



House of Commons  
Committee on  
Standards and Privileges

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**Conduct of  
Mr Iain Duncan Smith**

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**Fourth Report of Session 2003–04**

***Volume I***

*Report and Appendices, together with  
formal minutes and oral evidence*

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## Committee on Standards and Privileges

The Committee on Standards and Privileges is appointed by the House of Commons to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

### Current membership

Rt Hon Sir George Young Bt MP (*Conservative, North West Hampshire*) (Chairman)  
Ross Cranston QC MP (*Labour, Dudley North*)  
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The constitution and powers of the Committee are set out in Standing Order No. 149. In particular, the Committee has power to order the attendance of any Member of Parliament before the committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before the Committee. The Committee has power to refuse to allow its public proceedings to be broadcast. The Law Officers, if they are Members of Parliament, may attend and take part in the Committee's proceedings, but may not vote.

### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: [www.parliament.uk/parliamentary\\_committees/standards\\_and\\_privileges.cfm](http://www.parliament.uk/parliamentary_committees/standards_and_privileges.cfm). A list of Reports of the Committee in the present Parliament can be found in this volume.

### Committee staff

The current staff of the Committee are Dr Christopher Ward (Clerk), Ms Charlotte Littleboy (Second Clerk) and Lisa Hasell (Secretary).

### Contacts

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# Conduct of Mr Iain Duncan Smith

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## Introduction

1. We have considered a memorandum by the Parliamentary Commissioner for Standards relating to the complaint against the Rt Hon Iain Duncan Smith, Member for Chingford, by Mr Michael Crick. The Commissioner's memorandum is appended to this Report. The Commissioner attached to his memorandum a substantial amount of oral evidence and written material. This will be published in separate volumes.<sup>1</sup> It is clear from this that the inquiry generated a very large amount of work for the Commissioner and his staff, and we would like to thank them all for their efforts.

2. Having been shown, in confidence, the full text of the Commissioner's memorandum, Mr Duncan Smith made a written submission to us. This is attached to our report as Appendix 2. The oral evidence we have taken from Mr Andrew Walker, Director of Finance and Administration, is also published in this volume.

3. The introduction to the Commissioner's memorandum sets out the circumstances of the complaint. When the Commissioner wrote to Mr Duncan Smith on 20 October 2003, he identified six related strands of Mr Crick's complaint as arising from the material submitted by him. We set these out at paragraph 12 below.

4. Besides summarising the evidence on which he has judged the complaint against Mr Duncan Smith and forming a view on which, if any, of the strands should be upheld, the Commissioner has drawn a number of general matters to our attention. We deal with these in the section headed 'General Conclusions'.

## Procedural issues

5. Before we turn to the substance of the complaint, we will address the procedural issues raised on behalf of Mr Duncan Smith, to which the Commissioner has drawn our attention.<sup>2</sup> It is contended by the barrister acting on behalf of Mr Duncan Smith that, taken separately or together, these alleged deficiencies would justify dismissing the complaints against Mr Duncan Smith on procedural grounds, regardless of their substantive merits.

6. In considering this issue, it might be helpful if we summarised the nature of the process which the House has established for investigating complaints against Members. A key element is that it is based on self-regulation, with Members being judged by their colleagues in the light of the Commissioner's report. It is not an adversarial process, with the complaint taking the nature of a charge, the Member cast in the role of the defendant and the Commissioner as, in effect, a judge who comes to a conclusion on the basis of the assertions of the respective parties and his own inquiries.

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1 Volume II: Written Submissions received by the Parliamentary Commissioner for Standards; and Volume III: Oral Evidence taken by the Parliamentary Commissioner for Standards.

2 Appendix 1, para 239 and Annex 4.

7. The House chose instead an investigatory process, with the complaint viewed as an assertion of conduct that may be in breach of the Code, backed by evidence,<sup>3</sup> and the Commissioner cast in the role of investigator of the facts of the complaint. The Code requires the Member to assist the Commissioner with a full and truthful account of matters relevant to the complaint, to help the Commissioner get at the facts. He will also seek to agree with the Member concerned the facts on which he should form his conclusions. The Commissioner, having established the facts, then forms a view on whether these substantiate the complaint, or have otherwise revealed conduct in apparent breach of the Code, having first decided what he considers to be an appropriate standard of proof.

8. The Commissioner then reports to us details of the complaint, the facts established by his inquiry, his opinion on the merits of the complaint, and on any other apparent breaches of the Code his inquiry has revealed, and the standard of proof he has applied in coming to those opinions. On the basis of this report, any further material the Member submits to us and any evidence we may take, we reach a conclusion on whether a breach of the Code of Conduct has been established and either expressly or by implication reach a conclusion on whether the complaint has been substantiated. In a case where we conclude that the Code has been breached, it is open to us to recommend an appropriate penalty to the House. Only the House can impose such a penalty.

9. Within this procedure, no complaint has been dismissed on procedural grounds and it would be difficult to envisage circumstances in which this could arise. One of the important objectives of the standards system is to maintain public confidence in the integrity of Members of Parliament. A system which allowed Members to escape censure on procedural grounds, whatever the merits of the evidence, would not in our view be conducive in principle to this. Neither do we believe that, even if complaints could be dismissed on procedural grounds alone, such a decision would necessarily be in the interests of the Member concerned, in view of the damage that might be suffered to their personal reputation, both inside and outside the House, if there was a widespread feeling that they had ‘got off on a technicality’.

10. We see no evidence that the Commissioner’s investigation into the complaint against Mr Duncan Smith has been unfair. Indeed, the Commissioner seems to have gone to considerable lengths to ensure that he was fair to all concerned, including Mr Duncan Smith. There is no evidence in the Commissioner’s memorandum to suggest that he has been affected in any way by any publicity surrounding the inquiry, one of Mr Duncan Smith’s arguments for striking out the complaint. We therefore endorse the Commissioner’s rejection of the assertions that the process of his enquiry has operated unfairly to Mr Duncan Smith.<sup>4</sup> More generally, we are concerned that, while Members are of course free to access professional advice, this can unnecessarily delay the process.

11. We are also satisfied that we can judge the matter fairly on the basis of the memorandum and supporting material submitted by the Commissioner, Mr Duncan Smith’s further submission, and the evidence we have taken.

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3 Unsubstantiated allegations are not normally accepted (Guide to the Rules, 2002, HC 841, para 84).

4 Appendix 1, para 239.

## The complaint

12. The Commissioner identified the six strands of Mr Crick’s complaint in the following terms:<sup>5</sup>

- a) that during the period 14 September 2001 to 31 December 2002, Mrs Duncan Smith had been employed by her husband under a contract with a job title of Diary Secretary but had not obviously performed any duties in this role or in any other staffing capacity;
- b) that to the extent that Mrs Duncan Smith may have undertaken any tasks, they were minimal in character and such as might have been expected (for example, in terms of reconciling the domestic diary with Mr Duncan Smith’s official commitments) to be undertaken (unpaid) by the spouse of any other prominent Member of the House;
- c) that any work undertaken did not amount to 25 hours a week and so did not justify the salary she was paid;
- d) that it appeared that at least some of any work which may have been undertaken (as described in Mr Duncan Smith’s published response to Mr Crick’s initial allegations) was party political in nature (relating to Mr Duncan Smith’s position as Leader) and so did not qualify for payment from Mr Duncan Smith’s parliamentary allowance;
- e) that it appeared from Mrs Christine Watson’s memorandum of 24 October 2002 to Dr Vanessa Gearson that both Miss Annabelle Eyre and Mrs Watson were paid for periods out of Mr Duncan Smith’s Parliamentary allowance when they should not have been because they were undertaking party political rather than parliamentary duties;
- f) that the same memorandum also appeared to suggest that there were financial matters relating to Mr Duncan Smith’s “Constituency and Members’ Allowances and Reimbursements” which may not have been in order.

13. Mr Duncan Smith has accepted the Commissioner’s conclusions in respect of the first three and the last strands, in respect of which the Commissioner did not uphold Mr Crick’s complaint. He does not, however, accept the Commissioner’s conclusions on the fourth and fifth strands, the two strands in respect of which the Commissioner upholds the complaint.

14. The Commissioner did not uphold Mr Crick’s complaint that Mrs Duncan Smith was improperly employed by her husband.<sup>6</sup> We agree with the conclusions of the Commissioner and therefore dismiss the first three strands of the complaint as set out in paragraph 12 above. We also agree with the Commissioner’s comment that “... it is not a corollary of this statement [*that no one had suggested that those who had given positive evidence in favour of Mrs Duncan Smith had lied nor had the Commissioner come across*

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<sup>5</sup> Appendix 1, para 9.

<sup>6</sup> Appendix 1, paras 206–216.

*any evidence indicative of such falsehood*] that those who said they saw no evidence of Mrs Duncan Smith doing any work were therefore themselves lying”.<sup>7</sup>

15. The Commissioner found no evidence that Mr Duncan Smith made improper claims under the Additional Costs Allowance in respect of his home in Chingford and therefore did not uphold the sixth strand of the complaint.<sup>8</sup> We agree with the Commissioner’s conclusions and therefore dismiss the sixth strand of the complaint as set out in paragraph 12 above.

16. The two remaining strands have at their heart the question of whether it was appropriate for Mr Duncan Smith to pay Mrs Duncan Smith, Mrs Christine Watson and Miss Annabelle Eyre from his parliamentary staffing allowance for certain periods after he became Leader of the Opposition, given the nature of the duties they performed. On the basis of his inquiries, and the advice he received, the Commissioner has concluded that a significant proportion of Mrs Duncan Smith’s work “would more appropriately have been funded out of Short money than out of his parliamentary staffing allowance”.<sup>9</sup> Likewise, he concluded that “the appropriate principal source of funding of both Miss Eyre and Mrs Watson in their role as Private Secretary [*to the Leader of the Opposition*] was Short money”,<sup>10</sup> in respect of which the appropriate Resolution provides for a substantial dedicated provision, separate from the two other elements, towards “the costs necessarily incurred in the running of the Leader of the Opposition’s Office”.<sup>11</sup>

17. As the Commissioner points out, the funding arrangements adopted by Mr Duncan Smith for these posts rested on his assumption that the staffing allowance and Short money were in effect interchangeable.<sup>12</sup> Counsel has argued on behalf of Mr Duncan Smith that the absence of a Resolution defining the key terms means that there was no guidance for Members on the scope of the two allowances.

18. The Commissioner upholds the fourth and fifth strands of Mr Crick’s complaint to the extent that “... on the evidence available it seems likely that a significant proportion of the work undertaken by Mrs Duncan Smith for her husband (i.e. that relating to Mr Duncan Smith’s role as Leader of the Opposition) would more appropriately have been funded out of Short money than out of his parliamentary staffing allowance”<sup>13</sup> and that “Both Miss Eyre and Mrs Watson (but particularly Miss Eyre) were paid for periods out of the parliamentary staffing allowance when the bulk of their funding at least should have come from Short money”.<sup>14</sup> We agree with the Commissioner that the availability of specific provision for funding the office of the Leader of the Opposition means, as a matter of fact, that it would have been more appropriate for Mrs Duncan Smith to have been paid in part, and for Mrs Watson and Miss Eyre more fully in their capacity as Private Secretary to the

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7 Appendix 1, para 208.

8 Appendix 1, para 235.

9 Appendix 1, para 223. “Short money” is a term colloquially used to refer collectively to the various categories of financial assistance provided to Opposition parties under the authority of the Resolution of 26 May 1999.

10 Appendix 1, para 231.

11 Resolution of 26 May 1999, paragraph 3(1).

12 Appendix 1, para 225.

13 Appendix 1, para 223.

14 Appendix 1, para 234.

Leader of the Opposition, out of Short money rather than Mr Duncan Smith's parliamentary staffing allowance.

19. While such arrangements would in our view have been more appropriate, this does not necessarily mean that the arrangements Mr Duncan Smith and his team adopted constituted an *improper* use of the staffing allowance, the test that would need to be met for us to find that he had breached the provision of the Code relating to use of payments or allowances. In this context, we note that when asked if use of a less appropriate funding source was “actually wrong”,<sup>15</sup> Mr Walker said “Wrong is a strong word. I do not think we have tested that ...”.<sup>16</sup>

20. We share Mr Walker's doubts, not least because there are clearly shortcomings in the extent of the guidance currently available on the respective scope of Short money and the staffing allowance, on which we comment further below. Mr Duncan Smith's financial arrangements may not have been ideal in the light of the current official interpretation of the scope of the various allowances available to him, but we would not be prepared to find a breach of the Code in circumstances where such ambiguity exists.

## General conclusions

21. The Commissioner raised four broader matters as emerging from this inquiry.

### *The employment by Members of close family relatives*

22. Central to the complaint made by Mr Crick were allegations in effect as to whether Mrs Duncan Smith was actually earning the salary she was being paid from public funds. Where an employee is a family member, or the employment is otherwise other than at arms length, there is always scope for perception of abuse, whatever the reality of the situation.

23. In a previous case,<sup>17</sup> the Commissioner laid down some guidelines in relation to the use of the staffing allowance, which, if followed, would in his view provide some protection against allegations of abuse when employing any member of staff, including family members and others where the employment may not be, or may not be seen to be, entirely at arm's length. It is, of course, Members' responsibility to ensure that, if requested, they can properly justify any use of voted money, in the same way as any other recipient. It is particularly important that they can do so in areas such as this, where the risk of allegations of abuse are higher. The Advisory Panel on Members' Allowances and the Department of Finance and Administration may care to consider whether any further guidance to Members on this matter would be appropriate.

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15 Ev Q 9.

16 Ev Q 9. See also Q 57.

17 Committee on Standards and Privileges, Fifth Report of Session 2002–03, HC 947.

### ***Use of the Staffing Allowance and Short money***

24. We commented earlier on the lack of guidance available on the respective scope of Short money and the staffing allowance. In essence, this is due to a lack of definition. In its response to the report of the Select Committee on Public Administration,<sup>18</sup> the Government said:<sup>19</sup>

“The Government recognises the Committee’s concerns about the need for greater clarity over the terms and conditions governing the allocation of Short money, not least because of the significant sums of public money involved. Following the Committee’s observations the Government will seek to work with the other political parties to achieve greater clarity and transparency in the use of Short money”.

In the light of this case, we consider that all parties should give greater priority to this, given that little demonstrable progress appears to have been made since on this issue.

25. Our inquiries suggest that the question of the overall support available to Members individually and to Opposition parties in the House has never been looked at in the round. Some of the issues raised by this case demonstrate the need for this to be done, and the scope of the relevant allowances should be clarified as necessary so as to ensure that the arrangements as a whole provide properly focussed support to Members across the whole range of parliamentary activities. This inquiry has demonstrated, and Mr Walker has accepted,<sup>20</sup> the need to bring greater clarity into this area. This is a matter which might appropriately be taken up by the new Members’ Estimate Committee, and we invite it to do so.

### ***Additional Costs Allowance***

26. The Commissioner has raised the question of whether steps should be taken to re-examine the rules for the Additional Costs Allowance. This is a matter for the Advisory Panel on Members’ Allowances.

### ***Disclosure of evidence to the media***

27. As the Commissioner points out in his memorandum, a substantial amount of material related to this complaint was put into the public domain, and was the subject of extensive media discussion, before any complaint was made. There was also a substantial amount of ongoing discussion of the issues during the inquiry.

28. We do not believe that this has prejudiced either our own or the Commissioner’s ability to conduct a fair and thorough inquiry. This is, as the Commissioner says, a sensitive and complex area, and one on which we may reflect in the context of our review of the Code of Conduct. However, we reiterate that any disclosure of evidence given to the Commissioner after the complaint has been accepted, or to us, may constitute a contempt of the House.

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18 Select Committee on Public Administration, Fourth Report of Session 2000–01, HC 293.

19 Select Committee on Public Administration, Third Report of Session 2001–02, HC 463, Appendix, para (d).

20 Ev Qq 43 and 49.

## Other matters

29. There are two other matters on which we would wish to comment. The first is that, as the Commissioner points out, this inquiry has been a long and stressful one for a significant number of witnesses, not least Mrs Duncan Smith. We hope that the media in particular will reflect on the fact that involvement in public life does not mean that a person's right to reasonable privacy, and that of their family, is abrogated.

30. The second is aspects of the conduct of Mr Crick. We have grave doubts about some of the techniques used to gather the information submitted in support of his complaint, but these are matters for the BBC.

# Appendix 1: Memorandum from the Parliamentary Commissioner for Standards

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# Complaint against Mr Iain Duncan Smith

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## Introduction

1. On Tuesday 30 September 2003, the Rt Hon Iain Duncan Smith (the Member for Chingford and Woodford Green) was alerted by the BBC *Newsnight* programme to a story a journalist then working for the programme, Mr Michael Crick, had been investigating for some time. The story concerned allegations that Mr Duncan Smith's wife, Elizabeth (Betsy) had continued to be employed by her husband after his election as Leader of the Conservative Party on 13 September 2001 and had been paid out of Mr Duncan Smith's parliamentary allowances, but had not in fact done any work, or at least done work of a kind for which Members of Parliament are entitled to claim from their allowances.

2. Following exchanges between Mr Duncan Smith's legal representatives and the BBC, *Newsnight* did not run this story ahead of the Conservative Party Conference which took place in Blackpool during the following week, nor has it been run by the programme since. However, news of the allegations began to appear in the media over the weekend preceding the Conference, and they became a running story throughout the Conference. Coverage of these matters culminated in a series of articles in the *Sunday Telegraph* of 12 October which included one by Mr Crick. Similar stories appeared in other papers.

3. On the morning of Monday, 13 October Mr Crick delivered by hand to my office a letter with an accompanying file of material which represented the result to date of his investigation.<sup>1</sup> In his letter Mr Crick revealed that his investigation had begun the preceding May:

*... and concerns the fact that for the period from September 2001 to December 31 2002, Mr Duncan Smith paid his wife Betsy from his Parliamentary Staffing Allowance. We have uncovered considerable evidence that she did not, in fact, work for him during this period, which I understand is contrary to House of Commons rules.*

Mr Crick went on to say that:

*... I am writing to you purely in a personal capacity and not on behalf of Newsnight or the BBC. I believe that this matter should be thoroughly investigated. Indeed referring it to you is a course of action which has been suggested to the BBC by Mr Duncan Smith's lawyers.*

4. The first three items in the file supplied by Mr Crick consisted of transcripts or notes of conversations with anonymous sources. For reasons of source protection Mr Crick was unwilling to disclose the identity of those sources and, whilst I have shared copies of this material with Mr Duncan Smith, I have therefore discounted it from my inquiry. The remaining material included notes or transcripts of interviews with Mr Duncan Smith's agent and a number of Conservative councillors in Chingford, and of telephone conversations with 19 organisations in Chingford contacted by the BBC which had had

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<sup>1</sup> See Volume II, PCS Written Submission 1 (without enclosures).

dealings with Mr Duncan Smith during 2002. It was claimed that all but one of these notes of interviews and conversations supported the view that Mrs Duncan Smith had not had any real staff role in relation to her husband since he had become Leader. The material also included an e-mail dated 30 January 2003 from Dr Vanessa Gearson to Mr Mark Macgregor and others. I examine the substance of this material later.

5. On the afternoon of 13 October, I wrote to Mr Duncan Smith enclosing all the material (except, at that stage for that from anonymous sources) which I had to that point received from Mr Crick and invited his response to the allegations made.<sup>2</sup> In the early evening of the same day, I met Mr Duncan Smith, at his request. He was accompanied by his wife, Mr Tim Montgomerie (his Political Secretary and, effectively, the then head of his office as Leader) and Ms Isobel Griffiths of Reynolds Porter Chamberlain, his legal representatives. I later made a file note of that meeting, which Mr Duncan Smith has accepted as a fair record.<sup>3</sup> Mr Duncan Smith strongly denied the allegations made against him relating to the employment of his wife and gave me an extensive dossier of material rebutting the allegations, including written statements from a number of his staff, councillors in his constituency and others. Again, I will examine the substance of this material later. A seven page summary of this evidence was released to the media by Mr Duncan Smith that evening.

6. On the morning of Tuesday 14 October I received from Mr Crick a copy of a memorandum sent on 24 October 2002 by Mrs Christine Watson (then Private Secretary to Mr Duncan Smith) to Dr Vanessa Gearson (then Administrative Head of the Leader's Office).<sup>4</sup> In the memorandum, Mrs Watson described the responsibilities she had undertaken to date in Mr Duncan Smith's office and set out a number of concerns she had in relation to the running of the office. These included concerns about "Financial matters, both Constituency and Members' Allowances and Reimbursements" and about the funding of two people (herself and Miss Annabelle Eyre) from what she described as the "Constituency Allowance" rather than other sources, during periods when they were primarily undertaking work which was not constituency-related. Later on the same day, I received a note from Mr Crick commenting extensively on Mrs Watson's memorandum, in which Mr Crick identified this reference to the Constituency Allowance as possibly indicating that there had been further breaches of the rules on the use of Parliamentary allowances. On the following day I received another note from Mr Crick commenting on the summary of the evidence rebutting the allegations against him which Mr Duncan Smith had issued. Copies of both these notes by Mr Crick have been shared with Mr Duncan Smith. Extracts from Mrs Watson's memorandum appeared in a number of newspapers on 15 October.

7. Having weighed the material I had received up to that point from both Mr Crick and Mr Duncan Smith, I wrote to Mr Duncan Smith on the afternoon of 14 October saying that I had decided that I needed to make some further inquiries in order to be able to evaluate properly the complaint I had received. I saw Mr Duncan Smith on the same afternoon to

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2 See Volume II, PCS Written Submission 2 (without enclosures).

3 See Volume II, PCS Written Submission 3.

4 See Volume II, PCS Written Submission 49.

inform him of my decision and personally handed him my letter. I subsequently issued a statement in the following terms:

*I have studied carefully both the complaint I have received from Mr Michael Crick and Mr Iain Duncan Smith's response to that complaint. The nature of the information given to me—some of which is from anonymous sources—makes it necessary that I should undertake further inquiries before reaching a conclusion on the complaint.*

*It is in the public interest that these inquiries should be conducted thoroughly, fairly and as expeditiously as possible. With that in mind, I have asked Mr Crick and anyone else who believes that they have relevant information to let me have all of it immediately, and in any event before the end of this week.*

*In view of the public interest in Mr Crick's complaint, I expect to report the result of my inquiries to the Committee on Standards and Privileges. The fact that I am making further inquiries and expect to report to the Committee, does not imply that I regard the allegations against Mr Duncan Smith as substantiated, simply that I need additional information in order to be able to evaluate them properly.*

## The complaint

8. As will be apparent from the preceding account, I did not receive from Mr Crick immediately all of the information he wished to submit in support of his complaint. I therefore thought it important to interview Mr Crick formally as soon as I could in order to clarify and confirm both the scope of his complaint and the evidence he had to support it. I saw Mr Crick on the afternoon of Thursday 16 October for this purpose.<sup>5</sup> As a result, I was able to write to Mr Duncan Smith the following Monday 20 October giving as clear an indication as I could of the various matters Mr Crick had raised with me.

9. In my letter I identified the different but related strands of Mr Crick's complaint as comprising:

- a) that during the period 14 September 2001 to 31 December 2002, Mrs Duncan Smith had been employed by her husband under a contract with a job title of Diary Secretary but had not obviously performed any duties in this role or in any other staffing capacity;
- b) that to the extent that Mrs Duncan Smith may have undertaken any tasks, they were minimal in character and such as might have been expected (for example, in terms of reconciling the domestic diary with Mr Duncan Smith's official commitments) to be undertaken (unpaid) by the spouse of any other prominent Member of the House;
- c) that any work undertaken did not amount to 25 hours a week and so did not justify the salary she was paid;

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<sup>5</sup> See Volume III, PCS Oral Evidence 1.

- d) that it appeared that at least some of any work which may have been undertaken (as described in Mr Duncan Smith’s published response to Mr Crick’s initial allegations) was party political in nature (relating to Mr Duncan Smith’s position as Leader) and so did not qualify for payment from Mr Duncan Smith’s parliamentary allowance;
- e) that it appeared from Mrs Christine Watson’s memorandum of 24 October 2002 to Dr Vanessa Gearson that both Miss Annabelle Eyre and Mrs Watson were paid for periods out of Mr Duncan Smith’s Parliamentary allowance when they should not have been because they were undertaking party political rather than parliamentary duties;
- f) that the same memorandum also appeared to suggest that there were financial matters relating to Mr Duncan Smith’s “Constituency and Members’ Allowances and Reimbursements” which may not have been in order.

I added that Mr Crick had confirmed during my discussion with him that the material he had sent me was all that he was able to submit, at the time we met, in support of his complaint.<sup>6</sup>

10. It is relevant at this point to note two matters which were not included within the scope of Mr Crick’s complaint and which I do not therefore embrace in my report. First, during my interview with him on 16 October, Mr Crick said that although he expected me to hear allegations, in the course of my inquiries, that Mr Duncan Smith had improperly brought pressure to bear on certain people relating to the matters I was investigating, he did “not feel any need to extend [his] complaint to that area too”. Secondly, Mr Crick made clear that, although he suspected that Mrs Duncan Smith’s work as Diary Secretary prior to her husband’s election as Party Leader in September 2001 “was not considerable either”, the focus of his complaint was the period after September 2001 and he did not intend the prior period to form part of his complaint.

11. I should add that Mr Duncan Smith and his legal advisers have made submissions to the effect that I improperly allowed Mr Crick to expand on his complaint after his initial letter to me of 13 October. I examine this and other criticisms of procedural aspects of the inquiry made by Mr Duncan Smith and his advisers later in this report.

### **Relevant provisions of the Code of Conduct and of the rules on allowances**

12. Although there are a number of different strands to Mr Crick’s complaint, they all focus on allegations about the allegedly improper use by Mr Duncan Smith of his Parliamentary allowances. The Code of Conduct for Members approved by the House includes a provision that:

*No improper use shall be made of any payment or allowance made to Members for public purposes and the administrative rules which apply to such payments and allowances must be strictly observed.*

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6 See Volume II, PCS Written Submission 4.

13. The administrative rules about Members' Parliamentary allowances are set out in what is known as the Green Book, revised and updated editions of which are issued to all Members at regular intervals. The edition of April 2002 described the scope of the staffing allowance available to all Members in these terms:

*The staffing allowance is available to meet the costs wholly, exclusively and necessarily incurred on the provision of staff to help Members perform their Parliamentary duties.*  
(paragraph 5.1)

It went on in a later paragraph (5.10.1) to give examples of expenditure which would or would not be allowable: the latter included "staff who are employed on party political duties or non-Parliamentary duties". It also made clear that while the allowance could be supplemented, it was ring-fenced: "you may not switch funds out of the staffing allowance for use elsewhere". Similar statements are included in the latest edition of the Green Book, published in June 2003.

14. I drew Mr Duncan Smith's attention to the key relevant provisions of the Code of Conduct and the Green Book when I first wrote to him on 13 October about Mr Crick's complaint.<sup>7</sup>

15. The funding arrangements for the office of the Leader of the Opposition are more complicated than those for the office of a back-bench Member. As Leader, Mr Duncan Smith had 3 different public roles:

- Member of Parliament for Chingford and Woodford Green
- Leader of the Opposition
- Leader of the Conservative Party.

The sources of funding for his office reflected these 3 different aspects of his life. Broadly speaking,

- his costs in his role as a Member were intended to be met from his parliamentary allowances;
- his costs as Leader of the Opposition from the grant annually awarded to the Opposition Parties, commonly known as Short money;
- his costs as Party Leader by the Party.

16. A brief note on Short money is at Annex 1. I examine later in this report how these different funding streams were used in respect of the staffing of Mr Duncan Smith's office.

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7 See Volume II, PCS Written Submission 2.

## Procedural matters

17. Before describing the substance of my inquiry, it may be appropriate to address some procedural points. I have sought throughout to follow the procedure approved by the Committee on Standards and Privileges and the House as published within the last year in various guidance notes available to both Members and the public. Mr Duncan Smith has been assisted throughout by Mr David Hooper and Ms Isobel Griffiths of Reynolds Porter Chamberlain and by Mr Richard Gordon QC.

18. Early on in my inquiry I received a request from Mr Hooper on behalf of his client to separate out those aspects of the complaint relating to Mrs Duncan Smith (strands 1–3 in paragraph 9 above) from the other aspects of the complaint. I resisted this suggestion, *inter alia* on the grounds that all the strands form part of Mr Crick’s complaint, that all concern the same provision of the Code and that all rest on elements of the same body of evidence. Nor did I think it would be in the public interest or that of Mr Duncan Smith to produce two distinct reports on these matters.

19. It was also submitted that I should dismiss the complaint by Mr Crick as vexatious, on the grounds that the manner in which all the elements of his complaint had only emerged over a period of some days and in which much of the evidence in their support had been published in the media, again over a number of days, rendered pursuit of the complaint oppressive. Again, I resisted this, on the basis that—whilst I could not condone the manner in which details of evidence given or to be given to me had been leaked to the media (a matter to which I return at the end of this report)—I did not regard this as a ground on which to regard the complaint as without foundation and so to dismiss it as vexatious.

20. I have also been challenged by Mr Duncan Smith’s legal advisers at various points about a number of procedural aspects of my inquiry. These questions were raised in a series of letters, to each of which I replied separately. On 4 February 2004 I received a 42 page memorandum from Mr Gordon in which he made a number of submissions relating both to matters of fact, concerning the evidence submitted during my inquiry, and to procedural issues.<sup>8</sup> I have summarised Mr Gordon’s submissions relating to the evidence at paragraphs 181–184 of this report. As regards procedural matters, Mr Gordon’s essential contention is that for systemic reasons, the inquiry process has operated unfairly to Mr Duncan Smith. I detail and address that argument in Annex 4 to this report.

## My inquiries

21. In the course of my inquiries I have interviewed 22 witnesses, and received written statements from (either directly or indirectly, the latter mainly through Mr and Mrs Duncan Smith) or corresponded with 25 more. A list of those people from whom I have received relevant material is at Annex 2. The list also indicates, where appropriate, the relevant role or office held by each witness. I have also received statements from and interviewed Mr Crick and Mr and Mrs Duncan Smith.

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8 See Volume II, PCS Written Submission 50 (minus the detail of its appendix).

22. The great majority of the interviews of witnesses were completed by Friday 24 October. However, I needed to conduct a second interview with two members of the staff of Mr Duncan Smith's office and, because of the events immediately leading up to and following Mr Duncan Smith's loss of the Conservative Party leadership, it did not prove possible to arrange these further interviews until 19 November. For similar reasons, although I had written to Mr and Mrs Duncan Smith on 5 November and 27 October respectively indicating the areas which I wished to discuss with them, I was not able to interview them until 10 December, which I did at their house at Swanbourne. In the course of those interviews certain matters were raised which I felt it necessary to put to those concerned, and I have also since had further exchanges with Mr Duncan Smith and the Department of Finance and Administration of the House concerning some aspects of the complaint. I received Mr Duncan Smith's final written submission on 4 February and his comments on the draft factual sections of my report on 27 February. As I have already indicated, I have also received and considered at various points during my inquiry substantial legal and procedural submissions made on behalf of Mr Duncan Smith by his legal advisers. These matters, and the interlocking complexity of the issues raised by various parties during the inquiry, account for the fact that this report has taken longer to submit than I initially imagined.

### **The evidence**

23. The evidence (and related correspondence) which I have amassed in the course of this inquiry is now voluminous—over 300 documents plus appendices to these documents and over 400 pages of oral evidence. Rather than simply repeat here the evidence given by each individual, I have thought it most convenient to the Committee to analyse all the material I have received by reference to the key issues which bear on an assessment of the allegations against Mr Duncan Smith. I have included essential documents and extracts from transcripts of oral evidence as appendices to my report but have sought (for reasons both of clarity and of economy) to avoid simply re-producing all the evidence I have gathered. However, I have felt bound to include as appendices more material than I might otherwise have done as the number of claims and counter-claims related to the original complaint has risen. Copies of all documents, including full transcripts of the oral evidence, are, of course, available to the Committee should it wish to see them.

24. One undisputed fact is that a number of changes occurred in the personnel and organisation of Mr Duncan Smith's office during the period which is the focus of this report, that is from 14 September 2001 to 31 December 2002. A chronology recording some of these changes and other key events is at Annex 3. This may also be helpful in guiding the reader through what follows.

### **Mrs Duncan Smith's contract and terms of employment**

25. Mrs Duncan Smith—who had previously run with a partner a business providing secretarial cover for Chief Executives and Managing Directors when their Personal Assistants or Secretaries were away, and therefore had personal experience of working as a PA on a freelance basis—began working for her husband at the end of 1992 following his election to the House of Commons earlier that year. Initially she was employed on a temporary basis to help with one-off tasks. In 1993 her employment became more

permanent as her husband asked her to support his office, with a particular focus on the diary. In 1997, it became standard practice that all employees of Members should have a contract, a copy of which would be lodged with the House's Department of Finance and Administration. Accordingly Mrs Duncan Smith was employed from that year onwards under a written contract dated 1 October 1997.

26. Mrs Duncan Smith's function was described in this contract as "Diary and Secretarial Support". She was required to work 25 hours a week *inclusive* of a break of one hour each day for lunch. The main location of her work was given as the House of Commons, although the contract made clear that at other times she would work from the office in the house in Fulham which she and her husband then occupied.

27. A job description attached to the contract gave Mrs Duncan Smith's job title as "Diary Secretary to the Member of Parliament for Chingford and Woodford Green" and described her duties as follows:

- to oversee the diary
- to ensure appointments are kept and new engagements are arranged
- to liaise with the office and give support in constituency work including correspondence and casework
- to assist when other staff are away as a result of sickness or other unforeseen reasons
- to be prepared to engage in other office work as required.

In the period before Mrs Duncan Smith's employment ended on 31 December 2002, she was receiving an annual salary of £15,178.92, this having last been increased to that level in April 2000.

### **Mrs Duncan Smith's duties prior to 14 September 2001**

28. Although Mr Crick has made no complaint in relation to Mrs Duncan Smith's employment prior to September 2001, it may be helpful to describe the nature of her work to that point. Mrs Duncan Smith has described her duties prior to her husband's election on 13 September 2001 as Leader of the Conservative Party in paragraphs 6–11 of her written statement of 5 December 2003.<sup>9</sup> As well as having primary responsibility for Mr Duncan Smith's diary, Mrs Duncan Smith also had a wider role in "making sure follow up actions were processed."<sup>10</sup> She also covered for other colleagues during their absence (paragraph 9), and was involved to some degree in constituency casework (paragraph 11).

29. From May 1997 onwards Mrs Duncan Smith worked closely with Miss Annabelle Eyre, who was appointed at that time as Mr Duncan Smith's Constituency Secretary. Miss Eyre has described Mrs Duncan Smith's pattern of work during this period as follows:

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<sup>9</sup> See Volume II, PCS Written Submission 6.

<sup>10</sup> See Volume II, PCS Written Submission 6, para 8.

*... she principally did the diary and she would come in, I would say three or four days a week and if she did not come into the office, she would work from home and we would discuss things from home ... they would drop the children at school and they would be in the office by 9.30 and then she would leave to pick up the children, so she was there and she left at three and she would always work. She would never take a lunch hour, but she would work through ...*<sup>11</sup>

30. Evidence from Mr Owen Paterson MP, Mr Quentin Davies MP, Mr Jonathan Hellewell and Mr Mike Penning confirms this account. Mr Paterson has described visiting Mr Duncan Smith's Parliamentary offices in June 2001 and for the first time meeting Mrs Duncan Smith, who was sitting at her own desk apparently working on constituency matters.<sup>12</sup> Mr Davies has described having frequent dealings with Mrs Duncan Smith when he was deputy to Mr Duncan Smith as Opposition Spokesman on Defence.<sup>13</sup> Mr Hellewell has described occasionally sitting at Mrs Duncan Smith's desk in Mr Duncan Smith's office during the summer of 2001 (which was at that time in the Norman Shaw North building) and being told to be careful not to disturb the work either on the desk or on the computer. According to Mr Hellewell's written statement:

*Files containing diary invitations, replies, constituency correspondence and so forth were stored on or next to the desk and she [Mrs Duncan Smith] had a telephone and a computer which clearly had on it files used by her for her work. If I was working at the desk I sometimes took calls for Mrs Duncan Smith about work-related matters.*<sup>14</sup>

31. Mr Penning who was a media adviser to Mr Duncan Smith and other members of the Shadow Cabinet from 1997, has said that he was mostly based at a desk close to Mrs Duncan Smith in her husband's Parliamentary office during that period. In his written statement, he continued:

*I saw at first hand the professional and dedicated way that Betsy fulfilled her duties as Iain's diary secretary and also witnessed the closeness and dependence in a professional capacity as Iain relied on Betsy as a key aide in his office.*

*I was also aware that on a regular basis Betsy took work home and that the two of them often worked late into the evening, as that was the only time they could be together to get through the diary work without the interruption that there will always be in a busy parliamentary office.*<sup>15</sup>

## 2001: a summer of significant change

32. In August 2001, Mr and Mrs Duncan Smith left their house in Fulham and moved to Swanbourne near Milton Keynes. According to the joint statement submitted to me by Mr

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<sup>11</sup> See Volume III, PCS Oral Evidence 7, Qq 555–557.

<sup>12</sup> See Volume II, PCS Written Submission 19.

<sup>13</sup> See Volume II, PCS Written Submission 8.

<sup>14</sup> See Volume II, PCS Written Submission 15.

<sup>15</sup> See Volume II, PCS Written Submission 20, paras 3–4.

and Mrs Duncan Smith (and Mrs Christine Watson, latterly Mr Duncan Smith's Private Secretary) on 13 October 2003:<sup>16</sup>

*As this was about an hour and a half by car to Westminster, it soon became apparent that it was not realistic to travel up and down to London, with the school commitments, so her [Mrs Duncan Smith's] work was done from Swanbourne where an office was established at home.*

33. On 13 September 2001 Mr Duncan Smith's election as Leader of the Conservative Party was announced. This was a step change in Mr Duncan Smith's responsibilities and had major implications for the organisation of his office, which considerably increased in size as a result of these new responsibilities. An immediate consequence was that Miss Annabelle Eyre became Private Secretary in the Leader's Office. On 15 October Mrs Christine Watson was appointed to succeed Miss Eyre as Constituency Secretary. Mr Andrew Whitby-Collins (who had worked on Mr Duncan Smith's campaign for the leadership) became Diary Secretary in September. Other staff who had assisted the leadership campaign—including Ms Belinda McCammon, Mr Simon Gordon and Mr Adrian Muldrew—were also appointed to positions in the new office.

### A transition problem?

34. In paragraph 5 of his joint statement Mr Duncan Smith says of this period:

*... the Leader of the Opposition's private office had to be set up with new staff and in fact no member of William Hague's staff remained behind in the new office. Betsy Duncan Smith having worked for Iain Duncan Smith for 10 years provided continuity and has been described by those who worked with her as the 'sheet anchor'.<sup>17</sup>*

35. A number of those who have given evidence to me (see, for example, the transcripts of evidence of Dr Gearson, Mr Muldrew and Ms Ungless) have disputed these statements on the following grounds:<sup>18</sup>

- a) Many of the staff of the new Leader's Office had worked on the leadership campaign and some at least had previously worked for Members of Parliament. A contingency plan for the organisation of the Leader's Office had been worked out in some detail during the Leadership campaign;
- b) One member of Conservative Central Office staff (Mr Jonathan Caine), who as a speechwriter had served Mr Hague as Leader, was available to provide some continuity, as was the unit which continued to deal with the Leader's correspondence;
- c) Those concerned saw no evidence of Mrs Duncan Smith's contribution to the handling of the transition to the new office.

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<sup>16</sup> See Volume II, PCS Written Submission 5.

<sup>17</sup> See Volume II, PCS Written Submission 5.

<sup>18</sup> See Volume III, PCS Oral Evidence 9, 17 and 20.

36. On the other hand, it is certainly the case that, with the exception of Mr Caine, none of the staff of the new office had previously experienced what it was like to serve the Leader of the Opposition (as against serving any other Member). The evidence I have received confirms that the facilities, in terms of furniture and equipment, initially available to the Leader's office were limited and that its organisation was problematic. It undoubtedly took time for these matters to be resolved and the organisation of the office continued to be a problem at least until the autumn of 2002. As regards Mrs Duncan Smith's contribution to handling the transition to the new office, whilst some have questioned this, others (notably Miss Eyre, Mr Hellewell, Mr Whitby-Collins and Mrs Watson) have stressed the value of the continuity of knowledge which she provided. I examine Mrs Duncan Smith's particular role in this respect in greater detail below.

### The office at Swanbourne

37. Following the Duncan Smiths move to Swanbourne in August 2001, Mrs Duncan Smith set up an office in their new home from which she subsequently worked. According to the joint statement this:

*... was fully equipped with fax, computer (subsequently a second computer was added) e-mail and an ISDN line. Although Betsy Duncan Smith did initially come up several times to Westminster, she decided that it was not an efficient use of time as with the school hours it would mean that she could spend only a couple of hours in Westminster. She therefore operated mostly from Swanbourne which enabled her to work for longer hours.<sup>19</sup>*

38. Some question has been raised in evidence about the timing of the creation of the Swanbourne office. This has been based on the fact that Dr Gearson's e-mail to Mr McGregor and others of 30 January 2003 refers to recently incurred expenditure of some £3,700 on the installation of electrical lines and telephone and fax lines at Swanbourne.<sup>20</sup> The question has been asked as to the nature of the office facilities available to Mrs Duncan Smith from mid-September 2001 onwards, given that substantial expenditure on office-related facilities at Swanbourne was clearly incurred very shortly before or even after Mrs Duncan Smith had ceased to be employed by her husband.

39. Mrs Duncan Smith gives an extensive account of the office arrangements at Swanbourne in paragraphs 46–52 of her written statement.<sup>21</sup> Briefly, according to her account there was already an office in the house when she and her husband moved in. The Duncan Smiths moved their computer and other office equipment there from Fulham. The office was subsequently significantly expanded and re-modeled and whilst the related building works were going on, a temporary office was set up in another part of the house. It was into this that BT installed an ISDN line with three lines in it in October 2001. Contemporaneously with the extension and refurbishment of the office, private building work was being done on the house. When work was completed in January 2003, the

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<sup>19</sup> See Volume II, PCS Written Submission 5.

<sup>20</sup> See Volume II, PCS Written Submission 46.

<sup>21</sup> See Volume II, PCS Written Submission 6.

existing lines were transferred to the original (now expanded and re-modeled) office, others were added for members of the Leader's staff to use when visiting Swanbourne for meetings held there, and the equipment was moved back. (Mrs Duncan Smith explains the apparent superabundance of lines as the result of an error by BT for which the company subsequently made reimbursements, evidence of which my office has seen.) I have visited Swanbourne and seen the refurbished office and site of the temporary one, and the arrangements are consistent with the Duncan Smiths' explanation. The bill for the installation of phone etc, lines referred to in Dr Gearson's e-mail was a consequence of the extension of the original office facilities.

40. Evidence provided by Mr Owen Paterson MP indicates that:

*In the very early days when I telephoned Swanbourne, it often proved rather difficult to get through due to lack of facilities ... but soon after Iain took over the leadership, modern office facilities were installed and communications improved markedly.<sup>22</sup>*

This is consistent with Mrs Duncan Smith's evidence that the temporary office in which she worked from November 2001 to December 2002 while the original office was being refurbished had improved telephone and other facilities. The facilities in both the temporary office and the later extended office were installed at the expense of Conservative Central Office, which also provided IT support and met the cost of the phone, etc bills. Evidence from Conservative Central Office IT section confirms the installation of equipment in the autumn of 2001. An e-mail from the Head of IT to Simon Gordon dated 2 October 2001 reads;

*We have purchased the relevant thin screens, mice and keyboards for the Leader's home computers, these are now at CCO. It would suit the IT department to install these items following the Party Conference. I am making [an] assumption that x has ordered BT lines following conversations with yourselves. If this is not the case then we need to chase this up. Finally we need to decide which e-mail system and Internet access system the Leader's home office would like to use—this may require a brief meeting.<sup>23</sup>*

The former network manager who installed the system confirmed making two visits to Swanbourne, one (to install the machines), 'anywhere from October to November 2001 and the second in the middle of November 2001'. The CCO IT Department confirms that Mrs Duncan Smith actively sought the help of staff of the Department in using the equipment.

41. According to Annabelle Eyre (in paragraph 11f) of her written statement of 12 November):

*Once Iain became Leader of the Opposition, almost all the office stationery for the office in Swanbourne came from Conservative Central Office.<sup>24</sup>*

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<sup>22</sup> See Volume II, PCS Written Submission 19.

<sup>23</sup> See Volume II, PCS Written Submission 45.

<sup>24</sup> See Volume II, PCS Written Submission 10.

In her oral evidence to me, Dr Vanessa Gearson said that she “did not see any requests for envelopes or for letter-headed paper, the kind of material supplies that Mrs Duncan Smith would reasonably have required ...” Mr Duncan Smith commented on this:

*In fact Betsy was constantly supplied with stationery and franked envelopes by Annabelle [Eyre] and subsequently by Christine [Watson]. Betsy would inform Christine of what was required and she would supply it. We kept a good stock of all stationery requirements in our office in Swanbourne.*<sup>25</sup>

## The diary

42. Before setting out the key evidence I have received relating to the work done by Mrs Duncan Smith from Swanbourne after Mr Duncan Smith became Leader, it may also be helpful, in setting the context in which that work was done, if I describe the way in which Mr Duncan Smith’s official diary was maintained.

43. Until 1997 Mrs Duncan Smith kept a manual copy of her husband’s official diary. From that point on, she used a palm pilot to record engagements and details relating to them on computer.<sup>26</sup> When Mr Duncan Smith became Leader, the scale and complexity of the task of maintaining his diary expanded very considerably. He appointed Mr Andrew Whitby-Collins as his Diary Secretary. Mr Whitby-Collins from then on maintained the diary using a spread-sheet package on computer. According to his evidence, he would send Mrs Duncan Smith each Friday the diary for the following six months and the detailed diary for the week ahead.<sup>27</sup> Mrs Duncan Smith confirms this pattern.<sup>28</sup> I summarise below the evidence about the precise role which Mrs Duncan Smith played in relation to the diary from September 2001.

## What did Mrs Duncan Smith do?

44. At the heart of Mr Crick’s complaint lies the allegation that Mrs Duncan Smith did not do any substantial work for her husband and certainly not such as to justify her being paid a salary for 25 hours employment a week. Mr Crick based this allegation on a combination of information he had received from 4 senior anonymous sources in the Conservative Party and interviews he or his colleagues on *Newsnight* had conducted with local councillors and organisations in Chingford. When I interviewed him on 16 October 2003, Mr Crick summed up his assessment of the result of this information as follows.

*You will see that a lot of the people we have spoken to, both the anonymous and non-anonymous people, have not been able to identify work of any kind, be it diary secretary work or other work that she (Mrs Duncan Smith) has been engaged in. It is my hunch, it is my strong belief that she probably was not doing any work, of any substantial nature anyway.*

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25 See Volume II, PCS Written Submission 7, para 144.

26 See Volume II, PCS Written Submission 6, para 7.

27 See Volume II, PCS Written Submission 27, para 4–5.

28 See Volume II, PCS Written Submission 6, para 25.

Mr Crick went on:

*I suppose essentially what I am saying here is the evidence seems to suggest that she did not do any work as a member of his parliamentary staff between September 2001 and December 2002, that if she was doing work it was not very much and certainly seems to have been a lot less than that which would justify a salary of £15,000 or would amount to more than 25 hours a week, as we are now told was the figure, and that much of the work and activity which has been put forward in defence of Mr Iain Duncan Smith would have involved party activity not parliamentary activity, so I suppose that is the summation of what I am saying here.<sup>29</sup>*

45. In the course of my inquiries, I have interviewed a number of people who say that they saw no evidence of Mrs Duncan Smith doing work for her husband which would have justified her being paid for it out of his parliamentary allowances. They include three former senior figures in the Party: Ms Jenny Ungless (Chief of Staff of Mr Duncan Smith's office as Leader from 15 October 2001 to 28 July 2002); Dr Vanessa Gearson (Administrative Head of the Leader's Office from August 2002 to September 2003); and Mr Mark MacGregor (Chief Executive of the Conservative Party from 1 January 2002 to 14 February 2003). Before summarising the key points of their evidence, I emphasize that whether these three were among Mr Crick's sources is a matter known only to Mr Crick and the sources. Although it has already been and will no doubt continue to be the subject of speculation, answering this question is not relevant to the determination of Mr Crick's complaint and is not therefore something I pursue.

### Evidence of Ms Jenny Ungless

46. In oral evidence, Ms Ungless said that her role as Chief of Staff meant that she "oversaw the running of the leader's office in terms of his role as Leader of the Opposition." However, she "did not have responsibility for or indeed ... any involvement with the constituency office".<sup>30</sup> She had a broad understanding of how the constituency office worked but no day-to-day involvement in it.<sup>31</sup> She was aware that Mrs Duncan Smith was on the payroll but did not know what she was paid or what she did.<sup>32</sup> Her contact with Mrs Duncan Smith was limited and purely social. She did not see Mrs Duncan Smith having a role in the transition to new office arrangements for her husband after the leadership election.<sup>33</sup>

47. As regards the areas of work said to have been undertaken by Mrs Duncan Smith, Ms Ungless did not see any evidence of her having had a role in helping her husband to clear the contents of his weekend box.<sup>34</sup> She was aware that Miss Annabelle Eyre and Mr Whitby-Collins spoke to Mrs Duncan Smith from time to time but as far as she knew, "The

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29 See Volume III, PCS Oral Evidence 1, Q 3.

30 See Volume III, PCS Oral Evidence 20, Q 1973.

31 See Volume III, PCS Oral Evidence 20, Q 1978.

32 See Volume III, PCS Oral Evidence 20, Q 1983.

33 See Volume III, PCS Oral Evidence 20, Q 2000.

34 See Volume III, PCS Oral Evidence 20, Q 2000.

main contact with Betsy would have been checking that she was happy with, or able to fit in with, events which had to go in the diary.<sup>35</sup>

48. Ms Ungless said that part of her responsibility as Chief of Staff was “overseeing and managing the diary as it related to Iain’s role as Leader and therefore nothing went into the diary without me approving it ... Andrew and I would be in almost constant contact about the diary and therefore, I think, had Betsy had a very strong role or contribution on that area I would have been aware of it.”<sup>36</sup> Summing up her position, Ms Ungless said:

*I did not see any work from Betsy at all,*

but she quickly added the important proviso that

*I have to qualify that by saying I may not have been in the position to see it.*<sup>37</sup>

Ms Ungless referred again to this proviso later in my interview with her when she said:

*I think I have expressed as firmly as I can my caveat, that I am not necessarily in a position fully to comment on Betsy’s role because the constituency stuff I did not get involved with. Although I had no dealings with her, that is my perception from the role I was doing and the way in which I was doing it. There are obviously caveats around that. So I would just like to stress that just because I did not see her do things it does not necessarily make me believe she was not doing things.*<sup>38</sup>

## Evidence of Dr Vanessa Gearson

49. Dr Gearson’s evidence is the most extensive in support of the central allegations made against Mr Duncan Smith. As Administrative Head of the Office of the Leader of the Opposition during the last five months of 2002, when Mrs Duncan Smith was still employed by her husband, Dr Gearson says that she:

*was in a unique and pivotal position in overseeing the work carried out in both [Mr Duncan Smith’s parliamentary and political] offices.*<sup>39</sup>

She worked:

*in very close physical proximity to those working directly for Mr Duncan Smith in a parliamentary capacity and was therefore able to observe at very close quarters exactly what work was carried out*

on his behalf.<sup>40</sup> From that vantage point, she formed, following a discussion with Mrs Watson in which Mrs Duncan Smith’s position on the payroll was revealed, “a preliminary but quite urgent concern that Mrs Duncan Smith was not showing evidence of carrying out

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35 See Volume III, PCS Oral Evidence 20, Q 2007.

36 See Volume III, PCS Oral Evidence 20, Qq 2011–2012.

37 See Volume III, PCS Oral Evidence 20, Q 2018.

38 See Volume III, PCS Oral Evidence 20, Q 2054.

39 See Volume II, PCS Written Submission 13.

40 See Volume II, PCS Written Submission 13.

a substantial amount of work or certainly the kind of work that would indicate that she should be reimbursed from the Parliamentary office costs allowance.”<sup>41</sup> Dr Gearson’s anxiety arose from concerns both about propriety and about political sensitivity.

50. Dr Gearson did not believe that the need for continuity in the transition to the Leader’s office justified payment of Mrs Duncan Smith from her husband’s Parliamentary allowance:

*... it was my view that that continuity factor was simply not strong enough or evident in my experience in running his office to claim that a payment from the Parliamentary office costs allowance was therefore due.*<sup>42</sup>

Nor did she observe Mrs Duncan Smith’s role in relation to her husband as being anything like that of the wives of two Members of Parliament for whom she had previously worked, both of whom had been employed by their husbands.<sup>43</sup> Likewise Mrs Duncan Smith’s involvement in the diary was, she thought, essentially that of a spouse.<sup>44</sup> Mrs Duncan Smith did not attend regular diary meetings.<sup>45</sup> Nor did Dr Gearson see any evidence of Mrs Duncan Smith being involved professionally in the diary, correspondence or other matters, when Mr Duncan Smith’s box was emptied after the weekend.<sup>46</sup> Similarly, she saw no signs of Mrs Duncan Smith chasing up matters on behalf of her husband:

*... there was no evidence of progress chasing because if that were the case I would have expected to see a much stricter collaboration between us ...*<sup>47</sup>

Mr Duncan Smith never referred to his wife during conversation with Dr Gearson about a restructuring of his office.<sup>48</sup>

51. Dr Gearson summed up her position thus:–

*I do not contend ... that she [Mrs Duncan Smith] did nothing. I never visited Swanbourne and it would be unreasonable of me to say that she did nothing at all, but I feel very strongly that there was simply no evidence during the time that I worked as Mr Duncan Smith’s head of office to indicate that a significant position of work was being carried out other than in the appropriate role of support that a spouse might have in supporting a Member of Parliament.*<sup>49</sup>

Again, it is important to note the proviso in the first part of the second sentence of this quotation. It should also be noted that as detailed later in this report (see, for example, paragraphs 74–76), Dr Gearson’s evidence is disputed by Mr Duncan Smith and other members of his staff at virtually every point.

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41 See Volume III, PCS Oral Evidence 9, Q 887.

42 See Volume III, PCS Oral Evidence 9, Q 893.

43 See Volume III, PCS Oral Evidence 9, Q 894.

44 See Volume II, PCS Written Submission 13.

45 See Volume II, PCS Written Submission 13.

46 See Volume III, PCS Oral Evidence 9, Q 896.

47 See Volume III, PCS Oral Evidence 9, Q 907.

48 See Volume III, PCS Oral Evidence 9, Q 921; and Volume II, PCS Written Submission 13.

49 See Volume III, PCS Oral Evidence 9, Q 908.

## Evidence of Mr Mark MacGregor

52. As Chief Executive of the Conservative Party, Mr MacGregor was the full-time official who oversaw the Party organisation as a whole. In that context:

*... the whole question of Betsy Duncan Smith is in many ways for me pretty peripheral to my own role.<sup>50</sup>*

Nonetheless, Mr MacGregor said that he was in regular and frequent contact with the Leader's office (although this is disputed by some members of the staff of the office, including Miss Eyre, Mr Hellewell and Mrs Watson).<sup>51</sup> In spite of this:

*From the period January 2002 until September 2002, for most of that period I was completely unaware that Betsy Duncan Smith was paid any money at all, so therefore the question never arose, if you like, what work would she be doing.<sup>52</sup>*

He saw no evidence of any work being done by Mrs Duncan Smith:

*Throughout that period I had no knowledge or understanding that she was involved in any work whatsoever ...<sup>53</sup>*

53. Mr MacGregor pointed out that, as Chief Executive, he had to oversee two rounds of redundancies in the staffing of Conservative Central Office. He found it surprising that Mrs Duncan Smith's employment had not been mentioned in that context.<sup>54</sup> No one had mentioned to him that Mrs Duncan Smith was performing a key role in the running of her husband's office.<sup>55</sup>

*I also find it surprising, in the light of subsequent claims that Betsy Duncan Smith was doing 25 hours work each week that I never once spoke to her on the telephone, (or) received an e-mail or letter from her about any aspect of that work during my entire time at Conservative Central Office despite the fact that I had regular contact with every other member of the Leader's staff.<sup>56</sup>*

He also had frequent meetings with Mr Duncan Smith and others about the Leader's diary, particularly in the run-up to the Party Conference in October 2002 and in the context of the organisation of the Leader's Tour which followed it but, again, Mrs Duncan Smith had not featured in any way in these discussions.<sup>57</sup>

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50 See Volume III, PCS Oral Evidence 14, Q 1393.

51 See Volume III, PCS Oral Evidence 14, Q 1395.

52 See Volume III, PCS Oral Evidence 14, Q 1397.

53 See Volume III, PCS Oral Evidence 14, Q 1397.

54 See Volume II, PCS Written Submission 18; and PCS Oral Evidence 14, Qq 1403–1405.

55 See Volume II, PCS Written Submission 18.

56 See Volume II, PCS Written Submission 18.

57 See Volume II, PCS Written Submission, 18; and Volume III, PCS Oral Evidence 14, Q 1402.

## Evidence of other staff

54. In addition to these three senior figures, evidence from three other staff is to some extent supportive, though in differing degrees, of the central thrust of the allegations by Mr Crick. The three people concerned were employed in the Leader's office in the initial stages of Mr Duncan Smith's leadership.

### **Mr Simon Gordon**

55. Mr Gordon worked in the Leader's office from 17 September 2001 until the middle of January 2002, having previously assisted Mr Duncan Smith's leadership campaign. He had particular responsibility for relations with the voluntary Party in the country, as well as undertaking some tasks (such as signing minor expense items) which might have fallen to an office manager.

56. Mr Gordon did not have dealings with the constituency office (Mrs Watson). He recalled that he may have spoken to Mrs Duncan Smith a couple of times on the phone but did not remember any direct dealings with her.<sup>58</sup> On one if not two occasions he saw her in the London office, but did not know why she was there.<sup>59</sup> He was not aware that Mrs Duncan Smith was employed as a member of staff, although he did "recall occasional mentions that Betsy was dealing with something or other, which I would assume meant that she was working with Annabelle Eyre on some project."<sup>60</sup> He conceded that "I did not have an overview at all as to who was doing what" because "there was a lack of clarity on function" within the office and roles were ill-defined.<sup>61</sup>

### **Ms Belinda McCammon**

57. Ms McCammon also assisted Mr Duncan Smith's leadership campaign, working initially as part of a three-person press team. She subsequently worked on some press-related matters as well as other duties in the Leader's office, which she left in January 2002.

58. Ms McCammon observed Mrs Duncan Smith discussing the diary with Mr Whitby-Collins in the office on several occasions and overheard telephone conversations between the two. She believed, however, that these conversations related to Mrs Duncan Smith's role as the Leader's spouse:

*I was not aware that she was working at home from home on anything [other] than coordinating the diary for the benefit of the family and for when Iain Duncan Smith was at home to ensure it was up to date ... I did not think the involvement was anything more than a politician's spouse being kept in the loop.<sup>62</sup>*

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58 See Volume III, PCS Oral Evidence 11, Q 1130.

59 See Volume III, PCS Oral Evidence 11, Q 1131.

60 See Volume III, PCS Oral Evidence 11, Qq 1140, 1145.

61 See Volume III, PCS Oral Evidence 11, Qq 1146, 1143, 1147.

62 See Volume II, PCS Written Submission 16.

Echoing Mr Gordon's remarks about a lack of clarity of roles within the office, Ms McCammon said;

*I can honestly say that most of us didn't know what our specific roles were during our time in the Leader's office, such was the chaos after the election.*<sup>63</sup>

### **Mr Adrian Muldrew**

59. Mr Muldrew was employed in the Leader's office from mid-September 2001 to September 2002, latterly with the title of Correspondence and Political Secretary. He had also been involved in the leadership campaign, in a research capacity.

60. According to Mr Muldrew, he:

*was not aware of Mrs Duncan Smith working as part of the Leader's office ...*<sup>64</sup>

He conceded that there were:

*whole areas that I was not aware of ... so I could not say with 100 percent certainty that she did no work.*

He went on:

*If, as has been stated, she was doing her work at Swanbourne and it was constituency-related I suppose I would not necessarily have seen that. I think it is possible to my mind that she could have done that work without me being aware of it but I have to say I think it is unlikely.*<sup>65</sup>

Mr Muldrew based this observation in part on the fact that, during his 12 months in the office, he could recall having received only one call from Mrs Duncan Smith, in spite of the fact that the phone system in the office was, he says, one in which a blocked call would have been automatically diverted to other phones in the office.<sup>66</sup> (Miss Eyre and Mr Whitby-Collins dispute, however, that their phones would have been diverted in this way.) Nor did he recall receiving any calls in which Mrs Duncan Smith was referred to in a staff capacity, or hearing any of his staff colleagues refer to her in that way.<sup>67</sup>

61. Like Mr Gordon and Ms McCammon, Mr Muldrew did not find the clarity of role and purpose in the organisation of the office for which he had hoped. He spoke of "the anarchy that was evident within the office" in its early days, a situation which he felt improved little over time in spite of the efforts of the Chief of Staff to get to grips with it.<sup>68</sup>

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63 See Volume II, PCS Written Submission 17.

64 See Volume III, PCS Oral Evidence 17, Q1709.

65 See Volume III, PCS Oral Evidence 17, Q 1711.

66 See Volume III, PCS Oral Evidence 17, Qq 1692–1693, 1713.

67 See Volume III, PCS Oral Evidence 17, Qq 1714, 1717.

68 See Volume III, PCS Oral Evidence 17, Qq 1682, 1687.

## Mr and Mrs Duncan Smith

62. Having summarised the evidence given by those who say they saw no sign of Mrs Duncan Smith undertaking work for her husband, I turn to the evidence of those who assert that Mrs Duncan Smith did indeed undertake such work. I begin with the evidence of Mr and Mrs Duncan Smith themselves. As regards Mr Duncan Smith, it should be recalled that it was he who employed his wife and that he should therefore have been well placed to say both what she was supposed to do and whether she did in fact do it to his satisfaction as her employer.

63. It is important to make clear at the outset that Mr Duncan Smith categorically denies the central charge laid against himself and his wife:

*... I want to make a very simple statement that I have been absolutely appalled by the smearing and allegations that have gone on around this issue about whether my wife worked for me or not. I make it absolutely categoric from the outset my wife worked for me; she worked for me in a way that, frankly, helped me get through the first year and a bit of my time as Leader, helped me to have the time and the space to understand what changes were necessary, to all that I was doing. Without her I have absolutely no doubt I probably could not have got through that period. I just happen to be fortunate that my wife's professional capacities equally matched the requirements I had at that stage in an organisational sense, so I make no bones about it, I make no apologies to anybody, and I point blank refuse to accept that anything anybody has said about her not working or working within the time is right. It is quite incorrect; they have made it either maliciously or without any understanding of the reality of what our relationship was, and I think that is probably the clearest I can be.<sup>69</sup>*

64. In his evidence to me, Mr Duncan Smith has adopted as his own his wife's description of her work for him after he became Leader. This description, in paragraphs 18–81 of Mrs Duncan Smith's written statement, suggests that:

*the nature of the work I did after Iain became Leader was essentially no different to that I was doing before he was Leader. The main difference is that whereas before I had been solely responsible for the diary, after Iain became Leader Andrew Whitby-Collins took over primary responsibility for this while I continued to assist him with diary arrangements.<sup>70</sup>*

65. This is an important difference and as Mrs Duncan Smith acknowledged at interview, there were some other differences. First, Mrs Duncan Smith's main base was at Swanbourne. Her visits to the office occupied by her husband's staff in London were occasional and her activities were thus far less visible to others than they had been previously. Secondly, Mrs Duncan Smith (who anyway, when dealing with others on behalf of her husband in the past had tended to introduce herself as "Betsy" or "the diary secretary" rather than using her surname assumed a less front-line role.<sup>71</sup> Her husband's

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69 See Volume III, PCS Oral Evidence 3, Q 265.

70 See Volume II, PCS Written Submission 6, para 12.

71 See Volume II, PCS Written Submission 7, para 40.

engagements were primarily arranged by Mr Whitby-Collins, Miss Eyre or Mrs Watson, depending on their nature.<sup>72</sup> Miss Eyre suggested in evidence that, in discussion, she and Mr Whitby-Collins decided soon after Mr Duncan Smith's appointment as Leader that it would be "better that the office in London was seen to be making the arrangements."<sup>73</sup> They did not communicate this to Mrs Duncan Smith, but the pattern of activity which emerged is consistent with such a decision and with the practical fact that the focus of Mr Duncan Smith's busy life was London rather than Swanbourne.

66. Before summarising Mrs Duncan Smith's description of the essential components of her work after September 2001, it is important to spend a moment on Mrs Duncan Smith's role as employee in the immediate aftermath of her husband's election as Leader. The joint statement by Mr and Mrs Duncan Smith and Mrs Watson says of this:

*Betsy Duncan Smith having worked for Iain Duncan Smith for 10 years provided continuity and had been described by those who worked with her as the 'sheet anchor'.<sup>74</sup>*

Immediately following the Leadership election, Mrs Duncan Smith was engaged in a number of hand-over discussions in relation to the diary with Mr Whitby-Collins.<sup>75</sup> Because of both her accumulated experience and her knowledge of her husband's wishes, she was also consulted by phone by Mr Whitby-Collins, Miss Eyre and Mrs Watson, mainly about diary or constituency matters, as they took up their new positions.<sup>76</sup> The value of Mrs Duncan Smith's role in this respect is confirmed by the evidence of those with whom she worked most closely (see paragraph 77 below). As a result of the number of changes of personnel in Mr Duncan Smith's office during the first 14 months of his leadership, it was a function she continued to perform, in one way or another, throughout her period as an employee.

67. Mrs Duncan Smith describes her work after September 2001 as falling into four main areas:

- a) **Progress chasing**—Mr Duncan Smith's life as Leader was extraordinarily busy. He was freer in the evenings and at weekends to talk to his wife. He would use her "to make sure the work was done and key issues were followed up with those working in his outer office."<sup>77</sup> At weekends in particular, he would go through the contents of his box and other matters with her and she would make notes as necessary of his wishes, which she would then relay back to the appropriate person in the office. Her role in this respect was the more necessary because until the autumn of 2002 the contents of the box were not well organised.<sup>78</sup>

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72 See Volume II, PCS Written Submission 6.

73 See Volume II, PCS Written Submission 9, para 8; and Volume III, PCS Oral Evidence 7, Qq 613–617.

74 See Volume II, PCS Written Submission 5.

75 See Volume II, PCS Written Submission 6, para 23.

76 See Volume II, PCS Written Submission 6, para 24, 27–28.

77 See Volume II, PCS Written Submission 6, para 18.

78 See Volume II, PCS Written Submission 6, paras 38–40.

- b) **Assisting with the diary**—Both Andrew Whitby-Collins and Annabelle Eyre were regularly in touch with Mrs Duncan Smith about the existing engagements in Mr Duncan Smith’s diary (some of which were annual events).<sup>79</sup> They also discussed future appointments and invitations, and travel plans:

*Andrew sent me a copy of Iain’s short term and long term diary regularly, generally by fax or by e-mail or via the Box, and Iain and I would work through it and discuss particular items in the evenings and over the weekends ... I would report back to Andrew on any changes that Iain wanted to make and let him know about Iain’s requests for briefing papers ...*<sup>80</sup>

In oral evidence, Mrs Duncan Smith stressed the size of the task of managing a diary as complex and constantly changing as that of the Leader of the Opposition.<sup>81</sup> Her particular task was not to arrange engagements but “to make sure that what went into Iain’s diary was what Iain wanted to go into his diary, because everyone was putting something into his diary and he just did not have the time to sit down and look through his diary.”<sup>82</sup> She would also use her experience to spot when there were infelicities in the diary and ensure they were corrected.<sup>83</sup> This involved looking for errors in arrangements, checking the type and concentration of engagements, and making sure that all the necessary preparations (briefing, travel plans, and contact arrangements) had been made.

- c) **Secretarial Work**—Mrs Duncan Smith produced little correspondence on behalf of her husband but she would print out material at Swanbourne sent to him by e-mail and assist him when he worked at home, occasionally re-drafting documents or altering letters for him.<sup>84</sup> She handled post, faxes and telephone calls received at Swanbourne, where appropriate passing on messages to her husband.<sup>85</sup> She would comment on the drafts of and assist her husband in typing up material for speeches. She also became involved in other ad hoc tasks, notably the preparation of the Leader’s Christmas card list in 2002, which was a sizeable task.<sup>86</sup>
- d) **Constituency Casework and Correspondence**—From her knowledge of the constituency and of cases raised in the past by constituents, Mrs Duncan Smith assisted Christine Watson and Annabelle Eyre to clear the backlog of constituency correspondence which accumulated over the period of the leadership election and prior to Mrs Watson’s appointment. Some of these cases were quite complicated. She would also discuss engagements in the constituency with Miss Eyre and Mrs Watson and, after his appointment as constituency agent in February 2002, with Mr Rikki Radford.

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79 See Volume II, PCS Written Submission 6, para 24.

80 See Volume II, PCS Written Submission 6, para 25.

81 See Volume III, PCS Oral Evidence 2, Q 80.

82 See Volume III, PCS Oral Evidence 2, Q 80.

83 See Volume III, PCS Oral Evidence 2, Q 80.

84 See Volume II, PCS Written Submission 6, para 26.

85 See Volume II, PCS Written Submission 6, para 31.

86 See Volume II, PCS Written Submission 6, para 67; and Volume III, PCS Oral Evidence 2, Qq 210–212.

68. As regards the pattern of her working week, Mrs Duncan Smith says that she spent from 10am to 3pm on week days in the office at Swanbourne.<sup>87</sup>

*My normal working day involved telephone calls with Annabelle and/or Andrew Whitby-Collins following up points Iain had raised with me during our conversation the evening before.*<sup>88</sup>

Mrs Watson generally rang in the evenings.

*During the day I used to do a general update with Annabelle, check arrangements with her for visits Iain was making and go through the entries that Andrew made in Iain's diary in detail. This type of involvement with Iain's diary went far beyond what 'a wife' might normally be interested in.*<sup>89</sup>

During the day she would also read up on material so that she was up to speed when assisting her husband.<sup>90</sup> She would speak to her husband on the telephone every evening.<sup>91</sup> As the weekend approached, she would receive e-mails and faxes for her husband to consider, as well as calls from staff alerting her to points they wished her to raise with her husband.<sup>92</sup> She would ensure that arrangements for any weekend engagements or interviews ran smoothly.<sup>93</sup> She and her husband would work together at weekends in the afternoons or generally late at night after the children were in bed.<sup>94</sup> She worked flexibly, as her husband's requirements as her employer demanded.<sup>95</sup> In all, her hours of work exceeded 25 a week.<sup>96</sup>

69. It is clear from Mrs Duncan Smith's account that the precise content of her work varied over the period September 2001 to December 2002, as one would expect. For example, in the autumn of 2002 she had a number of dealings with Annabelle Eyre about the Leader's Tour her husband was then undertaking. However, there was a broad consistency about the character of her work throughout the period.

70. This account of his wife's activities is endorsed by Mr Duncan Smith. He describes the essential character of her role:–

*From 14 September 2001 to 31 December 2002 my wife was effectively employed to do all that was necessary to ensure all of my offices [that is, the constituency office, the Leader's private office and the office at Swanbourne] operated effectively and together.*

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87 See Volume II, PCS Written Submission 6, para 29.

88 See Volume II, PCS Written Submission 6, para 30.

89 See Volume II, PCS Written Submission 6, para 30.

90 PCS Written Submission 6, para 31.

91 PCS Written Submission 6, para 32.

92 PCS Written Submission 6, paras 37, 34.

93 PCS Written Submission 6, paras 35–36.

94 PCS Written Submission 6, para 37.

95 PCS Written Submission 6, para 40.

96 See Volume II, PCS Written Submission 6, para 29; and Volume III, PCS Oral Evidence 2, Qq 119–121, 238–243.

*Significantly, Betsy's working at home allowed me to extend my working week into the evenings and weekend.*<sup>97</sup>

71. He attached particular importance to his wife's role in progress-chasing:

*It was a particularly important part of her job to be a progress chaser; ensuring tasks were followed up and done. She contributed to the smooth running of the offices by being a central point of contact for the key staff.*<sup>98</sup>

72. He also particularly valued the assistance she gave him in managing the demands of the diary;

*The Diary is the central reference point ... My wife and I would review the issues of the day and the diary each evening and she would chase up those items that I requested her to.*<sup>99</sup>

73. Mr Duncan Smith corroborates his wife's statement that she worked more than 25 hours a week:

*I have absolutely no doubt at all that my wife worked more than 25 hours and the reason I have no doubt is that she was working regularly at night, late into the evenings, a number of hours every day, two to three hours most evenings.*<sup>100</sup>

In his written statement he says:

*My wife worked in the Swanbourne office between 10am–3pm each week day and otherwise on call. Each weekday night, often quite late, my wife and I would go through what work needed to be done or to be chased up ... On weekends Betsy and I would go through the diary and the Box which took at least five hours. As a result I know Betsy was working more than 25 hours a week in the period from 14 September [2001] to 31 December 2002 and she was on call 24 hours a day.*<sup>101</sup>

74. An important point which emerges from the evidence of both Mr and Mrs Duncan Smith is that Mrs Duncan Smith's working contacts were restricted to a small group of other staff, essentially Miss Eyre, Mrs Watson and Mr Whitby-Collins, together with Mr Radford in the constituency. Mrs Duncan Smith says:

*I worked almost exclusively with Iain, Annabelle Eyre, Andrew Whitby-Collins and increasingly with Christine Watson. We worked together as a team.*<sup>102</sup>

Mr Duncan Smith says that:

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97 See Volume II, PCS Written Submission 7, para 41.

98 See Volume II, PCS Written Submission 7, para 42.

99 See Volume II, PCS Written Submission 7, para 50.

100 See Volume III, PCS Oral Evidence 3, Q 291.

101 See Volume II, PCS Written Submission 7, para 51.

102 See Volume II, PCS Written Submission 7, para 75.

*since the very particular brief I had asked her to complete ... was to support my private office*<sup>103</sup>

there was no reason why people in senior and essentially political roles, such as Jenny Ungless, Vanessa Gearson and Mark MacGregor, should have come into contact with his wife in her employed capacity:

*Overall it is unsurprising that as Betsy was working from home and liaising with a very limited group of my staff in my private office that the hours she put in and the work she was doing was not obvious to people outside the private office or with whom she was not in contact ... none of the people beyond the private office and my agent Rikki Radford had knowledge of what Betsy was doing, [they] had no professional relationship with her and there was no reason why they should.*<sup>104</sup>

75. This argument is a critical part of Mr Duncan Smith's response to the evidence of Ms Ungless and others summarised earlier. Other key elements in that response are:

- a) His wife always reported directly to him and no one else.<sup>105</sup>
- b) Ms Ungless and Mr MacGregor both arrived after his wife had started to work from Swanbourne, as of course did Dr Gearson.<sup>106</sup>
- c) Neither Ms Ungless nor Dr Gearson were involved in his constituency work or visits.<sup>107</sup> Although both Ms Ungless and Dr Gearson were involved in oversight of the diary including diary meetings, neither was involved in its detailed management.<sup>108</sup>
- d) Contrary to her assertions, Dr Gearson was not easily able to overhear telephone conversations in the office conducted by Mrs Watson and others.<sup>109</sup>
- e) Dr Gearson was regularly away from the office in meetings, or in Hendon (where she was a Councillor) or Cheltenham (where she was the prospective parliamentary candidate). She would not therefore have been aware of many of the conversations which Mrs Watson in particular had with his wife (most of which tended to be in the evening).<sup>110</sup>
- f) Ms Ungless's and Dr Gearson's involvement in compiling and clearing the box was less complete than they have suggested. Miss Eyre and Mrs Watson successively held the only other key to the box apart from his own, and they did the bulk of the work in assembling and disassembling its contents.<sup>111</sup>

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103 See Volume III, PCS Oral Evidence 3, Q 296.

104 See Volume II, PCS Written Submission 7, para 52.

105 See Volume II, PCS Written Submission 7, para 35.

106 See Volume II, PCS Written Submission 7, para 52.

107 See Volume II, PCS Written Submission 7, para 133.

108 See Volume II, PCS Written Submission 7, para 64.

109 See Volume II, PCS Written Submission 7, para 30; and Volume III, PCS Oral Evidence 3, Qq 351–357.

110 PCS Written Submission 7, para 129.

111 See Volume II, PCS Written Submission 7, paras 135, 137.

76. As regards the evidence of Mr Gordon, Ms McCammon and Mr Muldrew, Mr Duncan Smith's position is, in effect, that because of their roles and their physical location in his offices, none of them was in a position to assess the work done by his wife.<sup>112</sup> Mr Duncan Smith sums up his view of the evidence laid against him in respect of his wife's work in this way:

*Not one single witness interviewed by the Commissioner even attempts to claim that they knew that my wife was not, or could not have been, doing the work which the Commissioner has been informed by me that she was doing. They all concede that she could have. At highest, their statements are that they saw no evidence of her work which is in no way inconsistent with what the witnesses who did work with Betsy, and who have given statements, are saying.*<sup>113</sup>

### Evidence of those who worked with Mrs Duncan Smith

77. It is to the evidence of those who say they did work with Mrs Duncan Smith that I now turn. Briefly, the account of Mrs Duncan Smith's work given by both Mr and Mrs Duncan Smith is corroborated by the evidence of Miss Eyre; Mr Whitby-Collins; his successor as Diary Secretary, Ms Paula Malone; Mrs Watson; and her successor as Constituency Secretary, Ms Cara Walker. Taking each of the different strands of her work identified by Mrs Duncan Smith, relevant evidence includes:

- a) **Progress Chasing**—Miss Eyre says that after her husband became Leader Mrs Duncan Smith continued to 'progress-chase' as she had done in the past,

*ensuring that we contacted people for meetings, to arrange lunches or dinners, to pass on messages to other members of staff.*<sup>114</sup>

Miss Eyre asserts:

*Elizabeth Duncan Smith was essential during the period that I was working as Private Secretary to coordinate the passage of information between me and Andrew Whitby-Collins and Iain Duncan Smith ... I found that if there was anything that I particularly wanted Iain Duncan Smith to focus his attention on during the weekend that I would speak to Elizabeth Duncan Smith about it and she would respond on his behalf on Monday and/or Tuesday.*<sup>115</sup>

- b) **Assisting with the diary**—Mr Whitby-Collins says:

*Elizabeth Duncan Smith was essential to enable me to do my job ... Elizabeth would speak to Iain Duncan Smith about the diary arrangements in the evenings or over the weekends and would let us know the following day. She would download documents*

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<sup>112</sup> See Volume II, PCS Written Submission 7, paras 159–170.

<sup>113</sup> See Volume II, PCS Written Submission 7, para 16.

<sup>114</sup> See Volume II, PCS Written Submission 10, Addendum A, para 17.

<sup>115</sup> See Volume II, PCS Written Submission 9, paras 6–7.

*that I e-mailed to Iain ready for his consideration over the weekends and she would e-mail back his responses.*<sup>116</sup>

He continues:

*Every Friday I used to send her e-mails with the diary for the following six months and the detailed diary for the week ahead. Elizabeth used to work through it with Iain Duncan Smith over the weekend and would speak to me about them on Monday. She would let me know what information Iain Duncan Smith required for his meetings and engagements. She kept a list of the points outstanding and would contact me to make sure that certain appointments had been made or to report any changes that Iain Duncan Smith wanted to make. We did not work normal office hours.*<sup>117</sup>

Mr Whitby-Collins confirms the importance of Mrs Duncan Smith's role in the transition after her husband became Leader.<sup>118</sup> He spoke to her "several times a week".<sup>119</sup> Her role certainly stretched beyond ensuring that family commitments were reflected in the diary.

Miss Eyre says of Mrs Duncan Smith's role in relation to the diary:

*We [she and Mr Whitby-Collins] handled the external contacts but internally Elizabeth Duncan Smith took a supervisory and advisory role in making those arrangements.*<sup>120</sup>

Mr Whitby-Collins's successor as Diary Secretary, Ms Paula Malone, confirms her understanding that both her predecessor and Miss Eyre had worked with Mrs Duncan Smith on diary matters, and that she herself consulted Mrs Duncan Smith directly or via Mrs Watson on these matters:

*I was asking her really because I knew that she knew how it all operated, how it [the diary] worked.*<sup>121</sup>

Like her predecessor she would send to Swanbourne every Friday the immediate forward diary and the long term forward diary and would receive comments and queries in response.<sup>122</sup>

- c) **Secretarial work**—by its nature, staff in London would not have seen much of this aspect of Mrs Duncan Smith's work. However, Miss Eyre confirms that she and Mrs Duncan Smith discussed correspondence, although Mrs Duncan Smith rarely sent things out under her own name.<sup>123</sup> Mrs Duncan Smith would write notes on

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116 See Volume II, PCS Written Submission 27, para 4.

117 See Volume II, PCS Written Submission 27, para 5.

118 See Volume III, PCS Oral Evidence 24, Qq 2653–2655, 2674.

119 See Volume III, PCS Oral Evidence 24, Q 2660.

120 See Volume II, PCS Written Submission 9, para 8.

121 See Volume III, PCS Oral Evidence 15, Q 1500.

122 See Volume III, PCS Oral Evidence 15, Qq 1543–1546.

123 See Volume III, PCS Oral Evidence 7, Q 579.

documents which would emerge from the box.<sup>124</sup> Mrs Watson says that occasionally Mrs Duncan Smith would type letters or revisions of letters at Swanbourne.<sup>125</sup>

- d) **Constituency case work and correspondence**—Both Miss Eyre and her successor as Constituency Secretary, Mrs Watson, confirm Mrs Duncan Smith’s involvement in constituency work. For example, Miss Eyre says that whilst she was Private Secretary, she oversaw Mrs Watson doing the constituency work and “because I had worked doing the constituency work for five years, used to, with Betsy, make the arrangements for his visits in the constituency.”<sup>126</sup>

Mrs Watson speaks of Mrs Duncan Smith providing her with “invaluable information about constituents.”<sup>127</sup> She would take Mrs Duncan Smith’s advice on constituency engagements.<sup>128</sup> She continued to rely on Mrs Duncan Smith during the period after she succeeded Miss Eyre as Private Secretary, when during the autumn of 2002 she was training Ms Cara Walker in the constituency role.<sup>129</sup>

Ms Walker says that she often heard Mrs Watson speaking to Mrs Duncan Smith on the phone “about diary matters and constituency visits that Iain was to attend.”<sup>130</sup> Occasionally she took messages from Mrs Duncan Smith asking Mrs Watson to ring her back.<sup>131</sup> She was aware of e-mail traffic between Mrs Duncan Smith and Mrs Watson.<sup>132</sup> Although she did not deal directly herself with Mrs Duncan Smith, she “was always of the understanding that she [Mrs Duncan Smith] dealt with the diary stuff and organising Iain’s visits ...”<sup>133</sup>

78. The staff concerned also confirm the pattern of Mrs Duncan Smith’s working week, in so far as they were able to assess it. Miss Eyre said:

*I would speak to her, I would say, almost every day, sometimes more than once a day, and Andrew would also speak to her separately and often after weekends if we had sent down things for Iain to look at, we would often discuss them with her or we would speak to her before the weekend ...*<sup>134</sup>

She added:

*I know that she worked long hours at weekends. I know that she called me every day. We would be on the phone for half an hour, an hour, and she would call Andrew equally, maybe not every day, but regularly certainly. She did work from when she was*

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124 See Volume III, PCS Oral Evidence 7, Q 588.

125 See Volume III, PCS Oral Evidence 22, Q 2301.

126 See Volume III, PCS Oral Evidence 7, Q 609.

127 See Volume III, PCS Oral Evidence 22, Q 2215.

128 See Volume III, PCS Oral Evidence 22, Q 2288.

129 See Volume III, PCS Oral Evidence 22, Q 2307.

130 See Volume II, PCS Written Submission 22.

131 See Volume III, PCS Oral Evidence 21, Q 2093.

132 See Volume III, PCS Oral Evidence 21, Q 2100.

133 See Volume III, PCS Oral Evidence 21, Q 2104.

134 See Volume III, PCS Oral Evidence 7, Q 584.

*not on the phone with us and she used to leave messages for me late at night, about things on my voice-mail. She worked long hours.*<sup>135</sup>

Mrs Watson said:

*At weekends she would do quite a bit I am sure and during the week. I know on a Monday ... she would definitely be in the office because she would send e-mails to be pro-active in what Iain and she had discussed over the weekend about certain things.*<sup>136</sup>

Mr Whitby-Collins commented:

*... I understand that they [Mr and Mrs Duncan Smith] communicated every night and I would speak to Betsy a number of times during the week about a variety of things. I would have to say the concentration would always come early in the week after a weekend when they had more time to go through things but I would speak to her several times a week.*<sup>137</sup>

## Evidence of others

79. This evidence from staff who worked directly with Mrs Duncan Smith is supported by evidence from others—some employees and some not—who encountered Mrs Duncan Smith or had evidence of her work in her staff capacity.

### **Mr Paul Baverstock**

80. Mr Baverstock became Director of Strategic Communications at Conservative Central Office on 13 January 2003, that is after Mrs Duncan Smith ceased to be employed by her husband. He therefore had no direct dealings with her before the end of 2002. However, in discussing his potential appointment with Mr Duncan Smith he had the impression that prior to Christmas, Mr Duncan Smith had been working with his wife.<sup>138</sup>

### **Mr Jonathan Hellewell**

81. Having worked on Mr Duncan Smith's leadership campaign team, Mr Hellewell was subsequently employed as Mr Duncan Smith's Senior Aide (or ADC) throughout the whole period of his leadership. Mr Hellewell worked almost wholly on the political and parliamentary side of the office, in close partnership with Mr Duncan Smith's Parliamentary Private Secretaries (Mr Owen Paterson and, latterly, Mr Alistair Burt). However, he also had a close relationship with those in the Leader's private office (particularly Miss Eyre and Mr Whitby-Collins), having initially shared an office with them. He was aware in that early period that Miss Eyre and Mr Whitby-Collins were in regular telephone contact with Mrs Duncan Smith, discussing constituency and diary

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135 See Volume III, PCS Oral Evidence 7, Q 627.

136 See Volume III, PCS Oral Evidence 22, Q 2321.

137 See Volume III, PCS Oral Evidence 24, Q 2660.

138 See Volume II, PCS Written Submission 7a; and Volume III, PCS Oral Evidence 4, Q 460.

matters. He saw work being sent to and received from Swanbourne.<sup>139</sup> Subsequently, after he had moved to an adjacent office, he “was aware in a general, but not specific sense that they continued to be in regular touch with Mrs Duncan Smith ... ”<sup>140</sup> He continued, into the autumn of 2002, to be aware through Miss Eyre and Mr Whitby-Collins of Mrs Duncan Smith’s role.<sup>141</sup>

### **Ms Rebecca Layton**

82. Ms Layton worked in the Leader’s office from January 2002 to March 2003, initially as a correspondence clerk and latterly as deputy to Dr Gearson. Her own work did not require her to liaise with Mrs Duncan Smith but she was aware that Miss Eyre and Mr Whitby-Collins “whether it was diary or whether it was constituency, would often be on the telephone” to Mrs Duncan Smith. She “was aware that when they moved [posts] similar communication was between Christine [Watson] and Paula [Malone].”<sup>142</sup> She was also aware of e-mail traffic between Mrs Duncan Smith and Mrs Watson and Ms Malone, and of Mrs Duncan Smith’s involvement in organising the 2002 Christmas card list, a list containing some 3,000 names.<sup>143</sup> Ms Layton describes Mrs Duncan Smith as “a presence” in relation to the work of the office.<sup>144</sup>

### **Mr Owen Paterson**

83. Mr Paterson became Mr Duncan Smith’s Parliamentary Private Secretary following Mr Duncan Smith’s election as Leader. He says in his written statement:

*I confirm that whenever passing through the outer office on the way to see Iain, I frequently heard Annabelle Eyre or Andrew Whitby-Collins on the telephone to Betsy Duncan Smith.*<sup>145</sup>

In oral evidence he said that “frequently” in this context meant:

*I would say several times a day they were liaising with her.*<sup>146</sup>

This liaison was often about the diary. His statement in this respect “applies to the period through to the summer of 2002.”<sup>147</sup> Following which, owing to a move of office, his direct knowledge of such matters was more limited.

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139 PCS Written Submission 15, para 5.

140 PCS Written Submission 15, para 6.

141 See Volume III, PCS Oral Evidence 12, Q 1215.

142 See Volume III, PCS Oral Evidence 13, Qq 1318, 1325.

143 See Volume III, PCS Oral Evidence 13, Qq 1327–1328, 1334.

144 See Volume III, PCS Oral Evidence 13, Q 1340.

145 See Volume II, PCS Written Submission 19, para 22.

146 See Volume III, PCS Oral Evidence 18, Q 1776.

147 See Volume III, PCS Oral Evidence 18, Q 1777.

### **Mr Tom Finchett**

84. Mrs Duncan Smith has pointed out that, as she worked from home, no one was with her throughout the whole of the working day.<sup>148</sup> However she has submitted a letter from Mr Tom Finchett, the Estate Manager at Swanbourne, who had been supervising work on the house there. Mr Finchett says:

*During my visits to the property, I noticed that Mrs Duncan Smith worked in the office in the house on a very regular basis. It seemed to me that when at the property she was in the office most times during 'normal' office hours and quite often in the evenings.<sup>149</sup>*

### **Mr Bill Walker**

85. Mr Bill Walker, a former MP and a member of the Board of the Conservative Party wrote to me on 5 November.<sup>150</sup> When Mr Duncan Smith had been shadow Defence Secretary Mr Walker had invited him to meetings and functions involving retired senior RAF officers, and also to military exhibitions. He had continued to make such arrangements after Mr Duncan Smith had been elected party leader. In so doing he had had continuing cause to contact Mrs Duncan Smith. Mr Walker wrote:

*Before agreeing dates, I had to contact Betsy Duncan Smith. Firstly, to ensure IDS was available on given dates. Secondly, to confirm the venue, date and time. I frequently had to make a number of telephone calls before details were confirmed. All of my telephone calls were made to her at home, often in the evenings and at weekends.*

*As an ex-MP and the holder of an MOD Hon Appointment I was in a unique position to organise such activities and can confirm Mrs Duncan Smith was engaged in maintaining her husband's parliamentary diary.*

### **Evidence of e-mail and telephone contact**

86. In my letter of 27 October 2003, I asked Mrs Duncan Smith (the nature of whose work, she said, generated little in the way of paper files) if she could provide evidence of work done in the form of copies of e-mails, computer logs or telephone bills.

87. On the subject of e-mails, in her submission of 5 December Mrs Duncan Smith replied that when she and her husband had first moved to Swanbourne, she had done most of her work over the phone or by fax. However, in November 2001 she had opened an e-mail account with 'Yahoo' which had been superseded in May 2002 by one with British Telecom. In the summer of 2003, she had deleted all the e-mails on her account up to September 2002 to clear disk space. Later the same year, her PC was corrupted by a series of viruses. Efforts to retrieve the situation had only been very partially successful.<sup>151</sup> I

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148 See Volume II, PCS Written Submission 6, para 40.

149 See Volume II, PCS Written Submission 12.

150 See Volume II, PCS Written Submission 23.

151 See Volume II, PCS Written Submission 6, para 101.

received a written statement by Mr Tim Wilkinson, a computer consultant, corroborating this point.<sup>152</sup>

88. Despite this corruption of the computer, however, a number of e-mails survived. During my visit to Swanbourne, I was handed for inspection a number of e-mails. I concluded that these were indicative of activities in the area of the diary, progress-chasing and the transmission of documents. It was also clear that e-mails were sent not just at normal office hours but during the evening and sometimes late evening. (Mr Wilkinson's statement refers to "a massive amount of information" on the hard drive of Mrs Duncan Smith's computer at Swanbourne indicative of communication between Mrs Duncan Smith and staff of her husband's Westminster office.)

89. In the course of my visit to Swanbourne, and also later to a member of my staff, Mrs Duncan Smith provided for inspection a number of copies of itemised telephone bills obtained from BT. These dated only from March 2002, though she had asked for them to be provided from September 2001. She had annotated them in detail to show calls to a number of relevant individuals including: personnel in Conservative Central Office; Annabelle Eyre; Andrew Whitby-Collins; Christine Watson; Paula Malone; a number of identified MPs including Owen Paterson; journalists; constituency personnel; an individual with particular experience of organising tours and Mr Duncan Smith's driver. Again, a number of these calls were made outside normal office hours. I am grateful to Mrs Duncan Smith for the effort put into this analysis and into her attempts to retrieve evidence of e-mail traffic.

90. It is probable that these telephone bills show part only of the traffic between Swanbourne and the outside world. As Mrs Duncan Smith explained to me in oral evidence "I have to say that even this does not give a proper indication because a lot of the calls were from them to me ... and sometimes I would phone up—they had a very busy office—and I would have said 'Ring me back'."<sup>153</sup>

91. The evidence of the telephone bills tends to support the Duncan Smiths' contention that there was regular and frequent telephone, e-mail and fax contact between Swanbourne and key members of Mr Duncan Smith's staff and other relevant individuals.

## Evidence from Chingford

92. The original material submitted to me by Mr Crick included a good deal gathered from sources in Mr Duncan Smith's constituency: alleged transcripts of interviews between a number of Conservative councillors in the boroughs of Redbridge and Waltham Forest (both in the constituency) and the journalists Neal Dagleish and Louise Weston (working with Mr Crick) and between Mr Crick and the constituency agent Mr (Rikki) Radford; and notes of conversations between the journalists and a number of organisations active in the constituency. Mr Crick subsequently submitted to me copies of the tape recordings of the

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<sup>152</sup> See Volume II, PCS Written Submission 29.

<sup>153</sup> See Volume III, PCS Oral Evidence 2, Qq 163–164.

interviews and the transcripts of interviews with Conservative councillors and with Mr Radford.<sup>154</sup>

93. In his initial rebuttal of the allegations against him submitted on 13 October, Mr Duncan Smith produced a number of documents from people in the constituency. These individuals included some of the subjects of the interviews—Mr Rikki Radford and Councillors Davis, Gover and Walker—and also Mrs Coralie Buckmaster, Chairman of the Chingford and Woodford Green Conservatives. Further material submitted by Mr Duncan Smith on 16 October included a statement from another councillor, Councillor Finlayson (London Borough of Waltham Forest).

### **The Councillors**

94. The councillors contacted by Mr Crick and his team were Councillors Braham, Davis, Fish, Gover (parliamentary agent to Mr Duncan Smith until after the 2001 General Election), Huggett, Walker (Leader of the Conservative group on the Waltham Forest Council) and Williams. According to Mr Crick, the interviews between the Councillors and journalists showed “six Chingford Councillors [who] say they have seen no sign of BDS working since IDS became leader” (six because the interview with Councillor Williams was perfunctory). Thus, for example, Councillor Davis was asked “if there are constituency events happening in a couple of weeks, who would be the people you would deal with at his office whether it’s er I think a couple of names have come up as in Diary Secretary or anyone like that?” The exchange continued:

*er well yes erm as a general role you would either call one of the Annabelles or speak to Iain’s agent, constituency agent ... personally I would always to speak to Rikki because obviously he’s in hourly contact with Iain more or less. If you want to let Iain know about something I found normally calling Ricky is the best.*

*Oh right, I know his wife gets very involved in these events as well I think she was his diary secretary*

*What, Iain’s wife?*

*Yes*

*I don’t know about that*

*So you have never had any contact with her*

*No I have, I’ve met Betsy a number of times and she’s a very nice person*

*I am sure she is. Is that on a professional level or a personal level?*

*What do you mean?*

*When you say you’ve met her ...*

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154 See Volume II, PCS Written Submissions 30; 31; and 42.

*She comes with him to events*

*Right, ok so you've never actually organised any events through her*

*No he has staff to do that.*

I have checked the transcripts against the tapes, and found them to be generally accurate, with the exception that in the tape of her interview with Councillor Davis, Ms Weston says 'I know his wife *used to get very involved* in these events as well, I think she was his Diary Secretary'.

95. The document from Councillor Davis submitted by Mr Duncan Smith was in the form of an e-mail to the constituency agent Rikki Radford on the day of the interview with Ms Weston (29 September), in which he set out his suspicion that Ms Weston was not being honest with him about her motive for contacting him and said that she pressed him several times about Mrs Duncan Smith's involvement.<sup>155</sup>

96. Councillor Walker's document was a letter to Mr Radford of 12 October "further to current reports in the press" explaining that he had told the journalist that "most contacts [with Mrs Duncan Smith] were during visits in the constituency when she accompanied Iain. On being pressed for more information I also confirmed that on several occasions Betsy had contacted me by phone to ask if I would attend a function as Iain's representative". He had added that this had been a little while ago and that "lately, contacts with Iain had been either directly by telephone with Iain or through yourself or Christine Watson".<sup>156</sup>

97. Councillor Gover signed a statement that he had spoken to Mrs Duncan Smith on several occasions in 2002 about constituency matters:

*particularly concerning Mr Duncan Smith's constituency presence and related overnight accommodation. These discussions could not have happened unless she, Betsy, had a role in her husband's political life, and was aware of his movements as Party Leader.*<sup>157</sup>

Most of these conversations had taken place by mobile phone.

98. Councillor Finlayson wrote that when she rang Mr Duncan Smith's office "prior to the local elections in 2002" to speak to Annabelle Eyre, Mrs Duncan Smith answered the phone and that on another occasion 'Betsy rang me on a Thursday and apologised for the late notice but Iain was going to be in the constituency the next day on a walkabout and could I be there to support him.' She added;

*As far as I was aware Betsy was working for her husband organising his appointments.*<sup>158</sup>

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155 See Volume II, PCS Written Submission 33.

156 See Volume II, PCS Written Submission 35.

157 See Volume II, PCS Written Submission 34.

158 See Volume II, PCS Written Submission 36.

The instances cited by Councillor Finlayson are vague in date. They show, however, that even when working from Swanbourne Mrs Duncan Smith was occasionally in the London office, where she would if necessary answer the phone in the absence of other staff.

99. I sent copies of the transcripts supplied by Mr Crick to the councillors concerned and asked whether they could recall the conversations, and whether they believed the transcripts to be an accurate record. After I received the tape-recording I sent each of them copies of the relevant section of this as well. I also asked them if they had any contact with Mrs Duncan Smith in her capacity as a member of her husband's staff during the relevant period, or whether there was any other relevant information they wished to give me. I received replies to my original letter from Councillors Braham, Davis, Fish, Gover and Huggett, and to my subsequent letter from Councillors Gover and Davis.<sup>159</sup>

100. Each of the Councillors responding to me took exception to the way in which the interviews had been obtained. According to the tapes and transcripts, Ms Weston introduced herself as carrying out research into how MPs operated in their constituencies, while, according to Councillor Gover, Mr Dalglish made the same claim to him. Councillor Huggett and Councillor Davis pointed out that Ms Weston did not tell them that she was taping the conversation, and suggested that this was illegal. These are not matters for me but, initially at least, for the BBC.

101. Each respondent said that he or she would not have known about any involvement by Mrs Duncan Smith in making arrangements for constituency visits by her husband. All said that they would have had little cause to contact Mr Duncan Smith's parliamentary office to make arrangements about constituency matters and would not expect to know how his parliamentary office was arranged, or who worked in it, and three specified that their primary contact with him on constituency matters would be through the office in the constituency, where there was a secretary, or the agent, Mr Rikki Radford. Councillor Fish commented that he did not recollect any contacts with Christine Watson and said that while he did not recall any contacts with Mrs Duncan Smith during the period under discussion, his contacts with the parliamentary office had been in writing and so any contact with her would not have been revealed. Councillor Huggett pointed out that as a newly-elected councillor, she had never needed to invite Mr Duncan Smith to an event and could only speculate as to how she would do so; she told me that she had said this in the interview, although this did not appear in the transcript or tape.

102. As I have said in paragraph 94 above, the tapes and the transcripts generally tally. This does not, however, rule out the possibility that the tapes themselves have been edited, as Councillor Davis noted in his letter in response to mine enclosing the tape. Councillor Huggett was firmly of the opinion that not all the conversation she had with the journalist was recorded (see paragraph 101 above) and suggested that the tape had been "chopped and changed around". There is, however, no independent evidence of any such editing.

103. The letters to me from councillors produced three positive pieces of information about involvement by Mrs Duncan Smith in constituency affairs to add to Councillor

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<sup>159</sup> See Volume II, PCS Written Submissions 37–41.

Gover's statement. Councillor Davis confirmed Councillor Walker's written statement that Mrs Duncan Smith would sometimes ask him, as leader of the Conservative Group on the Council, to stand in for her husband at functions (which, Councillor Davis stated, "is definitely the work of a diary secretary"). Councillor Huggett wrote that she telephoned Mr Duncan Smith's House of Commons office shortly after 16 September 2001 and the phone was answered by Betsy, who said she would pass the message on. Councillor Braham said that if the journalist who had rung him had been honest about the motive for the conversation "and told me what she was after, I would have told her of an occasion [identified as early December 2002] when I, IDS and Betsy were at a local social function. I asked Iain about the possibility of meeting him at an imminent political event. It was Betsy who reminded him that he would be elsewhere on that date".

104. It will be apparent from this account that there is much disagreement about whether the tapes and transcripts are a true record of the conversations; about the means by which they were obtained; and about Mr Crick's interpretation of the conversations. Whilst some of the questioning by the journalists clearly relates to the situation prior to December 2002, some is less clear on this point. It should also be noted that the conversations themselves reflected individuals' immediate, not considered recollection of events up to two years old. Several of the interviewees told me that they were not in a position to know what involvement Mrs Duncan Smith had with her husband's office. Against this background I do not think much weight can be put on the transcripts and tapes as material evidence for the purposes of my inquiry.

105. Even were they regarded as confirming that these local councillors had had few if any business as opposed to social dealings with Mrs Duncan Smith after her husband's election as Leader, that this was so would be consistent with the evidence from Mrs Duncan Smith that she had limited contact with local councillors during the time she worked for her husband; and of Mrs Duncan Smith and others that from September 2001 onwards she largely left the making of engagements to others and that Mr Radford was her principal point of contact in the constituency.<sup>160</sup>

### **The Constituency Chairman**

106. As noted earlier, included in the initial submission which Mr Duncan Smith gave me on 13 October was a letter from his constituency party chairman, Mrs Coralie Buckmaster. Mrs Buckmaster wrote that she had contacted Mrs Duncan Smith on various constituency matters both before and during the period when Mr Duncan Smith first became leader of the Opposition. She added;

*During the period September 2001 to December 2002 there was a re-organisation of the IDS office and during this process I had cause to contact Betsy Duncan Smith as stated.<sup>161</sup>*

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<sup>160</sup> See Volume II, PCS Written Submission 6, para 79.

<sup>161</sup> See Volume II, PCS Written Submission 32.

### **The Constituency Agent**

107. Mr Crick also submitted a transcript and tape of an interview on 29 September 2003, which he described as being ‘on the record’, between himself and Mr Duncan Smith’s constituency agent Mr Rikki Radford, about Mrs Duncan Smith’s role in her husband’s life.<sup>162</sup> This contained the following exchange :

MC: ... *as far as you are aware she doesn’t have any professional role for him since he became leader.*

RR: *As far as I’m aware—and I can be absolute it’s not ‘as far as I’m aware’, I know for sure she doesn’t.*

Mr Crick pointed out that he put his questioning of Mr Radford in the context of the whole period of Mr Radford’s appointment but agreed that there was “an ambiguity” in the tense of the question he put during this exchange. However, he claimed that the meaning was clearer when the tape was heard.<sup>163</sup>

108. In his written statement dated 13 October 2003 Mr Radford, referring to the quotation from the interview set out in the preceding paragraph, wrote:

*It is self-evident that my answer is concerned with the present. I understood Mr Crick to be asking me about Betsy’s current employ. If I had been asked about her past employment, I would have given the appropriate, very different answer, based on my knowledge as set out above in this statement.*<sup>164</sup>

That different answer was that from the outset of his work for Mr Duncan Smith in February 2002 (when he was told by Annabelle Eyre that ‘Betsy was on call’) he:

*had regular dealings with Betsy concerning constituency matters. I spoke to her at least four or five times a month by telephone or more depending on the state of activity in the constituency. For example, in the run-up to the local elections in May 2002 I had to speak to her often about her contact ... I know at first hand that Betsy was active in her employed role up to December 2002. I recall, for example, that she co-ordinated the Christmas card mailings for the constituency that year, which benefited from her knowledge of the very many persons on our mailing list.*

Mr Radford also made the same comment about the taping of the interview without his knowledge as had the local councillors.

109. I interviewed Mr Radford on Monday 20 October. He confirmed what he had said in his written statement concerning his conversation with Mr Crick, adding that when Mr Crick put to him the question “As far as you are aware she hasn’t had any professional role for him since he became leader”, in his anxiety to terminate the conversation he had simply not heard the qualifying words “since he became leader”. I played Mr Radford the tape of

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<sup>162</sup> See Volume II, PCS Written Submission 42.

<sup>163</sup> See Volume III, PCS Oral Evidence 1, Q 28.

<sup>164</sup> See Volume II, PCS Written Submission 43.

the interview and he continued to maintain that he had heard the question “Does she still do that role as diary secretary?” as relating to the present.<sup>165</sup> It is my view that because of the tense of the question put by Mr Crick, the exchange remains ambiguous even in the light of the tape.

110. During my interview with him, Mr Radford amplified his account of his dealings with Mrs Duncan Smith:

*I did not hesitate in getting in contact with Betsy. We developed a telephone relationship of dealing with things. For instance, the first conversation I think I had with her was about councillors, what they were like, who they were, that sort of thing, and she had more of a knowledge of that to start with because that was just before the local elections [of May 2002] ... she had seen a local chap had opened up a restaurant and she said to me could we try and work that into the diary ... it was definitely (I am talking to her) ‘Shall you do this? Shall I do this? Which one of us is going to make sure it happens? Who is going to talk to them?’ ... if there was something else outstanding I would have a conversation later in the day talking to Annabelle Eyre and she would say “I will tell her, I will speak to her in a minute” ... there would be stuff left over from the [constituency] visits that would all go in Iain’s bag and go off to Swanbourne and then she [Mrs Duncan Smith] would sort through it over the weekend so then the completed work was sent on to go out’.<sup>166</sup>*

111. As with the transcripts of the interviews with the councillors, the ambiguity and argument relating to Mr Crick’s conversation with Mr Radford leads me to be reluctant to put much evidential weight on it. On the other hand, Mr Radford’s evidence of his working relationship with Mrs Duncan Smith needs to be put alongside that of Mrs Duncan Smith and others, with which it generally tallies.

### **The Constituency organisations**

112. Mr Crick also supplied me with summary notes of contacts between him or his assistants and 19 organisations and one individual, mostly in the constituency, with whom Mrs Duncan Smith might have been expected to be in contact if she were working for her husband as his diary secretary, all of whom apparently recalled little or no contact with her.<sup>167</sup> Mr Crick gave a very brief account of each such conversation and did not specify the precise questions asked. Most of the information given by the 19 organisations and one individual about contact (or the lack of it) with Mrs Duncan Smith relates to the period 2002–2003. In evaluating this evidence I have had to bear in mind Mrs Duncan Smith’s habit of not introducing herself as the wife of Iain Duncan Smith and the evidence she and others gave that after September 2001, she was not, for the most part, involved in arranging her husband’s engagements. Further, this material cannot be regarded as primary evidence of what Mrs Duncan Smith did: it is of circumstantial value only and needs to be weighed alongside that from other, primary sources.

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<sup>165</sup> See Volume III, PCS Oral Evidence 19, Qq 1927–1937.

<sup>166</sup> See Volume III, PCS Oral Evidence 19, Qq 1877–1892.

<sup>167</sup> See Volume II, PCS Written Submission 44.

## Mrs Christine Watson's memorandum of 24 October 2002

113. Prominent amongst the evidence submitted by Mr Crick in support of his complaint were copies of a memorandum sent by Mrs Christine Watson to Dr Vanessa Gearson on 24 October 2002 and of an e-mail sent by Dr Gearson to the then Chairman of the Conservative Party, Mrs Theresa May, Mr MacGregor (as Chief Executive of the Party) and Mr Paul Baverstock (the Party's Director of Strategic Communication) on 30 January 2003. I turn now to summarise the evidence relating to these two documents, including the efforts of Dr Gearson to raise the matter of Mrs Duncan Smith's employment in the higher echelons of the Party and Mr and Mrs Duncan Smith's account of the steps leading up to Mrs Duncan Smith's ceasing to be employed by her husband at the end of 2002.

114. It is common ground that Mrs Watson's memorandum of 24 October 2002 was written by Mrs Watson at Dr Gearson's request.<sup>168</sup> Dr Gearson made a similar request of her deputy Rebecca Layton. Mrs Watson produced her memorandum at a time when she was under considerable pressure: she saw it as an opportunity to explain to Dr Gearson how much she had been doing and coping with:

*... it was a difficult time, everybody had a lot of work, and I wrote it about my feelings. That is how I felt, it was about me, and I did not give the full picture of who I had worked with ...*<sup>169</sup>

The memorandum was never intended for publication:

*... I wrote it in extreme confidence. It was not something I thought ever would be put on record ...*<sup>170</sup>

She was deeply upset that it had found its way to Mr Crick and that extracts from it had appeared in the press.

115. When submitting a copy of this memorandum to me, Mr Crick drew my attention to a number of statements in it which he believed supported his complaint. Some of these concerned references to the funding of staff and the use of Mr Duncan Smith's Parliamentary Allowances: I identify and examine these later (paragraphs 155–181 below). Two, however, related to Mrs Duncan Smith. One concerned Mrs Watson's statement in the opening paragraph of the memorandum that;

*... I was solely running Iain's very busy constituency office without assistance ...*

The other reads:

*Betsy has asked me to do what work she may have, keep her papers in order, invitations and draft letters when necessary. Also it is important to keep her informed at all times of changes in the Diary.*

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<sup>168</sup> See Volume III, PCS Oral Evidence 9, Q 966; and 22, Q 2328.

<sup>169</sup> See Volume II, PCS Written Submission 49; and Volume III, PCS Oral Evidence 22, Q 2329.

<sup>170</sup> See Volume III, PCS Oral Evidence 22, Q 2330.

Mr Crick suggested that this, written at a time when Mrs Duncan Smith was still employed by her husband, indicated that far from being of assistance to her staff colleagues Mrs Duncan Smith was at best of no help to them, at worst a burden to them. Dr Gearson shared Mr Crick's interpretation of the second of these statements, adding:

*... Mrs Watson complained on repeated occasions about the work that Mrs Duncan Smith generated.*<sup>171</sup>

116. Mrs Watson, however, explains the second reference not as a complaint about Mrs Duncan Smith but a statement of fact about the demands Mrs Duncan Smith was properly putting on Mrs Watson once she became Private Secretary in her (Mrs Duncan Smith's) role as wife of the Leader of the Opposition:

*The memorandum refers to work that I received from Mrs Duncan Smith in her role as wife of the Leader of the Opposition.*<sup>172</sup>

*I mentioned Betsy because I was Private Secretary then and I was going to be undertaking work for her in her role as wife of the Leader of the Opposition ... I did not refer to Betsy in the constituency capacity.*<sup>173</sup>

As to the earlier statement, Mrs Watson says that it should be seen as a reflection of her physical isolation during her time as Constituency Secretary in a room on a different floor of the House from the Leader's Private Office:

*I was talking about that because geographically, when I was in M2, I was on my own in the office.*<sup>174</sup>

The memorandum:

*... was not a survey of the work done by other people in Mr Duncan Smith's office but was my note of work that I had undertaken and was doing.*<sup>175</sup>

117. Support for this view is given by Mrs Watson's successor as Constituency Secretary, Ms Cara Walker:

*That memo was not about Betsy's role, it was a cry out from Christine to get recognition and to have it noted about what work she had been doing ...*<sup>176</sup>

118. Mr Crick drew my attention to one other phrase in the memorandum he considered telling, which it may be sensible to deal with here. This is Mrs Watson's reference in her conclusion to it not being her intention to "tell tales":

171 See Volume III, PCS Oral Evidence 9, Q 968.

172 See Volume II, PCS Written Submission 25, para 57.

173 See Volume III, PCS Oral Evidence 22, Q 2329.

174 See Volume III, PCS Oral Evidence 22, Q 2335.

175 See Volume II, PCS Written Submission 25, para 37.

176 See Volume III, PCS Oral Evidence 21, Q 2182.

*I bear no grudges and my intention is not to ‘tell tales’ otherwise I could and would have done this earlier.*

This, Mr Crick speculated, implied that Mrs Watson was aware that there were tales (concerning Mrs Duncan Smith’s employment and/or the misuse of allowances) to be told. Mrs Watson says of this:

*... he [Mr Crick] is completely inaccurate in the way that he reads that memorandum. I did not like criticising [a colleague] in the memorandum which is the reason I referred to ‘having no intention to tell tales’: however in order to describe my workload I had to refer to additional tasks which were passed on to me by [that colleague].<sup>177</sup>*

## Ending Mrs Duncan Smith’s employment

119. I turn now to the evidence concerning the actions of various people in the months leading up to the end of Mrs Duncan Smith’s employment on 31 December 2002. I begin with the steps taken by Dr Gearson to raise the matter in the senior echelons of the Conservative Party, before moving on to Mr and Mrs Duncan Smith’s account of what happened.

120. Dr Gearson says that she first learned of Mrs Duncan Smith’s employment in a conversation with Mrs Watson in early September 2002:

*the matter was first brought to my attention by Mrs Watson in early September 2002 as she sought to appoint a researcher to support Miss Walker in her new role as Mr Duncan Smith’s parliamentary [i.e. constituency] private secretary. Mrs Watson advised me that there was simply no money available to employ a researcher because the funds available were fully used. She explained that this was because Mrs Duncan Smith was continuing to be paid a salary. It was evident from the conversation we had that Mrs Watson understood entirely the difficulties we faced with this issue—both in terms of its propriety and political sensitivity.<sup>178</sup>*

Mrs Watson says that she cannot recall having had a specific meeting with Dr Gearson about this and other funding issues, although she does not deny the possibility.<sup>179</sup> According to Mr Duncan Smith, Mrs Watson informed him that she does not recall drawing the matter of his wife’s employment to Dr Gearson’s attention.<sup>180</sup> He speculates that Dr Gearson may have learned of it from Mr MacGregor.<sup>181</sup> However, it seems at least as likely that Mrs Watson was the source of Dr Gearson’s knowledge of the matter. Ms Layton, Dr Gearson’s deputy, says that, upon her arrival as Private Secretary, Mrs Watson had shone a light on a lot of concerns (as reflected in her memorandum of 24 October to Dr Gearson). Although Ms Layton cannot completely confirm it:

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177 See Volume II, PCS Written Submission 25, para 38.

178 See Volume II, PCS Written Submission 13.

179 See Volume III, PCS Oral Evidence 23, Q 2559.

180 See Volume II, PCS Written Submission 7, para 140.

181 See Volume III, PCS Oral Evidence 3, Q 322.

*I suspect that this was also raised [along with other concerns], that Betsy was on the payroll. ...*<sup>182</sup>

121. It is common ground between Dr Gearson and Mrs Watson that Mrs Watson was primarily concerned about Mrs Duncan Smith's employment in the context of Mrs Watson's attempt to employ Ms Cara Walker as her successor as Constituency Secretary and to provide her with the help of a research assistant.<sup>183</sup> There was a limited budget and it could not stretch to accommodate both these posts unless Mrs Duncan Smith was removed from the payroll. Dr Gearson also attributed to Mrs Watson concerns about the propriety of Mrs Duncan Smith's employment but Mrs Watson denies this:

*... Vanessa suggests that I brought to her attention a concern that Mrs Duncan Smith was being paid a sum of money from the Office Costs Allowance when she did not actually have a role to play. That is not the case. I never had that concern and I never had such a conversation.*<sup>184</sup>

Mrs Watson asserts that her concerns were purely budgetary.<sup>185</sup>

122. Dr Gearson certainly had a concern about propriety, and also about the potential political sensitivity of what she had learned:

*My primary concern was Mrs Duncan Smith's payment. That concern was based at that stage ... on a preliminary but quite urgent concern that Mrs Duncan Smith was not showing evidence of carrying out a substantial amount of work or certainly the kind of work that would indicate that she should be reimbursed from the parliamentary Office Costs Allowance. I am sure you will appreciate also that on a political level I felt that it would be very sensitive if this came into the public domain.*<sup>186</sup>

123. According to Dr Gearson, when she learned that Mrs Duncan Smith was employed on the OCA she immediately did two things. First she told Mrs Watson to go and seek the advice of the House's Fees Office (now subsumed into the Department of Finance and Administration) about the various allowance and budget issues which were causing Mrs Watson concern.<sup>187</sup> (Mrs Watson acknowledges that she sought advice from the Department on a number of occasions during the autumn of 2002 but says that she did not do this at the behest of Dr Gearson.<sup>188</sup>) Secondly, Dr Gearson says that within an hour she drew her concerns to the attention of Mr Owen Paterson, one of Mr Duncan Smith's PPSs:

*... it was within one hour of that conversation that I raised the matter first with Mr Owen Paterson because I immediately identified that Mrs Duncan Smith could not, in*

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182 See Volume III, PCS Oral Evidence 13, Q 1342.

183 See Volume II, PCS Written Submission 13, and 25, paras 14–17; and Volume III; PCS Oral Evidence 22, Q 2369.

184 See Volume II, PCS Written Submission 25, para 57.

185 See Volume III, PCS Oral Evidence 23, Q 2466.

186 See Volume III, PCS Oral Evidence 9, Q 887.

187 See Volume III, PCS Oral Evidence 9, Q 886.

188 See Volume II, PCS Written Submission 25, para 29..

*what I have to admit was my very preliminary judgement, be perceived to be carrying out a position of work that merited payment from the Office Costs Allowance.*<sup>189</sup>

124. It is noteworthy that Dr Gearson did not raise the matter directly with Mr Duncan Smith despite the number of meetings they had during this period. She justifies this on the grounds of the sensitivity of the issue and the fact that Mr Paterson was Mr Duncan Smith's closest confidante:

*The feeling that was put to me at that time was that Mr Paterson was the only person who could deliver that message.*<sup>190</sup>

Nor, it appears, did she make inquiries of other staff as to whether they knew what Mrs Duncan Smith was supposed to be doing which might justify her employment. According to Dr Gearson:

*... perhaps the best thing I could describe is that the reason why nobody talked about it in essence was because everybody had an understanding that she [Mrs Duncan Smith] did not actually have a role to play.*<sup>191</sup>

125. As well as expressing her concerns to Mr Paterson, Dr Gearson expressed them to Central Office. Mark MacGregor (who says that he may have first learned that Mrs Duncan Smith was receiving a payment from the Office Costs Allowance during a conversation with Jenny Ungless in the early summer of 2002) says that the matter was raised by Dr Gearson with him in early or mid September 2002 at a meeting in his office:

*I stated that we needed, as a matter of urgency, to protect the reputation of the Leader and suggested that she [Dr Gearson] raise the matter initially with Owen Paterson, his Parliamentary Private Secretary.*<sup>192</sup>

126. The matter was subsequently raised by Dr Gearson on several occasions both in conversation in Mr MacGregor's office and at meetings of what was known as the Communications Group. The former is stated by Mr MacGregor and confirmed by Mr Stephen Gilbert, then Mr MacGregor's deputy.<sup>193</sup> The latter is confirmed by several who were present at those meetings. The Communications Group was less a committee than a regular meeting—instituted by Mr MacGregor and the then Chairman of the Conservative Party, Mrs Theresa May, in the autumn of 2002—to improve operational communication between the Leader's office and Conservative Central Office. In addition to the Chairman, these meetings were attended by Mr MacGregor, Mr Gilbert, Dr Gearson and, less frequently, Mr Paterson. The then Party Treasurer, Sir Stanley Kalms, was an occasional attender, and latterly Mr Baverstock also attended.

127. No minutes were taken of the Communications Group's meetings but the recollection of those involved in them on the issues central to this inquiry is similar. Dr Gearson said

<sup>189</sup> See Volume III, PCS Oral Evidence 9, Q 886.

<sup>190</sup> See Volume III, PCS Oral Evidence 9, Q931.

<sup>191</sup> See Volume III, PCS Oral Evidence 9, Q 921.

<sup>192</sup> See Volume II, PCS Written Submission 18.

<sup>193</sup> See Volume III, PCS Oral Evidence 10, Q 1013.

that she raised the matter of Mrs Duncan Smith's employment, along with other issues concerning financial management of the Leader's office, twice at meetings in November/December 2002.<sup>194</sup> She did this because, although she had previously raised the matter with Mr Paterson on at least 3 occasions, she had not detected that it was being resolved:

*I had sought to try and deal with it on a one-to-one level with Mr Paterson, I had tried to bring in the Chief Executive, and by that point the only thing left to me was to bring in the weight of Conservative Central Office behind me.*<sup>195</sup>

128. Mr Paterson confirms that in the autumn of 2002, Dr Gearson raised with him the issue of Mrs Duncan Smith's employment:

*In the Autumn of 2002, Vanessa Gearson raised with me the issue of Betsy's employment. She did so informally. Vanessa expressed concern that Betsy Duncan Smith was employed by Iain and questioned whether she really did any work. So far as I am aware, Vanessa had no involvement in constituency issues but, regardless of this, I raised the matter with Iain along with a list of routine matters I believe this to have been in the course of one of our evening meetings at which I ran through issues which had arisen in the course of the day. This was an informal although regular process. Vanessa Gearson raised this matter with me on one or two further occasions in late 2002. This was done in the same informal way. I raised the matter with Iain again and he confirmed, as he had before, that the arrangements were completely regular.*<sup>196</sup>

Mr Paterson says that even though Mr Duncan Smith had reassured him on the propriety issue, he:

*continued to worry that this was potentially politically damaging.*<sup>197</sup>

Mr Paterson confirms that the matter was raised at one, at least, of the Communications Group's meetings, at which he agreed to raise it again with Mr Duncan Smith. He continues:

*It was either as a result of that or my discussions with Vanessa that in a later discussion with Iain, he said that it was his intention to end Betsy's role.*<sup>198</sup>

129. Mrs May says that Dr Gearson first expressed to her concerns about Mrs Duncan Smith's employment at a one-to-one meeting in the autumn of 2002, and subsequently mentioned the matter at a number of meetings of the Communications Group. She does not recall an extensive discussion of the issue. The issue was raised primarily in the context of a political concern about what the public perception of this might be, rather than an anxiety about whether Mrs Duncan Smith was doing the work for which she was being

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194 See Volume III, PCS Oral Evidence 9, Q 928.

195 See Volume III, PCS Oral Evidence 9, Qq 928, 930.

196 See Volume II, PCS Written Submission 19, para 35.

197 See Volume II, PCS Written Submission 19, para 35.

198 See Volume II, PCS Written Submission 19, paras 36–37.

paid.<sup>199</sup> Mr MacGregor confirms that discussion of the matter at the meetings of the Communications Group was brief.<sup>200</sup>

130. It appears also that, when the matter was discussed in the Group, no one volunteered an explanation in clear terms of what Mrs Duncan Smith was doing. This is asserted by Mr McGregor, Dr Gearson and Mr Gilbert.<sup>201</sup> Mr Paterson, who might have been expected to offer such an explanation in the light of what he had been told by Mr Duncan Smith, explains that he himself was focused on the potential political danger and says that whilst he is sure he would have reported the assurances Mr Duncan Smith had given him:

*I would also have reported my own political concerns.*<sup>202</sup>

131. Both Dr Gearson and Mr MacGregor assert that the difficulties encountered by Mr Michael Trend (the Member for Windsor) in claiming sums under the Additional Costs Allowance (ACA) to which he was not entitled, were a factor in prompting Dr Gearson to raise the issue in the Communications Group and in propelling Mr Duncan Smith to end his wife's employment.<sup>203</sup> Both Dr Gearson and Mr MacGregor suggest that the Trend story broke in November 2002: in fact this did not happen until 15 December 2002. I recount Mr Duncan Smith's comments on this point below.

132. By the end of 2002, according to the recollection of Mrs May, and Mr MacGregor, they knew that Mrs Duncan Smith's employment had been brought to an end.<sup>204</sup> The matter thereafter ceased to feature on the agenda at meetings of the Communications Group.

133. What is Mr and Mrs Duncan Smith's account of the sequence of events which led up to the ending of Mrs Duncan Smith's employment? Mr Duncan Smith says that, following his election as Leader in September 2001 it was their shared intention that Mrs Duncan Smith would give up work once all the appointments to his new office were settled.<sup>205</sup> This did not happen because it took longer than either expected for his office to run satisfactorily. He first seriously discussed with his wife her giving up her job in the early summer of 2002.<sup>206</sup> Mrs Duncan Smith wanted to give up work to fulfill the increasing demands upon her to spend time on engagements as the wife of the Leader of the Opposition. However this was again postponed to allow the various changes which followed Jenny Ungless's departure to work their way through:

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199 See Volume III, PCS Oral Evidence 16, Qq 1564, 1566, 1569, 1570.

200 See Volume III, PCS Oral Evidence 14, Q 1436.

201 See Volume II, PCS Written Submission 18; and Volume III, PCS Oral Evidence 14, Q 1437; 9, Q 921; and 10, Q 1019.

202 See Volume III, PCS Oral Evidence 18, Qq 1827–1828.

203 See Volume II, PCS Written Submission 13,; and 8; and Volume III, PCS Oral Evidence 9, Q 927; and 14, Q 1440.

204 See Volume III, PCS Oral Evidence 16, Q 1557; and 14, Q 1456.

205 See Volume II, PCS Written Submission 5, para 5.

206 See Volume II, PCS Written Submission 7, para 37.

*My wife ended up working longer than we wanted her to because my offices had not yet reached the point where the staffing moves and new staff employed in late 2002 had settled into their roles.<sup>207</sup>*

This, together with the impact on his working pattern of the Leader's Tour after the Party Conference of 2002, meant that Mrs Duncan Smith's contribution continued to be essential.

*It was not until mid November that I was sufficiently confident with the running of the offices to confirm to Christine Watson that Betsy would go off the payroll in December. That decision was also notified to my Parliamentary Private Secretaries.<sup>208</sup>*

This sequence of events is also recounted by Mrs Duncan Smith.<sup>209</sup>

134. Mr Duncan Smith says that he was puzzled, given Dr Gearson's administrative role in his office, when Mr Paterson first told him that she had raised the question of his wife's salary. He explained his wife's continuing role to Mr Paterson, and asked him to do so to Dr Gearson. Hearing nothing further from Dr Gearson, he assumed she had no further concern. In November, with all his key staff in place, he decided that his wife should give up employment. The organisation of his tours and of his box was satisfactory and the roles which Mrs Duncan Smith had undertaken could be fulfilled by other staff. His wife needed to be free to take on the duties increasingly being expected of her as the wife of the Leader. He informed Mr Paterson of his decision and understands that he in turn told Dr Gearson of it. He agreed Mrs Watson's proposals about the recasting of the staff budget and asked Mrs Watson to tell the Department of Finance verbally that his wife would cease employment at the end of the year. He wrote to the Department on 18 December 2002 formally conveying this decision.<sup>210</sup>

135. The date of this letter was 3 days after the Trend affair broke. Mr Duncan Smith says, however, that that matter was wholly irrelevant to his decision, which had been firmly reached the previous month. He knew nothing of the Trend affair until it broke in the press on 15 December. Dr Gearson challenges this, claiming that the allegations concerning Mr Trend were widely rumoured in advance. She denies having been told by Mr Paterson in November of Mr Duncan Smith's decision and questions why Mr Paterson did not reveal this decision to the Communications Group when it met shortly after the Trend story broke.

136. However, evidence from Mrs Watson and Mr Duncan Smith's two Parliamentary Private Secretaries, Mr Burt and Mr Paterson, supports Mr Duncan Smith's contention that he had made the decision about his wife in November. Mrs Watson confirms that Mrs Duncan Smith began transferring files to her from Swanbourne to be archived in the autumn of 2002. Mrs Watson says that she raised her concern about the staffing budget with both the Parliamentary Private Secretaries. On the evening of 19 November she and

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207 See Volume II, PCS Written Submission 7, para 37.

208 See Volume II, PCS Written Submission 7, para 37.

209 See Volume II, PCS Written Submission 6, paras 56, 62, 65–66.

210 See Volume II, PCS Written Submission 51.

Mr Burt spoke to Mr Duncan Smith, who signed the contract for the new research assistant. The contract, which I have seen, bears that date. By then “anyway it was knowledge that Mrs Duncan Smith was coming off [the payroll]”.<sup>211</sup>

137. Consistent with this, Mrs Watson has shown me an entry in a work book she kept in which she noted tasks to complete. This entry, dated 18 November 2002, reads:

*Salary letter—Betsy.*

Mrs Watson says that this note was a reminder to herself to draft a letter to the Department of Finance and Administration for Mr Duncan Smith’s signature notifying the Department that Mrs Duncan Smith was to be taken off the payroll. There was no other issue then current about Mrs Duncan Smith’s salary to which it might relate. The entry appears consistent with Mr Duncan Smith’s assertion (supported by Mrs Watson) that by mid-November he had told Mrs Watson of his decision to end his wife’s employment. It would also be consistent with this that, knowing of his decision, Mrs Watson would take an early opportunity to ask Mr Duncan Smith to sign the contract for the new research assistant.

138. Mr Burt says that he became one of Mr Duncan Smith’s Parliamentary Private Secretaries towards the end of October/beginning of November of 2002. Fairly soon after he arrived he became aware during a conversation with Mrs Watson that:

*... she was concerned to tidy up a whole series of things which she felt had been left unsorted over the many months previously in the office, included in which was sorting out finally Betsy’s contract and moving her off ... We were able within two or three weeks of my arrival to get a quick bit of time with Iain, talk to him about it, said ‘this really must be done, can you sign this, we will get it done and get it sorted.’ Iain, as soon as the issue was put to him, as far as I was concerned, instantly dealt with it ...*<sup>212</sup>

139. As to the delay between 19 November and 18 December in informing the Department of Finance in writing of the decision, Mrs Watson says that she informed the Department orally of it by the middle of December.<sup>213</sup> She did not invite Mr Duncan Smith to write to the Department until 18 December because there was no need to do so earlier in order to ensure that Mrs Duncan Smith was removed from the payroll from the end of December.<sup>214</sup> As to the Trend affair:

*The Trend story was published in the middle of December by which time the decision about those to be employed by Mr Duncan Smith from the staffing allowance had already been made.*<sup>215</sup>

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211 See Volume III, PCS Oral Evidence 23, Qq 2458, 2486, 2474.

212 See Volume III, PCS Oral Evidence 5, Q 511.

213 See Volume II, PCS Written Submission 25, para 33.

214 See Volume III, PCS Oral Evidence 23, Q 2570.

215 See Volume II, PCS Written Submission 25, para 34.

## Dr Vanessa Gearson's e-mails

140. Also amongst the material which Mr Crick submitted to me on 13 October 2003 was a copy of an e-mail sent by Dr Gearson on 30 January of the same year to Mrs May, Mr MacGregor and Mr Baverstock. Dr Gearson did not copy the e-mail at the time to Mr Duncan Smith or Mr Paterson, although she did send a below cover copy of it to her deputy, Ms Layton.<sup>216</sup>

141. The e-mail identified two issues which Dr Gearson suggested might be raised with Mr Owen Paterson at a meeting which the two primary recipients of the e-mail were to have with him. These concerned expenses incurred by Mr Duncan Smith in relation to the refurbishment and enlargement of the office at Swanbourne (see paragraph 39 above) and the demands being placed on supporters of the Conservative Party in relation to the use of private planes. Both of these matters related to expenditure incurred by the Party and its supporters, and not to the expenditure of public money, and they are not therefore matters for me. Suffice it to say that the issues being raised by Dr Gearson concerned, in the first instance the lack of a pre-agreed budget for the works and in the second the need for a more cautious approach to requests for the use of private planes. As regards the first, Mr Duncan Smith says that Mr MacGregor had already agreed the work (although Mr MacGregor disputes this). On the second Mr Duncan Smith says that the problem was only temporary and improvements in the administration of his tours and diary meant it was soon resolved.

142. The significance of the e-mails of 30 January to my inquiry lies in the paragraph sandwiched between these two other matters, which read:

*Given the recent difficulties experienced by Michael Trend and our own need to audit our expense claims, this may be something you wish to discuss with Owen in the first instance. As you know BDS has only just ceased to claim £18,000 off his Parliamentary Office Costs Allowance and the last thing we would wish is for a Crick style investigation of his financial arrangements.*

This paragraph has been seen by some who gave evidence to me either as remarkably prescient or as evidence of a set-up.

143. Dr Gearson says that the e-mail was sent in preparation for the planned meeting which Mrs May and Mr MacGregor were to have with Mr Paterson about financial procedures relating to the Leader.<sup>217</sup> She did not refer to Mrs Duncan Smith because she thought Mrs Duncan Smith's employment was still a cause of concern. She knew that it had ended.<sup>218</sup> The reference to Mrs Duncan Smith was:

*... only in the context of my continuing concern about other financial arrangements.*

She mentioned Mrs Duncan Smith's employment:

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<sup>216</sup> See Volume II, PCS Written Submission 46.

<sup>217</sup> See Volume III, PCS Oral Evidence 9, Q 955.

<sup>218</sup> See Volume III, PCS Oral Evidence 9, Q 938.

*... as a reference point because I felt that Mrs Duncan Smith's employment would be in effect the most serious problem that we would have if it came into the public domain.*<sup>219</sup>

As to the reference to Mr Crick, she made it because he had an established reputation as an investigative journalist and had already targeted Mr Duncan Smith for investigation regarding the details of his biography, in particular his CV:

*In the light of Michael Trend and given the fact that I had felt very strongly about Mrs Duncan Smith's employment and my ongoing and continued concerns regarding his [Mr Duncan Smith's] financial affairs I sensed that Michael Crick was not far behind us.*<sup>220</sup>

144. To Mr Duncan Smith and some other witnesses to my inquiry, the 30 January e-mail, with its references to Mrs Duncan Smith and to Mr Crick, merits a more sinister explanation:

*... the language of the e-mail was no coincidence, it was selected so that it would be released to the media with maximum impact.*

The appearance in the e-mail of the reference to Mrs Duncan Smith was deliberate.<sup>221</sup> Others have similar reservations about the e-mail. Owen Paterson describes himself as "suspicious of the motives for the e-mail":

*... if the intention was to bottom out any serious worries expressed in it, the answer was, as she [Dr Gearson] had done before, to come to me or to go direct to Iain ... Sending an e-mail, copied to three people ... was not necessarily the most effective way of resolving the problem but it was a very likely way of getting the problems broadcast.*<sup>222</sup>

145. Similar suspicions were expressed by Mr Jonathan Hellewell, Mr Duncan Smith's Senior Aide, who worked closely with Mr Paterson. Mr Paterson and Mr Hellewell were shown the e-mail by Mr Paul Baverstock (one of its recipients) during the course of 30 January Mr Baverstock's concern, as Director of Strategic Communications, was that politically sensitive information was being committed to e-mail.<sup>223</sup> Mr Hellewell's:

*immediate reaction, which I voiced to Owen Paterson, was that the e-mail 'looked as if it had been written to be leaked'.*<sup>224</sup>

Mr Baverstock says that, with the benefit of hindsight, he now takes a similar view:

*I do not believe that any comment in this e-mail is an accident or that any of these elements have proceeded by accident all along. I think it is in there for a purpose.*<sup>225</sup>

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219 See Volume III, PCS Oral Evidence 9, Q 946.

220 See Volume III, PCS Oral Evidence 9, Q 943.

221 See Volume II, PCS Written Submission 7, paras 150–151; and Volume III, PCS Oral Evidence 3, Q 338.

222 See Volume III, PCS Oral Evidence 3, Q 844.

223 See Volume II, PCS Written Submission 15, para 13; and Volume III, PCS Oral Evidence 4, Q 421.

224 See Volume II, PCS Written Submission 15, para 14.

Mr Baverstock now believes that Dr Gearson was encouraged to send the e-mail by Mr MacGregor, although he acknowledges that this is purely supposition on his part.<sup>226</sup> He does not, however, doubt the sincerity of Dr Gearson's motives.<sup>227</sup>

146. I put to Dr Gearson the question whether she discussed with Mr MacGregor or anyone else in advance whether or not she should send the e-mail, and whose idea it was to send it. In a letter of 5 November 2003 Dr Gearson said:

*I did not discuss whether or not to send the e-mail with Mr MacGregor or anyone else. Indeed, I did not discuss the e-mail in any context with anyone at all in advance of it being sent ... The idea to send the e-mail was mine alone. The circulation was also my sole decision.*<sup>228</sup>

Mr MacGregor similarly denied that the e-mail was pre-planned as part of a conspiracy.<sup>229</sup>

147. Others who were aware of the e-mail at the time took it at face value. Mr Gilbert said:

*Nothing in [the e-mail] had not been said: I just came to the view that she [Dr Gearson] felt that she wanted to raise the seriousness of these issues by putting it on a bit of paper to these people. It never occurred to me that this was anything other than that.*<sup>230</sup>

Ms Rebecca Layton, Dr Gearson's deputy, recalls the e-mail in the context of Dr Gearson's efficient concern for the well-running of the office. She did not see the e-mail as part of a conspiracy:<sup>231</sup>

*I would never suggest that she was trying to do anything apart from make sure that bills did not go through the ceiling.*<sup>232</sup>

Mrs May did not at the time attribute any under-hand motive to Dr Gearson, nor does she now.<sup>233</sup>

148. Whatever the motive behind the dispatch of the e-mail, its circulation caused Mr Duncan Smith concern when it was brought to his notice by Mr Paterson or Mr Baverstock.<sup>234</sup> At the time he believed that it was a reflection of political naivety on the part of Dr Gearson that she had committed such sensitive matters to an e-mail.<sup>235</sup> He could not understand why she had not brought her concerns to him or Mr Paterson or why, if the e-mail was in preparation for a meeting between two of its recipients and Mr Paterson, Mr Paterson had not received a copy of it.<sup>236</sup> Mr Duncan Smith saw Dr Gearson on the late

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225 See Volume III, PCS Oral Evidence 4, Q 422.

226 See Volume III, PCS Oral Evidence 4, Q 425.

227 See Volume III, PCS Oral Evidence 4, Q 427.

228 See Volume II, PCS Written Submission 14.

229 See Volume III, PCS Oral Evidence 14, Q 1471.

230 See Volume III, PCS Oral Evidence 10, Q 1038.

231 See Volume III, PCS Oral Evidence 13, Qq 1373, 1378.

232 See Volume III, PCS Oral Evidence 13, Q 1385.

233 See Volume III, PCS Oral Evidence 16, Q 1599.

234 See Volume II, PCS Written Submission 7, para 68.

235 See Volume III, PCS Oral Evidence 3, Q 345.

236 See Volume II, PCS Written Submission 7, para 68; and Volume III, PCS Oral Evidence 3, Q 335.

morning of 31 January and asked her to explain why the e-mail had been sent without her having first discussed the matters concerned with him.<sup>237</sup> He explained the position in relation to Mrs Duncan Smith's employment and the two other matters mentioned in the e-mail:

*Vanessa did not ask me any questions about these matters so I asked her whether she was satisfied with my explanation of all of the matters in her e-mail and she agreed that she was.*<sup>238</sup>

149. It is common ground between Mr Duncan Smith and Dr Gearson that during this conversation Dr Gearson accepted unreservedly Mr Duncan Smith's rebuke for having committed the matters in the e-mail to written form.<sup>239</sup> There, however, the agreement ends. According to Mr Duncan Smith, Dr Gearson said that:

*... she wanted to put the matter right and it was agreed she would send another e-mail to those who had received her previous one ... I had no part in drafting her e-mail. She did show it to me and I suggested an amendment concerning the matter of the planes ... I did not put any pressure on Vanessa whatsoever to produce or send the e-mail ...*<sup>240</sup>

150. According to Dr Gearson, who had first alerted Mr MacGregor to her summons to see Mr Duncan Smith, Mr Duncan Smith was "very angry". He did not ask her for an explanation. She was reduced to tears:

*He advised me in the strongest terms that I was to send out an immediate response and asked me to bring my own copy of the e-mail into his office for his attention. He then in effect dictated exactly what the e-mail was to say. I did not and could not agree with what he had asked me to write but it was absolutely apparent within the context of the meeting that I had one of two alternatives—I either wrote the e-mail as he had instructed or I could draft my own letter of resignation. I returned immediately to my desk and drafted the response he had instructed. He amended my draft in his own hand to perfect it to his own requirements and instructed me to send it out.*<sup>241</sup>

Dr Gearson asserts that the amendment made by Mr Duncan Smith related to his wife's employment (not to the use of private planes). It appears in relation to Mrs Duncan Smith's employment in the final text.<sup>242</sup>

151. Since no one else was present at the meeting between Mr Duncan Smith and Dr Gearson it is not possible to establish with certainty what happened at it. Mr MacGregor confirms that Dr Gearson spoke to him before she sent out the second e-mail and that she said she was sending it out under pressure.<sup>243</sup> Mr Gilbert recalls Dr Gearson:

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237 See Volume II, PCS Written Submission 7, para 69.

238 See Volume II, PCS Written Submission 7, para 69.

239 See Volume II, PCS Written Submission 13.

240 See Volume II, PCS Written Submission 7, para 71.

241 See Volume II, PCS Written Submission 13.

242 See Volume II, PCS Written Submissions 47–48.

243 See Volume III, PCS Oral Evidence 14, Q 1465.

*... saying that she had been asked to produce a second e-mail which contradicted some aspects of the first e-mail and she was upset about that ... she felt uncomfortable about being required to do it.*<sup>244</sup>

Ms Layton recalls Mr Duncan Smith reacting to an e-mail “with annoyance that it was written down on paper and not dealt with verbally” and that Dr Gearson “got talked to by Iain and ... then she wrote a subsequent e-mail saying things were in hand ... She had to have a meeting with Iain and she subsequently had to write another e-mail.”<sup>245</sup> Mrs May says that she:

*... was made aware by Vanessa that she felt that there had been an insistence on her sending the second e-mail. I spoke to Owen after the second e-mail had come through and Owen indicated that the issue had been raised because the matters, in his opinion and in Iain Duncan Smith’s opinion, had been dealt with previously and therefore there was, I guess a frustration that an e-mail had been sent on these matters.*<sup>246</sup>

152. Mr Baverstock, on the other hand, was not aware of any reservations Dr Gearson might have had about the second e-mail, took it at face value and considered the matter “closed as far as I was concerned”.<sup>247</sup> Mr Hellewell is “pretty certain” he was in the office outside Mr Duncan Smith’s room when Dr Gearson saw Mr Duncan Smith. He did not observe any signs of distress in Dr Gearson and considers it “highly unlikely” that the second e-mail was written under duress.<sup>248</sup> Mr Paterson, who was in his constituency when Mr Duncan Smith saw Dr Gearson, recalls Mr Duncan Smith ringing him at some stage after the meeting:

*... to say that he had had a perfectly sensible conversation with her. She had agreed to send a second e-mail confirming that Iain had reassured her that her concerns were unfounded.*<sup>249</sup>

## Other matters

153. I have summarised the evidence relating to the e-mails of 30 and 31 January because the former—though not the latter—formed a key part of the dossier presented to me by Mr Crick. Much material has been given me in evidence relating to subsequent events, concerning the circumstances in which Mr Crick’s allegations became known, first to Mr Duncan Smith and his advisers and then to the public more widely, before, during and after the Conservative Party Conference in October 2003. I have also received much evidence bearing on issues of motive. This latter material essentially involves matters of opinion and, in so far as it is supported by any evidence, that evidence is circumstantial. In my judgement, it is not necessary for me to go into any of this evidence or to seek to assess

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244 See Volume III, PCS Oral Evidence 10, Q 1044.

245 See Volume III, PCS Oral Evidence 13, Qq 1375, 1379–1381.

246 See Volume III, PCS Oral Evidence 16, Q 1590.

247 See Volume III, PCS Oral Evidence 4, Q 455.

248 See Volume III, PCS Oral Evidence 12, Q 1264.

249 See Volume II, PCS Written Submission 19, para 40.

its veracity in order to be able to reach a proper conclusion about Mr Crick's complaint. I do not therefore examine it or append it to my report.

## Evidence concerning the use of Mr Duncan Smith's Parliamentary Allowances

154. There are, however, two matters relating to Mr Duncan Smith's use of his Parliamentary allowances which form part of Mr Crick's complaint and on which it is essential that I set out the relevant evidence for the Committee. These concern the funding of the posts of Miss Eyre, Mrs Watson and Mrs Duncan Smith at various periods from the parliamentary staffing allowance (formerly the Office Costs Allowance (OCA)) and the claims made by Mr Duncan Smith under the Additional Costs Allowance (ACA) in respect of his home in Chingford.

### Use of the Staffing Allowance and Short Money

155. Mr Crick pointed me to the first of these issues during my interview with him on 16 October, when he said that much of the work and activity attributed to Mrs Duncan Smith and put forward in defence of Mr Duncan Smith "would have involved party activity not parliamentary activity".<sup>250</sup> Referring to Mrs Watson's memorandum of 24 October 2002 to Dr Gearson he said:

*... it appears from what Christine Watson says that both she to a small extent and Annabelle Eyre to a much bigger extent were also wrongly being paid from Iain Duncan Smith's parliamentary allowances ...*<sup>251</sup>

156. The passage in the memorandum to which Mr Crick was referring reads:

*I was concerned to learn that Annabelle Eyre had been paid for nearly one whole year out of the constituency allowance, when really I should have had some form of assistance myself. This now leaves a big question mark on the budget for 2001/02 and to date, although there is enough in the Constituency allowance, I am still being paid through Parliament even though I am working for Iain as 'Leader of the Opposition'. There are obviously questions to be asked?*

157. As regards the funding of Annabelle Eyre and Christine Watson, it is undisputed that Annabelle Eyre—who had properly been paid from Parliamentary allowances as Mr Duncan Smith's Constituency Secretary—continued to be paid from the staffing allowance when she became his Private Secretary and remained so until she transferred to the Central Office payroll on becoming Head of Tours and Planning, that is for a period of some 10 months. Mrs Watson was appointed Private Secretary in August 2002 but continued to be wholly paid out of the staffing allowance until the end of November that year (that is, for a period of some 4 months). Thereafter she was paid substantially from Short money, although a minor proportion of her funding continued to come from the staffing

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<sup>250</sup> See Volume III, PCS Oral Evidence 1, Q 3.

<sup>251</sup> See Volume II, PCS Written Submission 49; and Volume III, PCS Oral Evidence 1, Q 5.

allowance, with the agreement of the Department of Finance and Administration, as a result of the fact that she continued to undertake some duties in relation to the constituency. Mrs Duncan Smith was paid from the Staffing Allowance throughout the period from September 2001 to December 2002 which is the focus of this report.

158. Mr MacGregor says that he was told by Ms Jenny Ungless in the spring of 2002 that there was a problem over the employment of Miss Eyre because she was doing work that no longer qualified for payment from parliamentary allowances. Because his budget was under pressure, he said that, whilst he was willing to consider a transfer of funding responsibility, off-setting savings would have to be found elsewhere in the Central Office payroll. He did not resist a transfer of responsibility (as Mr Hellewell, for example, has alleged), but because the issue was never presented as one of urgency and there being more pressing matters, it was simply left.<sup>252</sup>

159. It is clear that both Dr Gearson and Mrs Watson pursued the matter in the autumn of 2002. Dr Gearson says that in the same conversation that she learned from Mrs Watson of Mrs Duncan Smith's employment, she also learned of Mrs Watson's concerns that first Annabelle Eyre and now she (Mrs Watson) had been paid as Private Secretary from parliamentary sources.<sup>253</sup> Mr Gilbert confirms that Dr Gearson raised the issues of Miss Eyre's funding and in an e-mail dated 24 October 2002 to Dr Gearson Ms Layton referred in connection with Miss Eyre to "the very serious points about the OCA".<sup>254</sup>

160. Mrs Watson, however, says that she was responsible for handling Mr Duncan Smith's parliamentary allowances and expenses and "Vanessa was never involved in dealing with them".<sup>255</sup> She began to consult the House's Department of Finance and Administration about these matters in October 2002 and did so "under my own initiative and not because Vanessa Gearson instructed me or even suggested to me that I do so".<sup>256</sup> Her concerns were budgetary rather than about issues of propriety:

*When I refer in the Memorandum [of 24 October 2002] to my 'concerns' about the payments which had been made to Annabelle Eyre from the staffing allowance it is because her salary was fairly large and consequently reduced the fund then available to employ other people.*<sup>257</sup>

161. Miss Eyre points out that when she became Private Secretary to Mr Duncan Smith she continued to oversee Mrs Watson's work as Constituency Secretary and to undertake some functions in relation to the constituency.<sup>258</sup> Providing secretarial support for Mr Duncan Smith's parliamentary role has always demanded more than one secretary. It was never possible "to classify the work of one secretary as purely constituency, and the work of another as purely other, both because of the nature of Iain's role, and because of the way in

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252 See Volume II, PCS Written Submission 18; and Volume III, PCS Oral Evidence 14, Qq 1277, 1408–1418.

253 See Volume II, PCS Written Submission 13.

254 See Volume III, PCS Oral Evidence 10, Q 1089.

255 See Volume II, PCS Written Submission 25, para 28.

256 See Volume II, PCS Written Submission 25, para 29.

257 See Volume II, PCS Written Submission 25, para 15.

258 See Volume II, PCS Written Submission 10, paras 4f)–g).

which, for practical reasons, the secretaries and the support staff had to work.”<sup>259</sup> Miss Eyre says that in the summer of 2002 she herself had a couple of conversations with Mr MacGregor about the payment of her salary:

*At the time I was concerned that I was paid out of Iain’s parliamentary allowance and thought I should be paid from Short money. The Short money is paid to the Conservative Party and administered by them. Mark MacGregor never indicated to me that there was a problem and I believe he never raised the matter with Iain.*<sup>260</sup>

162. Miss Eyre says that she was aware of the rules in the Green Book which state that allowances available to Members should be used for parliamentary purposes only:

*... it was quite correct that I was paid out of the Parliamentary Allowance as I was employed to and carried out Parliamentary duties.*<sup>261</sup>

In an analysis of her work as Private Secretary which she appends to her second written statement, Miss Eyre estimates that over 90% of the work she undertook was:

*of a Parliamentary nature in support of Iain as a Parliamentarian.*<sup>262</sup>

163. During interview on 19 November 2003, Miss Eyre said:

*I was quite happy being paid under the Staffing Allowance because I was working for Iain in his capacity as a Member of Parliament, albeit he was appointed as Leader of the Opposition during that time, but I was still carrying out his parliamentary duties and I was not doing a party-political role.*<sup>263</sup>

In response to a question about at what stage she thought she should be paid out of Short money, she said:

*Well, it was only because the other people in the office were paid out of Short money, so I thought maybe I should be paid out of Short money. As far as I could see from the rules, it is a very fine line. I do not know. Obviously that is up to you.*

*As far as I can see the rules as they stand, I thought I was appropriately paid out of the appropriate pot of money. If it is ruled that I was not appropriately paid, then the rules need to be clarified. I do not think it is clear at all as to who can be paid and who cannot be paid. It just says, ‘to help a Member of Parliament perform his Parliamentary duties’ and that is exactly what I was doing.*<sup>264</sup>

164. Mrs Watson originally thought that once she became Private Secretary, the proper source of funding of her post was primarily Short money. However, she has since changed her view. Having re-read the relevant documents and compared the passages in the Green

259 See Volume II, PCS Written Submission 10, para 9b).

260 See Volume II, PCS Written Submission 10, para 9b).

261 See Volume II, PCS Written Submission 10, para 5, 9f).

262 See Volume II, PCS Written Submission 10, Addendum A, para 13.

263 See Volume III, PCS Oral Evidence 8, Q 703.

264 See Volume III, PCS Oral Evidence 8, Qq 704, 719.

Book relating to the Parliamentary allowance and Short money (which she had not previously looked at together), Mrs Watson now takes the same view as Miss Eyre, namely that she was appropriately paid from the correct source. She explains her position thus:

*Although the staffing allowance is given to Mr Duncan Smith for his parliamentary duties, of which his leadership of the Opposition formed an additional component, I thought, at the time, that since the Conservative Party received Short money specifically allocated to support the Leader of the Opposition's office that I should have a new contract with the Conservative Central Office for my new role as Private Secretary. At the time I wrote the memorandum I was worried about it. This is what I referred to when I stated in the memorandum that there were 'questions to be asked'.*

*As I now understand the matter, however, both the Short money and the staffing allowance are given to assist Mr Duncan Smith in his 'parliamentary duties and that since I was and continue to assist him in his parliamentary duties as Private Secretary that I can be paid out of his staffing allowance or Short money.'<sup>265</sup>*

Mrs Watson says that her altered view was entirely her own conclusion, based on her own reading of the relevant documents.<sup>266</sup>

165. Mr Duncan Smith asserts that the role of his Private Secretary was functional, not political.<sup>267</sup> He too sees little distinction in practice between the parliamentary allowances and Short money:

*... my understanding was always that the difference between Short money and Parliamentary Allowance ... is only with regard or respect to what specifically they are doing. One is in support of a person as a parliamentarian and constituency MP; the other is in support of a political party in its parliamentary role. In fact, in output, they are much the same thing in a sense.'<sup>268</sup>*

Mr Duncan Smith points out that Parliament itself has never agreed a definition of the use of Short money and that in its report on the case of Reid and Maxton, the Committee on Standards and Privileges itself said:

*The distinction between what is 'parliamentary' and what is 'personal or party-political' is not always self-evident, and it may be that there is no more than a 'grey line' (as it was described in the course of our evidence sessions) separating these categories.'<sup>269</sup>*

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<sup>265</sup> See Volume II, PCS Written Submission 25, paras 22–23.

<sup>266</sup> See Volume III, PCS Oral Evidence 23, Q 2530.

<sup>267</sup> See Volume II, PCS Written Submission 7, para 126.

<sup>268</sup> See Volume III, PCS Oral Evidence 3, Q 307; and Volume II, PCS Written Submission 7.

<sup>269</sup> Committee on Standards and Privileges, Second Report of Session 2000–01: *Complaints against Mr John Maxton and Dr John Reid* (HC 89).

Mr Duncan Smith asserts that the available guidance is not as clear as it might be and although the Committee on Standards and Privileges may want to look at this with a view to clarifying it, "... I do not think they can make a judgement in hindsight ..."<sup>270</sup>

166. As regards the nature of the work undertaken for him by his wife, Mr Duncan Smith says:

*My wife's role related to my parliamentary work, both constituency and as Leader of the Opposition.*<sup>271</sup>

She did not assist him with party-political tasks.<sup>272</sup> Mrs Duncan Smith herself says:

*At the time I did not analyse the work that I did for Iain according to the different roles that he undertook as Leader of the Opposition, Constituency MP and Leader of the Conservative Party. The lines between the three roles were blurred and I assisted Iain on those matters on which he required assistance. Looking back however, I can say that the majority of my time was spent supporting Iain in his parliamentary rather than his party political role.*<sup>273</sup>

167. I consulted the House's Department of Finance and Administration about the contacts between Mr Duncan Smith's staff and the Department in the autumn of 2002. In a letter dated 10 December, the Director, Mr Andrew Walker, said:

*We have taken some time to validate whether the contact the various individuals say they had with us actually took place. For the most part, the references are not to specific dated events, but our records and the recollections of our staff support the general point made by both Dr Gearson and Mrs Watson that Mrs Watson and Cara Walker had a number of contacts with my staff in the autumn of 2002 ... Most of these contacts were straightforward: initially, they were to establish what money was available in Mr Duncan Smith's parliamentary allowances for budgeting purposes. Subsequently, the contacts appear to have become more routine ...*

This account appears to corroborate the assertion of Mrs Watson and Mr Duncan Smith that the primary focus of their concern at the time was budgetary rather than a reflection of any concern about the propriety of the attribution of certain items of expenditure.

168. I also asked Mr Walker whether at any time Mr Duncan Smith's office asked for or received guidance on the purposes and proper use of Short money. Mr Walker replied:

*In [a] conversation between [a member of staff] and Mrs Watson [on 20 October 2002] ... our records show that the issue of the use of funding from different sources was discussed. [The] file note [made of the conversation] says:*

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270 See Volume III, PCS Oral Evidence 3, Qq 312, 311.

271 See Volume II, PCS Written Submission 7, para 12.

272 See Volume II, PCS Written Submission 7, para 49.

273 See Volume II, PCS Written Submission 6, para 104.

*'She [Mrs Watson] mentioned that she had just taken over the job related to Mr Duncan Smith's position as Leader of the Opposition. She is aware (as [a second member of staff of the Department] has spoken to her) that this should not be funded from the Staff Allowance. She will re-negotiate her salary with Conservative Central Office. Part of her current salary from Staff will continue as she is continuing with constituency duties.*

*In addition [the second member of staff] recalls a telephone conversation with Mrs Watson in the first half of September 2002: she asked what proportion of her salary related to her parliamentary duties, and what proportion related to her duties to Mr Duncan Smith as Leader of the Opposition. [The second member of staff] told her that the salary paid via the Staffing Allowance should not be applied to any of her work as secretary to the Leader of the Opposition. This is presumably the conversation referred to in [the] file note. (Letter of 10 December 2003)<sup>274</sup>*

169. Finally I asked Mr Walker whether his Department would agree with the view expressed by Miss Eyre and Mrs Watson that, in relation to the staffing of the Leader's office, the parliamentary staffing allowance and Short money are interchangeable. Mr Walker replied:

*The simple answer is 'no'. Short money is intended to help Opposition parties to carry out their parliamentary business more effectively, and is also available for costs necessarily incurred in running the office of the Leader of the Opposition. The parliamentary staffing allowance, on the other hand, focuses on each individual member as an elected representative. While both Short money and the staffing allowance are for parliamentary purposes, there is a distinction between an individual's role as Leader of the Opposition and that same individual's role as a constituency MP. The former role attracts Short money, the latter attracts the staffing allowance. It is not impossible that some of Mr Duncan Smith's staff were carrying out both kinds of duty, justifying funding from both sources. But that does not make the staffing allowance and Short money interchangeable.*

*As you may be aware, the question of what Short money can and cannot be used for, and the definition of the term 'parliamentary' in that context, was considered by the Public Administration Select Committee in 2001, as part of their report (HC 293) on special advisers. The definition was left unresolved; but the main thrust was to urge 'stricter regulation as to what Short money may be spent on and more transparency as to how it had been spent'. I do not think there is any particular read-across to this case: a key issue was whether an 'expanded description' suggested by my Department was acceptable: but neither that description nor any earlier one envisaged a cross-subsidy between Short money and the staffing allowance. (Letter of 10 December 2003)*

170. In view of this I asked Mrs Watson whether she could confirm, from her own recollection, that she had twice been advised by staff of the Department about the proper use of Short money. She replied that she had no recollection of, and no reference in her

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<sup>274</sup> Letter to the Commissioner from Mr Andrew Walker, 10 December 2003, not appended.

notebook to conversations with the first member of staff, although it was possible that they could have spoken at the time. She continued:

*I have no recollection of anyone from the Fees Office suggesting to me that I could not be paid out of Mr Duncan Smith's staffing allowance in my position as Private Secretary to the Leader of the Opposition ... I think I would remember if I had been advised by Fees Office staff that my salary had to be paid out of Short money. I think that if such a conversation had taken place before I sent the memorandum to Vanessa Gearson I would probably have referred to it in my memorandum. I would certainly have told Mr Duncan Smith about such a conversation and would probably have asked the Fees Office to set out their advice in writing.<sup>275</sup>*

Mrs Watson says that she cannot remember receiving any general guidance about the use of Mr Duncan Smith's Member's Staffing Allowance as against Short money, and repeats the view she has come to take about their interchangeability:

*At the time of sending the memorandum to Vanessa I thought that I should be paid out of Short Money but that was prompted by the fact that I was concerned there might not otherwise be enough money in the staffing allowance to pay salaries for Cara Walker and the researcher. I have read the rules in the Green Book again since and realise that because I was helping Mr Duncan Smith in the performance of his parliamentary duties I could be paid out of Short money or from the staffing allowance.*

171. Mr Walker, however, stands by the statement and information on file described in paragraph 169 above that "advice about the proper use of the parliamentary Staffing Allowance and staff funding from Conservative Central Office was given to Mrs Watson in the autumn of 2002." (letter of 26 January 2004).<sup>276</sup>

172. I have shared with Mr Duncan Smith my correspondence with Mr Walker. In a letter of 6 January 2004 Mr Duncan Smith referred to Mrs Watson's recollection of her dealings with the Department (described above) and questioned whether Mrs Watson was in fact given guidance during these on the use of Short money.<sup>277</sup> This questioning was based not only on Mrs Watson's recollection of her conversations but on the fact that:

- a) The words 'Short money' do not appear in the Department's file note;
- b) Mrs Watson did not mention any such guidance in her memorandum of 24 October 2002 to Dr Gearson;
- c) Mrs Watson never mentioned the issue of Short money to him, nor did Dr Gearson or Mr MacGregor.

He believes that the Department's records simply confirm that Mrs Watson was informing staff of the Department that (following discussions with him and on his instructions) she

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<sup>275</sup> See Volume II, PCS Written Submission 26.

<sup>276</sup> Letter to the Commissioner from Mr Andrew Walker, 26 January 2004, not appended.

<sup>277</sup> See Volume II, PCS Written Submission 52.

would be reducing her income from the Staffing Allowance because she was (or was about to be) paid through Conservative Central Office.

173. Mr Duncan Smith suggests that it was unlikely that the Department would be giving advice to Mrs Watson on Short money, but not to him or Central Office as, unlike the others, Mrs Watson had no responsibility for administering Short money. He adds:

*Then there is the fact that the Fees Office was no more in a position to give categorical guidance on the use of Short money in autumn 2002 than they are now. I have referred you to the Fourth Report of the Select Committee on Public Administration (HC 293; 28 February 2001) entitled 'Special Advisers: Boon or Bane' at paragraphs 40–53. The Committee found that there is no attempt in any Resolution of Parliament to define what constitutes 'parliamentary business' for the purposes of Short money (paragraph 45) and it urged the Leader of the House to arrange for a resolution (paragraph 43–51). However, there is no such resolution and therefore, presently, no such guidance for Members. The Fees Office were criticised in the same report for having come up with a definition which did not have the approval of Parliament (paragraph 50). Nowhere is there even a suggestion that there is official guidance of what constitutes the activities associated with being the Leader of the Opposition. This expression of opinion by Mr Walker is a reflection of his personal views to be assessed in the light of the fact that there is no definition or guidance which the Select Committee have called for to avoid precisely these sort of proceedings. What the Committee acknowledges as grey areas remain grey areas until Parliament chooses to deal with the matter.*

174. As noted earlier, Mr Walker sticks by the character of his Department's dealings with Mrs Watson based on the records made at the time and the recollections of his staff.

*I stand by the statements and information on file which I mentioned in my letter [of 10 December 2003] that advice about the proper use of the parliamentary Staffing Allowance and staff funding from Conservative Central Office was given to Mrs Watson in the autumn of 2002. (Letter of 26 January 2004)*

On the first of the two points made by Mr Duncan Smith described in the preceding paragraph, he says:

*I disagree with Mr Duncan Smith's statement that it was 'unlikely' that my office would be giving advice to Mrs Watson on Short money: we would have no reason not to discuss the matter when raised with us by a member of the Leader of the Opposition's staff. (Letter of 26 January 2004)*

As regards the second point in the preceding paragraph, Mr Walker says:

*In consultation with the National Audit Office, we gave general advice to the Conservative Party and their auditors on the use of Short money at their request in 2000. This in turn was considered by the Select Committee on Public Administration, which reported in February 2001. In the light of the Committee's report, Mr Duncan Smith says that my Department was in no better position to give categorical guidance on the use of Short money in the autumn of 2002 than it is now. However, I do not think the Committee's comments can be taken to mean that my Department (in consultation with the Speaker if necessary) is not entitled to give guidance. Otherwise,*

*each successive Leader of the Opposition would be entitled to make his own determination of what constituted parliamentary business, and there would be no consistency of approach.*

*A key question in this instance is not so much whether Short money was used appropriately, but whether the parliamentary Staffing Allowance was used on party political work, which is not an acceptable use of the Allowance. The Green Book is clear on this point: I attach the relevant sections of the 2002 and 2003 editions. [already quoted in paragraph 13 of this report.] (Letter of 26 January 2004)*

175. Mr Duncan Smith continues to take the view that the Department's records simply confirm the account given by Christine Watson of her dealings with them. They demonstrate only conversations with Mrs Watson and there is no mention of Short money in any of them. In brief the Department's evidence confirms the testimony of Mrs Watson and himself "in every material aspect".<sup>278</sup>

176. In written submissions on the draft of the factual sections of this report, Mr Duncan Smith has argued that it is not the effect of Mr Walker's evidence that Mrs Watson was given specific guidance in respect of the use of Short money. I have checked my understanding of the effect of Mr Walker's evidence with him. As a result, I accept this argument. However, it is the effect of Mr Walker's evidence (including the file note quoted in paragraph 168 above) that Mrs Watson was given guidance on the proper use of the Staffing Allowance and was told in terms that she could not, in her role as Private Secretary, be paid out of it. If she could not be paid out of the allowance, she would have had to be paid by Central Office out of Short money or other funds available to the party. Whilst, therefore, there is not evidence that Mrs Watson was advised directly about the proper use of Short money, it is the clear implication of the evidence that she was so advised indirectly, in that the boundary between the Staffing Allowance and Short money was addressed in the advice given her.

### **Mr Duncan Smith's ACA claims**

177. The final strand of Mr Crick's complaint (see paragraph 9f) above) focused on the fact that Mrs Christine Watson's memorandum of 24 October 2002 appeared to suggest that there were financial matters relating to Mr Duncan Smith's "Constituency and Members' Allowances and Reimbursements" which may not have been in order. Relevant to this point, in her written statement of 16 October 2003, Dr Gearson said:

*It also transpired during the month of September that Mrs Watson's predecessor ... had apparently not paid due diligence to the submissions made to the House of Commons Fees Office on Mr Duncan Smith's behalf. Mrs Watson advised me of her concern that inappropriate submissions may have been made regarding the Accommodation (sic) Costs Allowance although I am not in a position to verify whether those concerns were ever justified.<sup>279</sup>*

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<sup>278</sup> See Volume II, PCS Written Submission 53.

<sup>279</sup> See Volume II, PCS Written Submission 13.

Dr Gearson referred again to this matter during our subsequent interview:

*There was discussion about submissions to the Fees Office regarding the Accommodation Cost Allowance. I cannot verify whether those concerns were ever justified because I did not follow that particular issue through to its conclusion, but they were, for example, that Mr Duncan Smith had been claiming on one home when he should have been claiming on another or that the appropriate papers had not been submitted. There was some anxiety about this particular issue in the October of 2002.<sup>280</sup>*

178. In the light of this evidence, I questioned Mrs Watson and Miss Eyre on this matter. Mrs Watson cannot remember speaking to Dr Gearson about the Additional Costs Allowance (ACA):

*I think she is referring to discussions that I had with Annabelle Eyre about the administration of the ACA ... There was however never an issue with the actual claim from the ACA for mortgage interest on the [Mr Duncan Smith's] Chingford house, only some questions I had about what documentation was necessary.<sup>281</sup>*

Both Mrs Watson and Miss Eyre state that the claims made for the mortgage interest and occasionally for maintenance, repair and some other costs on the house in Chingford were in line with the guidance in the Green Book and were never questioned by the Department of Finance.<sup>282</sup>

179. I have asked Mr Duncan Smith about his claims on the Chingford house. He says in his letter of 6 January that there is no truth in any of Dr Gearson's allegations and that if she were raising them in good faith she would have previously raised them with him. Mr Duncan Smith bought the house shortly after he was first elected as an MP in Chingford in 1992.<sup>283</sup> It was the only place on which he claimed until he paid off the mortgage on it at the end of 2002.<sup>284</sup> He believes that all the claims he made were allowable and correctly made:

*I stay in my Chingford house as the need arises, usually in connection with my regular visits to my constituency and did so throughout the period you are investigating ... The frequency of visits, and therefore my stays at the house, reduced after I became Leader of the Opposition but remained regular nonetheless. I expect now that I no longer hold the position of Leader my visits to the constituency will increase again, although this will have no bearing on my current ACA claims because I ceased to claim for the Chingford house in early 2003, when I paid off the mortgage.<sup>285</sup>*

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280 See Volume III, PCS Oral Evidence 9, Q 882.

281 See Volume II, PCS Written Submission 25, para 62.

282 See Volume II, PCS Written Submission 10, para 10d); 11; 25, para 62; and Volume III, PCS Oral Evidence 8, Q 727; and 23, Q 2623.

283 See Volume II, PCS Written Submission 52.

284 See Volume III, PCS Oral Evidence 3, Q 276.

285 See Volume II, PCS Written Submission 52.

According to Mr Duncan Smith his nephew lives in the house, an arrangement useful to him as well as the nephew as it means the house is not left unattended. He does not receive rent from his nephew: in fact, he has never received rental income relating to this house.

180. Mr Walker has confirmed that Mr Duncan Smith ceased to claim ACA on his Chingford home early in 2003. Whilst Mr Duncan Smith had another home (first in Fulham and then at Swanbourne):

*The ACA is available where Members need to stay away from their main home for the purpose of performing parliamentary duties and it is not unusual, therefore, for Members to claim ACA on a second home in or near the constituency. I have no information about Mr Duncan Smith's use of the Chingford home but, assuming he stayed there regularly when visiting his constituency, I have no reason to doubt the validity of the claim.* (Letter of 10 December 2003)

I asked Mr Duncan Smith how frequently he used the Chingford house. He has felt unable to be more precise than that he used it regularly, in part because of the difficulty of assembling hard information on the point at this stage. Mr Walker has expressed some disappointment about this but notes that:

*... the Green Book does not stipulate that a property should be used with any particular frequency, and I have seen no evidence either from our files or from information you have sent me that the claims were inappropriate.* (Letter of 26 January)

In the absence of any evidence that the claims were inappropriate, I have not thought it necessary to make further inquiries.

### Legal submissions on matters of fact

181. In his submission of 4 February on behalf of Mr Duncan Smith, Mr Richard Gordon QC argues that the several complaints made against his client are without foundation and should be dismissed. In summary form he submits that:<sup>286</sup>

- a) All that the witnesses whose evidence tends to support the complaint that Mrs Duncan Smith did no work can say is that they did not see the fruits of that work. The only positive evidence is that Mrs Duncan Smith did in fact work. No one has suggested nor is there any indication that those who have given this positive evidence are lying;
- b) For similar reasons, the complaints relating to the amount of work done by Mrs Duncan Smith should also be dismissed;
- c) If it is accepted that Mrs Duncan Smith's evidence and that of those who support her account is truthful, the nature of Mrs Duncan Smith's work was such as to qualify for payment from the Parliamentary staffing allowance;

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<sup>286</sup> See Volume II, PCS Written Submission 50.

- d) There is no factual foundation for finding Mr Duncan Smith guilty of paying Miss Eyre and Mrs Watson (or Mrs Duncan Smith) from the wrong public pocket (the Parliamentary staffing allowance rather than Short money).

182. In support of these submissions, Mr Gordon points to the positive evidence of the work she did given by Mrs Duncan Smith herself, evidence which is supported by those with whom Mrs Duncan Smith worked most closely: Miss Eyre, Mr Radford, Mrs Watson and Mr Whitby-Collins. It is also supported by the evidence of others—such as Mr Burt and Mr Davies—who were in contact with Mr Duncan Smith and his office, and by such evidence in the form of telephone bills, e-mails and other documentation as Mrs Duncan Smith has been able to produce.

183. As to the contrary evidence submitted by Dr Gearson, Mr Gordon contends that it is factually incorrect; analytically irrelevant or deliberately false; or rebutted by positive evidence. That concerns were expressed by Dr Gearson to various people in the autumn of 2002 about Mrs Duncan Smith's employment, but not to Mr Duncan Smith himself, is not disputed, but those concerns are historic and have been answered by the positive evidence given in the course of the inquiry. On behalf of his client, Mr Gordon questions Dr Gearson's motive in sending her e-mail of 30 January 2003 and rebuts her assertion that she was put under pressure by Mr Duncan Smith, either to issue a retraction in the form of her e-mail of 31 January or subsequently to make a statement supportive of Mr Duncan Smith as Mr Crick's allegations began to emerge.

184. As regards the issues relating to the source of the payments made to staff, Mr Gordon contends that:

*By the time one reaches this stage of the analysis, one has travelled, at least as far as BDS [Mrs Duncan Smith] is concerned, a long way from allegations of impropriety.*

Noting the absence of any suggestion that Mr Duncan Smith was deliberately misusing his Parliamentary staffing allowance, Mr Gordon contends that Mr Duncan Smith acted properly in paying Miss Eyre, Mrs Watson and Mrs Duncan Smith as he did, in the absence of any clearly defined rules indicating to the contrary, in particular given that there is no definition of 'parliamentary business' for the purposes of Short money nor any guidance on the parliamentary duties of the Leader of the Opposition. Mr Gordon points out that, on the basis of their evidence, both Miss Eyre and Mrs Watson had the same understanding as Mrs Duncan Smith; that they were paid out of the correct source of funds.

## Findings of fact

185. I set out below my findings of fact in relation to each of the main strands of Mr Crick's complaint as identified in paragraph 9 of this report.

*a) That during the period 14 September 2001 to 31 December 2002, Mrs Duncan Smith had been employed by her husband under a contract with a job title of Diary Secretary but had not obviously performed any duties in this role or in any other staffing capacity.*

186. This, in essence, is the allegation that Mrs Duncan Smith did no work during the period in question to justify her payment from public funds.

187. During this period, Mrs Duncan Smith continued to be employed by her husband under a written contract dated 1 October 1997 which described her duties as ‘Diary and Secretarial Support’. Her annual salary was £15,178.92. After her husband’s election as Leader of the Conservative Party, Mrs Duncan Smith worked almost exclusively from her home at Swanbourne, where suitably equipped office facilities were available to her from the autumn of 2001 onwards. The equipment in these offices was provided at the expense of Conservative Central Office.

188. According to the evidence of Mrs Duncan Smith, which her husband supports, her duties fell into 4 main areas:

- i) Progress-chasing;
- ii) Assistance with the diary;
- iii) Secretarial work; and
- iv) Constituency casework and correspondence.

189. A number of senior figures associated with Mr Duncan Smith’s office and work as Leader—Ms Ungless, Dr Gearson and Mr MacGregor—say that they saw no evidence of activity by Mrs Duncan Smith under any of these heads. They are supported, to varying degrees, by the evidence of other staff employed at different points in the Leader’s office—Mr Gordon, Ms McCammon, and Mr Muldrew. It is important to note, however, that a number of those who say they saw no evidence of Mrs Duncan Smith’s work also say that they cannot or do not assert that she did no work.

190. On the other hand, Mrs Duncan Smith’s account of her work is supported not only by her husband but by those who successively occupied different positions in his constituency office or his private office. They include not only Miss Eyre, Mr Radford, Mrs Watson and Mr Whitby-Collins, but Ms Malone and Ms Walker. Other evidence indicative of Mrs Duncan Smith’s role has been provided by Mr Baverstock, Mr Hellewell, Ms Layton, Mr Paterson and Mr Bill Walker. The sample telephone records and e-mails which Mrs Duncan Smith has provided also support her account.

*b) That to the extent that Mrs Duncan Smith may have undertaken any tasks, they were minimal in character and such as might have been expected to be undertaken (unpaid) by the spouse of any other prominent Member of the House.*

191. This, in brief, is the complaint that Mrs Duncan Smith did not do anything more for her husband than any other spouse would have done.

192. There seems little doubt, on the evidence available, that a number of Mrs Duncan Smith's conversations with others in her husband's private office were about reconciling the demands of her husband's busy public life with those of his private roles as a husband and father. However, there is ample evidence, not only from Mr and Mrs Duncan Smith themselves but from other sources I have cited in paragraph 190 above, that Mrs Duncan Smith's work for her husband went far beyond that of a spouse or partner. To put the matter differently, if the evidence of these witnesses is to be believed (and no one who has given evidence to me has suggested otherwise), Mrs Duncan Smith undertook work for which it would be appropriate to pay her rather than simply assume that she would do it unpaid. (Whether it would be proper to pay her for it from the Parliamentary staffing allowance is something I consider later.)

*c) That any work undertaken by Mrs Duncan Smith did not amount to 25 hours a week and so did not justify the salary she was paid.*

193. Mrs Duncan Smith asserts that she worked more than 25 hours a week and, again, is supported in this by her husband. She normally worked from 10.00 am to 3.00 pm Monday to Friday in the office at Swanbourne, but would also speak to her husband on office business each evening and work with him on the contents of his Box at the weekend.

194. Because Mrs Duncan Smith worked alone at Swanbourne it is difficult to obtain first hand evidence to corroborate this account from anyone who saw her working there. However, Mr Finchett (the estate manager at Swanbourne) noticed that Mrs Duncan Smith worked in the office in the house 'on a very regular basis'.<sup>287</sup> The evidence from Mrs Eyre, Mrs Watson and Mr Whitby-Collins to which I have referred in paragraph 78 above also corroborates what Mrs Duncan Smith says about the pattern of her working week, as reflected in her contacts with the office in London.

*d) That it appeared that at least some of any work which may have been undertaken by Mrs Duncan Smith was party political in nature (relating to Mr Duncan Smith's position as Leader) and so did not qualify for payment from Mr Duncan Smith's parliamentary allowance.*

195. Mr Duncan Smith says that his wife did not assist him with party political tasks:

*The closest Betsy would have come to political work would be in typing up speeches for me or my notes for the party conferences but that was only natural given I was working from home on everything at the time prior to the October conferences.*<sup>288</sup>

He draws attention to the blurred line between what is parliamentary and what is party-political and, in his submission, the lack of a clear definition of the former. Mrs Duncan Smith's evidence indicates that at the time she simply did what was required of her to help her husband and did not distinguish between his different roles:

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<sup>287</sup> See Volume II, PCS Written Submission 12.

<sup>288</sup> See Volume II, PCS Written Submission 7, para 49.

*Looking back, however, I can say that the majority of my time was spent supporting Iain in his parliamentary rather than his party political role.<sup>289</sup>*

I consider in the concluding sections of this report the implications of these statements in relation to Mr Duncan Smith's obligations concerning the expenditure of his Parliamentary Staffing Allowance.

*e) That it appeared from Mrs Watson's memorandum of 24 October 2002 to Dr Gearson that both Miss Eyre and Mrs Watson were paid for periods out of Mr Duncan Smith's parliamentary allowance when they should not have been because they were undertaking party political rather than parliamentary duties.*

196. It is not disputed by any witness, and is confirmed by the Department of Finance and Administration, that Miss Eyre continued to be paid out of Mr Duncan Smith's Parliamentary staffing allowance after she became his Private Secretary in September 2001, and only ceased to be so paid after she became Head of Tours and Planning in August 2002, i.e. a period of some 10 months. When she in turn became Mr Duncan Smith's Private Secretary, Mrs Watson continued to be paid out of the allowance, and in fact continued to be so paid, in part, until the end of her employment. However, from the beginning of December 2002 (four months after she succeeded Miss Eyre), the bulk of Mrs Watson's salary was met out of Short money, with only a small proportion continuing to be paid from the Parliamentary allowance in recognition of her ongoing role in relation to Mr Duncan Smith's constituency work. That arrangement, concerning a continued contribution from the staffing allowance, was agreed by the Department.

197. Mr Duncan Smith asserts that Miss Eyre and Mrs Watson were properly paid out of the Parliamentary allowance throughout, because they were undertaking parliamentary duties. Miss Eyre and Mrs Watson support him in this, Miss Eyre estimating that over 90% of the work she undertook as Private Secretary was of a parliamentary nature in support of Mr Duncan Smith as a parliamentarian. Mr Duncan Smith, Miss Eyre and Mrs Watson see little distinction in practice between the parliamentary staffing allowance and Short money. Mr Duncan Smith argues in this respect as in respect of the work undertaken by his wife, that the definition of what is parliamentary work is disputed and the dividing line between parliamentary and party political work unclear.

198. The Department of Finance and Administration on the other hand—whilst accepting that a definition of parliamentary activities in relation to the use of Short money has never been agreed by the House—argues in effect that:

- a) The House has clearly accepted that the Parliamentary staffing allowance should not be used for party political purposes;
- b) Short money and the staffing allowance are not interchangeable;

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<sup>289</sup> See Volume II, PCS Written Submission 6, para 104.

- c) Short money was the proper source of funding of those activities in the Leader's office which were not either constituency-related or party political in character (the cost of the latter properly falling to the Party itself);
- d) Advice on the proper use of the staffing allowance and staff funding from Conservative Central Office was given to Mrs Watson by staff of the Department in the autumn of 2002.

Mrs Watson herself has no recollection of anyone from the Department suggesting to her that she could not, in her position as Private Secretary to the Leader of the Opposition, be paid out of Mr Duncan Smith's Parliamentary staffing allowance. Nor can she remember receiving any general guidance from the Department about the use of Mr Duncan Smith's Staffing Allowance as opposed to Short money.

199. Except in this last respect, there is therefore little dispute about the facts of what happened in this case. There is, however, considerable dispute about the proper use of the staffing allowance and Short money in the context of the Leader's Office, a dispute I consider in the final sections of this report.

*f) That Mrs Watson's memorandum of 24 October 2002 appeared to suggest that there were financial matters relating to Mr Duncan Smith's "Constituency and Members' Allowances and Reimbursements" which may not have been in order.*

200. Mrs Watson says that while she had some questions about the state of the files she inherited relating to Mr Duncan Smith's allowance claims and about what documentation it was necessary to submit to the Department of Finance in support of claims, she never had any doubt that claims had been correctly made.<sup>290</sup> Dr Gearson believed that Mrs Watson was concerned that inappropriate submissions may have been made in respect of the Additional Costs Allowance but both Mrs Watson and Miss Eyre assert that the claims made were in order and were never questioned by the Department.

201. Mr Duncan Smith likewise says that the claims made by him on his house in his constituency were properly made. The Director of Finance and Administration says that he has seen no evidence that the claims made by Mr Duncan Smith were inappropriate.

### **Assessing the evidence: the standard of proof**

202. The allegation that Mr Duncan Smith employed his wife although she did little or nothing to justify the salary she was paid from public funds is a serious one. If it were to be alleged that he had done this deliberately, in order to misappropriate funds for his own or his wife's benefit, this would strike at the heart of Mr Duncan Smith's reputation for honesty. The Committee has previously taken the view that in some circumstances, something more than applying the ordinary civil law test of the balance of probabilities would be appropriate. Thus, in its Second Report of Session 2000–01, when considering a

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<sup>290</sup> See Volume II, PCS Written Submission 25, para 3, 62.

complaint against Mr John Maxton and Dr John Reid in which use of parliamentary allowances was also a major issue, the Committee stated:

*The courts have interpreted the concept of balance of probabilities to require a higher standard of proof in serious cases. A case such as this has serious implications for holders of public office. Accordingly we have concluded that we should need to be persuaded that these allegations were significantly more likely to be true than not to be true before we could properly uphold them.*<sup>291</sup>

The Committee and I have applied a similar test in a more recent case.<sup>292</sup> Indeed if there were evidence that Mr Duncan Smith had, in effect, obtained public money by deception, this would be a matter that might be tested in the criminal courts and I would have had no hesitation in advising the Committee that the matter should be handed over to the police.

203. However, we are not in that territory, as my analysis of the evidence shows. In my view, the balance of probabilities is the appropriate test to apply to most of the evidential issues arising in relation to the complaints against Mr Duncan Smith, although it would be right to apply the higher standard referred to by the Committee in the Reid and Maxton case before reaching any conclusion that Mr Duncan Smith had knowingly employed his wife improperly on his staff or had intentionally misused parliamentary allowances or other public money.

204. In submissions about the draft factual sections of my report made on 27 February, Counsel for Mr Duncan Smith questioned this understanding of the relevant standard of proof. He suggested that *all* the complaints made by Mr Crick necessarily carried the implication that Mr Duncan Smith had knowingly behaved improperly or dishonestly and that therefore the appropriate standard of proof was a higher one than the civil standard of balance of probabilities.

205. I disagree. That a payment or the use of an allowance may be found to be improper does not connote that it was made or used *intentionally* improperly. Dishonesty requires a guilty mind (*mens rea*). There may be other explanations (simple error, misunderstanding, lack of clear guidance or incompetence) as to why a payment is made or an allowance is used improperly, in the sense of incorrectly. If the term ‘improperly’ means only that, on an objective analysis, money was paid out of the wrong fund, regardless of whether or not anyone at the time knew or ought to have known that it was so paid, no imputation of dishonesty is made and the ordinary civil standard of proof is entirely acceptable. It is against the background of this understanding that I now move to assess the evidence relating to the complaints

## Conclusions on the complaint

206. On the evidence available I do not uphold the complaint by Mr Crick that Mrs Duncan Smith was improperly employed by her husband in that, variously, she did no

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<sup>291</sup> Committee on Standards and Privileges, Second Report of Session 2000–01 (HC 89), para 20.

<sup>292</sup> Committee on Standards and Privileges, Third Report of Session 2002–03: *Complaints against Mr Michael Trend* (HC 435).

work, or only minimal work which might have been expected of any spouse, or significantly less work than she was paid to do (that is, the first three strands of the complaint as set out in paragraph 9a)–c) of this report).

*a) that during the period 14 September 2001 to 31 December 2002, Mrs Duncan Smith had been employed by her husband under a contract with a job title of Diary Secretary but had not obviously performed any duties in this role or in any other staffing capacity.*

207. As I have noted already (see paragraphs 48 and 51) a number of the principal witnesses who say they saw no evidence that Mrs Duncan Smith did any work for her husband do not assert that she did not do any. They simply say that they did not see any sign of her doing any. On the other hand a significant number of witnesses, some but not all of them also employed in Mr Duncan Smith’s office as Leader, say that they did, directly or indirectly, see her undertake work and, indeed, in a number of cases that they worked collaboratively with her. This evidence is supported by the limited material from e-mail and other electronic sources which is available.

208. The weight of evidence is therefore preponderantly in favour of the proposition that Mrs Duncan Smith did do work for her husband. For the positive evidence in favour of Mrs Duncan Smith to be set aside, it would have to be contended that those who had given this evidence had lied, initially as part of a conspiracy by Mr and Mrs Duncan Smith to obtain public money by deception and then as part of a wider conspiracy to protect Mr and Mrs Duncan Smith. No one has suggested this in evidence to me, nor have I come across any evidence indicative of such falsehood or conspiracy. (I should add that it is not a corollary of this statement that those who said they saw no evidence of Mrs Duncan Smith doing any work were therefore themselves lying.)

209. It may nonetheless be objected that it is odd, to say the least, that key figures within Mr Duncan Smith’s office as Leader—including in particular Ms Ungless and Dr Gearson, who had administrative oversight of its staff—had no knowledge of Mrs Duncan Smith’s work. How is this explicable?

210. There are a number of factors which, taken together may point towards an answer. These are:

- a) The nature of Mrs Duncan Smith’s work after her husband’s election as Leader. I have described this in detail in paragraphs 67 ff above. It was, essentially, back room in character and, though important to her husband, not such as to entail her being very visible to others. Indeed Miss Eyre and Mr Whitby-Collins have said that they deliberately sought to ensure it was not visible (see paragraph 65 above).
- b) Her location at Swanbourne—out of sight of most of those in Westminster (including Dr Gearson, who never visited the Duncan Smiths’ Buckinghamshire home).
- c) The restricted nature of her working relationships—which centered, apart from her direct working relationship with her husband, on contacts with just four people (Miss Eyre, Mr Whitby-Collins, Mr Radford, and latterly Mrs Watson—see paragraph 74 above).

To these must be added:

- d) Mrs Duncan Smith's personal reticence in advertising her presence on the staff—reflected, among other things, in her unwillingness to introduce herself in her dealings as a staff member with others, by using her married name.

211. Another feature—which on Mr Duncan Smith's account certainly contributed to the extension of his wife's employment beyond the period originally envisaged, and which may also have contributed to the relatively hidden character of Mrs Duncan Smith's role—was the continued difficulty associated with the running of Mr Duncan Smith's office. There is ample evidence that the roles of staff in the Leader's office were initially confused (see, for example, the evidence of Mr Gordon, Ms McCammon, and Mr Muldrew quoted in paragraphs 56, 58 and 61 above). It is also clear that the functioning of the office was sub-optimal and that it continued to be less than satisfactory until, at the earliest, the autumn of 2002. Mr Stephen Gilbert, for example, commented on the initial period:

*I do not think anybody is going to pretend ... that it [the Leader's office] was in good shape, that it was working well ... it was not a smooth running operation ... Mark [MacGregor] and I felt that, although there were some good talented people there, the roles were very ill-defined and people did not really know what their job was, and this resulted in some particular operational difficulties.*<sup>293</sup>

Mr Alistair Burt, who was not appointed a Parliamentary Private Secretary until October 2002, said of his experience of the office:

*... when I joined his [Mr Duncan Smith's] team I was genuinely taken-aback at the lack of organisation in the running of his office and in the relationship between his office and Central Office.*<sup>294</sup>

Mr Paul Baverstock, who did not take up his post until January 2003, commented:

*... in my experience the charge against the Leader's office is one of disorganisation, of not being structured to understanding the scope of the task, the complexity of the task and trying to get to grips with that over a period of time.*<sup>295</sup>

212. Mrs Duncan Smith dealt very largely with those staff in her husband's immediate Private Office (initially, Miss Eyre and Mr Whitby-Collins) and his constituency office in the House (initially, Mrs Watson). There is some evidence—for example, in the testimony of Mr Gordon and Mr Muldrew—that, at least in the early stages, the working relationship between the Private Office and the rest of the Leader's Office was more distant than might have been expected had the whole office functioned in a fully integrated manner. And whilst it may, at one level, be surprising that neither Ms Ungless nor Dr Gearson picked up any knowledge or impression of work being done by Mrs Duncan Smith from their own daily working relationship with the staff of the Private Office, or from their knowledge of

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293 See Volume III, PCS Oral Evidence 10, Q 1003.

294 See Volume III, PCS Oral Evidence 5, Q 509.

295 See Volume III, PCS Oral Evidence 4, Q 500.

what went into and came out of Mr Duncan Smith's Box, this becomes less surprising in the light of the evidence that:

- a) They did not in fact control the contents of the Box or see everything that went into or came out of it;
- b) They were concerned with issues involving the Leader of a more strategic character than those about which Mrs Duncan Smith was dealing with their more junior colleagues; and
- c) Neither was, on their own admission, involved in the detail of constituency matters.

213. Accepting that Mrs Duncan Smith did do work for her husband, it remains curious that when Dr Gearson began to question her employment in the autumn of 2002, no one appears to have come forward rapidly with a clear and persuasive explanation of what Mrs Duncan Smith had been doing. Mr Paterson says that he is sure he would have reported to Dr Gearson and others the assurances that he had obtained from Mr Duncan Smith, but adds that he would have continued to express his political concerns about how the public might perceive the fact of Mrs Duncan Smith's employment. It is clear from the evidence of Dr Gearson as well as of Mrs May and Mr MacGregor that such political concerns were, along with budgetary issues, among the main reasons why the matters came to be discussed, although only briefly, on more than one occasion in the Communications Group. It is also clear that, for whatever reason, neither Dr Gearson nor Mr MacGregor initiated a discussion directly with Mr Duncan Smith about his wife's employment. Nor, apparently, did they ask other staff in the Leader's Office directly what they knew of that employment. Again one is left with a serious question about the organisational coherence, and the effectiveness of communication within the then Leader's office.

*b) that to the extent that Mrs Duncan Smith may have undertaken any tasks, they were minimal in character and such as might have been expected (for example, in terms of reconciling the domestic diary with Mr Duncan Smith's official commitments) to be undertaken (unpaid) by the spouse of any other prominent Member of the House.*

214. Accepting the evidence given not only by Mr and Mrs Duncan Smith but supported by those who had knowledge of what Mrs Duncan Smith was doing, it is clear that the range of Mrs Duncan Smith's work (as detailed in paragraphs 67, 70–72 and 77 above) went beyond tasks which might normally be expected to be undertaken unpaid by the spouse or partner of any Member. In particular, Mrs Duncan Smith's involvement in the management of her husband's diary went well beyond a concern with reconciling the demands of his official duties with his family commitments. There is clear evidence both of the extent of the work undertaken and of the value which not only Mr Duncan Smith but those other staff members with whom Mrs Duncan Smith was regularly in touch attached to her work.

215. There is, moreover, a general point to be borne in mind here: that there are proper limits that ought to be placed on expectations about what spouses or partners can reasonably be expected to do unpaid in support of the work of those they love. This is a

point which not only applies to the spouses or partners of Members but of those in other walks of life.

*c) that any work undertaken did not amount to 25 hours a week and so did not justify the salary she was paid.*

216. The requirement imposed on Mrs Duncan Smith by her contract was to work 25 hours a week *inclusive* of a break of one hour each day for lunch. Although direct independent evidence on this point is inevitably limited because of the detached location of Mrs Duncan Smith's office, the evidence given by Mr and Mrs Duncan Smith about the pattern of her working week is confirmed by the evidence from other sources which I have set out in paragraphs 78, 84, 88 and 89 of this report. On the basis of this evidence, I am satisfied that, working flexibly as the demands of her work required, Mrs Duncan Smith fully fulfilled the requirements of her contract.

217. Having said that I do not uphold the central, first three strands of the complaint made by Mr Crick, I turn now to consider the remaining three strands as identified in paragraph 9 of my report.

*d) that it appeared that at least some of any work which may have been undertaken (as described in Mr Duncan Smith's published response to Mr Crick's initial allegations) was party political in nature (relating to Mr Duncan Smith's position as Leader) and so did not qualify for payment from Mr Duncan Smith's parliamentary allowance.*

218. Mrs Duncan Smith's employment was funded out of the Parliamentary staffing allowance (formerly, the Office Costs Allowance). As noted earlier (paragraph 13 above):

*The staffing allowance is available to meet the costs wholly, exclusively and necessarily incurred on the provision of staff to help Members perform their Parliamentary duties.*

The Green Book containing the rules about Members' allowances from which this definition comes does not contain any definition of what constitutes parliamentary duties. However, it states clearly that the allowance may not be spent on party political activities. It is the responsibility under the Code of each Member to ensure that the allowances with which they are provided are properly expended in line with the rules of the House.

219. As noted in paragraph 195, Mr Duncan Smith says that his wife did not assist him with party political tasks, except in respect of typing up speeches or notes for him prior to the party conferences. Mrs Duncan Smith's evidence indicates that at the time she worked for her husband, she simply did what she had to do to help him, without distinguishing between his different roles. She says:

*Looking back, however, I can say that the majority of my time was spent supporting Iain in his parliamentary rather than his party political role.<sup>296</sup>*

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<sup>296</sup> See Volume II, PCS Written Submission 6, para 104.

220. Mr Duncan Smith has suggested that the dividing line between what is Parliamentary and what is party political is blurred. In support of this, he has pointed to the observation of the Committee on Standards and Privileges in the Maxton and Reid case that:

*The distinction between what is ‘parliamentary’ and what is ‘personal or party-political’ is not always self-evident, and it may be that there is no more than a ‘grey line’ (as it was described in the course of our evidence sessions) separating these categories.<sup>297</sup>*

Mr Duncan Smith suggests that while the Committee may wish to clarify the matter, it would be wrong to apply any fresh definition retrospectively.

221. Given the analysis, in paragraphs 67 and 77 above, of Mrs Duncan Smith’s duties after her husband became Leader it is clear that a good deal of her work was to do with constituency-related matters. These are pre-eminently the kind of activities intended to be covered by the staffing allowance. Other tasks—such as her roles in relation to the diary or progress-chasing or her secretarial work—whilst they had a constituency component, took her beyond purely constituency related matters into a broader field. Some of this wider work was undoubtedly parliamentary in character and related to Mr Duncan Smith’s role as the Member for Chingford and Woodford Green. However, it seems likely that other work flowed from his role as Leader of the Opposition, and yet other work from his role as Leader of the Conservative party. As noted above, Mr Duncan Smith himself indicates that, at least in respect of the run-up to the Party Conferences, his wife did do some work for him in this last category.

222. At this distance in time it is impossible to establish the precise amounts of work done by Mrs Duncan Smith which fell into each of these categories. However, it is clear from the available evidence that at the time, neither Mr Duncan Smith nor Mrs Duncan Smith distinguished between the different types of work. Mrs Duncan Smith was not responsible for ensuring the proper expenditure of her husband’s parliamentary staffing allowance but her husband was. Whilst accepting that boundaries may on occasion be blurred, that the definition of what is parliamentary and what is not lacks clarity and that Mr Duncan Smith had many other things to consider, it may nonetheless be felt that this was a deficiency.

223. When evaluating this strand of Mr Crick’s complaint, it needs to be borne in mind that, as Leader, Mr Duncan Smith had available to him in terms of the funding of his staff not only his parliamentary allowances but the substantial sum of Short money voted by the House as well as the resources of his party. I consider in the following section (where it more directly arises) the question whether Mr Duncan Smith was right to view the parliamentary staffing allowance and Short money as inter-changeable. Anticipating the view I express there, I uphold the fourth strand of Mr Crick’s complaint on the grounds that on the evidence available it seems likely that a significant proportion of the work undertaken by Mrs Duncan Smith for her husband (i.e. that relating to Mr Duncan Smith’s role as Leader of the Opposition) would more appropriately have been funded out of Short money than out of his parliamentary staffing allowance.

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297 Committee on Standards and Privileges, Second Report of Session 2000–01 (HC 89), para 45.

224. It also seems likely that a minor proportion of Mrs Duncan Smith's work could probably have been described as more party political than parliamentary in character. However, it is not clear what that proportion was or, crucially, whether it was embraced within the net 20 hours a week which Mrs Duncan Smith was required to work on purely parliamentary business or instead was, in practice, additional to that. In these circumstances I believe it would be unwise to uphold the fourth strand of the complaint on this ground alone.

*e) that it appeared from Mrs Christine Watson's memorandum of 24 October 2002 to Dr Vanessa Gearson that both Miss Annabelle Eyre and Mrs Watson were paid for periods out of Mr Duncan Smith's Parliamentary allowance when they should not have been because they were undertaking party political rather than parliamentary duties.*

225. I have summarised the salient facts relevant to this strand of the complaint in paragraphs 196–199 of my report. Miss Eyre and Mrs Watson continued to be paid wholly out of the parliamentary staffing allowance rather than Short money for, respectively, 10 months and 4 months after they were, in turn, appointed Mr Duncan Smith's Private Secretary. Mr Duncan Smith, and Miss Eyre and Mrs Watson, justify this on the grounds that the staffing allowance was intended for the support of Mr Duncan Smith in his parliamentary role and that Short money is intended to support the Leader of the Opposition in his parliamentary duties. In effect they argue that the staffing allowance and Short money should, for practical purposes, be treated interchangeably. It is clear on the basis of their evidence that in practice they made no distinction in the running of Mr Duncan Smith's office between these two sources of funding (other than for budgetary purposes) during the period I have been considering.

226. The view taken by Mr Duncan Smith is clearly at odds with that of the Department of Finance and Administration, (and also with that taken by Dr Gearson and initially, though not latterly, by Mrs Watson). The Department sees a clear distinction between Short money and the staffing allowance. Mr Duncan Smith points out that the House has never agreed a definition of what constitutes parliamentary business for the purposes of Short Money. As the note at Annex 1 indicates, this is indeed unfinished business.

227. To some observers it may appear that this argument about the proper source of funding of posts is merely marginal because it is a question of which of two pots of public money should carry the cost. These are inherently difficult matters, where clear definitions are not easy and, some may argue, it may be best not to attempt them.

228. However, the fact remains that to the extent that the Leader of the Opposition is able to use some or all of his parliamentary staffing allowance to support his work as Leader, he (and through him his party) has more money available to him than the House has voted for this purpose in the form of Short money. Moreover in the absence of any clear definition about what constitutes the 'parliamentary purposes' for which respectively, the allowance and Short money are allocated, the Leader is left with few constraints on his freedom to spend the money as he thinks fit and, conversely, no guidance which may help him in ensuring that his actions are not subsequently open to challenge. Nor does the public have certainty as to the purposes for which the money may be expended. And in the

case of Short money in particular, a substantial sum (some £548,000 per annum for the support of the Leader's office) is involved.

229. The Department of Finance and Administration argues that Short Money was the proper source of funding of those activities in the Leader's office which were not either constituency related (which could properly have fallen on the staffing allowance) or party political in character (which should properly have been carried by the Party). Mr Duncan Smith accepts that the cost of party political activities should be carried by the Party. However, he in effect argues that any staff engaged in parliamentary work in support of him as Leader could either be paid for out of his staffing allowance or from Short money.

230. I am not persuaded that when in 1999 the House decided to augment Short money with a specific allocation of financial assistance "for the costs necessarily incurred in the running of the Leader of the Opposition's office" (to quote from the Resolution then carried by the House) it intended that this allocation should be treated interchangeably with the other Parliamentary allowances available to the Leader as a Member of the House. If the two types of money were not intended to be distinct, why was the decision not taken to fund the Leader's office by simply supplementing his parliamentary allowances? The Short money is separately voted, and differently accounted for. Moreover, if the distinction between the two types of funding were to be lost, the ability of the House and its servants to police the proper expenditure of the different monies involved would be weakened.

231. In my view, the appropriate principal source of funding of both Miss Eyre and Mrs Watson in their role as Private Secretary was Short money. It is clear from both Miss Eyre's and Mrs Watson's account of their duties that each of them continued to have some responsibility for constituency work after they became Private Secretary. In Mrs Watson's case the Department of Finance and Administration recognised that some part of her funding could continue to come from the Parliamentary staffing allowance provided it was for constituency related work. However, the majority of the work Miss Eyre and Mrs Watson did as Private Secretary related to the support of Mr Duncan Smith in his role as Leader of the Opposition. Short money was therefore the proper pocket from which at least the bulk of their salaries should be met.

232. It may be objected that other members of the Front Benches of the Opposition parties are constrained to use their parliamentary staffing allowances in support of them in their front bench role, as well as in respect of their other Parliamentary duties. The main Short Money fund is in fact available to assist them in their Opposition spokesmen role. In the case of the Leader of the Opposition the position is, I submit, even clearer and more distinct in that money is already separately and specifically voted by the House to assist in meeting the cost of running his office.

233. I note also in this context that it appears from the evidence of Miss Eyre that some portion of her time may have been spent on party political rather than parliamentary work. In the analysis of her work as Private Secretary appended to her second written statement, Miss Eyre estimates that over 90% of the work she undertook was:

*of a Parliamentary nature in support of Iain as a Parliamentarian.*<sup>298</sup>

By implication, something less than 10% was not of a Parliamentary character. Whilst some modest degree of flexibility on such matters may be sensible, strictly such work should not have been reimbursed from either Short money or the parliamentary staffing allowance. Again one has the impression from the evidence that, for the bulk of the time under review, key staff in the Leader's office simply got on with the work to be done, whatever it was, without paying much regard to such matters except in their budgetary aspect.

234. I uphold the fifth strand of Mr Crick's complaint. Both Miss Eyre and Mrs Watson (but particularly Miss Eyre) were paid for periods out of the parliamentary staffing allowance when the bulk of their funding at least should have come from Short money. In addition, it appears likely that some (though a relatively minor proportion) of the work undertaken by Miss Eyre, and possibly by Mrs Watson, may have been party political in character (though I recognise that they worked long hours and may claim that any such work was done outside their contracted hours). I emphasise that in reaching the finding that, viewed objectively, the staffing allowance was improperly used, I do not find or imply any subjective intention on Mr Duncan Smith's part to use it improperly. I have seen no evidence of such an intention.

*f) that the same memorandum also appeared to suggest that there were financial matters relating to Mr Duncan Smith's "Constituency and Members' Allowances and Reimbursements" which may not have been in order.*

235. I have not found evidence that Mr Duncan Smith made improper claims under the Additional Cost Allowance (ACA) in respect of his home in Chingford. Mr Duncan Smith says that he has used it regularly (though the precise pattern of use has varied over time). The rules attaching to the allowance do not lay down any minimum level of use by a Member of the property on which he or she is claiming, below which a claim would not be valid. I consider below whether or not some criterion should be introduced to enable value for money issues in relation to the use made of this allowance to be assessed, but at the moment there is no such discipline. Nor do the rules say that the property should be *exclusively* used by the Member and his or her immediate family. It was not therefore inappropriate for Mr Duncan Smith to allow other family members or relatives to stay in the property. Nor, given that he himself continued to use the property and did not receive any rent from those who also stayed there, was there any need for Mr Duncan Smith to include an entry relating to the property in the Register of Members' Interests.

236. The House's Director of Finance and Administration has likewise seen no evidence that the claims made by Mr Duncan Smith in respect of his Chingford house were inappropriate. In the absence of such evidence, I do not uphold the final strand of Mr Crick's complaint.

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<sup>298</sup> See Volume II, PCS Written Submission 10, Addendum A, para 13.

## Summary of conclusions on the complaint

237. To summarise, on the evidence available I do not uphold the main complaints made by Mr Crick concerning Mrs Duncan Smith's employment by her husband or his complaint about Mr Duncan Smith's allowance claims on his house in Chingford. I do, however, uphold those elements of his complaint which concern the proper source of funding of part of Mrs Duncan Smith's salary, and of the main part of the salaries of Miss Eyre and Mrs Watson in their role as Mr Duncan Smith's Private Secretary. Whilst I recognise the absence of clear definitions and the difficulty of drawing clear boundaries between one type of work and another (both points which the Committee will wish to weigh carefully when considering how to proceed in relation to these matters), the error in relation to the funding of Miss Eyre, and to a lesser extent of Mrs Watson and Mrs Duncan Smith, was more than merely marginal.

238. This error was, on the evidence available, the result of misunderstanding rather than of a deliberate desire to subvert the rules which, as I have noted, were unclear. Among the voluminous evidence I have received relating to the matters which are the subject of Mr Crick's complaints, I have seen none which should cast doubt on the honesty or integrity of Mr and Mrs Duncan Smith. It is clear to me—and I believe will be so to any dispassionate reader of my report—that questions were first able to arise about Mrs Duncan Smith's employment as a result of the relative invisibility of her work after her husband became Leader of the Conservative Party. That invisibility created a perceptual danger not fully appreciated sufficiently early. The ongoing changes in and less than satisfactory functioning of the then Leader's office were the other key factors in the continuation of Mrs Duncan Smith's employment beyond what she and her husband had originally intended, and therefore in the continuation of the danger to which I have referred.

## Submissions on procedural matters

239. I noted in paragraph 20 above that I had received extensive submissions from Counsel on behalf of Mr Duncan Smith, alleging that for systemic reasons, the process of my inquiry has operated unfairly to Mr Duncan Smith. These submissions are contained in part 2 of Mr Richard Gordon's memorandum and are summarised in paragraph 59 of that memorandum.<sup>299</sup> Mr Gordon's contention is that, taken separately or together, the deficiencies he alleges would justify dismissing the complaints against Mr Duncan Smith on procedural grounds, regardless of their substantive merits. For the reasons which I have set out in Annex 4, I reject that argument and I invite the Committee on Standards and Privileges to do likewise.

## Matters for further consideration

240. My inquiry has indicated four matters on which the Committee of Standards and Privileges and the House authorities may wish to reflect further.

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<sup>299</sup> See Volume II, PCS Written Submission 50.

### **(1) *The employment by Members of close family relatives***

241. It is not contrary to the rules of the House for Members to employ on their staff spouses, partners or relatives. Some legislatures bar their Members from employing close family relatives, in order to avoid both the possibility and the perception of abuse. Not having received evidence of abuse I see no reason at this stage to invite the House to consider imposing such a restriction on its Members. Indeed I am sure that many Members would argue that not only should they be free to appoint whomever they wish to assist them, but that where they do employ their spouse or partner this enables them to give their constituents a higher level of service than they would otherwise be able to do.

242. That said it has to be recognised that when a Member employs a partner or close family relative on their staff, they may lay themselves open to allegations of nepotism or abusing their allowances for personal family gain. In order to guard against this, it is important that they follow the rules relating to the Staffing Allowance carefully, and that they can, if questioned, readily show to others that they have done so. If in any doubt, they should not hesitate to consult the Department of Finance and Administration.

243. In another case I suggested that the relevant considerations to have in mind in relation to the staffing allowance include:

- is the person employed to meet a genuine need in supporting the Member in performing their Parliamentary duties?
- are they qualified/able to do the job?
- do they actually do the job?
- are the resulting costs, in so far as they are charged to the allowance, reasonable and entirely attributable to the Member's Parliamentary work?<sup>300</sup>

244. The present case also demonstrates that where family members are employed as staff, it is particularly important both to be open about it and to be able to produce, if requested, an audit trail of information as to the work done. As regards openness, the Committee may wish to consider whether this should be formalised in any way by, for example, requiring Members who employ a spouse or partner or close family relative to include an entry to this effect in the Register of Members' Staff. As for an audit trail of information, I do not think it would be fair to impose requirements in this respect on employees who are family members which do not apply to other employees. Nor should the employment of staff be made an exercise in bureaucracy. Nonetheless the Committee may wish to invite the panel which advises Mr Speaker on such matters to consider whether any further guidance to Members or tightening of arrangements is desirable.

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300 Committee on Standards and Privileges, Fifth Report of Session 2002–03: *Complaints against Mr Clive Betts* (HC 947).

## ***(2) Use of the Staffing Allowance and Short Money***

245. I have already noted that there is a lack of clarity about the parliamentary purposes for which, respectively, the staffing allowance and Short money are intended. The definition of parliamentary purposes in relation to the use of Short money in particular is unfinished business (see the note at Annex 1). The present case also raises a question as to whether adequate guidance is given not only to Opposition parties but to their Leaders and front bench teams on such matters. I invite the Committee to consider, in discussion with the House authorities, how these issues may best be addressed in order to try to avoid uncertainty in the future. It is possible that the Members Estimate Committee set up by the House's Resolution of 29 January 2004 will provide an appropriate forum for consideration of this matter.

## ***(3) Additional Costs Allowance***

246. The Additional Costs Allowance (ACA) reimburses Members for expenses wholly, exclusively and necessarily incurred when staying overnight away from their main residence for the purposes of performing Parliamentary duties. This excludes expenses that may have been incurred for purely personal or political purposes. A number of Members use the allowance to assist with the payment of mortgage interest and other expenses on a second home either in London or in their constituency.

247. I have noted in paragraph 236 that at present there is no minimum requirement in terms of the frequency with which a Member should actually use their second home (part of the costs relating to which are met from the public purse). Of course individual circumstances vary and there needs to be flexibility to allow for this. However, if usage falls consistently below a certain level, it will no longer represent value for money for the allowance to be spent on supporting a Member in purchasing a second home. I raise the question whether the Advisory Panel on Members' Allowances should be invited to consider whether additional controls are needed in this area. I make clear that in raising this as a general issue, I do not imply criticism of Mr Duncan Smith.

## ***(4) Disclosure of evidence to the media***

248. The disclosure to the media of evidence to be given to me, and references to the broad thrust of evidence given, have been constant features of this inquiry. As I have said elsewhere in this report, I do not believe that this has prejudiced in any way my ability to deal fairly and objectively with the complaints against Mr Duncan Smith. However, it has certainly been a continuing concern to Mr Duncan Smith's advisers, who believe that it has put him at a disadvantage and damaged his public reputation, and have compared the apparent lack of protection for their client unfavourably with the protections afforded by the Courts.

249. The procedural guidance approved by the Committee makes clear that the disclosure of evidence in the course of an inquiry may constitute a contempt of the House. A Member may draw a possible contempt to the attention of the Speaker. Mr Duncan Smith's advisers have argued that this avenue of redress is inadequate and that some more immediate remedy should be available through the Commissioner.

250. This is a sensitive and complex area. On the one hand a complaint must be fairly and properly handled. That must not be capable of being prejudiced by leaks to the media. On the other hand overly heavy handed attempts to try to regulate matters in this area are probably undesirable and doomed to failure. I suggest that this important issue should be the subject of further reflection away from the immediate consideration of the present complaint, in the context of the review of the House's Code of Conduct planned by the Committee.

### **Final word**

251. The nature of the complaints in this case and the circumstances in which my inquiry into them began and continued have meant that the experience of the inquiry has been a difficult and stressful one for a significant number of the witnesses who have given me evidence. I am grateful for the way in which they have conducted themselves. I am also grateful for the help of my staff and colleagues in enabling me now to submit this report.

*16 March 2004*

*Sir Philip Mawer*

## Annex 1: Note on Short Money

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1. Financial assistance to Opposition parties is commonly known as ‘Short Money’ after Edward Short, the Leader of the House who introduced it in 1975. It was brought in under, and is governed by, Resolutions of the House of 1975, 1993 and 1999.

2. The purpose of Short Money payments is to assist a qualifying opposition party to carry out its parliamentary business. It has three main components: the general fund, mainly for research assistance for front-bench spokesmen and women and assistance in the relevant whips’ offices; a travel allowance, currently of £129,000 a year divided between the qualifying parties, introduced in 1993 and designed to assist with the travelling expenses incurred by opposition parties’ spokesmen and women on parliamentary business; and, since 1999, an allowance, currently £548,000 a year for running the Leader of the Opposition’s Office. The allowances are increased annually in line with inflation.

3. With the exception of the travel allowance, for which claims must be put in, Short Money is paid automatically in arrears at the end of each month. Each party must have its accounts audited by an independent auditor; the accounts for each financial year must be submitted to the Accounting Officer (the Clerk of the House) by the end of December in the next financial year, and are examined by the National Audit Office.

4. None of the Short Money resolutions attempted to define ‘parliamentary business’. In response, however, to difficulties experienced by the auditors for one of the parties in certifying that the money had been used on parliamentary business, the Department of Finance and Administration drafted a definition, sometimes called a description, of parliamentary business, which was agreed with the Official Opposition, the Accounting Officer and the National Audit Office. This reads: ‘Parliamentary business for the purposes of providing financial assistance to opposition parties may be defined as research associated with front bench duties, developing and communicating alternative policies to those of the Government of the day, and shadowing the Government’s front bench. It does not include political campaigning and similar partisan activities, political fund raising, membership campaigns or personal or private business of any kind’.

5. In March 2001, the Select Committee on Public Administration, having considered Short Money in the course of its report on special advisers, reported that it had concerns that a description of parliamentary business had been arrived at, without consideration by the House, which seemed to allow more latitude in how the money was spent. The report continued

*In particular we are not clear how ‘communicating alternative policies to the Government of the day’ (which is permitted under the expanded description) is different from ‘political campaigning’ (which is not).*

*We believe that there is an urgent need for stricter regulation as to what Short money may be spent on and more transparency as to how it has been spent. We understand that it will be for the Leader of the House to bring forward an amended resolution for adoption by the House ... **We hope that the Leader of the House will take an early opportunity to table an amended resolution so that the House can agree more precisely on what Short Money may be spent and how it is to be accounted for.**<sup>301</sup>*

This recommendation has not been implemented.

February 2004

Office of the Parliamentary Commissioner for Standards

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301 Select Committee on Public Administration, Fourth Report of Session 2000–01 (HC 293), paras 50–51.

## Annex 2: Alphabetical list of those from whom evidence has been received

*\*denotes those from whom oral evidence was taken*

*Mr Paul BAVERSTOCK	Director of Strategic Communication of the Conservative Party, 13 January 2003 (full-time with effect from 1 February 2003) to 12 November 2003.
Councillor Laurie BRAHAM	Councillor, London Borough of Waltham Forest.
*Mr Alistair BURT MP	Parliamentary Private Secretary to Mr Duncan Smith, October 2002 to October 2003.
Mrs Coralie BUCKMASTER	Chairman, Chingford Conservative Association.
Rosemary CANE	Office Manager of Chingford Hall Primary School.
*Mr Michael CRICK	Complainant.
Councillor Matthew DAVIS	Councillor, London Borough of Waltham Forest from May 2002.
Mr Quentin DAVIES MP	Deputy to Mr Duncan Smith when he was Defence Spokesman before his election as Leader, and subsequently shadow Secretary of State for Northern Ireland.
DEPARTMENT OF FINANCE AND ADMINISTRATION	House of Commons Department responsible for administering Parliamentary Allowances and Short Money.
*Rt Hon Iain DUNCAN SMITH MP	Leader of the Opposition from 13 September 2001 to 29 October 2003
*Mrs Elizabeth (Betsy) DUNCAN SMITH	Wife of Mr Duncan Smith, for whom she worked from after his election in 1992 until 31 December 2002.
Miss Annabelle EYRE	Constituency secretary to Mr Duncan Smith, May 1997 to mid October 2001. Private Secretary, September 2001 to August 2002. Head of Tours and Planning, August 2002 onwards.
Ms Caroline FANAROKO	Department of Community Affairs at Conservative Central Office.
Councillor Leslie Anne FINLAYSON	Councillor, London Borough of Waltham Forest.
Mr Tom FINCHETT	Estate manager at Swanbourne.
Councillor Michael FISH	Councillor, London Borough of Waltham Forest.
*Dr Vanessa GEARSON	Administrative Head of Leader's Office, August 2002 to September 2003. Subsequently Deputy Director of Conservative Central Office until 12 November 2003.

*Mr Stephen GILBERT	Director of Field Operations, Conservative Central Office, Additionally, Deputy to the Chief Executive of the Conservative Party, late 2001 until summer 2003, when he became Director of Campaigning and Organisation (effectively, Chief Executive). Left Central Office, end October 2003.
*Mr Simon GORDON	'Office Manager' in the Leader's Office, 17 September 2001–mid-January 2002.
Councillor John GOVER	Councillor in London Borough of Waltham Forest. Acted as Mr Duncan Smith's election agent for the general elections of 1997 and 2001 but relinquished responsibility after wrapping up the 2001 campaign.
*Mr Jonathan HELLEWELL	Senior aide or ADC to Mr Duncan Smith from 13 September 2001–November 2003.
Councillor Linda HUGGETT	Councillor, London Borough of Redbridge from May 2002.
Mrs M ILIFF	Correspondent of Mr Duncan Smith
IT DEPARTMENT, CONSERVATIVE CENTRAL OFFICE	
*Sir Stanley KALMS	Treasurer of the Conservative Party, 21 November 2001 to 'late spring 2003'.
*Ms Rebecca LAYTON	From January 2002 to September 2002, correspondence clerk and assistant tour organiser in the Leader's Office. September 2002, deputy to Dr Vanessa Gearson. Left Mr Duncan Smith's office March 2003, to work for Paul Baverstock.
Ms Belinda McCAMMON	Worked for Mr Duncan Smith during his leadership campaign and subsequently in the Leader's Office until the end of January 2002.
*Mr Mark MacGREGOR	Chief Executive of the Conservative Party, 1 January 2002 to 14 February 2003.
*Ms Paula MALONE	Diary Secretary, 14 October 2002 to November 2003.
Mr Gavin Megaw	Head of Regional and Specialist Press, The Conservative Party
Mr Tim MONTGOMERIE	Political Secretary to Mr Duncan Smith (and effectively head of the Leader's Office), September to November 2003.
*Rt Hon Theresa MAY MP	Conservative Party Chairman, late July 2002 to early November 2003.
*Mr Adrian MULDREW	Correspondence and Political Secretary, September 2001 to September 2002.
*Mr Owen PATERSON MP	Parliamentary Private Secretary to Mr Duncan Smith, 13 September 2001 to November 2003.
Mr Mike PENNING	Press Officer to the Conservative Party to November 2003.

*Mr Rikki RADFORD	Conservative Party Agent in Chingford from February 2002.
Leslie STOWE	Hon Secretary, The Rotary Club of Chingford.
*Ms Jenny UNGLESS	Chief of Staff to Mr Duncan Smith, 15 October 2001 to 28 July 2002.
Ms Annabel TUCK	Press Officer to Mr Duncan Smith, September 2001 to November 2003.
Shailesh VARA	Vice Chairman of Conservative Party.
Mr Bill WALKER OBE	Former MP and Member of Board of Conservative Party.
*Ms Cara WALKER	Constituency Secretary to Mr Duncan Smith, September 2002 to November 2003.
Councillor Geoff WALKER	Councillor, London Borough of Waltham Forest.
*Mrs Christine WATSON	Constituency Secretary, September 2001 to August 2002. Private Secretary, August 2002 to November 2003.
*Mr Andrew WHITBY-COLLINS	Diary Secretary, 13 September 2001 to 14 October 2002, when he left to go to the Candidates' Department in Central Office.
Tim WILKINSON	Computer Consultant.
Mr Nick WOOD	Head of Media, Conservative Central Office until 12 November 2003

## Annex 3: Chronology of events

### Chronology of events up to the presentation of Mr Michael Crick's complaint

<b>1992</b>	
April	Mr Duncan Smith elected MP for Chingford. Mrs Duncan Smith begins to work for him.
<b>1997</b>	
May	Miss Annabelle Eyre becomes Mr Duncan Smith's constituency secretary.
2 October	Mrs Duncan Smith's contract to work in the capacity of 'diary and secretarial support' signed.
<b>2001</b>	
August	The Duncan Smiths move from Fulham to Swanbourne.
13 September	Mr Iain Duncan Smith elected Conservative Party Leader.
September	Miss Annabelle Eyre becomes Mr Duncan Smith's private secretary.
September	Mr Owen Paterson becomes Mr Duncan Smith's Parliamentary Private Secretary.
14 September	New Leader's Office begins to be established in 34 Smith Square.
15 October	Ms Jenny Ungless appointed Chief of Staff. Mrs Christine Watson becomes Mr Duncan Smith's constituency secretary.
<b>2002</b>	
1 January	Mr Mark MacGregor becomes Chief Executive of Conservative Party.
January	Mr Simon Gordon and Ms Belinda McCammon leave Leader's Office. Ms Rebecca Layton appointed correspondence clerk.
March or April	Ms Jenny Ungless first raises question of Miss Eyre's being on the constituency payroll with Mr MacGregor.
Early summer	Mr Duncan Smith says that he first seriously discussed with his wife the possibility of her ceasing to work for him.
July	Mrs Theresa May becomes Party Chairman in succession to Mr David Davies.
28 July	Ms Jenny Ungless resigns.
12 August	Dr Vanessa Gearson is appointed Administrative Head of Office of the Leader.
August	Miss Eyre ceases to be private secretary and becomes Head of Tours and Planning. Mrs Christine Watson offered and accepts private secretary post.

22 August	Mrs Christine Watson takes up post as private secretary.
Early September	Mr Adrian Muldrew leaves Leader's office.
September	Ms Rebecca Layton becomes Dr Vanessa Gearson's deputy.
September	Ms Cara Walker becomes constituency secretary, initially on a trial basis.
Early September	According to Dr Gearson, Mrs Watson draws her attention to Mrs Duncan Smith's being on payroll (although Mrs Watson disputes that she told Dr Gearson). 'Within the hour' Dr Gearson raises it with Mr Owen Paterson.
Early or mid-September	According to Mr Mark MacGregor, Dr Gearson raises matter of Mrs Duncan Smith's employment with him for the first time.
'Late summer'	Leader's office moves from 34 to 32 Smith Square.
September/October	According to Mr Duncan Smith he has a discussion with Mrs Watson shortly after she is appointed his Private Secretary in which he tells her about the possibility of Mrs Duncan Smith giving up work.
'Autumn'	Dr Gearson raises Mrs Duncan Smith's employment with Mrs May for information.
14 October	Ms Paula Malone succeeds Mr Andrew Whitby-Collins as diary secretary.
Week of 14 October	According to Dr Gearson she again raises the matter of Mrs Duncan Smith's employment with Mr Paterson.
24 October	Mrs Watson sends memo to Dr Gearson.
Late October or early November	Mr Alastair Burt becomes Mr Duncan Smith's second PPS. Shortly afterwards, Mr Burt has a conversation with Mrs Watson in which she tells him of her concerns about the limited funds available to pay new staff from Mr Duncan Smith's parliamentary allowance
November	Ms Cara Walker is confirmed as constituency secretary.
Early November	According to Dr Gearson she again raises the matter of Mrs Duncan Smith's employment with Mr Paterson and Mr MacGregor and the latter's deputy, Mr Stephen Gilbert.
November	Dr Gearson raises the matter of Mrs Duncan Smith's employment at more than one of the weekly Communications Group meetings
By mid-November	According to Mr Duncan Smith, he informs Mrs Watson that his wife is to cease employment at the end of the year.
18 November	Mrs Watson notes in her work book "Betsy—salary letter".
19 November	Mrs Watson has a conversation with Mr Alastair Burt about the termination of Mrs Duncan Smith's employment and they both speak to Mr Duncan Smith. New research assistant's contract signed.
15 December	<i>Mail on Sunday</i> publishes the Michael Trend story.
18 December	Mr Duncan Smith writes to the Department of Finance and Administration asking them to stop paying Mrs Duncan Smith after the end of the month.
31 December	Mrs Duncan Smith comes off the payroll.

<b>2003</b>	
13 January	Mr Paul Baverstock becomes Director of Strategic Communications (full time with effect from 1 February 2003).
30 January	Dr Gearson sends an e-mail to Mrs May, Mr Baverstock and Mr MacGregor in which she raises the question of the purchase of equipment for office facilities at Swanbourne and Mr Duncan Smith's use of donors' private planes and mentions the recently-ended employment of Mrs Duncan Smith. This e-mail is not copied to Mr Duncan Smith or Mr Paterson, but is subsequently brought to their notice.
31 January	Dr Gearson meets Mr Duncan Smith and sends a second e-mail to same recipients stating that she is satisfied that the queries she raised in her previous e-mail have been dealt with correctly and in full.
14 February	Mr MacGregor sacked as Chief Executive of Conservative party and replaced by Mr Barry Legg, who is subsequently reported to have resigned in April 2003.
March	Ms Layton leaves Leader's Office to start a new job working for Mr Baverstock.
May	Mr Crick begins researching his story.
'Summer'	Post of Chief Executive of Conservative Party abolished. Mr Stephen Gilbert becomes 'Director of Campaigning and Organisation'.
September	Dr Gearson leaves Leader's office and goes to work at Central Office for Mrs May. Mr Tim Montgomerie is appointed as 'Political Secretary to the Leader' with a political role as well as duties to manage Mr Duncan Smith's office.
29 September	Mr Neal Dalgleish of <i>Newsnight</i> interviews Councillor Gover and Louise Weston speaks to Councillors Walker, Fish, Williams, Braham and Davis. Mr Crick speaks to Mr Rikki Radford.
30 September	Mr Duncan Smith receives a letter from Mr Crick asking certain questions for the <i>Newsnight</i> programme.
2 October	Expected date for transmission of <i>Newsnight</i> programme, which the BBC decides not to broadcast.
5 October	Story begins to emerge in the press. Mr Duncan Smith says he will sue anyone who publishes allegations about his wife.
6–9 October	Conservative Party Conference in Blackpool.
12 October	<i>Insight</i> article and article by David Cracknell and Eben Black in <i>Sunday Times</i> and extensive articles by Andrew Alderson, Colin Brown, Francis Elliott and Michael Crick (and an editorial) in <i>The Sunday Telegraph</i> , rehearsing the charges and claiming that the Parliamentary Commissioner for Standards has been invoked.
13 October	Parliamentary Commissioner for Standards receives Mr Michael Crick's complaint.

## Annex 4: Consideration of Counsel's procedural submissions on behalf of Mr Duncan Smith

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1. I set out in this Annex my comments on the procedural submissions made by Mr Richard Gordon QC on behalf of Mr Duncan Smith. These are set out in part 2 of Mr Gordon's written submission and summarised in paragraph 59 of that memorandum.<sup>302</sup>

2. I make first a general point which applies to a number of Mr Gordon's arguments. They appear to be based on a misunderstanding of the nature of the procedures which the House of Commons has established for considering complaints against its Members. These procedures are essentially inquisitorial rather than adversarial in character. In operating them, the Parliamentary Commissioner for Standards is not some kind of an umpire, adjudicating in a dispute between two parties, the complainant and the Member. Rather, certain possible irregularities having been drawn to his attention, the obligation imposed on the Commissioner by Standing Order No.150 is in effect to investigate those possible irregularities and to report on them to the Committee on Standards and Privileges, giving the Committee when doing so his assessment as to whether or not his investigation has revealed breaches of the Code of Conduct. He conducts his investigation in accordance with the procedures approved by the House. The obligation on the Member (and indeed on the other witnesses to the inquiry) is to assist the Commissioner to get at the truth of the complaints.

3. Addressing the arguments summarised in paragraph 59 of the legal submission:

- i) *A decision was held to embark on a full inquiry without IDS being shown and asked to respond to highly relevant material that influenced the PCS in arriving at that decision.*
- ii) *It was decided to embark on a full inquiry into allegations that had not been put to IDS and of which he was ignorant at the time of that decision.*

4. Counsel argues (see paragraphs 7–9 and 20–34 of his submission) that Mr Crick made his first complaint—that is that Mrs Duncan Smith did no work for her husband—on the basis of conjecture and surmise. When on the day that he made the complaint, evidence to rebut it began to emerge, he subsequently developed “an entirely new series of allegations” (paragraph 8). The way in which these complaints were allowed to evolve made it difficult for Mr Duncan Smith to address them. His difficulties were compounded because I decided to proceed with a full inquiry without sharing with him all the information in front of me when I made that decision and without first giving Mr Duncan Smith the opportunity to know of and respond to each separate complaint against him.

5. I believe that Counsel's approach over-formalises the different stages of the consideration of a complaint. The preliminary inquiry phase is not a strictly separate stage, in the nature of a preliminary hearing of the complaint. The key question at that point is whether, having received the evidence put forward by the complainant and the initial response by the Member, the Commissioner believes on balance that there is evidence of possible irregularities requiring further inquiry.

6. Nor do I accept that Mr Crick began to develop “an entirely new series of allegations” after his initial letter to me. Certainly he added to his initial allegation when he gave me a copy of Mrs Watson's memorandum, and he clarified his allegations when I interviewed him two days later. However, his additional allegations concerned the same provision of the Code (relating to the proper use of allowances) and flowed from the same essential set of circumstances. That is why I have throughout preferred to describe them as strands of the same complaint.

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<sup>302</sup> See Volume II, PCS Written Submission 50.

7. If it be an implication of Mr Gordon's submission that the Commissioner's inquiries must be confined solely to the letter of the initiating complaint, I would reject this also. If other matters emerge during the course of consideration of a complaint, including the conduct of an inquiry, they must be capable of being examined. Public confidence in the machinery set up by the House would be severely dented if they could not be.

8. As regards the argument that I decided to proceed with a full inquiry without sharing with Mr Duncan Smith all the information in front of me, I deal below with the question of the significance to my decision of the anonymous material supplied by Mr Crick. Counsel argues (paragraph 34) that I should have followed the precept of administrative law that information known only to a decision-maker must be disclosed to an affected party if such information is instrumental to a decision about to be made. I reject this analogy. I do not accept his assumption that the requirements of natural justice in the context of administrative decision-making apply without any qualification in the context of an inquisitorial investigation. Nor is it clear to me that the transition from a preliminary inquiry to a full investigation constitutes a decision the nature of which makes the analogy an apt one.

iii) *A decision was made to embark on a full inquiry taking into account anonymous material that had not been disclosed to IDS precisely because it was said, at that stage, to be irrelevant.*

9. With his original letter, Mr Crick supplied material from 3 anonymous sources. I did not enclose this with my letter of 13 October to Mr Duncan Smith although I did supply it subsequently. Counsel argues that Mr Duncan Smith should have seen this material and had the opportunity to comment on it before I decided to proceed with a full investigation (paragraphs 25–28).

10. I have already dealt with one aspect of this argument in the preceding section. When assessing whether to proceed with a full investigation, I do not think it was inappropriate for me to take into consideration not only the attributed evidence supplied by Mr Crick (which alone was sufficient in my view to justify my decision) but also the existence of the material from anonymous sources. This was relevant, for example, to assessing whether an inquiry might unearth information relevant to an assessment of the complaints. However, apart from sharing that anonymous material with Mr Duncan Smith a week after I first received it, I have not taken it into consideration since.

iv) *Prior to the inquiry, at its inception, at the start of the full inquiry and throughout its course media disclosure has infected the whole proceedings. IDS has been told that his only remedy is to take the matter up with the Speaker.*

11. Counsel argues that the media stories which preceded and have accompanied my inquiry (details of which were attached to his memorandum and the bulk of which he ascribes either to the complainant or to the principal witnesses against Mr Duncan Smith) have prevented Mr Duncan Smith from having a fair hearing, in terms not only of one that is fair but is seen to be fair (paragraphs 10–19), and that the complaints against his client should be dismissed on this ground.

12. It can be seen from the table enclosed with the memorandum that most of the stories either preceded my inquiry or came within the first 8 days of Mr Crick lodging his complaint. As far as my own handling of these matters is concerned, I made clear to Mr Crick and every witness that evidence given to me should be regarded as confidential unless and until it was published by the Committee.

13. The primary question for me is whether or not the various media reports, whatever their source, have prejudiced my ability to consider the complaints against Mr Duncan Smith fairly. I do not believe that they have. In particular I do not accept that one consequence has been that the inquiry has become "impossibly wide-ranging" (paragraph 16 (iii)). Counsel argues that the effect of the disclosures has been highly damaging to Mr Duncan Smith's public reputation and that the disclosures formed part of a concerted campaign to remove Mr Duncan Smith as Leader of the Opposition. I do not accept, however, that the conduct of the inquiry has exacerbated these matters or that my ability, or that of the Committee, to reach a fair and honest conclusion has been impaired.

14. It is certainly the case that when Mr Duncan Smith's advisers drew their concern on this score to my attention, I advised that since I had already done what I could to warn witnesses, Mr Duncan Smith should

consider whether he wished to raise this matter with Mr Speaker as a possible contempt of the House. This is the proper course of action open to a Member, and the only possible remedy at present. Mr Duncan Smith decided not to pursue this approach. I do not believe that what has occurred in this respect constitutes a ground on which to dismiss the complaints against Mr Duncan Smith.

- v) *The full inquiry has been conducted without IDS being informed of what standard of proof the PCS proposed to apply to any of the complaints. This has necessarily affected the preparation of his evidence and the manner in which evidence has been received by the PCS.*

15. Counsel alleges that Mr Duncan Smith was significantly disadvantaged in that it was not until I sent Mr Duncan Smith the draft factual sections of my report that I informed him of the standard of proof I intended to apply when considering the complaints against him (paragraphs 35–41).

16. I believe that Counsel confuses the investigatory and adjudicatory stages of my inquiry. Again the criticism assumes adversarial proceedings, with the Commissioner someone who adjudicates between the parties. Although he can point to earlier decisions of the Committee in which the Committee has commented on standard of proof questions (notably the Maxton and Reid case), it is not practically possible for the Commissioner to say before he concludes an inquiry precisely what standard he will apply himself in assessing the case before him. This is because his first objective is to get at the truth and assemble all the facts. Only when the Commissioner has done so can he assess the true substance of the allegations, and form a view, in the light of the approach to these matters favoured by the Committee, as to an appropriate standard of proof. Moreover, Counsel's comments overlook the fact that the primary obligation on the Member during an inquiry is not to construct his or her defence but to make a full and frank disclosure of all the relevant circumstances in order to assist the Commissioner to get at the truth.

- vi) *The full inquiry has been conducted with IDS being given only a partial sight of the evidence on the footing that the PCS was disclosing only that which he considered to be relevant to the case against IDS. This has necessarily affected IDS' ability properly to advance his defence and, in turn, deprived the PCS of obtaining a full evidential picture.*

17. Finally Counsel alleges that his client has been dis-advantaged in that, prior to sending to Mr Duncan Smith the draft factual sections of my report, I did not share with him or his advisers *all* the evidence presented to me (although at that point, he did have the opportunity to see all the evidence presented with my report) (paragraphs 42–47).

18. The note approved by the Committee which sets out for the benefit of Members who are the subject of a complaint the procedure I follow says (paragraph 10) that the Commissioner;

*... will tell the Member of the nature of the allegation and of the evidence submitted in its support ...*

It goes on (paragraph 19):

*... the Commissioner will put to the Member all material evidence in support of the complaint which is at variance with the Member's account of events, so that the Member may have an opportunity to challenge it if he or she so wishes.*

19. When considering the draft of that note, the Committee was aware that when I put together the draft factual sections of my report, I at that point share with the Member all the evidence on which I intend to rely in compiling my report, and thus go further than the note requires. The Member can therefore comment at that stage on any material he has not already seen, and he also has a further opportunity to comment when the full report is sent to him by the Committee.

## Conclusion

20. For these reasons I do not accept that the procedure followed by the inquiry is defective for systemic or other reasons. Even if the Committee judges that one or other aspect of the procedure may have been defective, I do not believe that any such defect has fatally flawed the inquiry to the point at which it would be unwise for it to consider and resolve the complaints against Mr Duncan Smith on their merits.

*18 March 2004*

*Sir Philip Mawer*

## Appendix 2: Written submission from Mr Iain Duncan Smith

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### Letter to the Chairman from Mr Iain Duncan Smith

This letter is to cover a submission dealing with certain aspects of the Parliamentary Commissioner for Standards' (PCS) report to your committee dated 11th March.

I would like, through you, to thank Sir Philip Mawer, Alda Barry and their staff for the immense amount of work that they have put in over the last few months.

Having now read the PCS's report I would like to put on record a number of observations for the attention of the Committee.

The PCS breaks Mr Crick's complaint into what he describes as six separate strands. I fully accept the PCS's findings in respect of strands 1, 2, 3 and 6 but I have concerns over his finds on strands 4 and 5. I attach a summary of these concerns which I hope the Committee will be able to assess at the same time it assesses the PCS's report.

As you will recall we discussed the issue of when the Commissioner's findings would be passed on to the Committee and then myself. At that time, I expressed concerns about the activities of the Sunday papers. I was nonetheless surprised to see elements of the report in a number of Sunday papers as well as on some of the broadcasts. These went beyond pure speculation and contained some very accurate quotes from the report. Whatever action you take is for your Committee to decide but I would like to place it on record that none of these leaks came from either myself or my lawyers. Neither of us received calls from or spoke to any journalists.

However, some of the reports contained reference to comments made by the PCS which was not in the material that I or my lawyers received. The reports suggested that Sir Philip had questioned, if not criticised, the role played by my lawyers during the process of the enquiry. I have no idea whether these reports are accurate or not, but it may be for your benefit if I lay out the reasons why I think it was right for me to use lawyers throughout this enquiry.

- It should be a matter of record that I had originally engaged lawyers at least two weeks before Mr Crick brought these issues to the PCS as a result of allegations made by him and *Newsnight*. They were engaged because of possible legal action. As a result over that period they got to know the details of the case very thoroughly.
- It should also be borne in mind that at the time of the *Newsnight* programme, other media comment and Mr Crick's referral, I was the Leader of the Conservative Party in the hectic run up to the party conference. The party conference itself and the aftermath took up a great deal of my time as well as the normal and pressing issues regarding the running of HM Opposition on our return to Parliament. Without lawyers it would have been impossible for me to respond to the PCS as comprehensively as I did. Furthermore, even after I ceased to be the Leader of the Opposition, the reorganisation of my office, the departure of key staff and the huge amount of correspondence that I

had to respond to continued to put constraints and pressure on my time well into the new year.

- I would be concerned if an individual MP, who has been accused of a very serious offence, should feel restricted from obtaining the best advice available. This is surely a right which all members of the public enjoy and it would be wrong for an MP to be denied such a right because it was deemed to be an internal enquiry process not a court of law.
- These points are separate from the need for any person who brings an allegation against an MP to use lawyers. I offer no observation about that.

15 March 2004

Rt Hon Iain Duncan Smith MP

## Submissions relating to the findings of the Parliamentary Commissioner for Standards

### Introduction

1. The charges in relation to the payment of Mrs Duncan Smith (“BDS”), Annabelle Eyre (“AE”) and Christine Watson (“CW”) involve impropriety. Impropriety does involve some knowledge of the impropriety such as a failure to accept advice tendered or a knowing disregard of the rules. There is no such evidence in this case. The word “improperly” appears to be used interchangeably with the word “inappropriately” (paras 223 and 231 of the report).

2. Sir Philip Mawer, the Parliamentary Commissioner, (“PCS”) accepts that the rules were unclear (para 222). The Green Book does not contain any definition of what constitutes parliamentary duties or parliamentary business (para 218). The Committee on Standards and Privileges in the Maxton and Reid case observed that “*the distinction between what is parliamentary and what is personal or party political is not always self-evident and it may be that there is no more than a grey line ... separating these categories*” (para 220). Iain Duncan Smith (“IDS”) refers to the Fourth Report of the Select Committee on Public Administration, 28th February 2001 and draws attention to the lack of definition of “*parliamentary business for the purposes of Short Money*” and the fact that the Leader of the House was urged to arrange for a resolution. There is no resolution and therefore no such guidance for members. Attention was drawn in the Report to the fact that the Finance Department had not produced such a definition which had the approval of Parliament.<sup>1</sup> It is, as the PCS observes in para 226 “*unfinished business*” and these are “*inherently difficult matters*” (para 227)

3. The PCS appears to accept that others might take a different view to the one he has ultimately taken (paras 227 and 245). This needs to be contrasted with the fact that the

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<sup>1</sup> See Volume II, PCS Written Submission 52.

burden of proving the complaint is on the complainant and that if IDS is correct in his contention that the standard of proof is the same as in the Maxton and Reid case (para 202), the standard is higher than the balance of probabilities namely that “*the allegations were significantly more likely to be true than not to be true before (they) could be upheld*”.

4. In assessing the propriety of IDS’s judgment the Committee should, we respectfully submit, look at the propriety of his judgment *at the time it was made* rather than at the judgment (with the benefit of hindsight) of the PCS many months later and based in considerable measure upon the views of the Finance Department which were not available at the time to IDS or any other Member.

5. Neither Mark MacGregor (“MM”) nor Michael Crick (“MC”) appear to have felt that there was impropriety (see paras 14 and 17 below). MM as Chief Executive of the Conservative Party whose job it was to administer Short Money would have been the first to object, had he thought there was impropriety at the time. He did not do so. MC did not appear to think that the complaint about Short Money was a significant one (see transcript of interview with PCS) His complaints were initially that BDS was not working for IDS at all or alternatively was not doing the hours stipulated in her contract. Subsequently he enlarged this to allege that her work was of a party political nature (a somewhat different allegation to the claim that it was paid out of the wrong fund (the Staffing Allowance)).

### **Standard of proof**

6. Although PCS does state in para 202 that the complaints under consideration are not in the “territory” of IDS being considered by PCS to have obtained public money by deception, a complaint that BDS did no work whatever (or only did minimal work) necessarily carries with it the implication that IDS, who, after all, employed her, must have *known* that this was so. Similarly a complaint that IDS improperly paid BDS, CW or AE from the wrong funds necessarily connotes that IDS knew that this was so. If, with the benefit of hindsight, an analysis suggests that some or all of these people might have been paid from different funds more appropriately, that is a substantially different matter and not one to be equated with a charge of *improperly* paying BDS, CW or AE in such circumstances.

7. It is submitted that the correct perspective from which to assess the relevant standard of proof is the nature *of the complaints* as opposed to their proposed *manner of resolution*. The fact that IDS has been found by the PCS not to have acted dishonestly does not mean that the complaints, had they been upheld, did not amount in the first place to allegations of dishonesty. Our submission is, therefore, that the appropriate standard of proof is a higher one than the civil standard of balance of probabilities namely that approved by this Committee and set out in paragraph 202.

8. The burden of proof requires that the complaint is made out to the appropriate standard of proof. In crucial areas, the findings seem to be based on impression—in areas where there is room for legitimate divergence of opinion—rather than on critical findings of fact. The PCS does not indicate how he has reached these findings of fact nor does he identify the areas of work which fall the wrong side of the grey line (see para 220). This is of considerable importance as all these employees AE, CW and BDS, were working

considerably in excess of their contractual requirements and their contractual hours were fully occupied by parliamentary business. In para 224 the PCS appears to accept that there was an argument that any party political work done was done outside and on top of the stipulated contractual hours.

9. The charge of improper payment, in our submission, denotes some knowledge on the part of IDS of this impropriety of which the clearest example would be a failure to follow the advice of the Finance Department As indicated above (para 4) no such general advice or guidance was given by the Finance Department. Furthermore, in the present case there was at one stage a suggestion that the Finance Department had discussed the issue of payment from Short Money with CW but as IDS's letter of 6th January and 4th February,<sup>2</sup> point out and paras 172 and 173 of the PCS report indicate, no such advice appears to have been tendered. Furthermore, the opinion of an official, however distinguished and experienced, in the Finance Department, is simply that and is inevitably given with the benefit of hindsight. It is not the sort of guidance envisaged in para 2 above nor is it the basis of a finding of impropriety.

### ***Employment of Mrs Duncan Smith (BDS)***

10. We respectfully submit that the conclusion drawn by the PCS at para 237 is not justified on the facts and, furthermore, falls short of the high standard of proof required.

11. The PCS does not assert what quantity of work ought in the case of BDS to have been paid out of Short Money. There are additionally the problems of lack of definition and lack of guidance. Is it right in those circumstances that IDS should be criticised for improper judgment? In this context it also needs to be noted that IDS would make the judgment at the commencement of the employment (namely 13th September 2001) when it would not be known exactly what tasks BDS would be required to fulfil in the coming year and how they would be apportioned amongst her various responsibilities. It would be most unusual for someone carrying out diary/secretarial responsibilities to have to keep a timesheet. It is important to note that the judgment which is being made is being made with hindsight.

12. The relevant issue in relation to BDS's employment is whether she fulfilled 20 hours parliamentary work for IDS. Her employment required 20 hours parliamentary work taking account of one hour allowed for lunch (para 216) although the evidence was that she normally worked throughout lunch. That provided 25 hours basic work by her. Additionally she worked two to three hours most evenings and five hours at weekend (para 73) making a total of 42 ½ hours per week. In paragraph 12 of BDS's statement<sup>3</sup> she makes it clear that her work was not essentially different even after IDS became Leader of the Opposition and this appears to have been accepted by the PCS transcript of BDS's evidence.<sup>4</sup> IDS stated that BDS did not assist him in party political tasks except typing speeches or notes prior to the party conference (para 219). Party political work would be a matter of payment, if at all, out of party funds. It is accepted that party political work is not

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2 See Volume II, PCS Written submissions 52 and 53.

3 See Volume II, PCS Written submission 6.

4 See Volume III, PCS Oral Evidence 2.

to be paid for either out of Short Money or the Staffing Allowance. However, provided that the basic 20 hours parliamentary work was done, there was no reason why an element of party political work or work for IDS as Leader of the Opposition which was not parliamentary in nature, could not be done. There was ample evidence that this was the case and there was ample time (22 ½ hours) to absorb any incidental party political or non-parliamentary work. This is an area where there are no clear definitions (para 218 and 220). BDS said that the majority of her time was spent supporting IDS in his parliamentary rather than his political role (para 219) and there was no evidence to rebut that. As she was doing much of her work at weekends or in the evening, it was inevitable there would be some degree of overlap with non-parliamentary work.

13. The PCS accepts that a “good deal” of work was done on “*constituency-related matters*” and other secretarial work and that this was undoubtedly parliamentary (para 221). However, he also says in para 221 that other work would have flowed from IDS’s role as Leader of the Opposition and the Conservative Party. Yet no attempt is made to quantify this. Indeed the PCS accepts that at this distance in time it is impossible to establish the precise amounts of work done by BDS and the PCS accepts that boundaries may be blurred (para 222). He accepts (para 224) that only a minor proportion of BDS’s work could be described as party political. This, we submit, would fall clearly within the 22 ½ hours leeway. PCS says that it *may* nevertheless be felt that there was a deficiency in paying all BDS’s salary (para 222) from the Staffing Allowance.

### **Use of the Parliamentary Allowances: Annabelle Eyre (AE) and Christine Watson (CW)**

14. As indicated in paragraph 5 above, Michael Crick’s (MC) complaint was not really directed at whether AE and CW should be paid out of Short Money or the Staffing Allowance. Crick’s complaint was that he thought parliamentary allowances were being used by IDS to pay the salary of those who were actually doing party political work (para 9e)). Furthermore MC did not consider it to be of much significance (p11 of his oral evidence) ‘*I have to regard this as a much less serious offence because if they had been on the party staff, as the memo suggests they should have been, they probably would have been paid from public funds ...*’. It is accepted that neither Short money nor Staffing Allowance can be used to party political purposes. The PCS does not find that there were significant party political activities undertaken by AE (para 162, 233), CW (para 234) or BDS (para 166). The comments on the proportion of party political work are however a matter of impression only and not based upon specific evidence. Apart from AE (para 233) they were not asked by the PCS for percentages as to how they divided up how they spent their working time.

15. A distinction has been drawn between MP’s Staffing Allowance which can be used for ‘parliamentary duties’ and Short Money which can be used for ‘parliamentary business’. However, Andrew Walker of the Finance Department does not express concern about this distinction. In his letter of 26th January 2004 he states “*A key question in this instance is not so much whether Short Money was used appropriately, but whether the Parliamentary Staffing Allowance was used on party political work*”. Mr Walker’s key question which raises a similar issue to that raised by MC, is answered above in para 14. The distinctions are difficult to operate in practice. The PCS recognises that there are no clear definitions

and it is difficult to draw clear boundaries between one type of work and another (para 237).

16. The Department of Finance has drawn a distinction between Short money and Staffing Allowance (para 229)—which is not stated in the advice given to MPs (para 226)—and did not appear to cause them any concern before it was raised by CW (para 170). The PCS accepts it is difficult to draw clear boundaries between one type of work and another (para 237); nevertheless it is assumed that the appropriate use of these two funds can be determined without clear distinctions being drawn in the rules associated with them.

17. If the PCS's (and therefore the Department of Finance's) interpretation is correct, it would require examination on an ongoing basis to discover the extent to which AE, CW or BDS did constituency or Leader's Office work so that the appropriate apportionment could be made or checked. The Department of Finance accepts there can be split payments for employees as between Short Money and the Staffing Allowance and that IDS's office was entitled to decide such proportions. There are clearly overlaps (as opposed to necessarily being "interchangeable") between the two sources of payment and, for example, Christine Watson continued in the period August 2002 to December 2002 to do constituency work after her appointment as private secretary to IDS. It is clear that even on the PCS's analysis (para 231) that AE, CW and BDS were entitled at least in part to receive some of their salaries from the Staffing Allowance during the time that they were being paid solely from the Staffing Allowance. They contend that by virtue of the work they did within their contractual hours they were entitled to be paid in full from the Staffing Allowance. What is lacking is an analysis by the PCS of the proportions in which they carried out their work in order to justify the criticisms that their salaries have not been correctly apportioned from the funds (both of which came ultimately from the same source—public funds).

18. If distinctions are made which are too rigid, employees would have to keep two diaries and time sheets. In the case of the Leader of the Opposition one would have to be administered by constituency staff and the other by Short Money staff. Shadow Cabinet spokesmen (as envisaged by para 232) might face similar difficulties. There could always be room for argument as to whether or not looking at the matter retrospectively, the correct apportionment had been applied and the complexities of the process are evident from this enquiry.

19. MM as the Chief Executive of the Conservative Party was responsible for the proper administration of the Short Money. Dr Gearson, the administrative head of the Leader's Office was in contact with him on a daily basis. In para 158, the PCS's report refers to the discussion between MM and JU about transferring AE's salary to Short Money. It was MM's responsibility to ensure that the Short Money was spent properly and it appears that he did not regard the transfer of AE 'as a matter of urgency'. He knew of AE's, CW's and BDS's employment and payment from the Staffing Allowance. He did not at that time appear to be concerned about the propriety of making payments from these sources and as indicated in paragraph 5 above, he would have been if he thought there was any impropriety. The ultimate responsibility for Short Money did rest on IDS but this is another instance of the recognition of the grey areas and lack of clear definition.

## Conclusion

20. In para 229, the Department of Finance and Administration (“the Finance Department”) argues that Short Money was the proper source of funding of those activities in the Leader’s Office which were not either constituency related (which could properly have fallen on the Staffing Allowance) or party political in character which should properly have been carried out by the party. There is no issue concerning party political activities which it is accepted should be paid for by the party. This is, however, an argument on which it is accepted by the PCS there can be more than one view. It also falls short of the guidance for Members as to what constitutes parliamentary business (see para 2 above). If this Committee agrees with that view that should be a matter for the future rather than the basis for a finding that a charge of improper payment and an improper judgment as to the source of payment has been made out.

21. The evidence for upholding any part of the complaint does not meet the standards laid down by this Committee in the Maxton and Reid case, the points made by the PCS in, for example, paras 228 and 232 are, it is submitted, matters which should be incorporated into guidance and definitions of parliamentary business for the future.

22. In essence, the PCS is saying in relation to BDS (para 223) and for AE and CW (para 231) that they could “more appropriately” have been paid out of Short Money. As a statement this would seem to mean logically that a *better* method of payment would have been out of Short Money. It does not mean that what may be deemed by the PCS to be the less *appropriate* method namely payment from the Staffing Allowance, was *improper*. The words “improper” and “inappropriate” are not interchangeable.

15 March 2004

Reynolds Porter Chamberlain

# Formal minutes

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**Tuesday 23 March 2004**

**[AFTERNOON SITTING]**

Members present:

Sir George Young, in the Chair

Ross Cranston	Mr Andrew Mackay
Mr Andrew Dismore	Mr Kevin McNamara
Mr Derek Foster	Richard Ottaway
Mr Michael Jabez Foster	Mr Simon Thomas
Mr David Heath	

The Committee deliberated.

Draft Report [Conduct of Mr Iain Duncan Smith], proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 30 read and agreed to.

*Resolved*, That the Report be the Fourth Report of the Committee to the House.

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

Several Papers were ordered to be appended to the Report.

*Ordered*, That the Appendices to the Report be reported to the House.—(*The Chairman.*)

*Ordered*, That the Minutes of Evidence taken before the Committee on 18 March be reported to the House.—(*The Chairman.*)

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[Adjourned till Tuesday 30 March at 9.30 am.]

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

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### Session 2003–04

First Report	Conduct of Mr George Galloway	HC 73
Second Report	Conduct of Ms Diane Abbott	HC 285
Third Report	Conduct of Mr John Spellar	HC 339
Fourth Report	Conduct of Mr Iain Duncan Smith	HC 476 I–III

### Session 2002–03

First Special Report	Standards of Conduct: Letters from the Committee on Standards in Public Life	HC 516
First Report	Complaint against Mr Nigel Griffiths	HC 195
Second Report	Eighth Report of the Committee on Standards in Public Life: “Standards of Conduct in the House of Commons”	HC 403
Third Report	Complaints against Mr Michael Trend	HC 435
Fourth Report	Complaints against Mr Henry McLeish	HC 946
Fifth Report	Complaints against Mr Clive Betts	HC 947
Sixth Report	Pay for Select Committee Chairmen	HC 1150
Seventh Report	Guidance for Chairmen and Members of Select Committees	HC 1292

### Session 2001–02

First Report	Complaint against Mr Geoffrey Robinson: Supplementary Report	HC 297
Second Report	Complaint against Mr Roy Beggs	HC 319
Third Report	Complaint against Mr John Maxton	HC 320
Fourth Report	Restrictions on the Initiation of Parliamentary Proceedings: A Consultation Paper	HC 478
Fifth Report	Complaints against Mr Keith Vaz	HC 605 I–II
Sixth Report	Registration of Interests by Members who have not taken their seat	HC 624
Seventh Report	Complaints against Mr Nigel Griffiths	HC 625
Eighth Report	Complaints against Mr Archy Kirkwood	HC 755
Ninth Report	A new Code of Conduct and Guide to the Rules	HC 763
Tenth Report	Complaint against Mr Peter Brooke	HC 1147





# Oral evidence

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## Taken before the Committee on Standards and Privileges

on Thursday 18 March 2004

Members present:

Sir George Young, in the Chair

Ross Cranston  
Mr Andrew Dismore  
Mr Derek Foster  
Mr Michael Jabez Foster

Mr David Heath  
Mr Andrew Mackay  
Richard Ottaway  
Mr Stephen Pound

**Sir Philip Mawer**, Parliamentary Commissioner for Standards, in attendance.

*Witness:* **Mr Andrew Walker**, Director of Finance and Administration, House of Commons, examined.

**Q1 Chairman:** Mr Walker, thank you very much for joining us at rather short notice. The Committee is discussing a report from the Commissioner on a complaint against a Member. Last Tuesday the Committee found itself discussing OCA theology and we hope you can shed some light on our debate. The OCA covers parliamentary duties and I think it is common ground between us that that can cover both turning to our constituency duties and support for other work in Parliament. Let us start with an Opposition back-bencher who, for the sake of argument, is interested in agriculture and employs a research assistant to assist him on agriculture in his work in the House on debates, Question Time, speeches and on standing committees. I take it there is nothing improper about him using a research assistant in that capacity to focus on those parliamentary duties.

**Mr Walker:** Nothing whatever, no.

**Q2 Chairman:** That back-bencher then gets promoted, for the sake of argument, to the front bench as an agricultural spokesman and he then discovers that the Short Money does not irrigate the particular canal that he is in and he continues to use the same research assistant to do the same work, but this time it is to inform his performance on the front bench, maybe the same speeches on the same subjects. Now, is there anything inappropriate or improper in his continuing to use the OCA for that purpose?

**Mr Walker:** You go to the root of an interesting issue, Sir George. Just a minor thing really, but OCA has disappeared and we now call the relevant bit of it the “staffing allowance”, but we are talking about the same thing, I think. What we do is, in practice, we recognise that the staffing allowance can have uses which go beyond the strict requirements as set down in the Green Book. We take the view that front-bench work is being done in a different capacity than back-bench work, but we would recognise that the same piece of research might be used for both and, in practice, we would not be turning any hairs about that. However, if someone asked us for guidance, as they do from time to time, “May I use my staffing allowance to support me in

research for my front-bench duties?”, the answer is, in our view at least, that it was not provided for that purpose. It looks to the capacity in which you are doing something: is it as a Member of Parliament representing a constituency and various interests and so on, or is it in the capacity as a representative of the Party in Parliament on the front bench? We would say that we think the staffing allowance is not there for those purposes, but we would recognise, in practice, that the drawing of a dividing line may be difficult, and one can think of very many examples, say, a diary secretary who keeps one’s diary for both aspects where it would be difficult to distinguish. Equally, for a piece of research, the Opposition Parties’ front-bench spokesmen do not necessarily spend all of their time on front-bench duties and sometimes they speak from the back benches, and there again a piece of research might be used for both purposes and I do not suppose we would be terribly worried about that. However, if asked as a matter of principle whether it can be used to support front-bench work, we would say, “Well, actually Short Money seems to have been given for that purpose”, and the Green Book, agreed by the Advisory Panel on Members’ Allowances and Mr Speaker, actually says that you cannot use the staffing allowance for party-political purposes. For what it is worth, our view is that front-bench work is party political in that sense.

**Q3 Chairman:** In the case that I put forward, I think you said that in that case you would not turn a hair, but is that Member of Parliament not performing parliamentary duties from the front bench? He is holding government to account, he is scrutinising legislation going before the House, so what is wrong in using his OCA or his staffing allowance from the front bench to carry out the functions I described in my first question?

**Mr Walker:** I have to say, it is not something we would ever make a great issue of, but we would say, if asked, that it is a different purpose, that is, both Short Money and the staffing allowance and indeed all the other parliamentary allowances have to be used for parliamentary purposes. That is the *sine qua non* for any spending of this parliamentary money.

18 March 2004 Mr Andrew Walker

However, that does not make them all necessarily interchangeable. You have to look at the capacity in which that individual is acting.

**Q4 Chairman:** So they are not all interchangeable, but there could be an overlap in that in the case that I mentioned it would have been legitimate, as I understand it, to fund the research for that speech either from Short Money or from the OCA.

**Mr Walker:** If you came to me as a front-bench spokesman, saying, "Mr Walker, I have to give a speech on agriculture, representing the Conservative Party on the front benches. May I do that from my staffing allowance?" I would say, "Since you ask me, strictly no". If you do it, of course I will not find out and I will have no way of knowing, but if it was for just that purpose, I would suggest that is outwith the ring-fence of the staffing allowance.

**Q5 Chairman:** Strictly no, I think, would have a very dramatic impact on the work of Opposition front-benchers—

**Mr Walker:** Sure.

**Q6 Chairman:**—because Short Money, though it has recently been increased, does not actually reach all the members of the front bench. If it was seriously the position of the DFA that they should not use their OCA for speaking from the front bench on their departmental responsibility, I think that would quite dramatically reduce the capability of Parliament to hold the Executive to account.

**Mr Walker:** It is not for me, Chairman, to make the rules and the DFA, as an organisation, my Department, does not, as it were, run up policy. We seek to apply policies agreed by the House as set out in the Resolutions and if there were cases of difficulty, if someone comes to us for a ruling on that particular issue now, in the light of what you have said I would certainly want to seek the advice of the Members' Estimate Committee, which is a new committee set up in January, and/or Mr Speaker because I can see the point you are making. I am only explaining how, hitherto, we have sought to understand the rules laid down by Parliament.

**Q7 Chairman:** Moving on to the Leader of the Opposition, who is different because there is an allowance for his office, is it the position of the DFA that the Leader of the Opposition should only use the OCA for his constituency purposes?

**Mr Walker:** It may turn out that way in practice. We have not gone as far as that. What our position is is that the staffing allowance may be used for any parliamentary purpose of that individual as a Member, in their capacity as a Member representing a particular constituency. My suspicion is that the Leader of the Opposition would not be likely to act in Parliament in any capacity other than his capacity as Leader of the Opposition and we do note that that individual has at their disposal a specific, quite large sum of money for operating their office, so we would normally suggest that that is where the source of funding should be for such activity. However, I would not rule out the possibility that there may be

something that the Leader of the Opposition does in Parliament for which it would be perfectly proper to use the staffing allowance.

**Q8 Chairman:** For example, the response to the Queen's Speech, preparation for Prime Minister's Questions, would that be a parliamentary duty for which he could use his staffing allowance?

**Mr Walker:** It is a parliamentary duty, but for which Short Money is the appropriate source of funding.

**Q9 Chairman:** It would be appropriate, but does that mean it is actually wrong to use another source?

**Mr Walker:** "Wrong" is a strong word. I do not think we have tested that. I have certainly never been asked for a ruling on that particular point. I would suggest to you that the Leader of the Opposition is doing that in his capacity as leader of a party and, therefore, the staffing allowance is not the appropriate source to use.

**Q10 Richard Ottaway:** Can I start, Chairman, by saying that I am now a member of the front bench and declare my interest. You said, and the words I have written down here are, "It is not for me to make the rules". You were then talking about, "It should be used for parliamentary purposes", as you are well aware of the actual provision in the rules of parliamentary duties. You have given your opinion. What is the source for your opinion? Where were you given guidance that parliamentary duties did not include, for example, a front-bench spokesman responding to the Queen's Speech?

**Mr Walker:** In practice, what we have to do is seek to interpret what the House has said it wants, Mr Ottaway, so we would clearly use our own judgment in such a case and precedent from earlier instances. In a case where there was no precedent and we gave our opinion on what the Resolutions of the House meant and a Member felt that was not acceptable, then we would escalate it and, if need be in extreme cases, we would, and do not infrequently though not every day, go to Mr Speaker and ask him to rule.

**Q11 Richard Ottaway:** Is this an opinion?

**Mr Walker:** I do not know what you mean by that.

**Q12 Richard Ottaway:** You said, "The House says what it wants and if they do not, we give our opinion". I am saying to you, has the House said to you what it wants or is this an opinion you are giving?

**Mr Walker:** It is a view, yes.

**Q13 Richard Ottaway:** It is an opinion?

**Mr Walker:** Without a capital "o", yes, an opinion.

**Q14 Richard Ottaway:** So this is simply your opinion on parliamentary duties and, as far as you are aware, the House has not given you any guidance on this?

**Mr Walker:** On the question of parliamentary duties, that is an issue on which we have sought guidance in a particular context through the Public Administration Committee three years ago. The

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Public Administration Committee suggested a way of resolving a definitional issue, admittedly in a different context, but nevertheless an issue which is germane to this, and we would be delighted to receive such guidance. At the moment we do our best with what there is and we still have a responsibility to account to Parliament and indeed in a sense to the public for proper stewardship and that must include our taking a view on whether monies are properly spent.

**Q15 Richard Ottaway:** But that review by the Public Administration Committee was in connection with Short Money, was it not?

**Mr Walker:** It was a review actually of political advisers and so on in government, but it touched on this.

**Q16 Richard Ottaway:** But it did not actually express a view on the use of the staffing allowance for parliamentary duties?

**Mr Walker:** No, it more expressed a view on the need for a definition of “parliamentary” in the context of Short Money, but Sir George’s questions to some extent go to that definition because a definition of the meaning of “parliamentary” for the purposes of Short Money might at least help set some boundaries and we might all be clearer in our minds.

**Q17 Richard Ottaway:** To conclude this, you have not had any advice from the House on this and the view you have expressed is your opinion?

**Mr Walker:** The view that I have expressed is the opinion of my Department, indeed I consulted the Clerk of the House about it, but it is, if you like, the view of officials as to what it must be.

**Q18 Richard Ottaway:** And you agree that you have not been given any guidance from the House on the matter?

**Mr Walker:** I have not been given any formal guidance from the House of Commons.

**Q19 Richard Ottaway:** You have not received any?

**Mr Walker:** That is right, no. I have made it clear that I would like it, but I have not received it.

**Q20 Mr Dismore:** To pick up the last point, have you given informal guidance to front-bench Members of the Opposition on the issue?

**Mr Walker:** We have.

**Q21 Mr Dismore:** And that is when they asked for it?

**Mr Walker:** Indeed.

**Q22 Mr Dismore:** Do you encourage people to ask for advice in grey areas?

**Mr Walker:** In general, we do because the Green Book says, “If in doubt, ask the Department”, and we will seek further advice if we feel we need it. In terms of informal advice in general in this area, we have given advice along the lines that I have given and that has not hitherto been challenged.

**Q23 Mr Dismore:** Going back to the earlier answers you have given to Sir George over the issue of a researcher working for a front-bench spokesperson on agriculture, is this not the case, that really what has happened is they do not ask, you do not enquire and you effectively turn a blind eye in those circumstances because of the inadequacies in the amount of Short Money, so it does not go all the way to that level?

**Mr Walker:** My motivation is nothing to do with the inadequacy or otherwise of Short Money. That is a matter for Parliament and it sets the amount it thinks is appropriate. If the view is that the amount is inappropriate, then of course more could be asked for. Our view is more of a pragmatic one, Mr Dismore, and it is more to do with recognising in many ways in Parliament that boundaries are often fuzzy where we do not see ourselves as policemen by and large with the approach to the Members’ allowances, that it is a largely a consensual one, but seeking to apply consistency so that there is not an advantage in one area open to one person that is not open to another person in a similar circumstance. Then if we are worried about it, we would take it to a relevant committee, the Advisory Panel on Members’ Allowances for a minor issue and for a major issue it would be the Members’ Estimate Committee and Mr Speaker himself on individual cases. We regard Mr Speaker’s rulings on these matters as ultimate authority.

**Q24 Mr Dismore:** So far the distinction has been over the issue of researchers, but really what we are concerned about in this case is not the question of researchers, but it is the question of people working as private secretaries, in this case, in the Leader of the Opposition’s office. The priority here would be if a Member’s secretary, who happened to be a front-bench spokesperson, was organising the diary and that sort of thing, that would be perfectly normal and something you would have to do.

**Mr Walker:** Yes.

**Q25 Mr Dismore:** If, however, we are talking about the Leader of the Opposition, who has a specific allowance for a private secretary to run the office and the person involved was effectively running the office for the Leader of the Opposition, would that be an appropriate use of the staffing allowance on the Member’s side?

**Mr Walker:** I suspect not and certainly the advice we gave in the case of Mr Duncan Smith’s office when we were asked by one of his staff on that point was to say, though we did not comment on Short Money, but we said, “That does not seem to us to be an appropriate use of the staffing allowance”. My own view remains that Short Money was given in response to a suggestion by the Committee on Standards in Public Life specifically to provide money for the office of the Leader of the Opposition in the House of Commons and it seems to me that cannot mean anything other than it is for the purpose of staffing, secretarial support and so on. It

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would seem rather strange to me if Parliament had intended, by two entirely separate allowances, to fund the same thing from two different sources.

**Q26 Mr Dismore:** So effectively what you are saying is that the Leader of the Opposition is in a unique position in this respect?

**Mr Walker:** I think that is very clear.

**Q27 Mr Dismore:** As compared to a front-bench spokesperson who has got no choice.

**Mr Walker:** In this particular case, I think Parliament has been clear in setting out that there are specific needs of the Leader of the Opposition which are not necessarily the same as for others, and I take that, rightly or wrongly, as a pretty clear signal that that is where the funding in the case of that one individual definitely ought to come.

**Q28 Mr Dismore:** If, looking at it the other way round, the Leader of the Opposition's private secretary ended up doing a bit of constituency work, the mirror image of the case which has been put to you, how would you view that?

**Mr Walker:** Again if it is someone ending up doing a bit on the other side of the fence, this happens all the while: we do not enquire about it and we would not want to chase it up. Members' lives are complicated enough as it is and this is not a matter of great moment, as far as we are concerned. We do not chase foxes down holes. However, if it became structural and had a set intention to use Short Money to do constituency work, then I would say again, "It is reasonably clear on the face of the Resolutions that Short Money is not for that purpose; it is for the purpose of Opposition in Parliament", and I would say, "You ought to try and get that sorted out". If it was incidental, that is, managing the Leader of the Opposition's diary entails a degree of work co-ordinating with constituency work, that is just common sense and we would not bat an eyelid.

**Q29 Mr Dismore:** But it is a question of degree, is it not?

**Mr Walker:** Yes.

**Q30 Mr Mackay:** Mr Walker, would you accept that this all seems a matter of interpretation and you have admitted that there are grey areas? The interpretation is entirely on what is parliamentary business because the staffing allowance is for your constituency work and your parliamentary work as an MP and, therefore, you have to make an interpretation of it. That would be fair comment?

**Mr Walker:** I agree with almost everything you have said, Mr Mackay. Certainly at the margins we do have to interpret it and in 99.9% of cases we hope it is crystal clear. The Green Book is there for guidance, which is not a fixed rule book, but it is there for guidance and it has been agreed. The one slight thing I would take issue with is this is simply an issue about whether it is parliamentary or not. The fact is, I accept, that all of these activities are likely to be parliamentary. Nobody has suggested that to me,

that any of the activities we have been considering are not going to be parliamentary. That is a pre-qualifier to draw down money from this Estimate at all; but then within that there are different purposes and people acting in different capacities and I think the most helpful way of looking at it is to say, "What is the capacity that the individual is acting in?" If that individual acts in more than one capacity, both as a constituency Member and as a front-bench spokesman, then clearly there are going to be grey areas and dividing-line issues where, as I say, we are not going to die in the ditch about those. However, there are still underlying principles on which, if they are not clear and remain matters of our view which is not then generally accepted by the parties in Parliament, I think we should seek guidance and a ruling from the appropriate authorities, and in this case I think it would be the Members' Estimate Committee and Mr Speaker, which would then clarify the position for us. Up to yesterday or today, I had not been aware that there was any particular dispute about those distinctions.

**Q31 Mr Mackay:** But you would accept that there are constituency and parliamentary duties which come out of the staffing fund?

**Mr Walker:** Yes.

**Q32 Mr Mackay:** And as in my case with my previous involvement in Northern Ireland and continuing interest in it, now I am again a back-bencher, there is huge parliamentary interest in what I do in Northern Ireland and very little constituency interest, so I am not doing it on behalf of my constituency. There are lots of things which we do in Parliament which are not on behalf of our constituents, but more in the broader sense of UK plc possibly if we get very excited. Therefore, as a back-bencher, you would accept, I may employ people to do the research and the work for my parliamentary duties and there will be no problems. We then come to the area where, say, you are a front-bencher, and, if you are an MP, you are doing it in Parliament, you are going on the same standing committees as I go on as a back-bencher, you speak in the same debates on the floor of the House, albeit from the Despatch Box, or, in the case of the Lib Dems, from his or her appropriate position, and we can't quite see that is not parliamentary as well. If the logic of your conclusion is almost to say that when somebody comes on to the front bench, perhaps their staffing allowance should be reduced because they have got their parliamentary duties which they are claiming for somewhere else out of Short Money, and in the case of the Leader of the Opposition it should be reduced hugely because, as you have just said, he has this pot of Short Money, even if that is fully used up, it would be quite wrong on parliamentary duties for him to employ someone for his office. I find that very tricky. I am very happy for you to have an opinion and in fact your opinion is obviously important for the position you hold, but I cannot see that it is any more than an opinion on interpretation. I was rather worried with your response to Mr Dismore when you said, and correct

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me if I have misunderstood, that because there was this pot in the Short Money for the Leader of the Opposition, therefore, he could not claim for parliamentary work on his staffing allowance. It seems to me that he could have spent from his Short Money in this area, but if there was somebody doing genuinely parliamentary work, the response to the Queen's Speech, say, it would be perfectly reasonable to claim on that, provided that is what the money was used for.

**Mr Walker:** The implication of my view is not that work which, in my view, ought to be funded out of a different pot is not parliamentary; it manifestly is. Whether it is parliamentary or not in that sense is not the test. It is only one of the issues and I would agree that all of this is parliamentary. The question is in what capacity the individual does it. My answer to Mr Dismore that it seemed to me that Parliament had provided other money for a particular purpose is not itself an outright answer to the question, "But surely you can still use money from another source for the same purpose?" The outright answer, so far as I can give one, and it is a view, is that although this is all parliamentary, if you are acting in a capacity as a back-bencher then that is what the staffing allowance is for. If you are acting in a different capacity as a front-bench spokesman, then there is a different pot of money for that, and even if there was not, it would be a different activity because the Green Book says that you may not use your MP allowances for party-political purposes. I believe the intention was, and we drafted it, after all, and got it agreed by the various committees, that Short Money is provided for party-political purposes: it is the activities of the Party in Parliament. No, it is not campaigning on the hustings, I accept that, but it is parliamentary party-political activity and the Green Book says that the staffing allowance is not for party-political activities. Now, it may be that if we escalate this issue and get a ruling on it, I will turn out to be wrong, but that was our view, that is the view we have given in good faith and if the Committee would like to pursue this matter, in a way we would welcome it, but all I can do is answer to the best of our knowledge. The precedent is already set in other areas in interpreting the allowances where we have got rulings and so on and where people have generally accepted it and keep within those principles, and those are the principles we apply, that is, to look to the capacity in which someone does it.

**Q33 Mr Mackay:** I think you are saying that yours is an opinion, but it would be perfectly reasonable to have another interpretation of the definition of "parliamentary" which affects the front bench and at some point you would like clarification of that.

**Mr Walker:** We would be delighted to have clarification of that.

**Q34 Mr Mackay:** But that is your interpretation and you accept that it is not a black and white area and my interpretation which I have given to you could equally be right?

**Mr Walker:** I am not sure I would agree with "equally".

**Q35 Mr Mackay:** But it could well be?

**Mr Walker:** I and my staff are entrusted with the stewardship and interpretation on a day-to-day basis of these and, therefore, we have come to a view which we think is the correct one, but if that does not find general favour among Members, because we were trying to seek the broadly consensual approach, and it is not going to stick, then we will seek a ruling.

**Q36 Chairman:** Can I clarify where I think we have got to. If there was no Short Money, we would not be having this discussion because it is common ground between us that these activities or duties are parliamentary? Have I carried you so far? If there was no Short Money, we would not be having this discussion because we have all agreed that these are parliamentary duties for which you could then use the staffing allowance?

**Mr Walker:** I am with the point. I would hesitate to offer an opinion as to where we would be without Short Money. With the words in the Green Book as they are, they take account of the existence of Short Money.

**Q37 Chairman:** But if there was no Short Money, surely the only way that a front-bench spokesman could pursue his parliamentary duties would be by using the OCA?

**Mr Walker:** Perhaps I could reflect it back in the following way: that before there was Short Money, that was the only way it could be done.

**Q38 Chairman:** And, therefore, it was legitimate?

**Mr Walker:** It certainly was then.

**Q39 Chairman:** The argument is that the introduction of the Short Money, in your view, altered the definition of "parliamentary duties" in the case of a front-bench spokesman?

**Mr Walker:** It may have done. It is not a historical comment because I do not know how it happened at the time.

**Q40 Mr Derek Foster:** Mr Walker, I could well understand how you and your Department have adopted this distinction or this guidance and it seems to me, trying to sit in your seat, to be perfectly logical and fair to do it, but I will come back to that point, if I may. It is the uniqueness of the position of the Leader of the Opposition where I have sympathy with your view, although it does not, I think, in a sense run the whole of this table. Now, I think you argue that the Leader of the Opposition is in a unique position because the Short Money is specifically allocated for the purpose of, one-third of it, running an office.

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*Mr Walker:* Yes.

**Q41 Mr Derek Foster:** Therefore, any use of the parliamentary allowance for the Leader of the Opposition as an MP would be inappropriate if it was spent on his position as Leader of the Opposition? I believe that is your interpretation.

*Mr Walker:* I believe that to be the case.

**Q42 Mr Derek Foster:** I think the difficulty for this Committee is that I can accept that and I could give assent to that, but it does have implications for all of the other front-bench spokespeople, except if you interpreted that the Short Money, as it was allocated, is not allocated specifically for the purpose of running an office for any other front-bench spokesperson other than the Leader of the Opposition. Is that the position, as far as you are concerned?

*Mr Walker:* The position is very clear on the Leader of the Opposition, that he is specifically given money to run an office, and it is nowhere near as clear on one of the other three legs of the Short Money where it simply talks about the parliamentary business of the Opposition, so we are not given guidance as to exactly what it is to be used for. I think the point I would make in terms of the Leader of the Opposition, therefore, is that the guidance is clearer and, therefore, a bit more conclusive. I do not think it necessarily undermines the general principle and I would hasten to add that I do not think we have ever drawn anyone up on this as Opposition spokespeople, nor would we seek to do so. I am only dealing with the case where someone really wants us to give a ruling and say, "Ah, it's all right to do that". I have to say, "In all honesty, I cannot quite see that and we ought to get some guidance on it". I would not be averse to receiving guidance which it is perfectly okay so to do, and I agreed with Mr Ottaway and Mr Mackay that it might be a proper interpretation for the Speaker to say, "No, I think that is perfectly acceptable. Please carry on and use the staffing allowance for that purpose".

**Q43 Mr Derek Foster:** Sir George, at the outset, said that if he accepted that interpretation for a front-bench spokesperson, then the effect would be rather dramatic. I am trying to separate out for my own purposes, and I hope I am being helpful to my other colleagues on the Committee, that the Leader of the Opposition is, you say, in a unique position, in response, I think, to Andrew's question. I accept that, but I do not think it is universally accepted by my colleagues, but we remain with this other problem for all other front-bench spokespeople if the interpretation of "parliamentary" is parliamentary as an MP and not parliamentary in any other capacity, which I take to be your view.

*Mr Walker:* I understand that and, given the Committee's concerns that I have heard this morning, I am not sure how germane it is to Mr Duncan Smith and his position, but were Mr Duncan Smith's position to be clear and the issue of other front-bench spokespeople to remain a concern, I would very much want to seek clear

guidance on that for the benefit of all. Hearing what I have, I am not sure we are in a sustainable position and I would want to make sure that we got into a sustainable position.

**Q44 Mr Heath:** Mr Walker, I am grateful to you particularly for that last comment, if I might say, and my apologies for coming to the Committee late because I was pursuing my activities as a front-bench spokesman at the time. I share the concerns of many members of the Committee on the interpretation as it might apply particularly to front-bench spokespeople. Could I start off with the specific position of Leader of the Opposition. My understanding is that there is nothing within the conditions of receiving Short Money that provides any sort of prohibition on claiming from normal office cost allowances. Is that correct?

*Mr Walker:* None at all.

**Q45 Mr Heath:** So in that case the position or otherwise of Short Money is actually irrelevant to the interpretation of whether it is appropriate or otherwise to claim from office cost allowances?

*Mr Walker:* In practice, in this particular case I think what Short Money can and cannot be used for is not directly relevant. We never gave advice on the use of Short Money, for example, but we gave advice to Mr Duncan Smith's staff on the use of the parliamentary staffing allowances.

**Q46 Mr Heath:** So the entire question is not then about Short Money, which is an irrelevance to this issue, but it is whether the specific duties that were carried out by these members of staff were to assist Mr Duncan Smith in his parliamentary duties, and that is the only question which is relevant to whether the claim was appropriate or not.

*Mr Walker:* We went just a little bit further. We said, "to assist Mr Duncan Smith in his parliamentary duties as Member for Chingford", as opposed to Leader of the Opposition.

**Q47 Mr Heath:** Why?

*Mr Walker:* Well, I do not know why the particular individual staff in my Department said it at the time and I was not aware of it when they said it, but I have told them since that I thought they were correct to say it.

**Q48 Mr Heath:** Why do that then?

*Mr Walker:* Indeed, and the answer to that is because Mr Duncan Smith is entitled to support from his parliamentary staffing allowance as the representative Member for Chingford. He still had duties to do on that and it is perfectly proper that he should have staff to do that. He might even have members of staff who are doing both, supporting him in Parliament on his duties as Member for Chingford and supporting him as Leader of the Opposition in his party-political duties in doing that, and we would not object to, for example, split funding of an individual's post and that is not at all uncommon.

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**Q49 Mr Heath:** This is, I think, the crux of the issue because you are saying that there is a distinction between Mr Duncan Smith *qua* Member for Chingford and Mr Duncan Smith *qua* Leader of the Opposition. That could apply to every single Member of the House, not just front-bench spokesmen, anyone, whether they are taking part in a debate directly in the interests of their constituents as they perceive it, or simply because they are acting as parliamentarians in making this Parliament work. Is that not the case?

**Mr Walker:** I understand the point and it was in answer really to that same point, but articulated differently, that I said that seeking some advice and clarification now seems to me to be relevant, so I agree with you that there is an issue there which now needs to be addressed.

**Q50 Mr Heath:** I do not want to pursue it *ad nauseam*, but it does seem that a distinction has been applied in the case of Mr Duncan Smith. It is not one that you wish necessarily to accept for every Member of the House, but you are saying that it was not made in the question of the applicability of Short Money or not because that was an irrelevant consideration and, therefore, it was simply on a view that a person who holds a particular post in one of the parties or who has a particular responsibility in one of the parties should in some way distinguish his work in the House on that basis from his work in the House as a Member of Parliament. Is that correct?

**Mr Walker:** That is correct.

**Ross Cranston:** I have no questions because I think Mr Walker has been very clear in what he has said, but I would just make the point that if we adopt a different interpretation, I do not think that in any way raises, and I am sure what we have said has not raised, a question about the good faith of his Department or of him in terms of developing interpretations in very difficult circumstances.

**Chairman:** Absolutely and I would endorse that, as Chairman.

**Q51 Mr Michael Jabez Foster:** I just want to ask a little bit more about what it covers and so on because, as has been said by other questioners, there are so many reasons as to why one uses one's office cost allowance, such as for all-party parliamentary groups, PPSs for that matter, although it is a bit different, the sort of work they do as PPSs, but certainly things outside the constituency role, and it is right, is it, that you would agree that there will be a wide range of parliamentary work, wider than constituency work?

**Mr Walker:** Very much so.

**Q52 Mr Michael Jabez Foster:** So what if you are the chair of some all-party group, but in fact the organisations that are most interested in that subject actually sponsor you with a part-time researcher or something, so in fact your work is covered? What if

your own staff do work as well on that sort of subject, but you have already got an alternative form of funding? How do you look at that?

**Mr Walker:** I have never been asked that particular one before and I think the difficulty is that if one is asked to split hairs, one comes to answers which are not going to be pragmatic. The simple answer is that one would look at the capacity in which the Member is acting. If an item of support for a Member through some staff is for a Member in their capacity as a representative Member, as a back-bencher, if you like, then that is fine and that might take a number of different forms. If it has a split purpose, that is, that individual is also acting as an official spokesman for the Party, then my view is that technically at least that goes over the boundary. In practice, we would never know about it, we would not chase foxes down holes, and I would not even think it was unreasonable if there was a bit of leakage one way or the other. However, if asked for a ruling, one would have to say, "Strictly, you ought to look to the different purpose". Let me give you an example in an entirely, I hope, non-controversial area and that is as between what we all accept are proper parliamentary duties for any back-bench Member and what amounts to party-political activities which are really not parliamentary which the public funds should not pay for. We would not bat an eyelid about a Member of Parliament's use of the telephones on the parliamentary estate for both purposes, provided it did not get out of hand. You have to recognise that in many ways a Member's life is going to be indivisible between these different functions, but you would not disagree that there were those different functions, that, particularly as we come up to an election, any Member is both carrying on normal parliamentary duties and is getting quite interested in being re-elected and I do not suppose anyone could honestly say, "I never use the parliamentary telephone for doing something which might further my election prospects". But if they spent a lot of time and parliamentary money doing that, I think you would say that was unacceptable, which is why there does come a point when an election is announced when we say, "You really cannot go on using parliamentary facilities anymore because it might give you an advantage", and we draw a dividing line. That is not to say there could not have been a little bit of leakage before. If you translate that, that is pragmatic, there comes a point at which point it is not acceptable. If you look at this particular dividing line it is much less worrisome in a way; it was not a matter which deeply exercised me until the last day or two. I would hope it would not be necessary to give detailed rulings and we would suggest to Members that they use their own conscience and do not knowingly throw money which is given for one purpose largely at a different purpose.

**Q53 Mr Michael Jabez Foster:** You have covered the *de minimis* point where somebody rings up about their life insurance and they use the phone, that sort of thing, you have really covered that point. The first test is: is it parliamentary? The second test is: is there an alternative form of funding? Then, if that is

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correct, is your real rationale then a matter of fact and degree, that it depends how much the alternative funding might be and what its purpose was for.

**Mr Walker:** Strictly no. Yes to your first point. The first test is: is it parliamentary? That is a *sine qua non* for everything, including constituency work, that is parliamentary in a slightly different sense. The second test in my mind is: in what capacity are you doing it? Is this a proper purpose for which Parliament has voted this money? It is a Supply question, if you like. The Resolutions say such and such and the estimate gives force to that. As the Principal Finance Officer I have to say: "Is that what Parliament said that money was for? In what capacity are you using it?" The question whether there is money from another source for that kind of activity may be germane to helping us make up our minds as to whether Parliament intended it for that purpose or not and that is what I am really saying. It is not *per se* whether there is other money from another source. It might be that if you want to do that activity, it may be parliamentary, it may be a very good activity, but it may not have been the purpose for which the money was voted, in which case you might have to do it out of your own pocket if there was no other money. I am not talking here about front-bench work at all, it is purely a theoretical point.

**Q54 Mr Dismore:** You were asked what the position was before Short Money and you said it happened because there was no alternative. Is the answer really that nobody asked, nobody thought about it and it was not an issue rather than it being a positive answer of no alternative?

**Mr Walker:** Almost certainly. Thank you for that because I think a fair point to make is that an awful lot happened in the past which was not thought through greatly. It has become much more important to be more precise and clearer as accountability has increased. It has increased dramatically over the last five years. Now, as we are moving into publishing the amount spent by Members on their allowances this autumn under the Freedom of Information Act, it becomes even more important for myself and my people, and for the House as a whole, to seek to ensure that the money is spent for the purposes for which it was intended. If there is any unclarity about that then we ought to seek to clarify it.

**Q55 Mr Pound:** I have to say I was very worried by an expression you used that Members should be guided by their conscience in these matters. I am not implying any moral elasticity here, but I think it would be extremely difficult to justify the way we spend the money if it is dictated by our conscience. I have spent eight years clearing soiled linen on four different sites and I used to have to stop-watch as I went from the Soho Hospital for Women to Arthur Stanley House so the appropriate budget head could be debited with my time clearing soiled linen. I also had four hours as a trade union official and I had to start and stop the stop-watch. I was spending 20% of my time clicking the stop-watch on and off and

filling in timesheets and it was absolutely impossible. If I can ask you a small own opinion, do you honestly think there is any sound mechanism which could be constructed which could draw these lines, differentiate the uses to which these funding streams can be put without any possibility of what you described as leakage?

**Mr Walker:** I would not recommend such a system, Mr Pound.

**Q56 Mr Pound:** Does it exist? Could it exist?

**Mr Walker:** It could theoretically and I think you will find that firms of accountants or lawyers do tend to do that by doing very sophisticated time-allocation systems. I doubt that Members would find that convenient. May I modify my use of the word "conscience" and I hope this will be helpful. Conscience has a slightly moral overtone which certainly was not intended. What I was trying to get at is that the use of the allowances by Members is a matter for their judgment. Members are accountable for the way they use their allowances, beyond a certain point the House authorities in that sense are not. There is a degree of shared accountability, but Members sign on the dotted line with their name to say, "I have used this money appropriately" and our annual accounts actually say that we do not seek to provide corporate accountability beyond the point of the Member's signature. The only situations in which we would do that is where we were asked something specifically or where we had clear reason to believe they had been misused and there had been a mishandling of money or a wrong decision by a Member. Were that to come to our attention, we would investigate it. What I am then saying is if someone is funded from more than one source for a particular activity, this might be a Member or anybody else, someone has to make a judgment about what the correct balance of that will be. I would imagine that is something one would do in one's mind and it has to be reasonable. We do not operate a thick rule book, we operate a set of guidance, common sense, trust of Members and a good degree of goodwill on all sides and by and large that works, provided there is reasonable consistency as between Members across the House as to how that is done. In practice, I think that works pretty well and it is probably the only practical way to do it given the wide variety of things which Members do.

**Q57 Chairman:** Mr Walker, thank you very much. We have noted your request for clarity. If I can just try and sum up, the debate is really this: does the existence of a "more appropriate pot" mean that it is improper or inappropriate to claim it from a "less appropriate pot"? I think somebody put it to you that it was wrong and you said that "wrong" is too strong a word. Is it your view that what may have happened was not wrong or improper but just inappropriate?

**Mr Walker:** If we are talking about the specific case in front of us, Chairman, I have certainly myself not used the word "wrong". I would not pass any particular moral judgment on it. I do think it was an inappropriate use of the money in the light of

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Sir Philip's Report as to what the two employees in question actually did, which I had relatively little knowledge of beforehand; but to the extent we knew about it beforehand, we had advised that that was inappropriate. I would not go further than that. Between these four walls, I was not greatly worried about what I was hearing.

**Chairman:** I am afraid this is on the record.

**Mr Pound:** Between these four walls on the record.

**Chairman:** Are there any other questions colleagues want to put to Mr Walker?

**Q58 Mr Michael Jabez Foster:** What do you regard yourself the status of your judgments to be? Parliament makes the rules and you are the interpreter, subject to any appeal to the Speaker, or

whatever, so what do you regard your status to be if a Member simply disagreed with you and said, "I am not going to pay you, that is that"?

**Mr Walker:** In entirely different cases we do take that line. We do try to avoid that. We do basically need the confidence of Members for the system to work. Equally, I and the Clerk of the House are accountable for the spending of the money and that accountability does mean, I think, that there must be a time when we say, "If you want to do that with that money, we will not give you the money".

**Q59 Mr Michael Jabez Foster:** Do you regard yourself to have a delegated power to make a judgment?

**Mr Walker:** To a degree.

**Chairman:** Any other questions? Mr Walker, we are very grateful to you for your evidence, thank you very much.