House of Commons

Committee on Standards

Maria Miller

Tenth Report of Session 2013–14

HC 1179

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The Committee on Standards

The Committee on Standards 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.

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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.

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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: http://www.parliament.uk/standards

Committee staff

The current staff of the Committee are Eve Samson (Clerk), Danielle Nash (Second Clerk) and Miss Christine McGrane (Committee Assistant).

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1 Report

Introduction

1. This case deals with a complaint that Mrs Maria Miller, the Member for Basingstoke, misused parliamentary allowances between her election to Parliament in 2005 and April 2009. The original complaint related to the possible use of allowances to defray the living costs of Mrs Miller's parents, and to the size of her mortgage claims relative to the purchase cost of the property. The expenses claims in question were all made in the previous Parliament, under the old system for expenses. That system has now been completely reformed and rules are set and payments administered by an independent body.

2. The passage of time has meant that some documents are no longer held by either Mrs Miller or the House authorities. There may never have been records of some of Mrs Miller's conversations with the former House of Commons Department for Finance and Administration (DFA), not because of impropriety, but because such records were not customarily held at the time.

3. The rules against which Mrs Miller must be judged are those applying at the time, not those which currently apply. Those rules changed at various times over the period, and that must also be taken into account. We have nonetheless been able to come to clear conclusions. In dealing with this case, we have applied the standard of proof set out in the procedure for investigations approved by the Committee on Standards and Privileges in 2012, namely:

> When considering allegations against Members, the Commissioner and the Committee normally require allegations to be proved on the balance of probabilities, namely, that they are more likely than not to be true. Where the Commissioner and the Committee deem the allegations to be sufficiently serious, a higher standard of proof will be applied, namely, that the allegations are significantly more likely than not to be true. .[1]

It should be noted that this is a lower standard than that for criminal cases.

The previous expenses system

4. The expenses system in 2005 recognised that Members of Parliament were expected to work and live in two places. The report of the Speaker's Conference on Parliamentary Representation gives some idea of the disruption that this can cause:

> […] when the House of Commons is sitting Members are generally required to be present at Westminster from Monday lunchtime until late afternoon on Thursday. Most Members will then return to their constituencies where they will work on local issues through Friday and the weekend, making themselves available to help constituents at times when the constituents themselves are free.

1 Procedure note: Parliamentary Commissioner for Standards, *Procedure for Inquiries*, April 2012

> When the House is not sitting, most Members expect to spend their time working in the constituency unless they are formally taking leave.
>
> 247. [...]
>
> 248. Some MPs with children maintain their family home in the constituency. This means that children have a single, stable base but in many cases will not see one of their parents at all between Monday morning and Thursday evening. Others maintain their family home in London, to make the best of any opportunities for the child and parent to spend time together during the working week—although the current working hours of the House of Commons mean that such time is likely to be found at breakfast only. For many MPs with families the effort to find family time either during the week or at weekends means moving the entire family between London and the constituency on a regular basis.[2]

5. The cost of a second home was met through the Additional Costs Allowance (ACA). This covered rent or mortgage interest (but not capital repayment) of a second home. ACA could also be used for a range of costs, including council tax, utilities, insurance, cleaning, furnishings, necessary repairs, decoration, and the extra expense of food away from home. The total amount which could be claimed was capped as follows:

April 2005–March 2006	£ 21, 634
April 2006–March 2007	£ 22,110
April 2007–March 2008	£ 23,083[3]

Any costs above the cap were met by the Member personally.

6. There was no extra allowance for dependants. The rules provided that ACA should not be used to meet the living costs of anyone other than the MP personally but it was accepted that a Member's spouse and dependent children could share the second home.

7. The rationale for the ACA policy at the time was based on decisions made by the House many years earlier. In 1985 it was confirmed that mortgage interest could be reclaimed through ACA and that in "claiming this allowance the responsibility is upon Hon. Members to satisfy themselves that any moneys claimed have been necessarily incurred in pursuance of their Parliamentary duties and that they met all the other requirements set out in the resolution".[4] The rationale for allowing mortgage interest to be reclaimed was that it could be cheaper for the public purse to pay such interest rather than rent. The capital cost of the home would be met by the MP who would not only benefit from any gains, but would bear the loss if house prices fell, as they did in the early 1990s and after 2007.

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2 Speaker's Conference (on Parliamentary Representation), Report of Session 2009–10, *Final Report*, HC 299, paras 246–248

3 At the beginning of February 2008, the then Speaker announced a fundamental review of Members' Allowances, and in 2009 ACA was replaced by Personal Additional Accommodation Expenditure (PAEE).

4 HC Deb, 8 February 1985, cols 696w–697w

8. The system since instituted from 2010 by the Independent Parliamentary Standards Authority (IPSA) has different rules for MPs in the London area and those outside it; the following describes the system for MPs whose constituency is outside the London area. Like the earlier system, total claims are capped, and some associated costs are covered, but only rent, not mortgage interest, may be claimed. Many things which could be claimed for under the former parliamentary arrangements, such as cleaning, are no longer chargeable. Unlike the previous scheme, under the IPSA Scheme MPs are entitled to an increase in allowance for each dependant living with them.[5]

9. Between 2005, when Mrs Miller entered the House, and 2008 very few of the complaints upheld by the Commissioner, or reported to the Committee even though not upheld, dealt with ACA payments. The first significant cases arose in June 2008. Even so, in the Committee's response to the Senior Salaries Review Body (SSRB) review of parliamentary pay, allowances and pensions the Chair of the Committee warned:

> The allowance should also be structured in such a way that it is not possible for Members to arrange their affairs so as to maximise their claims at the expense of personal outgoings, and in particular to avoid costs which constituents in similar circumstances could not avoid. Within the context of an allowance system common to all Members, there should nonetheless be an overarching presumption that every Member, including Ministers and office holders, should in practice meet from their own resources what amounts to the full reasonable costs normally associated with a principal domestic residence.[6]

The time taken to deal with this case

10. As is well known, the complaint against Mrs Miller was made on 11 December 2012. The Commissioner was able to gather information about Mrs Miller's parents' situation, but there was subsequently protracted correspondence about other matters. The Commissioner submitted a memorandum to us on 23 January 2014. In the interval between the submission of that memorandum and the publication of this Report there has been a great deal of press speculation and comment, most recently on the weekend of 29 March.

11. The facts are as follows. Once received, the Commissioner's memorandum was shared with Mrs Miller on Monday 27 January, as is the Committee's invariable practice. Mrs Miller was invited to comment on it, if she wished. The memorandum is lengthy and did not reach Mrs Miller until Wednesday 29 January. She responded, as requested, by noon on 3 February. That response was also lengthy and raised procedural issues. At its meeting the next day, Tuesday 4 February, the Committee asked the Commissioner to respond in writing to the points raised by Mrs Miller. The Committee considered the documents in the case at its meeting on Tuesday 25 February and decided to request further information from Mrs Miller.

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5 Independent Parliamentary Standards Authority, *Annual Review of the MPs' Scheme of Business Costs and Expenses*, March 2013, HC 1032, para 4.30

6 Committee on Standards and Privileges, First Report of Session 2006–07, *Evidence to the SSRB Review of parliamentary pay, pensions and* allowances, HC 330, para 12

That material took time to gather, and there have since been further exchanges, as set out in this Report and associated documentation.

12. As the Commissioner's memorandum makes clear, this is a difficult case, based on judgments about the rules as they were nearly a decade ago, which has also required an extensive exchange of correspondence. The barrage of speculation misreported as fact will shape public reaction to this Report and the Commissioner's memorandum. Our task is to set that aside and consider the matter on the information which has actually been put before us.

The Commissioner's inquiry: procedural points

13. The Commissioner considered three questions:

a) Was Mrs Miller's designation of her main and second homes correct?

b) Did Mrs Miller or her parents receive an immediate financial benefit from public funds by living in her designated second home, and if so, did Mrs Miller reflect this in her claims?

c) Were Mrs Miller's ACA claims made in accordance with the rules and guidance of the relevant period?

In the course of this inquiry Mrs Miller raised a number of procedural points about the scope of the Commissioner's investigation, which we consider should be dealt with before we set out our findings themselves.

14. The original complaint received was:

> I wish to register a complaint regarding Maria Miller's misuse of Parliamentary allowances between her election to Parliament in 2005 and April 2009. I understand that Maria Miller's parents lived in the property she had designated as her second home and she claimed against ACA to cover the costs of funding this accommodation. I understand that the property was purchased in 1996 for £234,000 and the mortgage was extended to £575,000 in January 2008. During the four year period of claimed Mrs Miller claimed just £115 less than the maximum permitted for the period.
>
> In 2009 the Committee on Standards and Privileges investigated Mr Tony McNulty MP and concluded that "the arrangement Mr McNulty made in accommodating his parents rent-free [...] provided an immediate benefit or subsidy from public funds to him and through him to his parents. Such a benefit was specifically prohibited by Section 3.3.2 of the Green Book Rules of July 2006 and it was against the spirit of the previous rules". I believe that this judgment can be applied to Maria Miller's circumstances.[7]

The then Parliamentary Commissioner for Standards, John Lyon, wrote to Mrs Miller on 12 December 2012 to initiate the inquiry, which he explained would be continued by his successor, Kathryn Hudson. He stated that:

> In essence, the complaint is that you claimed against your additional costs allowance and personal additional accommodation expenditure from May 2005 to April 2009 the cost of your overnight stays away from your main home in a property in which your parents lived, which provided them with an immediate benefit which did not take full account of their living costs, contrary to the rules of the House.[8]

He posed a series of questions, including questions about the mortgage arrangements for both Mrs Miller's London and constituency homes.

15. Ms Hudson first sought to establish the detail of Mrs Miller's living arrangements in the constituency and in London, and the expenses that she had claimed. Throughout this process Mrs Miller was invited to respond. On Monday 1 July 2013 Mrs Miller submitted an independent legal opinion giving a view of the scope of the original complaint and of the investigation itself. There was a difference of opinion as to whether the Director General of Human Resources and Change should be asked for a view on the propriety of Mrs Miller's claims, and as to the accuracy of a summary of key facts prepared by the Commissioner. On 10 October 2013, the Commissioner invited Mrs Miller to a meeting, but it proved impossible to identify a mutually convenient time. In October 2013 the Commissioner had gathered the information she initially considered necessary to prepare her report, but one outstanding question remained. On 23 October 2013 the Commissioner wrote to Mrs Miller:

> In my letter to you on 19 March on the final page I asked you why you increased your mortgage when you remortgaged your home in London on 14 March 2007. Your letter of 10 April says on page 2 'The mortgage changed in the normal course of events' and then refers to 'Sir Thomas Legg's letter' which as you know does not specifically address this issue. The matter may have no relevance to my inquiry but remains unresolved at present and I would be pleased to hear your response.[9]

Mrs Miller responded on Wednesday 6 November saying:

> in relation to the mortgage advance, I am not sure I am able to assist further. The matter was over 6 years ago and I am reluctant to speculate without attempting to locate any documents on the subject if I still have any. [...] as your letter indicates, it does not seem that this is a matter that is relevant to your inquiry.[10]

On Monday 11 November 2013 the Commissioner responded:

8 WE 03

9 WE 39

10 WE 40

> You recall that the Procedural Note which was sent to you initially says in paragraph 20: "What is asked of the Member is to give a full and truthful account of the matters which have given rise to the allegation." Without the information I have requested, I am not yet able to prepare a draft report.[11]

She set out the questions to which she still required answers:

> • Whether you made claims against your additional costs allowance and personal additional accommodation expenditure from May 2005 to April 2009 which provided your parents with an immediate benefit and did not take full account of their living costs;
>
> • Whether your designation of your Basingstoke properties as your main home was in accordance with the rules of the House from May 2005 to March 2009; and, overall;
>
> • Whether the claims you made were, in accordance with the rules on the Additional Costs Allowance (ACA) from May 2005 to March 2009, for expenses wholly, exclusively and necessarily incurred when staying overnight away from your main residence for the purpose of performing your parliamentary duties (and from April 2009, that the expenses were necessarily incurred to ensure that you could perform your parliamentary duties).
>
> I have so far reached no conclusions on these matters, and will not do so until I have finished collecting and reviewing evidence.

The Commissioner also requested specific information, including:

> • the successive mortgage arrangements which you had from 1996 to 2009. Please also confirm whether, as alleged by the complainant, the purchase price of your London home was £234,000; and set out the size of the different mortgages or loans which you have held against the property.[...]
>
> • how you calculated the figures you gave for mortgage interest in your table of 3 January for these years and the other years in question. You have quoted mortgage interest of £24,024 in 2005–06 and £25,701 in 2006–07, whereas the letters from RBS which were lodged with the Fees Office for those years gave mortgage interest figures of £17,638.09 and £24,880.82. [...]

The Commissioner noted that the questions about mortgage arrangements were not new:

> On 12 December my predecessor asked you in detail about the arrangements you had for your London home, including the mortgage arrangements, the nature of the accommodation and who else lived there whether permanently or otherwise.[12]

11 WE 41

12 WE 41

16. There then followed further exchanges of correspondence, in which Mrs Miller repeatedly raised questions about the scope of the inquiry, and set out her view that these later questions went beyond the original complaint and had, in any event, been settled by the Legg inquiry,[13] which had found no issues in respect of her claims. Mrs Miller also gave the following information:

> in relation to the calculation of mortgage interest, I am happy to explain how I calculated the figures that I provided in January 2013. The short answer is that, in order to respond to the letter of 12 December 2012 commencing the inquiry, I downloaded bank statements going back to December 2005. Those statements show monthly payments of £2,002 which over 12 months give the figure of £24,024 which I provided to you. I was unable to download earlier statements before December 2005 because that is as far back as the bank's online records permitted. Although I could not download statements for the period before December 2005. I am confident that the correct figure was £2,002 per month in the earlier part of 2005 as well, from when I became an MP, because the monthly figure is confirmed by the letter dated 30 June 2005 from RBS, which letter you have. The figures for the next year were likewise derived from the bank statements which I downloaded.[14]
>
> With regard to the property, we purchased it in January 1996 for, as far as I can recall, £237,500. The mortgage was I believe about 90% of the then value. The property had not been occupied by the previous owners for some time and they had let out individual rooms within the property so that it was a house of bedsits. Indeed, we were not able to view all the rooms in the property before purchase and the property itself had not been modernised for a number of years. Over the subsequent years we necessarily set about carrying out work at the property. This was done on a piecemeal basis. This work was substantial and related to every part of the house. As property prices rose from the mid 1990s onwards, we were able to fund this from further advances on the mortgage. It is simply not the case, if this is your query, that I somehow manipulated the mortgage to make claims on the ACA. I also note your letter mentions capital repayment. It is important to emphasise that the mortgage interest claims made were for mortgage interest only and I am at a loss as to how it could be suggested that a claim for mortgage interest could have anything to do with capital repayment which was a matter for my husband and me alone and not the ACA.[15]

17. The Commissioner and Mrs Miller did not agree on the scope of the inquiry. No meeting was arranged between them. Mrs Miller was given the opportunity to comment on the factual sections of the report and the Commissioner completed her work on the basis of the information available to her and submitted it to us.

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13 The Sir Thomas Legg inquiry was a "review of past payments of Additional Costs Allowance" and specifically "to examine all payments made on such claims, against the rules and standards in force at the time, and identify any which should not have been made, and any claims which otherwise call for comment"

14 WE 42, para 6

15 WE 44

18. In her letter to the Committee on Monday 3 February 2014, Mrs Miller set out a number of procedural objections to the Commissioner's inquiry. She claimed the inquiry "was conducted without due regard for the core principles of a proper investigatory or adjudicatory process" and she also claimed that the questions about mortgage interest raised by the Commissioner in October 2013 were not within the scope of the inquiry.[16] Mrs Miller also questioned the Commissioner's reference to evidence beyond reasonable doubt in paragraph 140 of her memorandum, saying:

> This is not the standard of proof that the Commissioner is required to apply and in reality it is a gratuitous attempt to lend weight to a finding. It is moreover quite misguided and in breach of the established principle that an investigatory body, especially one before which there has been no hearing and which has not heard live evidence, cannot properly reach a view beyond reasonable doubt.[17]

Mrs Miller also contended that it was wrong to inquire into expenses when the Legg inquiry had found that there were no issues.

19. We invited the Commissioner to respond to Mrs Miller's letter point by point, which she did on Thursday 13 February 2014.[18] Mrs Miller's letters and the Commissioner's response are printed with this Report and accordingly so we see no need to deal with the procedural points raised in them in great detail here.

20. **We are satisfied that the scope of the Commissioner's inquiry was appropriate.** While complainants are expected to produce some evidence that a matter should be investigated, it is the Commissioner's task, once a subject has been accepted for investigation, to examine it thoroughly. That investigation may reveal closely related matters which should also be investigated. The original complaint identified the size of the mortgage claimed by comparison with the original purchase cost of the property as a potential issue and the Commissioner was right to consider it. Moreover, the Procedure for Investigations states at the outset that "if the Commissioner thinks fit, [he or she] investigates specific matters which have come to his or her attention relating to the conduct of a Member".[19]

21. The Commissioner is an investigator; her final report sets out *her* view on the interpretation of the rules, and on whether or not they have been broken. It is for the Committee to adjudicate. The Committee on Standards and Privileges and this Committee as its successor share a concern to ensure the procedure used by the Commissioner and the Committee is fair. We have already set out the standard of proof required in investigations, "namely, that they [allegations] are more likely than not to be true", which we have observed.[20] The question whether Mrs Miller was **entitled** to claim more than original costs of purchasing her home is one we turn to in the substantive part of this Report. We are satisfied that Mrs Miller **did** claim more than the original costs of purchasing her home. The amount claimed in

16 Appendix 2, letter of 3 February 2014

17 Appendix 2, letter of 3 February 2014, para 26 (v)

18 Appendix 2

19 Procedure note: Parliamentary Commissioner for Standards, *Procedure for Inquiries*, April 2012, para 1

20 Procedure note: Parliamentary Commissioner for Standards, *Procedure for Inquiries*, April 2012, para 39

interest is a matter of record, and is beyond that which could have been claimed on the original mortgage.

22. Nor do we agree that a Member can rely on the Legg inquiry as a shield against further investigations. Mrs Miller's contention is that in the case of Andrew MacKay and Julie Kirkbride the Commissioner and the Committee were not revisiting the Legg findings, and that:

> in that case, the Committee considered that the questions resolved by the Legg Inquiry were "settled" by the Legg Inquiry [...] The one thing that the Committee was clear it was not doing was reopening "the extremely thorough audit and review process" which the Legg Inquiry undertook.[21]

We do not see the basis for this interpretation. Indeed the Committee considered the triple jeopardy point in that case and concluded without qualification:

> The Commissioner considers that, given the seriousness of the allegations, it was right that he should inquire into, and that the House of Commons should have an opportunity to decide on, whether two of its former Members (although they were Members at the time) breached the rules of the House and, if so, whether they should face Parliamentary sanction for their conduct. We agree with the Commissioner's decision.[22]

The matter which the Committee considered closed by the "the extremely thorough audit and review processes"[23] was not whether or not the Code had been breached, but the quantum of repayment.

The Commissioner's findings

Like the Commissioner we take each of the key questions in turn:

a) Was Mrs Miller's designation of her main and second homes correct?

b) Did Mrs Miller or her parents receive an immediate financial benefit from public funds by living in her designated second home, and if so, did Mrs Miller reflect this in her claims?

c) Were Mrs Miller's ACA claims made in accordance with the rules and guidance of the relevant period?

21 Appendix 2, letter of 3 February 2014, para 22

22 Committee on Standards and Privileges, Fifth Report of Session 2010–12, *Mr Andrew Mackay and Ms Julie* Kirkbride, HC 540, para 9

23 Committee on Standards and Privileges, Fifth Report of Session 2010–12, *Mr Andrew Mackay and Ms Julie* Kirkbride, HC 540, para 37

Was Mrs Miller's designation of her main and second homes correct?

23. During the period under review, Mrs Miller and her family had a house in London, owned by Mrs Miller and her husband, and a house in Basingstoke, rented by Mrs Miller, which was designated as her main home for the purposes of ACA. Mrs Miller rented three different properties over the period in question.

24. The Commissioner finds that Mrs Miller should have designated the London property rather than the Basingstoke one as her main home. Her reasons for coming to this finding are:

a) The London house was that which she and her husband had bought with a mortgage in 1996.

b) She had welcomed her parents and brothers to live with her towards the end of the same year.

c) London was also where her husband worked and where each of her children in turn went to school.

d) Mrs Miller's London home would have been maintained in any case, even had she not been an MP. [24]

25. Mrs Miller challenges this finding on the grounds that the designation of Basingstoke was correct because:

a) It was where I spent the most nights.

b) It was the centre of my family life.

c) There was no financial benefit to me in the designation.

d) I received clear advice from the Department of Finance and Administration as to which home I should designate, and this advice has been confirmed as correct by the Director General of HR and Change.[25]

26. The previous Commissioner's findings in other cases indicates that while the number of nights has been held to be a significant factor, it has not always been the determining one. For example, in the case of Ed Balls and Yvette Cooper the Commissioner considered that the couple had been correct in designating an address away from London as their main home, even though they spent slightly fewer nights there than they did in London, as that was the centre of their family life, and they spent more *days* there than elsewhere. His view remained that the number of nights spent in a particular place was a "reasonable general test" but that:

> In cases of doubt, I think it is reasonable to take account of a much wider range of factors, including where a Member spends their days, how long they have been in each property or location, the nature of the accommodation, their

24 Appendix 1, Paras 123-124

25 WE 50, para 12

> personal and domestic circumstances and what their links are to the communities in which their two properties are located.[26]

The Commissioner's reasoning takes account of these factors in this case. We note that the Commissioner goes on to say:

> If my conclusion about the designation of Mrs Miller's home is accepted by the Committee, and I fully accept that the matter is finely balanced, it follows logically that her claims for her London home were not valid. I have received no evidence that Mrs Miller designated her main home other than in good faith, or that she was motivated by financial gain. Mrs Miller has informed me, and I accept, that the costs of the Basingstoke properties, had she designated them as her second homes, would also have been above the ACA limits. If, as she has told me, the Fees Office advised her to designate her Basingstoke properties as her main home, that is a mitigating factor, although I do not agree that she was bound to follow their advice. I also accept her assurances that she sought to do what was "*fair and reasonable throughout*".[27]

27. The matter was, as the Commissioner says, "finely balanced". At the time Mrs Miller first designated Basingstoke as her main home, there was no case law or guidance beyond that available from the DFA. The Committee on Standards and Privileges did not report on the case of Mr Balls and Ms Cooper until October 2008, and its report contained the following paragraph:

> In the light of his investigation of this complaint, the Commissioner has endorsed the principle set out in the Green Book as the primary test for determining a Member's main residence for ACA purposes, namely that "if you have more than one home, your main home will normally be the one where you spend more nights than any other". He comments "As long as this is not taken as a rigid rule […] that seems to me to be an acceptable guide". **We agree with the Commissioner in this conclusion.**[28]

While the then Commissioner's reasoning on the particular complaint gave a more nuanced account of the residence test, only the most attentive Member would have realised this. The Committee's subsequent report on the designation of main homes indicated that the test of the number of nights spent at a property should normally be the appropriate one, but acknowledged that this was a general rule and there might be cases in which it was not appropriate. It went on to discuss the role of value for money in making a designation.[29]

28. In her analysis the Commissioner was able to consider cases which were resolved after Mrs Miller had made her designation. We note the Commissioner's helpful analysis of living costs

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26 Committee on Standards and Privileges, Fourteenth Report of Session 2007–08, *Conduct of Ed Balls and Yvette Cooper*, HC 1044, Appendix 1, para 91

27 Appendix 1, para 126

28 Committee on Standards and Privileges, Fourteenth Report of Session 2007–08, *Conduct of Ed Balls and Yvette Cooper*, HC 1044, para 4

29 Committee on Standards and Privileges, Fifteenth Report of Session 2007–08, Additional Costs Allowance: Main Homes, HC 1127

claimable against the Basingstoke property where she concludes that even after abating for her parents' living costs, Mrs Miller's "claims would have been at or around the ceiling of the relevant allowance from May 2005 to March 2009".[30] **We agree with the Commissioner that Mrs Miller should properly have designated London as her main home rather than Basingstoke. Nonetheless, we consider that Mrs Miller's designation was reasonable in the light of the guidance available at the time, given that the matter was finely balanced. Accordingly we make no criticism of Mrs Miller for her error and we will treat this case as if the designation of the London property for ACA purposes had been correct.**

Did Mrs Miller or her parents receive an immediate financial benefit from public funds by living in her designated second home, and if so, did Mrs Miller reflect this in her claims?

29. The Commissioner distinguishes between Mrs Miller's case and previous cases in which ACA funded properties were used by MPs' family members:

> Members may have caring responsibilities and may have wider family living with them. This was Mrs Miller's position and the arrangements she had made with her parents were already long-standing when she became a Member of the House.[31]

The current IPSA rules allow Members increased support for each person for whom they have caring responsibilities.[32] In this respect they are more generous than the previous system, in which there was simply a cap on total claims. The rules in force in 2005 prohibited the use of allowances to meet other people's living costs: they did not prohibit family members other than spouses and dependent children sharing ACA funded property, providing that they were not subsidised to do so. We are satisfied that Mrs Miller in fact had caring responsibilities for her parents,[33] but even if she did not have such responsibilities, there was nothing in the previous rules to demand that on election she should break up her family unit, which had been formed nearly a decade earlier. **We agree with the Commissioner that:**

> **There can be no criticism of [Mrs Miller] in relation to her personal, caring responsibilities and her desire to combine these with the role of an elected representative.**

30. The Commissioner then turns to analyse whether ACA was in fact used to meet the living costs of Mrs Miller's parents. The advice of the Director General of Human Resources and Change was that in the circumstances it would have been reasonable to have abated the total costs of Mrs Miller's second home by two-sevenths to take account of her parents' living costs. His analysis of Mrs Miller's costs, based on the amounts claimed, shows that the real costs of

30 Appendix 1, para 145

31 Appendix 1, para 153

32 Independent Parliamentary Standards Authority, *Annual Review of the MPs' Scheme of Business Costs and Expenses*, March 2013, HC 1032, para 4.30

33 The Commissioner was provided with private information on Mrs Miller's caring responsibilities. Given the nature of this material it is not published alongside this Report.

running the London property were significantly higher than the claims, and such an abatement had in fact occurred, although informally. The Commissioner's rough analysis of the Basingstoke costs suggests those too were so high that Mrs Miller's parents' costs were not met by ACA payments. We note that Mrs Miller considers the use of abatement as flawed "as it leads to outcomes that amount to discrimination and which are contrary to the public interest in encouraging parliamentary diversity".[34]

31. While on this analysis Mrs Miller's claims were not excessive, Mrs Miller made no formal abatement, and although she indicates that she described her arrangements to the Fees Office on two separate occasions, it does not seem that there was extensive discussion about how they should be managed. A similar lack of clarity was noted in other cases.[35] We share the Commissioner's regret that "Mrs Miller did not make any formal arrangements by which she could demonstrate transparently that she was not claiming for their costs".[36]

32. **Election as an MP did not require Mrs Miller to change her long standing family arrangements, in which her parents were an integral part of her household. In such circumstances, it was entirely proper for Mrs Miller's parents to share both London and Basingstoke homes. Parliamentary allowances were not used to defray the costs of a separate parental home, which Mrs Miller rarely used. Mrs Miller's claims were significantly below the total costs of either home, which supports the judgment that parliamentary allowances were not used to cover her parents' living costs.**

Were Mrs Miller's ACA claims made in accordance with the rules and guidance of the relevant period?

33. As we have set out, the Commissioner and Mrs Miller failed to agree over the scope of this question, so the Commissioner decided to submit a memorandum to us based on the information that she had been able to collect. That information was incomplete, and where Mrs Miller had provided answers they were general.

34. There are two potential issues here: the first is whether Mrs Miller was entitled to claim any payments for interest over and above those related to the price of the house in London *at the time she first purchased it*. The second is whether even if she were so entitled, her claims remained legitimate in the light of her arrangements after she became an MP.

Mrs Miller's claims in relation to the original purchase costs of her property

35. In 2003 the Green Book provided that claims for mortgage costs were limited to:

34 WE 29

35 Committee on Standards and Privileges, Tenth Report of Session 2008–09, *Mr Tony McNulty*, HC 1070

36 Appendix 1, para 153

> the interest paid on repayment or endowment mortgages, and legal and other costs associated with obtaining that home (eg stamp duty, valuation fees, conveyance, land searches, removal expenses),[37]

In 2005 this was changed to:

> to the interest paid on repayment or endowment mortgages, legal and other costs associated with obtaining (and selling) that home (eg stamp duty, valuation fees, conveyance, land searches, removal expenses).[38]

The Commissioner considers this change as significant; in her analysis she compares the rules in 2003 to those in 2005 which were set out as:

> a list, separated appropriately by a comma between the first and second items and "*and*" before the final item and all of the items are *"associated with obtaining (and selling) that home"*.
>
> In contrast the word "*and*" is crucial to the sense of the 2003 Green Book by separating the sentence into two parts. The effect is that it says mortgage costs limited to:
>
> > "[*the interest paid on repayment or endowment mortgages]* **and** *[other costs associated with obtaining (and selling) that home" (My emphasis).*[39]

The Commissioner also notes that in 2006 the rules were relaxed to allow for interest on advances to improve a property, providing that Members consulted the House before making any commitments.

36. In reading the rules of the House as they applied in 2005 to prohibit claims for mortgage interest over and above the original purchase price of the property the Commissioner is also guided by the case of Mr George Osborne.[40] The Committee on Standards and Privileges' findings in that case are interpreted differently by the Commissioner and Mrs Miller. The case is complicated, since it relates to claims that the cost of a mortgage required to purchase a constituency home were initially secured on a different property and which was increased in value when transferred to the property to which it actually related. Mrs Miller contends that:

> e) It is an important feature of Mr Osborne's case that it concerned additional borrowing made once he was an MP and that it is only borrowing after he became an MP which could properly be regarded as a transaction to which the rules applied.
>
> f) Critically, the borrowing after he became an MP was relied on, as regards the rules, in respect of property costs in fact incurred before he became an MP. The Committee considered that borrowing taken out for the first time in 2003 (once Mr Osborne was an

37 House of Commons, *The Green Book: Parliamentary Salaries, Allowances and Pensions*, June 2003, para 3.11.1

38 House of Commons, *The Green Book: Parliamentary Salaries, Allowances and Pensions*, April 2005, para 3.11.1

39 Appendix 2

40 Committee on Standards and Privileges, Sixth Report of Session 2009–10, *Mr George Osborne*, HC 309

MP and when that borrowing was subject to ACA rules) could not be justified by reference to expenditure prior to 2001.

g) A further feature of the case (and of Mr Duncan's case which you also mention) is that the borrowing was secured on a property other than the second home.

ii) Secondly, it is important for your report to note the proposition for which the Osborne case stands. The whole and only point of the Osborne case is that it is not permissible to take out additional borrowing once an MP and justify it by reference to costs in fact incurred before that borrowing and before being an MP. Once an MP, the justification has to be contemporaneous with the borrowing. If Mr Osborne was to justify the additional interest, that was perfectly possible but the usage had to be forward-looking in respect of costs after the borrowing. In other words, retrospective justification is not allowed. This is of course of no relevance in my case.

iii) Thirdly, it is therefore important to be clear about what the Osborne case does not suggest.

a) In particular, Mr Osborne's case does not and cannot lead to a conclusion that it would be a breach of the rules for an MP to claim under the ACA any amount in respect of mortgage interest over and above the original purchase price of the property. On the contrary, the ACA rules are clear that mortgage interest above the purchase price is in principle allowable.

b) Furthermore, Mr Osborne's case does not and cannot suggest that mortgage interest above the purchase price cannot be claimed if the additional borrowing was incurred before becoming an MP. As explained above, the point in Mr Osborne's case was that the additional borrowing he took out when he was an MP had to be justified by reference to the spending at the time of the borrowing in question when he was an MP. He could not backdate the explanation to some expenditure before the borrowing itself. The Osborne case therefore says nothing about actual borrowing incurred before becoming an MP.[41]

37. We do not agree with this analysis. The Committee on Standards and Privileges stated definitively:

> Members could not claim against the ACA the costs incurred before they were elected to the House; they could, however, claim the continuing mortgage interest payments relating to the purchase price.[42]

The Committee did not differentiate between the legitimacy of the inclusion of initial repairs in the claim made in 2001, and in subsequent mortgages. The then Commissioner and the Committee on Standards and Privileges found that Mr Osborne's claims exceeded the amount

41 WE 48

42 Committee on Standards and Privileges, Sixth Report of Session 2009–10, *Mr George Osborne*, HC 309, para 13

Mr Osborne was entitled to claim for only some of the seven year period under investigation (2001 to 2008).[43] That finding was simply because for much of the time the amounts claimed were lower than the overall cost of Mr Osborne's borrowings, it was not because of the timing of the claims in relation to his changing mortgage arrangements. The Committee's calculations were consistently made on the basis of the original purchase price, stripping out other costs.

38. We note that the Commissioner herself points out that hers is "a strict interpretation of the rules as they stood in 2005 which impacts significantly on Mrs Miller's unusual situation".[44] As Mrs Miller says, the rule has serious flaws:

> In practical terms, the rule would cause ridiculous and anomalous results, which would also be socially divisive. For example, a person who had purchased a run-down house for £100,000 and improved it at a cost of £200,000 obtained by remortgaging would have a total mortgage cost of £300,000. A wealthier person might just buy the same level of house already developed for £500,000. When the two people subsequently became MPs, the former would be able to claim interest on only £100,000 while the latter could make a claim on interest on £500,000. Equally, the person with the £300,000 house could sell on becoming an MP and buy a much more expensive house and claim all the interest but if she made the decision not to do so would have to be limited to the original £100,000.[45]

39. We have the advantage of having among our members Sir Nick Harvey, who was a member of the relevant committees at the time. When the rules were formulated the intention was to prevent MPs withdrawing equity from their property for non-housing purposes. No thought was given to the effect of the rule on newly elected Members who might claim ACA on a property owned for decades, where the mortgage had increased over the years. Nor was thought given to the reasonableness of a rule which could retrospectively bite on decisions made before someone was elected, or even before they had contemplated standing for election. As Mrs Miller pointed out, no attempt was made to ensure that newly elected Members only made claims against the original purchase price of the property. In these circumstances, imposing a strict interpretation of the rule would not be appropriate. **Whatever the strict construction of the rule, it was reasonable for Mrs Miller to claim the interest on her mortgage as it was when she entered the House, rather than as it was when she first purchased the property.**

Other matters relating to Mrs Miller's ACA claims

40. While we agree that it is questionable whether it would be fair or just to impose the strict interpretation of the rules relating to claimable mortgage interest on the mortgage as was the

43 See Committee on Standards and Privileges, Sixth Report of Session 2009–10, *Mr George Osborne*, HC 309, para 13, and Appendix 1 of this Report, para 100

44 Appendix 1, para 156

45 Appendix 2, letter dated 3 February 2014, para 31 (4)

case when Mrs Miller was first elected, the Commissioner's investigation also revealed that in 2007 Mrs Miller increased her mortgage by £50,000. The rules at the time stated:

> 3.14.1. The following expenditure is not allowable:
>
> [...]
>
> Repayments of the capital element of your mortgage
>
> [....]
>
> Interest on any additional mortgages, advances or loans secured on the same property unless required for the repair or improvement of that property
>
> [....]
>
> The capital cost of repairs which go beyond making good dilapidations and enhance the property
>
> Please seek advice on what is allowable before committing to building works of any sort.[46]

41. Despite repeated inquiries, Mrs Miller did not explain the reason for this particular mortgage increase. She asserted that it was irrelevant, given that, as she claimed, she did not claim for the interest on the extra £50,000.

42. The Commissioner notes that the full information is not available:

> I accept [...] that (bearing in mind the offset) she did not claim the full amount of interest she paid on the extended loan. During the period November 2007 to March 2008, mortgage interest statements show that Mrs Miller paid £10,991.57 in mortgage interest [...] and claimed £7,335 from her allowances. For the year 2008-09 mortgage interest statements are incomplete, but Mrs Miller says that her mortgage costs were £21,530. She claimed £19,264.63.
>
> However, if the months are considered separately, the picture is different. In some months it is clear from the available statements that Mrs Miller *did* claim for the full amount of her mortgage interest on the extended loan. In each month from January to March 2009, Mrs Miller was reimbursed for a sum which was close to, or the same as, the full amount of the mortgage interest she paid; a total of £1,894.71.[47]

The Committee's inquiries on Mrs Miller's mortgage arrangements

43. The answers given by Mrs Miller to the Commissioner's inquiries about her mortgage arrangements were not clear and the Committee felt it appropriate to ask her to supply further details, so that we could assess her claims. We asked:

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46 House of Commons, *The Green Book: Parliamentary Salaries, Allowances and Pensions*, July 2006, para 3.14.1

47 Appendix 2

1) Did you increase your mortgage on the London home between the time you were selected as candidate for Basingstoke and the re-mortgage in November 2007? If you did increase the mortgage in this period, the Committee wishes for information, supported by documentation as far as possible, on:

   - the date of any increase;
   - the amount of any such increase; and
   - the purpose for which any additional money advanced was used.

2) With regard to the increase in your mortgage in November 2007, did you notify the Department of Finance and Administration of the change in your arrangements and seek their agreement in advance? If so, please give details.

3) In your response, dated 10 April 2013, to the letter from the Commissioner of 19 March 2013 inquiring about the reason for the mortgage increase in 2007 you say "The mortgage changed in the normal course of events." The Committee would like to know why you increased this mortgage and the use to which the money was put, with supporting documentation.

4) The Committee wishes to confirm the mortgage companies used during the period 2005–2009. The records available indicate that the mortgages were held by the RBS followed by Coventry Building Society. The Committee needs to know the effective rates of interest (with changes and applicable dates) for the period. Documents held by the House are incomplete. The Committee suggest you ask lenders for any information they may hold relating to your mortgage arrangements and payment.

44. Mrs Miller needed some time to collect the additional information requested, and indeed, has been unable to provide all the information that the Committee requested. This is in part due to the fact that this inquiry covers matters which go back many years.

45. When Mrs Miller responded she confirmed that she had a variable current account mortgage with the RBS—the papers available to us show that this was an offset flexible mortgage. This was subsequently changed to an offset mortgage with the Coventry Building Society. Mrs Miller told the Committee that the CBS mortgage was interest only and offset. [48] Offset mortgages can be complex. We note the Green Book guidance from 2006 onwards that: "We strongly encourage Members to keep any mortgage arrangements for ACA purposes as straightforward as possible".[49] Nonetheless, this should not have resulted in any increase or intrinsic impropriety in Mrs Miller's claims. At times when Mrs Miller claimed less than the total costs, offsetting should have had no effect on the total charged to ACA; if she ever charged the entire costs to expenses, it might have actually reduced the amount paid by the House.

48 Appendix 3, letter of 23 March 2014

49 House of Commons, *The Green Book: Parliamentary Salaries, Allowances and Pensions*, July 2006, para 3.7.1

46. In response to the Committee, Mrs Miller explained that during the period before her election:

> my affairs were not arranged so as to differentiate or keep separate the use of household income and the use of borrowings in meeting the differing expenses we had to meet. Thus, for example there was no strict division between using borrowings for capital expenditure and household income for domestic expenditure, there being no reason to do so at the time.[50]

As far as the mortgage increase after election was concerned:

> the money was used for domestic expenditure but I cannot now recall the specific use and did not keep particular records since these were not funds in respect of which any claim was ever intended to be made.[51]

47. In the light of the Committee's inquiries, Mrs Miller sought additional information from RBS about her mortgage when she was first elected. That documentation made it apparent that in May 2005 Mrs Miller had a variable mortgage with a facility of £425,000 and the amount of the facility utilised was £419,034.77.[52] Mrs Miller has concluded that in the light of this information no claim should have been made for interest over and above the capital debt of £419,034.77. By her calculations there was an inadvertent overclaim in the financial year 2008–09, at a time when mortgage rates were dropping rapidly.

48. Mrs Miller considers that she did not speak to the DFA about the £50,000 increase in her mortgage facility when she remortgaged with the Coventry Building Society (CBS) in November 2007, but emphasises that "I had no intention of making any claims in respect of any additional borrowing".[53]

49. **We agree that it would have been improper for Mrs Miller to claim mortgage interest for a mortgage facility larger than that at the time of her election. There is no indication that either of the mortgage increases after Mrs Miller's election was sanctioned by the DFA, and by Mrs Miller's own account the expenditure was not clearly linked to essential building work which might have been allowable.**

50. The question then is whether Mrs Miller did claim more in mortgage interest than she should have done. The passage of time means that the Department of Finance and Administration does not have a complete set of records for Mrs Miller, but it was able to supply copies of many documents dating from the time when the claims were made, together with a breakdown of the expenses claimed. Careful study of interest claims and contemporaneous documentation from Mrs Miller's mortgage has allowed us to make the comparison between interest paid on the mortgage with the interest claimed from ACA.

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50 Appendix 3, letter dated 16 March 2014, para 2

51 Appendix 3, letter dated 16 March 2014, para 5

52 The documentation referred to was enclosed in Mrs Millers letter of 16 March (available at Appendix 3), but which is not published with this Report.

53 Appendix 3, letter dated 16 March 2014, para 4

51. The complexity of Mrs Miller's arrangements make it difficult to ascertain the way in which the amount of the capital borrowed changed over the period. We can identify that from some time after her election up until November 2007 the capital outstanding on Mrs Miller's mortgage was up to £100,000 greater than it had been when she entered the House and by April 2009, the capital outstanding was £157,767 greater than it had been when she entered the House four years earlier.

52. Clearly for most of the period Mrs Miller's claims for mortgage interest were significantly lower than the interest actually incurred. In addition, for part of the period she did not make claims for matters such as cleaning and maintenance. Given that ACA was capped, it was common for MPs simply to submit claims for only as much of their expenses as brought them close to the cap.

53. Mrs Miller's view is that with the exception of the year 2008–09, her claims for mortgage interest were below what would have been allowable. We have examined the figures carefully to establish whether this is correct. As we have set out, up until 2008–09, the documentation is patchy. While Mrs Miller provided the Commissioner with figures drawn from bank statements, we have chosen to use the material provided to us by the House. This has the advantage that no one could consider that the figures were in some way carefully selected by Mrs Miller, or manipulated to support her case. They are as close to a random sample as is possible. This has allowed us to make a reliable assessment of Mrs Miller's claims.

54. Mrs Miller's mortgage facility in April 2005 was £425,000; it rose to £525,000 sometime between then and September 2007, and subsequently rose to circa £575,000 in November 2007. In effect the additional borrowing was roughly one-fifth of the total cost incurred up to the beginning of December 2007; thereafter it rose to around one-quarter.

55. In June 2005 the RBS mortgage interest was £2,002 a month; Mrs Miller's monthly claims were £1,439, considerably below four-fifths of the total interest. Indeed, since Mrs Miller cannot access online bank statements earlier than December 2005, and RBS has not confirmed the date at which the facility was increased, it is possible that the mortgage facility for the year 2005–6 remained at £425,000, and there was no question of a possible overclaim. Mrs Miller's claims remained at £1,439 even when the RBS interest rose to £2,455 per month in February 2007, and four-fifths of that sum would have been £1,964. Since Bank of England Base rates only fluctuated between 5.25 and 5.75 per cent between February and November 2007[54] it is reasonable to consider that Mrs Miller's claims must have remained well below four-fifths of her total mortgage interest costs up until November 2007.

56. There is also documentation for Mrs Miller's total mortgage costs between November 2007 and March 2008, which we can compare with ACA claims. Here, too, the total claimed was significantly less than three-quarters of the actual costs.[55] **Even though the figures available are incomplete, we are satisfied that there is sufficient independent evidence to**

54 Bank of England, Statistical Interactive Database – official Bank Rate history; the rate in February was 5.25 %

55 Total costs for the period are £11,770; claims are £7,355; three quarters of the total cost is £8,827.50.

support Mrs Miller's assertion that up until the year 2008–09 she did not claim for the interest on any increases to her mortgage after her election.

Mrs Miller's claims for mortgage interest in 2008–09

57. The documents available from the DFA are incomplete, but show that Mrs Miller's mortgage claims for January to March 2009 were those of the total mortgage interest, and in some months were very slightly above that, rather than for three-quarters of it. In her first response to our inquiries, Mrs Miller told us that: "This was inadvertent" and was probably caused by the sudden drop in interest payments, following the financial crisis.[56] It is a matter of record that Bank of England Base Rates fell from 5% in April 2008 to 0.5% in March 2009.[57] Mrs Miller has apologised for this error and offered to quantify that sum if it was separately relevant.

58. When the Committee Clerk wrote to Mrs Miller, requesting details of how she had calculated the payments, Mrs Miller told us:

> I think the correct approach is to start from the point that I was not able to claim beyond the interest on £419,034.77 that was the amount of borrowing when I entered Parliament, and any borrowing beyond that after I entered Parliament was additional borrowing, for the interest in respect of which I have never suggested I was entitled to claim. A straightforward approach is then to captivate available interest by applying to the overall interest payable the percentage of the allowable principle that any additional borrowing. In other words, if the level of the mortgage was £575,000 a year, the maximum claimable was £419,034 .77/£575,000 = 72.9% of the interest payable in that year.
>
> Taking that approach, as set out in my letter of 60s March 2014, I believe the only overclaim is in the 2008-9 year. The overclaim in that year is about £5,800, reducing to about £4000, when the 2/7 adjustment is made.

Mrs Miller has since provided us with redacted copies of her bank statements for the financial year 2008–9. These tally with the figures which appear on the Coventry Building Society Statements still held by the DFA. For this year, at least, we now have complete information.

59. The statements show that for much of the year the actual interest was only a hundred pounds or so above the interest claimed, not enough to offset the unauthorised mortgage increase. The £5,800 which Mrs Miller has identified as an overclaim is a little larger than our own calculation of the difference between Mrs Miller's total mortgage costs and the allowable costs, but reasonably close to it given that our apportionment of the mortgage interest is more approximate than that used by Mrs Miller. We do not understand how Mrs Miller considers that this should be *reduced* to take account of her parents' costs, and so we reject the proposed reduction.

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56 Appendix 3, letter of 16 March 2014, para 12

57 Bank of England, Statistical Interactive Database – official Bank Rate history

Mortgage costs and Mrs Miller's parents

60. There is a further aspect to Mrs Miller's claims for mortgage interest. As we have described above the rules on ACA had in effect two limbs; the first was a cap on the total which could be claimed, the second was a prohibition on claims relating to additional mortgages on the same property which were not approved by the House, regardless of whether or not that cap had been reached. The intention was to prevent equity being withdrawn from the property and being used for other purposes, with the interest costs being met by the taxpayer. The effect of Mrs Miller's arrangements was to increase the mortgage costs she had incurred in housing herself and her family in London above the level that they would have been at the time of her election.

61. The admittedly approximate figures available to us suggest that even if the figures are adjusted to take account of what the mortgage cost "should" have been, for the years up to 2008–09, Mrs Miller's claims still fell significantly short of her total costs, and so her parents' living costs were not being met by the taxpayer.[58] If the Commissioner's analysis about the main home is correct, Mrs Miller's figures for the costs of running her Basingstoke home indicate that she would have been properly entitled to make claims equivalent to those she did in fact make. We have examined various bases for calculating the overclaim. ***Mrs Miller considers that she overclaimed on her mortgage by £5,800 in 2008–09. We have examined the figures carefully and accept that that is a reasonable assessment of the amount that she overclaimed. We recommend this sum should be repaid.*** Mrs Miller's assessment of her overclaim is such that we do not think there needs to be any separate finding in relation to her parents' living costs.

Mrs Miller's adherence to the Code of Conduct

62. We now turn to a matter which was not raised by the Commissioner, namely, whether Mrs Miller has complied with the stipulation in paragraph 19 of the Code of Conduct that "Members shall cooperate, at all stages, with any such investigation by or under the authority of the House".[59] The seven principles of public life have always formed part of the Code of Conduct. One of those principles is Accountability: "Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office".[60] Another is Openness: "Holders of public office should be as open as possible about all the decisions and actions that they take. They should [...] restrict information only when the wider public interest clearly demands".[61] Another is Leadership:

58 See paras 54–56 above

59 House of Commons, The Code of Conduct together with The Guide to the Rules relating to the conduct of Members: 2012, Session 2010–12, HC 1885, para 19

60 House of Commons, The Code of Conduct together with The Guide to the Rules relating to the conduct of Members: 2012, Session 2010–12, HC 1885

61 House of Commons, The Code of Conduct together with The Guide to the Rules relating to the conduct of Members: 2012, Session 2010–12, HC 1885

"Holders of public office should promote and support these principles by leadership and example".[62] All are relevant to the rule in paragraph 19.

63. Mrs Miller consistently responded to the Commissioner's inquiries with lengthy procedural challenges. We consider it reasonable for a Member to request information about the Commissioner's work, and to draw attention to evidential or procedural difficulties, but such challenges do not excuse failure to respond properly to the questions posed.

64. Mrs Miller's exchanges with the Commissioner repeatedly show a failure to provide information asked for, or to respond adequately to the Commissioner's questions. As the current Commissioner notes, the previous Commissioner requested information about the mortgage arrangements for the London home in December 2012, indicating that the documentation would be much appreciated. Mrs Miller's response on January 2013 indicated that the London home was bought on a mortgage by Mr and Mrs Miller alone, and included a schedule of accommodation costs extrapolated from bank statements. There was no supporting documentation. In at least one case the figures given do not match with other available documentation. On 19 March 2013 the Commissioner wrote asking:

> Finally, it appears from the statement from the Coventry, dated 31 May 2008, that you increased your mortgage when you remortgaged with the Coventry on 14 November 2007. Please could you tell me why you did this?[63]

The response was simply that "the mortgage changed in the normal course of events".[64] On Wednesday 23 October 2013 the Commissioner again asked about the increase in the mortgage.[65] Mrs Miller responded "I am not sure I am able to assist further. The matter was over 6 years ago and I'm reluctant to speculate without attempting to locate any documents on the subject if I still have any".[66] This was a totally inadequate response. On Thursday 12 December 2013, after further exchanges with the Commissioner, Mrs Miller explained that:

> With regard to the property, we purchased it in January 1996 for, as far as I can recall, £237,500. The mortgage was I believe about 90% of the then value. The property had not been occupied by the previous owners for some time and they had let out individual rooms within the property so that it was a house of bedsits. Indeed, we were not able to view all the rooms in the property before purchase and the property itself had not been modernised for a number of years. Over the subsequent years we necessarily set about carrying out work at the property. This was done on a piecemeal basis. This work was substantial and related to every part of the house. As property prices rose from the mid 1990s onwards, we were able to fund this from further advances on the mortgage.[67]

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62 House of Commons, *The Code of Conduct together with The Guide to the Rules relating to the conduct of Members: 2012*, Session 2010–12, HC 1885

63 WE 11

64 WE 12

65 WE 39

66 WE 40

67 WE 44

65. When the Committee asked for similar details, Mrs Miller told us that in relation to her borrowing before her election:

> in terms of the increase in borrowing during this period, I do not have records of the exact uses of the money. During this period, my affairs were not arranged so as to differentiate or keep separate the use of household income and the use of borrowings in meeting the differing expenses we had to meet. Thus, for example there was no strict division between using borrowings for capital expenditure and household income for domestic expenditure, there being no reason to do so at the time.[68]

This is not wholly inconsistent with her response to the Commissioner, but significantly fails to mention or quantify any building work.

66. **Much of the delay and difficulty in this case has arisen from incomplete documentation and fragmentary information. Mrs Miller has to carry significant responsibility for that.** She should have attempted to provide the explanation and documentation requested by the Commissioner to the Commissioner at the outset rather than requiring us to seek the information directly. **We recognise that Mrs Miller may put procedural points to the Commissioner and the Committee but we regret that she did not also provide the Commissioner with the substantive information and supporting documentation she required**.

Conclusion

67. We are concerned that Mrs Miller did not pay as close attention to the rules of the House as she should have done. As we have seen, after her election she increased the facility on her mortgage on at least two occasions without consulting the House, despite the fact that in both the 2005 and 2006 Green Book the advice given to those who wished to change their mortgage was: "Please consult us in advance. There are strict rules on the costs that can be claimed, and you may need to change the nomination of your main home".[69] While Mrs Miller has consistently told us that she never intended to claim the interest on the £50,000 mortgage increase revealed by the Commissioner's initial investigation, there is no documentation as to how she apportioned her claims, and towards the end of the period in some months she not only claimed for the entire mortgage interest charged, but appears to have claimed slightly more than that interest. There is no indication that she considered whether or not her variable mortgage or the increase clearly shown in the RBS documentation from a facility of £425,000 to £525,000 might have engaged the prohibition against additional mortgages.

68. The documentation that is available of Mrs Miller's interactions with the House tends to show a pattern in which officials would press her for information and the information that was provided appears to have been the minimum necessary.[70] This pattern was repeated in both the Commissioner's inquiry, and our own investigation. That said, Mrs Miller did not

68 Appendix 3, letter dated 16 March 2014, para 2

69 House of Commons, *The Green Book: Parliamentary Salaries, Allowances and Pensions*, April 2005, FAQs, Section 3

70 WE 10

subsidise her parents' living costs from public funds. Her claims up until 2008–09 did not include claims for mortgage interest on any increase above the facility when she entered the House. Indeed, for much of that period her claims were significantly below that figure, although close to the overall cap on expenses. We accept Mrs Miller's contention that her overclaim in 2008–09 was inadvertent and caused by the rapid reduction in interest rates. The Code of Conduct from 2002 stipulated that: "No improper use shall be made of any payment or allowance made to Members for public purposes".[71] We have seen no evidence to suggest that Mrs Miller failed to abide by this part of the Code. The 2002 rule had a second part stipulating that "the administrative rules which apply to such payments and allowances must be strictly observed".[72] Mrs Miller failed to observe this.

69. The main thrust of the original complaint, namely that Mrs Miller was providing an immediate benefit from public funds to her parents, has not been upheld. The Commissioner accepts, and the Committee agrees, that the designation of the main home was finely balanced. As we have set out, most of Mrs Miller's mortgage claims were justified. If the Commissioner had been able swiftly to establish the facts relating to Mrs Miller's mortgages, and had been able to gather the documentation which would have allowed her (and has allowed us) to judge the relationship between the changes in bank base rate and the interest charged to Mrs Miller, this might have been a relatively minor matter. As we have set out, Mrs Miller has also breached the current Code of Conduct by her attitude to this inquiry. That is more serious. The system relies on Members responding to the Commissioner's inquiries fully and frankly, rather than trying to argue a case in a legalistic way. It should not have required our intervention to produce the material and explanations required to complete the investigation.

70. ***We have already recommended that Mrs Miller repay the £5,800 which she has identified as an overclaim. She should also apologise by personal statement on the floor of the House for her attitude to the Commissioner's inquiries.***

71 House of Commons, The Code of Conduct together with The Guide to the Rules relating to the conduct of Members: 2002, Session 2001–02, HC 841

72 House of Commons, The Code of Conduct together with The Guide to the Rules relating to the conduct of Members: 2002, Session 2001–02, HC 841

Appendix 1: Memorandum from the Parliamentary Commissioner for Standards—Complaint concerning Maria Miller MP

Background

1. Mrs Miller and her husband bought their house in London in January 1996. Her parents and two brothers came to live with them at that time as part of a single family unit. By 2005 the family unit comprised Mr and Mrs Miller, their three children and Mrs Miller's parents. When Mrs Miller was selected as the candidate for Basingstoke in 2003, she rented a property in that area. When she was elected in 2005 she declared her Basingstoke home as her main home and her home in London as her second home against which she claimed Additional Costs Allowances (ACA) for the running costs.[1] The issues considered by this report cover in essence Mrs Miller's use of parliamentary allowances between May 2005 and April 2009 including

- The possible immediate financial benefit to Mrs Miller's parents of living in a house for which Mrs Miller claimed ACA and PAAE;
- The designation of Mrs Miller's second home;
- The financial arrangements for Mrs Miller's second home[2].

The Complaint

2. On 11 December 2012 the previous Commissioner for Standards received a complaint from Mr John Mann MP.[3] He raised two issues in support of his complaint that Mrs Miller had allegedly misused her parliamentary allowances. The first was that Mrs Miller's parents had between 2005 and 2009 lived in a property which she had designated as her second home and against which she was claiming ACA to cover the costs of the accommodation. Mr Mann believed that this arrangement was similar to that of Mr Tony McNulty[4] who had been investigated in 2009 and found to be in breach of the rules by accommodating his parents rent-free in his second home.

3. Mr Mann also cited Mrs Miller's claims for mortgage interest; he said that the property designated as her second home was purchased in 1996 for £234,000 and the mortgage was

1 In fact Mrs Miller and her husband rented three different properties in the Basingstoke area over the period covered by this complaint, which was from May 2005 to April 2009.

2 Mrs Miller considers that this matter is not within the scope of the complaint WE42,44,46

3 WE2

4 Committee on Standards and Privileges, 10th Report 2008–09

extended to £575,000 in January 2008. He said that during the four year period specified Mrs Miller had claimed only £115 less than the maximum permitted by the ACA system.[5]

Relevant Rules of the House

4. The Code of Conduct for Members of Parliament approved by the House in July 2005 provides in paragraph 14 as follows:

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

The Code of Conduct in place before that date made the following analogous provision:

> "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."

5. The rules in relation to Members' additional costs allowance (ACA) were set out in the Green Book. Section 3 of the Green Book for April 2005 provided in paragraph 3.1.1 for the scope of the allowance as follows:

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

Paragraph 3.2.1 sets out eligibility, including the following:

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

Paragraph 3.9.1 included the following in defining a main home:

> "The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other.

5 Mrs Miller does not agree that Mr Mann raised two issues WE42,44, 46

If there is any doubt about which is your main home, please consult the Department of Finance and Administration."

6. Paragraph 3.11.1 gave examples of expenditure allowable under the additional costs allowance as follows:

"...

- ***Mortgage costs—****for one additional home in either London or the constituency. This is limited to the interest paid on repayment or endowment mortgages, legal and other costs associated with obtaining (and selling) that home (eg stamp duty, valuation fees, conveyance, land search, removal expenses)*

...

- ***Other food—****reasonable* additional *costs while you are away from your own home*
- ***Service charges***
- ***Utilities***
    - heat
    - light
    - water
    - council tax
- ***Telecommunications charges***
- ***Furnishings***
- ***Maintenance and service agreements***

...

- ***Cleaning***
- ***Insurance***
- ...***Basic security measures***

...

- ***Other***
    - *TV licence, parking permit."*

7. Paragraph 3.12.1 provided for expenditure which was not allowable, including:

"Living costs for anyone other than yourself
...
Interest on any additional mortgages, advances or loans secured on the same property
...

Repairs which go beyond making good dilapidations and enhance the property."[6]

8. The Green Book for July 2006 included the following principle in paragraph 3.3.2:

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

It also included the following provisions relating to the reimbursement of the interest paid on Members' mortgages:

> *"3.7.3.*
>
> *Re-mortgaging is permissible if moving to different accommodation or if repairing or improving your existing ACA home. Members should consult the DFA before making any major commitments.*
>
> ***3.8.1. Documentation needed***
>
> *Please supply the following:*
>
> *If you have a mortgage, a copy of your last statement of interest—and future statements at annual intervals. If this does not give enough information about the mortgage, further evidence may be required*
>
> *...*
>
> *Any documentation relating to changes to these arrangements"*

Paragraph 3.14.1 included the following examples of expenditure which was not allowable:

- *"Interest on any additional mortgages, advances or loans secured on the same property unless required for the repair or improvement of that property*
- *The capital cost of repairs which go beyond making good dilapidations and enhance the property*

  Please seek advice on what is allowable before committing to building works of any sort"

9. From April 2009, the Additional Costs Allowance became Personal Additional Accommodation Expenditure, and the provisions listed above were superseded by the Green Book issued in March 2009. This set out the principles which applied to all Members' allowances, including the following:

> *"Claims should be above reproach and must reflect actual usage of the resources being claimed.*

6 Mrs Miller objects that I have included more detail than Mr Lyon's original letter here: WE48 and my response WE49

> *Claims must only be made for expenditure that it was necessary for a Member to incur to ensure that he or she could properly perform his or her parliamentary duties.*
>
> …
>
> *Members must ensure that claims do not give rise to, or give the appearance of giving rise to, an improper personal financial benefit to themselves or anyone else."*

10. The scope of PAAE was broadly the same as that for the ACA, but the rules provide in a definition section the following definition of a main home:

> *"Main home is the term used in the Green Book for the term 'only or main residence' as used in the applicable Resolutions of the House and the relevant legal provisions. It is for a Member to determine where his or her main home is based on his or her circumstances. It must be in the UK."*

There is no additional reference apart from the general principles equivalent to the specific provision for the additional costs allowance that "*living costs for anyone other than yourself*" are not allowable.

Precedents

11. In addition to the rules set out above, there are a number of cases determined by my predecessor which have relevance to the issues contained within this complaint. Indeed Mr Mann mentions one of them in his letter when he refers to Tony McNulty. I have summarised some of these cases below for ease of reference. With regard to the designation of Mrs Miller's main home I have considered the findings of the Committee on Standards and Privileges in relation to Jacqui Smith, and in relation to Ed Balls and Yvette Cooper.

Jacqui Smith[7]

12. In 2009 the Commissioner inquired into a complaint that Mrs Smith was spending fewer nights in her designated main home than in her second constituency home and that she had therefore made the wrong designation for the purposes of the additional costs allowance.

13. The House's rules stated that a Member's main home was normally a matter of fact and that if a Member had more than one home, his or her main home would "*normally be the one where you spend more nights than any other*". As a Minister from 1999 Mrs Smith had been required to designate her London home as her main home until this requirement was removed in 2004. She did not change her designation at this point. From 2004 to 2009 she designated as her main home a room which she rented in her sister's London house.

7 Committee on Standards and Privileges, 9th Report 2008–09

14. The Commissioner found that until May 2007 the Member had spent more nights in London than in her constituency, but that since that date she had spent more nights in her second home in her constituency than she did in London. He concluded that the nature and use of the two properties, and the balance of the nights the Member spent in each meant that her designation of her main home from 2004 to 2007 was not in accordance with the rules of the House. He said

> "I consider the purpose of the rule was to help the Member establish the location of their main home. It did not require them to reach an unnatural interpretation of that term... Mrs Smith focused on the nature and location of her job and not the nature and location of her overnight accommodation..."

Her interpretation did not fit her personal circumstances.

> "She should have exercised the discretion given in the rules to identify the residence she shared with her family in her constituency as her main home."

15. The Committee recommended that Mrs Smith apologise to the House, but did not recommend a repayment. The Committee said that it could not be established with certainty whether the taxpayer was better or worse off as a result of her designation.

Ed Balls/Yvette Cooper[8]

16. This inquiry also focused on the rules in the Green Book about Members' main homes. The two Members were married to each other and had children. The identification of their main home was not a simple matter of fact, since they maintained two properties sufficient for them to conduct family life: one in London and the other (which both designated as their main home) in the constituency of one Member and near to that of the second Member.

17. Members are normally required to identify their main home as the place where they spend more of their nights than anywhere else. The Commissioner noted that while the constituency home did not meet this criterion, the two Members had made reasonable decisions on the basis of their own circumstances in designating their own main home, and he dismissed the complaint.

18. In endorsing the rule about the identification of main homes, the Commissioner said that he considered on balance that the number of nights remained a reasonable general test, as long as it was not taken as a rigid rule. The Committee agreed. The Commissioner acknowledged that this was a prospective measure and that this could create difficulties particularly for new Members who had yet to establish a pattern to their parliamentary life. He also added that in cases of genuine doubt, where the considerations are evenly balanced, the Member and the Department ought to give particular weight to ensuring that the designation resulted in a smaller claim on the allowances than would otherwise be the case.

19. With regard to the position of Mrs Miller's parents I have considered the precedents in the complaints against Tony McNulty and Anne Main,

8 Committee on Standards and Privileges, 14th Report 2007–08

Tony McNulty[9]

20. The relevant allegation in this case was that the Member had claimed against his allowances for the costs of a home in which his parents lived. My predecessor found that during the six financial years from 2002–03, the Member had claimed over £75,500 in total while spending a maximum of 66 nights a year in this property in the performance of his parliamentary duties. His parents lived full time in the property as their only home.

21. Mr McNulty's claims varied between 66% and 92% of the running costs of the house. The Commissioner nevertheless concluded that Mr McNulty should have formally abated his claims to reflect his parents' living costs. The Committee endorsed this, saying:

> *"the fact that a Member has not claimed sums to which he may have been entitled does not excuse a breach of the rules. And the informality of Mr McNulty's "abatement" of his claims was neither transparent nor did it provide proper accountability. If there was a real need for Mr McNulty's parents to live in his second home, in respect of which he was claiming public money, there should have been a formal arrangement in place."*

Mr McNulty was required to apologise and to repay the sum of £13,837.

Mrs Anne Main[10]

22. The relevant part of this complaint was that the Member had breached the rules of the House in claiming for the costs of this property while her adult daughter lived there rent free.

23. The Commissioner found that the Member's daughter had begun to stay regularly in the flat in September 2006 at her mother's invitation, initially for three or four nights a week, later falling to one or two nights a week. She had stayed on average more nights at the flat than the Member herself, and had not contributed to the costs incurred. The Commissioner considered that this amounted to a substantial, regular and sustained usage of the flat by her. He noted that while the rules had been interpreted as permitting a Member's partner and children to share the second home with them, this could not be expected to apply regardless of age. He said

> *"Public funds should not have been expected to meet the living costs of Mrs Main's adult daughter... That should have been a private matter for the family. It should not have been a matter for public funds."*

He also said

> *"costs are not wholly and exclusively incurred for the purpose of performing a Member's parliamentary duties if the Member's claim includes the living costs of someone other than themselves, or if they or someone close to them receive a personal benefit from the arrangement. This latter prohibition was included for*

9 Committee on Standards and Privileges, 10th Report 2008–09. Mrs Miller has offered an analysis of the relevance of this report to her situation at WE48

10 Committee on Standards and Privileges, 8th Report 2009–10

> *the first time in the July 2006 rules, but is in my judgement implicit in the overarching rule that Members may claim only for costs wholly and exclusively incurred on parliamentary duties.*"

24. The Committee agreed with the Commissioner in upholding the complaint, and recommended that the Member repay £5,000 in respect of the period when her adult daughter stayed in her second home, reduced by £1,500 to reflect evidence that she had acted in accordance with the advice she had received from the Fees Office. In response to my predecessor's finding that Mrs Main should have abated her claims against the allowances, the Committee commented that

> *"any abatement should have been formal and should have been notified to the Department of Resources as such ... it is not acceptable in our view to trade off claims not made against those which should have been abated."*

25. Regarding the claims for mortgage interest I have considered the case of George Osborne.

George Osborne[11]

The relevant part of this complaint was that the Member had claimed against his Additional Costs Allowance for the interest on a mortgage which exceeded the purchase price of the home which he had bought before entering the House in 2001. Since part of the complaint related to events of more than seven years earlier, my predecessor consulted the Committee on Standards and Privileges before initiating this inquiry.

26. In 2003 the Member extended the mortgage to cover the costs of the purchase transaction for this property and of the initial repairs he had undertaken, as well as the costs of the property itself, although he did not in practice claim against his allowances for these additional elements of the mortgage until the mortgage was further extended at the end of 2005. While the increased claims following the 2005 remortgage had not formed part of the original complaint, since it had been brought to his attention, my predecessor did consider whether they fell within the rules of the House.

27. Members were able to claim against their allowances for the interest on mortgages used to finance their purchase of a designated second home, but they were not able to claim for interest incurred on any part of a loan relating to other expenditure, such as the costs of the purchase transaction, or any other expenditure incurred before they entered the House. The Commissioner therefore concluded that that Mr Osborne was in breach of the rules in 2005–06 and 2006–07 when he claimed for the interest on the costs of the initial purchase transaction and repairs incurred before he entered the House. The Committee commented in relation to the 2003 increase:

> "*While it was perfectly acceptable for Mr Osborne to borrow the extra sum, it would not in our view have been acceptable for him to claim his interest payments on it, however small such claims may have been.*"

11 Committee on Standards and Privileges, 6th Report 2009–10 Mrs Miller offers a comment on this case at WE48

28. The Member also increased his mortgage in December 2005 in order to meet the costs of further repairs on his second home, and later claimed, when funds allowed, for the interest on his extended mortgage. The Committee said

> *"Although, as with the 2003 mortgage, Mr Osborne was free to borrow such sums as he saw fit, he was not permitted to claim for the interest payments on borrowings that related to costs incurred before his election, other than the purchase price of the property."*

The Committee agreed that the breaches were unintended and relatively minor, and recommended that Mr Osborne repay £1,936, less £270 which he had already repaid.

29. In relation to matters covered by the Legg review I have considered the case of Mackay/Kirkbride.

Andrew Mackay/Julie Kirkbride[12]

The relevant allegation concerned the second Member's claims for the mortgage interest costs of building an extension to the property which was her designated second home for the purpose of her parliamentary allowances, but also her husband's main home. This extension was used by a family member to assist her with childcare.

30. The couple alleged that they would be placed in triple jeopardy if this matter was investigated as they had both already been audited by Sir Thomas Legg and had appealed to Sir Paul Kennedy concerning the outcome of that audit. Each had been ordered to repay one third of their claims and this decision had been upheld by Sir Paul. The Commissioner considered that given the seriousness of the allegations it was right that he should inquire into them and that the House of Commons should have the opportunity to decide on whether the now former Members of Parliament had breached the rules of the House, and should face a Parliamentary sanction for their conduct. The Committee agreed with the Commissioner's decision.

31. My predecessor found that in 2008, after Miss Kirkbride and Mr Mackay extended their joint mortgage by £50,000 to cover the cost of an extra bedroom, Miss Kirkbride claimed from the ACA for the interest on the new loan. She was entitled to do this only if the extension to the property was necessary in order to perform her parliamentary duties. The bedroom was needed to provide overnight accommodation for a child carer. The Committee agreed that the additional use of the property by the family member, in the absence of Miss Kirkbride and her son, was not sufficiently regular to suggest that the costs of these stays should have been reflected in the claims by Miss Kirkbride.

Alan Duncan[13]

32. It was alleged that the Member had breached the rules of the House by claiming between 1992 and 2004 for the mortgage interest on a constituency property which he owned outright.

12 Committee on Standards and Privileges, 5th Report 2010–11

13 Committee on Standards and Privileges, 11th Report 2008–09

The Member himself asked my predecessor to investigate, which he did. Before opening his inquiry my predecessor obtained the agreement of the Committee on Standards and Privileges, since this was a self referral and the inquiry went back more than seven years.

33. In the course of his inquiries my predecessor obtained information about events before the Member had entered the House. He found that the Member had bought a London property in 1986, which he later nominated as his main home for parliamentary purposes when he entered the House in 1992. He then used that home as collateral for the mortgage on his constituency property which he bought later that same year. But when he took out a new mortgage on the constituency property in 2004, he secured it on that property. My predecessor concluded that the rules of the House from 1992 to 2004 did not preclude a Member, when buying a home for which they intended to claim parliamentary allowances, from raising a mortgage secured on another property. He therefore dismissed the complaint. The Committee agreed that there was nothing in Mr Duncan's mortgage arrangements which was in breach of the rules.

34. Some of these cases in fact cover more than one aspect of the matter now under consideration.

All of these reports and any others to which I refer are in the public domain, published on the web pages of the Standards and Privileges Committee between 2007 and 2010

My Inquiry

35. In the course of my inquiry I have sought information from;

1. Mrs Miller
2. The Director-General of HR and Change
3. Two chairmen of the Basingstoke Conservative Association
4. Two estate management companies
5. The Director of Operations and Member Services in the Parliamentary ICT service

My predecessor sought permission from the Standards and Privileges Committee to investigate the whole period of the complaint which extended beyond the usual time limit of seven years by a few months. This permission was granted and he wrote to Mrs Miller on 12 December 2012[14] setting out the issues he was considering. He asked her

1. *"why you designated the constituency property as your main home and the London property as your second home;*
2. *on average, how many nights a week you spent at each property in each financial year from May 2005 to April 2009. It would be helpful to know if the pattern of your overnight stays varied over time or according to the Parliamentary calendar and the*

basis on which you have made these estimates (e.g. a regular fixed pattern, diary entries etc);

3. *the arrangements you had for the constituency home—including its location, whether it was rented or owned by you with or without a mortgage, how long you have had the property, the nature of the accommodation, and who else, if anyone, lived there whether permanently or otherwise;*

4. *the arrangements you had for the London home—including its location, how long you have lived there, the mortgage arrangements, the nature of the accommodation and who else lived there whether permanently or otherwise;*

5. *the accommodation arrangements for your parents at the London home and the financial contribution, if any, they made to the purchase, the mortgage repayments, the council tax and utilities, or any of the other costs of living in the property;*

6. *a breakdown of the claims you made each year against your additional costs allowance to meet the costs of the London home and, if less than the full cost of running that home, approximately what proportion of the costs these claims represented;*

7. *what led you to decide to cease making claims on your London home in April 2009; whether you still own that property and, if so, who now lives there, and what claims, if any, you made for your additional accommodation—and where it is located—after that date;*

8. *whether you at any time consulted the House authorities about any aspect of your living arrangements, including the designation of your main home, the mortgage on your London home and the living arrangements of your parents and others in that home and, if so, when you consulted them, about what and what was their response."*

36. Mrs Miller replied on 3 January.[15] She enclosed a note on her family circumstances, which I summarise here, as well as her responses to the above questions (which included a schedule of accommodation costs *"in rough terms"* for her London home) and a short note on the distinction between her circumstances and those of Mr McNulty.

37. In her enclosed note Mrs Miller told me that her parents and twin brothers lived in Wales until 1996, when, following her father's redundancy, they moved to live with Mr and Mrs Miller and their first child. Her parents did not contribute to the cost of the property. Since that time (nine years before she was elected to Parliament) her parents have been part of her family. Her brothers moved away in 1998 and her second child was born in that year. Mrs Miller had a third child in 2002. While initially her parents were able to provide support to her and care for the children, in recent years the situation has changed and Mrs Miller now has caring responsibilities for them. She has also at various times from 2006 had an au pair or

15 WE4

home help living with the family. Mrs Miller argued that her situation was not similar to that of Mr McNulty because of her carer responsibilities towards her parents.

38. Mrs Miller explained that as a family she and her husband had had two homes since July 2003, one in Basingstoke and one in London. She said that from the time that she was elected in 2005

> *"I spent most time in Basingstoke. I spent 3–4 nights per week in Basingstoke when parliament was sitting and the majority of my time when parliament was in recess. To ensure that I had designated the property correctly I consulted the Fees Office to ask their advice which was I should designate my main home as the one where I personally spent the most time ... there was no financial advantage as to which home was designated. ... When Parliament was in recess I was in Basingstoke full time except in September when parliament did not usually sit and my younger children were then at school in London."*

39. Mrs Miller said that her constituency home was originally a three bedroomed house rented in 2003. After being elected in May 2005 she remained there until July 2005 and she then moved to a larger four bedroomed house, subsequently moving again in February 2009 to a larger four bedroomed house nearby which the family occupied until autumn 2010.

40. Mrs Miller told me that her home in London is a five bedroomed terraced house, purchased with a mortgage in 1996. Mrs Miller told me

> *"The mortgage and other costs associated with the property were paid for by me and my husband. The property is a single dwelling and we lived as a family unit with my parents."*

Between May 2005 and April 2009, when she ceased to claim, Mrs Miller made claims against her allowances for the costs of the house in London.

41. Mrs Miller told me that she ceased to claim in April 2009 because

> *"it was clear to me that MPs' expenses claims had become toxic. I therefore decided to cease making claims until a new more credible regime had been put in place."*

She nevertheless continued to maintain the same homes in both Basingstoke and London as she considered that it was necessary for her to perform her parliamentary duties. She said *"My family circumstances have remained the same throughout."* Mrs Miller also told me that she became a Minister in May 2010 and that, as a Minister, and latterly a member of the Cabinet, her work now requires her to spend the majority of her time in Westminster, both when Parliament is sitting and in recess. Mrs Miller said *"I now claim accommodation costs in Basingstoke under the IPSA rules."*

42. Mrs Miller told me that she had fully consulted the House authorities in relation to her living circumstances when she was first elected, drawing their attention to her parents living with her; and that their clear advice was that she should designate the London house as a

second home. She also consulted the House authorities when she employed a home help in August 2006. They advised that this did not change the position.

43. On the basis of this response, I considered that, before I could determine whether Mrs Miller or her parents had obtained an immediate financial benefit by living in a home for which Mrs Miller claimed against her allowances, I needed to consider whether her designation of her main and second homes was in accordance with the rules of the House. On 17 January I wrote to her requesting information about the background to her designation of her homes, and about other matters.[16] For ease of reading, I have set out the course of my inquiries thematically under the following headings:

- The designation of Mrs Miller's second home;
- The possible immediate financial benefit to Mrs Miller's parents of living in a house for which Mrs Miller claimed ACA and PAAE;
- The financial arrangements for Mrs Miller's second home.

The designation of Mrs Miller's second home

44. In my letter of 17 January 2013 I asked Mrs Miller about the basis of the average number of nights she had told me that she spent in each of her homes; about her use of the London home in the months of September and how many nights she spent away from either home in each of the relevant financial years, and how much time her parents spent in her Basingstoke home.

45. Mrs Miller responded to me on 18 February.[17] She explained that her parliamentary diary was no longer available and had been deleted from the system. The information she provided was based on her recollection. She said that when she was elected she had two homes. She asked the Fees Office on what basis she should make a designation and was advised by them to designate the place she spent fewer nights as her second home. She said that both homes cost in excess of the accommodation budget and there was no financial advantage to her in which place she designated her primary or secondary accommodation.

46. Mrs Miller said she *"spent around 3 nights a week for three weeks of September"* in London (her figures are set out below).

> *"12 May 2005–30 April 2006 (50 weeks, 350 day period)*
>
> 19 weeks recess, 31 weeks sitting
>
> A maximum of 133 nights in London, minimum of 217 nights in Basingstoke.
>
> *May 2006-April 2007 (364 day period)*
>
> 19 weeks recess, 33 weeks sitting

16 WE6

17 WE8

A maximum of 141 nights in London, minimum of 223 nights in Basingstoke.

May 2007-April 2008 (364 day period)

20 weeks recess, 32 weeks sitting

A maximum of 139 in London, minimum of 225 nights in Basingstoke.

May 2008-April 2009

20 weeks recess, 32 weeks sitting

A maximum of 139 nights in London (based on 4 nights a week), minimum of 225 nights in Basingstoke."

47. Mrs Miller said that she took around two weeks' annual leave abroad during recess and attended party conference for two nights in October. She said that it was usual for her parents to stay in Basingstoke when she was on two weeks' leave. She had an au pair from September 2006, who would normally come to Basingstoke every weekend and stay there for a number of the holidays. She had consulted the Fees Office about this in August 2006.

48. With Mrs Miller's agreement I wrote to the Director-General of Human Resources and Change on 19 February[18] asking for information and documentation relating to her parliamentary allowances. He responded to me on 8 March enclosing[19]

- a breakdown of all ACA and PAAE claims received from her until April 2009;[20]
- mortgage documentation relating to ACA/PAAE claims;
- a form signed by Mrs Miller on 27 June 2005 which gave the address of her main and second home at the time, which remained unaltered throughout the whole period covered by this complaint; and
- correspondence between Mrs Miller and the Department related to her mortgage.

49. The Department's files do not now hold any forms indicating the change of Mrs Miller's main homes when she moved within the Basingstoke area, any records of discussions with her, nor any information about the increase in her mortgage at the end of 2007. It is possible that such records may have been held at some time and have now been deleted.

50. I sent this information to Mrs Miller on 19 March, at the same time asking her for some more information; for example about the pattern of her overnight stays in Basingstoke; about her family's travel arrangements; about her arrangements in September recesses; about the pattern of her parents' and her husband's overnight stays in Basingstoke and whether the London house was closed and unused between the rise of the House in July and the beginning

18 WE7

19 WE9 and 10

20 Original and unredacted copies of claims before April 2009 are no longer held although redacted copies are available on Parliament's website.

of the school term in September. I also asked if Mrs Miller could identify any witnesses who could provide evidence about the time she and her parents spent in each home; or any Fees Office officials from whom she took advice.

51. Mrs Miller replied on 10 April[21]. In response to my first question she said "*The general pattern is as you have described*." In response to my question about her overnight stays in September she said

> "My constituency based duties dominated in September over this period but my children were also at school. To maintain a family life I spent some nights with them in London."

She said

> "It has always been my priority to maintain a family life as much as possible notwithstanding my role as an MP. My husband therefore lived with me in London during the week and travelled to our Basingstoke home on Fridays for the weekend. To assist me in being able to undertake my duties as an MP my husband usually remained in London on Thursday night to care for our children in my absence."

In relation to the use of the house in the summer months, she said

> "I am not sure I understand the meaning of 'closed' in this context. Yes the London house was unused during the summer as I have already indicated."

52. In relation to my request for witness evidence, Mrs Miller said

> "I am not sure that I fully understand the basis of this question. It would be a concern to me if anyone observed my family's daily movements, and kept records over a 4-year period, to the extent of being able to provide witness statements."

The Fees Office had not issued a letter confirming her telephone conversation with them in 2005, and she did not keep a note of the name of the person she spoke to. She said that she did inform the House when she moved to her second and third constituency properties,[22] but she did not recall being asked to complete an additional form to record the change to her nominated homes.

53. I replied to Mrs Miller on 25 April.[23] I set out some detailed questions about the reason for designation of her homes for ACA purposes; and about the cost of her homes and the claims relating to them. I also asked Mrs Miller to be more specific about the general pattern of her stays in London and Basingstoke. I asked her to give as full an account as she was able of the two conversations she had with the Fees Office, in 2005 and in August 2006. I also asked her to explain more about how her London house was left during the school summer holidays

21 WE12

22 In, respectively, July 2005 and February 2009.

23 WE14

during this period. At the end of this letter I asked again if she would consider giving the names of any witnesses who could give evidence of the general pattern of use of her homes; and if members or staff of her constituency association might be able to provide an account of the general pattern of her presence in the constituency.

54. In her response of 9 May[24] Mrs Miller said

> "Since 2003 my family has had two homes; one in London and one in Basingstoke. ... As a family both houses in Basingstoke and London were seen as home. We all spent a lot of time in both places. In 2005 when I was elected the Fees Office required me to designate one place as a prime residence and the other as a secondary residence. Clearly in my case this was a fine balance. But the Fees Office were clearly already well aware that MPs could have more than one home. The Green Book specifically dealt with this circumstance... At the time of the 2005 Election I gave a great deal of thought as to how to balance my role as an MP with my family life. My view was, in light of my existing experiences, the best way to achieve this was for our Basingstoke home to be the centre of family life at weekends and holiday. It was where I would clearly spend most of my nights. After speaking to the Fees Office, it was based on this thinking that I chose to designate my main home... I would have been running contrary to the Green Book guidance and the guidance provided from the Fees Office if I had designated London as my main home."

She said

> "The sentence 'The location of your main home will normally be a matter of fact' was not clear to me hence I called the Fees Office for further guidance. I explained that I had a large family comprising of my parents, three children and husband who all spent time in London and time in Basingstoke. I was clearly told that where a Member had two homes they should designate the one where the Member spent most nights, specifically that should be where I spent most nights ... I did not reconsider the designation because the only change in my living pattern over this period was to spend more time in Basingstoke as a result of my son moving to school in Hampshire in 2008."

55. She said that in the second conversation with the Fees Office she informed the administrator of the fact that an au pair would be living at the London property and asked if this affected her position.

> "The answer was no. As I was dealing with the Fees Office direct I had no reason to believe it was necessary to keep a written record of my conversation. The response I received from the Fees Office did not give me to believe that the situation was unusual and requiring further detailed documentation."

56. Mrs Miller concludes,

> "My difficulty with providing witness statements is that you seem to want evidence that goes to the detail of my family's movements over a four year period. ... I don't think anyone outside of my family can provide the sort of evidence that you are looking for."

57. In my letter of 16 May to Mrs Miller[25] I asked her to clarify some aspects of her evidence. I asked her to let me know the month and the year when each of her younger children moved to schools in Hampshire. I asked her whether her son's change of school in 2008 had affected the amount of time which her family spent in Basingstoke. I also said that while I had understood from her letter of 20 April that her London home was unused between the rise of the House in July and the beginning of the school term in September, her letter of 9 May seemed to suggest that the house was entirely unused while Mrs Miller was on annual leave, but was used from time to time by her family at other times during the holiday, and I asked for clarification of this.

58. In relation to documentary evidence, I asked Mrs Miller for the contact details of the chair of her local association so that I could seek evidence from him. I asked whether Mrs Miller's office staff maintained a record of her appointments and if so if this was still available; and I asked her to consent to my writing to the Parliamentary ICT service to ask if any record remained of her electronic diary.

59. In answer to my questions, Mrs Miller said[26] that her eldest child took up a place at a school in Hampshire in September 2005. Her middle child was at school in London until September 2008, when he moved to become a chorister. Her youngest child remained at school in London throughout the period. She told me

> "the schooling of the elder two children did not make a material change in this particular regard, as we also had to continue to reflect the needs of the youngest child whose schooling was in London in the relevant period."

She said that during the period when she was on annual leave from the House,

> "it was usual for me and the family including my parents to live and remain in Basingstoke ... There was not, however, a formal closing down of the London house in the sense of putting it under dust sheets. As mentioned in my letter of 9 May ... my husband and I did use the London accommodation if and when required over the summer by one or other or both of us (including potentially with other members of our family unit)..."

She said that the London house was not used as the family home during the school summer holidays. In response to my request for witnesses Mrs Miller provided me with the names and address of two chairmen of her local party association. She said that she had had four au pairs in a period up to seven and a half years ago; they were not family friends and she did not remain in touch with any of them.

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60. With Mrs Miller's consent I wrote to the two chairmen of the Basingstoke Conservative Association[27] asking them

1. "to the best of your knowledge and recollection, what was the usual pattern of Mrs Miller's presence in the constituency? It would be helpful to know how this varied throughout the year—for example, when the House of Commons was in recess;

2. whether there was a regular pattern (for example, weekly or monthly) of constituency events at which Mrs Miller was present; and

3. whether any records of Mrs Miller's constituency engagements between May 2005 and April 2009 are still held by you or by the Association. If so, it would be helpful to have copies of these.

   It would also be helpful if you could let me know the dates of your Chairmanship of the Association."

61. The first chairman, who was in post from March 2006 to September 2009 and whose wife was also Mrs Miller's landlord, responded on 10 June[28] and was able to tell me about a number of local events which Mrs Miller attended a few times per year each. He says

> "She was always in Basingstoke on a Friday for her Surgery meetings ... I would see her most weekends at her home on my property , with her children ... I got the impression that she was in the constituency for most of the year.
>
> I have no records of Mrs Miller's constituency engagements between May 2005 and April 2009."

The second chairman, who was in post from March 2002 until March 2006 and again from September 2009 to March 2013, responded to me on 14 June[29]. He was chairman during two periods covered by this complaint and told me

"*Maria was, and is, an extremely conscientious MP and was (and is) in the Constituency on almost every Friday and weekend on Constituency business. She attended numerous events ... mostly in the evenings.*

On Friday afternoons she held Advice Bureaus [sic] *which were attended by constituents, by appointment,*

The Association does not, and never has, kept Marie's [sic] *diary....*".

Two Estate Management Companies

62. In order to obtain information about the cost of the three homes which Mrs Miller had designated as her main homes for the purposes of the parliamentary allowances, I wrote on 6

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June[30] to an estate management company in connection with Mrs Miller's first constituency home and received a reply on 11 June[31] saying that the rental for that property had been £1,700 per month and enclosing a copy of the Assured Shorthold Tenancy Agreement which in fact ended on 24 January 2004. The tenancy had then "*continued as a statutory periodic until the property was vacated on 2 August 2005.*"

63. I wrote to a second estate manager also on 6 June[32] asking for details of Mrs Miller's second and third constituency homes during the relevant period, which they had rented from, respectively, August 2005 and February 2009. I also asked whether they held any records of any additional rental agreements or related contracts, apart from the rental agreement for the second property. The estate manager replied to me on 10 June[33] explaining that offices had moved and records been archived. However, she was able to tell me that Mrs Miller moved out of her second constituency home in December 2008. She confirmed that there had been a deposit of £2,250 on that property and monthly rental of £1,600 as stated in the Short Term Tenancy Agreement. She said

> "They had been very good tenants and I think we may have decided that there was no particular reason to have another Short Term Tenancy Agreement for [constituency home 3], particularly as their original deposit on [constituency home 2] had been passed over to us, but I cannot remember.
>
> The rent that they paid for [constituency home 3] was £2,300 per month commencing in January 2009".

The Director of Operations and Member Services

64. I wrote to the Director of Operations and Member Services in the Parliamentary ICT service on 6 June 2013[34] to ask whether it would be possible to access records of Mrs Miller's electronic diary on the parliamentary system for all or part of the period between May 2005 and April 2009 and if so whether copies of this could be made available to me. Some copies were retrieved but were not of sufficient detail to be useful in determining the balance of nights spent between Basingstoke and London and I have not relied upon them.

The Director-General of HR and Change

65. When I wrote to the Director-General of HR and Change for the second time, on 12 September[35], I asked him whether, on the basis of the evidence available, he considered that Mrs Miller was correct to designate her London home as her second home. He replied in his letter of 27 September[36]:

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> "The Green Book published in 2005 and 2006 stated that "the location of your main home will normally be a matter of fact. If you have more than one home, your main home will be the one where you spend more nights than any other". The Department recognised that, where time was divided broadly equally between two locations, the decision as between main and second home was not always straightforward. In such cases, other factors could be taken into account to facilitate a reasoned decision. Such factors could include where children went to school or where recesses were spent.
>
> In her letter to you of 18 February 2013, Mrs Miller provides information that indicates that around two-thirds of her time was spent at her nominated main home in Basingstoke. In addition to this, she states in her letter of 9 May 2013 that two of her children moved their schooling to Hampshire in the period after she was elected and that weekends and recesses were predominantly spent at the constituency home. This would have been sufficient information to allow my Department to agree that it was correct for Mrs Miller to nominate her Hampshire property as her main home, with the consequence that her London property was her second home for ACA purposes. I agree, therefore, that the designation of the homes was correct."

66. In the legal advice which Mrs Miller forwarded to me on 1 July[37], it is stated that

> "In a letter dated 25 February 2013 to the Commissioner, Mrs Miller sought to give an estimate of the average number of nights she had spent in each home through the year, in respect of each of the years in question on inquiry. Exact figures are not available after all this time and the computerised Parliamentary diary can no longer be accessed for the period... In any event, the approach at the time would have been required to be a forward-looking one of how many nights Mrs Miller reasonably expected to be in each home in the year and so inherently based on estimation. Mrs Miller's estimate now is therefore in keeping with the exercise that would have been required at the time.
>
> Applying the clear test laid down by the Green Book, where there was and is no doubt that Mrs Miller spent more nights in Basingstoke than in London in the course of each year, Mrs Miller was mandated by the Green Book to designate Basingstoke as her main home. What should be added is that the odd occasion when the pattern might have been different in a given week and the absence of exact numbers of nights in each year are nothing to the point.
>
> Mrs Miller...voluntarily and appropriately took every prudent step in consulting with the House authorities to ensure that she had approached the matter correctly; and she was assured that she had."

The possible immediate financial benefit to Mrs Miller's parents of living in a house for which Mrs Miller claimed ACA and PAAE

37 WE26

67. In my letter of 17 January 2013[38] I had asked Mrs Miller, to the best of her recollection, how her parents divided their time between her Basingstoke and London homes in each of the relevant financial years. Mrs Miller responded in her letter of 18 February[39]. She told me

> "Over this period my parents divided their time as we all did between our Basingstoke and London homes mirroring the younger two children's schooling; bringing them to Basingstoke for the weekend and staying in recess time ... It was usual for my parents to remain in Basingstoke when I was on annual leave."

68. I wrote to Mrs Miller on 19 March[40], enclosing the documents supplied by the Director-General. I asked Mrs Miller whether she travelled with her parents to Basingstoke each weekend, or whether they had separate arrangements; and if the au pair who began work in 2006 travelled with her and her parents each time. I also asked whether Mrs Miller's parents stayed in Basingstoke while she was away from home on other business during the school holidays.

69. Mrs Miller replied on 10 April[41]. She told me that as her children were of school age they had to remain in London on Thursday and Friday. She had already indicated that she travelled to Basingstoke on Thursday so by necessity they travelled to Basingstoke separately. Normally her parents would bring the children down on Friday evening by car. Mrs Miller said that over this period the whole family divided their time between Basingstoke and London mirroring the younger two children's schooling.

70. I replied on 25 April.[42] I asked Mrs Miller to confirm that her parents made no contributions to the running costs of the London property; whether she had considered abating her claims to take account of her parents' use of the house; and whether she had any formal or informal agreement with them about their use of the house.

71. In her reply of 9 May[43] Mrs Miller said

> "The running costs associated with both homes were covered by my husband and me ... I have never claimed the full cost of the accommodation in London, the presence of my parents in the house meant that I did not claim the full running costs of the house".

She said that as there were no financial transactions involved they did not feel the necessity to have a legal agreement in place between her husband and herself and her parents. While over the summer recess the family was based in Basingstoke, she, her husband and her parents used the London house as required over the summer.

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72. I responded to Mrs Miller on 16 May[44]. I asked her what she meant when she said *"the presence of my parents ...meant that I did not claim the full running costs of the house"*. In the summary of the facts which I sent her on 18 July[45] I therefore noted that she did not abate her claims to take account of her parents' living costs. Mrs Miller asked me to explain this, and I did so in my letter of 8 August[46]. In her response of 4 September[47] she said

> "I do appreciate your agreement that abatement should form no part of the factual background of this matter. The costs I had to incur were of course much higher than the expenses claimed and so the claims were a reduced percentage of the actual cost. Because of my responsibilities as a mother, I in fact had to subsidise at my own expense the cost of being an MP and having to have a second home..."

73. I wrote a second time to the Director-General on 12 September[48] enclosing the correspondence which I had had with Mrs Miller and asking for his comments and advice on the following issues:

> "1. whether you consider that it was within the rules of the House at the time for a Member to make claims for a second home in which his or her parents also lived, in the way described by Mrs Miller;
>
> 2. whether you consider that the rules of the House at the time required Mrs Miller to take account of her parents' living costs when making claims against her allowances, and whether any guidance was available to Members on how this should be done;
>
> 3. whether I am right to understand from your letter of 8 March that your Department has no records of the conversations between Mrs Miller and the Fees Office, to which she refers in her evidence. If so, it would be helpful if you could let me know what advice would have been given to Members at the time; and
>
> 4. whether, on the basis of the evidence available, you consider that Mrs Miller was correct to designate her London home as her second home."

74. The Director-General responded in detail on 27 September[49]. He said:

"Thank you for your letter of 12 September 2013 in which you asked for further information relating your inquiry into the complaint you have received about Rt Hon Maria Miller MP.

I will deal with each of your questions in turn.

1. *The versions of the Green Book that were published in 2005 and 2006 stated that*

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Members were strongly advised to avoid subletting or renting out any part of a property on which the Additional Costs Allowance (ACA) was claimed. If they did so, they were required to notify the Department, who would reduce their claims by the amount of their rental income. However, where rent was not paid, there was no rule which governed who might or might not live in, or stay at, a home on which ACA was claimed.

Additionally, the principles set out in the 2006 Green Book stated that Members "must avoid any arrangement which may give rise to an accusation that you are, or someone close to you is, obtaining an immediate benefit or subsidy from public funds".

It was accepted that Members would stay at their second home with a spouse or partner and young children, recognising the need to allow Members to combine their parliamentary work with family responsibilities. However, it was not to the best of my knowledge a regular occurrence for a Member's parents to live with him or her on a permanent basis and Mrs Miller sets out the personal circumstances in her correspondence as to why this was necessary in her case. I know of no reason per se which would prevent a Member claiming ACA for a second home in which their parents also lived. The key question about how much could be claimed is addressed below.

Mrs Miller says she raised the question of her parents living with her in her second home with the Fees Office in 2005. I have no reason to doubt her account; but most of our records and correspondence have now been destroyed under the House's Authorised Records Disposal Practice, so I cannot comment on whether specific consideration was given to the matter.

The issue of parents living with a Member is not addressed in the guidance issued by my Department. If this issue had been brought to my attention as Head of Department, I would probably have referred the matter to the Advisory Panel on Members' Allowances for guidance. (This cross-party panel of Members was a subcommittee of the Members Estimate Committee, and oversaw the allowances system and the guidance that we issued.) In general terms, the Panel accepted that Members needed to have a family life and, given that the living arrangements were in place prior to Mrs Miller being elected as an MP, this case would probably have been treated sympathetically. While I cannot now say how the Panel would have advised, my Department's advice to them—if the facts had been drawn to our attention—might have been on the following lines:

- *The guidance available to Members between 2005 and 2009 stated that the ACA could not be used to meet "living costs for anyone other than yourself".*
- *That said, there was no objection as such to a second home housing a larger -than-usual extended family; but there was a case for some degree of proportionality so that the public purse was not chargeable for unrestricted lifestyle choices of Members;*
- *Account should be taken of the rule adopted in 2006 that there should be an abatement of the ACA where part of a second home was sublet. In this case, there*

was no subletting and no rent was received from Mrs Miller's parents, so no abatement of the quantum of the overall allowance would be appropriate; but there was a case for saying that the costs attributable to the parents should not be borne by the public purse;

- *An equitable outcome would be to apportion the ongoing costs attributable to the second home between those relating to a) Mr & Mrs Miller and their children, and b) Mrs Miller's parents. There was no guidance that stated how costs should be apportioned but, given that there were seven people in the family unit, a broad-brush reduction of two-sevenths would have been a reasonable approach to take.*

This analysis of what might have happened is inevitably hypothetical; but—if the Advisory Panel had accepted advice along these lines—it is clear from the table below that Mrs Miller's annual claims would still have been less than five-sevenths of the overall costs in each year.

year	***costs claimed***	***costs incurred***	***5/7 of total costs***
2005/06	*£21,634*	*£35,734*	*£25,524*
2006/07	*£22,110*	*£37,654*	*£26,895*
2007/08	*£23,083*	*£42,348*	*£30,249*
2008/09	*£24,482*	*£34,689*	*£24,778"*

75. The author of the independent legal advice which Mrs Miller forwarded to me on 1 July[50] said

> "... the real issue in this complaint is whether, by reason of the fact that Mrs Miller's parents lived together with her, as they had done for many years before she was a Member of Parliament, and stayed together with her in her second home (moving between homes in line with her Parliamentary timetable), Mrs Miller was thereby not permitted to claim expenses for a second home, in circumstances where it was essential she had both homes if she was to be able to fulfil her Parliamentary and constituency duties and where her parents received no benefit or advantage whatsoever from Mrs Miller's having a second home and from having to travel to Mrs Miller's second home. ...The question is thus in reality whether Mrs Miller was entitled to have her parents live together with her as part of one family unit or one household as she had done for almost a decade before she became an MP. What manifestly cannot be said is that Mrs Miller changed the living arrangements for her parents as a result of being an MP or because of and to take advantage of the Parliamentary expenses scheme."

The author of the paper also said

> *"The rules provided that Mrs Miller should not claim living costs for anyone other than herself, and after July 2006, that she or someone close to her should not receive an immediate benefit or subsidy from public funds. There is no sustainable argument that this rule or principle was breached.*

> *The correct analysis is that Mrs Miller had one household. This happened to include her dependent parents as well as her husband and her children. Where a Member had one household but necessarily also had two homes to fulfil Parliamentary duties, one of the two homes had to be regarded as the main home for which no expenses could be claimed. Since no expenses were claimed in respect of that main home, there is no question that anyone in it was receiving any benefit from public funds. This is why spouses and children are not regarded as receiving a public benefit, because their home is the main home for which no expenses are claimed. If, so that a family life can be maintained, a spouse and children travel to and also stay in a second home which the MP must have, that is no benefit at public expense because their actual home is considered and must be the one provided at private expense. They do not need the second home so cannot be said to be being subsidised in any way by the necessity of its existence.*
>
> *The position is no different at all when elderly and dependent parents are included. It makes no difference that they travelled between the homes and were with Mrs Miller. The fact is, as is undeniably demonstrated by the nine years of living there before Mrs Miller was an MP, that Mrs Miller's parents had a permanent home with Mrs Miller that was provided exclusively at private cost and not subsidised in any way and not provided at public expense. That home was wherever Mrs Miller's home was. The fact that Mrs Miller's parents also went to the second home does not in any way at all mean that those people were being subsidised or provided for by public funds. On the contrary, they were travelling only to maintain family life and notwithstanding the burden and disruption for them. The second home was not for them or their benefit and was not anything they wanted or needed or had any financial advantage to them whatsoever, nor was it somewhere in which they were installed as a result of or subsequent to Mrs Miller's becoming an MP."*

The author concluded *"The only proper resolution of the complaint is that it should not be upheld."*

Financial arrangements for Mrs Miller's second home

76. Mrs Miller had provided me on 3 January 2013 with a schedule *"in rough terms"* of the accommodation costs of her London home[51]. In my letter of 17 January[52] I asked for a breakdown of the costs and claims associated with her London home and specifically for documents to support her evidence. Mrs Miller replied on 18 February[53] that the Fees Office had received all the documentary evidence they require. She was happy for me to see all the documentation.

77. At my request, on 8 March 2013 the Director-General of HR and Change provided copies of the evidence[54]. I shared the Director-General's letter and its enclosures with Mrs Miller on

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19 March.[55] I asked for some additional information about the mortgage, which was increased in 2007. I also asked Mrs Miller about the level of electricity consumption in her London home, why a particular bank was named as mortgagee on the insurance invoice held by the Fees Office and supplied to me by the Director-General; and why the property was remortgaged on 14 November 2007.

78. Mrs Miller said that she had not considered the level of electricity consumption to be high for the type of property. In relation to her mortgage, this had originally been taken out with the bank named on the insurance invoice. She said

> "The mortgage changed in the normal course of events. As you will be aware, these matters were the subject of the audit carried out by Sir Thomas Legg. I enclose a copy of the letter received from Sir Thomas at the conclusion of his investigations." That letter states 'Mrs Miller has no issues.'"[56]

She said that there was no financial advantage to her in designating her London home as her second home.

79. In my letter of 25 April[57] I asked whether Mrs Miller's parents made contributions to the running costs of the London property and whether she had any agreement with them about their use of the house. I asked whether she had abated her claims to take account of their use of the house. I asked again about the mortgage increase.

80. In her response of 9 May[58] Mrs Miller gave me additional information about the rent and running costs for her houses in Basingstoke and agreed to my contacting the landlords for confirmation. Mrs Miller also told me that "*The running costs associated with both homes were covered by my husband and me.*"

81. In relation to her London home, Mrs Miller said

> *"The mortgage varied based on changing interest rates and when we changed mortgage providers we decided to increase the mortgage value. I have already forwarded to you a copy of the letter to me from Sir Thomas Legg who has already looked at the matter of mortgages in detail and found there to be no issues."*

82. In a following letter of 4 June[59] she explains

> *"the cost of the London property was significantly in excess of the amount claimed under the ACA. ....Given the rules, my approach was to do what was fair and reasonable, which was what I sought to do throughout."*

83. Having been unsuccessful in arranging a meeting I said in my letter of 23 October,

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> *"In view of the difficulties and to avoid further delay I suggest ... I now put together my draft report and sent it to you with the evidence I hold ... If I find there are gaps in the evidence ... we could meet at that stage ."*

I go on to say that I do have one question which I had first asked on 19 March regarding the reason why the mortgage was increased in March 2007. While saying that this might not be relevant to my inquiry I asked for a response on this issue.

84. On 6 November Mrs Miller replied on this point

> *"I am not sure I am able to assist you further. The matter was over 6 years ago and I am reluctant to speculate without attempting to locate any documents on the subject if I still have any."* [60]

85. On 11 November, having begun my consideration of the evidence, I wrote to Mrs Miller[61], enclosing the letter from the Director-General and asking some very specific questions in relation to the mortgage arrangements on her London home, including some discrepancies in the amounts of her claims. I asked her to locate the documents on this and to make an appointment to see me. Mrs Miller asked for time to respond to the questions and I said that I would contact her again at the beginning of December.

After a further exchange of letters, Ms Miller wrote to me on 12 December raising issues about the scope of my inquiry which she considered should be resolved before further investigations could be pursued into these matters. Those arguments are considered in the section on the inquiry process below. In relation to my questions about her mortgage, she said,

> *"With regard to the property, we purchased it in January 1996 for, as far as I can recall, £237,500. The mortgage was I believe about 90% of the then value. The property had not been occupied by the previous owners for some time and they had let out individual rooms within the property so that it was a house of bedsits … the property itself had not been modernised for a number of years. Over the subsequent years we necessarily set about carrying out work at the property. This was done on a piecemeal basis. This work was substantial and related to every part of the house. As property prices rose from the mid 1990s onwards, we were able to fund this from further advances on the mortgage."*

The inquiry process

86. Mrs Miller wrote to me on 1 July[62] stating that she had taken some legal advice and enclosing a document[63] which set out her overall response to the complaint in more detail. She argued that the complaint was unfounded and should not be upheld. The author of the enclosed document said that

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> *"The complaint about Mrs Miller was in relation purely and simply to the residence of her parents .... it is important, in the interests of fairness for an enquiry not to be unduly expanded from the original complaint or to become too diffuse...There is neither contrary evidence nor any good reason at all to doubt Mrs Miller's explanation. As such her evidence of the facts should be accepted."*

87. The document then sets out the facts, with more detail concerning Mrs Miller's parents' situation. Its author argued that the costs of maintaining a second home were greater than the expenses which Mrs Miller was able to claim, so she was not housing members of her family at public expense, and in fact her family were worse off financially as a result of having two homes. The author considered the designation of Mrs Miller's main home and suggested that the designation of the home made no material difference to her claim. He/she asserted that

> *"The expenses claimed were plainly all for allowable expenditure within the Additional Costs Allowance as set out in Section 3 of the Green Book during the relevant period."*

He/she concludes that the complaint is groundless and there is no substance in it.

88. When I wrote to Mrs Miller on 18 July[64] I said that I intended to seek the advice of the House authorities on the complaint. I summarised the factual information she had given and asked her to let me know if the summary was accurate. Mrs Miller responded on 5 August[65] saying that she was

> *"not sure why this further stage should have been necessitated by my document when that document sought clearly to show why the complaint is unwarranted. Indeed given the clear explanation set out in that document as to why the complaint made is without proper foundation, is not the right course now for the inquiry to be concluded?"*

She objected that the consultation would mean more time elapsed and said she was not content with the summary of facts in my letter. She asked me instead to send to the House authorities her document sent on 1 July.

89. After further exchanges Mrs Miller wrote on 12 September[66] to give consent to my sending the papers to the House authorities, albeit with some continued reservations and again raising issues of procedure. I replied the same day[67] to say that once I had the advice of the House authorities I would meet with her and would discuss the issues of procedure with her at that stage as well as the advice I had received.

90. I then wrote to Mrs Miller on 10 October[68] to make arrangements to see her. Since I was not able to meet her on the only date which was possible for her, I wrote to her on 23

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October.[69] I said that I would begin to draft the report and then arrange a meeting if necessary; or else I would send her the draft report together with the evidence. I asked again about the increase in the mortgage. On 6 November Mrs Miller wrote to me asking me to send her a copy of the Director-General's letter at that stage.[70] In response to my question about the mortgage advance she said,

> *"I am not sure I am able to assist you further. The matter was over 6 years ago and I am reluctant to speculate without attempting to locate any documents on the subject if I still have any. My point in relation to Sir Thomas Legg's report is that his remit was 'to determine the validity of payment of the additional costs allowance (ACA) made to Members of Parliament during the period April 2004 to March 2009...' He had the same principal documents you have and the remortgage was something on the face of the papers which was under his consideration and was within his remit. In contrast, as your letter indicates, it does not seem that this is a matter which is relevant to your inquiry."*

91. I replied on 11 November.[71] I explained that the questions I was considering were:

- Whether she made claims against her additional costs allowance and personal additional accommodation expenditure from May 2005 to April 2009 which provided her parents with an immediate benefit and did not take full account of their living costs;

- Whether her designation of her Basingstoke properties as her main home was in accordance with the rules of the House from May 2005 to March 2009; and, overall,

- Whether the claims she made were, in accordance with the rules on the Additional Costs Allowance (ACA) from May 2005 to March 2009, for expenses wholly, exclusively and necessarily incurred when staying overnight away from her main residence for the purpose of performing her parliamentary duties (and from April 2009, that the expenses were necessarily incurred to ensure that she could perform her parliamentary duties);

92. I also asked Mrs Miller about the successive mortgage arrangements which she had from 1996 to 2009 and to confirm whether, as alleged by the complainant, the purchase price of her London home was £234,000. I asked her to set out the size of the different mortgages or loans which she had held against the property. I said that I realised that this might require her to locate the documents relating to these mortgages or loans, but since I presumed she had referred to some of them when producing the figures which she sent me on 3 January, I hoped this would not be too time consuming.

93. I also asked Mrs Miller how she calculated the figures she gave for mortgage interest in her table of 3 January. I noted that these differed from those given in the letters from RBS which were lodged with the Fees Office for those years. I asked her to explain how she arrived at her

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figures and the reasons for the discrepancy. I also asked Mrs Miller about the nature of the accommodation she had in London and to set out, for each of the years from May 2005 to April 2009, who lived in the house and when they would have been in residence; and how the house was used and by whom, with estimates of the frequency of use. I noted that Mrs Miller had told me that the house was not closed during the summers from 2005 to 2009 when she and her family lived in Basingstoke, but that she, her husband and family used it "as required", and I asked her to explain this.

94. I noted that I had not previously emphasised the question about the mortgage advance in my last letter. I said that my concerns were not new. I reminded Mrs Miller that in his initial letter to her on 12 December 2012[72] my predecessor had asked her in detail about the arrangements for her London home, including the mortgage arrangements, the nature of the accommodation and who else lived there whether permanently or otherwise.

95. Mrs Miller wrote to me in some detail on 26 November.[73] She said that the Director-General's letter vindicated her approach and that it was clear that my inquiry should be concluded on the basis of the analysis which she had sent to me in July. She said that there seemed to be an implication that she had not sufficiently assisted my inquiry, and *"Any such implication would be entirely untrue."*

96. She disputed the validity of the third question I said I was considering, which related to her claims against the allowances from 2005 to 2009, which she said was outside the scope of my original inquiry. She asserted that there was no justification for reopening matters covered by the Legg inquiry. She also said that

> *"If I were to self-refer my ACA claims between 2005 and 2009 to you, pursuant to paragraph 8 of the Procedure for Inquiries you would have no jurisdiction to consider this question unless (a) there were exceptional circumstances and (b) the Committee authorised the inquiry ... If the Committee were to be asked for authorisation, I would have to set out for the Committee why there are no circumstances that could begin to justify the inquiry."*

97. Mrs Miller said

> *"The actual inquiry commenced as long ago as 12 December 2012. It has therefore been ongoing for a year. As such, I have been exposed to considerable prolonged speculation, repeated adverse and inaccurate comment, and injurious and untrue accusations. These are both hurtful and damaging ... After all this time, the public and I must now be entitled to a resolution.*
>
> *No complaint can conceivably be sustained on either of [the] issues [raised in the original complaint] and both of those issues can permit of only one answer, for the complaint to be not upheld ... I would respectfully ask that you bring your enquiry on those issues to a conclusion."*

72 WE3

73 WE42

98. In response to my questions about the 2007 increase to her mortgage, Mrs Miller said

> *"I cannot see how this fits in with the complaint made against me or the proper scope of the inquiry which has been under way over the last year."*

She concluded

> *"If you do not agree with the way forward that I have proposed, I should be grateful if you would let me know, setting out why. I shall of course consider any explanation and any alternative proposals from you. It may be that I shall need to refer this to the supervisory jurisdiction of the Standards Committee but I hope that this can be avoided."*

99. I responded to Mrs Miller's letter on 5 December[74] setting out the reasons why I considered that my additional questions were relevant to the original complaint and why they had arisen at this stage. I offered Mrs Miller two appointments to see me or the option of contacting my office to make another arrangement and said that if I did not hear from her I would finish my memorandum to the Committee to the extent that I was able and would then follow the usual processes to conclude my work.

100. Mrs Miller responded on 12 December[75] and said that the issue of whether my further questions were within the proper scope of my inquiry needed to be resolved first before further investigations could be pursued into those matters. She argued that the original complaint was not about her mortgage; but only stated that her position was identical to that of Mr McNulty. She said that I was proposing a novel interpretation of the rules which had never previously applied and which would in effect create a form of retrospective legislation. Mrs Miller said

> *"I did not seek to gain an improper advantage from the expenses system or to apply it other than properly, and of course you are aware that the Director-General has vindicated my approach in relation to my family circumstances ... In the light of the matter set out in this letter and my previous letter surely we have now reached the point where the investigation should come to an end."*

101. Mrs Miller finished her letter by saying

> *"However, if you still wish to pursue the new matters which I consider are manifestly outside the terms of your investigation and beyond the scope of the inquiry ... I cannot agree to [a meeting] unless it has been considered and formally sanctioned by the Standards Committee. If we are in the position where you wish to pursue the new matters, therefore, I think it is for me to write to the Standards Committee setting out my concerns. I should be grateful if you could let me know at the earliest opportunity as to whether it is necessary for me to do this."*

74 WE43

75 WE44

102. I replied to Mrs Miller on 20 December[76], thanking her for the additional information on the original mortgage and expressing concern that we were still not in agreement about the scope of the inquiry. I explained that in the light of her concerns I had again reviewed my recent letters and the procedural note approved by the Standards and Privileges Committee. I explained the process again but said that in fairness to her I thought that I should advise her that I had been considering precedents in relation to the issues concerning her and that I thought I should make her aware of this at this stage. I listed for her a number of cases determined by the previous Commissioner which I thought were relevant and said that I would include brief summaries of relevant cases in the factual part of my report so that she would be fully aware of the issues I was addressing. I told Mrs Miller that while I remained willing to see her I would now conclude my report as quickly as possible and advised her that if she had concerns about my authority to investigate her mortgage claims she should raise them with the Standards Committee as soon as possible so that they could be considered before I presented my findings.

103. In the event Mrs Miller decided not to write to the Committee but wrote again to me on 4 January[77]. She argued that my predecessor's questions about the mortgage were to "*establish a factual* background *with regard to a specific allegation"* and continued to maintain that I have been attempting to start a new inquiry. She suggested that she had understood from my previous letter, in which I said I did not need to pursue further factual inquiries, that I was no longer maintaining my position and she therefore did not need to *"trouble the Standards Committee"* unless she was incorrect. Mrs Miller discussed the precedents which I had advised her might be relevant and asked me to be more specific.

104. I responded to Mrs Miller on 9 January[78] expressing concern about her approach and advising her that I had now completed the draft of the factual part of my Memorandum. I sent this and the evidence compiled at the beginning of January. I asked Mrs Miller to respond to me with any comments on factual accuracy by 20 January which she did. I have considered and accepted many of her amendments and all the recent letters have now been added to the evidence.[79] With regard to Mrs Miller's concerns about the scope of my inquiry she has asked me to highlight to the Committee the letters in which she sets out her position in detail. I accept that she may feel that my necessarily brief summaries in the context of this report do not do full justice to her arguments and am happy to do this. The relevant letters are the report of 1 July,[80] and the letters of 26 November, 12 December, 6 January and 17 January.[81]

Statement of Facts

i) In 1996, Mrs Miller and her husband bought a house in London for around £237,500 with a mortgage of approximately 90% of the value, i.e. around £215,000. Between

76 WE45

77 WE46

78 WE47

79 WE48, WE49

80 WE25 and 26

81 WE42, 44,46 and 48

1996 and 2005 as property prices rose Mr and Mrs Miller increased the mortgage on the house. When Mrs Miller entered Parliament it stood at around £525,000 (an increase of over £300,000). The mortgage was increased by a further £50,000 to £575,000 in November 2007;

ii) Since 1996, Mrs Miller's parents have lived with her and her husband and children. During the period from May 2005 to April 2009 they were financially dependent on her and made no financial contribution to the household;

iii) In 2003, Mrs Miller was selected as a candidate for the Basingstoke constituency. She began to rent a house in that constituency in June 2003. Her family has had two homes since that time;

iv) Mrs Miller was elected in May 2005. In July 2005 she moved to a different home in her constituency. She moved again in February 2009;

v) From the time of her election in 2005 until 2009, Mrs Miller designated Basingstoke as her main home for the purposes of the allowances. Since 2010 she has claimed costs in relation to her Basingstoke home.;

vi) Between May 2005 and April 2009 Mrs Miller claimed against her parliamentary allowances for the cost of her London home. In each financial year the costs of her second home were greater than the amount she was able to claim;

vii) When the House of Commons was sitting, Mrs Miller would usually spend Monday to Wednesday nights in her London home and Thursday to Saturday nights in her Basingstoke home, although this did vary from time to time depending on her duties in the House and on her appointments in her constituency. Some Sunday nights were spent in London, and some in Basingstoke;

viii) During the recess, Mrs Miller spent the majority of her time in Basingstoke. In three weeks of September, she spent about three nights a week in London;

ix) Mrs Miller's parents, husband and children also divided their time between London and Basingstoke. During the school term, the rest of the family usually travelled to Basingstoke on a Friday evening and spent the weekend there. During the school holidays, the family was based in Basingstoke. When Mrs Miller was on annual leave, her parents remained in Basingstoke;

(There is no evidence to corroborate the above description of how the family moved between the two houses but neither have I any reason to doubt it.)

x) All Mrs Miller's children began their education in London. Mrs Miller's eldest child moved to boarding school in Hampshire in September 2005. In September 2008 her second child, who had been at school in London, moved to a different boarding school in Hampshire. Her third child remained in school in London at the end of this period.

xi) In 2005, after she had been elected, Mrs Miller sought advice from the Fees Office about the designation of her main home. She explained that she had a large family, which comprised her parents, husband and three children, and that the whole family spent time in both the London and Basingstoke homes. The Fees Office advised that she should designate as her main home the home where she spent more nights than any other.

xii) Mrs Miller considers the statement of facts set out under the heading "*The Relevant Facts*" in her report of 1 July 2013 to be more complete and important to consider[82].

Mrs Miller's case

105. Mrs Miller's letters, particularly those from 1 July onwards, set out her arguments in detail. I have summarised here the enclosure attached to her letter of 1 July. The full text of this is included in the evidence[83].

106. It is very clear from her evidence, and not disputed, that Mrs Miller's situation is not the same as that of Tony McNulty and that the complaint is inaccurate in alleging this. Mrs Miller's parents lived together with her and the remainder of her family as one family unit in the same house and had done so for nine years before she entered Parliament. She has not maintained two homes in order to provide housing for her parents in a second home. Mrs Miller suggests the real issue is whether because her parents were living with her in her second home she was therefore not permitted to claim expenses for that home. She says that all the expenses claimed were plainly for allowable expenditure within the ACA as set out in the relevant Green Books for the period.

107. Mrs Miller says that the complaint is purely and simply about the residence of her parents and not directly about the designation of her homes, and she has been concerned that in the interests of fairness the inquiry should not be unduly expanded or become too diffuse. Mrs Miller contends that her evidence has been given in good faith and is plainly and incontestably true, and that as such, her evidence of the facts should be accepted.

108. Mrs Miller has given detailed information about the way in which her family divided its time between the two homes. She designated her Basingstoke home as the main home because she normally spent more nights there than any other. She twice consulted the Fees Office about her designation, including specific reference to her parents living with her and was told the designation was correct and in accordance with the rules. She considers that it was mandated by the Green Book. There was no financial advantage to her as to which home was designated as her main home and the cost of maintaining each home was above the ACA limit for claims. Mrs Miller had looked after her parents for many years and her claims were in no way increased to look after them. They received no financial benefit from her expenses. The issue is therefore only whether Mrs Miller's claims were wrong because her family unit

82 WE26

83 WE26

included her parents. In this situation an adverse finding would be retrograde and discriminatory.

109. Mrs Miller also makes the point that she had family and caring responsibilities long before her election as an MP. It would be wrong for this to be held against her and if her parents had not been allowed to travel and stay with her she could not have fulfilled her public duties. The IPSA consultation paper of January 2010 recognises this and says

> *"Nobody should be deterred from becoming an MP because it could not be combined with the duties of a parent or carer. We believe this is sufficiently important to justify the use of public funds to allow MPs with responsibilities for caring for others, to allow them to rent accommodation which is more spacious than would be necessary if they lived alone."*

110. Mrs Miller concludes that the complaint should not have been made. It is groundless and there is no substance in it. Once the true facts are known it becomes clear that the complaint is empty. The only proper resolution is that it should not be upheld.

Process Issues

111. Towards the end of my inquiry Mrs Miller raised procedural issues and was unwilling to answer my questions about her mortgage interest claims until these were resolved. She argued that;

- The level of mortgage interest against which she claimed ACA was not part of Mr Mann's complaint and that I should not extend my inquiry to cover it because it is an entirely new issue.

It is clear from Mr Mann's original letter for complaint that this issue is part of the matters into which he wished me to inquire.[84] He could not however have been expected to give me the detailed information revealed by this investigation. The mortgage issues are also raised in the Daily Telegraph article which my predecessor mentions and encloses with his letter to Mrs Miller[85].

- The information required to address this issue involves matters which date back some 17 years and nine years before she became a Member. I have no authority to ask questions about that time and if such an analysis were applied generally I might need to look back into the affairs of some Members for 30 to 40 years.

112. The original value of Mrs Miller's house is a matter of public record following the media coverage in late 2012 and is stated in the original letter of complaint. The evidence I have used in this memorandum is derived from Mr Mann's letter and records of Mrs Miller's ACA claims held by the House, which she gave me permission to seek from the Director-General of Human Resources and Change[86] The information retained in Mrs Miller's ACA records

84 WE2

85 WE3

86 WE10

confirms that when she was elected her mortgage stood at £525,000 and that at the end of 2007 she increased it to £575,000. Bank statements are available covering the months from November 2007 to March 2008, which show that during this period, after offsetting the interest received on another, smaller, savings account, she continued to claim for interest on a loan equivalent to around £525,000. This information has been sufficient to enable me to determine this issue beyond reasonable doubt.

113. In addition to this, there are precedents in relation to the Commissioner's consideration of the purchase of property and the level of mortgage interest claimable, when these date back to before the time that a Member was elected to the House. In particular the previous Commissioner, in the course of his inquiries, considered the arrangements made by Alan Duncan[87] to purchase a house six years before he became a Member, and the mortgage arrangements made by George Osborne shortly before his election.

- Sir Thomas Legg has already reviewed her expenses and has concluded that there were no issues. I have no remit to reopen this matter

114. There are already precedents for the Commissioner to investigate matters which were in part considered by the Legg review. In particular in the matter of Mackay and Kirkbride the Committee agreed with the Commissioner that the audit and appeal process followed by the Legg review did not enable the House itself to form its own view on whether the rules of the House had been breached and it was therefore appropriate for the Commissioner to inquire.

115. Some of the matter which I am setting out here would not have been clearly apparent to Sir Thomas from examining the papers available to the Fees Office without the additional information of the amount of the original mortgage.

- In looking at these matters I am proposing a new interpretation of the rules on which there has been no guidance. I am introducing retrospective requirements and penalising members for matters not contrary to the rules at the relevant time.

116. The guidance contained in the Green Books for 2005 and 2006 is clear on this matter. When Mrs Miller entered the House in 2005 she was entitled to claim against interest payments on her original mortgage but not for subsequent additions to that mortgage. From 2006 she was entitled to claim for the mortgage interest repayments on any increase agreed by the House authorities, for example for repairs. However, she increased her mortgage by a further £50,000 in 2007 and there is no evidence that she informed the Fees Office of this or requested their permission. Wider rules also cover the need to ensure the proper use of allowances and the limitations on what is allowable are clear.

Conclusions

117. Throughout my inquiry it has been difficult to establish information and evidence to the standard of proof which I would have wished. This is in part because of the length of time since some of the relevant events took place. There is also a lack of supporting evidence. It is

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not clear whether some documents which might have provided have ever existed. For example there are no notes of conversations between Mrs Miller and the Fees Office in 2005 or 2006, no forms designating Mrs Miller's second and third homes in Basingstoke as her main homes, no correspondence applying for permission to claim the interest on the increase in her mortgage in 2007, and no rental agreement for her third property in Basingstoke.

118. It has also been difficult to find evidence to corroborate information provided by Mrs Miller. For example, despite sustained efforts I have not been able to find evidence to support the information she has given me about the number of nights she spent at each of her properties. Mrs Miller relies heavily on this number as the reason for her decision to designate her Basingstoke home as her main home. Equally, it is true that I have found no evidence to gainsay what she has told me; and this should not be held against her. However, I should add that many of her responses to my questions have been very general and required repeated probing. This has added considerably to the length of my inquiry. I have reached a conclusion in relation to Mrs Miller's designation of her home on the balance of probabilities, and in the event this does not rely on a determination of the number of nights which she spent in her Basingstoke home.

119. I have considered three questions;

a) Was Mrs Miller's designation of her main and second homes correct?

b) Did Mrs Miller or her parents receive an immediate financial benefit from public funds by living in her designated second home, and if so, did Mrs Miller reflect this in her claims?

c) Were Mrs Miller's ACA claims made in accordance with the rules and guidance of the relevant period?

I consider each of these issues in turn:

a) Was Mrs Miller's designation of her main and second homes correct?

120. While no record exists of Mrs Miller's discussions with the Fees Office at the time she was elected, I have no reason to doubt that she did discuss the designation of her homes with them, or that she told them that she anticipated at that time that she would spend more nights in Basingstoke than in London and that she had a large family. The Director-General of HR and Change has told me that

> *"this would have been sufficient information to allow my Department to agree that it was correct for Mrs Miller to nominate her Hampshire property as her main home, with the consequence that her London property was her second home for ACA purposes. I agree, therefore that the designation of the homes was correct."*

121. The guidance given to Members concerning the designation of their homes for the purpose of ACA, in the Rules relevant from May 2005 to March 2009, was that

> *"The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other."*

In other words, the location of the main home would normally be a matter of fact and the question of nights only became relevant if it was not. If the Fees Office were in full possession of all the relevant information when they advised Mrs Miller to designate her Basingstoke home as her main home on the basis of where she expected to spend her nights, they were, in my view, wrong for the following reasons.

122. The Basingstoke home, which Mrs Miller designated as her main home, was not a permanent base for her and her family; the tenancy agreement for the property which she had rented in 2003 while campaigning in the constituency had already expired. Mrs Miller moved to a second property at the end of July 2005, and to a third in February 2009. The first rented property had three bedrooms and the second and third properties had four, which suggests that the accommodation they provided for Mrs Miller's extended family was less spacious than that of her five bedroomed London home.

123. Before she first rented a home in Basingstoke in 2003, Mrs Miller's home was in London, in the five bedroomed house which she and her husband had bought with a mortgage in 1996. She had welcomed her parents and brothers to live with her towards the end of the same year, and her parents have continued to live with her since that time. She and her husband had over the years undertaken a number of repairs and improvements to the property. London was also where her husband worked and where each of her children in turn went to school. In 2010, having claimed no costs for about a year, she decided to claim for the costs of staying in Basingstoke under the IPSA scheme.

124. In my view Mrs Miller's London home would have been maintained in any case, even had she not been an MP. The statement provided by Mrs Miller's legal adviser said that she had to have a second home *"exclusively and necessarily for her parliamentary duties"*. It cannot be said that her London home was established or maintained "*exclusively and necessarily for her parliamentary duties*". I consider it more likely than not that Mrs Miller's London home was her main home, as a matter of fact, and that the expenses which she incurred on staying away from her main home in order to perform her parliamentary duties were those associated with the Basingstoke properties. On the balance of probabilities I find therefore that Mrs Miller should have used her discretion to nominate her London home as her main home for ACA purposes from May 2005 to March 2009.[88]

125. Although it is not a matter on which I need to reach a conclusion, I also think it unlikely that any of the Basingstoke properties were the main home for Mrs Miller's family. I think it likely that Mrs Miller's main family home remained in London, and that this was the home exerting the "gravitational pull" including during the summer months, when she initially told me that her London home was "unused". When Mrs Miller's two elder children moved to schools in Hampshire, it was to boarding school, and throughout this period she had at least

88 The rules changed from April 2009. The March 2009 Green Book allowed Members freedom to designate any UK residence as their main home.

one child at school in London. *Mrs Miller's estimates of the utility and other bills incurred at her London home over the period, and the invoices provided for 2008–09, do not support the idea of a house that was (except for the month of September and the occasional exception at other times) unused during the 19 to 20 weeks of Parliamentary recess each year, and from Friday to Sunday evenings during sitting periods.*

126. If my conclusion about the designation of Mrs Miller's home is accepted by the Committee, and I fully accept that the matter is finely balanced, it follows logically that her claims for her London home were not valid. I have received no evidence that Mrs Miller designated her main home other than in good faith, or that she was motivated by financial gain. Mrs Miller has informed me, and I accept, that the costs of the Basingstoke properties, had she designated them as her second homes, would also have been above the ACA limits. If, as she has told me, the Fees Office advised her to designate her Basingstoke properties as her main home, that is a mitigating factor, although I do not agree that she was bound to follow their advice. I also accept her assurances that she sought to do what was *"fair and reasonable throughout."*

127. However, the Committee may equally take the view that in all the circumstances Mrs Miller's designation of her homes was reasonable, and I have for this reason also considered the second and third issues raised by the complainant.

b) Did Mrs Miller or her parents receive an immediate financial benefit from public funds by living in her designated second home, and if so, did Mrs Miller reflect this in her claims?

128. The complaint made by Mr Mann was that Mrs Miller had put herself in the same position as Tony McNulty in 2009-10. He said;

> *"the arrangement Mr McNulty made in accommodating his parents rent-free... provided an immediate benefit or subsidy from public funds to him and through him to his parents. Such a benefit was specifically prohibited by section 3.2.2 of the Green Book Rules of July 2006 and it was against the spirit of the previous rules."*

129. The circumstances of the two Members are not similar. Mr McNulty[89] permitted his parents to live in a house in which he occasionally stayed overnight, but which was their permanent home. As has already been made clear, Mrs Miller's parents moved to London to live with her in 1996. She tells me that they are fully part of the family unit and her evidence on this point is supported by the family history. I do not doubt it.

130. It is clear from the Committee on Standards and Privileges' discussions of other cases that that Committee has accepted that it could be appropriate for family members to live with a Member in that Member's second home for which they were claiming ACA, provided that this was not at the public expense. I agree with the principles set out in the IPSA paper quoted by Mrs Miller. However, Mrs Miller's actions must be judged against the rules which applied

89 Committee on Standards and Privileges, 10th Report 2008–09

at the relevant time, which was before IPSA was established. The need for transparency in any such arrangement becomes significant.

131. My predecessor noted that Mr McNulty did not claim against his allowances for the full costs of his second home, but reduced the costs which he claimed. The Commissioner said about this reduction,

> *"there was an informal and undocumented arrangement. It was not in my view an acceptable basis on which to claim public money. It provided no audit trail ... It avoided the spirit of the Green Book Rules ... By not fully and transparently excluding his parents' living costs from his claim ... I conclude that Mr McNulty was in breach of the rules of the House by claiming for the living costs of someone other than himself."*

132. In the case of Mrs Main, the Standards and Privileges Committee agreed that,

> *"any abatement should have been formal and should have been notified to the Department of Resources as such..."*

133. Should arrangements such as this be made to accommodate members of the extended family, it was important that they were discussed very specifically with the Fees Office and that clear financial accounting procedures were in place to ensure that claims were appropriately reduced and that the Fees Office was aware of this. Mrs Miller told me that she informed the Fees Office about the presence of her parents in the household, but there is no evidence that she asked for advice, or that it was ever given, about the question of reducing her claims, and no record of any discussion. As my predecessor has said, this is not an acceptable basis on which to claim public money.

134. The Director-General suggests that if a formal arrangement were made an abatement of 2/7 of the overall costs of the household would have been appropriate. In Mrs Miller's case, it appears that if she had abated the costs of her London home, and reduced them by 2/7 from May 2005 to April 2009, she would still have been able to claim allowances to the maximum permitted because the household expenses[90] were above the ACA ceiling in each year:

Year	**2005–06**	**2006–07**	**2007–08**	**2008–09**
Maximum ACA	£21,634	£22,110	£23,086	£24,006
Estimated expenses	£35,734	£37,654	£42,348	£34,689

135. However, in reviewing Mrs Miller's expense claims over the period in question there is another matter to be considered.

90 Mrs Miller's estimates WE5

c. Were Mrs Miller's ACA claims made in accordance with the rules and guidance of the relevant period?[91]

136. In her letter to me of 12 December 2013, Mrs Miller provided the following additional explanation of the increase in her mortgage since the original purchase in 1996:

> "Over the subsequent years we necessarily set about carrying out work at the property. This was done on a piecemeal basis. This work was substantial and related to every part of the house. As property prices rose from the mid 1990s onwards, we were able to fund this from further advances on the mortgage."

Mrs Miller was of course entitled to make whatever arrangements she saw fit in respect of her mortgage before she entered the House. This investigation is concerned only with the claims for mortgage interest that she made against the ACA following her election in May 2005.

137. Paragraph 3.11.1 of the 2005 Green Book, which was in force when Mrs Miller entered the House, made plain that the mortgage costs which could be claimed were

> *"limited to the interest paid on repayment or endowment mortgages, legal and other costs associated with obtaining (and selling) that home (eg stamp duty, valuation fees, conveyance, land search, removal expenses)"*

and that Members could not claim for *"interest on any additional mortgages, advances or loans secured on the same property"*. Between May 2005 and June 2006, Mrs Miller was therefore not entitled to claim for interest on a mortgage in excess of the original £215,000.

138. In July 2006 these rules were changed and Members were permitted to claim, subject to prior consultation with the Fees Office, for "*increases to mortgage costs (ie: re-mortgaging) to pay for improvements to a property.*" A similar rule was included in the Green Book which applied from April 2009.

139. Mrs Miller moved her mortgage to a different lender at the end of 2007, and at the same time she increased it by £50,000 to £575,000. Although when she signed the ACA1 nomination form in June 2005 Mrs Miller had certified that

> *"I understand that I must tell the Members' Allowances Section in advance about any substantive change to the financial arrangements for these homes, such as changes to the value of mortgages and bank loans,"*

there is no evidence that Mrs Miller discussed these changes with the House authorities and she has not suggested that she did so. The interest on the additional £50,000 is therefore not an allowable claim.

140. Even if Mrs Miller had consulted the Fees Office, the rules would not in my view have permitted claims for the interest on a loan which partly or wholly paid for improvements undertaken in the years before she became a Member. I therefore conclude that during the

91 Figures have been amended to reflect information provided by the Commissioner in her letter of 13 February 2014, the amendments relate specifically to paragraphs 142, 147 and 155. The Commissioner's letter is available at Appendix 2

period from July 2006 to April 2009 she was not entitled to claim for interest on any of the mortgage in excess of the original £215,000. I believe the evidence that she did so is beyond reasonable doubt.

141. I have considered Mrs Miller's concerns about my investigation of her claims for interest on her mortgage very carefully and believe that these claims are an intrinsic part of the complaint put to me by Mr Mann and that my interpretation is consistent with the rules set out in the Green Books of 2005 and 2006. Precedents determined by the Committee on Standards and Privileges support my interpretation but it is a matter for the Committee as to whether they wish to be bound by these.

142. On the basis of the information available about the mortgage interest charged by Mrs Miller's lender in three of the five years covered by the complaint, which relate to a loan of approximately £525,000, it is possible to calculate on a rough basis the interest which she would have been charged on a mortgage of around £215,000, the approximate size of her original mortgage. My figures are set out below:

Estimate of mortgage interest payable on loan of £215,000[92]

Year	2005–06 (11 months)	2006–07	2007–08	2008–09	2009–10 (April 2009 only)	Total
Mortgage interest claimed	£15,829.00	£17,268.00	£17,788.00	£19,264.63	£164.68	£70,314.31
Mortgage interest paid by Mrs Miller	£16,168.25	£24,880.82	£30,736.00*	£21,530.00*	£164.68	£93,479.75
Mortgage interest which would have been claimable, assuming loan of approx £215,000	£6,621.28	£10,189.29	£12,587.12	£8,817.05	£67.44	£38,282.18

**Complete interest statements are not available for these years. In my calculations, I have therefore relied on Mrs Miller's own estimates of the mortgage interest paid.*

143. This table suggests that if Mrs Miller had claimed the interest on a loan of this size, she would have been able to claim around £38,000 instead of the £70,314 she actually claimed from 2005–06 to 2009–10. On this basis, over the period covered by the complaint, Mrs Miller claimed around £32,000 in interest payments to which she was not entitled. (In view of the time which has elapsed since these costs were incurred, and the information available, it would not be realistic to attempt calculations in more precise terms.) If these figures are accepted, Mrs Miller's costs then fall below the ACA ceiling and abatement in respect of her parents' living costs becomes an issue.

92 Some figures in the table have been amended to reflect the Commissioner's amendments in her letter of 13 February 2014. This letter is available at Appendix 2

The living costs of Mrs Miller's parents

144. I now return to the issue of the amount by which Mrs Miller's claims should have been abated to take account of her parents' costs. The Director-General has suggested that it would have been right for Mrs Miller to have reduced her claims by 2/7 to take account of her parents' presence in the household. I accept this.

145. The only costs associated with Mrs Miller's constituency homes which I have been able to establish with reasonable certainty are the rental costs. The table below shows that if she had designated her constituency homes as her second homes from May 2005 to March 2009[93] and if she had reduced her claims by 2/7 to take account of her parents' presence in the household, she could have claimed around £54,000 for rent over the period. I have not been able to establish the other costs associated with these properties, but I consider it likely that if Mrs Miller had claimed for these, also reduced by 2/7, her claims would have been at or around the ceiling of the relevant allowance from May 2005 to March 2009.

Effect of 2/7 reduction on constituency home rental

Year	2005–06 (11 months)	2006–07	2007–08	2008–09	Total
Rental	£17,100.00	£18,000.00	£19,200.00	£21,000.00	£75,300.00
5/7 of rental	£12,214.29	£12,857.14	£13,714.29	£15,000.00	£53,785.71

146. Since the Committee may take the view that Mrs Miller was correct in her designation of her home for ACA purposes I have also estimated the amount Mrs Miller could legitimately have claimed against her allowances, if reduced by 2/7, assuming it was thought that she was within the rules to claim for the interest on her original, £215,000 mortgage on her London home. I have also considered what she could have claimed for council tax on that home, had she reduced her claims by 2/7 to take account of her parents' presence in the house. The figures are set out below.

93 I do not find that Mrs Miller's designation of her homes was against the rules in April 2009, following the change in the rules which took effect that month.

Effect of 2/7 reduction on mortgage interest and council tax claimable

Year	2005–06 (11 months)	2006–07	2007–08	2008–09	2009–10 (April only)	Total
Effect of 2/7 reduction on mortgage interest claimable						
(a) Mortgage interest actually claimed	£15,829.00	£17,268.00	£17,788.00	£19,264.63	£164.68	£70,314.31
(b) Mortgage interest which would have been claimable, assuming loan of approx £215,000	£6,621.28	£10,189.29	£12,587.12*	£8,817.05*	£67.44**	£38,282.18
(c) 5/7 of interest on original £215,000 mortgage ((b) above)	£4,729.49	£7,278.06	£8,990.80	£6,297.89	£48.17	£27,344.42
(d) costs claimed in excess of 5/7 of mortgage interest on £215,000 loan (excess of (a) over (c))	**£11,099.51**	**£9,989.94**	**£8,797.20**	**£12,966.74**	**£116.51**	**£42,969.89**
Effect of 2/7 reduction on council tax claimable						
(a) Council tax: costs claimed	£1,650.00	£1,800.00	£1,800.00	£2,101.52	Not claimed	£7,351.52
(b) Council tax: actual rate	£1,900.42	£2,171.05	£2,257.34	£2,335.52		£8,664.33
(c) 5/7 of council tax rate	£1,357.45	£1,550.75	£1,612.39	£1,668.23		£6,188.81
(d) costs claimed in excess of 5/7 (excess of (a) over (c))	**£292.55**	**£249.25**	**£187.61**	**£433.29**		**£1,162.71**

**Complete interest statements are not available for these years. In my calculations, I have therefore relied on Mrs Miller's own estimates of the mortgage interest paid.*

***The figure quoted for 2009–10 is based on the interest Mrs Miller paid in April 2009, to which were added any credits for interest received on another account.*

147. If my arguments are accepted, Mrs Miller could properly have claimed just over £27,000 for mortgage interest, and just over £6,000 for council tax: a total of £33,500 under these two headings, as opposed to the £77,665.83 which she did claim. She should have reduced her council tax claim by around £1,000 to take account of her parents' presence in the household, and her mortgage interest claim by approximately £43,000 to take account of the extensions to her mortgage as well as her parents' presence in the household: a total reduction of around £44,000.[94]

94 The amount by which claims should have been reduced by has been amended to reflect the Commissioner's amendments in her letter of 13 February 2014. This letter is available at Appendix 2

148. I have insufficient evidence to be able to set out with certainty the other running costs of Mrs Miller's London home. However, in January 2012 she provided her own estimates of these, which suggest that in each year from 2005–06 to 2008–09, the amounts she claimed under the headings of utilities, cleaning, maintenance/repairs/furnishings/ insurance and telecoms were less than 5/7 of the total costs incurred. The only cost which she claimed in full was a £80 parking permit in 2005–06.

149. In 2009–10 Mrs Miller did not claim for anything other than the mortgage interest for the month of April. She has also said that she would have been entitled to claim for her food costs in each relevant year, to a total of £480 a year.

Concluding Summary

150. This report has considered three interrelated issues at some length and arrived at what are potentially very serious conclusions relating to a matter which continued over the space of four years. Since a very early initial meeting to discuss the process it has not been possible to arrange to meet Mrs Miller and the Standards Committee may think that it would be helpful to take more evidence from Mrs Miller at this stage, if they consider that there are unresolved issues.

151. The first issue was the designation of Mrs Miller's main home, which was a decision for her to make. It is my view on the balance of probabilities that Mrs Miller should have used her discretion to nominate her home in London as her main home between May 2005 and the end of March 2009, when the rules changed. If Mrs Miller had decided that her London home was her main home she would have been entitled to claim against the ACA in respect of the rent and other costs of the Basingstoke homes. She herself says this would have made little financial difference.

152. The decision Mrs Miller made impacts upon the second issue. Throughout the period 2005–09 Members were not allowed to claim for *"Living costs for anyone other than yourself"*. In addition, the Green Book for July 2006 included the following principle in paragraph 3.3.2:

> "You must avoid any arrangement which may give rise to an accusation that you are, or someone close to you is, obtaining an immediate benefit or subsidy from public funds ..."

153. This Memorandum supports the view that the rules in place for Members should not discriminate against certain groups by making it more difficult for them to enter the House. Members may have caring responsibilities and may have wider family living with them. This was Mrs Miller's position and the arrangements she had made with her parents were already long-standing when she became a Member of the House. There can be no criticism of her in relation to her personal, caring responsibilities and her desire to combine these with the role of an elected representative. However, as with any other career, she could not expect her employer, or in this case the public purse, to contribute to the living costs of her parents, and this was specifically contrary to the rules in place at that time. Mrs Miller did not make any formal arrangements by which she could demonstrate transparently that she was not claiming for their costs. I accept that the practices in relation to Members' claims in 2005 fell short of

what would be expected in 2014, but the lack of abatement resulted in the inappropriate use of public money.

154. Finally, I have established beyond reasonable doubt that between June 2005 and April 2009 Mrs Miller claimed for mortgage interest against a mortgage significantly larger than the one required to purchase her property; that she further increased her mortgage without the knowledge or agreement of the House authorities in 2007; and that she then made continued claims for interest against the new amount, albeit offset by interest generated by another account.

155. I recognise that the matters which are the subject of this report are now old, some dating back nearly nine years. Some of the mortgage increases may have occurred several years before Mrs Miller was elected. However, once she was elected, it was Mrs Miller's responsibility as a Member making claims against the ACA to ensure that she was familiar with, and abiding by, the rules relating to Members' claims set out in the Green Books. She should also have sought advice if she was in doubt about the interpretation of those rules or their application to her circumstances. My comment about transparency relates to this issue as well. In particular I find it difficult to believe that Mrs Miller genuinely thought she was entitled to make the additional claim for her extended mortgage in 2007 without any consultation with the House authorities or agreement from them. If the Committee agrees with my interpretation of the rules, the total amount by which Mrs Miller has over-claimed in relation to her mortgage interest would be around £44,000[95], to which should be added a further £1,000 to take account of the reduction which she should have made to her claims for council tax to take account of her parents' presence in the home. Her apparent misuse of the allowances system continued for four years from May 2005 to the end of April 2009 and seems to have been brought to an end only by the expenses scandal of 2009-10 when she abruptly ceased to claim.

156. As I have already said, the Committee may not agree with me that the designation of Mrs Miller's home was wrong on the balance of probabilities, but other matters are apparent beyond reasonable doubt. I recognise that I have offered a strict interpretation of the rules as they stood in 2005 which impacts significantly on Mrs Miller's unusual situation. However, these issues are very serious and continued over a number of years. I have not been able to discuss some of the detail in relation to the abatement and mortgage issues with Mrs Miller because of her insistence that I had no remit to investigate them. I therefore cannot offer a full explanation of the circumstances surrounding those matters.

95 The amount overclaimed has been amended to reflect the Commissioner's amendments in her letter of 13 February 2014. This letter is available at Appendix 2

Appendix 2: Correspondence between the Clerk of the Committee, Mrs Miller and the Parliamentary Commissioner for Standards

Letter from Mrs Miller to the Clerk of the Committee, 3 February 2014

1. Thank you for your letter of 27 January 2014, which also enclosed a copy of the Commissioner's Memorandum ("the Memorandum").

2. I am most grateful to the Committee for the opportunity to comment on the Memorandum and 1 do also appreciate your kindly agreeing to allow me until Monday 3 February 2014 to provide you with a response.

3. I think it is important that I am clear from the outset that I am deeply concerned at the views expressed in the Memorandum, The Memorandum contains a number of serious errors and is wrong in fundamental respects. This follows a flawed and protracted 13-month inquiry, which was conducted without due regard for the core principles of a proper investigatory or adjudicatory process. These failures in the inquiry have in turn distorted the Memorandum produced. More may need to be said about the inquiry process in due course and there is a great deal that could be said about it and about the Memorandum. For the present, however, I expect that the Committee will wish to focus on the main findings contained in the Conclusions section of the Memorandum (from paragraph 117) and at this stage I therefore limit my comments below to these aspects.

4. To assist the Committee I propose to deal below with the three issues identified in the Conclusions section in the Memorandum in the same order and under the same headings as set out in the Memorandum. Before that, I should also address the introductory remarks to the Conclusions section in paragraphs 117 and 118.

The introductory remarks

5. In the introductory remarks to the Conclusions, the Memorandum suggests a difficulty of establishing evidence. In particular, although acknowledging that this relates to matters some time ago, the Commissioner mentions a lack of some documents and of corroborating evidence. It is also suggested that some of my answers to questions were "very general" and that this added to the length of the inquiry. This is not a fair or complete description of the position.

(i) I would emphasise that I have of course provided the information requested of me; and I have explained if I no longer have documents or the reasons why a document may not exist. Similarly, I have cooperated fully and always immediately agreed to documents held by the House authorities being provided to the Commissioner. This has included both hard-copy documents and a

search of the electronic archives including all my electronic diaries. It is, however, not surprising that after so long some documents are no longer available. Thus, for example, the Commissioner mentions the absence of notes from the Department of Finance and Administration, but the Director General for HR and Change has confirmed to her (his letter of 27 September 2013) that "most of our records and correspondence have now been destroyed under the House's Authorised Records Disposal Practice".

(ii) With regard to corroborating evidence, it is not quite accurate to say that there is no such evidence of my stays in the constituency. At the suggestion of the Commissioner both the constituency chairmen who have held that position for the period in question have given evidence confirming that that is where I lived. Beyond that, it would be odd if anyone outside my family kept such close tabs on me that he or she could provide an actual count of how many nights I spent in any one place very many years. It is true that the Commissioner sought further evidence and for example asked in her letter of 11 November 2013 whether there was anyone who would have seen the family walking the dog near the constituency home. But it cannot seriously be suggested that there might be someone who could be expected to give evidence about whether he/she remembers seeing our dog being walked in say 2005 (some eight years ago) and which day of the week that might have been and why we were there on that particular day.

(iii) With regard to my own evidence, I have sought to provide answers to the questions as fully as I am able. As the Committee will see, I have responded to letters from the Commissioner on 14 occasions. To ensure that the questions raised by the Commissioner are fully dealt with many of these letters have been very detailed and lengthy, providing financial information going back more than 8 years, and including personal and sensitive information about my family. In addition, on 1 July 2013, I provided the Commissioner with a detailed report ("my Report") setting out my response to the inquiry in very comprehensive terms. Far from being general, my Report addressed the matters in the inquiry in the fullest possible detail. I have done my utmost to assist the inquiry and to provide the relevant information. Indeed one of the reasons for providing my Report was that the matter had already gone on too long and the inquiry appeared to have become diffuse and confused and I thought it would assist to provide all of the information in the fullest possible detail in one place. Throughout the correspondence, both before and after my Report, I have likewise sought to explain the position as fully as I was able.

(iv) With regard to the time the inquiry has taken, the 13 months that have been taken have not been necessary or appropriate. They have caused me immense difficulty and have created speculation and I have repeatedly since July 2013 expressed to the Commissioner my concern that the inquiry had not been

concluded. A point of comparison is that after my Report, the Commissioner took the advice of the Director General of HR and Change. She wrote to him on 12 September 2013 and it took him only two weeks to review all the relevant facts and provide a report dated 27 September 2013 (in which he considered that my ACA claims and designation were fully within the applicable rules). Despite this, the Commissioner has maintained the inquiry for several further months. She wrote to me on 10 October 1013 to say "I believe that I now have all the information which I need to complete my inquiry and am sorry that this first stage has taken so long." Rather than concluding the inquiry, however, she then wrote on 23 October 2013 to raise tangential matters which her own letter noted "may have no relevance to my inquiry".

Having set out these introductory matters, I will now turn to the three matters set out in the Commissioner's conclusions.

Was Mrs Miller's designation of her main and second home correct?

6. The Commissioner addresses this question at paragraphs 120 to 127 of the Memorandum. Her findings are that (a) she fully accepts "the matter is finely balanced" (paragraph 126); (b) she accepts I "sought to do what was fair and reasonable throughout"; but (c) that the designation of my main home should have been for the London house. This last conclusion is incorrect because:

(i) it applies the wrong test;

(ii) it considers the wrong factors and indulges in speculation; and

(iii) it overlooks the actual evidence.

It is of course also noteworthy that the Department of Finance and Administration at the relevant time considered that the designation was correct and that, in his letter of 27 September 2013, the Director General considers that the designation was correct in accordance with the rules in place at the time.

7. The Commissioner's view that everyone is wrong starts from her misunderstanding of the applicable test. In paragraph 121, the Memorandum argues that the question of nights "only became relevant" if the location of the main home was not a matter of fact. This is a misapprehension. The correct approach, as was understood at the time, was that, where an MP had more than one home, the question of the number of nights was the primary test to determine the question of the main home. Even if it was not an absolutely conclusive test, it was the crucial starting point and the Commissioner is wrong to consider that it is not relevant. On that test, the designation of my constituency home was the main home (as the Director General considered). To be clear, although the Commissioner now disregards that test, that is the test that I was advised to use by the Fees Office at the time and is the test that in good faith and accurately I applied.

8. Having disregarded the test completely, the Commissioner then considers factors which she says meant that the London home was the main home. The factors on which the

Commissioner relies are that we moved a number of times in the constituency, that we lived in London before I became an MP, that my children had their primary education in London, that under the IPSA scheme my claims are for the constituency, and that the London home would have been maintained even if I had not become an MP. Each of these is relied on in error.

- The fact that we moved was because each of the moves was to a larger property which was precisely because the constituency was the centre of my family life.

- The fact that we lived in London before I became an MP and that the London home might have been where I stayed had I not become an MP misses the point. They betray a lack of understanding of the very great changes that becoming an MP requires. Basing the position on a Member's pre-election position is not an appropriate test. It also ignores the actual evidence, as I set out.

- In this regard, in paragraph 124 of the Memorandum, the Commissioner again conflates a test and falls into error. She considers that the London home was not established exclusively and necessarily for parliamentary duties. This is again not the right analysis. The London home was "established" long before I became an MP. The correct approach, based on the applicable rules at the time, was whether I (ignoring my family for this test) needed to maintain two homes to be able to carry out my duties. I clearly did and was undoubtedly within the rules to do so (and it has never been suggested otherwise). Once that test was satisfied, one of the homes had to be designated as the main home and this had nothing to do with whether a home was originally established exclusively and necessarily for my duties.

- The fact that my children had their primary education in London is not indicative. I had to be in London for the main part of the working week, (Monday to Thursday days, Monday to Wednesday nights) and so when young it made sense for my children to be with me in London during the week and so to go to school in London. As soon as they were older, they went to school in Hampshire and otherwise lived in the constituency and not in London.

- The fact that claims are now different under IPSA is irrelevant and no indication of the position at the relevant time. First of all, that is a different scheme with different considerations and secondly I have since become a Minister which I was not for any of the period in question.

9. As well as wrongly considering the above factors, the Commissioner has also disregarded the actual evidence on the issue. For example, paragraph 15(vii) of my Report summarised my evidence as follows: "Importantly, it was a conscious priority for Mrs Miller to maintain a family life as much as possible and therefore for her family to move each week with her in accordance with the demands of her responsibilities in two places. On becoming an MP, Mrs Miller gave a great deal of thought to how to balance her role as an MP with her family life and her role as wife, mother and carer. The way she sought to achieve this was to make Basingstoke the centre of family life because that was where she needed to be on weekends

and during Parliamentary recesses. She also sent her children to school in Hampshire as in turn they became old enough. Thus, whatever might have been the position before the 2005 general election, for Mrs Miller and consequently the family the best way to balance family life was to make Basingstoke the main family home."

10. Having disregarded the appropriate test, taken into account misplaced factors and ignored the actual evidence, the Commissioner goes on to conclude at paragraph 125: "*1 think that it is likely that Mrs Miller's main family home remained in London, and this was the home exerting the gravitational pull including during the summer months.*" This statement is without foundation, is not based on any evidence at all and is contrary to what I told the Commissioner. As I said in my letter of 9 May 2013: *"The weekend and the school holidays was when [my family and I] were able to spend time together in Basingstoke and where I spent most downtime."* Where my children went to school has no bearing on where the children lived during the summer holidays which was in the constituency with me.

11. In reality, the direct evidence before the Commissioner was that my constituency home was my main home after I became an MP. In this regard, I would also particularly ask the Committee to consider my Report which sets out the position on this question very fully.

12. Given the above and given the acceptance that the matter is finely balanced and that I did what was fair and reasonable throughout, it seems to me that the correct question now ought to be whether my designation of my Basingstoke home as my main home was a reasonable one in the light of the relevant circumstances. This also appears to be the way the Committee has approached this question in the past. In this regard, there were compelling reasons as to why the designation of my Basingstoke home was reasonable:

- It was where I spent the most nights.
- It was the centre of my family life.
- There was no financial benefit to me in the designation.
- I received clear advice from the Department of Finance and Administration as to which home I should designate, and this advice has been confirmed as correct by the Director General of HR and Change.

13. Before turning to the next question, I would also emphasise here that the Commissioner has correctly found that if I had designated the London house as my main home and made ACA claims on the Basingstoke house, I would have been entitled to make the same claims as I made and there was no financial advantage to me or additional cost to the public purse from the designation.

Did Mrs Miller or her parents receive an immediate financial benefit from public funds by living in her designated second home, and if so, did Mrs Miller reflect this in her claim?

14. This question is the only actual complaint made by Mr Mann MP and the only allegation that was set out in Mr Lyon's letter to me of 12 December 2012 which initiated the inquiry in accordance with the Procedure for Inquiries.

15. I of course welcome the Commissioner's conclusions that I acted properly in this regard, that my parents' living with me as a single family unit from long before I was an MP was not contrary to Parliamentary rules, that my case was not at all the same as Mr McNulty's (which was Mr Mann's original complaint), and that my expenses claimed were correct and appropriate. This was also the Director General's view who rightly concluded that there was no inappropriate use of public money in this case.

16. In addition to the above and what was set out in much greater detail in my Report on this issue, I would just add a short further comment given what the Commissioner says in paragraphs 131 to 133 of the Memorandum.

In those paragraphs, the Commissioner refers to the cases of Mr McNulty and Mrs Main. It is important therefore to note the different circumstances of those cases.

17. First, those cases did not involve a single family unit living together but involved independent adult members of an MP's wider family potentially receiving a clear and direct benefit from Parliamentary expenses, which they started to receive only while the relevant MP was in Parliament. That is, however, not my case. My parents are not independent. I have carer responsibilities for them and (like my husband and children) they are and have for nearly 20 years and long before I was an MP been part of my single family unit. Furthermore, as set out in my Report, they did not receive any benefit or financial gain at all from my being an MP or my having to move between Westminster and the constituency. It made no financial difference to them whatsoever, nor, unlike the McNulty case, did they (or I) receive any subsidy or support from public funds in respect of them.

18. Secondly, in neither of those other cases was there a reduction in claims referable to those other family members. In Mrs Main's case, she relied on the fact that she had reduced other of her own expenses slightly because she knew her daughter was living with her; but the Committee found that was not the right way to do it because an MP could not trade off claims not made against claims which should have been reduced. Again this is not my case. I sought throughout to act fairly and reasonably and, as has been concluded, my claims were reduced and were within what was appropriate.

19. With regard to transparency, I would emphasise that I made sure I fully and clearly explained my family arrangements to the Department of Finance and Administration. I would have been happy to have one but was not advised that a formally documented arrangement was needed and I never for one second sought to obtain any additional financial advantage from my claims. As I explained in my Report, because of my family circumstances (regardless of my parents), being an MP and a mother and trying to maintain some family life came at a considerable cost with the unavoidable need to have two family homes which the ACA did not cover and which I had to subsidise.

20. In relation to the above, paragraph 153 of the Memorandum also includes a non-sequitur. There the Commissioner suggests that because in her view there was a lack of formality in my arrangements, there was an inappropriate use of public money. This is not right and does not follow. The only issue is whether money was claimed that should not have been claimed. Apart from the Commissioner's new case in relation to mortgage interest which I discuss

below and has nothing at all to do with my parents, it is clear that the claims I made were appropriate and allowable.

Were Mrs Miller's ACA Claims made in accordance with the rules and guidance of the relevant period?

21. The third area of the Memorandum addresses whether my claims (in particular in respect of mortgage interest) were within the rules.

There are two major preliminary problems with this area of the Memorandum. First, it seeks to substitute the Commissioner's findings for those already made by the Legg Inquiry. Secondly, it is an area that has never been within the scope of this inquiry. I address both of these problems first because they disclose significant mistakes by the Commissioner. I then explain how the Commissioner has also misdirected herself on this third question in any event.

22. It will be self-evident to the Members of the Committee that the heading to this section of the Memorandum entirely duplicates the inquiry undertaken by Sir Thomas Legg in 2010. Sir Thomas Legg found that I had no issues in relation to my ACA claims. In relation to this section, there is no new material and the relevant evidence before the Commissioner is the same as the evidence before Sir Thomas Legg. The Commissioner is therefore inviting the Committee to look at the same material but to form a different conclusion from that (correctly) reached by Sir Thomas Legg. She has contended that this is open to her based on the Mackay/Kirkbride case in which the Committee (in one sense but in the most limited way) looked at a case which had already been considered by the Legg Inquiry. The Commissioner has, however, completely misunderstood this case. The Mackay/Kirkbride case did not find that the Committee could consider a Legg matter afresh or might wish to reach a different and irreconcilable conclusion from the Legg Inquiry. On the contrary, in that case, the Committee considered that the questions resolved by the Legg Inquiry were "settled" by the Legg Inquiry. All that the Mackay/Kirkbride case went on to consider was that, in the case of a serious breach as found by the Legg Inquiry, the Committee could apply the same finding because it merited sanction by the Committee. The one thing that the Committee was clear it was not doing was "reopening the extremely thorough audit and review process" which the Legg Inquiry undertook. It is therefore clear from both the Legg Inquiry and the Mackay/Kirkbride case that the Commissioner's third area has already been considered and is settled. The Legg Inquiry's finding in this matter was correct and unimpeachable. There is no basis for it to be revisited.

23. As indicated above, this part of the Memorandum is also a question which was not within the scope of the Commissioner's inquiry. It was raised late in the day after the Commissioner had told me in her 10 October 2013 letter (when the investigation was already 10 months old) that she had concluded the inquiry. Thereafter in her letter of 23 October 2013, she asked about my mortgage interest which she accepted "may have no relevance to my inquiry". Following my reply, the Commissioner wrote to me by letter dated 11 November 2013 (now 11 months into the inquiry) setting out an entirely new inquiry question and asking for financial information going back to 1996, nearly 20 years ago and almost 10 years before I became an MP. After 11 months of an inquiry, this seemed extraordinary. Furthermore, the

new inquiry question was not an allegation (such as the actual allegation of wrongly housing my parents) but simply an open-ended question as to whether all my claims were within the rules. This is not consistent with the Procedure for Inquiries which requires a complaint and in particular an allegation. Since that 11 November 2013 letter (starting with paragraph 3 of my letter of 26th November 2013 in which I set out eight reasons why it was wrong for the inquiry to be expanded to this further questions), the Commissioner and I have been engaged in debate as to whether this question is within the scope of the inquiry or not. I have maintained it is not and cannot be. The reason this remains important and I need to explain it a little further is that (i) it is indicative of the Commissioner's approach and undermines her conclusions and (ii) the direct consequence of the flawed procedural approach the Commissioner has adopted is that her report in this section is replete with errors.

24. It is straightforward to demonstrate that the question is not within the scope of the inquiry.

- Both the letter of 12 December 2012 initiating the inquiry and the present Commissioner's letters of 25 April and 8 August 2013 confirm in terms the actual and correct scope of the inquiry, which does not include this third aspect. My Report considered the inquiry in the same terms and the Commissioner wrote to the Director General explaining that was her inquiry in the same terms.

- As noted above, the third aspect was raised after the Commissioner had otherwise stated that she was ready to conclude the inquiry.

- Despite my request, the Commissioner refused to include in the Memorandum the actual allegation as set out by Mr Lyon in his letter of 12 December 2012 and even though that is the founding basis for this whole process.

- When the Commissioner provided a draft of the first half of her Memorandum, I pointed out that, in the section of the relevant provisions, she had included a number of provisions that had never previously been mentioned in the inquiry. I wrote "the provisions which paragraph 8 of your draft report includes as relevant to your inquiry are not provisions which Mr Lyon said he was considering in his letter of 12 December 2012. Indeed, those provisions have been mentioned for the first time in your draft report. As paragraph 20 of the Procedure for Inquiries makes clear, the letter from the Parliamentary Commissioner initiating the inquiry must 'set out the relevant rules of the House'. In compliance with this clear requirement, Mr Lyon did set out the rules of the House which were relevant to the inquiry he was considering and which he initiated. The rules he set out did not include the rules in paragraph 8 of your draft report which you are apparently now considering." In reply, the Commissioner wrote, "You are inaccurate in your statement that the rules he set out did not include those to which I refer in paragraphs 7 and 8 of my report" (emphasis added). This was incorrect. It was entirely accurate of me to state that paragraph 8 was wholly new.

- In her letter of 17 December 2013, the Commissioner's supposed basis for this question being within the scope of the inquiry was that the first line of Mr Mann's letter of complaint says "I wish to register a complaint regarding Maria Miller's misuse of Parliamentary allowances between her election to Parliament in 2005 and April 2009." The second sentence then sets out what that complaint is, namely about my parents. As I pointed out in reply, "...the fairness of any investigation, including this one, requires it to be conducted within a framework provided by a specific and expressly set out allegation so that the exact case to be answered is clear and so that that exact case can be met. A generalised introductory reference is not a specific allegation and will not do to set the scope of an inquiry. Furthermore, it is not Mr Mann's inquiry and he has no power to specify the scope of the inquiry. Mr Lyon's letter of 12 December 2012 formulated the actual allegation I was required to meet".

- Since the reasoning in the Commissioner's letter of 17 December 2013 was so untenable, the Commissioner's Memorandum has now switched the supposed justification to the third and fourth sentences of Mr Mann's letter. This is no better because those sentences are no more than general background to the complaint. They do not make an allegation and were never understood to make one either by Mr Lyon or by the present Commissioner when each of them put the terms of the inquiry to me. Finding a new justification for a new inquiry at the stage of the Memorandum is hardly an appropriate way to investigate a matter.

25. It is not only the justification for the inquiry that is new. The matters set out in this part of the Memorandum are also new. They include allegations that have never been put to me and mistakes that I have never had any opportunity to correct. By way of further example, I have never before been shown for comment any of the tables of figures which the Commissioner now presents. On no view is this a fair or proper way to conduct an inquiry and it goes some way to explain why the purported findings are so wrong. I therefore turn to the content of this section of the Commissioner's Memorandum. The Commissioner raises two issues under this part of the Memorandum. The first is a £50,000 increase in my mortgage in 2007. The second relates to my mortgage before I became an MP. I deal with these in turn.

The 2007 £50,000 increase

26. The first issue relates to the additional mortgage I took out at the end of 2007, which increased the value of my mortgage by £50,000. The Commissioner deals with this from paragraph 139 onwards. Regrettably, the Commissioner's new allegation here was not raised with me during the course of her extensive inquiry and I only became aware of this allegation when the Committee provided me with a copy of the Commissioner's conclusions last week. Her conclusions here are misconceived and make a number of errors.

(i) The Commissioner appears to find that I made a claim in respect of the interest on the £50,000 additional mortgage which was not an allowable claim. This is incorrect. I did not make a claim for the interest on the £50,000 additional mortgage. This is clear from the figures contained in the schedule I provided to the Commissioner under cover of my letter of 3rd January 2013. These figures

have never been questioned by the Commissioner and have been relied upon by her during her inquiry. In fact, at no stage did my claim for mortgage interest exceed the amount of the mortgage when I entered Parliament. Since I did not make a claim for this additional interest, the Commissioners' comments in paragraph 155 are particularly inappropriate and misplaced.

(ii) Sir Thomas Legg was of course provided with the same information for his inquiry into whether I claimed ACA in accordance with the rules and found there were no issues here.

(iii) The further criticisms of the Commissioner's approach here are less important given that there was not any claim for the interest here in the first place. Nevertheless, her second error is that in paragraph 139 she suggests that the claim was not (or in reality would not have been) allowable because (a) there was no evidence I had discussed this with the House authorities; and (b) not having discussed the additional mortgage with the authorities made it non-allowable. Conclusion (a) is not appropriate or open to the Commissioner because I have never given any evidence on the point since it has never been relevant; and the Commissioner cannot simply assume and pronounce there is no evidence of a particular issue about which I have never been asked. Conclusion (b) is wrong and a further misunderstanding of the rules. The test of whether an interest claim is allowable is not whether it was discussed but whether the claim was within the allowable categories.

(iv) Thirdly, in paragraph 140, the Commissioner apparently finds that the rules would not permit interest on a loan which paid for improvements before I became a Member. This is again a serious error because it is an assertion without any evidence. The Commissioner is simply speculating here. There is no evidence that the £50,000 was used to pay for improvements before I became an MP and I would not have sought to claim that interest on that basis, although the point is hypothetical since I did not claim that interest at all.

(v) Finally, in paragraph 140, the Commissioner appears to refer to evidence beyond reasonable doubt. Unfortunately, this again betrays a misunderstanding. This is not the standard of proof that the Commissioner is required to apply and in reality it is a gratuitous attempt to lend weight to a finding. It is moreover quite misguided and in breach of the established principle that an investigatory body, especially one before which there has been no hearing and which has not heard live evidence, cannot properly reach a view beyond reasonable doubt. It is also embarrassing since the findings said to be made on this basis are incorrect and unfounded, as set out above.

My mortgage before I became an MP

27. The second issue relates to an interpretation of the Green Book. The Commissioner contends that the Green Book provided that it was not possible for a Member to claim

mortgage interest in excess of the original loan secured on the property when it was purchased, and critically that this rule extends to the financial arrangements by Members before they were ever elected. She therefore argues that the fact that I had remortgaged before I was an MP meant that my actual mortgage costs in 2005 could not be claimed beyond the level of the original mortgage in 1996.

28. The Commissioner's contentions are based on her novel interpretation of two rules. The first is paragraph 3.1l.1 of the 2005 Green Book which states that *mortgage costs* were:

> *"limited to the interest paid on repayment or endowment mortgages, legal and other costs associated with obtaining (and selling) that home (eg, stamp duty valuation fees, conveyance, land search, removal expenses)"*

29. It seems plain to me that the rule sets out two categories of allowable costs: (1) mortgage interest and (2) legal and other costs associated with buying and selling a home. This is clear as these two categories are separated by a comma. I am reinforced in this view because the 2003 Green Book contains the same wording save for the fact that the word "and" appears immediately after the comma. Save for confirming mortgage interest is claimable, it is of no assistance to the Commissioner's contentions. If I for one moment considered that this was the rule then I would not have claimed any amount over the purchase price. However, the point did not occur to me then and even now I think it is clear that the Commissioner's contentions cannot be correct.

30. The second rule relied upon is 3.12.1 that Members could not claim for *"interest on any additional mortgages, advances or loans secured on the same property."* (I might note that these words from 3.12.1 were not mentioned in the inquiry letter of 12 December 2012 or alleged against me prior to the Memorandum.) This rule was amended in July 2006 but even while it was in force the natural and ordinary meaning of this rule was that MPs who wished to take out additional borrowing could not claim mortgage interest in relation to that borrowing. The Commissioner contends that this rule has a much wider meaning to the effect that it extends to borrowing prior to an MP even being elected. Furthermore, in her view, it makes no difference if such borrowing was taken out to fund payments connected with the property that would be allowable under the Green Book at least from 2006.

31. This is with respect an interpretation that is wider than the wording naturally permits and has never previously been suggested. If the rule had that wider meaning, it would have been worded very differently. The rule would have simply said that a Member could not claim for an amount that is more than the original loan secured on the purchase of the property in respect of the original mortgage only. There are further factors that very strongly support the fact that the Commissioner's contention is unsustainable. These include:

1. If this was the rule then one would expect that the Department of Finance and Administration would have introduced procedures to ensure compliance, such as asking a Member to confirm the initial mortgage value secured on a property. No such procedure existed. Indeed the procedure was to ask members for evidence of their current mortgage. I would add that although the Commissioner did seek the guidance of the Director-General of HR and Change on the first two issues above she has chosen not to seek his advice in relation to this matter even though I suggested to her that she do so in my letter of 17th January 2014.

2. I am not aware of any complaints or investigations where the issue has been raised prior to this point. The Commissioner does refer in her Memorandum to the cases concerning Mr Osborne and Mr Duncan. However, both of those cases concerned additional borrowing taken out by the respective Members after they were elected. They are therefore of no relevance to this point. Indeed, in both cases there was no mortgage secured on the property at purchase and no adverse finding was made in relation to this. It therefore appears that the Commissioner's approach is inconsistent with the approach of her predecessor, which in turn would also mean that a different standard was being applied to me from that which has always been applied in the past.

3. The provisions of the Green Book were of course carefully considered and thoroughly applied by Sir Thomas Legg, including the specific issue of mortgage interest claims. Sir Thomas's extensive work involved closely analysing the provisions in the Green Book, forming an independent view as to how they ought to be interpreted and then applying them to the claims made by each Member. The Legg enquiry did not consider that such a point was sustainable otherwise it would have necessarily formed part of its work. If he had interpreted the rules in the way the Commissioner suggests he would have had to write to every Member, and former Member, whoever claimed mortgage interest, seeking details of the initial loan secured on the property. He did not do that and did not suggest that remortgages before becoming an MP were relevant.

4. In practical terms, the rule would cause ridiculous and anomalous results, which would also be socially divisive. For example, a person who had purchased a run-down house for £100,000 and improved it at a cost of £200,000 obtained by remortgaging would have a total mortgage cost of £300,000. A wealthier person might just buy the same level of house already developed for £500,000. When the two people subsequently became MPs, the former would be able to claim interest on only £100,000 while the latter could make a claim on interest on £500,000. Equally, the person with the £300,000 house could sell on becoming an MP and buy a much more expensive house and claim all the interest but if she made the decision not to do so would have to be limited to the original £100,000. That is an absurd and entirely unnecessary approach to the rules. The Commissioner's approach is also retroactive since it is not an approach that has ever been applied to anyone else or at any time previously.

32. In the light of all of these matters, I would urge the Committee not to form a view that is inconsistent and contrary to that of the Legg Inquiry but to find that the interpretation advanced by the Commissioner is not correct and it is not reasonable to suggest that this contention should have been apparent to me or any other Member at the relevant time. Accordingly, there can be no adverse findings in relation to this third, new, aspect on any view.

33. In addition to the above, there is another important point to emphasise here. The Commissioner's approach is that I should have designated London as my main home and claimed expenses on my constituency home. She also concludes in paragraph 145 that if I had designated in this way as she suggests, then all of my claims would be fully allowable and I was fully entitled to make the claims I made. Given this and given that it must be obvious that I sought to abide by the rules entirely honestly and without seeking to obtain any financial advantage—even the Commissioner accepts elsewhere that I sought to do what was fair and reasonable throughout—it cannot conceivably be a fair or just approach to suggest that I

claimed other than correctly in accordance with the system and rules in place at the time and as understood at that time and at all times (until the Commissioner's new approach).

34. Because of the approach of principle I have set out above, I have not addressed in this letter the various purported tables of figures that the Commissioner has put together in the Memorandum but never previously shown to me. As explained above, I do not believe these figures arise for consideration. If they were to do so, there are a number of further errors and inaccuracies that it would be important to raise. Indeed, there are a number of further factual and other concerns I have about the Memorandum. Having set out the facts and matters above, I am not setting all these further concerns out at this stage before the Committee has had the opportunity to consider the above. I would, however, wish finally to deal with one particular factual matter. In the penultimate paragraph of the Memorandum, the Commissioner seeks to draw an adverse inference from her view that I "abruptly ceased to claim" in April 2009. Whilst I did provide an explanation to the Commissioner for this it may assist if I provide an explanation directly to the Committee.

35. Those Members of the Committee elected before 2010 will need little reminding as to what it was like when the expenses scandal broke. I, in common with many Members, was particularly concerned about the impact on my immediate family. One strand of the scandal was the suggestion that Members who had constituencies close to London, such as Basingstoke, did not need to claim an accommodation allowance as they could commute. Strong feelings were expressed both in the local media and to me directly. At the time I formed the view that the right thing for my family and particularly my young children was to cease claiming. I nonetheless continued to maintain two homes at my own expense as it was the only way I could continue to carry out my duties as a mother and Member of Parliament.

36. I have sought at all times to be fair and reasonable in relation to my claims. I had absolutely no reason to act contrary to the rules. I have never sought to gain any financial advantage from the ACA.

37. I hope this letter is of assistance to the Committee. If any further information from me would be helpful, I will of course provide all the assistance I can.

3 February 2014

Letter from the Parliamentary Commissioner for Standards to the Clerk of the Committee responding to Mrs Miller's letter of 3 February 2014

I am grateful to the Committee for the opportunity to respond to Mrs Miller's letter of 3 February 2014. For ease of reference I have reformatted Mrs Miller's letter to add paragraph numbers but have made no other changes. I have not responded to every detail.

Mrs Miller's letter seeks to apply legal principles and arguments to a process of the House which was set up to investigate complaints. The role of the Commissioner is to act as an independent investigator, who is able to establish the facts, interpret the Rules and present a balanced and fair report on the relevant issues to the Committee. My Memorandum provides my conclusions on whether the rules of the House have been breached so that the Committee can reach its own view and if necessary recommend a sanction to the House. This process must be fair to the parties involved and use procedures which are clear and transparent, but it is not a legal process.

The *Procedure for Inquiries* says,
1. "Members will be informed about allegations against them when the Commissioner has decided there is sufficient evidence to justify initiating an inquiry. The Commissioner will write to the Member concerned. In this letter the Commissioner will: tell the Member the nature of the allegation; set out the relevant rules of the House; provide the Member with the evidence supporting that allegation; and ask the Member for their response. What is asked of the Member is to give a full and truthful account of the matters which have given rise to the allegation.

2. In the course of the inquiry the Commissioner may ask the Member follow-up questions, seek evidence from any witnesses, including any identified by the Member, and consult authorities such as the relevant Department of the House of Commons, or the Registrar of Members' Financial Interests. The Commissioner may interview the Member in the course of the inquiry, and will always see or speak to the Member if the Member so requests."

Introductory remarks

Paragraph 5

Mrs Miller refers to paragraph 118 of the Memorandum in which I say "*many of her responses to my questions have been very general and required repeated probing. This has added considerably to the length of my inquiry." She says "I have responded to letters from the Commissioner on 14 occasions…many of these letters have been very detailed and lengthy, providing financial information going back more than 8 years*". Mrs Miller's first four letters to me (3 Jan, 18 Feb, 10 April, 9 May) do contain a great deal of information and her fifth (4 June) contains some, but the remaining nine letters, beginning with the letter of 1 July in which she says she has taken "independent legal advice" are increasingly procedural, and though many of them are lengthy and detailed, they contain little in the way of precise information. They consist more of arguments as to why this information should not be sought.

The following is a brief example of a "*very general*" answer to a specific question:

Question (19 March):

> *"Finally, it appears from the statement from the Coventry, dated 31 May 2008, that you increased your mortgage when you remortgaged with the Coventry on 14 November 2007. Please could you tell me why you did this?"*

Answer (10 April):

> *"The mortgage changed in the normal course of events."*

Paragraph 5(i)

Mrs Miller implies that I have criticised her because documents are not available. This relates to paragraph 117 of my Memorandum, where I say, "*Throughout my inquiry it has been difficult to establish information and evidence to the standard of proof which I would have wished. This is in part because of the length of time since some of the relevant events took place. There is also a lack of supporting evidence.*" In recognition of this, and the operation of the Department's disposal policy, I have made no finding in relation to the absence of the required documentation from the files of the Department of Resources: full mortgage interest statements for 2007–08 and 2008–09; forms reporting Mrs Miller's change of main home; or records of her conversations with staff about the designation of her home.

Paragraph 5 (ii)

Mrs Miller says "*it is not quite accurate to say that there is no [corroborating] evidence of my stays in the constituency*". She says that two constituency chairman wrote to me "confirming that that is where [she] lived".

This is a reference to paragraph 118 in which I say "*despite sustained efforts I have not been able to find evidence to support the information she has given me about the number of nights she spent at each of her properties.*" One chairman said *"She was always in Basingstoke on a Friday for her surgery meetings. I was not at home during the week, but... I would see her most weekends at her home...."* The other chairman said, "[she] *was (and is) in the Constituency on almost every Friday and weekend on Constituency business."* This does not amount to "*evidence to support the information she has given me about the number of nights spent at each of her properties.*"

I note from earlier memoranda considered by the Committee that when an inquiry concerned a dispute about the pattern of use of a Member's home, my predecessor sought independent evidence of this. Many families who live in an area over a period of years know at least one or two people who would be aware of the general pattern of their coming and going but Mrs Miller has not been able to provide any contact independent of the family who might give even a general sense of this. I find this unusual. The suggestion that she might regularly walk the dog on certain days and meet others doing the same was intended only as an example of the sort of verification which would help to establish her movements.

Paragraph 5 (iv)

Mrs Miller comments that I "*maintained the inquiry for several further months*" after the Director-General's letter of 27 September 2013.

My practice is to collect and collate the evidence needed before completing the analysis and coming to conclusions in order to avoid prejudging issues. This is what I did. On 10 October I said I thought I had the necessary evidence. In undertaking the analysis I discovered that I had not received all the information requested about her mortgage. Until it was received I could not say how relevant it was. My letters were intended to keep Mrs Miller informed of the progress of the investigation.

Was Mrs Miller's designation of her main and second homes correct?

Paragraph 6

Mrs Miller disputes my conclusion about the designation of her main and second homes. In her letter she misinterprets paragraph 126 of my Memorandum; it is not the designation of her home but "*my conclusion*" that is finely balanced.

Mrs Miller says that my conclusion that her London home was her main home is incorrect because

i) It applies the wrong test

ii) It considers the wrong factors and indulges in speculation

iii) It overlooks the actual evidence.

I consider each of these allegations in turn.

The wrong test

I do not accept any of these points. I refer the Committee to paragraph 121 of the Memorandum and to the reports concerning Jacqui Smith and Ed Balls & Yvette Cooper summarised in paragraphs 12–18.

Paragraph 7

Mrs Miller says "*In paragraph 121, the memorandum argues that the question of nights 'only became relevant' if the location of the main home was not a matter of fact. This is a misapprehension.*" This is however the approach followed by my predecessor in earlier cases and one which the Committee on Standards and Privileges did not dispute. For example, in his Memorandum on his inquiry into Ed Balls & Yvette Cooper[1], my predecessor said in (paragraph 82)

> "*The rules provide* ***that when the location of the main home is not a simple matter of fact*** *(because the Member has more than one home) the objective test is*

1 Committee on Standards and Privileges, Fourteenth Report of Session 2007–08, HC 1044

> *that it is normally the one where they spend more nights than any other."* [my emphasis]

In the same report he also says

> *"if you have more than one home, your main home will normally be the one where you spend more nights than any other—as long as this is not a rigid rule…that seems to me to be an acceptable guide."*

The Committee agreed.

Mrs Miller relies heavily on the Director-General's advice. He said "*In her letter to you of 18 February 2013, Mrs Miller provides information that indicates that around two-thirds of her time was spent at her nominated main home in Basingstoke. In addition to this, she states in her letter of 9 May 2013 that two of her children moved their schooling to Hampshire in the period after she was elected and that weekends and recesses were predominantly spent at the constituency home. This would have been sufficient information to allow my Department to agree that it was correct for Mrs Miller to nominate her Hampshire property as her main home, with the consequence that her London property was her second home for ACA purposes. I agree, therefore, that the designation of the homes was correct.*"

At this juncture however the Department has an incomplete record of the information available to it in the past, and no record of the exact advice which was given. The Director-General's advice is, as he says, "*inevitably hypothetical*". It is based on the information which was available to him in 2013.

My investigation has brought to light further facts which have led me to a different view. For example, Mrs Miller cited in her letters of 9 May and 4 June, and in the Report of 1 July, that two of her children went to school "*in Hampshire*" as evidence that Basingstoke was her main home. She omits to mention that both children went to boarding schools—a circumstance that greatly reduces the relevance of the place of schooling to the location of the family home.

The wrong factors

Paragraphs 8 and 9

Mrs Miller takes issue with my conclusion that her main home was her London property, and that her Basingstoke homes should have been designated as her second home for the purpose of her allowances. I came to this conclusion on the basis of the overall picture presented by Mrs Miller's evidence. I noted that in 2005 her Basingstoke home was not a permanent base for her and her family; that the rental agreement for the first property had already expired and that she was to move three times in the period from May 2005 to April 2009; that each of the Basingstoke homes had fewer bedrooms than her five bedroomed London home; that before she first rented a home in Basingstoke in 2003, Mrs Miller's home was in London, in the five bedroomed house which she and her husband had bought with a mortgage in 1996, to which she had welcomed her parents and brothers; and which had been repaired and improved over the years and that this was again designated as her main home under the IPSA scheme from 2010 onwards. I noted that London was also where her husband worked and where each of

her children in turn started school. In my view all these factors pointed towards the London property being Mrs Miller's main home as the term is normally understood. Mrs Miller has not refuted this overall picture.

It is important to remember the purpose for which the ACA was set up, which was "*to reimburse Members of Parliament for expenses, wholly, exclusively and necessarily incurred when staying overnight away from their main UK residence ... for the purpose of performing Parliamentary duties...*". Mrs Miller argues that one of her homes had to be designated as her main home and this had nothing to do with whether it was originally established exclusively and necessarily for her parliamentary duties. I agree with her that the purpose for which a home was set up may not always be relevant. However, it was against the rules to claim for the costs incurred on what was at the time a Member's main home.

The actual evidence

Paragraph 9

Mrs Miller says that I have "disregarded the actual evidence" on the issue of the designation of her home. I have Mrs Miller's accounts of where she spent her time, and of her wish to make Basingstoke the centre of family life, but there is little independent evidence. The only other direct pieces of evidence are letters from Mrs Miller's constituency chairmen (which do not go to the question of where Mrs Miller spent the majority of her nights) and the household bills which she submitted to the Fees Office in 2008–09. I have already commented at paragraph 125 that Mrs Miller's utility bills and invoices for 2008–09 do not support the idea of a house that was (except for the month of September and occasional other times) unused during the 19 to 20 weeks of Parliamentary recess each year, and from Friday to Sunday evenings during sitting periods. For example, her electricity bills submitted to the Fees Office and published online showed a usage of 1466 kWh in 39 days from October to November 2008, and 6509 kWh in three months from 15 November 2008 to 16 February 2009.

Mrs Miller appears now to be suggesting (in paragraph 10) that her older children were never, or very rarely, at the London home.

It is of course for the Committee to decide on this issue but I remain of the opinion that on the balance of probabilities Mrs Miller should have designated her London house as her main home.

Paragraph 13

Mrs Miller says "*I would also emphasize that the Commissioner has correctly found that if I had designated the London house as my main home and made ACA claims on the Basingstoke house, I would have been entitled to make the same claims as I made and there was no financial advantage to me or additional cost to the public purse from the designation.*" This is not accurate. In paragraph 126 of my Memorandum I said *"I have received no evidence that Mrs Miller designated her main home other than in good faith, or that she was motivated by financial gain. Mrs Miller has informed me, and I accept, that the costs of the Basingstoke properties, had she designated them as her second homes, would also have been above the ACA limits."* I have no evidence to the contrary.

Did Mrs Miller or her parents receive an immediate financial benefit from public funds by living in her designated second home, and if so, did Mrs Miller reflect this in her claim?

Paragraph 14

I do not agree that this was the only actual complaint made by Mr Mann but will return to this issue in my response to paragraph 23.

Paragraph 15

Mrs Miller says I concluded "[Mrs Miller] *acted properly in this regard.... and that* [her] *expenses claimed were correct and appropriate.*" and that the Director-General of HR and Change "*concluded that there was no inappropriate use of public money in this case*". These statements are both inaccurate. The Director-General's letter of 27 September 2013 expresses no such view.

It has been recognised that it could be appropriate for family members to live with a Member in that Member's second home. However, as I say in paragraph 133 of my Memorandum *"Should arrangements such as this be made to accommodate members of the extended family, it was important that they were discussed very specifically with the Fees Office and that clear financial procedures were in place to ensure that claims were appropriately reduced and that the Fees Office were aware of this."* Mrs Miller did not do this and this was not acceptable. The Director-General helpfully suggested the advice his Department might have offered to the Advisory Panel on Members' Allowances, and what he would have regarded as an "*equitable outcome*" which was "*inevitably hypothetical*"; a basis on which a formal arrangement for abatement could have been made (paragraph 134). He concludes that because Mrs Miller's household costs were significantly above what she could claim, the abatement could be considered as having come from the excess portion of the expenditure.

However, he was not aware of my concerns that Mrs Miller might have over-claimed in respect of her mortgage interest. Much of my concern throughout this inquiry has been about the lack of transparency in Mrs Miller's arrangements and communications and her misinterpretation of my Memorandum in this and other paragraphs provides an example. What is beyond dispute is that Mrs Miller claimed allowances which were at or almost at the maximum across the period in question. She was not permitted to claim any more.

Paragraph 19

Mrs Miller says she would have been happy to have a formally documented agreement for the abatement of her claims but was not advised that one was needed. However, in the paper attached to her first letter to me[2] Mrs Miller justifies her position saying, "*The remaining question is therefore the meaning of the statement that "living costs for anyone other than yourself" are not allowable. The word "yourself" cannot mean the MP alone as MPs could and did claim for accommodation which allowed them to claim accommodation costs in relation to their family. Indeed, any other interpretation would be contrary to the public interest in*

enabling a diverse parliament as recognised by IPSA in its consultation paper. My circumstances are simply that my family includes my parents for whom I have caring responsibilities.

However, I note that in paragraph 86 of Mr Lyon's report in relation to Mr McNulty he stated as follows:

> *It might be argued that the rules I have identified should not apply to parents who are dependent on a Member. After all, a Member's partner and a Member's children are able to share the home for which a Member claims the Additional Cost Allowance. But the relationship between an adult and their dependent child, and between them and a dependent adult relative, is not the same, important though those responsibilities are. It does not, in my judgment, carry with it an expectation that dependent parents should be able to share a property funded in whole or in part from public funds without at least the full value of that benefit being reflected in the Member's claims.*

This report is dated before the IPSA consultation paper that I have quoted from above. Mr Lyon was quite rightly seeking to draw a line where the use of the word 'yourself' in the rules does not have its natural and ordinary meaning, as it must include the MP's family. His views were expressed in the context of an entirely different arrangement and based upon whether there is a distinction between dependent children and financially dependent adults. Mr Lyon was clearly not addressing the facts that relate to my situation and of course he did not have the benefit of the IPSA consultation paper when he wrote his report in relation to Mr McNulty. This is no criticism of Mr Lyon as Mr McNulty's circumstances were radically different and did not raise the same issues.

I would suggest that the rules at the time did permit the use of the ACA for members of the MP's family beyond spouse and dependent children, in appropriate but limited circumstances. These circumstances would include my position where I had an established family life with my parents for whom I had carer responsibilities. This is entirely consistent with the views expressed by IPSA in their consultation paper as to where the public interest lies and also is consistent with the rules not inhibiting family life. It is also consistent with the advice I received from the house authorities at the time."

Mrs Miller has developed her own rationale for her position despite clear guidance to the contrary and misunderstands the purpose of the ACA "*to reimburse Members of Parliament for expenses, wholly, exclusively and necessarily incurred when staying overnight away from their main UK residence ... for the purpose of performing Parliamentary duties...*" There is no evidence that she sought the advice of the House authorities on this specific matter and the Director General's letter suggests that this would have been an unusual matter which would have come to senior attention.

Paragraph 20

Mrs Miller says that it is a "*non sequitur*" that "*because in* [my] *view there was a lack of formality in* [her] *arrangements, there was an inappropriate use of public money.*" I agree that this last sentence of paragraph 153 could have been better worded. I should have said "*the lack*

of abatement resulted in an inappropriate use of public money". I am happy to revise this wording.

Were Mrs Miller's ACA claims made in accordance with the rules and guidance of the relevant period?

Paragraphs 21and 22

Mrs Miller addresses this section of my Memorandum, which concerns whether her claims (in particular for mortgage interest) were within the rules. She says that it "*entirely duplicates the inquiry undertaken by Sir Thomas Legg in 2010*", and implies that I had no remit to inquire into whether her claims were in accordance with the rules of the House. She disputes my reliance on the Committee's decision in the Mackay/Kirkbride case. However, Mrs Miller misquotes the Committee when she says that they considered that the question considered by the Legg Inquiry had been "*settled*". The Committee said, "*We regard the question of* ***repayment*** *as having been settled by Sir Thomas Legg.*" (my emphasis).

My remit (see page 1 of this letter) is different from that of the Legg Inquiry, which was *"to determine the validity of payments of the Additional Costs Allowance (ACA) made to Members of Parliament during the period April 2004 to March 2009, and to recommend any repayments which MPs should make."*[3] I can find no precedent to suggest that the Commissioner cannot inquire into a matter already considered by Sir Thomas, or is bound by his decisions. I note that after the conclusion and publication of the Report of the Legg Inquiry in February 2010 my predecessor inquired into specific claims against the Additional Costs Allowance by Members. In some cases, (for example his inquiries into allegations against Shahid Malik and Anthony Wright) he came to the conclusion that certain claims not identified by the Legg Inquiry were in contravention of the rules at the time, and these were repaid.

Paragraph 23

I have already responded to Mrs Miller's assertion that the questions I raised about her claims for mortgage interest were not part of the scope of the inquiry (paragraph 111 of the Memorandum). Mrs Miller says "*It was raised late in the day, after the Commissioner had told me in her 10 October 2013 letter... that she had concluded the inquiry.*" Without repeating that, Mr Mann's letter clearly expresses his concern about her claims for mortgage interest as does the Telegraph article. My predecessor sent both of these to Mrs Miller with his first letter. I agree that his paragraph stating

> *"In essence, the complaint is that you claimed against your additional costs allowance and personal additional accommodation expenditure from May 2005 to April 2009 for the costs of your overnight stays away from your main home in a property in which your parents lived, which provided them with an immediate benefit and which did not take full account of their living costs, contrary to the rules of the House."*

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is less specific, but the rules which he goes on to cite clearly include mortgage and other costs. If he did not intend to look at this issue he would have indicated this both to Mrs Miller and to Mr Mann at the outset of the inquiry. The Committee has recently considered my Memorandum concerning the inquiry into Simon Hughes, started by my predecessor approximately a month before this matter. It provides a contemporaneous example of his practice of specifying the heads of complaint into which he would not inquire.

Paragraph 24, third bullet point

This refers to Mrs Miller's comments on my draft report when she was invited to ensure that it was factually correct. Mrs Miller asked me to include at paragraph 3 the paragraph from my predecessor's opening letter to her in which he explained the essence of the complaint he was inquiring into. In fairness to her I accepted many of her suggested amendments which were not strictly factual. However, I did not consider that this paragraph should be separated from quotations of the Code of Conduct or that it fitted at that point in my Memorandum.

Fourth bullet point

Mrs Miller says that I had included in my Memorandum a number of provisions from the Green Book which had not previously been mentioned in my inquiry. This matter is addressed fully in WE48 and 49. I had added to my draft report two bullet points from the Green Book rules which do not appear in my predecessor's letter. Mrs Miller appears to be arguing that once his original letter had been sent out, the precise rules he had identified as being relevant could not then be changed in any way. This cannot be the case. During the course of an investigation many issues may come to light and will need to be considered alongside the original complaint. The complainant, according to the Procedural Note, is required to give sufficient evidence to justify an inquiry, but no more. He cannot be expected to know all the detail of the area that concerns him and that is for the investigation to discover. If further evidence emerges, another rule, or in this case additional bullet points included in a rule already identified, may become relevant. In this case the mortgage issues were not new matters but part of the original complaint. I do not consider that my Memorandum must mirror exactly the original letter. It would of course be a different matter if I had suddenly introduced entirely new issues which bore no relation to the original complaint, but I have not done so.

With reference to her fifth and sixth bullet points, in accordance with the Procedural Note Mrs Miller was informed of the allegations against her, the relevant rules were set out and she was provided with the evidence to support the allegation (paragraph 2 of the Procedural Note). Mr Mann's letter makes the issues clear and as I have already said, the Commissioner did not exclude anything. I do not think Mrs Miller could have been in any doubt about the issues or that they included the mortgage; particularly as the Commissioner went on to ask specific questions about the mortgage arrangements in his letter.

The 2007 £50,000 increase

Paragraph 26

(i) Mrs Miller says "*the Commissioner's new allegation here was not raised with me during the course of her extensive inquiry...*" In fact I have repeatedly asked Mrs Miller for information about the additional mortgage in letters of 19 March, 25 April and 23 October 2013. It is not correct to say that she was not aware of the issue, and when the difficulty in making an appointment became apparent, I wrote to her. Mrs Miller has not been prepared to share any information about this with me. It is important not to make any assumptions about the use to which any of the additional mortgage amounts may have been put.

In relation to the £50,000 increase to her mortgage, Mrs Miller says "*At no stage did my claim for mortgage interest exceed the amount of the mortgage when I entered Parliament*." In fact Mrs Miller's claims for mortgage interest increased in each year until 2008–09. In 2005–06 they were £15,829; in 2006–07, £17,268; in 2007–08, £17,788; and in 2008–09, £19,264.63.

Full mortgage interest statements are not available for the period from November 2007 to April 2009, which is the period for which Mrs Miller maintained an increased mortgage of something over £576,000. But I accept, as I said in my conclusions, that (bearing in mind the offset) she did not claim the full amount of interest she paid on the extended loan. During the period November 2007 to March 2008, mortgage interest statements show that Mrs Miller paid £10,991.57 in mortgage interest (to which were added the credits made by her lender to reflect the interest she received on another account), and claimed £7,335 from her allowances. For the year 2008–09 mortgage interest statements are incomplete, but Mrs Miller says that her mortgage costs were £21,530. She claimed £19,264.63.

However, if the months are considered separately, the picture is different. In some months it is clear from the available statements that Mrs Miller *did* claim for the full amount of her mortgage interest on the extended loan. In each month from January to March 2009, Mrs Miller was reimbursed for a sum which was close to, or the same as, the full amount of the mortgage interest she paid; a total of £1,894.71. Over the same period the sum she paid (which includes both her own interest payments *and* the offset credit from another account) was £1,896.26. In April 2009 she claimed £164.68, which is the sum she paid before the offset credit was added. (The statement does not show the offset credit for that month.)

(ii) Mrs Miller says that the claims for interest on an extended mortgage were considered by Sir Thomas Legg who found "*no issues*". I am unable to say why he found no issues. I am aware of nine cases where Members had extended mortgages, or established additional mortgages, between 2004 and 2008, and where he took a view on whether the Members were properly able to claim for the additional interest incurred.

(iv) Mrs Miller implies that I allege that she claimed interest on the £50,000 increase in 2007. She has misunderstood this paragraph, which refers to increases to the mortgage in the years before she became a Member. (See my comments on paragraph 26, where I explain that I accept that she did not claim the full interest on the 2007 increase.). When the rules were changed to allow mortgage increases to pay for repairs or improvements, these could not have included repairs or improvements before the Member entered the House. My interpretation is borne out by the Committee's decision in the case of Mr George Osborne.

(v) Mrs Miller says that my reference to "beyond reasonable doubt" was a misunderstanding. She says "This is not the standard of proof that the Commissioner is required to apply". But the Procedural Note is clear at paragraph 39:

> "When considering allegations against Members, the Commissioner and the Committee normally require allegations to be proved on the balance of probabilities, namely, that they are more likely than not to be true. Where the Commissioner and the Committee deem the allegations to be sufficiently serious, a higher standard of proof will be applied, namely, that the allegations are significantly more likely than not to be true."

My Mortgage before I became an MP

Paragraph 29

Mrs Miller disagrees with my understanding of the rule in the 2005 Green Book which says that Members may claim mortgage costs limited to

> *"the interest paid on repayment or endowment mortgages, legal and other costs associated with obtaining (and selling) that home..."*

It is a list, separated appropriately by a comma between the first and second items and "*and*" before the final item and all of the items are "*associated with obtaining (and selling) that home*".

In contrast the word "*and*" is crucial to the sense of the 2003 Green Book by separating the sentence into two parts. The effect is that it says mortgage costs limited to

> *"[the interest paid on repayment or endowment mortgages] and [other costs associated with obtaining (and selling) that home]"* (My emphasis)

It is the comma that is redundant here.

If we consider the context, we have a situation in which the rules of 2003 are tightened in 2005, but then in 2006 there appears to have been concern that the change has had too harsh an effect. The rule itself does not change but additional provision is made in 3.13.1to allow for interest on mortgages to improve a property to be paid provided that Members consult the House before making any commitments. This was not permitted in 2005.

I therefore maintain that my interpretation of the 2005 rules is the correct one and that it did apply to the interest on mortgages taken out before the Member entered the House. Nor can any Member anticipate the change of rules in 2006 before they happened.

Paragraph 31

1. Mrs Miller says that she suggested on 17 January that I should seek advice on this issue from the Director-General of HR and Change. This is not correct. With respect to her argument that I should not be considering her mortgage at all and referring to my letter of 12 September, she says, "*If your enquiry was wider in scope it would have been appropriate to raise these wider issues with the Director-General.*"

2. Mrs Miller says that she is not aware of any complaints or investigations which concerned mortgages or advances secured on the same property which were over and above the original mortgage to purchase that property. She says that the cases involving George Osborne and Alan Duncan are not relevant because the additional borrowing was taken out by the Members after they were elected. This is not accurate in the case of Mr Osborne. The circumstances were complicated, but his initial loan of £470,000 covered not only the £445,000 purchase costs of the property which he bought in 2000, but also transaction costs and initial repairs.

Paragraph 33

Mrs Miller suggests that I have said in paragraph 145 that if she had designated London as her main home "*all of my claims would be fully allowable and I was fully entitled to make the claims I made"*. This is a misrepresentation of my argument. In connection with the rough calculations I have made I said, "*The table below shows that if she had designated her constituency homes as her second homes from May 2005 to March 2009 and if she had reduced her claims by 2/7 to take account of her parents' presence in the household, she could have claimed around £54,000 for rent over the period. I have not been able to establish the other costs associated with these properties, but I consider it likely that if Mrs Miller had claimed for these, also reduced by 2/7, her claims would have been at or around the ceiling of the relevant allowance from May 2005 to March 2009."*

Paragraph 34

I note Mrs Miller's explanation of why she ceased to claim in 2009. She objects to my use of the words "*abruptly ceased to claim*". Mrs Miller claimed ACA/PAAE at or near the maximum for every month over nearly four years. She then made a very small claim for April 2009, and thereafter no claim at all. That is what I meant by "*abruptly ceased to claim*".

Mrs Miller refers to "*further errors and inaccuracies*" in the tables of figures in my conclusions. It is correct that some of the figures in the conclusion will be unfamiliar to Mrs Miller. They form part of my analysis which was not shared with her in draft. My calculations are based on figures supplied by Mrs Miller either directly to me or indirectly via the statements given to the Fees Office. The only figures from another source are the council tax figures for the years from 2005–06 to 2007–08 which Mrs Miller said she was unable to obtain. (My office found these available online.) The table in paragraph 134 compares her claims to the total ACA allowances and the figures will be familiar. The later tables consider reductions of two-sevenths as suggested by the Director-General in respect of her parents' living costs. I have made it clear that I have insufficient information to be precise and that these are very rough estimates only.

On re-examination I believe there is an error in the table included in paragraph 142, for which I apologise. I have used incorrect figures in the second line which in turn have led to a final figure approximately £9,000 higher than it should have been. I ask the Committee to accept my sincere apology for this mistake and for permission to correct the figures before the Memorandum is published. Paragraphs 147 and 155 are also affected and the over-claim

figure should be approximately £44,000 rather than £51,000. I have attached the revised section as an appendix to this letter[4].

Conclusion

The Committee has also asked me whether there have been any particular difficulties which have arisen in this inquiry. While there are always issues that arise when an inquiry is begun by one person and then taken on by another, I have already addressed the particular concern about the scope of the inquiry. Looking at the written evidence it can be seen that there were few gaps in responses to letters on either side. The only significant delay occurred between July, when Mrs Miller sent her first legal document, and September. She did not want me to take the advice of the Director-General on the basis of the summary of the statement of facts I had prepared and thought instead I should conclude my investigation. The number of letters exchanged was a concern to me and early in the inquiry was necessitated by the vague or imprecise answers to questions, which I have already mentioned. Much time was spent looking for evidence to support Mrs Miller's case. Towards the end of the inquiry responding to Mrs Miller's increasingly procedural letters took more and more time and delayed the conclusion of my work.

This letter responds at some length to most of the misrepresentations of my inquiry and my Memorandum by which Mrs Miller has attempted to discredit both the Memorandum and myself. I remain of the view that my inquiry and the Memorandum are robust and that the conclusions are sound. I remain, of course, happy to assist the Committee further.

13 February 2014

4 The information provided in this appendix has now been incorporated into the Commissioner's memorandum. See Appendix 1

Appendix 3: Further Correspondence between the Clerk of the Committee and Mrs Miller

Letter from the Clerk of the Committee to Mrs Miller requesting further information, 25 February 2014

At its meeting today the Committee on Standards decided it required further information to assist in its consideration of the memorandum from the Parliamentary Commissioner for Standards and has directed me to request this from you. The questions are as follows:

1) Did you increase your mortgage on the London home between the time you were selected as candidate for Basingstoke and the re-mortgage in November 2007? If you did increase the mortgage in this period, the Committee wishes for information, supported by documentation as far as possible, on:

    - the date of any increase;
    - the amount of any such increase; and
    - the purpose for which any additional money advanced was used.

2) With regard to the increase in your mortgage in November 2007, did you notify the Department of Finance and Administration of the change in your arrangements and seek their agreement in advance? If so, please give details.

3) In your response, dated 10 April 2013, to the letter from the Commissioner of 19 March 2013 inquiring about the reason for the mortgage increase in 2007 you say "The mortgage changed in the normal course of events." The Committee would like to know why you increased this mortgage and the use to which the money was put, with supporting documentation.

4) The Committee wishes to confirm the mortgage companies used during the period 2005-2009. The records available indicate that the mortgages were held by the RBS followed by Coventry Building Society. The Committee needs to know the effective rates of interest (with changes and applicable dates) for the period. Documents held by the House are incomplete. The Committee suggest you ask lenders for any information they may hold relating to your mortgage arrangements and payment.

As I have indicated, it would be helpful to have this information by the morning of Wednesday 5 March, but do let me know if this is not possible.

25 February 2014

Letter from Mrs Miller to the Clerk of the Committee, 16 March 2014

Thank you for your letter dated 25th February 2014 and for the Committee's allowing me some further time to respond. Unfortunately, some of the information is still not available to me but it seemed sensible that I should answer the Committee's four questions as best I can; and I take them in turn below.

Question 1

1. Yes. As at June 2003, the mortgage facility stood at £375,000. At this time, I had a variable, current account mortgage. The mortgage facility was increased in November 2004 by £50,000 to £425,000. When I was first elected (on 5 May 2005), the amount of the facility utilized was £419,034.77 (statement attached).

2. In terms of the increase in borrowing during this period, I do not have records of the exact uses of the money. During this period, my affairs were not arranged so as to differentiate or keep separate the use of household income and the use of borrowings in meeting the differing expenses we had to meet. Thus, for example there was no strict division between using borrowings for capital expenditure and household income for domestic expenditure, there being no reason to do so at the time.

3. Whilst I am not aware of the exact reasons why the Committee might wish to focus on the particular period of my candidacy before I was elected, I would make clear (as is no doubt obvious from the above way I arranged my affairs) that, during the period I was a prospective Parliamentary candidate, I did not in any way arrange or alter my affairs or in particular increase my borrowings with Parliamentary expenses in mind. On the contrary, I did not give any consideration to Parliamentary expenses before I became an MP and they formed no part of whether I had borrowings or at what level before or at the time I became an MP.

Question 2

4. No, I have no recollection of speaking to the Department of Finance and Administration in advance about these matters. Whilst it is possible that I had a conversation, I had no intention of making any claims in respect of any additional borrowing.

Question 3

5. The money was used for domestic expenditure but I cannot now recall the specific use and did not keep particular records since these were not funds in respect of which any claim was ever intended to be made. As I have previously explained, however, I had to subsidise beyond the ACA in order to enable me to fulfil my Parliamentary and constituency duties and maintain my family life and responsibilities. In effect this required an increased level of borrowing in order to be able to do so.

6. The Commissioner's memorandum proceeds on the basis that not only did I claim an element of the interest on the additional borrowing after I entered the House but

also that I thought I was entitled to do so. This is incorrect. I have never thought I was entitled to do so. I would like to make clear that I entirely accept that I could not claim for any mortgage interest in respect of any additional borrowing once I entered the House. The point was never put to me by the Commissioner but if she had raised it I would have made this clear.

Question 4

7. The mortgage companies were RBS until 2007, and Coventry Building Society thereafter.

8. Although I have requested it, I have still not received the information from RBS for the period 2005–2007.

9. The rates for the Coventry Building Society were on a base rate tracker mortgage set at 0.15 below base rate. These are set out in the statements provided to the House authorities at the time and in turn provided to the Commissioner and are contained in the material annexed to her Report.

Points of clarification

10. In order to answer the above question about whether borrowing was increased between 2003 and 2005, I had to obtain mortgage records from RBS for that period prior to my becoming an MP. This is information that I had not previously had and that has not previously been considered at any time during the Commissioner's inquiry. The question as to whether there was an issue in relation to additional borrowings before I became an MP first emerged with the Commissioner's letter to me of 11th November 2013, some 11 months into the inquiry; and in fact the Commissioner's inquiry only ever invoked a rule about pre-election borrowing for the first time in her memorandum to the Committee. As the Committee will be aware, following that letter of 11th November 2013, the exchanges between the Commissioner and me were confined to points of principle and there was no factual investigation in relation to events some 9 to 11 years ago. Until now, therefore, the information I had been working from was the bank statements I was able to obtain at the outset of the inquiry, which provided the basis of my response to Mr Lyon's original letter, and the documents provided to me by the Commissioner obtained from the House's records. Accordingly, the Committee's enquiries have caused me, for the first time, to make enquiries of RBS in relation to the position between when I was selected as a prospective parliamentary candidate and when I was elected. This does change the position in relation to some of the facts previously understood which I will deal with below.

11. In particular, my previous factual understanding was that borrowings after I entered the House increased by £50,000. Whilst I have not yet been able to obtain the mortgage records for 2005-2007 to be able to confirm the position precisely, since it is now clear that borrowing was at £419,034.77 at the time I was first elected to Parliament, it would follow that the mortgage borrowing was increased by an

additional £100,000. This was not apparent from the records previously considered during the inquiry and, as explained above, until the Committee's questions, I did not previously have cause to obtain the pre-elections records and look at this aspect.

12. In the light of this information, I have looked back at the interest claims made, on the basis that no claim should have been made for interest over and above the capital debt of £419,0 34.77 as at the time I entered Parliament. As the Committee will be aware, I claimed a proportion of mortgage interest for each of the four years in question. By my calculations, I do not believe claims were made for an amount above the £419,034.77 figure for the years 2005–6, 2006–7, and 2007–8. However, I now believe it appears that there was an overclaim for the 2008–09 year which included an element of interest on capital borrowing above £419,034.77. This was inadvertent and I never intended to claim any interest in relation to any additional borrowing taken out after I entered Parliament. I am obviously deeply concerned as to how this could have arisen. The mortgage at the time was with the Coventry Building Society and was a base rate tracker mortgage set at 0.15 below base. I cannot now say for sure how the error occurred but, while at the beginning of the year I began by claiming a proportion of the mortgage as in previous years, as base rate dropped dramatically (from over 5 percent in 2008 to 0.5 percent by March 2009), I must have miscalculated the effect of this or failed to realize that this would also have a significant effect on the ratio of the interest payments to the debt such that the monthly amount attributable to the amount of the debt when I entered Parliament had to be adjusted further downwards. I had absolutely no intention to claim for any additional borrowing after I had become an MP and I entirely accept I should not have claimed any amount which could be attributed to additional borrowing after I became an MP. At the very first moment I have become aware of this, I am immediately informing the Committee. I sincerely apologise for this and accept that this amount needs to be repaid. I will of course work with the Committee to quantify this sum if it is separately relevant, although it is subsumed into a different picture if the Committee were to consider that there can be no claims for additional borrowings incurred even before becoming an MP. I turn to this briefly below.

Pre-election borrowing

13. In my letter of 3rct February 2014, I did not fully address the Commissioner's supposed findings as to my thought processes at the time. As I made clear in my previous letter, the Commissioner did not put her concerns to me, yet has purported to draw her own conclusions as to what I intended. As I previously indicated, these matters were only raised 11 months into the inquiry and then without any inquiry process since the Commissioner and I differed about the scope of the inquiry and she was then apparently very anxious to finish her report. The result is that her memorandum contains findings that could not have been made if I had been asked to comment or if a proper process had been followed. As the Committee will appreciate, the Commissioner's report will be published alongside the Committee's report and her unfounded criticisms will no doubt be reported.

14. The starting point is whether there was a rule as the Commissioner contends to the effect that additional borrowing extends to any borrowing after purchase of a property, even before the Member was ever elected. If the Committee agrees with my previous letter (to which I would again refer), then that is the end of the particular point. If, however, the Committee considers that such a rule should be applied, then I should make clear that it did not for a moment occur to me that the rules operated in the manner now contended by the Commissioner. If it did, I simply would not have made the claims I did. My actions clearly demonstrate that this was the case.

15. If I had understood this to be the rule, then apart from not claiming at all, there were steps I would have been entitled to take and would obviously have taken to avoid its consequences. On the basis of the Commissioner's finding I could have designated London as my main home. As it is accepted that the costs of my Basingstoke home would exceed the costs of my London home, then I could have made the claims I did and avoided the current problem altogether. There would have been no claims for mortgage interest at all and I would have been fully entitled to make claims in the amounts claimed. Alternatively, if I had understood this to be the rule, I would have minimised my claims for mortgage interest by claiming other allowable categories of expenditure, which I was clearly entitled to do. It is clear from the schedule provided by me to the Commissioner that there were number of other significant costs associated with the house that would have been unaffected by the issue and for which I did not claim. Indeed, I did precisely the opposite. I claimed a high percentage of mortgage interest in each year, ironically, because it seemed to me that it was simpler.

16. At the time of my election, my children were 11, 8 and 3. In order to fulfil my role as an MP and maintain my family life it was necessary to have two family homes. Because of my circumstances, the cost of each home exceeded the amount recoverable under the ACA. The purpose of the ACA was to compensate a Member for the cost of living in two places and this was the purpose I was using it for, which I sought to do in a reasonable and proper way and in circumstances where it was clear that I was entitled to claim in the amounts that I did and where in fact I was having to bear a considerable financial cost well beyond the ACA to be able to be both an MP and a mother.

17. Finally, I should make some brief observations about the Commissioner's figures. Her approach in her calculations is to treat mortgage interest and council tax by themselves in relation to the apportionment of 5/7 to take account of my parents. This is not the approach adopted by the Director General of Finance and Administration in his letter of 27th September 2014 in relation to this issue. His approach was to look at all the allowable expenditure as set out in my schedule and then apply the 5/7 rule to that. This seems to me to be a fairer approach as a proper apportionment needs to take account of what has and what has not been claimed. I would also suggest that it is relevant for the Committee to have regard to the fact that I did not make any claims at all in the 2009–10 year.

I am grateful to the Committee for continuing to consider this matter and I shall be happy to assist the Committee further in any way that I can.

16 March 2014

Letter from the Clerk of the Committee to Mrs Miller, 18 March 2014

Thank you for your letter of 16 March 2014. I have consulted the Chair, Kevin Barron MP, and there are some further questions where the Committee would find clarification helpful.

Please could you provide more details about your mortgage with the Coventry Building Society. The Committee would be grateful for as clear a description as possible as to how it worked and in particular, whether it was, as appears from the papers, an interest only mortgage, with some interest offset by savings accounts?

As you are aware, the documentation available from the House's records is patchy. Please could you obtain fuller information such as a full run of statements, from the Coventry Building Society? In particular, the Committee would be grateful for confirmation of the total interest paid by you both before and after the offset in the financial years 2007–2008 and 2008–2009.

The statement of 30th of April 2005 attached to your letter makes it clear that the mortgage facility at that date was £425,000. It is also clear from the account overview dated 16/11/2007 that the facility at that time was £525,000. The Committee will wish to know (with supporting documentation) when the facility and when your borrowing was increased. Please could you tell the Committee when your account changed from a variable current account mortgage (shown on the April 2005 statement you enclosed) to an offset mortgage and any practical consequences of the change.

In paragraph 12 of your letter you say "by my calculations, I do not believe claims were made for an amount above the £419,034.77 figure for the years 2005–6, 2006–7, 2007–8. However, I now believe it appears there was over claim for the 2008–09 year…." The Committee would be grateful for sight of these calculations, and the figures and documentation on which they were based.

18 March 2014

Letter from Mrs Miller to the Clerk of the Committee, 23 March 2014

Thank you for your letter of 18 March 2014.

I understand the Committee has further questions and I of course seek to answer these below. I also appreciate why the Committee wishes to have further information and these further questions arise because these are matters on which the Commissioner produced a memorandum without ever having investigated these aspects. The Committee and I have therefore both been put in the position of trying to deal with something which has not had the benefit of an inquiry or any of the proper process which should have occurred before this stage. With that caveat, I turn to the questions to assist the Committee doing the best I can to respond.

After the opening paragraph of your letter, there are then four paragraphs (ie starting with the second paragraph of your letter) setting out the Committee's further questions. To respond, I take each of those paragraphs in turn below as follows:

- The second paragraph -the offset
- The third paragraph-Coventry Building Society mortgage figures
- The fourth paragraph -changes in the facility
- The fifth paragraph –calculations

Second paragraph of your letter-the offset

You have asked how the offset arrangement worked. The mortgage was linked to a deposit account and any interest accruing to the credit of that deposit account was offset against the balance on the mortgage account. What this meant in practice was that the interest payable in relation to the mortgage was reduced by any amount of interest earned on the balance of the deposit account. The interest I earned was thus not paid directly to me as a cash balance credit but instead reduced the mortgage interest payments, and in effect I was making this payment towards the interest due. What this also means is that the interest paid in respect of the mortgage did not necessarily increase to reflect any additional borrowing if and to the extent such amount remained in the offset account.

In answer to the question as to what sort of mortgage it was, the Committee is correct that it was an interest-only mortgage.

Third paragraph of your letter -Coventry Building Society Mortgage figures

I cannot at present provide a full run of Coventry Building Society statements, as requested in your letter of 18 March 2014. These are not documents I have in my possession and I no longer have a mortgage or any banking arrangements with Coventry Building Society. I can request the statements from Coventry Building Society if the Committee wishes but I am not sure how long it will take them to provide as I am no longer a customer.

I am, however, able to say how much interest overall was paid in that period based on payments made from bank statements that met the interest due. This is what I did in my letter of 3rd January 2013 to the Commissioner. As set out there, in respect of the financial years about which the Committee has asked, the interest paid was as follows:

- 2007–08: £30,736
- 2008–09: £ 21,530

Fourth paragraph of your letter-changes in the facility

I am not at present able to tell the Committee exactly when the increases to the facility were after 2005 or the exact date when the variable current account mortgage was changed to an offset mortgage. This is because I can provide this information only when I have received the RBS account information for the period after 2005. Upon receipt of your letter of 25 February 2014, I made a request of RBS in relation to the mortgage from 2003 to 2007. Whilst they did provide information up to 2005, they did not send the information in relation to 2005 to 2007. I then made a further request and this request remained outstanding when I wrote to you on 16 March 2014. I have now received from RBS mortgage statements for a period post-2010, but this is not what I requested or relevant. As it takes approximately a week for RBS to send the information, I am in difficulty in responding in the meantime. In short, I have requested the documents twice but they have not yet been able to be provided by RBS.

Fifth paragraph of your letter-calculations

In looking at the Committee's queries on calculations, there are two elements I should address.

First, in her memorandum, the Commissioner included some calculations and a number of tables of figures. As the Committee is aware, these tables and calculations were never shown to me in draft before the Commissioner produced her report to the Committee and I was never asked to comment on them (nor indeed was this matter investigated in her inquiry). I believe the Commissioner's approach and calculations are flawed, as I explain below.

Secondly, the Committee has asked about my calculations in relation to whether interest was claimed on additional borrowing taken out in the period after I became an MP.

In preparing this letter to deal with the above two elements (as also with my letter of 16 March 2014), I have attempted to do some calculations. However, the figures can only be estimated as I do not know from RBS exactly when the mortgage increased to £525,000 or, as this was an offset, when the additional borrowing led to an increase in actual interest paid. There may also be a need for a more detailed analysis of the Coventry Building Society figures for the same reason.

In terms, first, of incorrect calculations by the Commissioner, there are two particular issues that I would highlight here as follows:

1. In calculating the amount of mortgage interest claimable (paragraph 146 of her memorandum), the Commissioner has taken the actual amount claimed in each year and

then multiplied it by 40.95% (being the percentage of £215k to £525k). I do not believe, however, that this can be the correct approach. The correct approach ought to be to take the appropriate percentage of the total amount of interest paid in any year (not just what was claimed) to see whether the amount claimed included an element of additional borrowing. The Commissioner's approach would trigger a potential repayment even if no claim was in fact made in respect of additional borrowing. This cannot be right.

2. As I indicated in my letter of 16 March 2014, the Commissioner then goes on in the same table to reduce the interest figure produced by the calculation described above by 2/7 to take account of my parents. However, the exercise of making an adjustment for my parents by definition has to take into account the overall household expenditure and not just what was claimed. The reduction of interest claimable has an impact on that figure but the Commissioner's approach seems to run contrary to the approach she sets out in paragraph 134 of her memorandum. It is also not clear to me as to why the Commissioner has singled out Council Tax for a similar treatment.

The effect of the above is very significant and these are different issues from the point I have explained in previous correspondence about the Commissioner's approach to the rules. The Commissioner's calculation approach seems to incorrectly add very substantial sums to what she suggests could not be claimed on her interpretation of the rule. If one adopts what seems to be the correct methodology (assuming her approach to the rule that no interest is allowable on any additional borrowing taken even before a Member entered Parliament), the Commissioner's supposed figure of £49,746.18 is reduced to £33,404.40 when the additional borrowing is calculated based on the total interest paid in each year, and then reduces further to £28,576 if one takes into account what other expenditure would have been allowable under the application of 2/7. These figures are based on an accounting assumption for present purposes that the mortgage increased to £525,000 in April 2005 and to £575,000 in April 2007, which clearly was not the case, so the actual figures are likely to be lower.

The above figures also do not take account of the separate point from the Commissioner's finding (her paragraph 145) that the costs of the constituency home, on which she considers I could and should have claimed, would have been (even taking into account the 2/7 rule, and assuming it was also applicable) "at or around the ceiling of the relevant allowance from May 2005 to March 2009".

On the second element, involving my calculations about which the Committee has asked, as I indicated in my previous letter, I think the correct approach is to start from the point that I was not able to claim beyond the interest on £419,034.77. That was the amount of borrowing when I entered Parliament, and any borrowing beyond that after I entered Parliament was additional borrowing, for the interest in respect of which I have never suggested I was entitled to claim. A straightforward approach is then to calculate the claimable interest by applying to the overall interest payable the percentage of the allowable principal debt to any additional borrowing. In other words, if the level of the mortgage was £575,000 in a given year, the maximum claimable was £419,034.77 f £575,000 = 72.9% of the interest payable in that year.

Taking that approach, as set out in my letter of 16 March 2014, I believe the only overclaim is in the 2008–09 year. The overclaim in that year is about £5,800, reducing to about £4,000 when the 2/7 adjustment is made.

I hope the above is of further help to the Committee.

23 March 2014

Formal Minutes

Tuesday 1 April 2014

Members present:

Kevin Barron, in the Chair

Sir Paul Beresford	Sir Nick Harvey
Mr Robert Buckland	Fiona O'Donnell
Mr Christopher Chope	Mr Walter Rader
Mr Geoffrey Cox	Heather Wheeler
Sharon Darcy	Dr Alan Whitehead

Draft Report (*Maria Miller*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 8 read and agreed to.

Paragraphs 9 and 10 read, amended and agreed to.

Paragraphs 12 to 15 disagreed to.

Paragraph 15 (now paragraph 12) read, amended and agreed to.

Paragraphs 16 to 23 (now paragraphs 13 to 20) read and agreed to.

Paragraph 24 (now paragraph 21) read, amended and agreed to.

Paragraphs 25 to 32 (now paragraphs 22 to 29) read and agreed to.

Paragraphs 33 and 34 (now paragraphs 30 and 31) read, amended and agreed to.

Paragraphs 35 to 43 (now paragraphs 32 to 40) read and agreed to.

Paragraph 44 (now paragraph 41) read, amended and agreed to.

Paragraph 45 (now paragraph 42) read and agreed to.

Paragraph 46 (now paragraph 43) read, amended and agreed to.

Paragraph 47 (now paragraph 44) read and agreed to.

Paragraph 48 (now paragraph 45) read, amended and agreed to.

Paragraphs 49 to 52 (now paragraphs 46 to 49) read and agreed to.

Paragraphs 53 and 54 (now paragraphs 50 and 51) read, amended and agreed to.

Paragraphs 55 to 59 (now paragraphs 52 to 56) read and agreed to.

Paragraph 60 (now paragraph 57) read, amended and agreed to.

Paragraph 61 (now paragraph 58) read and agreed to.

Paragraph 62 (now paragraph 59) read, amended and agreed to.

Paragraph 63 (now paragraph 60) read and agreed to.

Paragraphs 64 and 65 (now paragraphs 61 and 62) read, amended and agreed to.

Paragraph 66 to 68 (now paragraphs 63 to 65) read and agreed to.

Paragraph 69 (now paragraph 66) read, amended and agreed to.

Paragraph 70 (now paragraph 67) read and agreed to.

Paragraphs 71 and 72 (now paragraphs 68 and 69) read, amended and agreed to.

Paragraph 73 (now paragraph 70) read and agreed to.

Seven papers were appended to the Report as Appendices 1, 2 and 3.

Resolved, That the Report be the Tenth Report of the Committee to the House.

Written evidence received by the Parliamentary Commissioner for Standards (WE 1–49) was ordered to be reported to the House for publishing with the Report.

None of the lay members present wished to submit an opinion on the Report (Standing Order No. 149 (9)).

Ordered, That the Chair make the Report to the House.

[Adjourned till Tuesday 8 April at 9.30 am

Published written evidence

The following written evidence was received from the Parliamentary Commissioner for Standards and can be viewed on the Committee's inquiry web page at:
http://data.parliament.uk/writtenevidence/WrittenEvidence.svc/EvidenceHtml/8174

1	Article from the Daily Telegraph, 10 December 2012	(WE 01)
2	Letter to the Commissioner from Mr John Mann MP, 11 December 2012	(WE 02)
3	Letter to Rt Hon Maria Miller MP from the Commissioner, 12 December 2012	(WE 03)
4	Letter to the Commissioner from Rt Hon Maria Miller MP, 3 January 2013	(WE 04)
5	Enclosures to Letter to the Commissioner from Rt Hon Maria Miller MP 3 January 2013	(WE 05)
6	Letter to Rt Hon Maria Miller MP from the Commissioner, 17 January 2013	(WE 06)
7	Letter to the Director-General of HR & Change from the Commissioner 19 February 2013	(WE 07)
8	Letter to the Commissioner from Rt Hon Maria Miller MP, dated 18 February 2013, received 26 February 2013	(WE 08)
9	Letter to the Commissioner from the Director-General of HR & Change 8 March 2013	(WE 09)
10	Enclosures to Letter to the Commissioner from the Director-General of HR & Change 8 March 2013	(WE 10)
11	Letter to Rt Hon Maria Miller MP from the Commissioner, 19 March 2013	(WE 11)
12	Letter to the Commissioner from Rt Hon Maria Miller MP, 10 April 2013	(WE 12)
13	Letter to Rt Hon Maria Miller MP from Sir Thomas Legg KCB QC, 7 December 2009	(WE 13)
14	Letter to Rt Hon Maria Miller MP from the Commissioner, 25 April 2013	(WE 14)
15	Letter to the Commissioner from Rt Hon Maria Miller MP, 9 May 2013	(WE 15)
16	Letter to Rt Hon Maria Miller MP from the Commissioner, 16 May 2013	(WE 16)
17	Letter to the Commissioner from Rt Hon Maria Miller MP, 4 June 2013	(WE 17)
18	Letter to former constituency Chairs of Basingstoke Conservative Association from the Commissioner, 6 June 2013	(WE 18)
19	Letter to Estate Management agent from the Commissioner, 6 June 2013	(WE 19)
20	Letter to second Estate Management agent from the Commissioner 6 June 2013	(WE 20)
21	Letter to the Director of Operations and Member Services, 6 June 2013	(WE 21)
22	Letter to the Commissioner from second Estate Management agent 10 June 2013	(WE 22)
23	Letters to the Commissioner from previous Chairmen of Basingstoke Conservative Association, 10 and 14 June 2013	(WE 23)
24	Letter to the Commissioner from first Estate Management agent 11 June 2013	(WE 24)
25	Letter to the Commissioner from Rt Hon Maria Miller MP, 1 July 2013	(WE 25)
26	Enclosure to Letter to the Commissioner from Rt Hon Maria Miller MP 1 July 2013	(WE 26)