ownership is not a requirement but is a factor in each case.

I should point out that some of the designations of main residence which have been acceptable under the current scheme may not meet the criteria of a new scheme.

I have sought and received confirmation from the House Committee of the principle that there will be circumstances in which it is appropriate to designate as a main residence a property which is occupied by a relative, other than a spouse or partner. Such a designation can be made properly under the current scheme, subject to the thresholds set out above, and dependent on the Member’s connection with the property, including their financial contribution to the running costs.

For every Member about whom a complaint has been submitted, I have examined the expenses claim forms from the date from which the House of Lords’ Administration retain them (April 2006) to the start of the summer recess in 2009 (July 2009). Those forms show clearly when the Member claimed overnight subsistence and reimbursement of travel costs from and to the main residence. Where I have written to Members, I have sought to obtain answers to certain standard questions about their circumstances, including:

- i) whether the Member owns or leases the main residence;
- ii) where the Member was resident in each recess;
- iii) what factors led the Member to designate the residence as the main residence;
- iv) whether the pattern of journeys indicated by the Member’s claim forms accurately represents the frequency of residency at the main residence.

In each case, I have relied on the Member’s explicit written assurances; in particular the assurance that the pattern of journeys indicated by the Member’s claim forms accurately represents the frequency of stays at the main residence.

I have not upheld the following complaints, listed in alphabetical order, for the reasons given:

Baroness Barker

Baroness Barker claimed night subsistence and travel reimbursement from a designated main residence in Sussex. According to her pattern of travel claims, she was resident in Sussex about 3 weekends in 4 in term-time (i.e. periods when the House is sitting). She has assured me in writing that her claims are an accurate record of her journeys and that she was resident in Sussex for more of the recesses in question than she was in London. She did not own the Sussex property but paid rent for her use of it and met some expenses.

Given Baroness Barker's assurances, I consider that her designation meets a test of main residence under the current scheme and accordingly do not uphold the complaint against her.

Lord Colwyn

Lord Colwyn claimed night subsistence and travel reimbursement from a designated main residence in Gloucestershire. According to his pattern of travel claims, he was resident in Gloucestershire more than 3 weekends in 4 in term-time. He has assured me in writing that his claims are an accurate record of his journeys and has provided me with evidence of them; he has also assured me that he lives predominantly in Gloucestershire when the House is not sitting. He owns his Gloucestershire property and rents his London property for the purpose of attending the House.

Given Lord Colwyn's assurances, I consider that his designation meets a test of main residence under the current scheme and accordingly do not uphold the complaint against him.

Lord Haworth

Lord Haworth claimed night subsistence and travel reimbursement from a designated main residence in Ross & Cromarty. According to his pattern of travel claims, he was resident in Ross & Cromarty twice a month and occasionally more frequently in term-time. I have evidence of each of his journeys: he travelled by air and vouching is required for reimbursement of air travel.

I consider that his designation meets a test of main residence under the current scheme and accordingly do not uphold the complaint against him.

Baroness Hayman

Baroness Hayman claimed night subsistence and travel reimbursement from a designated main residence in Norfolk from the start of our retained records in April 2006 until her election as Lord Speaker in July 2006; thereafter she has not been eligible to claim for overnight subsistence from the Members' reimbursement scheme and has been paid the office-holder's allowance under section 5 of the Ministerial and Other Salaries Act 1971. Baroness Hayman's travel claims under the Members' reimbursement scheme for the period April to July 2006 show that she was resident in Norfolk about 3 weekends in 4 during term-time. In September 2009 she made a full statement to the *Sunday Times* newspaper which I have seen and, in light of which, the article in the newspaper acknowledged that there was no question of the rules of the scheme having been broken. Baroness Hayman and her husband own their home in Norfolk and it is quite clear to me that they live there in recesses and at weekends, when pressure of work permits.

I consider that her designation meets a test of main residence under the current scheme and accordingly do not uphold the complaint against her.

Baroness Morgan of Drefelin

Baroness Morgan of Drefelin claimed night subsistence and travel reimbursement from a designated main residence in Cardigan from the start of our retained records in April 2006

until she joined the Government in January 2007. According to her pattern of travel claims, she was resident in Cardigan one or two weekends a month in term-time. She has assured me in writing that her claims are an accurate record of her journeys; that she made further journeys from and to Cardigan for which she did not claim; and that she was resident in Cardigan for the Easter, Whitsun and summer recesses of 2006. She and her husband own the Cardigan property.

Given Baroness Morgan's assurances, and the specific guidance to me from the House Committee that occupation of a residence once a month and for periods of the recess is sufficient for designation of a main residence, I consider that her designation meets a test of main residence under the current scheme and accordingly do not uphold the complaint against her.

Lord Morris of Manchester

Lord Morris of Manchester claimed night subsistence and travel reimbursement from a designated main residence in Manchester from the start of our retained records in April 2006 until May 2008 when, due to ill-health, he re-designated his main residence to London. According to his pattern of travel claims, he was resident in Manchester about 3 weekends in 4 in term-time and occasionally more frequently. I have evidence of each of his journeys: he usually travelled by train and bought his tickets using the Members' Travel Card.

I consider that his designation meets a test of main residence under the current scheme and accordingly do not uphold the complaint against him.

Baroness Northover

Baroness Northover claimed night subsistence and travel reimbursement from a designated main residence in Sussex. According to her pattern of travel claims, she was resident in Sussex every weekend in term-time. She has assured me in writing that her claims are an accurate record of her journeys; she has further explained to me that the Sussex property was the family farm, owned in her and her mother's names, for which she has been solely responsible since her father's death in 2006. At the time the farm was being wound-up. She has provided me with evidence of her residency and involvement with the farm during the period in question.

I consider that her designation met a test of main residence under the current scheme and accordingly do not uphold the complaint against her.

Baroness Thornton

Baroness Thornton was appointed a Minister in January 2008. The period during which claims were submitted under the Members' reimbursement scheme with which I am concerned is therefore confined to the period April 2006 to January 2008.

In 2001 Baroness Thornton designated as her main residence a property in Shipley, Yorkshire. The present property in Shipley was purchased in 2005. According to her pattern of travel claims for the period with which I am concerned, she visited the residence very frequently: every weekend in term-time, with a few visits not including overnight stays (i.e. a return trip to Shipley within a day). She has confirmed her pattern of travel claims to me and that she continued to visit Shipley regularly at weekends during recesses.

The property was owned and is occupied by Baroness Thornton's elderly and disabled mother. Baroness Thornton has met the mortgage and other costs of the property. Her legal interest in, and the financial contributions of the two parties to, the property were recorded in 2007 in a private Declaration of Trust, which updated a Declaration of Trust for the property owned prior to 2005. Baroness Thornton's solicitor has confirmed this in writing. The Declaration was recorded at the Land Registry in July 2009.

In addition, Baroness Thornton has family and political connections in Shipley. She is registered to pay council tax in Shipley and is on the electoral roll there.

As I have already mentioned, the House Committee has indicated that there will be circumstances in which it is appropriate to designate as a main residence a property which is occupied by a relative, other than a spouse or partner. Taking into account Baroness Thornton's well-established connection with the property in Shipley and the frequency of her visits, I have decided that this designation meets a test of main residence under the current scheme and accordingly do not uphold the complaint against her.

Baroness Whitaker

Baroness Whitaker claimed night subsistence and travel reimbursement from a designated main residence in Sussex. According to her pattern of travel claims, she was resident in Sussex about 3 weekends in 4 in term-time. She has assured me in writing that her claims are an accurate record of her journeys and that she was usually resident in Sussex in recess. She and her husband rent the Sussex property and her husband spends most of the week in Sussex, irrespective of sittings of the House.

Given Baroness Whitaker's assurances, I consider that her designation meets a test of main residence under the current scheme and accordingly do not uphold the complaint against her.

Other complaints

I have yet to complete my investigations into complaints about a number of other Members. As with the investigations covered in this letter, the outcome of each will be made public.

I have suspended my investigation into certain other Members pending the conclusion of police investigations.

On Friday 5th February 2010 the Director of Public Prosecutions announced that **Lord Clarke of Hampstead** would not face prosecution. As I regard this case as complex and serious, I have today referred the complaint relating to Lord Clarke to the Sub-Committee on Lords' Interests for examination.

This letter has not covered two other Members who were the subject of your complaint.

A member of the public complained about **Lord Rennard** on 16 June 2009 and I dismissed that complaint, with reasons, on 20 October 2009. I enclose a copy of my report to the complainant in that case.

In addition, I have not considered your complaint about **Baroness Scotland of Asthal** because she was a Minister throughout the period for which we hold records and so not entitled to claim under the Members' reimbursement scheme.

Yours sincerely

Michael Pownall
Clerk of the Parliaments