

HOUSE OF LORDS

Committee for Privileges and Conduct

6th Report of Session 2015–16

The conduct of Lord Bhatia

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The Committee for Privileges and Conduct

The Committee for Privileges and Conduct is appointed each session by the House to consider questions regarding its privileges and claims of peerage and precedence and to oversee the operation of the Code of Conduct.

Detailed consideration of matters relating to the Code of Conduct is undertaken by the Sub-Committee on Lords' Conduct.

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Contacts

General correspondence should be addressed to the Clerk of the Committee for Privileges and Conduct, House of Lords, London, SW1A 0PW (telephone 020 7219 8796).

Correspondence relating to the work of the Sub-Committee on Lords' Conduct should be addressed to the Clerk of the Sub-Committee on Lords' Conduct, House of Lords, London, SW1A 0PW (telephone 020 7219 5307).

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The conduct of Lord Bhatia

REPORT FROM THE COMMITTEE FOR PRIVILEGES AND CONDUCT

Background

1. The Committee for Privileges and Conduct has considered a report by the House of Lords Commissioner for Standards on the conduct of Lord Bhatia (at Annex 2). The Committee has also considered a report by the Sub-Committee on Lords' Conduct (at Annex 1).
2. The procedure in cases such as this is set out in the Guide to the Code of Conduct. Under this procedure, the Commissioner investigates allegations against Members. He reports his findings to the Sub-Committee, which, if the Commissioner has found the Member to have breached the Code, recommends any action that the Member concerned should take and any sanction that the House should apply. The Sub-Committee does not reopen the Commissioner's findings, which are reported without amendment to the Committee for Privileges and Conduct. The Member may then appeal to that Committee against the Commissioner's findings or the Sub-Committee's recommended sanction, or both.

Summary of the case

3. This case arose after the BBC *Newsnight* programme in December 2013 broadcast a story which, among other things, alleged that Lord Bhatia claimed and received mileage expenses from both the House of Lords and the Ethnic Minority Foundation (EMF), a charity he was involved with, in respect of the same journeys. Following the broadcast a complaint was made by the then Leader of the House, Lord Hill of Oareford, to the Commissioner for Standards alleging that Lord Bhatia had breached the House's rules on financial support for members by double claiming. The Commissioner's investigation was suspended in January 2014 while the police investigated the same and related allegations; the Commissioner's investigation resumed in October 2015 after the police concluded their investigation.

The Commissioner's findings

4. The Commissioner identified 63 days between January and July 2010 in respect of which Lord Bhatia claimed mileage expenses from both the House of Lords and the EMF.¹ Each of the claims was honoured by both bodies. For each of those days Lord Bhatia claimed from the House for a 30-mile round journey between his home in Hampton and Westminster. The total amount claimed from the House for those 63 days was £756.
5. Lord Bhatia admitted to the Commissioner that he had wrongly claimed the mileage expenses from both bodies. He said this was due to a system not being in place in his office to prevent double-claiming. His claims were prepared by his long-standing personal assistant and he signed the forms

¹ A table of the claims is in appendix Q to the Commissioner's report.

she prepared. He said he was unaware that he had double-claimed mileage expenses. He apologised and offered to repay the money.

6. The Commissioner found Lord Bhatia in breach of the rules on financial support for members by claiming mileage expenses from the House for 63 days while also claiming the expenses from another body. In respect of his claims from May to July 2010, after the new Code of Conduct came into force, this also constituted a breach of paragraph 10(c) of the Code. The Commissioner found that by not being scrupulous in his claims for financial support Lord Bhatia failed to act on his personal honour, and so breached paragraph 8(b) of the Code.

The Sub-Committee's recommendations

7. The Sub-Committee on Lords' Conduct recommended that Lord Bhatia should be suspended from the service of the House for eight months and required to repay to the House the £756 he wrongly claimed.

Lord Bhatia's appeal

8. Lord Bhatia did not appeal against the Commissioner's finding that he breached the rules on financial support for members and paragraph 10(c) of the Code. However, he did question the Commissioner's finding that in so doing he failed to act on his personal honour. He appealed against the recommendation that he be suspended from the service of the House for eight months, but he did not appeal against the recommendation that he repay the £756 wrongly claimed.

The Committee's role

9. The role of the Committee for Privileges and Conduct when there is an appeal is set out in paragraph 139 of the Guide to the Code:²

“On appeal, the Committee will not reopen the Commissioner's investigation. Rather members of the Committee will use their judgment to decide whether, on the balance of probabilities, they endorse the conclusions of the Commissioner; they will also consider whether or not the recommended sanction is appropriate. On appeal a recommended sanction may be endorsed, reduced or increased.”

10. Accordingly, the Committee has considered the reports of the Commissioner and the Sub-Committee. The Committee has also considered Lord Bhatia's written appeal. Lord Bhatia did not wish to appear in person before the Committee. Lord Bhatia's written appeal is printed with this report (at Annex 3).³

Lord Bhatia's submissions

11. Lord Bhatia appealed against the eight month suspension on the grounds that there were flaws in the Commissioner's investigation and the Sub-Committee's consideration of the case; and that these led the Sub-Committee

² Fourth edition: May 2015.

³ Lord Bhatia enclosed with his written appeal three documents which are being printed as appendices to the Commissioner's report: a copy of the transcript of his interview with the Commissioner (appendix S to the Commissioner's report); a letter of 17 November 2015 from the chairman of the Ethnic Minority Foundation to the Commissioner (appendix L to the Commissioner's report); and Lord Bhatia's statement to the Metropolitan Police Service (appendix R to the Commissioner's report).

to recommend a disproportionate sanction.⁴ The Committee considered the points he raised and we set out our conclusions below.

Paragraph 108 of the Guide to the Code of Conduct

12. Lord Bhatia stated that under paragraph 108 of the Guide to the Code of Conduct⁵ the complainant, Lord Hill of Oareford, should have raised the complaint directly with him in the first instance. He argued that the omission of this step denied him the opportunity to self-refer to the Commissioner, to provide an explanation or to offer immediate restitution.⁶
13. We note that the allegations were broadcast on *Newsnight* on 4 December 2013. Lord Hill of Oareford wrote to the Commissioner on 5 December 2013. The Commissioner wrote to Lord Bhatia on 11 December 2013, enclosing a copy of the complaint. Lord Bhatia had the opportunity between 4 and 11 December 2013 to self-refer, to provide an explanation or to offer immediate restitution. He did not do so. We do not consider that the absence of prior notice of the complaint made any material difference to the investigation or the Commissioner's findings.

Reliance on irrelevant materials

14. Lord Bhatia in his written appeal argued that the Commissioner relied on irrelevant materials and considerations. Lord Bhatia stated that the Commissioner relied on "evidence" provided to *Newsnight* by EMF officials, that such evidence was prejudicial, and that it distorted the Commissioner's process and led to unjust findings and an inappropriate recommended sanction.⁷
15. We looked at whether there was evidence to support this allegation and concluded that the Commissioner relied only on relevant evidence.
16. The complaint about Lord Bhatia was prompted by the *Newsnight* story. A transcript of the story was provided to Lord Bhatia and he was invited to comment on it. During that story various allegations were made against Lord Bhatia. All but one of the allegations were outside the Commissioner's remit. The Commissioner stated to Lord Bhatia that he was investigating only the alleged double-claiming of mileage expenses, and so Lord Bhatia did not need to respond to the other allegations.⁸ The Commissioner did not cover the other allegations in his report nor in his exchanges with Lord Bhatia. We found no occasion on which Lord Bhatia suggested to the Commissioner that the scope of the Commissioner's investigation had limited Lord Bhatia's ability to respond fully to the allegations under investigation.
17. The *Newsnight* story is mentioned in the opening paragraphs of the Commissioner's report, which set the context for the complaint and summarised the investigatory process.⁹ It was not mentioned in the section in which the Commissioner analysed the allegations and Lord Bhatia's

4 The grounds for his appeal are summarised in paragraphs 7 and 38 of his appeal (at annex 3).

5 Paragraph 108 of the Guide to the Code of Conduct states:

"If the complainant is a Member of the House of Lords, the complaint should be raised in the first instance with the Member complained against, or otherwise with that Member's party Leader or Chief Whip, or with the Convenor of the Crossbench Peers."

6 Annex 3, paragraph 8.

7 Annex 3, paragraphs 9–12.

8 Appendices C, M and S (Q 1) to the Commissioner's report.

9 It is mentioned in paragraphs 1, 3–5, 13 and 19 of the Commissioner's report.

responses;¹⁰ nor was it mentioned in his findings.¹¹ The Commissioner did not use quotations from the *Newsnight* story.

18. Lord Bhatia also suggested that the Commissioner adopted language used on *Newsnight* and that the totality of the allegations on the programme influenced the Commissioner.¹² Lord Bhatia did not point to particular phrases used by the Commissioner which were used on *Newsnight*. As stated above, the Commissioner's report did not use quotations from *Newsnight*. The programme was referenced sparingly and only in setting the context. We found no evidence to support Lord Bhatia's arguments that the Commissioner was improperly influenced by other allegations on *Newsnight*.
19. Lord Bhatia further argued that "a large proportion of the Commissioner's evidence was reliant upon a Frenkels Forensics Expert Accountancy Report, dated 21 January 2014, which largely formed the basis of the allegations referred to in *Newsnight*."¹³ He stated that the Frenkels report was not "tested for accuracy".¹⁴
20. In his report the Commissioner explained that he based his investigation on copies of Lord Bhatia's original claim forms for mileage expenses submitted to the House of Lords and the EMF. He did not rely on the Frenkels Forensics report because some of the data in it were inaccurate.¹⁵ He did not quote from the Frenkels Forensics report. Lord Bhatia confirmed that the Commissioner's identification of the 63 days, based on the original mileage claim forms, was accurate.¹⁶ Given that, we find no evidence to support the suggestion that the Commissioner relied on the Frenkels Forensics report unquestioningly.
21. In his appeal Lord Bhatia stated that he "was not given an opportunity by the Commissioner to comment on all the material supplied to the committee in the context of the alleged breach."¹⁷ The Commissioner twice wrote to Lord Bhatia inviting him to provide a full and accurate account of the matters in question.¹⁸ At the start of his interview the Commissioner invited Lord Bhatia to make an opening statement and at the end to make any final remarks.¹⁹ After the interview Lord Bhatia was invited to make a final written submission.²⁰ The Commissioner also invited Lord Bhatia to comment on those parts of his draft report which dealt with issues of fact.²¹ It is hard to see how Lord Bhatia could have been given more opportunities to comment on the case.

10 Paragraphs 20–36.

11 Paragraphs 37–46.

12 Annex 3, paragraphs 13 and 14.

13 Annex 3, paragraph 12.

14 Annex 3, paragraph 12(iii).

15 Footnote 35. The Commissioner exchanged letters with the EMF about the apparent inaccuracies (appendices N and O).

16 Appendix S, Q1.

17 Annex 3, paragraph 12(v).

18 Appendices C and M.

19 Appendix S, QQ1 and 9.

20 Appendix V.

21 Appendix V.

Lack of transparency

22. Lord Bhatia's written appeal alleged that the Sub-Committee on Lords' Conduct was not transparent in deciding its recommended sanction.²²
23. The Sub-Committee explained the reasons for its recommended sanction in paragraph 7 of its report. These reasons are cogent and relevant. The Sub-Committee had before it the Commissioner's report and the evidence published with it; there were no other documents obtained from the Commissioner. Lord Bhatia had been supplied with all the material that the Sub-Committee considered. We therefore see no truth in this allegation.

Inadequate time for appeal

24. Lord Bhatia argued that he was given only two weeks to formulate his appeal and that that was restrictive.²³
25. In fact 20 days elapsed between Lord Bhatia receiving the full Sub-Committee and Commissioner reports and the date by which he was asked to lodge his appeal.²⁴ The time given was similar to that previously given to other members for preparing appeals. Moreover, Lord Bhatia was sent copies of the evidence gathered by the Commissioner as his investigation progressed. The Commissioner sent Lord Bhatia extracts from his draft report dealing with issues of fact and invited comments on them.²⁵ Lord Bhatia responded six days later.²⁶ The draft extracts amounted to 31 of the 46 paragraphs in the Commissioner's report. So the only new material that had to be considered by Lord Bhatia in composing his appeal were 15 paragraphs in the Commissioner's report and the eight paragraphs of the Sub-Committee's report. We are satisfied that Lord Bhatia had ample time to prepare his appeal.

Lack of consideration of EMF settlement and Metropolitan Police findings

26. The Commissioner's investigation was suspended while the Metropolitan Police investigated an allegation that Lord Bhatia breached section 4 of the Fraud Act 2006. During this time Lord Bhatia also was engaged in a civil dispute with the EMF. Lord Bhatia argued that the Commissioner did not give adequate credit to the facts that Lord Bhatia settled his case with the EMF and that the Metropolitan Police did not pursue their investigation into him.²⁷
27. The Metropolitan Police were investigating a criminal allegation. They took no further action against Lord Bhatia because there was insufficient evidence of criminal intent.²⁸ Lord Bhatia and the EMF were involved in a civil action as part of a "broader commercial dispute" between them.²⁹ They reached an out-of-court settlement in which each discontinued the claims against the other.³⁰ Lord Bhatia suggested to the Commissioner that this meant the case

22 Annex C, paragraphs 15–17.

23 Annex 3, paragraphs 18 and 19.

24 Lord Bhatia was sent the reports on 16 March 2016. On 22 March 2016 the clerk of the Privileges and Conduct Committee confirmed the deadline for sending his appeal (which was 5 April 2016).

25 Appendix V, sent on 16 February 2016.

26 Appendix W, sent on 22 February 2016.

27 Annex 3, paragraphs 20–22.

28 Appendix J.

29 Appendix F.

30 Appendix L.

could be closed.³¹ The Commissioner responded that he was nonetheless required to investigate the alleged breach of the Code.³²

28. We find that there is no case for concluding that the Commissioner should have given more weight to the outcome of the Metropolitan Police’s investigation or the settlement of Lord Bhatia’s civil case. The Commissioner investigated an alleged breach of the House’s rules on financial support for members and the House’s Code of Conduct. His investigation was inquisitorial³³ and his findings were based on the civil standard of proof (the balance of probabilities).³⁴ Thus the offence concerned and the process followed by the police were distinct from those relevant to the Commissioner’s investigation. Likewise the settlement of Lord Bhatia’s civil case was a separate matter.

Legitimacy of claims to the House

29. Lord Bhatia suggested that his claims to the House may have been legitimate because the EMF did not willingly pay for double-claimed expenses. He appeared to indicate that double-claiming was impermissible only if the other organisation was willingly paying for the mileage expense, as well as the House of Lords.³⁵
30. We cannot agree that it could be considered legitimate for a member to claim mileage expenses for the same journeys from the House and from another organisation. We therefore agree with the Commissioner’s interpretation of the relevant rules.³⁶ Moreover we note that each month when making claims from the EMF Lord Bhatia signed next to the declaration: “I hereby declare that the above expenses were incurred wholly and necessarily in the course of EMF business and no other claim has been made for them.”³⁷ All of his claims to the EMF were honoured.³⁸ It is therefore hard to see why Lord Bhatia claimed that he “was unaware that the mileage expenses were being claimed from EMF.”³⁹

Ambiguous rules

31. In 2011 the section of the *Guide to financial support for members* on travel expenses was amended to state, “Members are required to sign a declaration that expenses are not claimed from any other source.”⁴⁰ Lord Bhatia argued that this meant that in 2010 (when his claims were made) there was ambiguity in the rules on double-claiming. He suggested this meant that the Commissioner was wrong to find that his claims were “unacceptably casual” and that he failed to act on his personal honour.⁴¹
32. In his report the Commissioner noted that the 2011 amendment to the *Guide to financial support for members* was not reported to the House and not agreed by resolution of the House. It was agreed by the House Committee as one of several “administrative issues”. It could not have been a change in the rules

31 Appendix L.

32 Appendix M.

33 Paragraph 120 of the Guide to the Code.

34 Paragraph 124 of the Guide.

35 Annex 3, paragraphs 28–30.

36 See paragraphs 20–24 of the Commissioner’s report.

37 Paragraph 40 of the Commissioner’s report.

38 Appendix S, Q2.

39 Annex 3, paragraph 35.

40 See paragraph 23 of the Commissioner’s report.

41 Annex 3, paragraph 34.

on claiming financial support as such rules must be agreed by the House. The Commissioner described it as “simply an administrative change which made wholly explicit what was already a requirement of the scheme. To interpret this development otherwise would mean that before 2011 the House’s rules permitted double-claiming of travel expenses. I cannot conceive that that was so.”⁴² We endorse the Commissioner’s conclusion and do not think there was any ambiguity in the rules before 2011 which could explain or mitigate Lord Bhatia’s double-claiming.

Lord Bhatia’s “failure to learn a lesson”

33. In his report the Commissioner noted that at the time Lord Bhatia was double-claiming mileage expenses he was under investigation for breaching another aspect of the House’s system of financial support for members—by wrongly designating his main residence and claiming overnight subsistence and mileage expenses accordingly.⁴³
34. Lord Bhatia suggested that the Commissioner implied that he had “failed to learn a lesson” in light of the previous investigation into his expenses. Lord Bhatia objected to this and pointed out that the double claims took place before any decision had been made on the first case.⁴⁴
35. We note that the Commissioner did not use the phrase “failure to learn a lesson” or a similar phrase. He did not rely on the 2010 case as a basis for his findings in this case; rather, he stated that his investigation was based solely on the documented evidence in the current case.⁴⁵ The fact that this is the second time Lord Bhatia has been found in breach of the rules on financial support for members is highly relevant to the question of sanction, but we have found no evidence to support the suggestion that the Commissioner’s investigation was improperly influenced by the previous case.

Sanction

36. The main point of Lord Bhatia’s appeal was against the Sub-Committee’s recommended sanction of suspension for eight months. Lord Bhatia argued that this was disproportionate. He asked that the case should be referred for remedial action instead.
37. The Sub-Committee drew particular attention to two factors in making its recommended sanction:
 - (a) “that this is Lord Bhatia’s second case of breach of the House’s rules on financial support for members—Lord Bhatia in October 2010 was found to have misused the system of financial support for members by wrongly and in bad faith designating his main residence and claiming overnight allowance and mileage expenses accordingly from October 2007 to January 2009, amounting to £27,466, for which he was suspended from the House for eight months;
 - (b) that throughout the period between January and July 2010, when Lord Bhatia was double-claiming mileage expenses, he was under investigation by the Clerk of the Parliaments then the Sub-Committee

42 Paragraph 23 of the Commissioner’s report.

43 See paragraphs 16–18 and 41 of the Commissioner’s report.

44 Annex 3, paragraphs 36 and 37.

45 Paragraph 18 of the Commissioner’s report.

on Lords' Interests (as it then was) in relation to his previous wrongful claims."⁴⁶

38. We agree with the Sub-Committee that these facts are relevant to the decision on sanction. We have considered the length of other suspensions and are satisfied that eight months is appropriate, given the findings against Lord Bhatia.
39. Remedial action is available if a complaint, although justified, is minor and acknowledged by the member concerned. Remedial action is agreed between the Commissioner and the member and usually involves a member apologising for the breach and taking any steps to "put the record straight", for example by amending the Register of Lords' Interests.⁴⁷ Given that remedial action is available only if a breach is "minor", it would have been highly unsuitable to this case.

The Committee's decision

40. **The Committee does not uphold Lord Bhatia's appeal. We recommend that Lord Bhatia be suspended from the service of the House for eight months. We further recommend that Lord Bhatia be required to repay to the House the £756 he wrongly claimed.** We note that Lord Bhatia offered to repay any money owed.⁴⁸ The House has agreed that if a suspended member has not repaid money owed by the end of the period of suspension, then a motion will be moved extending the suspension until the money has been repaid.⁴⁹

46 Paragraph 7 of the Sub-Committee's report.

47 Paragraph 128 of the Guide.

48 Appendix S, Q9.

49 House Committee, *Recovery of money wrongly claimed by Members* (2nd Report, Session 2010–12, HL Paper 238).

ANNEX 1: REPORT FROM THE SUB-COMMITTEE ON LORDS' CONDUCT

1. The Commissioner for Standards has submitted the attached report on the conduct of Lord Bhatia.
2. In December 2013 the BBC *Newsnight* programme broadcast a story which, among other things, alleged that Lord Bhatia claimed and received mileage expenses from both the House of Lords and a charity he was involved with (the Ethnic Minority Foundation) in respect of the same journeys. A complaint was made alleging that Lord Bhatia breached the House's rules on financial support for members by such double claiming. The Commissioner's investigation was suspended in January 2014 while the police investigated the same and related allegations; the Commissioner's investigation resumed in October 2015 after the police concluded their investigation. The Commissioner was obliged to suspend his investigation by paragraph 117 of the Guide to the Code of Conduct.¹ In view of the significant delay before the Commissioner was able to resume his investigation we ask the Committee for Privileges and Conduct whether it wishes to invite us to review paragraph 117 of the Guide.
3. The Commissioner identified 63 days between January and July 2010 in respect of which Lord Bhatia claimed mileage expenses from both the House of Lords and the Ethnic Minority Foundation. Each of the claims was honoured by both bodies. For each of those days Lord Bhatia claimed from the House for a 30-mile round journey between his home in Hampton and Westminster. The total amount claimed from the House for those 63 days was £756.
4. Lord Bhatia admitted to the Commissioner that he had wrongly claimed the mileage expenses from both bodies. He said this was due to a system not being in place in his office to prevent double-claiming. His claims were prepared by his long-standing personal assistant and he signed the forms she prepared. He apologised and offered to repay the money.
5. The Commissioner found Lord Bhatia to have breached the rules on financial support for members by claiming mileage expenses from the House for the 63 days while also claiming the expenses from another body. In respect of his claims from May to July 2010, after the new Code of Conduct came into force, this also constituted a breach of paragraph 10(c) of the Code. The Commissioner found that by not being scrupulous in his claims for financial support Lord Bhatia failed to act on his personal honour, and so breached paragraph 8(b) of the Code.
6. In accordance with paragraphs 134 and 135 of the Guide to the Code of Conduct, our role has been to decide the appropriate sanction to recommend.
7. In deciding this we have had regard to the facts above and to the further considerations:
 - (i) that this is Lord Bhatia's second case of breach of the House's rules on financial support for members—Lord Bhatia in October 2010 was found to have misused the system of financial support for members by wrongly and in bad faith designating his main

1 Fourth edition: May 2015.

residence and claiming overnight allowance and mileage expenses accordingly from October 2007 to January 2009, amounting to £27,466, for which he was suspended from the House for eight months;²

- (ii) that throughout the period between January and July 2010, when Lord Bhatia was double-claiming mileage expenses, he was under investigation by the Clerk of the Parliaments then the Sub-Committee on Lords' Interests (as it then was) in relation to his previous wrongful claims.³

8. **We recommend that Lord Bhatia be suspended from the service of the House for eight months. We further recommend that Lord Bhatia be required to repay to the House the £756 he wrongly claimed.**

2 Committee for Privileges and Conduct, *The Conduct of Lord Bhatia* (5th Report, Session 2010–12, HL Paper 38). The report and suspension were agreed by the House on 21 October 2010: LJ (2010–12) 422.

3 See paragraph 41 of the Commissioner's report. The complaint about Lord Bhatia's designation of his main residence was made in July 2009. It was investigated by the then Clerk of the Parliaments (in his capacity as Accounting Officer) between then and March 2010. In March 2010 he referred the case to the Sub-Committee on Lords' Interests, as he could do in complex cases. The sub-committee reported to the Privileges Committee in September 2010, and the latter reported to the House in October 2010.

ANNEX 2: REPORT FROM THE COMMISSIONER FOR STANDARDS

Summary of the complaint and investigatory process

1. On 4 December 2013 the BBC *Newsnight* programme broadcast a story which claimed that Lord Bhatia had misappropriated funds from a charity called the Ethnic Minority Foundation (EMF), of which Lord Bhatia had been chairman and a trustee.¹ Several allegations were made in the story. One allegation was that in 2009 and 2010 Lord Bhatia claimed for and was paid mileage expenses from both the EMF and the House of Lords in respect of the same car journeys.
2. On 5 December 2013 I received a complaint from the then Leader of the House of Lords, Lord Hill of Oareford, about Lord Bhatia.² Lord Hill invited me to investigate the allegation that Lord Bhatia had “double claimed” travel expenses from the EMF and the House of Lords.
3. I conducted a preliminary assessment of the complaint and was satisfied that it merited investigation. I wrote to Lord Bhatia on 11 December 2013 advising him that I was investigating the allegation and inviting him to provide a full and accurate account of the matters in question.³ I advised him that my remit was limited to conduct occurring within the last four years, so I would investigate mileage claims in respect of December 2009 onwards. Lord Bhatia did not claim travel expenses from the House of Lords after July 2010. Therefore my investigation was into claims made in respect of December 2009 to July 2010 inclusive.⁴ I also advised Lord Bhatia that my investigation was limited to the allegation of double claiming; it did not cover the other allegations made on *Newsnight*.
4. The *Newsnight* story concluded by stating that the allegations had been reported to the national fraud agency, Action Fraud. I therefore wrote to the Assistant Commissioner of the Metropolitan Police Service on 11 December 2013 to ascertain if they were conducting a criminal investigation into Lord Bhatia.⁵ The Metropolitan Police replied on 27 December 2013 advising me that they were.⁶ Therefore, in accordance with paragraph 117 of the Guide to the Code of Conduct,⁷ I suspended my investigation.
5. On 7 January 2014 Lord Bhatia wrote to me stating that to the best of his knowledge his claims to the House of Lords were made in accordance with the rules of the House. He said he was keen to get to the bottom of the allegations and, if there had been an error or process failure, to rectify the situation. Lord Bhatia had initiated High Court proceedings to recover loans apparently owed to him by the EMF; there was a broader commercial dispute between them. He said that the mileage claims alleged to have been made by him would be determined within those proceedings. He was also considering beginning defamation proceedings against the EMF trustees

1 The transcript of the *Newsnight* story is appendix A.

2 Appendix B.

3 Appendix C.

4 As explained below, the material claims were made between January and March 2010, and between May and July 2010.

5 Appendix D.

6 Appendix E.

7 Fourth edition: May 2015.

who appeared on *Newsnight* and the reporter of the story. Given those civil actions, he invited me to suspend my investigation.⁸

6. The fact there was a criminal investigation into Lord Bhatia meant that I was obliged to suspend my investigation, regardless of any civil action. I therefore replied to Lord Bhatia on 8 January 2014 informing him that my investigation was suspended.⁹ I also sought clarity on the civil actions, and requested a response once my investigation resumed after the criminal allegation had been disposed of.
7. On 8 January 2014 I wrote to Lord Hill of Oareford advising him of the suspension.
8. The Metropolitan Police advised me verbally in October 2015 that they had completed their investigation of criminal allegations against Lord Bhatia and that no further action was being taken.¹⁰
9. I wrote to Lord Bhatia on 15 October 2015 asking him to advise me of the state of his civil actions in respect of the EMF.¹¹ Paragraph 117 of the Guide requires me to suspend an investigation “while related proceedings (for instance, an action for defamation) are before a court of law.”
10. Lord Bhatia replied on 22 October 2015.¹² He said that proceedings before the civil court continued and that a trial was likely to take place between December 2015 and July 2016, the precise listing to be notified.
11. I replied on 4 November 2015 stating that I intended to resume my investigation unless Lord Bhatia could demonstrate that his civil action fulfilled the criteria in paragraph 117 of the Guide: that the case was currently being heard by a court or was listed with a trial date fixed; and that the case would cover the allegation I was investigating.¹³
12. Lord Bhatia replied on 18 November 2015.¹⁴ He said that the civil proceedings between him and the EMF had been settled. He enclosed a letter from the chairman of the EMF which confirmed the conclusion of the civil proceedings; each party discontinued the claims against the other. That letter stated that it had not been suggested that the claims made to the House of Lords were not legitimate and that the EMF considered itself to be the party entitled to seek repayment in respect of any alleged duplication. Lord Bhatia also enclosed a letter from the Metropolitan Police confirming that no further action would be taken against him. Based on his letter and the two enclosed letters Lord Bhatia expressed the wish that I might now feel the matter could be closed.
13. I wrote to Lord Bhatia on 25 November 2015 advising him that I was still required to investigate the alleged breach of the House of Lords Code of Conduct. I again provided him with the evidence and material relevant to the allegation and invited him to respond in writing.¹⁵ I provided him with a schedule of claims set out in the Frenkels Forensics Expert Accountancy

8 Appendix F.

9 Appendix G.

10 This was confirmed in a letter of 3 November 2015: appendix J.

11 Appendix H.

12 Appendix I.

13 Appendix K.

14 Appendix L.

15 Appendix M.

Report, dated 21 January 2014, which had formed the basis of the allegation on *Newsnight*.

14. Lord Bhatia replied on 15 December 2015.¹⁶ I wrote to Lord Bhatia on 16 December 2015 inviting him to attend an interview and providing a summary of the dates on which the alleged double claiming took place.¹⁷ Ahead of the interview Lord Bhatia wrote to me enclosing statements from himself, his solicitor, his personal assistant and the EMF driver.¹⁸
15. On 22 January 2016 I interviewed Lord Bhatia. A transcript was produced,¹⁹ which I sent to Lord Bhatia on 27 January 2016.²⁰ Lord Bhatia wrote on 3 February 2016 accepting it as a record of the interview.²¹ I replied on 16 February 2016 enclosing the parts of my draft report dealing with issues of fact, in accordance with paragraph 131 of the Guide.²² Lord Bhatia commented on the draft report on 22 February 2016²³ and I responded to his comments on 3 March 2016.²⁴

2010 investigation

16. In October 2010 Lord Bhatia was found by the House to have incorrectly claimed for overnight subsistence by designating his main residence as in Reigate, when the nature of his relationship with that property meant it could not be so designated. Lord Bhatia was also found to have incorrectly claimed for mileage between Reigate and the House. His claims were found not to have been made in good faith. Lord Bhatia repaid £27,466 and was suspended from the service of the House for eight months.²⁵
17. The claims covered by that investigation (which was undertaken by the Sub-Committee on Lords' Interests, as it then was) were for 1 October 2007 to 1 January 2009.²⁶ Therefore there was no overlap between those claims and the claims covered by my investigation, which were for January to July 2010.
18. My investigation has been based only on the documented evidence in this case.

Key facts

19. The allegation against Lord Bhatia as reported by the BBC *Newsnight* programme and which formed the basis of Lord Hill of Oareford's complaint was that Lord Bhatia claimed mileage expenses from both the House of Lords and the EMF for the same journeys. He was alleged to have "double claimed".

16 Appendix P. The contents of this reply and subsequent documents are considered below.

17 Appendix Q.

18 Appendix R.

19 Appendix S.

20 Appendix T.

21 Appendix U.

22 Appendix V.

23 Appendix W.

24 Appendix X.

25 Committee for Privileges and Conduct, *The Conduct of Lord Bhatia* (5th Report, Session 2010–12, HL Paper 38). The report was agreed by the House on 21 October 2010: LJ (2010–12) 422.

26 In January 2009 Lord Bhatia changed his designated main residence to Hampton.

House of Lords rules on mileage expenses

20. The resolution under which members were at the time entitled to claim for mileage expenses was as follows:

“Car, bicycle and motorcycle mileage expenses—It was moved by the Lord President (Baroness Amos) to resolve that this House approves the following proposals with respect to payments of car, bicycle and motorcycle allowances to Lords for journeys which they have commenced on or after 10th November 2004—

(1) The maximum allowance payable in respect of a journey by car, motorcycle or bicycle should be payable at the rate which is applicable to that kind of vehicle under subsection (2) of section 230 of the Income Tax (Earnings and Pensions) Act 2003, as amended from time to time.

(2) For the purposes of paragraph (1), the reference in that subsection to “the first 10,000 miles” is to the total number of miles of travel by car by the Lord claiming the allowance, which is either—

(a) undertaken for the purpose of attending this House for the purposes of his parliamentary duties, or

(b) undertaken while on parliamentary duties within the United Kingdom;

the motion was agreed to.”²⁷

21. The above resolution was supplemented by the *Members’ reimbursement scheme general guide*; from January to July 2010 the 8th edition (April 2009) was in force. This provided that “claims may be made for journeys between a member’s main place of residence in the United Kingdom and Westminster to enable the member to attend sittings of the House.”²⁸ Claims in respect of journeys by private car were payable at 40p per mile up to 10,000 miles, and 25p per mile in excess of 10,000 miles, in the year ending 31 March.²⁹
22. I consider it clear from the resolution and the *Members’ reimbursement scheme general guide* that members were entitled to reimbursement only of expenditure actually incurred in travelling for the purpose of attending the House. It follows that a member was not entitled to claim mileage expenses from the House if another organisation was also paying for the mileage. In other words, double claiming was not permitted.
23. The section of the current *Guide to financial support for members* on travel expenses states, “Members are required to sign a declaration that expenses are not claimed from any other source.”³⁰ Such a declaration was first required in 2011, so it was not required at the time Lord Bhatia’s claims were made. This change was not reported to the House and it was not agreed by resolution of the House. Instead it was agreed by the House Committee following a review of “certain administrative issues which have arisen in the first year of the operation of the system of financial support for members.”³¹ It therefore was not a change in the rules for claiming financial support, as

27 The resolution was agreed on 10 November 2004: LJ (2003–04) 851.

28 Paragraph 4.2.1.

29 Paragraph 4.2.11.

30 *Guide to financial support for members* (February 2013), paragraph 5.1.4.

31 House Committee minutes, 15 November 2011.

such rules must be agreed by the House.³² It was simply an administrative change which made wholly explicit what was already a requirement of the scheme. To interpret this development otherwise would mean that before 2011 the House's rules permitted double-claiming of travel expenses. I cannot conceive that that was so.

24. I should add that Lord Bhatia has not argued that double claiming was permitted by the House's rules on financial support for members.

Travel expenses and the Code of Conduct

25. A new Code of Conduct came into force in May 2010. For the first time it provided that breach of the rules on financial support for members constituted a breach of the Code of Conduct.³³ Therefore Lord Bhatia's claims in respect of January to April 2010 engaged only the rules on financial support for members; his claims in respect of May to July 2010 engaged those rules and paragraph 10(c) of the Code of Conduct. In my opinion this is a technicality which does not affect the gravity of the allegations.
26. Throughout the period concerned (indeed, since the first Code in 2002) it has been a requirement of the Code for members always to act on their personal honour.

Lord Bhatia's claims

27. My investigation was based on 63 days between January and July 2010³⁴ on which Lord Bhatia apparently claimed travel expenses from both the House of Lords and the EMF.³⁵
28. In respect of each of those 63 days Lord Bhatia claimed mileage expenses from the House of Lords for a 30-mile journey from Hampton to Westminster and back. Mileage was paid at 40p per mile, making the claim for a 30-mile journey £12. The total amount allegedly wrongly claimed from the House was £756.

32 Paragraph 10(c) of the Code of Conduct requires members to act in accordance with rules "agreed by the House" on financial support for members.

33 Paragraph 10(c) of the Code of Conduct.

34 Although my investigation could have covered December 2009 Lord Bhatia made no mileage claims off the EMF that month. Between 12 April and 18 May 2010 Parliament was dissolved for the general election so no travel expenses could be claimed off the House of Lords. The 63 days also exclude the period from 14 to 26 January 2010 inclusive, when Lord Bhatia's driver was off sick so no log was kept of journeys on particular days. This meant that was no clear evidence I could draw on, so I did not count this period as part of my investigation, although Lord Bhatia invited me to do so (see appendices W and X).

35 The days are listed in the table in appendix Q. That table is based on copies of the original claim forms for mileage expenses submitted by Lord Bhatia to the House of Lords and the EMF. The data that prompted the Newsnight story were in a schedule to an Expert Accountancy Report produced by Frenkels Forensics for the EMF. Some of the data in that schedule did not match the original claim forms. The EMF confirmed to me that this was solely due to human errors in transcription: see appendices N and O. At interview Lord Bhatia confirmed that the table in appendix Q was an accurate record of the journeys in question: appendix S, Q1.

29. On 62 of the days the claims were in respect of Lord Bhatia's attendance at the House. On one of the days the claim was in respect of his attendance to give evidence to the Sub-Committee on Lords' Interests.³⁶
30. On the 63 days Lord Bhatia would be collected from his home in Hampton by his driver, Salvatore Fisci. His driver would drop him back home at the end of the day. In between the driver would take him to the EMF's offices, the House of Lords and perhaps other engagements. Lord Bhatia said there was no set pattern to his days.³⁷ His driver kept a log of the mileage readings at the start and end of each day, and the times he picked up Lord Bhatia in the morning and dropped him off in the evening.³⁸
31. Mr Fisci was employed by the EMF to be Lord Bhatia's driver.³⁹ The payments for mileage and other expenses were made by the EMF to Lord Bhatia.⁴⁰
32. All of Lord Bhatia's claims for the 63 days to the House of Lords and to the EMF were honoured.⁴¹ It is not in dispute that Lord Bhatia made the claims and received the amounts claimed for.

Lord Bhatia's responses

33. In his letter of 15 December 2015 Lord Bhatia said that his legal team's examination of documents relating to his civil proceedings with the EMF had indicated that he appeared to have claimed mileage expenses from both the House of Lords and the EMF in respect of the same journeys.⁴² He said that he had never intended to claim for anything to which he was not entitled and that he fully appreciated that he was not entitled to claim twice for the same journeys.
34. Lord Bhatia explained the process for making claims in his written submissions and at interview. Claims to the EMF and the House of Lords were prepared by his personal assistant, Dolly Kassam. After checking his diary to see when he attended the House she filled in the relevant forms and Lord Bhatia signed them. Lord Bhatia said that the forms were often handed to him as part of a bundle of documents and that at that time he was extremely busy.⁴³ Lord Bhatia said he trusted his PA—she is his sister-in-law and worked for him for 38 years—and had no reason to question her honesty

36 On Friday 25 June 2010 Lord Bhatia gave evidence to the Sub-Committee on Lords' Interests during its 2010 investigation into his expenses (see paragraphs 16 and 17 above). He claimed for day subsistence, office costs and mileage expenses for that day. The House did not sit on Friday 25 June 2010. At one point it was unclear why Lord Bhatia had claimed for expenses, and why the claim had been honoured. Lord Bhatia assumed the claim had been a mistake and sent me a cheque to reimburse the House (appendix R). At interview I informed Lord Bhatia that it had come to light that he had given evidence to the sub-committee that day and so his claim was valid (appendix S, Q1). I therefore returned the cheque to him (appendix T). His claim on 25 June 2010 is therefore relevant to my investigation only insofar as he claimed for mileage expenses for that day in the same way he claimed for the 62 other days.

37 Appendices R and S, Q1.

38 Figures from the log are in the table in appendix Q.

39 Appendix W.

40 Appendix O.

41 Appendices O and S, Q2.

42 Appendix P.

43 Appendix S, QQ2–3.

or accuracy.⁴⁴ However, he said that systems were not in place to prevent double-claiming.⁴⁵

35. Lord Bhatia said that the double-claiming was entirely accidental and that there was no dishonesty on his part.⁴⁶ Although he said he was not involved in the process of compiling the claims and his PA had sought to take responsibility for the double-claiming, he took full responsibility for the claims.⁴⁷ Lord Bhatia has apologised for the double-claiming and offered to refund the money.⁴⁸
36. Lord Bhatia supplied me with copies of statements made by him and his PA to the police, and a statement by his driver.⁴⁹ These statements were consistent with Lord Bhatia's account to me.

Findings

37. Lord Bhatia has admitted that he submitted claims to both the House of Lords and to the EMF for the same journeys on the 63 days concerned and that all his claims were honoured by the two bodies.
38. He said that the duplication was the result of his signing claim forms prepared by his personal assistant without him checking the claims because he was so busy. He accepted that he was responsible for the claims and is willing to refund the House of Lords. There is no evidence to contradict his statement that the double-claiming was unintentional.
39. However, that does not make Lord Bhatia's approach to claiming mileage expenses from the House of Lords reasonable. Lord Bhatia appeared simply to sign all the claim forms presented to him.⁵⁰ He did not appear to take any steps to ensure the claims were accurate and compliant with the House's rules. He did not appear to give any guidance to his PA to ensure that the forms she prepared complied with the House's rules.⁵¹
40. In the case of his claims to the House he certified that he was claiming mileage expenses for costs incurred in attending the House. In the case of his EMF claims he signed next to this declaration: "I hereby declare that the above expenses were incurred wholly and necessarily in the course of EMF business and no other claim has been made for them." Each month from January to July 2010 (except April 2010 when Parliament was dissolved) he signed those forms and received the mileage expenses, yet he appeared to take no steps to ensure that his certifications were accurate.⁵²
41. Between January and July 2010 Lord Bhatia was being investigated by first the Clerk of the Parliaments then the Sub-Committee on Lords' Interests in relation to other allegations of misuse of House of Lords expenses. Some might think that would cause a member to be particularly careful to ensure all claims are accurate and compliant.⁵³ Yet it should not and does not require

44 Appendix S, Q4.

45 Appendix P.

46 Appendix P.

47 Appendices P and S, QQ2 and 8.

48 Appendix S, Q8.

49 Appendix R.

50 Appendix S, Q2.

51 Appendix S, Q4.

52 Appendix S, QQ2 and 8.

53 Appendix S, Q9.

an investigation into alleged misuse of expenses in order for a member to be scrupulous in his or her claims.

42. I find that Lord Bhatia did not act in accordance with the rules of the House in respect of financial support for members by on 63 days between January and July 2010 claiming mileage expenses from the House of Lords and from another organisation in respect of the same journeys. The total amount wrongly claimed was £756. In respect of January to March 2010 this breached the rules on financial support for members; in respect of May to July 2010 this breached those rules and paragraph 10(c) of the Code of Conduct.
43. I have considered whether Lord Bhatia’s incorrect claims for mileage expenses also constituted a failure to act on his personal honour, and so breached paragraph 8(b) of the Code. In my 2014 report on Lord Hanningfield I stated:
- “The Guide to the Code provides that the concept of personal honour concerns more than a member’s personal sense of what is honourable. It requires members to act in accordance with the standards expected by the House as a whole. I consider that the sense and culture of the House as a whole is that members should be scrupulous in their claims for financial support.”⁵⁴
44. The seven principles of public life act as a guide to members generally, and particularly in considering the requirement to act always on their personal honour.⁵⁵ The principles include selflessness—“holders of public office should act solely in terms of the public interest”—and accountability—“holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.” It is hard to see how Lord Bhatia’s approach to claiming mileage expenses in respect of the 63 days complied with these principles.
45. In my opinion Lord Bhatia was not scrupulous in his claims for mileage expenses. He was unacceptably casual. In light of that I find that by making incorrect claims for mileage expenses on 63 days between January and July 2010 Lord Bhatia failed to act on his personal honour and so breached paragraph 8(b) of the Code.
46. After my investigation resumed following the conclusion of the police investigation and civil actions Lord Bhatia co-operated fully. I reiterate that he apologised for the double claiming and offered to reimburse the House.⁵⁶ He suggested that could constitute remedial action in accordance with paragraph 128 of the Guide.⁵⁷ However, after considering all the evidence I did not feel that this case was suitable for resolution by way of remedial action. I think it appropriate to refer this case to the Sub-Committee on Lords’ Conduct.

Paul Kernaghan CBE QPM

Commissioner for Standards

54 Committee for Privileges and Conduct, *The conduct of Lord Hanningfield* (14th Report, Session 2013–14, HL Paper 181), page 15. The report was agreed by the House on 13 May 2014.

55 Paragraph 9 of the Code of Conduct.

56 Appendix S, Q8.

57 Appendix S, Q9.

Appendix A: Transcript of BBC *Newsnight* story on Lord Bhatia, 4 December 2013

Mark Daly: This is Lord Bhatia OBE, one of the so-called people's peers introduced to the House of Lords by Tony Blair in 2001—a merchant banker, a millionaire, a philanthropist. But just three years ago, he was caught up in the parliamentary expenses scandal, accused of fiddling the taxpayer out of tens of thousands of pounds by claiming for a second home he didn't live in. He was suspended from the House of Lords for eight months and had to repay £27,000 to the public purse.

BBC “*Newsnight*” has seen evidence suggesting that Lord Bhatia could once more be in trouble over abuse of his parliamentary expenses. But there's more. He also stands accused of allegedly mishandling hundreds of thousands of pounds-worth of charity money to fund his own lifestyle.

Lord Oakeshott of Seagrove Bay: It's breathtaking. We're sadly used to expenses fiddling on what most people would think was a large scale in the Lords, but to be accused by a charity of milking them for £625,000, that is breathtaking.

Mark Daly: Could it really be that Lord Bhatia hadn't learnt his lessons after his high-profile suspension from the House? To find out, I had to get right inside the charity making the allegations—the Ethnic Minority Foundation, or EMF.

The EMF brings in around £1 million a year, mostly from its property portfolio, and usually spends it on good causes in India and in the UK. Former MP John Barrett is a trustee and became involved with EMF in 2012. He soon realised that all was not well.

John Barrett: It looked like there was a cash crisis approaching. Well, that shouldn't have been happening, because there should have been plenty of money in the bank. And it became clear that far more money had been going out of the charity than could be explained.

Anil Bhanot: Copies of the original claim forms that Lord Bhatia submitted, right?

Mark Daly: I went to the charity's office to meet the man who first raised the alarm about the state of EMF's finances.

Anil Bhanot: Those miles are claimed here, you know—

Mark Daly: Chartered accountant Anil Bhanot took over as treasurer in 2012.

Anil Bhanot: I asked the accountant to give me this, give me that. If I'd see a transfer here, a transfer that, give me that. And I knew what was happening then and I was shocked. My trust, my respect for him as a Lord had sort of withered away.

Mark Daly: Lord Bhatia had been chairman of the charity for 10 years in an unpaid role until 2009. But when the charity's chief executive left to monitor its projects in India, Lord Bhatia said he would look after things in his absence. But Lord Bhatia idea of looking after things was not what the trustees expected or sanctioned.

Anil Bhanot: He was using the charity to run his own lifestyle, really, and that was wrong. That's not right. You know, I wouldn't claim anything at all from the charity, even when I come here, for mileage—I don't claim it. It's not necessary.

Mark Daly: The trustees confronted Lord Bhatia in December last year. He immediately resigned. But they discovered major problems in the books. It was time to bring in a team of forensic accountants and it was only then the trustees became aware of the scale of the alleged mismanagement. The charity has passed a draft copy of the accountants' report to "Newsnight" and, according to this, Lord Bhatia owes EMF more than £600,000.

The thing they're most exercised about is having to foot the bill for Lord Bhatia's personal chauffeur. He was paid in excess of £40,000 a year, but last January Lord Bhatia wrote to him enclosing cheques in an apparent £12,000 loan, yet on the same day awarded him a £12,000 pay increase, effectively making it a gift from the charity. And he did this in the same week as asking the rest of the workforce to take a voluntary pay cut. The forensic accountants' report says this unauthorised gift to the driver could amount to theft by Lord Bhatia.

Next, the charity claim his contract of employment was never agreed by the board, was not even done on charity-headed notepaper and is invalid. Its legitimacy is further challenged, since the letter enclosing the contract purports to be signed by a chairman who was only appointed to that position six months after the letter was signed. Even if the contract is valid, the charity says the amount was excessive.

John Barrett: It was a great shock to me to discover that Lord Bhatia was receiving a salary of £100,000. It also was an even greater shock to me to discover that his personal driver had been put on to the payroll of the charity.

Mark Daly: He is also said to have put a relative and long-term associate on the charity payroll, when they are alleged to have been his personal assistants working solely for him. Plus EMF wants reimbursed for the private medicine premiums for three family members that he charged to the charity. Add that to some other alleged inappropriate expenses, many of which were authorised by himself, contrary to the charity's policy, and the grand total comes to £625,961.

John Barrett: Small sums of money, and in this case it's large sums of money, can actually save lives. To get clean drinking water into a family's home in India or in Africa, or to have somebody be treated against tuberculosis, is worth doing and that's why I'm still involved and that's why I'm determined to stick with this.

Mark Daly: The charity is now engulfed in claim and counter-claim. Lord Bhatia is suing for unfair dismissal and has launched separate proceedings against EMF to recover over £250,000, which he says he loaned to the charity. The trustees say these were not loans but injections of cash to cover up the scale of his own mismanagement.

Aside from the controversy over the alleged mishandling of charity funds, Lord Bhatia could yet find himself in even more hot water. Documents seen by BBC "Newsnight" suggest that Lord Bhatia could once more stand accused of abusing his parliamentary expenses. During 2009 and 2010, Lord Bhatia was claiming his chauffeur-driven mileage expenses from the charity. These expense forms include a running total of the car mileage and if we take 4 February, for example, we can see that the total mileage travelled that day was 80. This was claimed for and paid by the charity. But the problem is, if we look at his House of Lords expenses for that very same day, he has also submitted a claim for a 30-mile journey to

Westminster. But this means he's being paid twice, because we know that that day's full mileage has already been paid by the charity and the records show that Lord Bhatia appears to do this no fewer than 138 times, resulting in payments from the taxpayer's purse of more than £1,500 which could have been claimed fraudulently.

Lord Oakeshott of Seagrove Bay: There can be no defence for claiming the same expenses from a charity and from the taxpayer.

Mark Daly: Lord Bhatia's alleged double-claiming went on until July 2010, just a few weeks before his suspension for flipping his second home, but it did not form part of the case against him back then. It is understood these allegations are being made for the first time.

To be fair to Lord Bhatia, after he returned from his House of Lords suspension in 2011 and for the whole of 2012 he didn't claim any of his parliamentary allowances. But, following his acrimonious split from the charity in December last year and his wages from there drying up, as of January this year he once more started claiming his daily allowances from the taxpayer.

"Newsnight" wanted to interview Lord Bhatia about the allegations, but his lawyer said he was not able to because of the pending court action. His lawyer also told us that Lord Bhatia believed the charity had "misled" the BBC, that EMF in fact owed him a large sum of money and had "benefited" from the use of facilities at the House of Lords. The lawyer said the "Newsnight" story was an attempt "to reopen and confuse the historical published position with a present dispute between Lord Bhatia and the EMF".

The case has been reported by the charity to the national fraud agency, Action Fraud, whilst the Charity Commission told "Newsnight" it had an open case on EMF and was monitoring the situation.

Appendix B: Letter from Lord Hill of Oareford, then Leader of the House of Lords, to the Commissioner for Standards, 5 December 2013

You will be aware that, on Wednesday 4 December, BBC's *Newsnight* broadcast a story alleging that Lord Bhatia had misappropriated funds from the Ethnic Minority Foundation (EMF). Mark Daly, who presented the package, also published an article on the BBC website at <http://www.bbc.co.uk/news/uk-politics-25188606>.

As part of this story, it was alleged that during 2009 and 2010, Lord Bhatia "double-claimed" travel expenses from EMF and the House of Lords. This allegation clearly has the potential to damage the reputation of the House of Lords. Accordingly, I would be grateful if you could treat this letter as a complaint against Lord Bhatia and investigate whether he has indeed broken any of the House's rules.

I understand that there are legal proceedings underway, and that this may have an effect on the timing of any inquiry you may carry out.

Appendix C: Letter from the Commissioner for Standards to Lord Bhatia, 11 December 2013

I am writing to you in my capacity as Commissioner for Standards in the House of Lords. I have to advise you that I have received a complaint against you. The complaint is that in 2009 and 2010 you claimed for travel expenses from the House of Lords while also claiming in respect of the same journeys from the Ethnic Minority Foundation.

I enclose for your information a copy of the letter I have received from the complainant (the Leader of the House of Lords, Lord Hill of Oareford). The complaint arose from a story on the BBC programme *Newsnight* on 4 December 2013. Also enclosed is a transcript of the relevant part of that programme.

I have conducted a preliminary assessment of the complaint and believe it is appropriate and in the interests of all concerned that I investigate it. Therefore, I invite you to respond in writing with a full and accurate account of the matters in question. A response by 8 January 2014 would greatly assist me in investigating this matter in a timely fashion.

Under paragraph 111 of the Code of Conduct my remit is limited to conduct occurring within the last four years. Thus I will investigate claims made in respect of December 2009 onwards. I have obtained copies of your House of Lords claim forms from that month until the present. They show that you claimed travel expenses only until July 2010. Therefore, my investigation will be in respect of your travel claims in respect of December 2009 to July 2010 inclusive.

I enclose copies of your relevant expenses claim forms for those months, together with a copy of the *Members' reimbursement scheme general guide* (8th edition, April 2009), which was in force at the time. Also enclosed is a copy of the Code of Conduct for Members of the House of Lords and Guide to the Code of Conduct (second edition: November 2011), which sets out the process that my investigation will follow.

My investigation is limited to the allegations about claims for travel expenses from the House of Lords. You do not need to respond to the other allegations made on *Newsnight* about your involvement with the Ethnic Minority Foundation.

As an investigation is underway there is a requirement for all evidence and correspondence relating to it to remain confidential.

Appendix D: Letter from the Commissioner for Standards to Mark Rowley, Assistant Commissioner, Metropolitan Police Service, 11 December 2013

On 4 December 2013 the BBC's *Newsnight* programme broadcast allegations that Lord Bhatia had fraudulently claimed expenses from both the Ethnic Minority Foundation and the House of Lords for the same journeys.

I have received a complaint, based on the broadcast allegations, that Lord Bhatia breached the House of Lords' Code of Conduct.

I have decided to undertake an investigation into the allegations against Lord Bhatia. I naturally wish to establish if the police are investigating relevant allegations of criminal misconduct. I should be grateful if you would advise me as to whether or not you currently have a live investigation into Lord Bhatia.

I look forward to hearing from you and should be happy to speak directly with you if that would be helpful.

Appendix E: Letter from Mark Rowley, Assistant Commissioner, Metropolitan Police Service, to the Commissioner for Standards, 27 December 2013

Thank you for your letter dated 11 December 2013.

I can confirm that a criminal allegation concerning Lord Bhatia has been made by the Ethnic Minority Foundation charity, initially to Action Fraud who subsequently referred it to the Metropolitan Police Service. The allegation is one of fraud by abuse of position, contrary to Section 4 of the Fraud Act 2006 and has been recorded under crime reference number 5332778/13. Officers from the MPS Special Enquiry Team are currently liaising with the Charity Commission with regard to the allegation and hope to progress the matter further with them in the New Year.

In view of the matter being referred to us as a potential criminal offence I would respectfully request that any investigation initiated by you be suspended in order not to inadvertently impact upon the criminal matter.

I will ensure that officers continue to liaise with you on a regular basis. Please do not hesitate to contact me should I be able to assist further.

Appendix F: Letter from Lord Bhatia to the Commissioner for Standards, 7 January 2014

Thank you for your letter dated 11 December and the related attachments.

I am extremely distressed by the allegations which were made in the BBC *Newsnight* programme, especially given the events of 2009. I have since repeatedly asked for details of the claim being made by EMF but I have not been provided with any substantive evidence that supports the allegations made in the *Newsnight* programme.

To the best of my knowledge, my claims to the House of Lords in relation to transportation were made in accordance with the rules of the House. Let me reassure you that I am as keen as you are to get to the bottom of any allegations in relation to these claims, and if there has been any error on my part or due to a process failure at EMF, then I will be the first to put the situation right.

For your information, EMF had an internal system, which dealt with expense claims that was managed by their accounts department. As EMF have not supplied me with any information, it is very difficult for me to comment in detail on the allegations they have made. However, it is the case that neither the Chairman of the Budget & Finance Committee nor EMF's auditors ever raised any issues about the internal system with me or with any other Board Members. As far as I am aware, it worked to record mileage and expenses incurred on EMF business.

You should be aware that I have issued High Court proceedings to recover substantial loans owed to me by EMF and this is now part of a broader commercial dispute between us. The question of any mileage claims alleged to have been made by me is a matter that will now be determined within these proceedings, which are currently underway. Beyond this, my legal advisers are also examining comments made on *Newsnight*, with a view to issuing a claim for defamation against EMF Trustees (Anil Bhanot and John Barratt) and the *Newsnight* journalist Mark Daly.

Given that legal proceedings are underway, may I respectfully request that you suspend this investigation for the moment, pending conclusion of the judicial process. I believe that is consistent with the Guide to the Code of Conduct which you kindly sent to me (ref paragraph 112, page 23, which refers to the Commissioner suspending an investigation where related proceedings are before a court of law).

Please let me reiterate my concern to ensure this matter is resolved as soon as is practicable. I hope that EMF will supply me with the relevant information voluntarily, but in any event this will be have to be disclosed as part of the legal discovery process. I am very grateful for your patience in this matter.

Appendix G: Letter from the Commissioner for Standards to Lord Bhatia, 8 January 2014

Thank you for your letter which was received by my office on 7 January 2014.

I have to advise you that I have decided to suspend my investigation as I understand that a criminal allegation has been made against you by the Ethnic Minority Foundation. Once I am advised that the criminal allegation has been disposed of, I will resume my investigation. In relation to the points in your letter, I would be grateful for clarification as follows:

First, at what stage is your High Court action to recover loans from you to the Ethnic Minority Foundation? Have arrangements for a hearing, such as setting down a case for trial, been made?

Secondly, in what respect will your court case against the EMF cover mileage claims made by you from EMF? Will the case in any way relate to mileage claims made by you in respect of attendance at the House of Lords?

Thirdly, at what stage is your claim for defamation against the EMF trustees Anil Bhanot and John Barratt, and the *Newsnight* journalist Mark Daly? Have arrangements for a hearing, such as setting down a case for trial, been made?

In view of the decision to suspend my investigation, you need not respond at this time. However, I would require that clarification if you seek a further suspension following the disposal of the criminal allegation.

Appendix H: Letter from the Commissioner for Standards to Lord Bhatia, 15 October 2015

On 11 December 2013 I wrote notifying you that I was investigating a complaint arising from a story on BBC's *Newsnight* on 4 December 2013. The allegation was that you had claimed travel expenses from the House of Lords in respect of December 2009 to July 2013 inclusive while also claiming for the same journeys from the Ethnic Minority Foundation. A copy of my letter is enclosed.

In your reply of 7 January 2014 (also enclosed) you indicated that you were commencing civil action against the Ethnic Minority Foundation and the BBC journalist and that the allegation relevant to my investigation would form part of those civil actions.

On 8 January 2014 I advised you that I had suspended my investigation because the police were investigating the same allegation. A copy of that letter is enclosed. I asked for information about your civil actions but stated that a reply was not required until the criminal allegation had been disposed of.

I have now been informed by the Metropolitan Police that their investigation into you has closed. Could you therefore please now answer the questions in my letter of 8 January 2014 about your civil actions?

A prompt response would be appreciated.

Appendix I: Letter from Lord Bhatia to the Commissioner for Standards, 22 October 2015

Thank you for your letter of 15 October 2015.

The proceedings before the civil court continue.

I understand from my solicitors that the trial will take place on a date between December 2015 and June 2016, the precise listing of which will be notified in due course.

My solicitors' advice is to wait till the civil court case is concluded, before taking any action against the BBC journalist or against the trustees of EMF.

Appendix J: Letter from Howard Holt, Detective Inspector, Metropolitan Police Service, to the Commissioner for Standards, 3 November 2015

I write to inform you that the investigation into the allegations against Lord Bhatia has now concluded and that the Metropolitan Police Service will be taking no further action in relation to this matter. Lord Bhatia was interviewed under caution and other witnesses were interviewed in the conventional manner.

In light of the outcome of these enquiries the matter was not presented to the Crown Prosecution Service. A decision was made by Detective Superintendent Sweeney QPM that the evidence did not show the necessary criminal intent to progress the matter further.

Please do not hesitate to contact me if I can be of any further assistance.

Appendix K: Letter from the Commissioner for Standards to Lord Bhatia, 4 November 2015

Thank you for your letter of 22 October 2015.

Paragraph 117 of the Guide to the Code of Conduct states that I should suspend an investigation if related proceedings are before a court of law. I interpret this as meaning a case is currently being heard by a court or is listed with a trial date fixed.

There is a connected question of what constitutes "related proceedings". In this instance it would mean that your civil case will cover the allegation that you claimed mileage expenses from the Ethnic Minority Foundation and from the House of Lords in respect of the same journeys from December 2009 to July 2010 inclusive.

So in order for me to suspend my investigation at this point your case would both need to be listed for trial and cover the above allegation.

I understand from your reply that your civil action against the Ethnic Minority Foundation for the recovery of loans is in progress but the matter has not been listed for trial. Therefore, I propose to resume my investigation unless you are able to demonstrate that the case is currently listed for trial and that it will cover the allegation set out above.

Appendix L: Letter from Lord Bhatia to the Commissioner for Standards, 18 November 2015

Thank you for your letter of 4 November 2015.

As you are aware, the matters set out in Lord Hill's complaint were included in civil proceedings between myself and the Ethnic Minority Foundation, and also caused a complaint to be made to the police.

Your investigation was suspended, pending the outcome of the civil proceedings and the police investigation.

In my letter dated 22 October 2015, I informed you that the civil trial in this matter was due to be heard in December.

I am pleased to inform you that the proceedings have been settled, and that the trial date will now be vacated.

As part of the settlement, Ethnic Minority Foundation agreed to provide a letter, addressed to you, confirming their position in relation to the alleged double mileage claims. A copy of that letter is enclosed.

I also enclose a copy of the letter from the Metropolitan Police dated 28 August 2015, in which they confirm that no further action will be taken against me regarding the allegation.

Based on this letter and the attachments, I hope that you will feel satisfied that this matter can now be closed.

However, if you would like me to attend a meeting with you I shall be happy to do so next week on a mutually convenient date and time.

I look forward to hearing from you.

Letter from Anil Bhanot, chairman of the Ethnic Minority Foundation, to the Commissioner for Standards, 17 November 2015

We confirm that the High Court proceedings between ourselves and Lord Bhatia have been concluded.

EMF had sought repayment of sums paid by the charity in respect of miles also claimed from, and paid by, the House of Lords.

It was never suggested that the claims made to the House of Lords were not legitimate, and it was never disputed that the miles had been travelled.

EMF considered itself to be the party which was entitled to seek repayment in respect of any alleged duplication.

The case has been resolved between the parties with each party discontinuing its claims against the other.

Letter from Howard Holt, Detective Inspector, Metropolitan Police Service, to Lord Bhatia, 28 August 2015

I am the Operational Head of the Metropolitan Police Service Special Enquiry Team, a unit from the Homicide and Major Crime Command.

On the 23rd of June 2015 you were interviewed under caution by officers from my team in relation to allegations that you had claimed expenses for mileage from both the House of Lords and Ethnic Minority Foundation. It is alleged that you claimed twice for the same journey contrary to Section 2 of the Fraud Act 2006.

I have now had the opportunity to review all the material we have gathered during the course of our investigation. As a result of this review I can confirm that no further action will be taken against you regarding this allegation.

Appendix M: Letter from the Commissioner for Standards to Lord Bhatia, 25 November 2015

Thank you for your letter of 18 November 2015.

I am grateful for your informing me that the civil proceedings between you and the Ethnic Minority Foundation (EMF) have concluded. However, I am still required to investigate the alleged breach of the House of Lords Code of Conduct.

Therefore, I now invite you to provide in writing a full and accurate account of the matters in question. You will recall that the allegation was that in 2009 and 2010 you claimed for travel expenses from the House of Lords while also claiming in respect of the same journeys from the EMF.

I enclose for your information a copy of the letter I received from the complainant (the then Leader of the House of Lords, Lord Hill of Oareford). The complaint arose from a story on the BBC programme *Newsnight* on 4 December 2013. Also enclosed is a transcript of the relevant part of that programme.

Under paragraph 115 of the Guide to the Code of Conduct my remit is usually limited to conduct occurring within four years of the complaint being made. As the complaint was made in December 2013 my investigation is limited to claims made in respect of December 2009 onwards. Your House of Lords claim forms show that you claimed travel expenses until July 2010. Therefore, my investigation is into your travel claims in respect of December 2009 to July 2010 inclusive.

I enclose copies of your relevant House of Lords expenses claim forms for those months, together with a copy of the Members' reimbursement scheme general guide (8th edition, April 2009), which was in force at the time. Also enclosed is appendix B11 to the Frenkels Forensics Expert Accountancy Report dated 21 January 2014 about your involvement with the EMF. Appendix B11 is a schedule comparing expense claims apparently made by you from the EMF and the House of Lords. I will send a full copy of the report (which is 146 pages long) by email; if you would like a hard copy of the full report I would be happy to supply it. Finally, enclosed is a copy of the Code of Conduct for Members of the House of Lords and Guide to the Code of Conduct (fourth edition: May 2015), which sets out the process that my investigation will follow.

My investigation is limited to the allegations about claims for travel expenses. You do not need to respond to the other allegations that were made on *Newsnight* about your involvement with the EMF, nor to other matters which do not relate to the complaint.

Given the delay that has of necessity already occurred, it is in the interests of all concerned for this case to be resolved in a timely fashion. I would therefore be grateful for a written response by 16 December 2015.

Thank you for your offer to meet me. However, the next step in the investigatory process is a written response from you, after which I will be in contact about further steps.

As an investigation is underway all evidence and correspondence relating to it is covered by parliamentary privilege and so should remain confidential.

Appendix N: Letter from the Commissioner for Standards to Hashmukh Pankhania, Chief Operating Officer, Ethnic Minority Foundation, 2 December 2015

I am grateful to you for supplying the DVD containing copies of documents relating to Lord Bhatia's claims from the Ethnic Minority Foundation (EMF).

I enclose a document which extracts from the DVD the pages relevant to my investigation—namely, copies of the travel record forms, claim forms, payment vouchers and cheques in relation to Lord Bhatia's travel expenses claims from EMF for January to July 2010.

I would be grateful if the EMF could respond to the following questions arising from the enclosed extracts:

1. The claim forms headed "daily journey/mileage record" have the name Salvatore Fisci at the top. Was he Lord Bhatia's driver? Was the arrangement that Lord Bhatia paid Mr Fisci and the EMF reimbursed Lord Bhatia?
2. Lord Bhatia apparently certified that all of the travel expenses were wholly and necessarily incurred in the course of EMF business. Did any question arise as to whether any of his travel expenses claims between January and July 2010 was wholly and necessarily for EMF business?
3. In particular, did any question arise as to whether Lord Bhatia was eligible to claim from the EMF for journeys between his home and the House of Lords?
4. The documentation indicates that all of the travel expenses claims made by Lord Bhatia between January and July 2010 were honoured. Was that so?
5. In places the information in appendix B11 to the Frankels Forensics report differs from the "daily journey/mileage record" forms. Do you know of any reason for this except for simple errors in transcription?
6. Some of the claim forms have annotations indicating that Lord Bhatia was not permitted to make certain claims. Were these annotations added as part of the process of preparing the Frankels Forensics report; or were they on the forms when originally processed?

A prompt response would be appreciated. As with previous correspondence, this exchange is covered by parliamentary privilege and should remain confidential unless and until published by the Committee for Privileges and Conduct.

Appendix O: Letter from Hashmukh Pankhania, Chief Operating Officer, Ethnic Minority Foundation, to the Commissioner for Standards, 11 December 2015

Thank you for your letter dated 2 December 2015.

Please find below my reply to the points raised by you.

- (1) No, Mr Fisci was employed by Lord Bhatia as his personal driver and he (Mr Fisci) was paid a salary by EMF. Mr Fisci kept records of Lord Bhatia's journeys and prepared the claims sheets. All the payments, though, were made to Lord Bhatia.
- (2) At the time no questions arose regarding the claims, in part because the Board was kept in the dark about the amount Lord Bhatia was claiming

in expenses. After he left EMF we looked at the way he had managed the charity. We looked at the financial record and discovered that Lord Bhatia had claimed for items like parking, congestion charges etc and felt that this needed to be thoroughly investigated. EMF Board then agreed to appoint a forensic auditor.

- (3) We accept that some journeys made to the HoL were on EMF business, for example some of our meetings were held there. Other claims, though, were highlighted as inappropriate expenses both by the forensic auditor (Frenkels) and by us. However at the time he made the claims no questions were raised about these journeys or if he was eligible to claim for these journeys .
- (4) Yes, all the claims during this period were honoured.
- (5) We know of no reason for the differences other than human error.
- (6) These notes were added when the documents were being prepared for Frenkels.

Appendix P: Letter from Lord Bhatia to the Commissioner for Standards, 15 December 2015

I am most anxious to clarify matters for you, to set the record straight and to satisfy you that there has been no unjustified claim on the public purse.

The materials you enclosed included a transcript of the *Newsnight* programme and the report by Frenkels. These emerged in the context of a dispute between me and EMF that began when I left EMF following a breakdown in relations in December 2012.

They launched a series of claims and allegations, which included a substantial financial sum referred to in the *Newsnight* broadcast. It is my belief that these claims were maliciously intended and they have certainly caused me much distress over the last 3 years.

In 1999 I founded EMF. My financial contribution to the charity since then has exceeded £250k.

On 5 December 2012, I left the Ethnic Minority Foundation (EMF) in acrimonious circumstances.

In December 2013 a *Newsnight* programme was broadcast in which it was claimed that I owed £625,000 to EMF including a sum of £13,532.31 in travel expenses for miles which I had also claimed from the House of Lords. The programme included reference to a report prepared by Frenkels which you have seen. A draft copy of that report was shown to camera. The programme also referred to a pending police investigation.

A complaint was then made to the police which I believe was made by Lord Hill.

Subsequently, and also in December 2013, EMF commenced their High Court claim against me in the sum of £625,000, of which you are aware. The claim was largely based upon the Frenkels report.

On 23 June 2015 I was interviewed by the police.

On 28 August 2015 the Metropolitan Police concluded that there was no case to answer.

On 8 December 2015 the civil proceedings with EMF were settled.

Mileage claims

The travel claims which I made to the House of Lords between December 2009 and July 2010 were made for days when I attended the House. These claims are cross checked against the attendance register and, as such, I believe that they were made quite properly.

The EMF claims were based on internal expense claims. Any concerns had never been raised before. Nor were they raised in the course of the annual audit.

I did not have access to the source documents behind the claim until documents were disclosed in the civil proceedings. The disclosure exercise gave rise to approximately 120 lever arch files of documents. Furthermore, the process revealed that Frenkels based their report on selected material comprising only 8 lever arch files of that material.

An analysis of the disclosed documents, including mileage records and expense claims revealed that for the period 2008–2012 there were significant blank periods where I had covered a considerable number of miles on EMF business but in respect of which no expense claim was ever made.

The calculations undertaken by my legal team indicated that EMF in fact owed money to me for the period 2008–2012 rather than me owing money to them. The analysis concluded that my unclaimed expenses for the period Dec 09–July 2010 amounted to £2,088, which exceeded the claim against me made by EMF.

However, the analysis also confirmed that I appeared to have claimed mileage expenses from both the House of Lords and EMF for a limited period of time. I found this very difficult to believe, particularly having regard to my financial commitment to the charity over the years. I could not understand it, and I had certainly never intended to claim anything to which I was not entitled. It made no sense to me that I should claim the sum sought by EMF given my support and substantial financial contribution to the charity over the years. I fully appreciated that I was not entitled to claim twice for the same miles.

My lawyers had also scrutinised the administrative processes for expenses which had been established by the former CEO. The systems were managed by EMF employees. In the case of my expense claims, mileage schedules were completed by the driver and processed by an EMF PA. The same PA also helped to compile the claims submitted to the House of Lords. This was a situation which had never arisen before within EMF. It is clear, with the benefit of hindsight, that that the system created a risk of double claiming. It was in this way that the duplication occurred. As soon as my lawyers identified the source of the problem I could see the issue very clearly. The claims to EMF should have been reduced by the miles included in my House of Lords claims. They were not. This was an entirely innocent mistake.

It is a matter of great regret to me that neither EMF nor I saw that the expenses system failed to highlight the need to offset my claims from the House of Lords. I was completely unaware at any time that these expenses may have been double-claimed and there was certainly no intention of dishonesty on my part. I genuinely

assumed that all the claims to the House of Lords were entirely legitimate and I was not aware of any duplication of those claims occurring at EMF.

While I was not involved in this process personally, and while I now acknowledge that I should have been, I accept that I have to take responsibility for any errors.

I was also able to explain the situation to the police when I was interviewed.

EMF have confirmed that in their view the mileage claims made to the House of Lords were entirely legitimate. The question of any financial liability arising from this situation was a matter for them and I to reconcile. We have now settled our litigation, and they have provided a letter to that effect which I enclose for your reference.⁵⁸

In the course of the police investigation, I stressed a willingness to repay any money to any party should their investigation conclude that I owed money to anyone.

It remains my very clear belief that I did not knowingly abuse my position either as a member of the House, or my position as a Trustee/CEO of Ethnic Minority Foundation, by double claiming mileage expenses. I wish to express my regret and I repeat the offer which I made to the police that if you feel that it would be appropriate for me to repay money to the House then I am prepared to refund the sum which is the subject matter of your investigation, namely £972 pursuant to paragraph 123 of the Code of Conduct.

I apologise that you have had to investigate these matters and if I can be of any further assistance please do not hesitate to contact me.

Appendix Q: Letter from the Commissioner for Standards to Lord Bhatia, 16 December 2015

Thank you for your letter of 15 December 2015.

I am grateful for your substantive response to the complaint. In order to ensure that I have the full facts in this case, I would like to meet you to ask some questions. It is my practice for such interviews to be transcribed, with the transcript appended to my report. I am available on the following dates after the House returns in January 2016:

- Wednesday 20 January, in the afternoon
- Thursday 21 January
- Friday 22 January
- Monday 25 January
- Tuesday 26 January, in the afternoon
- Thursday 28 January, in the afternoon
- Friday 29 January.

Please could you select whichever of the above dates is most convenient to you and notify the clerk who assists me, Nicolas Besly, to arrange a suitable time?

⁵⁸ The letter is printed in appendix L.

In your written response you referred to the original mileage records produced by the Ethnic Minority Foundation (EMF) driver. Please find enclosed a document which extracts from the file of evidence supplied with the Frenkels Forensics report copies of the travel claim records, detailing the dates, times and mileage figures; EMF claim forms; EMF payment vouchers authorising the sums claimed; and cheques to you for the sums in respect of the months concerned (January to July 2010, there being no record of claims from EMF in December 2009).

On examining these documents it was apparent that some of the figures in appendix B11 to the Frankels Forensics report differ from those in the original mileage records. The Chief Operating Officer of the EMF has confirmed that any differences are solely down to human errors in transcription. Also enclosed is a table which singles out only those days in which claims were apparently made by you from both the EMF and the House of Lords. It uses figures from the original claims forms (which in places differ from those in appendix B11). It has some explanatory notes at the start. There is no need for you to provide a written response to the enclosed table at this stage, but if you wish to comment on it you are entitled to. Otherwise I propose to refer to it at the interview in January 2016.

Table of days on which Lord Bhatia apparently claimed travel expenses from the Ethnic Minority Foundation and the House of Lords, January to July 2010

In respect of each of the days below Lord Bhatia claimed mileage expenses from the House of Lords for a 30-mile journey from Hampton to Westminster and back. Mileage was paid at 40p per mile, making the claim for a 30-mile journey £12. A total of 63 days are in the table.

Details of the departure and arrival times, the location and the mileage readings are taken from travel expense claim forms submitted to EMF.

Details of the adjournment times of the House of Lords are taken from the House of Lords Journals for 2009–10 and 2010–12.

The table does not include figures for 14 to 26 January 2010 inclusive. In that period Lord Bhatia claimed travel expenses from the House of Lords in respect of eight sitting days. In that period he claimed for 370 miles of travel from EMF. However, that is recorded on the EMF “daily journey/mileage record” sheet as “sick leave”, with no breakdown by day of the 370 miles given. Therefore it cannot be ascertained which (if any) of the days in respect of which travel expenses were claimed from EMF were days on which travel expenses were claimed from the House of Lords.

From 3 February to 3 March 2010 inclusive a loan car was used, hence the mileage readings differ.

Between 12 April and 18 May 2010 the House of Lords was dissolved for the general election, so no travel expenses could be claimed.

On 25 June 2010 Lord Bhatia claimed for, and was apparently paid, travel expenses from the House of Lords although the House did not sit that day. Lord Bhatia also claimed for, and was apparently paid, £86.50 for day subsistence and £75 for office costs that day.

Date (all 2010)	Dep. time	Arr. time	Location	Mileage reading		Total miles travelled	House of Lords rising time
				at start	at end		
6 January	09.00	21.00	London	3131	3200	69	19.26
7 January	09.30	20.30	London	3200	3295	95	16.04
11 January	09.30	20.30	London	3358	3484	126	22.02
12 January	08.30	20.00	London	3484	3569	85	21.45
13 January	08.30	20.30	London	3569	3621	52	22.05
27 January	08.30	20.00	London	3991	4034	43	22.10
28 January	09.00	18.00	London	4034	4075	41	18.55
1 February	07.30	22.00	London	4146	4197	51	21.52
3 February	09.30	22.30	London	165	211	46	21.59
4 February	10.30	18.30	London	211	291	80	18.47
5 February	08.30	20.30	London	291	358	67	13.52
8 February	08.30	20.30	London	358	434	76	22.59
9 February	08.30	20.30	London	434	496	62	22.32
25 February	08.30	20.30	London	820	902	82	17.26
1 March	08.30	20.00	London	961	1025	64	22.52
2 March	07.00	17.30	Bexhill	1025	1248	223	18.37
3 March	07.30	20.00	London	1248	1296	48	21.49
4 March	08.00	18.00	London	4353	4437	84	18.03
5 March	08.30	20.00	London	4437	4478	41	14.58
8 March	09.00	20.00	London	4478	4518	40	22.21
9 March	08.30	20.00	London	4518	4566	48	21.37
10 March	09.30	11.30	Local	4566	4606	50	22.03
11 March	09.00	20.00	Local	4606	4656	50	17.57
15 March	09.00	18.30	London	4696	4736	40	21.55
16 March	08.30	19.00	London	4736	4779	43	16.47
17 March	08.00	18.00	London	4779	4863	84	19.22
18 March	09.00	19.00	London	4863	4918	55	16.55
22 March	08.30	20.30	London	5029	5097	68	20.37
23 March	08.30	18.30	London	5097	5135	38	21.35
24 March	09.00	18.00	London	5135	5180	45	22.14
25 March	09.00	20.30	London	5180	5225	45	19.09
29 March	08.30	20.30	London	5274	5343	69	21.16
30 March	08.30	22.00	London	5343	5428	85	15.33

Date (all 2010)	Dep. time	Arr. time	Location	Mileage reading		Total miles travelled	House of Lords rising time
				at start	at end		
18 May	09.00	18.30	London	6437	6476	39	19.30
26 May	09.00	19.00	London	6690	6730	40	22.17
27 May	09.00	18.00	London	6730	6778	48	18.58
14 June	06.00	19.00	London	7480	7557	77	20.07
15 June	09.00	19.00	London	7557	7595	38	19.46
16 June	09.00	18.00	London	7595	7641	46	20.39
17 June	09.30	18.30	London	7641	7686	45	17.33
21 June	09.30	18.30	London	7725	7763	38	22.22
23 June	09.00	19.00	London	7802	7851	49	22.42
24 June	09.00	18.00	London	7851	7894	43	16.43
25 June	08.00	18.30	London	7894	7934	40	Did not sit
28 June	09.00	19.00	London	7934	7971	37	00.33
29 June	09.00	19.30	London	7971	8021	50	23.45
30 June	09.00	18.30	London	8021	8088	67	18.59
1 July	09.00	20.00	London	8088	8140	52	16.41
5 July	09.00	21.00	London	8178	8229	51	20.43
6 July	09.00	17.00	London	8229	8268	39	21.13
7 July	09.00	19.00	London	8268	8309	41	00.02
8 July	09.00	20.00	London	8309	8345	36	17.00
9 July	09.00	20.00	London	8345	8385	40	15.42
12 July	09.00	19.30	London	8392	8435	43	20.52
13 July	09.00	19.00	London	8435	8476	41	19.30
14 July	09.00	19.30	London	8476	8516	40	20.26
15 July	09.00	20.00	London	8516	8568	52	16.35
20 July	09.00	20.00	London	8659	8696	37	18.27
21 July	09.00	20.00	London	8696	8766	60	21.21
22 July	09.00	20.30	London	8766	8805	39	15.50
26 July	05.00	21.00	London	8845	8881	36	20.29
27 July	09.00	17.00	London	8881	8918	37	18.53
28 July	09.00	20.30	London	8918	8958	40	15.29

Appendix R: Letter from Lord Bhatia to the Commissioner for Standards, 19 January 2016

Thank you for your letter of 16 December 2015.

I have considered the documentation which you kindly sent to me.

I think it might assist if I provide some further background and also clarify and comment upon the documentation which you have provided. I hope that this might help us on 22 January when we are due to meet.

To assist with what I say below I enclose:

- (1) A copy of the statements taken by the police in the course of the police investigations, together with correspondence from the police.
- (2) A copy of a statement given by Robert Brown, Partner and Solicitor with Corker Binning, who acted for me in connection with the police investigation, attaching my statement given to the police and a witness statement taken from my PA, Dolatkhanu Kassam (“Dolly”).
- (3) A further statement given by Salvatore Fisci (“Salvatore”), the driver employed by EMF.
- (4) Extracts from Salvatore’s personal diaries.⁵⁹
- (5) Extracts from my calendar.⁶⁰

Background

Both the expense claims made to EMF and my House of Lords claims were processed by my PA Dolatkhanu Kassam (“Dolly”).

The system which operated at EMF is described in more detail in the statements made by Dolly and Salvatore.

The case regarding double mileage claims was commenced by a disaffected former senior employee at EMF. It has always been my case that this was a malicious complaint arising from a historical disagreement within EMF.

I was engaged in civil litigation with EMF between late 2013 and November 2015, when a settlement was reached. This settlement included the resolution of all disputes between the parties, including the issue of the unintended duplication of expenses claims, to everyone’s satisfaction.

The police investigation

As you are aware, the matter was referred to the police in 2015.

DI Howard Holt of SCO1—Homicide and Major Crime Command led the Special Enquiry team from New Scotland Yard who investigated the matter. It was thoroughly investigated by them. Once the police had gathered the evidence I was invited to attend an interview, which I did. I provided a written statement which I read out explaining the circumstances which led to doubleclaiming. For a detailed explanation of the cause of the duplicate claims, please refer to my

59 Not printed.

60 Not printed.

statement. The police also interviewed Salvatore Fisci and my solicitors provided the police with a statement made by Dolly. Copies of the statements are enclosed.

At the end of that investigation the police accepted that my travel expenses issue had arisen as a result of confusion within EMF and amongst the personnel involved in raising the claims on my behalf. It did not involve any dishonesty or intent on my part and the police agreed that there was no case to answer. This was the view of a Detective Inspector who concluded that the case need not be referred to the Crown Prosecution Service for advice on a charging decision.

Your letter of 16 December 2015

I would also like to take this opportunity to clarify and comment further on the specific points which you have raised and the table which you enclosed with your letter of 16 December 2015.

“Sick leave”

You refer to the period of 14 to 26 January 2010 and the annotation “sick leave” on the EMF daily journey/mileage record sheet. This refers to sick leave taken by the EMF driver Salvatore. This is noted in his diaries and also in my calendar. I attach print outs of the days in question for your information.⁶¹

While he was absent through illness, I recall that I drove myself to and from the House of Lords. I did not keep daily mileage records for this period and it was Salvatore who took the total mileage travelled during his absence from the odometer on his return.

“Arrival time” and “Departure time”

I think it might also be of assistance if I help to clarify the entries in the columns which are headed “departure time” and “arrival time”. These entries refer to Salvatore’s notes taken from his diaries. The “departure time” is when he collected me from home at the beginning of the day, and the “arrival time” was when he dropped me back at my home at the end of the day. The hours were noted for the purpose of Salvatore’s overtime claims and do not relate to the times I may have been at the House of Lords.

25 June claims

Finally, I was very concerned to read your comments about the claim for 25 June. This is the first time this has been raised with me.

All of the claims which were submitted are entirely my responsibility, and this one is no different. I could not understand how this could have occurred. I immediately investigated the claim from my personal records.

The error came about because I did attend the House, albeit not because the House was sitting, and hence Dolly made the claim and I failed to spot it.

This was a genuine mistake. I accept entirely that I am ultimately responsible for my claims, and I unreservedly apologise for this error. I ask the House to accept my explanation of human error. I have no hesitation in reimbursing the House in relation to the 25 June claim, and enclose a cheque accordingly.

61 Not printed.

Conclusion

All other claims in issue were rightly made to the House or Lords but erroneously duplicated and also claimed from EMF. I realise that the system in place at EMF for claiming expenses was flawed and, due to a failure to cross-check, my staff made claims to the House of Lords and to EMF for the same journey, thereby resulting in a duplicated payment for the same journeys. Whilst the claims were made on my behalf I ultimately approved them and for that I take full responsibility. I had no knowledge that expenses claims had been made in duplicate and there was certainly no dishonesty on my part. I believed all claims to be entirely legitimate.

This was a genuine mistake on my part, which I very much regret. I apologise without reservation for the time which has been lost as a consequence of this investigation, and for any embarrassment which these events might have caused the House. I await your decision as to what recompense is required of me.

Statement by Robert Brown, partner, Corker Binning Solicitors, to the Metropolitan Police Service, 19 January 2016

WITNESS STATEMENT

(Criminal Procedure Rules, r27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B)

Statement of: Robert Brown

Address: Corker Binning, 22 Essex Street, London WC2R 3AA

Age if under 18: N/A

Occupation: Solicitor & Partner

This statement, consisting of 2 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to Prosecution if I have wilfully stated in it, anything which I know to be false, or if not believe to be true.

1. I am a criminal defence solicitor and a Partner in the law firm Corker Binning.
2. In January 2015, I was instructed by Lord Amir Bhatia to assist him in relation to a request by the Metropolitan police that he be interviewed under caution in relation to a police investigation which had commenced following a complaint by the Ethnic Minority Foundation ("EMF").
3. The allegation by EMF was that Lord Bhatia had double-claimed mileage expenses, by claiming from both the House of Lords and EMF in respect of the same mileage.
4. On 24 June 2015, Lord Bhatia voluntarily attended a police interview under caution. The officers present during that interview were DC Sarah Oldacre and DC Jim Morrison.
5. DC Oldacre said that, in her view, Lord Bhatia had been entitled to claim mileage in respect of his attendance at the House of Lords. The issue that had arisen was that it appeared that, in respect of some mileage, a duplicate claim had also been made to EMF.

6. In interview, Lord Bhatia read a detailed statement responding to the allegation which had been made against him, and the disclosure which the police had provided. I exhibit a copy of that statement as RB/1. DC Oldacre commented that Lord Bhatia had provided her with a full account which responded to all the questions she would have asked.
7. After the conclusion of the interview, DC Oldacre said to me that, given Lord Bhatia's profile, she thought it was very likely that this matter would be passed to the CPS to review and advise on a charging decision.
8. As part of my firm's involvement in this matter, a witness statement was taken by my colleague, Rachel Quickenden, an Associate at Corker Binning, from Dolat Kassam ("Dolly"). Dolly worked as Lord Bhatia's PA during the relevant period and she confirmed that she had made all claims for mileage on Lord Bhatia's behalf and said that she now realised that an administrative error had occurred. I exhibit a copy of Dolly's witness statement as RB/2. This statement was provided to the police by my firm on 26 June 2015.
9. On 28 August 2015, DC Oldacre contacted me to confirm that a decision had been made that there was insufficient evidence for this matter to proceed against Lord Bhatia. Later that day, a letter was received from Detective Inspector Howard Holt confirming that he had reviewed all the material gathered during the course of the investigation and that no further action would be taken. It appears therefore that, despite Lord Bhatia's profile, the evidence in this case was considered insufficient even for the allegation to be passed to the CPS to review and consider whether a charge should be brought. From my discussion with the interviewing officers it was plainly their view that the "double claiming" arose from "the right hand not knowing what the left was doing".

Statement by Lord Bhatia to the Metropolitan Police Service, 23 June 2015

Introduction

1. I have attended this interview voluntarily after being notified by the police that they wished to speak to me in relation to an allegation of double-claiming travel expenses. The allegation is that I have claimed expenses for the same miles from both the House of Lords and EMF.

Personal background

2. I am 83 years of age, married with three daughters and four granddaughters. I was born and raised in Tanzania but have lived and worked in the UK since 1971. I have worked in a variety of business, community and charitable endeavours.
3. I have spent many years working in the charity sector. This includes founding a number of charities. In 1987, I established The Forbes Trust (TFT) solely from personal funds, acquired through years of working with a number of businesses. Through its grants and programmes, The Forbes Trust has donated substantial sums to charities over the last twenty-five years. In particular it donated funds to establish the Ethnic Minority Foundation ("EMF") and the Council of Ethnic Minority Voluntary Organisations ("CEMVO") in 1998 and 1999 totalling about £59,000. These funds were deployed through several years of consultation work with the ethnic minority communities and organisations across the UK, government agencies and

other charities. TFT also gave further cash grants to EMF totalling £29,000 during 2002 and 2003.

4. Between 1987 and 2011 I also contributed both money and time to help establish various other charitable and voluntary organisations.
5. In 2001 and in recognition of my work and commitment to the charity sector I was appointed to the House of Lords as a crossbencher.

EMF

6. I co-founded EMF in 1999 and served as a full-time trustee and chairman from 1999 until 2009. Between January and July of 2010 I worked for EMF as a volunteer. I received no salary from EMF until I was asked to take over a senior management role at EMF in July 2010. The charity has successfully grown since inception and it now has a secure asset base of over £20m, yielding an income of over £1 million per year to fund the charitable causes of EMF.
7. In 2010–2012, prevailing economic conditions led to cash flow problems in EMF and, as a result, in April 2012 I personally injected a cash loan of £100,000. In November/December 2012, I injected a further £159,000 to ensure that wages and other bills were paid.

Disclosure

8. The police have disclosed to me copies of mileage expenses claims. These cover certain dates in April–July 2009, January–March 2010, and May–July 2010 and suggest that mileage claims were duplicated on certain dates. On some dates I would attend to EMF business, on some dates I would attend the House of Lords and on some dates I would do both. On some of the dates when I attended to both EMF business and the House of Lords, it appears from the documents disclosed that the mileage incurred was sometimes claimed twice; i.e. from both EMF and the House of Lords.
9. As part of my work for EMF I was required to travel both within the UK and abroad. Many of these domestic journeys were made in my car, which was driven by an EMF employee, Salvatore Fiscì (“Salvatore”). Salvatore would also drive me to and from the House of Lords.
10. In respect of each claim in question, the police have disclosed two categories of documents.

i) Copies of the mileage schedule completed by Salvatore.

- (a) These claims total £2,434.
- (b) In all instances, these schedules were completed by Salvatore without my personal involvement. They recorded the total mileage incurred on the relevant date. These schedules were prepared by Salvatore. The primary reason for recording daily mileage was to enable Salvatore to monitor how much mileage was undertaken by the car we travelled in. This car and previous cars were personally leased and paid for by me and largely used for EMF business and/or attendances at the House of Lords. In the event that the leased car exceeded its permitted annual mileage limit a penalty had to be paid to the lease company. On two occasions in the past the annual mileage limit was exceeded and I

paid these penalty charges personally, despite the fact that most of the additional mileage may well have been incurred for EMF work. These schedules were also provided by Salvatore to Dolatkhanu Kassam (“Dolly”), an employee of EMF, with other payment receipts so that she could process petty cash and expenses claims. Dolly’s role was wide-ranging and included administrative, secretarial and accounts work.

- (c) I was not involved in the administrative process of raising the claims for expenses. I do not know how regularly Salvatore provided Dolly with his mileage schedules or how soon he did so after the relevant miles had been driven. I understand that, using this document, either Dolly or another member of EMF staff would raise a payment voucher requesting reimbursement for the mileage or expense incurred. Sometimes these payment vouchers would include additional amounts such as parking expenses, congestion charges and other miscellaneous items of expenditure. I certainly did receive reimbursement of expenses but I am not able to comment on specifics as I do not have access to these receipts or payment vouchers.

ii) Copies of the claim form submitted to the House of Lords in respect of my attendance and related mileage.

- (a) These claims total £1,212.
- (b) Dolly was responsible for computing my claims to the House of Lords. She did this by reference to my electronic calendar which would inform her as to which dates I had attended. When she had completed the claim forms she would bring them to me and I would sign them off. I did not check the details recorded on the form, such as the mileage claimed or the dates to which it related. Dolly had worked for me for many years and I never had any reason to doubt her ability.
- (c) Each time I attend the House of Lords I am entitled to claim for my mileage, which is agreed with the House in advance, together with an attendance allowance and a subsistence allowance. When a claim is submitted the attendance register is checked by the House, to ensure that the claim is valid before any payment is made. In this way, all of my claims made to the House of Lords have been approved before payment. Having claimed expenses from the House, these miles ought not also to have been claimed from EMF. If they were, then that is the result of a flaw in the process described in this statement. If there has been duplication leading to a financial liability to EMF it will have to be reconciled with any liability to me by EMF in the ongoing civil proceedings between myself and EMF.
11. During the period in question, I was working incredibly hard often working about 12 hours each day and sometimes 7 days a week. My work required me to travel around the country by car in respect of various EMF projects and I was also regularly abroad. I was therefore not in the office every day and I relied on the employees around me to carry out many functions.
12. Dolly completed both the expenses claims made to EMF and those submitted to the House of Lords. It appears that she did not realise that Salvatore’s mileage figures may have related to the same journeys and so she did not realise that she was producing a duplication of the mileage claims. Paperwork would regularly be sent or given to me by Dolly and other EMF employees

for approval and signature. On any given day the paperwork could be a variety of material, containing letters and documents. It could also include cheques and payment vouchers requesting cheques. Regrettably, I did not apply sufficient scrutiny to the paperwork provided to me, as I was under the assumption that it was all in order.

13. I personally never submitted any expense claims directly to Dolly. She and Salvatore processed all the claims between them. I accept that the claims were presented to me for signature, and that I failed to cross-check the details of such claims. I assumed that the work carried out between Salvatore and Dolly was accurate and in accordance with the process which had been put in place by EMF. It now appears that this was not the case.
14. I now appreciate that there was no cross-checking process in place to verify any expense claims, including mine. The system in use was that set up by the previous CEO which I continued to use. It is now clear that the system was not sufficiently robust and in my case failed to ensure that there was no duplication of claims made to EMF and the House of Lords. Erroneously and much to my regret, I failed to check the process undertaken by Dolly, Salvatore and the other EMF staff. I accept entirely that while claims were processed by others I am ultimately responsible for the claims made in my name.

Conclusion

15. I accept that, from the documentation provided by the police, it appears that duplicate mileage claims were submitted.
16. The expenses system in place at EMF evidently failed to operate accurately or rigorously. Unfortunately, there was no cross-checking of the claims made to EMF against the claims made to the House of Lords. This is a matter of great regret for me, particularly given that the claims involve both charitable and public money.
17. I did not know that expenses had been double-claimed and there was certainly no dishonesty on my part. I genuinely assumed that all the claims to the House of Lords and EMF were entirely legitimate and I was not aware of any duplication of those claims.
18. In the event that money is owed by me, I will of course act swiftly to reimburse EMF and/or the House of Lords.

LORD AMIR BHATIA

Statement by Dolat Kassam to the Metropolitan Police Service, 26 June 2015

WITNESS STATEMENT

(Criminal Procedure Rules, r27.1(1); Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B)

Statement of: Dolat Kassam ("Dolly")

Address: [REDACTED], Barbican, London EC2Y

Age if under 18: N/A

Occupation: Retired

This statement, consisting of 5 pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to Prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

1. I was born on 17 December 1934 in Zanzibar and I am now 80 years of age. I have been retired since January 2013.
2. I started working for Lord Amir Bhatia (“AB”) in 1974 and worked with him for the last 38 years of my career. I assisted him with the founding of a charity, the Ethnic Minority Foundation (“EMF”) from 1998/ 1999.
3. This statement is concerned with the period 2009–2010. During this time I was employed by EMF. I worked as a PA to AB but also undertook a wide range of administrative work for EMF. My duties included helping to open and close the office each day, general office work, preparing board papers and handling small general office expenses which needed to be paid by cash.
4. I had two colleagues in particular who assisted with general office work. The first was Salvatore Fisci (“Salvatore”). He had various duties within the office such as making purchase orders for stationary and supervising office maintenance. Salvatore had a desk in reception, in the same office as me but partitioned by glass. Salvatore also drove AB’s car and so he would drive AB between EMF meetings and to and from the House of Lords. He would also take papers to the EMF trustees for signature and occasionally travel between the office in Artillery Lane and the Boardman House property (a property owned by EMF which was let to tenants to generate a rental income for EMF).
5. Another colleague of mine was Gulshan Kassam. Gulshan also worked for EMF during 2009 and 2010. Gulshan and I shared an office on the ground floor. She also carried out a range of administrative duties, including a lot of work for Krishna Sarda. Gulshan also controlled the payment vouchers which were completed in respect of any payment requests concerning Boardman House and Manchester Building (another rental property owned by EMF).
6. When Salvatore was first employed, I initially gave him a float of £200, which was AB’s personal money. At some point later, I increased this float, with EMF money, to £400.
7. Salvatore would use the float to pay a) petrol and parking, b) office expenses (which could include lunch for visitors, cleaning materials or sundry items), and c) AB’s personal expenses. Salvatore would separate his receipts into these three categories and then the following process would take place.
 - (a) Petrol and parking: receipts would be attached to a mileage schedule completed by Salvatore. Salvatore would provide me with these whenever he was running low on money, maybe every ten days or sometimes every two or three weeks. Salvatore would complete a petty cash voucher for the amount of mileage (I believe the petrol receipt was redundant for the purpose of the expenses claim) and attach it to the receipts and mileage schedule. Originally the system was that a payment request voucher would be completed and a cheque would be raised payable to “cash”. This would be cashed from the EMF account. This cash was added to petty cash or given to Salvatore to replenish his float, as appropriate. At some point, the system changed, as Krishna told

me that AB was entitled to claim his expenses, including EMF-related mileage, as a “governance expense”. I cannot remember when this was; it may have been before or after 2009. From this point onwards, instead of withdrawing cash from EMF’s account, a payment request voucher would be completed, a cheque would be raised payable to AB and this would be paid into his account. The equivalent sum in cash would then be withdrawn by me and I would give this to Salvatore to replenish his float.

- (b) Office expenses: Salvatore would again complete a petty cash voucher and attach it to the receipts for expenditure. I would use this documentation to prepare payment request vouchers which I would pass to Gulshan, as she held the petty cash. Payment request vouchers would then be sent by Gulshan to AB as part of a bundle containing various invoices and payment request vouchers. AB would sign the payment vouchers, and they would then go back to Gulshan so that she could prepare the cheques. The cheques, with their relevant payment request vouchers, petty cash vouchers or invoices, would then be sent to one of the trustees for signature, either Aladdin Maherali, Krishna Sarda or AB. This process was frustrating at times as the payment vouchers sometimes came back without a second signature, and only the cheques would be signed. Cheques for EMF office expenses would be made payable to “cash”; once a cheque for EMF office expenses had been raised and signed, this would be cashed by Gulshan or I. The cash would be put into petty cash or given to Salvatore, according to the receipts that he had submitted.
 - (c) Regarding AB’s personal expenses, this expenditure would be replenished from AB’s personal bank account. I would receive the receipts from Salvatore and, with AB’s consent, I would simply withdraw cash from AB’s account and give this cash to Salvatore.
8. Gulshan and I were not signatories to the EMF account but we had an agreement with the bank that we could cash a cheque up to the value of £500.
 9. I always went to the bank on behalf of AB; I do not recall him going to the bank. AB wanted me to be added as a signatory to his bank account but Santander would not allow this and so I was instead added to his account. It became a joint account even though it only contained AB’s money; this was purely for administrative purposes as AB did not have time to go to the bank. I therefore dealt with the account on AB’s behalf; he never questioned my handling of his account. AB was very busy and he trusted me.
 10. In addition to EMF work, AB would attend the House of Lords in fulfilment of his role as a crossbencher. I would check his diary to see when AB had attended the House or, on occasion, AB would tell me the dates on which he had attended. For each attendance I claimed 30 miles in mileage, as it was 15 miles each way between AB’s residential address and the House of Lords.
 11. AB never completed the forms for the House of Lords expenses. I prepared all of them on his behalf. The House of Lords expenses were claimed at the end of the calendar month. So for instance, all claims incurred in June would be claimed at the end of June or in early July.

12. I never talked about the House of Lords claims with Salvatore. I don't know whether he knew I was claiming mileage from the House of Lords but I can't think that he would have done. I also do not recall talking with Salvatore about his mileage schedule or the parking charges. I assumed they were correct and didn't have cause to question him on any of them.
13. I now realise that some mileage was claimed twice; the same mileage was claimed from both EMF and the House of Lords. This was an administrative error on my part for which I hold myself wholly responsible. I recorded the mileage on these claims without thinking. I never once thought I was double-claiming. I understand that mileage was only double-claimed on certain dates; I don't know why there were double-claims on some dates and only one claim or no claims at all on other dates. There was so much going on during that period and I was also distracted during this time as I was having a turbulent time in my family life. I made a mistake by claiming this mileage and I am very sorry. I am willing to pay this money back, as it was my fault.
14. There has never been any reason for me to call AB's character into question. AB is a hard-working, sincere, honest man. He has worked for charities and welfare for as long as I can remember, devoting his whole fortune to this charity. I trust him absolutely.
15. I would be willing to attend court to give evidence.

Statement by Salvatore Fiscì, 14 January 2016

WITNESS STATEMENT OF SALVATORE FISCI

1. My name is Salvatore Fiscì. I live at [REDACTED], Woking, Surrey GU22.
2. I started working for EMF in a self-employed capacity in about October 2008. My principal role was as a driver. I then became an employee in 2009. I was responsible for driving Lord Bhatia on EMF business, and to a lesser extent, other trustees and I also ran errands for EMF as and when required. I used Lord Bhatia's car throughout. I collected him from his home at the beginning of the day and took him home in the evening. We covered a considerable number of miles travelling around the country, and also made trips to the House of Lords. Sometimes we made more than one trip to the House of Lords in a single day. I was aware that the EMF trustees sometimes held their Board meetings there and Lord Bhatia would also attend functions at the House.
3. I was responsible for ensuring that the car had fuel and I looked after it on a day to day basis.
4. I made a note in my diary of the hours I worked which I then used to calculate my overtime entitlement. I also made a note of the odometer reading on the car at the beginning and the end of each day. I then used these notes when I submitted expense claims to EMF. I completed the schedules and gave them to Dolly. I did not make any separate reference to the trips made to the House of Lords. I simply included all of the mileage which the car had covered.
5. Between 14 January 2010 and 27 January 2010 I was absent from work through illness and therefore did not drive the car while I was off.

6. Between 3 February 2010 and 3 March 2010 Lord Bhatia's car required major repairs and Mercedes provided a replacement. In this period Lord Bhatia had arranged to go to India and therefore I also decided to take leave between 12th and 24th February. Therefore no expense claim was submitted for that period.

Appendix S: Transcript of the Commissioner for Standards' interview with Lord Bhatia, 22 January 2016

Q1. The Commissioner for Standards (Paul Kernaghan): Lord Bhatia, thank you for coming to this interview. The interview is being recorded and a transcript will be produced. You will be sent a copy of the transcript and given an opportunity to correct any errors. The transcript will be appended to my report on your case but will not be published unless and until the Committee for Privileges and Conduct reports on the case.

Present at this interview are me, Paul Kernaghan, the House of Lords Commissioner for Standards; you, Lord Bhatia; your solicitor, Mr Christopher Adams; and the clerk who assists me, Mr Nicolas Besly. I remind you that while you are free to consult your solicitor off the record, you are expected to answer questions for yourself. Should you wish to consult your solicitor off the record, please let me know and I will pause the recording.

You are aware of the background to my investigation. In summary, I am investigating allegations first broadcast on the BBC's *Newsnight* programme in December 2013 about travel expenses claimed from both the House of Lords and the Ethnic Minority Foundation in respect of the same car journeys in 2010. With my last letter I sent you a table suggesting which journeys my investigation covers. The first was on 6 January 2010, the last on 28 July 2010. There were 63 days in respect of which relevant mileage claims were made.

I am aware that there was a wider dispute between you and the Ethnic Minority Foundation and that there was a police investigation. My investigation has focused solely on whether the House of Lords rules on financial support for members were breached by the alleged double claiming of mileage expenses.

I am grateful for your written responses to the allegations, dated 15 December 2015 and 19 January 2016. The purpose of this interview is to seek further clarification about some points that arise from the allegation and your responses to it.

Before proceeding to questions, there are two matters that I should cover. First, your letter of 19 January 2016 referred to the period of 14–26 January 2010, when Salvatore Fiscì was off sick. You appended extracts from your calendar and Mr Fiscì's diary covering the period. I do not intend to cover any claims made during that period in my investigation. There is no clear record of the days during the period when you may have claimed mileage expenses from both the House of Lords and the EMF, so there is no clear evidence that I can draw on.

Secondly, your letter of 19 January 2016 also referred to a claim that you had made on Friday 25 June 2010, when the House did not sit. On that day you claimed for travel, day subsistence and office costs. This claim was apparently honoured by the House of Lords Finance Department. Since I last wrote it has come to light that on 25 June 2010 you attended a meeting of the Sub-Committee on Lords' Interests, as it then was, to give evidence as part of its investigation into you in 2010. That was obviously deemed by the authorities as a valid attendance for expense purposes, so I do not think there is any need for you to reimburse your

claim for day subsistence and office costs on that day. I should say, however, that the issue of potentially double-claiming mileage expenses arises on 25 June 2010, as on the other sitting days.

In this interview I will first ask about the journeys themselves. Then I will ask about the process by which your claims were made to the EMF and to the House of Lords. Lastly, I will ask some questions following up on your written response. Before I take you through the questions I am happy to give you an opportunity for any comments that you wish to make. Do not feel obliged to, but is there anything you would like to say at this stage?

Lord Bhatia: I do not think there is anything that I need to say.

The Commissioner for Standards: I sent you a table, which you have, that I marked for reference purposes “PRK 1”, containing details of the 63 journeys that are relevant to my investigation. This table is based on mileage records kept by your driver, Salvatore Fiscì, and your claims to the House of Lords for travel expenses. Are you content that it is an accurate record of the journeys relevant to this case?

Lord Bhatia: Yes.

The Commissioner for Standards: Thank you. Can you please confirm that all the journeys relevant to my investigation were made using the same driver, Salvatore Fiscì, in the same car apart from between 3 February and 3 March 2010, when a loan car was used?

Lord Bhatia: Yes.

The Commissioner for Standards: Thank you. On most of the days covered by my investigation, the journeys started at about 8.30 or 9 am and finished between 6 pm and 8 pm, although there were exceptions to that. The total distance travelled each day was normally between 40 and 80 miles. Was there a typical pattern to your journeys on those days?

Lord Bhatia: It differed from day to day. Some days I would start early and finish late, and in between I would go to some of the EMF projects that I was managing. So there was a mixture. Sometimes I came to the House of Lords, went back to my office in the City and came back again later in the evening or whatever the case may be. It was not a case of the same things happening regularly day in, day out.

Q2. The Commissioner for Standards: Thank you. Can you please explain the process by which you made claims from the EMF for mileage expenses?

Lord Bhatia: I was extremely busy during that period. I was undertaking the management of the affairs of the EMF in my chief management role. I had to go to Leicester regularly and to India about three or four times, for long periods of time. I was managing the organisation so it was left to the staff, particularly my secretary, Dolly Kassam, who received all the mileage claims from Salvatore and claimed from the EMF accordingly. She was also doing my House of Lords claims. What she did not realise, and she said so in her statement which was sent to you, was that she was double-claiming in that respect. She has taken full responsibility for that. At the end of the day, though, I was signing those off, and I have to accept full responsibility. I am extremely sorry. It was just a question of the left hand not knowing what the right hand was doing, which is how we have ended up in this chaos.

The Commissioner for Standards: Thank you. Can you confirm that all the mileage expenses submitted to the EMF between January and July 2010 were honoured—that they paid out against your claims?

Lord Bhatia: Yes.

The Commissioner for Standards: Thank you. The form on which you claimed expenses from the EMF included this declaration: “I hereby declare that the above expenses were incurred wholly and necessarily in the course of EMF business and no other claim has been made for them”. Before signing such forms, what steps if any did you take to ensure that your declaration was correct?

Lord Bhatia: I was completely dependent on my staff, led by Dolly and Salvatore, as well as another assistant in Dolly’s office. That is the whole thing. Within that was the finance department of the EMF, which also participated. The process was that on any given day of the week, I would be handed quite a lot of documents that included claims to the EMF and the House of Lords, as well as other expenses that went with it. Busy as I was, at the age of 83, you can imagine how pressured a job it was. I wanted to make a good job of it for EMF, which I still believe I did. At the end of the day, I have to take responsibility if there was a double claim, no matter that Dolly has said that she made a mistake and she is going to take responsibility. I signed them off and have to take responsibility.

Q3. The Commissioner for Standards: Thank you. Moving on to the House of Lords claims, you have been sent copies of your claim forms from the House of Lords from January to July 2010. Can you confirm who filled in those forms?

Lord Bhatia: Again, it was Dolly who filled in those forms. She checked my diary. I never filled out those forms, although at the end of the day I signed them when they were placed before me. I trusted my staff and the management to deal with that.

The Commissioner for Standards: Right. So if I have picked that up correctly, your PA, commonly referred to as Dolly, completed the forms and presented them to you, and then you signed them.

Lord Bhatia: With other papers, yes.

Q4. The Commissioner for Standards: Thank you. Did you give any guidance to your PA about how to fill in the House of Lords claim forms, and specifically when to claim for travel expenses?

Lord Bhatia: As I set out in my correspondence with you, Dolly was there at the inception of the EMF, going right back to whatever the year was—1992, 1995 or whatever. She was there before even the chief executive or anyone else came in. She has been there for about 38 years, until she retired in early January 2013. She knew the whole system and was a trusted member. It was recorded everywhere that she was my sister-in-law who did all the work for me. There was no reason for me ever to question her honesty or accuracy. But, due to human nature, human mistakes are made occasionally one way or another by everyone concerned. That is where it has ended up.

The Commissioner for Standards: Thank you. I had a question but it seems you have already answered it. I think you are saying that, notwithstanding that your PA completed the forms, you accept that you are personally responsible for certifying the claims.

Lord Bhatia: Yes. Throughout my correspondence with you regarding the police inquiry that has taken place, I have always maintained one thing very clearly: if any errors have been made, particularly in dealing with public finance as well as charitable funds, I need to be very careful about how things are happening, but I would put this down to human error in completing these matters.

Q5. The Commissioner for Standards: Thank you. I turn to the written responses that you supplied to me. In those responses, you appear to accept that you claimed mileage expenses from both the House of Lords and the EMF in respect of the same journeys. Can you please confirm that that is the case?

Lord Bhatia: That is the case.

The Commissioner for Standards: Thank you. Do you therefore accept that you breached the House of Lords' rules on financial support for members by double-claiming mileage expenses, although you say that this was inadvertent?

Lord Bhatia: I just want to make a point on this issue. As you have seen, a settlement was reached with the EMF, and it has completely withdrawn all its claims against me, which includes claims that I made from it. So my position is that the mileage claims involving the EMF have been settled, and it has clearly said that my claims from the House of Lords were correct and proper. It has no claims against me at all on the mileage issue. That is where I am. I am seeking your final decision on this.

The Commissioner for Standards: I appreciate that. From my perspective, the relationship with the EMF is, in a sense, not relevant. I appreciate that it made claims about you in relation to a civil action and you made counterclaims against it. I do not need to know the details. That matter has been resolved to the satisfaction of both parties. I am dealing with the factual situation that you submitted mileage claims for journeys to the EMF and it honoured them, and you submitted mileage claims for the same journeys to the House of Lords, and the House of Lords honoured on them. That is the situation as I understand it. I think you are saying that that is an accurate summary of the situation.

Lord Bhatia: Can I consult?

The Commissioner for Standards: Please do.

[The interview was paused.]

Lord Bhatia: The answer is yes.

Q6. The Commissioner for Standards: Thank you. When did you discover that you had claimed from both the House of Lords and the EMF in respect of the same journeys?

Lord Bhatia: I think I first discovered this when the *Newsnight* item was broadcast. I believe that it was Lord Hill who complained you and asked you to investigate the matter.

The Commissioner for Standards: Yes. For your information, and I have disclosed this in letters to you, the formal complaint against you was by Lord Hill of Oareford, who at that time was Leader of the House.

Lord Bhatia: That is right. That was the first time, when I saw that. I think the transcript of the broadcast was also very relevant, because that is where it is mentioned as well.

Q7. The Commissioner for Standards: The *Newsnight* programme was broadcast in December 2013. Did you take any action subsequent to 2013 and prior to your letter to me of 15 December 2015 to notify the House that there was this issue of duplication of mileage claims?

[The interview was paused.]

The Commissioner for Standards: Interview resumed.

Lord Bhatia: I think that what happened was that immediately after Lord Hill's complaint to you, I became aware of what was going on. At that point, I understand that you looked into what happened at EMF. I was owed money by EMF, and it went to litigation, which I advised you of. You said that you would hold everything until the EMF legal case was resolved. You asked, I think, at the same time whether that litigation included the mileage claims, and I said, "Yes, it does." That is how the thing proceeded. It was not until early 2015 that the legal case was resolved, and I advised you about that immediately.

The Commissioner for Standards: Thank you. Once the police launched an investigation, I suspended my investigation, as it is clear that a criminal investigation takes priority.

Lord Bhatia: I think Lord Hill said the same thing.

Q8. The Commissioner for Standards: Right. Thank you. Prior to the *Newsnight* broadcast in December 2013, you were completely unaware of the double-claim mileage expenses; that is what you have indicated. How would you square that expression of being unaware of the duplication of claims with the fact that you were both certifying your claims to EMF and certifying your claims to the House of Lords? Did it not come out that, for the sake of argument, you were putting in a claim for a certain date to two separate bodies?

Lord Bhatia: I mentioned earlier on in our interview that I was wholly and substantially dependent on my staff—Dolly and other people—authorising, who I trust implicitly. There is no cause for them to have done anything wrong. It was really a question of—I take full responsibility for it, because I signed those papers and I made the claims. I apologise and I am very sorry that happened. I consistently mentioned in my correspondence with you that if any double-mileage claims took place, I should refund them to whoever is entitled to them.

Q9. The Commissioner for Standards: Thank you. A final question from me. It is a matter of public record, Lord Bhatia, that you were previously found to have breached the rules on financial support claims. Did that impact on your subsequent claim practices? Did you take any steps to ensure that your claim practice was beyond criticism?

Lord Bhatia: Commissioner, it was a very heavy blow for me when the earlier event took place. The whole family, my staff, everybody was aware of that. It was a constant subject of discussion between everybody, including the EMF staff: "Please be sure that you do not double-claim anywhere. I don't want any mistakes to be made anywhere. Please deal with this matter extremely, extremely, extremely ..." That was the background when this BBC broadcast took place. It was part

of the background against which everybody was very concerned. So was Dolly, so was I, so was Salvatore and everybody else. Everybody knew about this. As I mentioned in one of my letters to you, this was made up by a disgruntled ex-chief executive of EMF, who concocted all this. His original claim started from a big amount, as you saw in the *Newsnight* item, down to zero at the end of the day. I spent tens of thousands, and hundreds of thousands of pounds, creating EMF. I almost single-handedly—not that I want to say that I am the only person; there is a whole team of people who did that—produced an asset of £20 million, with an income of over £1 million a year. Why would I want to get into double-claiming for these 63 days? It beggars belief, as far as I am concerned. I did not want to be doing that against the background that you just described. It was absolutely an error, for which I want to apologise and I want to refund whoever is to be repaid. I have been asking for a long time, “Please tell me what I need to refund.” I will make an apology, if that is what is required to close this matter. At the age of 83 I do not need this.

The Commissioner for Standards: Thank you very much. Those are all the questions I have. Are there any final points you would like to make before we conclude the interview?

Lord Bhatia: I only want to ask you, Commissioner—I want to rely completely on you as the Commissioner for Standards—to tell me what amounts I need to repay to the House of Lords, because the allegation is that I have double-claimed. I accept that I have signed these. I am completely in your hands for you to decide what to do.

The Commissioner for Standards: Thank you. My function now, when we terminate the interview—I believe I now have all the information I require. It will take me some time to compile my report. I will not be coming back to you and saying that I think you should repay money, or that I think you should repay a certain quantum of money, et cetera. I will submit my report in due course to the Sub-Committee on Lords’ Conduct. They will then take whatever action they feel is appropriate. I would not wish to prejudge that, because I have not written the report, so I do not know what my conclusions will be at this point. But it will not be me coming to you and saying that you should refund X or Y. I will submit a report setting out the full picture and my conclusions to the sub-committee. The full committee will engage with you in due course. I am not in a position to say that you should repay money. I am not in a position to say that you should not repay money at this point in time. I have noted both in your written submissions and in the interview this afternoon that you have indicated a willingness to refund any money that it is felt appropriate that you should refund.

Lord Bhatia: I just want to mention this, because there is slight confusion. You will report this to the sub-committee or to the main committee?

The Commissioner for Standards: The process, and it is set out in the Guide to the Code of Conduct, is that I submit my report to the sub-committee. They make recommendations. If appropriate, they may agree with whatever conclusions I make. They may feel that it is a matter for sanction, in which case they make recommendations. It is the full Committee for Privileges and Conduct that, if I can put it this way, is the decision-making body. The sub-committee makes recommendations to them and comments on what my report says. It is the full committee that then makes decisions. That is the process at this point in time.

Lord Bhatia: Commissioner, I do not want to disagree with you, because you know the rules inside out, but I thought that if I admit my error, it is an apology. Then you have the powers to settle the matter and pass it on to the main committee.

The Commissioner for Standards: I think the provision that you are alluding to is what is called remedial action.

Lord Bhatia: That is right.

The Commissioner for Standards: I have discretion, circumscribed by the guidance, in certain cases to agree remedial action. As I said at the outset, I am not in a position at this point in time to say whether it is appropriate for remedial action or not. Indeed, I am not saying at this point in time whether you have breached the code or not. I will have to consider and draft my report. That is an option open to me. I cannot at this point in time tell you what my recommendations will be. I will have regard to all the options open to me under the code, and then I will make my report accordingly.

Lord Bhatia: Commissioner, thank you for explaining this. So the first point is for you to review everything from this interview, and if you are satisfied that remedial action should be taken, from your point of view, and whatever money is to be repaid, if any, and if any apologies to be made, et cetera, are appropriate for this purpose, then the matter does not go to the sub-committee; it goes straight to the committee?

The Commissioner for Standards: Let me be clear: any report I draft—and let us move away from your case to any case, from “There is no breach” to “This person has transgressed to the nth degree known to man or woman”—goes to the sub-committee. All my reports are channelled to the sub-committee, and from there to the full committee. Whether I dismiss a complaint, whether I recommend or agree remedial action or whether I feel that it is not appropriate for me to do so, they all go to the sub-committee.

[The interview was paused.]

The Commissioner for Standards: Interview resumed.

Lord Bhatia: Commissioner, the Guide to the Code of Conduct says clearly, at paragraph 128: “After considering the Member’s written submission, the Commissioner may decide either to dismiss the complaint, or to agree remedial action with the Member. Remedial action may be agreed if the complaint, though justified, is minor and is acknowledged by the Member concerned. Remedial action involves ‘putting the record straight’, for instance by making an amendment to the Register; the Member will also normally be expected to make a formal apology, either in writing or by means of a personal statement in the House. If the Commissioner and Member agree remedial action, the Commissioner reports the circumstances and remedial action direct to the Committee for Privileges and Conduct. The Commissioner informs the complainant of the action taken in response to the complaint”. There is no mention that you go to the sub-committee first.

The Commissioner for Standards: Let me make it clear. Remedial action is an option. It would be inappropriate for me to make any other comment at this point in time. I have to assimilate all the evidence that I have collected, including your answers in the interview this afternoon, and then make a judgment as to the best way forward. I follow the guidance scrupulously, I hope. As I say, remedial action

is an option, but I am not going to constrain my discretion at this point. It would be inappropriate for me to do so.

Lord Bhatia: I understand that. So is the first step for you to consider?

The Commissioner for Standards: It is for me to consider all the material and draft my report, including my conclusions.

Lord Bhatia: Would that come to me first?

The Commissioner for Standards: It would depend on what my recommendations are.

Lord Bhatia: So if your recommendations are—

The Commissioner for Standards: To be clear with you, as I am trying to respond to where you are coming from, if I felt that remedial action was appropriate, I would then have to discuss remedial action with you—is my interpretation of “remedial action” the same as yours? Could we come to an agreement? It could be that you would reject my proposal and it could be that I would reject your proposal. It could be that I do not feel that remedial action is appropriate in this case. I cannot comment further at this point.

Lord Bhatia: I understand that fully, Commissioner. Thank you. If I have understood you correctly, you will now take account of everything that has been said and submitted to you. You will then take your decision about whether remedial action can be taken. If the remedial action is agreed with me, the matter then does not go to the sub-committee.

The Commissioner for Standards: In essence they do not have the discretion, I believe, to unpick my decision. That is probably the best way to put it. If we had agreed remedial action, unless it was transparently inappropriate to them, the matter would have been resolved.

Lord Bhatia: Yes.

The Commissioner for Standards: I will now terminate the interview.

Appendix T: Letter from the Commissioner for Standards to Lord Bhatia, 27 January 2016

Thank you for attending the interview on 22 January 2016. Please find enclosed a transcript of the interview. I would be grateful if you could let me know if you would like to propose any corrections to it.

At the start of the interview I mentioned that there did not appear to be a mistake in your claim for day subsistence and office costs on Friday 25 June 2010. It had come to light that on that day you gave evidence to the Sub-Committee on Lords’ Interests. That was considered a valid attendance for the purpose of making a claim for financial support. That being so, I am returning the cheque for £173.50 that you enclosed with your letter of 19 January 2016.

Appendix U: Letter from Lord Bhatia to the Commissioner for Standards, 3 February 2016

I thank you for your letter of 27 January 2016 enclosing the transcript of the interview.

I accept this as a record of my interview with you on 22 January 2016.

Thank you also for clarifying the position regarding the validity of the claim for 25 June 2010 on the basis that I attended a meeting of the Sub-Committee on Lords' Interests.

I would be grateful to speak with you once you have formed your initial view and of course remain at your disposal should you require any further information.

Appendix V: Letter from the Commissioner for Standards to Lord Bhatia, 16 February 2016

Thank you for your letter of 3 February 2016.

You asked if we could speak once I have formed my initial view about your case.

It is not my normal practice to discuss my findings provisionally and informally with members. I am required to reach my findings based on documented evidence. My reports containing my findings, the reasoning for them and all relevant evidence are sent to the relevant committee in accordance with the process set out in the Guide to the Code of Conduct. It might not be in keeping with that process for me to have conversations about my provisional findings that do not form part of the formal evidence-taking process. Commissioner

However, in accordance with paragraph 131 of the Guide to the Code I enclose those parts of my draft report which deal with issues of fact. Please let me know if you have any comments on them. If there are other further points that you would like me to take into account in reaching my findings then you are entitled to make a further written submission at this stage.

I would be grateful for any comments on the draft extracts or a further submission by or on Friday 26 February 2016.

Appendix W: Letter from Lord Bhatia to the Commissioner for Standards, 22 February 2016

Thank you for your letter of 16 February 2016. I am most grateful for your invitation to comment on the facts documented in your draft report.

Please may I draw your attention to the following?

Firstly, during my interview with you on 22 January 2016 I was able to clarify the matter of Mr Fisci's sick leave. Having done so, I am not sure whether you have adjusted your documentation to include this period. By my calculation this would increase the number of journeys claimed by 13.

Secondly, I should like to clarify that Mr. Fisci was not my personal driver, rather he was an employee of EMF. I do have documentation to corroborate his employment position should you wish to see it.

I look forward to hearing from you.

Appendix X: Letter from the Commissioner for Standards to Lord Bhatia, 3 March 2016

Thank you for your letter of 22 February 2016.

I am grateful to you for clarifying the matter relating to Salvatore Fisci's sick leave. You are correct that there were 13 calendar days when he was off sick. The House sat on eight of them, and the record (as well as the documentation you provided to me) shows that you attended the House on all eight days. However, none of the material before me (including that you provided) indicates on which if any of those eight days you also claimed mileage expenses from the EMF. There is simply a mileage figure for 13 January 2010 and then one for 27 January 2010. As I cannot identify particular days on which mileage expenses were double-claimed I will maintain my position of not including that period in my investigation. However, I will amend the draft report to state that you invited me to take that period into account.

Thank you for the clarification about Mr Fisci's employment status. I am happy to amend the draft report accordingly.

ANNEX 3: APPEAL BY LORD BHATIA

Introduction

1. The Commissioner for Standards has now issued a report on my conduct. The report is the result of an investigation into allegations made in a BBC *Newsnight* programme in December 2013 that I claimed and received mileage expenses from both the House of Lords and a charity I was involved with, the Ethnic Minority Foundation (EMF).
2. The Commissioner identified 63 days between January and July 2010, in respect of which it is alleged that I claimed mileage expenses from both the House of Lords and EMF. The total amount claimed from the House for those 63 days was £756.
3. I have accepted during my interviews with both the Commissioner and the Metropolitan Police during their investigations that mileage expenses may have been claimed in error from both bodies. The claims were prepared by a long-standing personal assistant, an employee of EMF, and I signed the forms she prepared. I have apologised without reservation for this oversight and have consistently offered to repay the money to either EMF or the House of Lords. I have explained to the Commissioner that this was an honest mistake and I have since corrected the issue with EMF. EMF has settled their claim with me including any mileage claims as per the letter from their Chairman following this settlement, dated 17 November 2015 (attached).
4. The Commissioner found that by not being scrupulous in my claims for financial support I failed to act on my personal honour and so breached paragraph 8(b) of the Code of Conduct.
5. I understand that based on the Commissioner's report to the Sub-Committee, the role of the Sub-Committee is to decide the *appropriate* sanction to recommend.
6. The Sub-Committee recommended suspension from the House for eight months. It further recommended repayment to the House of £756.

Basis of Appeal

7. I am appealing this decision on the basis of process and that the sanction is disproportionate. The arguments for this appeal are set out fully below, but can be summarised in the following:
 - (i) Too much consideration was given to irrelevant materials.
 - (ii) Inadequate consideration was given to relevant materials.
 - (iii) The remit of the investigation was breached by the use of irrelevant materials.
 - (iv) The process was inadequately transparent in order to achieve fairness or satisfy principles of natural justice.
 - (v) The sanction is disproportionate and inconsistent in the context of more serious breaches by other peers.
 - (vi) There is no explanation as to why the case was not referred for Remedial Action.

- (vii) The victim of the double-claim was EMF and not the House of Lords and this fact was not reflected in the decision.
- (viii) The Commissioner’s opinion that I was “unacceptably casual” and acted in a way that affected my “personal honour” is without foundation and contradicted by the Commissioner’s own acknowledgment that “There is no evidence to contradict his statement that the double mileage claim was unintentional¹”.
- (ix) Claims that I “failed to learn my lesson” are unwarranted as evidence points to behaviour that suggested I *believed* I was being careful. At the time of this alleged breach there was no ‘lesson to be learned’ as the previous sanction had not even been imposed.

The Process

Rule 108

8. The initial complaint to the Commissioner was brought by Lord Hill immediately following a BBC *Newsnight* programme. Under Rule 108, I should have first been given an opportunity to respond to the Noble Lord. The omission of this step therefore precluded an opportunity for me to self-refer, to provide any explanation or to offer immediate restitution.

Irrelevant materials and considerations

9. The Commissioner’s investigatory process was initiated following a BBC *Newsnight* programme broadcast of a story that I had misappropriated funds from EMF. Several allegations were made in the story, with one allegation stating that I claimed for and was paid mileage expenses from both the EMF and the House of Lords in respect of the same car journeys.
10. The remit of the investigation, as set out by the Commissioner², stated that the period of time to be investigated was from December 2009 to July 2010 as investigations could only go back four years, and I had not claimed expenses from the House from July 2010.
11. The remit of the investigation was that only the allegation of double claiming of travel expenditure was to be addressed and as a consequence only material and considerations necessary to carry out the investigation were to be referred to³. Indeed, the Commissioner reinforced on a few occasions that I was not to comment upon other matters related to or raised by EMF. However, it now appears that his final report goes significantly beyond the specified scope. Much of the material that has been apparently relied upon and compiled as evidence or contextual material has no relevance to the specific matter that the Commissioner was to investigate, and has been included without any qualification.
12. The Commissioner’s report relied heavily upon the ‘evidence’ provided by the sources to the BBC *Newsnight* programme. Individuals with highly vested interests in EMF and maliciously adverse to my position were the sources behind the programme, such as the then Chief Executive Officer of EMF. In addition, a large portion of the Commissioner’s evidence was reliant upon Frenkel’s Forensics Expert Accountancy Report, dated 21 January 2014,

1 Paragraph 38 of the Report from the Commissioner for Standards

2 Paragraph 3 of the Report from the Commissioner for Standards

3 Paragraph 3 of the Report from the Commissioner for Standards

which largely formed the basis of the allegations referred to in *Newsnight*. Lastly, the *Newsnight* programme transcript itself was used as evidence and included in the compiled appendices to the report. This transcript can only be described as wholly biased and containing irrelevant and refutable accusations and matters.

There are about concerns in the Commissioner using such ‘evidence’:

- (i) It should be questioned whether the entrenched motives behind the production of the evidence reduces its validity and compromises its use in this process, or indeed the process itself.
- (ii) That evidence has been used by the Commissioner in light of all the other allegations made by the EMF in the programme. It is difficult to imagine a scenario in which the user of this evidence can remain uninfluenced by the extraneous allegations and character assassinations included, without giving undue consideration to such irrelevancy.
- (iii) Frenkel’s report and the *Newsnight* transcript commenting upon the resulting allegations have been submitted without qualification, and have in no way been tested for accuracy. The inclusion of these materials on this basis raises questions regarding the validity and credibility of the Commissioner’s sources.
- (iv) The BBC took Frenkel’s ‘expert’ report at face value. As will be apparent from the report, it is described as an “expert’s report” and it is addressed to the Court. However no expert’s direction was ever made in the proceedings and the report did not have expert status in spite of the way in which the document was presented to the BBC and its provenance consistently perpetuated thereafter.
- (v) I was not given an opportunity by the Commissioner to comment on all the material supplied to the Committee in the context of the alleged breach. He explicitly confined me to commenting only upon the alleged mileage issue, but he himself and the process went on to include and refer to issues and allegations that went well beyond that question.
- (vi) Where I was given an opportunity (only related to the mileage issue), I was able to clarify ambiguous allegations. Frenkel’s report contained a number of highly tendentious and misleading handwritten annotations. For instance, annotations related to “sick leave” in the Frenkel’s report carried the implication that I had claimed mileage expenses from the House while on sick leave. Here I was able to provide evidence to the contrary that it was not I who was on sick leave but EMF’s employed driver. I also drew the Commissioner’s attention to the fact that 13 journeys during this period were not included in his final calculation of the total number of journeys. Notwithstanding this, I am still unclear as to why the Commissioner decided not to include these journeys in his final computations.
- (vii) Given this material, it is highly likely that the Commissioner was led to views of me that were not necessarily correct and in any event were wholly irrelevant. At the very least it is difficult

to accept that unfounded allegations had no impact upon the Commissioner's opinion or recommendation.

- (viii) Throughout my civil proceedings with EMF and the Police investigation it is acknowledged that it was EMF who claimed that they were entitled to reimbursement of any monies paid under the double mileage claims. This is also referred to in the Frenkel's report. That was how EMF's claim was put to the High Court. These claims have now been settled and the judgement and sanction determined by the Sub-Committee could be viewed as double jeopardy.

Adoption of Newsnight language

13. The reliance on evidence and narrative used by the EMF extended beyond the use of the Frenkel's Forensic Accounting Report and misleading after-the-fact correspondence between the commissioner and the COO of EMF (dated 2 December 2015). It also included the use of language from the *Newsnight* programme transcript itself. An example of this is that the programme makes a number of points regarding the previous sanction that I had received. At that point, that situation remained under investigation, however in the programme they stated that I was "at it again" and "could it be that Lord Bhatia hadn't learned his lesson?"⁴
14. This language is reflected quite recognisably in the Commissioner's own reference to the old sanction.⁵ By clearly adopting the language of the TV journalist, it is therefore hard to accept that the totality of the *Newsnight* programme has not influenced the Commissioner, whose own prescribed remit was to deal only with the specific issue of mileage.

This is wrong on two accounts:

- (i) High reliance on the very selective *Newsnight* evidence, as purported only by one side, and the use of its own language may be, or appear to be, profoundly biased. EMF gave Frenkel only 9 highly subjectively annotated files when many times that was eventually submitted to the court during discovery. It should be noted that the Frenkel's report and the allegations were the product of a dispute with a disgruntled employee who has since left EMF.
- (ii) The previous sanction imposed upon me should be irrelevant to the investigation as it was a separate episode, for which I have already paid a penalty.

Lack of transparency in decision-making/process

15. With the backdrop of the concerns already laid before the Sub-Committee, it is imperative that all decisions made are, and are seen to be, transparent in order to achieve fairness and natural justice. However, in this case transparency is severely lacking.

⁴ Line 16 by Mark Daly: BBC *Newsnight* story on Lord Bhatia, 4 December 2013

⁵ "Some might think that would cause a member to be particularly careful to ensure all claims are accurate and compliant". Paragraph 41 of the Report from the Commissioner for Standards.

16. It is evident that the report to the Committee does not include the minutes of the Sub-Committee. I am therefore unable to see what points were considered by the Sub-Committee and whether more documents were obtained from the Commissioner or whether the Commissioner was asked to appear before the Sub-Committee. In any disciplinary review, whether it be in front of a court, the Sub-Committee or the House of Lords Committee for Privileges and Conduct, it seems only fair that the respondent understands the full case being put before them and the evidence relied upon at each stage.
17. In order to establish transparency and objectivity of the process being applied to my case, it would as context be helpful to understand how many complaints were made to the Commissioner over the last 5 years and of those, how many were appealed, and of any appeals to the Committee how many have ever been successful.

Inadequate consideration of my evidence

18. The flaws in the process are not limited to undue consideration given to irrelevant material and issues but also extend to a lack of consideration being given to my evidence.
19. The Commissioner received the initial complaint in December 2013. I was interviewed by him on 22 January 2016. His report was sent to the Sub-Committee on 22 February 2016. I received the Sub-Committee's report on 22 March 2016 and was expected to file my appeal by 5 April 2016. This restrictive timeline - with which I have duly complied - in relation to the time allowed for the compilation of the Report, only compounds the asymmetric nature of this process and could add to the appearance that the decision had already been made.

Lack of consideration of EMF settlement and Metropolitan Police findings

20. It should be noted that EMF and I have settled our case (including any mileage claims) and that the Metropolitan Police, after a thorough investigation carried out by two senior and experienced officers, have concluded that there was no case to pursue and that this was an honest mistake.
21. The Commissioner failed to give adequate credit to these facts and had he done so, it would have had a material effect on his recommended sanction. Throughout these investigations and civil dispute it was consistently the point that the House of Lords payments were legitimate and it was the EMF payments that were in dispute. If proper consideration had been given to this point, EMF would not have been determined as an "organisation paying for the mileage expenses" as required by *Members' reimbursement scheme general guide* to constitute a breach of rules.
22. If these matters were given adequate consideration it is likely that the Report would reflect a more balanced, fair and proportionate decision.

Proportionate sanction

23. The Sub-Committee's recommendation was for me to be suspended from the service of the House for eight months. They further recommended that I be required to repay to the House the £756 that I had 'wrongly' claimed. This decision was a reflection of the previous sanction on myself after the wrongly claimed 'overnight allowance'. The Commissioner concluded that

the double mileage allegation was not to be referred for remedial action and chose to defer to the Sub-Committee⁶.

24. It should be noted by the Commissioner that the Sub-Committee came to the recommendation of the sanction by referral to my previous sanction.⁷ However, this reference is entirely misleading to the Committee. The two cases are completely separate and distinct in nature. It is clear from the facts of the mileage claims that no dishonesty or intention was found and arguments that I was “unacceptably casual” or discredited my “personal honour” are wholly without foundation. As a result of this distinction it is respectfully requested that the Committee apply its discretion appropriately.
25. It is also of concern to me that the sanction in my case appears disproportionate when compared to other applications of the code. In the limited time I have had to examine any records, it would appear that in other cases, more serious intentional breaches of rules by peers have attracted a *less* draconian sanction than an accepted honest error in my case. I draw the Committee’s attention, for example, to the cases of Lord Laird and Lord Mackenzie of Framwellgate published in December 2013.

Remedial Action

26. I have concerns that referral to the Sub-Committee was a foregone conclusion. During my interview with the Commissioner, he seemed quite unclear about the rules on remedial action and his own powers in this matter. In fact, he requested that the recording be stopped whilst he discussed the matter with his Secretary, who subsequently corrected him and clarified that he could himself agree remedial action.
27. The Committee is respectfully invited to reconsider the decision not to refer this case for Remedial Action and to defer to the Sub-Committee’s decision of a suspension. The reasons for not doing so should be made explicit. A failure to do so leaves questions open regarding the fairness and proportionality of such a harsh suspension in light of this appeal, and could leave the process open to allegations of arbitrary adjudication.

Basis of decision

Were the claims to the House legitimate?

28. I claimed from the House for a 30-mile round journey between my home in Hampton and Westminster. The total amount claimed from the House for those 63 days was £756. All this was done for House business. The Commissioner states in his Report “that I consider it clear from the resolution and the *Members’ reimbursement scheme general guide* that members were entitled to reimbursement only of expenditure actually incurred in travelling for the purpose of attending the House”. On this basis the claim is legitimate.
29. The guide follows “that a member was not entitled to claim mileage expenses from the House if another organisation was also paying for the mileage.” In other words, double claiming was not permitted. It must be inferred from this Guide that this rule only refers to organisations that are willingly paying for the expense. It is clear in this case that EMF was not such an organisation.

6 Paragraph 46 of the Report from the Commissioner for Standards

7 Paragraph 7 of the Report from the Sub-Committee on Lords’ Conduct

30. Throughout the civil proceedings EMF have claimed that it was they who were entitled to reimbursement of any monies paid under the double mileage claims. This is argued by the EMF in the Frenkel's Report—a document on which the House heavily relies—and in the claim submitted by EMF to the High Court, which has now been settled. In this case it is clear that there is not another organisation willing to pay for the House expense. Following settlement with EMF, it is difficult to see how the *Members' reimbursement scheme general guide's* provision applies in this case.

Ambiguous rules

31. The *Guide to financial support for members* (February 2013), paragraph 5.1.4. states that, "Members are required to sign a declaration that expenses are not claimed from any other source." The Commissioner himself chose to identify that such a declaration was first required in 2011, so it was not required at the time my claims were made. This change was not reported to the House as it was seen to be simply an administrative change, which made wholly explicit what was already a requirement of the scheme.
32. The need for this clarification in order to make this rule "wholly explicit" would suggest that some ambiguity existed before. With the Commissioner himself raising and acknowledging this point, it seems unjust to not accept an honest mistake - that has since been corrected - before this rule was even clarified.
33. The Commissioner is correct to emphasise that *at no point* have I argued that double claiming was permitted by the House's rules on financial support for members. For the complete avoidance of doubt, I am not arguing that the change in the rule was a material factor that might have prevented human error—it might, or it might not.
34. However, I am arguing against the opinion that I had been "unacceptably casual" and discredited my "personal honour", and I am suggesting that there has been an inappropriate application of the rules. This judgement appears to be the product of a highly subjective application of ambiguous rules to an accepted honest mistake that has since been corrected. The decision and sanction would appear harsh in that light.
35. In any event, as has been accepted by EMF and the Commissioner, I was unaware that the mileage expenses were being claimed from EMF. The Commissioner stated himself that "There is no evidence to contradict his statement that the double-claiming was unintentional"⁸. Therefore the findings that I was "unacceptably casual" or acted in a way that affected my "personal honour" fail to reflect a fair consideration of the evidence.

My 'failure to learn a lesson'

36. The Commissioner, who relied heavily upon the *Newsnight* transcript stated in his report that "some might think that [a separate investigation into expenses] would cause a member to be particularly careful to ensure all claims are accurate and compliant"⁹. After acknowledging that this was not part of the investigation it is again difficult to believe that the Commissioner was not influenced by the extraneous *Newsnight* material that is irrelevant to this investigation.

8 Paragraph 38 of the Report from the Commissioner for Standards

9 Paragraph 41 of the Report from the Commissioner for Standards

37. This reference to the *Newsnight* evidence should not be used to justify any decision of the Committee for two reasons:
- (i) It should be noted that the double claims took place before any decision had been made regarding the first incident. They predate my suspension from the House in 2010. On this basis there was no “lesson to learn” at that point. Contrary to this, the very fact that I have acted entirely honourably and within the Rules of claiming expenses indicates that the opposite is in fact the case.
 - (ii) My clear unintentional behaviour suggests that I was aware of the investigation and the need for responsible financial arrangements. In any case, the previous investigation would have only served as a strong incentive for me to be more careful.

Summary/Conclusion

38. I would respectfully submit that the Commissioner and the Sub-Committee have chosen to apply a very harsh sanction on the following basis:
- (i) The Commissioner and Sub-Committee have failed to give adequate consideration to the EMF settlement and Metropolitan Police investigation and other evidence that refutes the Commissioner’s claim that I had been “unacceptably casual” and acted in a way that was adverse to my “personal honour”.
 - (ii) The process seems to implicitly and explicitly confer the status of “facts” and “evidence” to biased broader contextual information and reflect the perspective of—at the time - an aggrieved complainant (EMF) who commissioned and provided such biased information.
 - (iii) It should not be necessary for the House to rely on partisan evidence or to give credibility to materials that create an unfair bias. In relying so heavily upon a journalist’s report and using some of its language almost verbatim, the process risks the appearance of validating partisan evidence without the necessary scrutiny.
 - (iv) The Committee should place a high bar on the contextual evidence to which it chooses to refer when ruling on a peer’s honour and character, as this can have a wide-ranging potentially unfairly damaging impact.
 - (v) The Commissioner’s and Sub-Committee’s reference to extraneous matters has translated into a harsh and disproportionate decision by the Commissioner and the Sub-Committee. Rule 119 refers to natural justice and fairness and it is requested that the Committee considers precedent in respect of either reverting to remedial action and/or the proportionality of its sanction. As referenced above, other cases where there have been more serious and/or repeated breaches of rules seem to have attracted *less* draconian sanctions than honest mistakes.
39. For the reasons outlined above, the Committee is also respectfully invited to review the content of the report to be published and to remove all

irrelevant and extraneous allegations as contained in the *Newsnight* broadcast transcript, correspondence between the Commissioner and EMF's COO (dated 2 December 2015) and the Frenkel's Forensic Accounting Report. Their publication confers credibility upon partial or biased sources, which have never been properly tested. Including them would serve to reinforce a biased view in the public domain, that could be unfairly damaging and goes well beyond the scope that the Commissioner himself prescribed for this investigation.

40. I thank the Committee for its thorough consideration of this appeal and respectfully request that it exercises its discretion to come to a different decision in this matter. I can only reiterate my sincere regret for the errors made and my intention to put matters right, which have been consistent throughout.