

Mr Stephen Hammond MP: Resolution Letter

Letter to Mr Phil Wilson MP from the Commissioner, 2 July 2008

I am writing to you with my conclusion on your complaint against Mr Stephen Hammond MP about certain comments attributed to him in an article in the *Mail on Sunday* on 16 March. Your complaint was that the allegations which Mr Hammond reportedly made against unnamed Labour MPs were such as to bring Members of Parliament generally into disrepute, contrary to the Code of Conduct for Members of Parliament.

I have carefully considered your complaint. I have taken evidence in writing and in a meeting with Mr Hammond, and have taken the advice of the House authorities.

Mr Hammond told me that he had agreed with a journalist from the *Mail on Sunday* that he would prepare an article which would set out his proposals for restoring the standing of Members of Parliament. Mr Hammond had understood that the article would be published in full in the *Mail on Sunday* newspaper. In the event, I understand that the full article appeared not in the paper, but on the *Mail on Sunday's* website on or about 15 March, and it seems subsequently to have been taken down. Brief extracts from the article were used by the *Mail on Sunday* in its report on 16 March. This referred to the website article and was also posted on that paper's website. Mr Hammond supplied me with the full article and I enclose a copy.

As you will see, *the Mail on Sunday's* report does not reflect the overall tenor of Mr Hammond's article. Nor are some of the references accurate. Mr Hammond did not claim that "*some MPs secretly share houses*". He said that "*the next surprise is that MPs often bond together and share properties and submit allowance claims*". While the quotation about Labour MPs buying furniture or artwork which is then transferred and a replacement bought was an accurate quotation, the introductory phrase "*Another loophole*" was inaccurate. Mr Hammond wrote "*The other rule*".

Mr Hammond makes clear in his article that he believes all the practices he describes are within the rules of the House. Mr Hammond has argued that if what he describes is allowed by the rules it cannot bring the House or its Members into disrepute to refer to the practices of Members which are within the rules. The Department of Resources' advice is that "*to a certain extent*" it is true that all the practices Mr Hammond describes are within the rules. In particular, the Department notes that the alleged practice of Members buying furniture and artwork, transferring such items to their main home and buying replacements is "*not specifically disallowed in the Green Book*". Nevertheless it believes that the nature of the allowance, and the rules relating to it, suggest strongly that such practices are not allowable. In its view, the rules which I refer to below make it clear to Members that the use of the allowance in the way described by Mr Hammond would be unacceptable, and that would be its advice if it were to be approached by a Member on the point.

Mr Hammond has argued that the practices in respect of furniture and artwork which he described are allowable because they are, in his view, within the letter of the rules, even if they are not within the spirit of them and that that is the substance of the Department's advice which he has seen. I do not follow him on these points. I consider that Members are required to abide by the spirit as well as the letter of the Code of Conduct and its associated rules, including the rules in the Green Book. I also share the view of the Department of Resources that the Green Book rule which requires that Members' expenses must be "*wholly, exclusively and necessarily*" incurred for the purpose of performing their Parliamentary duties (paragraph 3.1.1 of the Green Book) and the rule that Members must ensure that there can be "*no grounds for a suggestion of misuse of public money*" (paragraph 3.3.1) would not allow Members to undertake legitimately the practice described. Claiming against the Additional Costs Allowance for the cost of replacing furniture or artwork which a Member has moved from their main London residence (after a period of "*some six months*" as described in Mr Hammond's original article) is not in my view necessary expenditure and, on the face of it, if it had occurred, would appear to be a misuse of public funds.

I have also considered whether there is evidence that this practice is one which is *“often made use of by Labour MPs”* as suggested by Mr Hammond in his original article and as quoted in the *Mail on Sunday* story. The Department of Resources has told me that it has seen no evidence that such practices have occurred. Mr Hammond has told me that he was told this by a journalist and by a fellow Member of Parliament. I have received no evidence, however, to substantiate this allegation.

The question I have had to consider, therefore, is whether Mr Hammond has breached the Code of Conduct for Members of Parliament in suggesting that claiming against the Additional Costs Allowance for the cost of buying a piece of furniture or artwork for a Member's London residence and then (after a period of some six months) transferring it to their main residence and claiming on the Additional Costs Allowance for the cost of buying a replacement was allowable under the rules; and whether he breached the Code of Conduct in suggesting, without being able to substantiate the allegation, that this was a practice often made use of by Labour MPs.

The relevant section of the Code of Conduct is paragraph 15. It reads as follows:

“Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.”

The action taken by the Member has to be such that it would bring the House of Commons or its Members generally into disrepute. It is not enough that it may reflect on the Member whose conduct is being challenged. The relevant action in this case is the action of the Member concerned, Mr Stephen Hammond.

Taking all these considerations into account, my conclusion is that Mr Hammond's conduct in making an unsubstantiated allegation in his original article relating to the conduct of Labour MPs which, if undertaken, would be a breach of the rules, while understandably hurtful to them, does not reach the level of a breach of paragraph 15 of the Code. In my opinion, when he wrote his article, Mr Hammond sincerely believed that all the practices he described were within the Code and the rules. He continues to believe that is the case, despite knowledge of the views, as I understand them, of the Department of Resources. I have no reason to doubt that he also believed, although he could not substantiate that belief, that the practices he described were often made use of by Labour MPs.

I consider on the evidence I have seen that he is mistaken in both beliefs, but I do not consider that a Member who is mistaken in a matter of this sort and who writes or says something on the basis of that mistaken view, can fairly be held necessarily to have brought the House, or Members generally, into disrepute. It might have been prudent for Mr Hammond to have checked his interpretation of the rules with the House authorities. It might also have been prudent for him to have weighed the possible implications of his statements being taken out of context, as indeed they were. It might have been prudent for him to have checked whether and if so to what extent he could substantiate his statements. However, none of these matters, of themselves, is sufficient in my judgment to constitute a breach of paragraph 15 of the Code of Conduct.

I do not believe the Code should generally be interpreted as preventing Members speaking or writing as they see fit, subject obviously to the laws of the land. While I do not rule out a Member's statement reaching the level which would properly engage paragraph 15, I do not consider it can be said to have done so in the circumstances of this case.

For these reasons, therefore, I do not consider that either the reference in the *Mail on Sunday's* article on 16 March to the practices of Labour MPs, which was based on the article written by Mr Stephen Hammond for the newspaper, or Mr Hammond's comments on this point in the article itself, amount to a breach by him of paragraph 15 of the Code of Conduct for Members and I therefore dismiss the complaint. Accordingly I now regard the matter as closed. I shall be reporting my conclusion to the Committee on Standards and Privileges. Thank you for raising this matter with me.

I am copying this letter to Mr Stephen Hammond MP.

2 July 2008

Mr Stephen Hammond MP: Written evidence

1. Letter to the Commissioner from Mr Phil Wilson MP, 2 April 2008

I wish to make a complaint about certain comments in the press made by Phillip Hammond MP.¹

In article in the *Mail on Sunday* on 15 March² last, he made certain allegations against Labour MPs although none were named.

He is quoted as saying *"Another loophole often made use of by Labour MPs is to buy a piece of furniture or artwork for a London residence and then decide it might look better in his main home....and so it is transferred and a replacement bought."*

He also states *"The next surprise is that MPs often share properties and submit separate allowance claims"*.

It may be the allegations are true, but if that is the case he should pass the evidence on so that a proper investigation can take place. If the allegations are not based on fact, merely hearsay, then I believe has acted in a highly irresponsible manner by putting potentially spurious information into the public domain.

I would be grateful for your comments and look forward to hearing from you.

2 April 2008

2. Extract from article in the Mail on Sunday, 15 March 2008

Now Labour MPs are accused of fiddling expenses to buy art

Labour MPs were last night accused of a new Commons expenses fiddle by using their second homes allowance twice to buy furniture and even art works.

Conservative MP Stephen Hammond claimed Labour MPs buy items for their second homes in London on expenses, transfer them to their main constituency home then use the allowance to buy another set for their London home.

He also claimed some MPs secretly share houses while both claiming the £22,000-a-year second-home handout, officially known as the Additional Costs Allowance (ACA).

The claims by Wimbledon MP Mr Hammond caused deep anger among Labour MPs last night who accused him of a "smear".

Mr Hammond is among a group of Tory MPs who have called for new laws to make it easier for local voters to sack MPs caught fiddling their expenses.

He said it was absurd that MPs had been allowed to buy household goods for their London homes up to the value of £250 and not have to account for them.

¹ The complaint was against Mr Stephen Hammond.

² WE 2

“Another loophole, often made use of by Labour MPs, is to buy a piece of furniture or artwork for a London residence and then decide it might look better in their main home,” he writes today in an article for The Mail on Sunday website.

“And so it is transferred and a replacement bought. Again, all very much allowable under the rules.”

There were a number of other ways of making money from the ACA, said Mr Hammond.

“One MP claimed the allowance for a property in North London and a main residence in Northumberland, yet represented a constituency in West London. This type of abuse is widespread.

“The next surprise is that MPs often share properties and submit separate allowance claims.”

Mr Hammond said there was no need for MPs with constituencies near Westminster to have a second-home allowance.

3. Letter to Mr Stephen Hammond MP from the Commissioner, 9 April 2008

I would welcome your comments on a complaint I have received from Mr Phil Wilson MP about certain statements attributed to you in the *Mail on Sunday* on 16 March about the alleged activities of Labour Members of Parliament. (Mr Wilson’s letter refers to Mr Philip Hammond MP, but, as you know, you are the Member quoted).

I attach a copy of Mr Wilson’s letter to me of 2 April. In essence, his complaint is that the allegations which you reportedly made against unnamed Labour MPs were such as to bring Members of Parliament generally into disrepute, contrary to the Code of Conduct for Members of Parliament.

Paragraph 15 of the Code of Conduct provides as follows:

“Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.

I would welcome your comments on this complaint. In particular, it would be helpful to know:

- a. whether you were accurately quoted in the *Mail on Sunday* and, if not, whether you have taken any action to correct the report;
- b. what evidence you have to substantiate the statements attributed to you, if you were accurately reported;
- c. whether you considered making a complaint to my Office if you had evidence against named MPs that amounted to a breach of the Code of Conduct and its associated rules, and if not what were the reasons for not doing so;
- d. what were your reasons for making the statements you are reported to have made to the *Mail on Sunday*.

I would welcome any other comments you would like to make in the consideration of this complaint.

I enclose the note which sets out the procedures which I follow. I am writing to let Mr Wilson know that I have accepted his complaint. If you would like to speak to me about any of this, please get in touch with at the above address or by telephone.

I would be grateful for your help on this matter.

9 April 2008

4. E-mail to the office of the Commissioner from Mr Stephen Hammond MP, 16 April 2008

Here is the op ed piece I wrote for the *Mail on Sunday* which was published in full on their website.³

The whole thrust of the piece is

- a) that almost all members act honourably
- b) that the rules are lax and all the activities I described are allowable under the rules
- c) that I itemise a list of things that could be done to ensure the reputation of the House is enhanced

I deliberately named no names for that I believed would have be harmful to the reputation of the House. The *Mail on Sunday* did put names of Members to almost all the practises I describe including one of the outlined by Mr Wilson.

I am happy to meet with the Commissioner on his return.

16 April 2008

5. Article by Mr Hammond published on *Mail on Sunday* website

It is an honour to be elected to be Member of Parliament. I had that honour in 2005 and when you first sit on the green benches a feeling of awe, history and responsibility should flow through you. And I can truly say that across the political divide I believe that most of the people I have met are in Parliament doing their best for their constituents and the country. But the last month has been truly dispiriting, new levels of cynicism abound the country.

Most people when asked believe that they have a good local MP but that as a whole we are a bad lot! The public, spurred on by the media, now seem believe that all MPs are on the take and are abusing the allowances. The reality is that under political pressure not to raise salaries in line with those of comparable levels of responsibility, allowances have been increased substantially with the rules governing them both lax and imprecise. Equally the best practice of the corporate world and accounting for all expenditure is not being followed.

The Additional Costs Allowance, or as it is colloquially known, the second homes allowance, is the best example of all that is wrong with the system. The rules are at best hazy and seem to be able to be stretched to cover all eventualities. And it is regarded by many MPs as a way of enhancing their low salary; hence the reluctance on behalf of many to follow business practices of transparency and disclosure.

The Additional Cost Allowance is supposedly in place to allow MPs who have a constituency some distance from Parliament a subsidy to allow them to live near Parliament as well as have a base in their constituency. That would all seem fair and reasonable but in reality that is where the chaos starts.

There is nothing in the rules that says the property on which you claim subsidy is either near parliament or in your constituency. In the last parliament an MP claimed the ACA for a London property in north London and a main residence in Northumberland and yet their constituency was in West London. This abuse is widespread and yet it is allowed by the rules!

³ WE 5

The ACA is not taxable. So in reality the benefit of the ACA is not £22000 but something over £30000. This is because by tortuous logic the Government claims this is an allowance and not pay.

The next surprise is that MPs often bond together and share properties and submit allowance claims. No one checks those claims or the allocation of cost nor that are they in any way accurate. Equally an MP can buy a property and use the ACA to fund the mortgage, hence playing the property market on the state. All perfectly in keeping with the rules.

If you are a London MP and live in Greater London you can claim the second home allowance. My predecessor in Wimbledon claimed, I don't it is indefensible when I can get home on public transport within forty minutes. However many Greater London Labour MPs do claimed. There is the well known left wing MP representing a seat in the East End who claims for his flat in his constituency and his main home in Essex. Or the 2005 entrant who claims for a home in her constituency, 30 mins on the Jubilee line, and has a main home in Stratford, 36 minutes on the Jubilee line. Again all allowable by the rules

This is but the tip of the iceberg. It goes on. Once you have moved into your new home, you need to equip it. So MPs, under the encouragement of the Administration Dept, can buy household goods up to the value of £250 and not have to account for them. They merely have to be on the 'John Lewis list' of comparable prices and makes. The other rule, often made use of by Labour MPs, is to buy a piece of furniture, artwork etc for their "London" residence and then after a period of some six months decide it might look better in their main residence. And so it is transferred and a replacement bought. Again all very much allowable under the rules.

The revelations about the paying of Henry Conway or the "affair Derek" as some call it, has thrust a spotlight on MPs as never before. And any examination of the rules that govern our allowances must come to the conclusion they are vague and open to many interpretations and along way behind what would be acceptable in commercial life. Some MPs believe a tightening of the rules will be enough to reassure the public. Some MPs declare this is a House of Commons matter and no one should interfere.

This is clearly nonsense. If we as legislators are regarded so cynically by our fellow citizens then we will lose our moral justification and right to govern. We as the creators of law and representatives of our fellow citizens must lead and ensure our practices are such that our parliament is beyond reproach. A tightening of the rules will be like Nero playing the violin whilst Rome burns!

A radical root and branch reappraisal of the system of pay and allowances is required. Here is the list of reforms that the House of Commons should consider to reinstate itself.

Firstly everything we earn and claim must be transparent. Before entering Parliament I ran a part of a bank all employees had to account for all their expenditure to the last penny and we should too. I am happy that my salary and all expenses are known, as I am elected by the general taxpaying public and I use public money. I believe we should accept random auditing, the House authorities should employ a firm of accountants to audit a random selection of MPs each year without prior notice. If the audit is undertaken by an outside body it will have the necessary validity and probity.

Next all staff should be employed centrally. I employ my wife, [...], she has worked at the House of Commons for over twenty years for four other MPs before I arrived. There is no question that she is anything other than a dedicated office manager who works well beyond her contracted hours. That is true of all the family members employed by MPs I have met. However under my proposals, the House Authorities would vet every prospective employee and MPs would only be able to choose them if they met required standards. The House would be responsible for all remuneration. Again this would have the virtue of MPs not only not being nepotistic but being seen to be so. And the expenditure would not be seen for what it is; an employment cost not an allowance for individual MPs.

Allowances in whatever form are open to abuse. The House of Commons must do away with as many allowances that are perceived to be unjust, open to abuse and opaque. So on the bonfire of allowances goes The Additional Cost Allowance described by the Senior Salaries Review Body as having the "greatest scope for abuse". Because it has and because it is, it must go! Equally indefensible is the Communications Allowance it gives an inbuilt advantage to MPs against their opponents at the General Election. The Communications Alliance is £10000 of public money allowing MPs to tell their constituents what wonderful

people we are. Finally there needs to be a check on postage, one MP spent over £41000 on postage against the average of around £5000. If that doesn't suggest either abuse or rules open to wide interpretation I don't know what does. Every MP should have a maximum postage budget of £7500 and if he needs more let them raise the money

Any allowances that do continue to exist should be receipted for down to the last penny. It is pretty easy to get a receipt or sales invoice and attach that to a claim form. The whole world does and so should Members of Parliament.

If the Additional Cost Allowance is to be done away with, it seems equitable that there should be an increase in pay to account for its demise, otherwise some MPs may be impaired from doing their job. However if it is pay then it is entirely up to MPs how they spend it and where they live. The total cost of the ACA is approximately £11.0m. Therefore on an entirely revenue neutral basis, this would add approximately £17500 to the salary of every MP. The public would be no worse off and yet could be reassured that fraud had decreased.

Finally MPs need to get paid and need to be paid inline with their responsibilities and inline with similar public sector jobs. The Senior Salaries Review Body should once every Parliament decide on what the right comparison is and adjust MPs salary accordingly, Then throughout the life of the Parliament the salary should be upgraded by say the average increase in earnings, unless the SSRB recommends something else. In future a body such as the SSRB, an outside and independent body, will set and uplift Member's salary. This would remove the invidious position, mostly resented by MPs, of having to vote on their own salaries. As to what an MP should be paid today, the SSRB noted that MPs pay used to be linked to Grade 6 (Senior Principal) in the Civil Service, I believe a reasonable equivalent would be that of a GP.

Almost without exception the MPs I know and work with are Honourable Gentleman and Ladies from all parties. But we need to regain the trust and respect of our voters so once again they think we are Honourable. I think what I suggest here will go some way towards that.

15 April 2008

6. Letter to the Commissioner from Mr Stephen Hammond MP, 22 April 2008

Thank you for your letter of 9 April following a letter of complaint from Mr Wilson. I am bound to say at the outset that I believe the complaint to be without substance and possibly ill-motivated.

I should make the following points —

I was asked to write an 'op-ed' piece by the *Mail on Sunday* about how MPs might be seen as honourable by the public again. My article at the outset specifically states, "It is an honour to be elected to be a Member of Parliament" and "I can truly say that across the political divide I believe that most of the people I have met in Parliament are doing their best for their constituents and the country".

These are sentiments and statements entirely with the 'conduct in a matter which will tend to maintain and strengthen the public's trust'.

The article was agreed with the journalist on 14 March and I was promised it would be used. However, the full article was only on the website edition of the *Mail on Sunday* and the piece published commented on my article. Whilst I am responsible for my article, I cannot be responsible for the journalist selective quoting nor his interpretation. I have represented to the journalist my concern that the article does not represent my article and that it was selective quoting. Mr Wilson is guilty of this as well! The quotes used by Mr Wilson are clearly out of context with the whole article.

The article explicitly states that the rules are lax and hazy and can be subject to consideration interpretation. I explicitly make the point that all the practices I describe are ALLOWABLE and are not infringements of the rules. Therefore, I accuse no-one of misdemeanour. Equally I name no-one as all the practices are allowable under the 'ACA' rules. Therefore to name anyone would have been unusual and potentially wrong.

However, both previously and subsequent to my article, numerous newspapers have identified MPs who interpret the rules to allow them to undertake the legal practices described.

Mr Wilson appears to be under the disillusion that I accuse MPs of committing acts that are not allowable by the ACA. That is wrong in fact! I describe acts and practices that are allowable.

Mr Wilson may be concerned that these acts may be viewed by the public as indefensible and he is embarrassed by them. If that is so it is all the more disappointing that Mr Wilson misquoted my article and did not support the suggested reforms!

From a legal standpoint, my article outlines allowable and legal practices of the House as defined by the House authorities. I cannot therefore have brought the House of Commons into disrepute by describing its own laws and rules. I cannot have contravened the Code of Conduct Paragraph 15 by quoting the House's own rules. Therefore, the very essence of the complaint is not only inaccurate, it must be wrong in law as it is not yet an offence to accurately describe the rules, guidance and practices of the House.

Mr Wilson's complaint is wrong in fact and in law. I actually describe MPs as

"doing their best for their constituents and the country" also

"Almost without exception the MPs I know and work with are Honourable Gentleman and Ladies from all parties."

Finally, to answer your specific points —

A Yes, the article was accurately but selectively misquoted and I have made representations to the journalist.

B National newspapers have identified MPs who undertake almost all the practices I describe.

C Not applicable. I accuse no-one of breaching the Code of Conduct, I merely describe legal practices. Therefore, I had no reason to report anyone.

D I was motivated by the need to restore the integrity of the House of Commons.

I would be grateful as to your advice as to whether making a malicious or politically motivated reference to yourself is an offence under Paragraph 15 of the Code of Conduct.

As I said to [your office], I am happy to meet you at any stage.

22 April 2008

7. Letter to the Acting Director of Operations, Department of Resources, from the Commissioner, 24 April 2008

I would welcome your comments on a complaint I have received against Mr Stephen Hammond MP about parts of an article he wrote for the *Mail on Sunday* which resulted in a news article in that newspaper on 15 March.

I attach the [relevant documents]. I would be grateful for your views on this complaint, and in particular on Mr Hammond's response. The complaint itself focuses particularly on moving furniture and artwork from a London residence to a Member's main home; and submitting separate allowance claims for shared properties. It would be particularly helpful to know whether any of these practices, including the purchase of artwork and buying replacement furniture which has been moved to another home, are within the rules relating to the ACA. It would be helpful to know also whether any of the other practices referred to in Mr Hammond's article are outside the rules.

I would welcome any other points you wished to make to help me in the consideration of this complaint.

24 April 2008

8. Letter to the Commissioner from Mr Stephen Hammond MP, 12 May 2008

Thank you for your letter of 24 April.⁴

The key point I would wish to stress is that the ACA, under the '*John Lewis list*' principle, allows a home to be furnished. Therefore, furniture or art can be purchased up to a reasonable level of expenditure. Thereafter, there is no check on where that furniture is based. My premise is that as the purchase is allowable and there is no further check, what I describe is allowable. The Department of Resources will I trust confirm this whilst potentially expressing the view that the practice is against the spirit of the regulations. This underlines my statement in the article that the rules are imprecise and open to many possible interpretations.

I should be happy to meet for a general discussion if you think that appropriate.

12 May 2008

9. Letter to the Commissioner from the Acting Director of Operations, Department of Resources, 16 May 2008

Thank you for your letters of 24 April and 13 May 2008,⁵ relating to a complaint about views attributed to Mr Hammond in an article in the Mall on Sunday on 15 March 2008, based on a piece he had written for the paper.

Mr Hammond claims that all the practices he describes are "legal" and within the rules. To a certain extent that is true. Members may nominate which of their houses is their main home and which is their second home, and provided they are entitled to the Additional Costs Allowance (ie those Members with constituencies outside inner London) then the situation as described by Mr Hammond is indeed within the rules.

However, Mr Hammond also alleges that a number of Labour MPs "*buy a piece of furniture, artwork etc for their 'London' residence*" and then transfer such items to their main home (and buy replacements for it). Mr Hammond claims that this is "*allowable under the rules*".

This practice is not specifically disallowed in the Green Book, but the book should be seen as a guide to Members on the allowances, not a detailed rule book in which each and every practice is specifically allowed or disallowed. I would argue however that the nature of the allowance, and the rules relating to it, suggest strongly that such practices is not be allowable. Indeed if anyone approached my staff to ask whether they could make such transfers, they would be told that they could not.

The reasons for making this statement are that the allowance "*reimburses Members of Parliament for expenses wholly, exclusively and necessarily incurred when staying overnight away from their main UK residence ... for the purpose of performing their Parliamentary duties*" (para 3.1.1). It is clearly not intended for items that will end up in the main home, a position highlighted by the principles of the allowance (para 3.3.1) which state that "*you must ensure that arrangements for your ACA claim are above reproach and that there can be no grounds for a suggestion of misuse of public money*". This should make it clear to Members that any use of the allowance in the way described by Mr Hammond would be unacceptable.

⁴ In this letter, which is not included in the evidence, the Commissioner told Mr Hammond that he was consulting the Department of Resources.

⁵ With this letter, which is not included in the evidence, the Commissioner forwarded Mr Hammond's letter of 12 May.

This is the responsibility of Members: this Department currently does not have the remit or the resources to undertake detailed checks of Members' use of the ACA, other than by checking and validating the relevant claim forms. I should make it clear however that I have seen no evidence that such practices have occurred.

Purchases of artwork would be treated in the same way as those of other furnishings; they would be assessed against the prohibition on the purchase of "extravagant or luxurious" items (para 3.10.1).

Any items purchased for a Member's second home remain the property of the Member and they would, of course, be entitled to take them away when ceasing to be a Member.

You also asked whether Members may submit separate allowance claims for shared properties. Although the number is small, there are some Members who share properties, and this would be readily apparent as the address concerned must be given on each claim. We do not stop such Members both submitting allowance claims although the claims must be reduced proportionately, which in most cases means that each Member will claim 50% of the bill (or other proportion depending on the number of Members sharing). We would not in general query such arrangements other than to ensure that both Members did not claim for the same item or expenditure.

I have no comment to make about the rest of Mr Hammond's article, as much of it is his opinion about the current pay and allowances system which, as you know, is currently being reviewed.

16 May 2008

10. Letter to Mr Stephen Hammond MP from the Commissioner, 20 May 2008

I attach a copy of a letter of 16 May from the Acting Director of Operations in the Department of Resources commenting on the complaint made by Mr Phil Wilson about the extracts from your article published in the Mail on Sunday on 15 March.

As you will see, the Acting Director of Operations suggests that while the practice you describe in respect of furniture and art work bought under the ACA is not specifically disallowed in the Green Book, the nature of the allowance and the rules relating to it suggest strongly that such practices are not allowable. The DOR has seen no evidence that such practices have occurred. Separate allowance claims for shared properties are acceptable, but the claims must be proportionately reduced.

I would welcome any comments you may wish to make in the light of the Acting Director's letter. In particular, it would be helpful to know what evidence you have that Labour MPs follow the practice in relation to furniture and artwork which you describe. When I have your response, I suggest I ask my office to set up the meeting you have suggested so that we may discuss the various aspects of this complaint. I look forward to hearing from you.

20 May 2008

11. Letter to the Commissioner from Mr Stephen Hammond MP, 21 May 2008

Thank you for your letter dated 20 May.

As you rightly state, the practices I refer to are described by the Acting Director of Operations as '*legal*', '*indeed within the rules*' and '*not specifically disallowed*'. He then tries to qualify these statements in exactly the way I predicted he would in my letter to you; ie. allowed by law but against the spirit of the law. So, in fact, the practices described are allowable by the House of Commons and therefore I contend that by describing allowable practices, I cannot be acting in a disreputable manner.

I look forward to meeting you after the recess.

21 May 2008

12. E-mail to the Acting Director of Operations, Department of Resources, from the office of the Commissioner, 28 May 2008

I am sorry to trouble you again about the Hammond case. The Commissioner has asked me to check something further with you.

Mr Hammond said to the MoS

"The next surprise is that MPs often share properties and submit separate allowance claims. No-one checks those claims or the allocation of cost nor that they are in any way accurate."

[The Commissioner] asks whether there are in fact checks on claims which relate to the same address, and whether they cover the allocation of costs and accuracy. Any information that you can provide on this would be most helpful.

28 May 2008

13. Letter to the Commissioner from the Acting Director of Operations, Department of Resources, 2 June 2008

I gather from [your staff] that you wish to know what checks are made when Members share properties.

First, Members are required to give the addresses of their main and second homes, whenever these change; they also have to give the address of the second home whenever they make a claim for Additional Costs Allowance.

As a result, we are aware of a small number of Members who share second home costs; in each case we have clear statements of the Members' intentions together with documentation on leases or rent, etc., against which each claim is checked to ensure the appropriate apportionment and accuracy of running costs.

Incidental purchases are also investigated if a sharing Member appears to be claiming full costs. This would be likely to be more readily apparent now that receipts are required for all items of £25 or more.

2 June 2008

14. Letter to Mr Stephen Hammond MP from the Commissioner, 3 June 2008

Thank you for your letter of 21 May responding to mine of 20 May.

I was grateful to see your interpretation of the response from the Acting Director of Operations. I will now ask my office to arrange a meeting after the recess and I look forward to seeing you then. If you so wish, you would be welcome to bring a colleague with you, although they would of course not be part of the discussion. I will have with me a member of this office to take a note of our discussion. We will show that note to you so that you can satisfy yourself as to its accuracy. The note would be appended to any memorandum which I send the Committee on Standards and Privileges on this complaint.

The areas I would like to cover when we meet are the circumstances in which you came to write the article for the *Mail on Sunday* and your views on the points selected from it for the newspaper's published report; the point you have made that you believe that everything referred to in the newspaper report attributed to you is allowable under the rules, taking account of the advice of the Department of Resources; and the factual accuracy of what you are quoted as saying in the report, in particular in respect of what you said about the behaviour of Labour MPs which I asked you about in my letter of 20 May. There may, of course, be other points you wish to make or which may arise during the course of our discussion.

I look forward to seeing you after the recess.

3 June 2008

15. Letter to Mr Stephen Hammond from the Commissioner 6 June 2008

Thank you for your letter of 3 June responding to my letter of 22 May about our forthcoming meeting.⁶

The complaints procedure which I follow is one approved by the House and subject to the Standing Orders of the House. Within those, it is for me as Commissioner to decide on the conduct of any particular inquiry, and to determine what issues I need to address. In fulfilling that responsibility, I am committed to acting fairly and to ensuring that the Member concerned has every opportunity to provide me with all the information I need to come to a conclusion. If I have decided it is necessary to prepare a memorandum for the Committee on Standards and Privileges, then I give the Member an opportunity to see the factual sections of my memorandum and the Committee shows the Member a full copy of that memorandum before they consider it.

Against this background, I have carefully considered your letter. On the basis of the tests I operate, I consider that, following my initial inquiries, I do need to discuss with you aspects of your article and of the arguments you have put to me. I have set out those areas I would like to cover with you in my letter to you of 22 May. I believe those are each reasonable areas for inquiry and each is relevant to my investigation and to my ability to reach conclusions on this complaint. You would be welcome, however, to give me your views on the application of paragraph 15 of the Code to this complaint at our meeting, or of course on any other points which you wish to make.

I hope this has helped clarify the position, and I look forward to seeing you on 12 June. You would of course be welcome to bring with you a friend to this meeting if you so wished but the discussion in these circumstances is always with the Member themselves. I look forward to seeing you.

6 June 2008

16. Letter to the Commissioner from Mr Stephen Hammond MP, 10 June 2008

Thank you for your helpful letter of 6 June—as a result of which I have re-read the Code of Conduct together with The Guide to Rules.

Firstly, as regards Paragraph 15 of the Code, I am clear that as I describe allowable practices under the House of Commons rules, as confirmed by [Acting Director's] letter, I cannot be committing an offence under them.

Were I to have described either a practice that is not allowed or falsely accused someone of a practice that is allowed or not allowed then I would be in contravention of Paragraph 15. As I have not, I cannot be!

As your letter states, the procedures you follow are 'approved by the House and subject to Standing Orders of the House'. The Guide to the Rules, Paragraph 84, states 'it would not normally regard a complaint founded upon no more than a newspaper story ... as a substantial allegation'. I would be grateful if we could discuss this point at our meeting.

Paragraph 87 states, 'If the Commissioner is satisfied that sufficient evidence has been tendered in support of the complaint to justify taking the matter further he will ask the Member to respond to the complaint and

⁶ This letter, which is not included in the evidence, set out the arrangements from the meeting and the areas to be covered.

will then conduct a preliminary investigation'. The Code makes clear that this investigation is to establish if there is a prima facie case. Therefore, I would be grateful if you could confirm the following —

A Is this complaint based solely on a newspaper report?

B Has any other 'sufficient evidence' been tendered?

C I assume our discussion on 12 June will be in regard to your investigation as to whether there is a prima facie case? If this is so then I shall be happy to discuss all pertinent issues. However, if you have decided there is a prima facie case, I believe I am entitled to understand the basis of that judgment as per my letter of 3 June so I can adequately defend myself.

I apologise for this further letter — it is not designed to be either obstructive or unhelpful. As I believe this to be a mal-intentioned reference and it could be injurious to the reputation of myself and the House of Commons, I do take your investigation and the procedures most seriously.

10 June 2008

17. Agreed note of interview with Mr Stephen Hammond on 12 June 2008

Present

Stephen Hammond MP (SH)

John Lyon (JL)

Note taker

JL I am grateful to you for coming. The purpose of the meeting is to help me understand what lay behind your article. I have formed no view and the fact that I am asking questions should not be taken to mean that I have formed any conclusion on the issues I want to raise with you. The note taker will take a note which will not be a verbatim transcript. But you should remember that if I decide to produce a Memorandum, the note of the meeting would be attached.

I should like to begin with an understanding of the facts. I understand that you prepared at their request an article on Members' expenses to go in the *Mail on Sunday* (MoS) on 16 March 2008.

SH The article went wider than Members' expenses. I wrote the article called 'Making MPs honourable again' describing practices currently allowed, saying that the rules are imprecise and here are ways in which we could be honourable again. I wrote it on Saturday 15 March and agreed the content with the MoS journalist that afternoon. It went up on the website that weekend.

I thought the whole article would go in the newspaper. Instead only extracts appeared in the MoS on 16 March [in an article by [...]].

As I said in my letter, I have some points of interpretation that I would like to discuss. Where are we on procedural points? Have you decided on a *prima facie* case?

JL I have not yet arrived at a view on the application of the rules to your case. We have had a number of exchanges of correspondence when I have sought to respond to your questions. I now need a better understanding of the facts, which is what I am asking you to help me with.

I don't want to engage in discussion at this meeting about the meanings of prima facie as used in the Rules. This process is of course a House process and not a judicial process.

SH Legal advice differs on that point. It is not that simple. The House rules must ultimately be governed by the law.

JL As I said when I wrote to you on 22 May, I would like to cover three areas: the circumstances of how you came to write your article, the relationship of what you wrote to the rules, and the factual accuracy of what was said. First, can you tell me how the commission to write the article arose?

SH I was having coffee with a friend and also with a journalist. I said we needed to be more open and transparent. I was saying that the rules were imprecise; I wanted to see an end to the CA [communications allowance] and I wanted to see all Members' staff employed centrally. The ACA [additional costs allowance] needs to go. That would make us honourable gentlemen again. The journalist said 'Why don't you write down all the rules which aren't clear and need changing?'

JL Were you paid for it?

SH No.

JL What happened to the article? We looked for it on the MoS website but couldn't find it.

SH It got onto the website on the Sunday morning [16 March], and it was used in the article [by ...]. I was a bit upset because I had been promised that it would be used in full. Until you just said so, I didn't know it wasn't on the website any more. I hadn't asked them to take it down.

I agreed the terms of my own article: not the later one [by...].

JL You said [in your 22nd April letter] that you were 'accurately but selectively misquoted'. Is that right?

SH 'Accurately but selectively quoted' was what I wanted to say. I said that earlier in the letter. 'Misquoted' was a typo.

JL What did you want readers of the blog to think?

SH I wanted them to think that under the rules a huge number of practices were legal and allowable but open to considerably wide interpretation as to what was allowed. I wanted them to think that it was time to clean up and make things absolutely transparent. I want us to get on with the job of being national legislators, not clouded by rules which are imprecise.

IL Would you say it was wrong of the journalist to quote from your article?

SH I should not have been surprised. You need to look at the thrust of my article. It is completely different. I accuse no-one of anything that is against the rules.

JL So you are not challenging the accuracy of anything the journalist [...] said?

SH No.

JL What about when you said 'the next surprise is that MPs often bond together and share properties'? The Mail on Sunday said 'some MPs secretly share houses'

SH That point is wrong. I didn't say 'secretly sharing houses'.

JL You told me that you made representations to the journalist. Can you tell me about what these were and what was his response?

SH I made representations to the journalist, because I was disappointed about his use of my article. I wanted to know why the whole thing wasn't there.

I was selectively quoted. I cannot believe you could think I was intentionally maligning anybody. I wanted more transparency and I suggested simple ways to do this. The journalist said 'Well, you got some good publicity'. I'm not so sure about that.

- JL Moving on to the rules, you have said that all the practices you have described are allowable. Is that so?
- SH It is in my letters of 22 April and 12 and 21 May. You said you were going to the DOR for advice. I said in my letter of 12 May that the DOR would confirm everything I had said: that the practices I describe are allowable but against the spirit of the regulations.
- JL Can you help me on where in the DOR letter of 16 May it says this? The Acting Director says *'the practice is not specifically disallowed in the Green Book'* but *'that the nature of the allowance and the rules relating to it, suggests strongly that such practice is not allowable'*. He also refers to paragraph 3.1.1. which says that expenses must be *'wholly, exclusively and necessarily incurred'*, and to the prohibition on the misuse of public funds under paragraph 3.3.1. I am not forming a view on his argument at this stage. But do you think that if a Member re-bought furniture or artwork for which he has already claimed, that this is expenditure *'necessarily incurred'*? In your view, is that allowable under paragraph 3.1.1. or 3.3.1? DOR says that the nature of the allowance and the rules *'suggests strongly that such practice is not allowable'*.
- SH The Acting Director also says it is true that the practices I describe are legal and that they are not specifically disallowed in the Green Book.
- JL In your letter of 12 May you say [in connection with the removal and replacement of furniture and artwork bought from the ACA that because the purchase is allowable and there is no further check, the practice of re-buying such items is allowable. Do you believe that means that if there is no check, everything that may happen is allowable?
- SH No, but you are parsing my sentence too carefully. There is no check on where the furniture is based.
- JL Your original article said *'The other rule, often made use of by Labour MPs, is to buy a piece of furniture, artwork etc for their London residence and then after a period of some six months decide it might look better in their main residence. And so it is transferred and a replacement bought. Again all very much allowable under the rules.'* What did you want the reader to think about such people?
- SH I wanted them to think that this was allowable, and the rules were imprecise and in need have reform. I've said nothing about anyone and I have not named any Members.
- JL The MoS article quotes you in saying that Members *'secretly share houses'*. You said that Members *'often share homes'*. You have seen the rules which say that Members must inform DOR.
- SH I didn't say *'secretly share'*. That is a misquote.
- JL Do you feel the DOR response modified this suggestion in your article? You said that no-one checks these claims. The DOR says that Members must inform DOR if they share homes. DOR have explained that the claim must be reduced proportionately.
- SH You and I would need to investigate. How comprehensively they check currently I don't know. We would have to reach a judgement. It would take a significant time.
- JL Let me ask you about the practice which you say is *'often made use of by Labour MPs'* [of buying furniture or artwork for their second home and then moving it to their main home and claiming for a replacement]. I would like first to pick up the accuracy of the quotation. The MoS said *'another loophole'*; you said *'the other rule'*.
- SH I was making clear that it is a perfectly allowable practice. The Acting Director says it is not specifically disallowed.
- JL We all know that proving a negative is impossible, but DOR says they have no evidence that this practice has occurred. What evidence did you have?
- SH The practice was described to me by a journalist and by another Member.
- JL Are you willing to name them for me?

- SH No. At no stage do I name anybody in the article. The practices I describe are undertaken by both Conservative and Labour. I didn't identify the two Members [who, according to the article, each claim ACA for London homes while living respectively in Northumberland and in Essex].
- JL You say the rule about furniture and artwork is 'often made use of by Labour MPs'. What evidence do you have for 'often'?
- SH It was described to me by a third party. I still believe it is true. I haven't felt the need to ask for names, chapter and verses. It is probably not only Labour MPs who do this.
- JL Turning to your letter of 10 June, paragraph 3. You say that if you described a practice that is not allowed or if you falsely accused someone of a practice that is not allowed you would be in contravention of paragraph 15 of the Code. Is that your position?
- SH I have not accused anyone of anything.
- JL Are you saying that you believe that because you haven't named Labour MPs you have not accused them?
- SH Yes.
- JL Your letter of 24 April says that national newspapers have identified MPs who have followed 'almost all' the practices you mentioned. Are you aware of any who have been identified following this practice with regard to furniture or artwork?
- SH I'm not aware of any. But for everything else, someone [a newspaper] has said 'They do that'. I have no reason to doubt what was said to me by a third party.
- JL So when you say that 'almost all' the practices you mention have been identified, you mean that the only ones which have not been identified are the replacement of artwork and furniture?
- SH That is not correct as at the time I wrote the article the sharing of homes and claims had not been identified by newspapers. This has now been described in several newspapers, with MPs identified who undertake this practice. So at the time there was more than one practice that had not been identified but 'almost all' had.
- JL So are you saying that the evidence is there [ie has been published by newspapers] for 'almost all' the practices you mention, except for the practices you mention of Labour MPs?
- SH Yes. Newspapers have named Members who carry out the other practices. I was careful not to name the individuals. I don't believe I need to name them. They are not committing an offence.
- I believe that according to paragraph 84 of the code you would not normally investigate based only on a newspaper article alone. You state there are clear precedents. But on the basis of the article I wrote: looking at it negates the complaint. You cannot look at it without realising that the complaint does not stand up. I was describing practices which are allowable. Without arguing about DOR semantics, they are not specifically disallowed. Thus I'm not saying that people were doing things not allowed by the House.
- I've not accused anyone of anything. The article is wholly balanced between Conservative and Labour. I cannot have brought the House into disrepute. It was about trust: I wanted to make people honourable again. It may be a House matter but even these are governed by legal process. The last thing I wanted to do was to bring the House into disrepute.
- JL Is that your argument: that as long as the practice is allowable, it is all right for a Member to behave in a way you or I or others might think was disreputable?
- SH There are some things I could do, There are some things I could do like sleeping with a prostitute, which is not specifically disallowed but I would say is still disreputable.

But to return to our pay, allowances and conditions where there are rules specified by the House, I don't believe it can be disreputable for a Member to follow practices that are within the rules. I'm saying that for people to do this is allowable and the rules need changing. There is a whole section of the rules on allowances and pay which need updating, but provided someone has not gone outside them their practices are allowable. They can't be contravening the rules. So I don't see how they could be acting disreputably.

JL Thank you. Is there anything more you want to say to me at this stage?

SH What is the process now?

JL [The note taker] will produce a note and send it to you.

As far as process goes from here, there are four options for complaints at this stage.

- I could decide that there is nothing in the complaint and dismiss it.
- The Member could accept that there has been a breach and offer to put things right. I could then agree that the Member should rectify the situation without a formal report to the Committee. But it is not easy to see how the rectification procedures might apply in this case. I could draw the conclusion that there was a breach and put a Memorandum to the Committee for them to decide whether they accept this and if so whether there should be a sanction.
- I could take the view that there has not been a breach but the case raises wider issues which the Committee need to consider. So I would also produce a Memorandum.
- If I do produce a Memorandum I would let you know first I would show you the factual sections, to check for factual accuracy. I would then produce my conclusions and submit the whole memorandum to the Committee. You would see my conclusions with the full memorandum after that.

SH So I could take legal advice?

JL You can take legal advice at any stage. But after the Memorandum has gone to the Committee on Standards and Privileges, the Committee Clerk would send you the full memorandum for you to see and comment on before the Committee considered it.

Thank you again for coming.

Agreed 2 July 2008

18. Letter to Mr Stephen Hammond MP from the Commissioner, 2 July 2008

Thank you for coming to see me on 12 June to discuss the complaint from Mr Phil Wilson MP about your article for the *Mail on Sunday* on 16 March.

I have carefully considered all the information I have received and the issues covered at our meeting. I have decided that the reference in the newspaper article on 16 March to the practices of Labour MPs based on your article, and your comments on this point in the article which you wrote did not amount to a breach of paragraph 15 of the Code of Conduct for Members. I have therefore dismissed the complaint.

I have written to Mr Wilson with this decision and giving my reasons for it. I enclose a copy of that letter. I shall be reporting my conclusions to the Committee on Standards and Privileges.

Thank you for your help with this inquiry.

2 July 2008