

COMMITTEE ON STANDARDS OF CONDUCT

Date: Wednesday, 20 March 2002

Time: 9:30am

Venue: Committee Room 2, National Assembly Building

Title: Guidance to Members on Sharing of Constituency Offices

Attached is a draft guidance note for Members on the sharing of constituency offices. The House Committee has considered the draft paper and the Standards Committee is now invited to indicate:

- the desirability of issuing such guidance;
- the content of the draft guidance; and
- whether Members should be allowed to permit voluntary organisations to make use of their constituency offices on a limited basis without charge (paragraph 16).

Secretariat

SHARING OF CONSTITUENCY OFFICES

Introduction

1. At its March meeting, the House Committee considered a draft guidance note to Members on the sharing of constituency offices. The House Committee has asked that the draft be referred to the Standards Committee for views.

Background

2. There have recently been a number of well-publicised cases involving MPs and MSPs encountering difficulties in accounting for income received from sub-letting of their constituency offices. The House of Commons has recently issued clear guidance to all MPs in an attempt to avoid any future occurrences.

3. The attached draft guidance note is based heavily on that issued by the House of Commons.

Consideration

4. The Standards Committee is invited to indicate its views on

- the desirability of issuing such guidance;
- the content of the draft guidance; and
- the issue of whether Members should be allowed to permit voluntary organisations to make use of their constituency offices on a limited basis without charge (paragraph 16).

Fees Office

March 2002

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Constituency Offices

1. This note sets out revised guidance on the arrangements for Members' offices and surgeries. It supersedes all other guidance and advice. Members will be expected to conform to this guidance by 1 May 2003.
2. The guidance which follows is designed to protect Members against allegations that the allowances provided for their Assembly duties may have been diverted to other purposes or used for the benefit of the Member. They reflect the expectation of greater accountability from those in public life. The main accountability rests with Members themselves to ensure that public money is used and accounted for properly.
3. As always, the Fees Office will be available to help and advise in cases of difficulty.

Principles

4. Arrangements for Members' offices and surgeries should be above reproach. Members are advised to ensure that there can be no grounds for a suggestion of misuse of public money. They are reminded of the requirement of the Code of Standards for Members of the Assembly that no improper use is to be made of payments or allowances made to them for public purposes. This implies that Members should so arrange their affairs that they themselves, their family, friends or close business associates do not derive inappropriate private benefit from funds paid and received for Assembly purposes. Business arrangements with political organisations should be carefully scrutinised to prevent any suggestion that the allowances are being diverted for their benefit.
5. Members should also bear in mind that when submitting a claim they are required to certify that the monies are for expenses wholly, exclusively and necessarily incurred in the performance of their Assembly duties.

Buying property

6. You may not buy office or any other accommodation, either outright or via a mortgage etc, from your Office Costs Allowance.

Restrictions on leasing

7. You should avoid any leasing arrangement that may give rise to an accusation that you – or someone close to you – is obtaining an element of profit from public funds.
8. The allowances should not be used to meet the costs of leasing accommodation from:
 - yourself. If, however, your office or surgery is in a building that you own or lease for other purposes, you may charge the additional costs to your allowances.

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- a close business associate, or any organisation in which you – or a partner or family member - have an interest.
 - a partner or family member (which includes relatives by blood and by marriage).
9. If the accommodation is leased from a political party or a constituency association you should ask an independent valuer to assess the rent in order to ensure that it is being leased at no more than a market rate.

Information required by the Fees Office

10. You may wish to seek the Fees Office's advice on any leasing arrangements. You must in any case lodge a copy of your lease with the Fees Office for record keeping. You must also inform the Fees Office of any alterations to the terms of this.

Homes used as offices

11. You may use part of your home as an office. In this case you may claim for any additional costs incurred e.g. extra telephone lines but not for leasing or mortgage costs.

Property provided free or at preferential rates

12. It is recommended that you should seek advice from the Registrar of Members' Interests or the Head of the Fees Office if the premises are provided free of charge or at a charge below market rates.

Sublets

13. In view of the practical difficulties that may arise, we strongly advise against subletting accommodation that you lease and pay for out of the allowances.
14. If you have already sublet part of your accommodation, you are strongly advised to consider
- converting to a shared tenancy, or
 - terminating the lease and finding other premises.
15. If this is not practicable and the sublet continues you should:
- lodge a copy of the lease for record keeping with the Fees Office and update it as required;
 - obtain a valuation for leasing purposes from an independent valuer. You should ensure that you are charging not less than the market rate;
 - deduct the income due from the sublet(s) from the total leasing charge and claim the net amount from your Office Costs Allowance, and

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- ensure that full and proper accounts are kept of all relevant transactions.

Occasional use of office premises

16. You may charge for occasional use of your premises by others (no more than 20 days per year). The charge should be set at a level that recovers at least a proportion of the leasing costs and the cost of any services used. You should ensure that full and proper accounts are kept of all relevant transactions.

Contracts for staff, services etc

17. If you have an existing contract for accommodation and services in combination, we recommend that in order to make it more transparent, you renegotiate a separate contract for accommodation and another one for services (e.g. staffing, telephony, use of photocopiers etc). See also the following paragraph on services provided by constituency associations.

Service Agreements with Constituency Associations

18. Service agreements and arrangements made with constituency or party organisations whereby staffing facilities and accommodation are provided to a Member, must be for actual, not nominal, services, and the service charges must accurately reflect the costs of service provided. Such arrangements and charges must be set out in writing as between the parties and lodged with the Fees Office for record keeping. Any subsequent changes must be notified in writing immediately to the Fees Office.

Sharing arrangements with Members of Parliament and Members of the European Parliament

19. As a matter of good practice we recommend that there should be separate arrangements for leasing and for services, and where possible separate billing arrangements. Where separate billing is not feasible, a copy of the agreement setting out how the costs will be divided, and the arrangements for recovery by the Member making the payment in full from the other parties to the agreement, must be lodged with the Fees Office. The sums recovered must be remitted to the Fees Office for credit to the Office Costs Allowance.

Information required by the Inland Revenue

20. You should note in your tax return any income derived from letting or sharing your office, and for occasional use of the premises by others etc.

Obtaining Advice

21. Members are very welcome to seek advice on these difficult issues from the Fees Office at an early stage. Our advice is given on a confidential basis.

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House Committee's Approval

22. The House Committee has considered and approved the guidance to Members contained in this note.

Fees Office
March 2002