

Mr David Wilshire: Resolution Letter

Letter to Mr Trevor Davies from the Commissioner, 8 November 2010

I have now concluded my consideration of the complaint which you sent me on 8 January against Mr David Wilshire, when he was the Member of Parliament for Spelthorne, in respect of claims he made against his Additional Costs Allowance for the installation of a washing machine/dryer in January 2009.

In essence, the complaint which I accepted was that, in January 2009, Mr Wilshire claimed twice for the installation of a new washer/dryer and the disposal of an old one.

I have consulted Mr Wilshire and the House of Commons authorities about this matter.

The evidence is that in January 2009 Mr Wilshire bought at an electrical store a washer/dryer at a cost of £390.46. The receipt included in this price a charge of £28.34 for delivery, connection and removal and disposal of the old appliance. Mr Wilshire also submitted a bill of £60 in January 2009 from an electrical contractor for the connection of the washing machine and for the disposal of the old one.

Mr Wilshire's evidence is that he was not himself able to be present for the delivery of the washer/dryer on the date he arranged with the retailer. The delivery people were, however, given access to Mr Wilshire's accommodation by a porter. Mr Wilshire's evidence is that, in the event, it was not possible for the retailer's agent to install the machine and to remove the old one. The porter, therefore, arranged for another contractor to carry out these tasks.

Mr Wilshire does not know why it was not possible for the machine to be installed by the retailer's agent, since he was not present at the time. I have considered whether to seek further evidence from the retailer or the porter, but decided that this would not be proportionate given the nature of the complaint and the sum involved, and I have no reason to doubt what Mr Wilshire has said. I considered also whether Mr Wilshire should have sought a refund for part of the delivery and installation charge, but I concluded that this was unlikely to have been productive, given that the machine was in fact delivered and that the delivery agent had concluded that it was not possible to connect the machine within the retailer's terms. I consider it relevant also that the House authorities have advised me that in their judgement the machine represented value for money.

I have concluded, therefore, that the evidence was not such as to suggest that Mr Wilshire was in breach of the rules of the House when he made a claim for the installation of his washer/dryer in January 2009 and for the removal of the old one. This is because Mr Wilshire's evidence is that it was not possible for the retailer's agent to carry out this work. I do not, therefore, uphold your complaint. I now regard the matter as closed. I will report the outcome to the Committee on Standards and Privileges.

I should point out that, if the House of Commons approves the recommendation from the Committee on Standards and Privileges, this letter, and in due course the evidence which I have collected for this inquiry, will be published on my webpages.

I am copying this letter to Mr David Wilshire.

8 November 2010

Mr David Wilshire: Written evidence

1. Letter to the Commissioner from Mr Trevor Davies, 8 January 2010

Further to the advice given by your office earlier today I wish to raise concerns over our MP's expenses claim for January 2009.

2 Complaints not upheld 2010-11

Included with my communication (email 08/01/10)¹ is a pdf copy of claims made by David Wilshire for 2008 / 2009. On January 11th 2009 a purchase was made for a washer/drier from [supplier] for £362.12 plus £28.34 was paid for "DELIVER, CONNECT & WEEE" (deliver the washer/drier, connect it and dispose of the old unit).² On January 27th 2009 it is claimed that the washer drier was installed by an unknown electrical contractor for £40 plus the old unit disposed for £20.³ Mr Wilshire has to date failed to provide an explanation.

Mr Wilshire has also failed to date to confirm whether or not his contractor was licensed to handle/transport and dispose of the old unit. Mr Wilshire and his contractor clearly have a duty of care under Environmental Regulations.

...I may be contacted via post, email, my home tel. [...] or mob[...]

8 January 2010

¹ Not included in the evidence

² WE 2

³ WE 3

2. Mr Wilshire's claim for purchase of a washer/dryer, January 2010



407418
Additional Costs Allowance S.S 11-2-09
06 FEB 2009

ACA2

Member's claim form

Page 1 of 2

About filling in this form

- For details of costs you can claim for, see Green Book section 3.
- If you have any doubt about whether you can claim for a cost, please call 020 7219 1340.

619902

Your details

Name in CAPITAL LETTERS
Constituency

DAVID WILSHIRE INV. A
SPELTHORNE 514602
514500

Office use only
Costs/Cat 2 MWILSDSP Supp/Res ID

Claim details

You can only claim for

- costs you have actually paid
- additional expenses wholly, exclusively and necessarily incurred to enable you to stay overnight away from your only or main home for the purpose of performing your Parliamentary duties.
- all items costing £250 or more and include receipts - except for food, for which receipts are not required.
- receipts or invoices for any hotel cost even if it is less than £250.

58684 08
JE
10/2

Please list

Please attach

Period of claim

from 01/01/09 to 31/01/09

Total cost of hotel stays
attach all receipts

£ : p

Mortgage payments
(interest only) or rent

£ 1258 : 34 p

Food

£ 240 : - p

Utilities

£ 60 : 56 p

Council Tax/Rates

£ : p

Telephone and telecommunications

£ : p

Cleaning

£ : p

Service/maintenance

£ : p

Repairs/insurance/
security

£ 60 : 00 p

Other

£ 390 : 46 p

Other

£ 48 : 93 p

Other

£ : p

See attached
£2058,29

Plumbing w/m
please specify washer/dryer
please specify Radio

BC ✓

Assistant: 14 ALEXANDER
ZANUSSI ZWD122701 1200RPM £362.12
1 x 0000102730 @ £362.12
DELIVER CONNECT & WEEE £28.34
Wednesday 21/01/09 Not Specified
Order Ref No. [REDACTED]
7428 ALPERTON HDC

3. Invoice for installation of washer/dryer, 27 January 2010

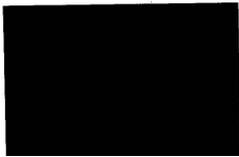

Electrical Contractor
Tel/Fax:  Mob: 
Your Ref.  Our Ref.  Date 27.1.09.

ELECTRICAL Work Carried Out At:-



CONNECT WASHING MACHINE

£60.00 paid
31/01/09



Labour Only

£40.00

paid AP

+ £20.00 H deposit

4. Letter to Mr David Wilshire from the Commissioner, 14 January 2010

I would welcome your response to a complaint I have received about claims you apparently made against your Additional Costs Allowance for the installation of a washing machine.

I attach copies of the complainant's letter of 8 January and of the relevant claim form taken from the parliamentary website.⁴ In essence, the complaint that I have accepted is that in January 2009 you claimed twice for the installation of a new washer/dryer and the disposal of an old one. I have not accepted for inquiry the complainant's suggestion about the Environmental Regulations since this does not in my view raise a matter in relation to the rules of the House.

The Code of Conduct for Members of Parliament provides in paragraph 14 as follows:

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

The Green Book on Parliamentary Salaries, Allowances and Pensions set out the rules for the Additional Costs Allowance. The relevant edition is that of July 2006. In his introduction, Mr Speaker Martin wrote:

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

Section 3.1.1 sets out the scope of the allowance as follows:

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

Paragraph Section 3.2.1 sets out the eligibility requirements as follows:

"You can claim ACA if:

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

The principles of the allowance are set out in paragraphs 3.3.1. to 3.3.3. as follows:

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

"You must avoid any arrangement which may give rise to an accusation that you are, or someone close to you is, obtaining an immediate benefit or subsidy from public funds or that public money is being diverted for the benefit of a political organisation."

⁴ WE 1, 2, 3

Section 3.10.2 provides:

"Subject to paragraphs 3.1.1 to 3.10.1. you can claim reimbursement for the expenses listed provided that they are wholly, exclusively and necessarily incurred in the course of your parliamentary duties."

Section 3.13.1 provides:

"Examples of expenditure allowable under Additional Costs Allowance

...

White goods"

I would welcome your response to this complaint, taking account of the rules which I have summarised above. It would be helpful if you could set out for me the circumstances which apparently led you to pay and to claim twice for the fitting and disposal service of your new washer/dryer. In particular:

1. Whether the washer/dryer referred to in the invoice from the retailer dated 11 January 2009 was the same machine as the one referred to in the invoice from the electrical contractor dated 27 January.
2. Who installed the new machine and disposed of the old one.
3. Why it was necessary apparently to have the machine installed otherwise than by the retailer, when you had paid for this service.
4. Why you consider, if you do, that it was necessary for you to claim for the installation and disposal costs apparently from two different providers.
5. Whether you at any time had any contact with the Department of Resources about these claims. If so, it would be helpful to have the details.

Any other points you may wish to make would, of course, be very welcome.

I attach a note which sets out the procedures I follow. I am letting the complainant know that I have accepted this complaint and am writing to you about it. It would be most helpful to have a response to this letter within the next three weeks. If there is any difficulty about that or you would like a word about any matter, do please get in touch with me at the House.

I would be very grateful for your help on this matter.

14 January 2010

5. Letter to the Commissioner from Mr David Wilshire MP, 6 March 2010

Thank you for your letter dated 14 January regarding my constituent (who has spent the past six months sending me numerous vexatious enquiries and complaints).

If my memory is correct the retailer was actually offering free delivery, installation and removal (subject to conditions). I can only assume their internal accounting procedures required a separate charge to be given in their paperwork. In the event the person delivering the item found that the conditions could not be met. The porter for the block of flats therefore very kindly arranged for a plumber to fit the new machine and remove the old one.

6 March 2010

6. Letter to Mr David Wilshire MP from the Commissioner, 10 March 2010

Thank you for your letter of 6 March responding to my letter to you of 14 January about this complaint in respect of claims you made for the fitting and installation of a washing machine in January 2009.

I appreciate that it is now a little time ago. But it would be very helpful if you could let me know why it was not possible for the retailer's agent to have fitted your washing machine in accordance with their offer. I would be grateful also if you could ask the porter for his recollection of the event and, in particular, confirmation that he arranged for a plumber to do this work because the retailer's installer could not provide the service they had offered. If he would prefer me to write to him direct about this, please let me know. You may wish to show him the enclosed procedural note for evidence from witnesses. As you will see, I would expect to publish witness evidence if necessary, although I would not use the their address.

I must confess I am unclear why you were not able to respond to my initial request before now. In view of the long delay, it would be very helpful if you could let me have a response to this letter, ideally with the porter's statement, within the next two weeks. I do need to report progress on this case to the Committee on Standards and Privileges, so if there is any difficulty at all about this, could you let me know at once? I would be most grateful.

10 March 2010

7. Letter to the Commissioner from Mr David Wilshire, 18 June 2010

Thank you for your various letters. Please accept my apologies for the delay to this acknowledgement.

Regarding the vexatious complaint from a constituent, I have already explained the full facts. These show that there is no substance to the complaint. I don't think there is anything else I can usefully add ...

18 June 2010

8. Letter to Mr David Wilshire from the Commissioner, 22 June 2010

Thank you for your letter of 18 June responding to my letter to you of 10 March asking for some further information to help me in the resolution of this complaint about the claims made against your Additional Costs Allowance for the installation of your washer/dryer in January 2009.

I am disappointed both that you have apparently declined to help me further in this matter and that you have not responded sooner. You were, of course, a Member at the time I wrote to you and you will be aware of paragraph 18 of the Code of Conduct, which requires Members to co-operate at all stages with any investigation into their conduct.

To avoid further delay, I am consulting now the Department of Resources. But if you could give me the name and address of the porter to whom you refer in your letter of 6 March, and if you could tell me what conditions could not be met to allow the installation of the machine and the removal of the old one as part of the purchase price, I would be most grateful.

In order not to delay this matter further, could you let me have the information I requested on either or both of these points, or let me know why it is not possible to do so, by 6 July? I would be very grateful for your help so that I can bring this matter to a conclusion.

22 June 2010

9. Letter to the Director of Strategic Projects, Department of Resources from the Commissioner, 22 June 2010

I would welcome your help on a complaint I received against Mr David Wilshire when he was the Member for Spelthorne in respect of claims he made in 2009 against his Additional Costs Allowance for the costs of the installation of a washer/dryer.

I attach [relevant material].

In essence, the complaint which I accepted from the complainant is that in January 2009 Mr Wilshire claimed twice for the installation of a washer/dryer and the disposal of an old one.

I would be very grateful for your comments and advice on this matter. As you will see, Mr Wilshire has declined to help me on why the person delivering the machine found that the conditions for installation and removal could not be met. I am writing to Mr Wilshire again to ask for his co-operation on this matter and will let you have any response from him when I receive it. In the meantime, I would be grateful to know both whether the Department considers, on the face of it, that Mr Wilshire did claim twice for the same service, and whether the Department holds any information which may be relevant to this matter. I would also be grateful if you could include, with your response, copies of the unredacted claim form and supporting material. Any other comments you may wish to make would, of course, be very welcome.

If I could have a response to this letter within the next two weeks, I would be most grateful. Thank you for your help.

22 June 2010

10. Letter to the Commissioner from the Director of Strategic Projects, Department of Resources, 24 June 2010

Thank you for your letter of 22nd June.

I enclose a copy of the unredacted claim form.⁵

The Department has no additional information about this claim.

While Mr Wilshire may appear to have claimed for the same service twice, if there were circumstances which prevented the service being performed on the first occasion, then it does not seem unreasonable for a further claim to be made for the service to be performed, especially if there were reasons connected to Mr Wilshire's parliamentary duties which prevented the service being performed on the first occasion (for example, that the delivery company in this case delivered the equipment at a time when Mr Wilshire was prevented by parliamentary duties from being present). However, Mr Wilshire could have been expected to seek reimbursement of the cost of the service which was not performed and repay any amount recovered to the House.

It is also possible that Mr Wilshire would have known that the conditions for the delivery of the service could not be met at the time of purchase (for example, that his accommodation was situated on a floor to which the company would not deliver). In these circumstances, he could have been expected to seek not to pay for a service which he knew could not be performed. However, I note that Mr Wilshire believes that the delivery cost was included in the purchase cost and that the bill simply records the two costs separately for accounting purposes.

At the time, the Department would not have questioned a claim for a washer/dryer up to £500. At £390, Mr Wilshire's purchase represented value for money.

⁵ Unredacted claim and supporting documents are not included in the evidence

Please let me know if I can help further.

24 June 2010

11. Letter to Mr David Wilshire from the Commissioner, 25 June 2010

When I wrote to you on 22 June, I said that I was now consulting the Department of Resources for their help on this complaint about the claims you made against your Additional Costs Allowance for the installation of your washer/dryer in February 2009.

I attach a copy of my letter to the Department of 22 June, and their response of 24 June with a copy of the relevant ACA2 form and invoices from your electrical contractor and from the retailer. I note that the invoice gives a delivery date of 21st October 2009 at an unspecified time.

As you will see, the Department suggests several reasons which might have prevented the retailer's agent being able to fit the new machine and remove the old one. He notes, however, that you might have been expected to seek reimbursement of the cost of the service which was not performed and repay any amount recovered to the House. Alternatively, had you known that the conditions for the delivery of service could not be met at the time of purchase, then you would have been expected not to have paid for a service that could not be performed, although he notes your suggestion that there was a single purchase price and the bill recorded the two costs "*for accounting purposes.*" Finally, he says that your purchase "*represented value for money.*"

I would be grateful for your comments on the Department's letter. In particular, I do still need to have the name of the porter who I could consult and I need to know from you what conditions could not be met to allow the installation on the date given on the invoice of the new machine and the removal of the old one by the retailer's agent. The Department has helpfully suggested some possible reasons, but only you are likely to know what the actual reasons were.

I would, therefore, be most grateful if you could let me have a response to my letter of 22 June, taking into account the Department's advice as you so wish, as soon as possible and, in any event, by 6 July. I would be most grateful for your help so that I can resolve this matter without further delay.

25 June 2010

12. Letter to the Commissioner from Mr David Wilshire, 1 August 2010

I acknowledge receipt of your various further letters about the vexatious complaint from Mr Davies.

You ask for my comments on the letter from the Dept of Resources. As the facts I have set out confirm there is no reason for me to repay anything, it is not really relevant. It does, however, highlight the amount that would need to be repaid if I were telling lies — namely all or part of £28.34! As your enquiries to date will have cost taxpayers a four figure sum, value for money provides a further reason for closing the file.

Should you consider continuing there is one addition piece of information I have come across. It confirms I am not a liar I have found three internet printouts of washer/driers I considered before opting for the one I bought. All three confirm [the electrical store's] standard terms — free delivery.

Should you decide to continue despite the above, I have already told you all I know. I have explained the facts and they confirm this vexatious complaint is entirely without foundation. If you continue to consider me a liar the best I can do is suggest you contact the suppliers of the machine about the problems they encountered when they delivered the machine (as I wasn't there at the time) and the caretaker's employers (as I imagine he would need their permission to discuss the private affairs of residents with a third party).

...

1 August 2010

13. Letter to Mr David Wilshire from the Commissioner, 9 August 2010

Thank you for your letter of 1 August responding to mine of 20 July asking for your further help with this complaint.

I have considered carefully the points which you have made in your letter, as well as your previous evidence and the advice of the House authorities. I have concluded that the evidence is not such as to suggest that you were in breach of the rules of the House in your claim for the installation of your washer/drier in January 2009 and for the removal of your old machine. I am minded, therefore, not to uphold this complaint. I enclose a draft of the letter which I would propose to send to the complainant. While the content is, of course, a matter for me, I would be grateful to know whether you have any comments to make on its factual accuracy.

I have not included a reference to your belief that the delivery and installation was in fact included in the price, since, on checking, I have found that free delivery is available from the retailer only for internet sales (which yours was not) and that the retailer anyway charges for installation, including removal of the old appliance.

I should point out that, if the House of Commons agrees to recommendations which I made to the previous Committee on Standards and Privileges, and which that Committee supported, my letter to the complainant and the evidence on which it is based would, in due course, be made available on my webpages.

I should also make clear that I have at no stage suggested that you were not telling the truth. But I have a responsibility to establish the basis on which a Member—or any other witness—have made their statements to me, and I have sought your co-operation in that task.

If you could let me have any factual comments on my draft letter by 31 August, I would then be able to write to the complainant and close the complaint. In accordance with your request—which I well understand—I am sending this letter only in hard copy. I would be grateful for your help in concluding this matter.

9 August 2010

14. Letter to the Commissioner from Mr David Wilshire, 30 August 2010

I acknowledge receipt of your further letter dated 9 August regarding the vexatious complaint from a former constituent.

In your letter you assert that [the electrical store] only offer free delivery for internet sales. This is incorrect as the enclosed photographs⁶ (taken a few days ago) confirm.

In the circumstances the premise on which your draft letter is based is flawed. I therefore imagine that you will now wish to prepare a new draft letter for me to comment on. I am therefore refraining from comment on your first draft and look forward to receiving a new draft.

30 August 2010

⁶ Not included in the evidence

15. Letter to Mr David Wilshire from the Commissioner, 2 September 2010

Thank you for your letter of 30 August responding to mine of 9 August with the draft letter which I proposed to send the complainant not upholding his complaint.

Your letter has included a recent photograph of the window of [an electrical] store. The store window appears to show that the retailer will currently deliver for free and take away and recycle the purchaser's old appliance for free. But a smaller sticker on the window says: "*we can install your washing machine*" and the price given for this service is £14.95. An additional charge is therefore made for installation. Offers, of course, change over time and it is not clear what offer was being made by the retailer at the time you purchased your washer/dryer. As you will know from my letter of 9 August, I do not consider it would be necessary or proportionate for me to extend my inquiry into seeking formal evidence from the retailer on this point, or from your apartment's porter. I can see nothing in the draft of the resolution letter which I sent you on 9 August which is inaccurate. I have made no reference to whether or not the delivery, installation and removal of the old appliance was "*free*" since I consider the evidence uncertain on this point and it is not necessary for me to resolve this matter in order to conclude this complaint.

I propose, therefore, to write to the complainant in the next two weeks to inform him that I am not upholding this complaint. If you had any comment on the factual accuracy of the draft I prepared and which I sent you on 9 August, I would be very grateful if you could let me have them by 15 September. Failing that, I will write to the complainant on the lines I propose. Thank you for your help with this.

2 September 2010

16. Letter to the Commissioner from Mr David Wilshire, 12 September 2010

I refer to your recent letters about two matters.

You are now aware of some of the advice I have received and will therefore understand why I am not able to deal further with these issues at the moment.⁷

I much appreciate your understanding.

12 September 2010

⁷ The Commissioner's resolution letter was sent after the personal issues mentioned in this letter had been resolved.