



House of Commons
Committee on
Standards and Privileges

**Conduct of Mr Norman
Baker, Mr Malcolm
Bruce and Mr Sadiq
Khan**

Second Report of Session 2007-08

*Report and Appendices, together with formal
minutes*

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The Committee on Standards and Privileges

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

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Conduct of Mr Norman Baker, Mr Malcolm Bruce and Mr Sadiq Khan

Introduction

1. We have received a memorandum from the Parliamentary Commissioner for Standards concerning complaints against Mr Norman Baker, Member for Lewes, the Rt Hon Malcolm Bruce, Member for Gordon, and Mr Sadiq Khan, Member for Tooting. The complaints are all separate, but they have a common theme in that each of them relates to the contents of a publication circulated by the Member concerned in his constituency and funded either from the Communications Allowance or the Incidental Expenses Provision.¹

2. We consider each of the complaints separately below. In accordance with our usual practice, we have shown a copy of the memorandum to each of the members concerned. Mr Baker's comments are reproduced at Appendix 2, Mr Bruce's at Appendix 3 and Mr Khan's at Appendix 4.

Complaint against Mr Norman Baker

3. At the centre of the complaint by Mr Tristan Donovan against Mr Baker is an 'advertising feature' which appeared in a newsletter circulated by him in his constituency and partly funded from Mr Baker's parliamentary allowances.² The advertising feature related to the work of Ms Sharon Bowles, a Liberal Democrat Member of the European Parliament, one of the ten MEPs representing the South East Region. It included a statement that it had been "supported by the Alliance of Liberal Democrats for Europe."³ Mr Baker did not seek guidance from the DFA on this report, in contrast to his practice in previous years.⁴

4. Mr Donovan raised two questions:

- whether it was acceptable for the IEP to be used to fund a publication that also carried party political material; and
- whether the Alliance of Liberals and Democrats for Europe had paid proportionately the same amount as other advertisers.

1 The Commissioner also included in this memorandum a summary of the reasons why he dismissed without detailed investigation a complaint against Ms Julie Kirkbride, Member for Bromsgrove. This also arose from the publication by her of a report to constituents.

2 The imprint on the newsletter stated that it had been part-funded from the IEP. However, because of delays in settling the account, it has in fact been paid for out of Mr Baker's Communication Allowance for the current financial year.

3 Appendix 1, para. 7.

4 Appendix 1, para. 25.

5. On the second question, the Commissioner has found no evidence to suggest that Ms Bowles received more favourable terms than other advertisers.⁵ **We agree with the Commissioner that this element of Mr Donovan’s complaint should be dismissed.**

6. On the first question, we agree with the Commissioner that Mr Baker had overall responsibility for the contents of his newsletter, including the advertising material.⁶ To come to any other conclusion would open a very substantial loophole through which party political and campaigning material specifically prohibited in IEP and Communications Allowance funded publication could be incorporated. It would also be inconsistent with the relevant rules: both the Communications Allowance rules, and the IEP rules that preceded them, make explicitly clear that no party political or campaigning material is allowable in any part of a publication funded, in whole or in part, from the allowances.

7. The Commissioner advances two arguments in support of his recommendation that the first ground of the complaint be upheld:

- that Ms Bowles’ feature crossed the line into party political material;⁷ and
- that the selective inclusion of material from one of the ten MEPs representing the European Parliament electoral region within which Mr Baker’s constituency falls who happens also to be drawn from his own party arguably imparts a party political element to the newsletter.⁸

8. In his evidence to us, Mr Baker argues that:

- the terms of the advertisement were consistent with public funding through funds made available by the European Parliament to the Alliance of Liberals and Democrats in Europe, a political group of the Parliament, although he accepts that this is not conclusive of whether the relevant rules of the House were complied with;⁹ and
- the advertisement does not breach the rules of the House and in particular that “given the relatively recent changes to the rules to allow proactive communications to be funded from parliamentary allowances are not yet clear, and given what is expressly permitted, it was not unreasonable to assume that the mention of a party leader would also be permissible”.¹⁰

5 Appendix 1, para. 79.

6 Appendix 1, para. 81.

7 Appendix 1, para. 86.

8 Appendix 1, para. 90.

9 Appendix 2, para. 5, p. 68.

10 Ibid, paras. 6-9, p. 68-69.

He also argues that it is unfair to draw any inference from the fact that his report included material from Ms Bowles alone of the MEPs representing the South East Region.¹¹

9. We agree with the Commissioner that Ms Bowles' feature, by promoting a party political campaign launched by the Liberal Democrat leader, imported a party political element to Mr Baker's newsletter. We note that, while Mr Baker disputes that the contents of the advertisement were political, he concedes that the inclusion of references to the Leader of his party could be thus construed. He argues, though, that these should be considered to fall in this case within the range of political material tolerated in practice.¹²

10. In effect, Mr Baker is seeking to argue that the question of whether material has a party political or campaigning element should be assessed on a relative basis. Like the Department of Finance and Administration,¹³ we do not believe this to be the appropriate test. Mr Baker does not dispute that Ms Bowles is clearly indicating her support for a specific campaign by the leader of her party: the material therefore in our view falls outside the scope of what is permitted in IEP and Communications Allowance funded publications, and it is immaterial in reaching this conclusion that other publications, if the subject of a complaint, might or might not be adjudged to be in breach of the same rules because they have other characteristics that are of a party political or campaigning nature.

11. We do not accept Mr Baker's argument that the introduction of the Communications Allowance has any bearing on what was acceptable for inclusion in this document. It was published and distributed when the IEP was the relevant allowance, and the extent of its compliance with the rules falls to be judged solely in that context.

12. As far as we are aware, this is the first occasion on which there has been a complaint concerning a publication which includes material from an MEP. In essence, the novel issue raised is whether a joint publication with a member of the same party elected to a different democratic institution for a multi-member constituency, not all of whom are members of the same party, by definition has a political element.¹⁴ On this point, we agree with the Commissioner that the inclusion of material from an MEP from a Members' own party does enhance the risk of the publication being perceived as a party, rather than a parliamentary, publication.

13. We reject any implication that an advertisement paid for out of funds provided by the European Parliament reduced the publication's overall call on public funds. The practical effect, assuming that this element of the cost would otherwise have been met

¹¹ Ibid, paras. 11-13, p. 69.

¹² WE 17, p. 61 and Appendix 2, para. 8, p. 69.

¹³ Appendix 1, para. 50

¹⁴ A similar situation could in principle exist in the case of a joint publication with a regional list member of the Scottish Parliament or the Welsh Assembly.

from public funds, was to free up more of Mr Baker's IEP for the year concerned for his own use.

14. This complaint has raised the novel issue of the extent to which joint publications with MEPs can properly be funded from parliamentary allowances, an issue to which the Members Estimate Committee may wish to give attention in the context of its forthcoming review of the Communications Allowance.

15. We agree with the Commissioner that this element of Mr Donovan's complaint should be upheld, and we reiterate that the inclusion of material of a party political nature is not permissible in publications funded from parliamentary allowances. However, in the light of the particular circumstances of the case, we do not consider that any further action is appropriate.

Complaint against Mr Malcolm Bruce

16. Ms Ethel Simpson's complaint against Mr Bruce centres on the circulation by him of an IEP-funded report bridging the May 2007 Scottish Parliament election, and the inclusion of certain photographs which could be seen as promoting the electoral interests of the Scottish Liberal Democrats.¹⁵

17. As the Commissioner points out,¹⁶ and we have previously noted,¹⁷ there is no rule of the House prohibiting the distribution of reports in the circumstances in which Mr Bruce did so.¹⁸ **We agree with the Commissioner that this element of Ms Simpson's complaint should be dismissed.**

18. This was the first Scottish Parliament election at which the Holyrood and Westminster constituency boundaries were not co-terminous.¹⁹ For the six preceding years, Mr Bruce told us, ²⁰ he had issued a combined annual report with the MSP, with his report appearing on one side of an A3 sheet and the MSP's on the other", a practice he maintains was also followed in other constituencies and by other parties.²¹ For this reason he could not see why he could not continue to highlight the fact that he had worked with the Gordon MSP on constituency issues relevant to both Parliaments.

19. Mr Bruce also pointed out that responsibility for transport issues was shared between Westminster and Holyrood, especially in relation to railways, and the

¹⁵ Appendix 1, paras. 9-10.

¹⁶ Appendix 1, para. 93.

¹⁷ First Report, Session 2007-08, para 25.

¹⁸ The guidance on use of the Communications Allowance, which develops IEP practice, makes clear that the imminence of an election does have some implications for permissible content.

¹⁹ With effect from the May 2007 Scottish Parliament elections, Mr Bruce's Westminster constituency of Gordon covered the Scottish Parliament constituency of the same name and part of the Aberdeen North constituency.

²⁰ Appendix 3, p. 71.

²¹ Appendix 3, p. 71.

photograph of Mr Nicol Stephen was designed to illustrate his representations to him in his capacity as Transport Minister on a specific constituency issue.

20. We agree with Mr Bruce that there is no reason in principle why his reports to constituents should not refer to constituency work he has carried out in conjunction with MSPs, provided that they do so in terms which are consistent with the relevant rules of the House. The key issue in this case is whether the terms in which two MSPs, both from the same party as Mr Bruce, were referred to in captions accompanying their photographs in his report, were so consistent, and also whether the inclusion of the photographs themselves was appropriate.

21. Mr Bruce maintains that the photographs were not included for the purpose of promoting either his own party generally, or his party's candidate in the Holyrood constituency of Gordon at the Scottish Parliament elections specifically. He concedes, though, that the captions might have been more appropriately worded, and that he did not check them before the publication went to the printer.²² He also maintains that the report was originally scheduled to have been distributed by the Royal Mail in February, as was his normal practice, but when it was near completion, Royal Mail changed the dates to a period running from March to May, with an alternative of July. The latter choice would have cost him the option of IEP funding out of his 2006-07 parliamentary allowances and would also have meant a complete revision of the text.²³

22. As in Mr Baker's case, this complaint raises difficult issues. We accept Mr Bruce's assertion that there was no *intention* on his part to promote either his party, or its candidate in Gordon in the context of the May 2007 Scottish Parliament general election, and that the inclusion of the photographs of Ms Radcliffe were intended to demonstrate work they had collaborated on when the Westminster and Holyrood constituencies were co-terminous. Mr Bruce has also put forward an argument for the inclusion of the photographs in the context of reporting on his involvement with members of the Scottish Parliament in the course of representing his constituents at Westminster. The key questions, however, are whether, in all the circumstances, the captions were appropriate, and whether the number of photographs featuring Ms Radcliffe went beyond what was reasonable for the specific purpose of Mr Bruce's report.

23. Like the Commissioner, we take the view that the reference to Mr Nicol Stephen as the Scottish Liberal Democrat leader was inappropriate—the caption should have referred to his Ministerial capacity. We also agree with him that two photographs of Nora Radcliffe was excessive if the sole purpose of their inclusion was to demonstrate that Mr Bruce worked with the local MSP on matters of common interest, although we note that only one of them specifically identifies her as an MSP and neither mentions her party.

²² Appendix 1, para. 97.

²³ WE 14, p. 59.

24. Although it was not part of the original complaint, we, like the Commissioner,²⁴ share the opinion expressed on balance by the DFA's Director of Operations that the wording of the lead article about post office closure could appropriately have been adjusted to reduce its critical focus on the actions of the Government in favour of a heightened focus on the actions of Mr Bruce himself. We agree with the Commissioner that this is a consideration to be borne in mind when assessing the impact on readers of Mr Bruce's report as a whole in the context of an election period.

25. **We therefore uphold this element of the complaint against Mr Bruce.**

26. We have given very careful consideration to whether we should recommend any further action against Mr Bruce. We appreciate the difficulties in which he found himself in relation to the preparation and distribution of this report. On the other hand, he does not appear to have grasped fully the possible impact of these in relation to the potential impact of the publication in relation to the May 2007 Scottish Parliament general election, nor did he check the captions on the photographs as he might have been expected to do, in all the circumstances. It is also clear that any benefit to Norah Radcliffe personally in Gordon from inclusion in the report, or to the Scottish Liberal Democrat party generally in both the Scottish Parliament constituencies in which the report circulated was, at best, limited.²⁵ **We nonetheless consider that Mr Bruce should repay £500 of the £2941.16²⁶ he has claimed from his 2006-07 IEP in respect of this publication.**

Complaint against Mr Sadiq Khan

27. As the Commissioner points out,²⁷ Mr Newman's complaint against Mr Khan's newsletter focuses on two main issues:

- the inclusion on its front page of the Labour Party's rose logo in red, a colour also widely associated with the party; and
- the inclusion of a picture of Mr Khan standing beside a sign describing him as the "Labour Member of Parliament for Tooting."

28. Mr Khan has submitted²⁸ a detailed critique of the Commissioner's conclusions in which he seeks to rebut the Commissioner's view that the logo was "not proportionate and discreet". He also argues that he has not breached the rules regarding aspects of the contents of his newsletter which were commented on in this context by the Department of Finance and Administration and the Commissioner.

24 Appendix 1, para. 98.

25 In Gordon, Mrs Radcliffe came second, losing to the SNP candidate by 2062 votes. In Aberdeen North, the Scottish Liberal Democrat candidate came third, with 3836 votes.

26 This includes printing costs of £1627 and distribution costs of £1314.16.

27 Appendix 1, para. 99.

28 Appendix 4, p. 74.

29. It is common ground between Mr Khan and the Commissioner that the element of Mr Newman's complaint concerning the photograph of him outside his constituency office should be dismissed. **We agree.**

30. The exchanges about the logo reveal some of the practical difficulties in applying the "proportionate and discreet" test. Mr Khan in effect argues for a quantitative and precedent-based approach, and concludes that the logo was acceptable on the basis of another recent decision of ours. The DFA's Director of Operations describes the single logo as "slightly large" but "in keeping with the size of the banner heading" and, by implication, acceptable.²⁹ The Commissioner comes to his conclusion on the grounds of the size of the logo in the context of the page as a whole, its bold appearance and its prominence that it is not "proportionate and discreet".³⁰

31. In our view, the question of whether a logo is "proportionate and discreet" should be judged on the impression it may be expected to make on those who read the publication concerned. This is in effect the test we applied in different circumstances in the previous case referred to by Mr Khan.³¹ In our opinion, the size, prominence and colour of the Labour Party logo on the front page of this publication is such as to give the impression to Mr Khan's constituents that the publication has been distributed on behalf of his party. **We therefore agree with the Commissioner that the logo is not, in context, "proportionate and discreet", as the rules require. We therefore uphold this element of the complaint against Mr Khan.**

32. The comments made by the DFA's Director of Operations about some of the contents of Mr Khan's newsletter did not form part of the original complaint. However, we agree with the Commissioner and the Director that the terms of these references (particularly the references to the Government) are "small examples of this newsletter promoting a political party or its policies".³²

33. As with the other two cases in this report, this case raises difficult issues. Mr Khan had sought advice on the content of his newsletter, although it would appear at a later stage than was ideal. The extent to which he could have acted on the DFA advice, even if he had received it in a timely manner, must be open to question. The immediate political advantage his party might have obtained from the newsletter overall, and the prominent use of the logo in particular, was, however, limited, because there were no elections in London in 2007. **Notwithstanding that, the use of such a prominent logo was a clear breach of the rules, and Mr Khan should therefore repay £500 of the sum he has claimed from the Communications Allowance in respect of this publication.**

29 Appendix 1, para. 106.

30 Appendix 1, para. 107.

31 First Report from the Committee on Standards and Privileges, Session 2007-08, HC 94, para 14.

32 Appendix 1, para. 108.

General conclusions

34. All three cases have demonstrated difficulties for the Members concerned in complying with the rules relating to the use of parliamentary allowances for publication of newsletters, and for us in interpreting and enforcing them. **We therefore welcome the intention of the Commissioner to submit a further memorandum to us on some of the general issues raised by these and other recent cases.**

35. **Members are recommended to ensure that proposed publications are fully in compliance with the requirements of the rules before they commit themselves to the relevant expenditure. In this context, we remind Members that advice on the content of their publications is available from specialist staff in the Department of Finance and Administration, as set out in the rules and guidance on producing newsletters and other publications from the Communications Allowance.**³³

33 "The Communications Allowance and the use of House stationery", Appendix Two, paras. 19 and 20.

Appendix 1: Memorandum from the Parliamentary Commissioner for Standards

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Complaints against Mr Norman Baker, Rt Hon Malcolm Bruce, Mr Sadiq Khan and Ms Julie Kirkbride

The Complaint

1. In two other recent reports,¹ I have considered complaints arising from the publication by Members of Parliamentary newsletters or reports to their constituents funded by Parliamentary allowances. In this report, I examine four other complaints which also concern similar publications.

2. As with the earlier complaints, the precise circumstances of each case are different but there are a number of common themes. Two of the four complaints examined in this report, for example, were prompted by the proximity of circulation of the newsletter in question to the elections held in devolved administrations and in local authorities in England in May 2007. By setting out the circumstances of each complaint within this one report, I hope to assist in giving both the Committee on Standards and Privileges and other relevant committees of the House² an opportunity to consider, in a coordinated way, the wider issues raised.

The Complaints

(a) Complaint against Ms Julie Kirkbride

3. On 2 May 2007, Mr Craig Swainland, a constituent of Ms Julie Kirkbride (the Member for Bromsgrove), e-mailed me complaining about a “Spring Report” which Ms Kirkbride had published in the form of a 4-page cover spread in the local “*Bromsgrove Advertiser*”. Mr Swainland confirmed his complaint by letter on 9 June.³ Mr Swainland described Ms Kirkbride’s report as “*little more than electioneering at the public expense*”. He pointed out that the report had appeared in the middle of the local election campaign, and continued:

“The photo spread advertising [Ms Kirkbride’s] work as a Conservative MP was coloured blue and looked like any other piece of Conservative election literature. The local candidates made much of their links with the town MP.”

4. Mr Swainland concluded his letter:

1 Conduct of Mr Martin Salter and Mr Rob Wilson, Eighth Report of Session 2006-07, HC 1071; Conduct of Mr Elfyn Llwyd, Mr Adam Price and Mr Hywel Williams, First Report of Session 2006-07, HC 94.

2 Principally the Members Estimate Committee, which is responsible for advising Mr Speaker and the House on the Parliamentary allowances regime.

3 The text of Mr Swainland’s letter is at WE 1.

“As you are aware the public funding of political parties is extremely unpopular with the general public and most people I have mentioned Ms Kirkbride’s actions to have been shocked that it is allowed to happen. To carry out such advertising, paid for at taxpayers’ expense, in the middle of a local election campaign falls below the standard that I as a member of the public would expect of my MP.

“Having contacted the Electoral Commission they have suggested that I refer the matter to you.”

5. After consideration, I dismissed this complaint without further investigation, for the reasons set out in paragraphs 21-22 below.

(b) Complaint against Mr Norman Baker

6. On 11 April 2007, Mr Tristan Donovan, a constituent of Mr Norman Baker (the Member for Lewes) wrote to me expressing concern about an eight-page newsletter entitled “Talk of the South Downs” which Mr Baker had recently circulated to his constituents.⁴ An imprint on the last page of the newsletter said that it had been paid for by advertising revenue and by Mr Baker’s Parliamentary Incidental Expenses Provision (IEP).⁵

7. Mr Donovan said that he believed that an article on page 7 of the newsletter breached the rule that the IEP cannot be used to meet the cost of party political activities or campaigning. The article in question was an “advertising feature” which featured the work of Ms Sharon Bowles (a Liberal Democrat Member of the European Parliament (MEP) and one of the 10 MEPs representing the South East Region). The focus of the “advertising feature” was Ms Bowles’s support for a campaign launched by Sir Menzies Campbell, Liberal Democrat Leader, to persuade supermarkets to reduce unnecessary use of packaging. At the foot of the article was a note which read *“This column is supported by the Alliance of Liberals and Democrats for Europe”*.

8. Mr Donovan said that he believed the article raised two questions that should be investigated further:

- a) Was it acceptable for the IEP to be used to fund a publication that also carried party political material, even as advertising?
- b) Had the Alliance of Liberals and Democrats for Europe paid proportionally the same amount for the feature as other advertisers in the publication? If not, this would suggest that they had been subsidized from the IEP.

4 The text of Mr Donovan’s letter is at WE 2.

5 A facsimile of Mr Baker’s annual report is at WE 3.

(c) Complaint against Rt Hon Malcolm Bruce

9. On 28 April 2007, Ms Ethel Simpson, a constituent of Mr Malcolm Bruce (the Member for Gordon), wrote drawing my attention to the fact that Mr Bruce had issued his annual report to his constituents, funded from the IEP, “*smack in the middle of the Scottish elections*”.⁶ Ms Simpson was concerned that the report featured the former local Liberal Democrat Member of the Scottish Parliament, Ms Norah Radcliffe, who was at that point seeking re-election to the Parliament, in photographs on both the front and back pages of the report.⁷ Another photograph also included the Scottish Liberal Democrat Leader, Mr Nicol Stephen.⁸

10. Ms Simpson argued:

“... this is blatant electioneering by Malcolm Bruce using taxpayers money and is grossly unfair to all the other candidates in this hotly-contested seat. He could have issued his report at any time well before or after the election.”

Ms Simpson suggested that all Members should be barred from using their IEP to issue such leaflets at least six months before a general election or during other elections.

11. Ms Simpson had corresponded previously with me on a similar matter and I wrote to her on 1 May reminding her that “*there is nothing in the House’s guidelines about reports of this nature limiting or preventing their publication during a local or Scottish Parliament election period*”. As her letter of 28 April had not made the position clear in terms, I also asked if she wished me to treat her letter as a formal complaint. Ms Simpson replied on 5 May saying that she did wish me to do this.⁹

(d) Complaint against Mr Sadiq Khan

12. Mr D Newman, a constituent of Mr Sadiq Khan (the Member for Tooting), wrote to me on 9 May to complain about a newsletter Mr Khan had circulated to his constituents which had been funded from Mr Khan’s Parliamentary Communications Allowance (CA).¹⁰ Mr Newman said that he was concerned about the newsletter on two counts:

- a) The leaflet prominently displayed the Labour Party’s red rose logo on its front page.
- b) A picture on the front page showed Mr Khan standing beneath a sign saying that he was a ‘Labour Member of Parliament’.

6 The text of Ms Simpson’s letter is at WE 4.

7 Ms Radcliffe was not, in the event, re-elected.

8 A facsimile of Mr Bruce’s report is at WE 5.

9 WE 6

10 The CA was introduced on 1 April 2007 and is intended to assist Members to communicate proactively with their constituents. Publications funded by Members from their Parliamentary allowances have since that date been funded from that allowance.

Mr Newman thought that in both these respects the newsletter promoted the political party to which Mr Khan belonged, and was thus in breach of the rules relating to the CA.¹¹

Relevant Provisions of the Code of Conduct and Rules of the House

13. Paragraph 14 of the Code of Conduct for Members provides that:

*“Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services.”*¹²

14. One of the publications complaints about which are considered in this report—that concerning Mr Bruce—was funded from the IEP and the others—those concerning Mr Baker, Mr Khan and Ms Kirkbride—from the new CA.¹³ It is therefore necessary to set out briefly the relevant rules and guidance relating to each allowance. Whilst doing this, however, it is important to recognise that the rules and guidance relating to the new CA are a development of those governing the former IEP, so that they are in many respects similar. Moreover, both allowances are subject to the fundamental principle, set out in the Green Book on Members’ Parliamentary Salaries, Allowances and Pensions, that any expenditure claimed from the allowances must have been “*wholly, exclusively and necessarily*” incurred for the purpose of performing a Member’s Parliamentary duties and that the allowances cannot be used for party political or campaigning purposes.¹⁴

15. As regards the **Incidental Expenses Provision** (IEP), paragraph 5.1.1 of the edition of the Green Book in force when Mr Baker and Mr Bruce circulated their newsletters said of this allowance:

“It cannot be used to meet ... the costs of party political activities or campaigning.”

Supplementary guidelines produced by the House’s Department of Finance and Administration (DFA) contained advice to Members specifically about the use of the Parliamentary allowances (principally the IEP) for funding publications.¹⁵ The guidelines included the following provisions which are particularly relevant to the complaints against Mr Baker and Mr Bruce:

- a) *“The sole purpose of the editorial elements of the publication must be to inform constituents about your work as a Member and/or to provide information about how to contact you”* (paragraph 4).

11 The text of Mr Newman’s letter is at WE 7. A facsimile of Mr Khan’s newsletter is at WE 8.

12 HC 351, Session 2005-06.

13 Whilst Mr Baker’s newsletter indicated that it had been funded from the IEP, in the event the printing bill was submitted so late that it was actually paid from his 2007-08 Communications Allowance. In what follows I have assumed that the relevant rules against which to assess the complaint against Mr Baker are those relating to the IEP, since these were the rules actually in force at the time his newsletter was published.

14 The text of the Green Book as at July 2006 is available on the House’s website at www.parliament.uk.

15 The text of these guidelines, last published in April 2006, is reproduced at WE 9.

- b) *“No party political or campaigning material is allowable in any part of a publication funded, in whole or in part, from the allowances. Members wishing to produce a joint publication with their local party, an MSP, MEP or AM must ensure the entire content is free of such material. **If you wish to include material not allowed under these rules, you must fund the whole cost of your publication from another source**” (paragraph 5).*
- c) *“The following material is likely to be allowable, subject to paragraph 11 below: ...*
 - *paid advertising by locally based businesses, if the receipts are set against the cost of the publication or reimbursed to the Incidental Expenses allowance” (paragraph 10).*
- d) *“You must not use IEP funded publications:*
 - *to promote, criticise or campaign for or against anyone seeking election*
 - *for the purpose of advancing perspectives or arguments with the intention of promoting the interests of any political party or organisation you support, or damaging the interests of any other such party or organisation ...” (paragraph 11).*
- e) *“Your publication must include a short notice explaining that costs are to be met from the allowances, and giving the source of any other funding” (paragraph 12).*

16. In respect of publications funded from the IEP as of those funded by the CA, Members were able, if they so wished, to seek specific advice from the DFA on their conformity with the guidance. Responsibility for ensuring conformity continued to rest, however, with the individual Member concerned.

17. Extensive guidance on the **Communications Allowance** (CA) was issued to Members at the time of its introduction earlier this year.¹⁶ The guidance includes a new section of the “Green Book” relating to the Allowance. Paragraph 6.1.1 says in relation to the scope and purpose of the Allowance:

“The CA may only be used to help Members inform their constituents about what they have been doing and to consult them on issues of importance to them locally. It cannot be used to meet personal costs or the costs of party political activities or campaigning. The main areas of expenditure available from the CA are outlined below. It is each Member’s responsibility to ensure that all expenditure funded by the CA is wholly, exclusively and necessarily incurred on their Parliamentary duties.”

Paragraph 6.2.1 on ‘Principles and Propriety’ says:

“You must avoid any arrangement which may give rise to an accusation that you—or someone close to you—is obtaining an element of profit from public funds; or that public money is being diverted for the benefit of a political organisation. The content of any communications paid from the allowances must not seek to compare the Member’s

¹⁶ The text of this guidance—‘The Communications Allowance and the use of House stationery’—can also be found on the House of Commons website at www.parliament.uk.

party favourably with another, promote one party at the expense of another or seek to undermine the reputation of political opponents.”

18. The booklet of guidance issued to Members about the allowance also includes advice on the rules to be followed if a Member is using the CA to pay for producing a newsletter or other publication. Relevant provisions of this include:

- a) *“No party political or campaigning material is allowable in any part of a publication funded, wholly or in part, from the allowance” (paragraph 7).*
- b) *“You must not use the Communications Allowance*
 - *to fund publications that promote, criticize or campaign for or against anyone seeking election.*
 - *To advance perspectives or arguments with the intention of promoting the interests of any person, political party or organisation you support, or damaging the interests of any other such person, party or organisation” (paragraph 15).*
- c) *“The use of party logos, whilst not disallowed entirely, is restricted to proportionate and discreet use; alternatively you may prefer to use the House emblem (the Crowned Portcullis) as this reflects the Parliamentary nature and purpose of the material being circulated” (paragraph 16).*
- d) *“Photographs of Members wearing Party rosettes can be acceptable, but again should be proportionate and should not appear when the publication is to be circulated close to or during an election period” (paragraph 17).*
- e) *“The content of publications should not seek, directly or indirectly, to compare a Member’s party favourably with another, promote one party at the expense of another or seek to undermine the reputations of political opponents” (paragraph 23).*

19. It is important to note, given the context of the present complaints, that neither the IEP nor the CA rules and guidance prohibit the distribution of Parliamentary newsletters during local or devolved administration election periods. Indeed the wording of paragraph 17 of the CA guidance reproduced above, whilst it discourages the appearance of party rosettes in such publications during those periods, clearly implies that publication during election periods is acceptable. It is also important to note that, although not addressed in terms in the guidance, the printing of such publications in party colours and the use of such descriptions as *“the Labour [or Conservative] Member for ...[name of constituency]”* has for some time been generally regarded by the House as acceptable practice.

My Inquiries

20. In accordance with usual practice, on receipt of the complaints considered in this report, I invited each of the Members concerned to let me have their response to the relevant complaint.¹⁷ I also sought the advice of the DFA. In the paragraphs which follow, I set out each Member's response to the complaint, along with the views expressed by the Department.

(a) Dismissal of the Complaint against Ms Julie Kirkbride

21. Having received and considered Mr Swainland's letter of 9 June,¹⁸ I wrote to him on 13 June dismissing his complaint against Ms Kirkbride.¹⁹ I took this decision on the basis that neither of the grounds of his complaint—the timing of distribution of Ms Kirkbride's "Spring Report" during the local election campaign or the extensive use in it of Conservative Party colours—was prohibited by the House's rules. Nor was there evidence that any of the content of the Report breached the relevant guidelines.

22. When writing to Mr Swainland I noted, however, that I had received other complaints suggesting that the possibility of Members being prohibited from circulating such material in the immediate run-up to local or devolved administration elections should at least be considered. I proposed therefore to refer to his complaint in that context (hence its inclusion in this report). In an e-mail to me dated 22 November, Ms Kirkbride told me that she had not in fact chosen the date of publication of her report specifically. She had asked her local paper if they would arrange to publish her newsletter in a wraparound format. They had agreed in principle and slotted it into their production schedule on a 'rough' timescale. It just so happened that the publication date ended up being close to the local elections.

(b) Response by Mr Norman Baker and DFA Comments

23. Following receipt of Mr Donovan's complaint, I wrote to Mr Baker on 16 April.²⁰ In my letter I asked about the number and manner of distribution of his annual report; how precisely the publication had been funded (including a breakdown of the contributions made by advertisers); and whether Mr Baker had sought DFA advice on his newsletter.

24. Mr Baker replied on 2 May.²¹ He had printed 39,000 copies of his newsletter and distributed most of them by Royal Mail. He had met the Royal Mail bill of £1,658.95 out

17 In the case of the complaint against Ms Kirkbride, having dismissed the complaint immediately (see paragraph 5 above), I invited her to let me have any comments on the issues raised if she so wished. I have also shared with her successive drafts of the relevant factual sections of this report.

18 WE 1

19 The text of my letter to Mr Swainland is at WE 10.

20 WE 11

21 WE 12

of his own pocket. The total cost of printing the newsletter had been £2,115.00. Income from advertising meant that the amount to be claimed from public funds was £985.00. For her advertising feature, Ms Bowles had paid an amount similar to the largest contribution by any other advertiser (£300).

25. Mr Baker said that, while in previous years he had sought guidance from the DFA on matters to do with his annual report, this year he had not. He added, *“In retrospect, that might have been helpful.”*

26. Regarding the advertising feature placed by Ms Bowles, Mr Baker pointed out that it was simply one of a number of advertisements, and that *“the sole reason for their inclusion ... was to keep the costs to the public purse to the lowest possible level”*. As the feature had clearly been labelled as an advertisement, he assumed that there was no concern about its editorial content. Had Ms Bowles’s advertisement not been included (and there was no advantage to him in including advertising material), the complaint would not have emerged, but the public purse would have been poorer.

27. Ms Bowles’s advertising feature had been funded from an allowance she received from the European Parliament which according to Mr Baker was subject to similar restrictions to the IEP. This required such advertisements to be accompanied by a note indicating that they had been paid for by the Alliance of Liberals and Democrats in Europe. Mr Baker concluded:

“In summary therefore, the piece in question was a genuine advertisement, clearly marked as such, for which an appropriate and standard rate was charged. Because it conforms to a scheme run by the European Parliament for MEPs to use public funds to publicise their work, a scheme which has similar standards to that operated by the House of Commons, I did not regard the piece or its contents as political. My only motivation in including this advertisement, and indeed all the others, was to minimize the cost to public funds.”

28. On receipt of Mr Baker’s response, I sought advice from the DFA on the complaint. The Director of Operations replied on 27 June. He confirmed that the Department had not seen the newsletter prior to its publication and that, to date, Mr Baker had not made any claim against his allowances for the cost of producing it. He continued:

“This is a difficult and novel case and usefully illustrates some of the unusual circumstances on which we are asked to adjudicate. At issue here is the use of public money provided by another democratic institution to pay for space in a Parliamentary newsletter. On this last point I note that Mr Baker says that Ms Bowles has complied with the European Parliament’s own rules.”

29. The Director noted that the House’s rules:

- *“require all newsletter contents to be free of any political or campaigning comments;*
- *allow for “paid advertising by **locally based businesses...**” [emphasis added];*

- *allow for cost sharing through joint publications with other local elected politicians; and*
- *proscribe part-funding from the allowances where political content is included.”*

Taken together, he suggested, the rules allowed Members to include material from other politicians where this was paid for by the third party but only if the additional material itself avoided party politics and campaigning. He also suggested that this was the case whether or not the material provided by the third party was described as an advertisement or, as in the present case, described as an ‘advertising feature’ but paid for from public funds.

30. Against this background he and his senior staff, who saw many such newsletters, had reviewed the content of the advertisement paid for by Ms Bowles. Their considered view was that the advertisement promoted the actions of the Liberal Democrat Leader, Sir Menzies Campbell, in its reference to his campaign, supported by Ms Bowles, against excessive packaging by supermarkets, and in so doing breached the Department’s guidance by “*advancing perspectives or arguments with the intention of promoting the interests of any [person], political party or organization you support*” (see paragraphs 15 and 18 above). However the Director declared himself satisfied that, on the basis of the information Mr Baker had supplied, Ms Bowles had paid a fair rate for her advertising feature and that it had involved no cross-subsidy from Parliamentary funds.

31. The Director concluded:

“... had we seen the newsletter prior to publication we would have informed Mr Baker that the advertisement was not appropriate and should be removed or the text revised so that it conformed to the House guidance on party political or campaigning material. As you have intimated, the issues are not straightforward and there is therefore a case for saying on this occasion, should Mr Baker seek reimbursement of the costs, that this should be made. However, you may conclude differently, in which case I would accept your judgement.”

(c) Response by Rt Hon Malcolm Bruce and DFA Comments

32. I wrote to Mr Bruce on 9 May drawing his attention to Ms Simpson’s complaint, which focussed on the timing of issue of his report and the inclusion in it of photographs of people who were candidates in the election to the Scottish Parliament.²² I pointed out that there was nothing in the relevant rules or guidelines preventing the publication of newsletters during an election period, but that they did prohibit the inclusion of material promoting anyone seeking election. I invited Mr Bruce’s comments, as well as requesting information about the manner and timing of distribution of his report.

²² The text of my letter to Mr Bruce is at WE 13.

33. Mr Bruce replied on 22 May.²³ He had originally arranged for the Royal Mail to distribute his report in February. However, preparation of the report had taken longer than expected and when it was near completion, the Royal Mail had changed the proposed distribution dates to the period 21 March to 26 May. Had Mr Bruce not accepted these alternative dates, distribution would have been postponed to July, which would have made much of the material in the report out of date and meant that the cost fell in a different financial year.

34. Mr Bruce had therefore decided that distribution could not be delayed further. His “firm intention” was for the distribution, which normally took place early in the New Year, to be complete well before the election. In the event, it had still to be completed when he wrote to me.

35. Regarding the content of the report, Mr Bruce commented:

“... I was careful not to use it in a party political way. There is no other mention of my party in the report apart from the caption of the picture of Nicol Stephen. The pictures of Nora Radcliffe were just representative of the kind of work I do.

“I also mention Joan Ruddock by name and refer to the Prime Minister and a defence minister but would hardly regard this as promoting the Labour Party.

“The captions were inserted at the last minute and I did not have time to check them. However at the time the photographs were taken Nora Radcliffe was the MSP but I would have left the letters out. Nicol Stephen was Transport Minister and Deputy First Minister at the time and that is how I would have chosen to describe him.”

36. Mr Bruce confirmed that up to 13,063 copies of his report had been distributed in the Scottish Parliamentary constituency of Gordon during the election period, and a further 11,708 either side of polling day in the Aberdeen North part of his constituency. 7,618 copies had been distributed either before or after the election period.

37. Mr Bruce concluded:

“I believe both in the content of the report and its distribution I adhered to the guidelines and would refute that this is party political or campaigning material or promoting any candidate.

“However, given the House has now voted for a communication allowance which will increase the amount of material Members will send out in their constituencies I would appreciate clear guidelines for the future—subject to the understanding that MPs will inevitably present themselves in a positive light in this kind of literature and therefore partisan opponents are likely to take exception.”

38. I subsequently sought advice from the DFA on the complaint. The Director of Operations replied on 12 July. He confirmed that Mr Bruce had used his IEP to meet the cost of printing and distributing the report. Mr Bruce had not asked the Department to review the content of his report before its publication.

39. The Director noted that the distribution of the report during the election period did not breach any specific rule of the House. He expressed concern, however, about the two photographs which included the Liberal Democrat candidate for MSP for Gordon (Ms Radcliffe) and the one which included the Liberal Democrat leader in Scotland (Mr Stephen), commenting:

“My basic worry is that, whilst the subject matter of the articles associated to the photographs is genuinely local, for which it is reasonable for Mr Bruce to publicise his own actions, the appearance of Mrs Radcliffe and Mr Stephen in the photographs seems to have little or no bearing on these matters.”

40. The Director noted that Members’ newsletters occasionally carried articles and photographs about local campaigns in which they had been involved with local councillors or other representatives. The photograph including Ms Radcliffe on page 1 of Mr Bruce’s report was arguably an example of this, although the article which accompanied the photograph did not refer to any joint campaigning by Mr Bruce and Ms Radcliffe. The second photograph, associated with the article *“Fair deal for farmers”*, was *“less clear cut”* in this respect, and there was again no specific reference in the article to any joint action taken by Mr Bruce and Ms Radcliffe. As to the photograph of Mr Bruce with Mr Stephen, the Director considered that it appeared superfluous to the article with which it was connected.

41. The Director concluded:

“Mr Bruce says that he originally intended to distribute his report in February 2007 but was delayed, initially by administrative difficulties, followed by a further delay in arranging the distribution via Royal Mail. Whether the distribution had occurred in February or, as it did, in the period just before the Scottish election, DFA would still have queried the inclusion of the three photographs mentioned above. Our concern would have been that the report gave the impression of promoting the Liberal Democrat Party.

“I note that Mr Bruce states that the pictures of him with Mrs Radcliffe were designed to be representative of the work he undertakes. I assume he would say the same about the photographs with Mr Stephen. He does not make any reference to any specific joint campaigns. I am confident that had we been asked to review the report we would have requested the removal of the photographs. We would also have asked him to change some of the language used in the article about post office closures, which has a party political character to it, and possibly the article concerning climate change.”

(d) Response by Mr Sadiq Khan and DFA Comments

42. I wrote to Mr Khan on 15 May drawing his attention to Mr Newman's complaint, which centred on the prominent display of the Labour Party logo in the front page heading of his newsletter and the photograph (also on page 1) of Mr Khan standing beneath a sign stating that he was the "*Labour Member of Parliament for Tooting*". I also asked Mr Khan to explain the distribution arrangements for his newsletter; whether he had consulted the DFA about it; and the nature of the "*Sadiq Khan Supporters Network*" and of the newsletter "*Totally Tooting*", both referred to in the tick boxes in the tear-off slip at the foot of the final page of his Parliamentary report.²⁴

43. Mr Khan replied on 22 May.²⁵ He told me that he had distributed 40,000 copies of his Parliamentary report, funded from his CA, using the services of a local distribution company. Prior to printing the report, his office had sent both the Serjeant at Arms and the DFA the text of the report. The DFA had queried 2 elements of the content of the report (neither of which were the subject of Mr Newman's complaint) but had not felt that either point warranted a change to the document or refusing funding of the report.

44. As to the queries I had raised about the content of the tear-off slip at the end of the report, Mr Khan said that the "*Sadiq Khan Supporters Network*" was a group of constituents "*who volunteer to assist me with my Parliamentary, as opposed to political, work*". They particularly helped distribute his regular newsletter "*Totally Tooting*". This was a "*non-political newsletter*" that Mr Khan sent out to update constituents on his Parliamentary and constituency work. Mr Khan concluded:

"My office and I have always adhered to the Parliamentary standards and rules, so I am confident that you will decide not to uphold the complaint raised."

45. I invited the DFA's comments on Mr Newman's complaint and Mr Khan's response. The Director of Operations wrote on 14 June. He did not think that either the logo or the sign in the photograph which identified Mr Khan as the "*Labour Member of Parliament for Tooting*" breached the Department's guidelines on the use of the CA:

"The logo, of which there is only one, whilst slightly large is in keeping with the size of the banner heading; and the photograph is simply a picture of Mr Khan standing outside his constituency office."

46. However, the Director continued:

"I am a little less comfortable with some other aspects of this case, which highlight some interesting features of the Communication Allowance rules and procedures. In his letter of 22 May, Mr Khan implies that he sent a copy of the newsletter to the Department and that this was approved by a member of my staff. The facts are that

²⁴ The text of my letter to Mr Khan is at WE 15.

²⁵ WE 16

whilst we received a copy of the newsletter, Mr Khan's office did not allow time for comments to be received and acted upon. This meant that when we offered comments on the text (which we did speedily) the report had already been sent to the printers and there was no opportunity for Mr Khan to make the amendments suggested. I think the undue haste was regrettable.

"In many respects Mr Khan's newsletter is a quite good example of the regular report to constituents that the Communications Allowance is there to fund. That said, my staff had asked for minor changes to the Graveney Ward article (page 2) and sections of the 'Looking forward to the future' section (page 3). On the former we were concerned by the references relating to local 'Labour' Councillors and on the latter to the references to the Government's 'commitment' and 'priorities'. Both are, arguably, small examples of this newsletter promoting a political party or its policies.

"Despite the newsletter having some text that was perhaps outside the rules of the Communications Allowance, my staff took the view that the two instances in themselves were not sufficiently significant to refuse payment for the printing and distribution of the newsletter. We have had other examples of 'borderline' decisions where we have on occasions given the benefit of the doubt to the Member.

"We also requested clarification on the nature of the 'Supporters Network' and the regular newsletter mentioned on page 4 and received confirmation that the 'Supporters Network' and the regular newsletters were of a non-political nature. It is not entirely without precedent for Members to seek help from constituents with minor tasks such as delivering leaflets.

"At the time my staff agreed that payment for the publication could be made from Mr Khan's Parliamentary allowances, notwithstanding the concerns expressed. However, they also said that in future advice should be sought in good time to allow for a proper review to be undertaken and that if any complaint was received we would have to report that the newsletter in question had not been seen in advance of the publication. We would be unlikely to give the benefit of the doubt on a second occasion."

Further Comments by the Members Concerned

47. Having decided, in the light of the material and views presented to me and the wider issues they raised, that I should report formally to the Committee on the cases in question, I wrote to Mr Baker, Mr Bruce and Mr Khan enclosing a draft of the factual sections of this report and inviting their comments, in particular on the views expressed by the DFA on the complaints. In the following paragraphs, I summarise the response of each Member.

(a) Mr Norman Baker

48. Mr Baker spoke to me briefly by phone and subsequently confirmed his response in a letter of 4 September.²⁶ After noting that the Department accepted that the fee paid by Ms Bowles for her advertisement had been proportionate, Mr Baker took issue with the Department's view that the advertisement had contained unacceptable material of a party political nature. He argued that:

- i) The piece had been clearly marked as an advertising feature, which *"should have signalled to the reader that it was not part of editorial content relating to the MP"*.
- ii) The advertisement *"had been approved as qualifying for public funds"* under EU rules. In their terms, it was not regarded as political.
- iii) Nor was it political in the eyes of Mr Baker. Ms Bowles had simply been seeking to report back to her constituents on the work she had been doing. None of the content of the advertisement had sought to denigrate political opponents. The Department's criticism of the advertisement appeared to rest solely on the inclusion in it of a reference to Sir Menzies Campbell. This was, in Mr Baker's view, *"much less political than the use of pictures showing candidates wearing rosettes, the use of party logos, and the colour-coding of leaflets in party colours, all of which are allowed (and none of which featured in my leaflet)"*.
- iv) There was, in Mr Baker's view, no question of public funds having been used to assist party political activities or campaigning. Indeed the inclusion of Ms Bowles's advertising feature had actually served to reduce the overall claim Mr Baker had had to make on his Parliamentary allowances. The extensive use of advertisements made by Mr Baker in his newsletter had meant that, whereas he could have charged the whole cost of £4,157.95 to his IEP, he proposed to claim only £985.

49. Mr Baker concluded by noting that he had not yet claimed even that sum pending resolution of Mr Donovan's complaint, and that if he were in fact not to make a claim at all, the complaint would fall. He continued:

"I think it is useful, however, for this issue to be raised, for the definition of 'party political campaigning' to be further considered, and in particular for the relationship between the approved scheme of the Westminster and European parliaments to be considered."

"Lastly, in general terms, I must say I think it would be unhelpful to the House generally if a Member were to be criticized for successfully reducing the call upon public funds."

50. Since Mr Baker had strongly disputed the view taken by the DFA of the complaint, I gave the Director of Operations the opportunity to offer any further comment he wished. The Director replied on 19 September:

“I do not believe that there is much I can add to my earlier letter to you of 27 June. The House requires that a Member’s newsletter paid in full or in part from public funds should be entirely free from any political or campaigning comments. I believe that the IEP rules prior to April 2007 were clear in this respect and that the new rules for the Communications Allowance are clearer still.

“Furthermore, the interpretation I have given about the political nature of a small part of Mr Baker’s newsletter is one that the Department is required by the House to make in determining whether costs should be reimbursed, whereas the House itself has determined, for example, that the use of party logos can be acceptable within certain parameters. Assessing which of the two is ‘less political’ as Mr Baker invites you to do was not a relevant consideration for DFA, even if it were possible to make such an assessment.

“As I said in my earlier letter, this is not an easy case. If you determine that there has been a breach of the rules, it is a relatively minor one. And it is complicated by the fact that the cost of the offending advert is, apparently, a legitimate expense which can be met from funds provided to elected Members of another democratic institution with, we are told, similar rules about political neutrality.

“Whilst Mr Baker has reduced the call on UK Parliament funds, the ‘good’ that this approach brings has to be set against the reputational consequences of Members’ Parliamentary material straying into clear party political territory. The House’s rules are based on the undesirability of the latter, and do not contemplate a compromise of this principle for the sake of a modest saving to the public purse.”

51. In view of Mr Baker’s statement that Ms Bowles’s advertisement “*had been approved as qualifying for public funds under the scheme operated under the auspices of the European Union*” and that “*EU rules do not regard the disputed advertisement as political*”, the Registrar of Members’ Interests made some inquiries on my behalf of officials of the European Parliament. The officials confirmed that the rules of the Parliament—within which party groupings such as the Alliance of Liberals and Democrats for Europe are required to manage the funds allocated to them for information and related purposes—prohibit expenditure of EU funds on activities of an “electoral nature”.²⁷ Although unable to give a formal ruling in the absence of a formal request, officials indicated informally that they did not think Ms Bowles’s advertisements would breach the EU rules.

27 The rules on the use of Appropriations from Budget item 4000 – adopted by the Bureau of the European Parliament on 30 June 2003 – say that such appropriations may not be used, inter alia, “to finance any form of European, national, regional or local electoral campaign.” Guidelines at Part 3 of the Rules give further guidance on the interpretation of this provision.

(b) Rt Hon Malcolm Bruce

52. Mr Bruce wrote to me on 24 July²⁸ and subsequently came to see me about his response to Ms Simpson's complaint and the views expressed by the DFA's Director of Operations (see paragraphs 39-41 above). He expressed himself "*very disappointed*" in the Director's comments. He had produced annual reports for a number of years and did not believe there was anything significantly different in this one from those he had produced previously. He had thought "*it was perfectly reasonable to incorporate photographs of Nora Radcliffe [the former MSP] to demonstrate that we worked together on issues in which the Scottish and Westminster Parliaments both have an interest*". He had not elaborated on the work he had done with Ms Radcliffe as, in his view, that would have involved straying into campaigning on her behalf.

53. The photograph of Mr Bruce with Nicol Stephen was not superfluous, in Mr Bruce's opinion. The article to which the photograph related had been about improved transport links and Mr Stephen had at the time been Transport Minister in the Scottish Executive. As to the Director's (unspecified) reservations about some of the language used in the articles on post office closures and on climate change, Mr Bruce contended that in so far as these were critical of the Government, they were no more than statements of fact.

54. Mr Bruce pointed out that he had not used a party logo or other party identifying features in his newsletter. He had not submitted the final proof of the newsletter to the DFA partly because he did not need to and understood that the Department did not wish to see advance proofs, and partly because of pressure of deadlines. Although he did not want distribution of his report to overlap the election period, there was no bar to this and he had had no option but to proceed if the costs were to be borne on his 2006-07 allowances. Approximately 40% of his constituents lived outside the Holyrood constituency of Gordon and distribution had not been completed until after the election. This should be measured against Ms Simpson's claim that what had happened was "*blatant electioneering*".

55. Mr Bruce concluded his letter by saying:

"This report was produced with full consideration of the rules of the House and in the belief that it complied. I do not accept that the photographs in question amount to promotion of the Liberal Democrats. I have also stated that I do not believe the text contravenes the guidelines.

"I am extremely concerned that a report that was produced in good faith and in accordance with the rules could become the subject of a published criticism of my actions.

“If there is any future guidance or clarification arising out of this I would have thought informal briefing to the Member or Members would be all that is required or justified.

“Of course, I will in future be happy to accept clear guidance and submit proofs to the DFA. I would stress that guidance is open to interpretation and I am sure I and other Members would appreciate further clarification.”

56. In view of his disappointment with the DFA’s observations, I shared Mr Bruce’s comments with the Director of Operations, who replied on 13 August elaborating on the reasons why he had expressed concern about three of the photographs and associated captions in Mr Bruce’s newsletter and about the wording of the article on post office closures. The text of the Director’s letter is at WE 19. He noted that his concern was that the photographs of Ms Radcliffe and Mr Stephen created an *impression* of promoting the Liberal Democrat Party. Whilst he had not appreciated Mr Stephen’s role as Transport Minister, which explained the inclusion of the photograph of him, the caption to the photograph did not refer to this role but to his role as the Scottish Liberal Democrat leader, arguably reinforcing the overall party political impression one could gain from the report. As regards the article on post office closures, this arguably focussed too much on attacking the Government, and not enough on the plans of the Royal Mail or Mr Bruce’s own constituency campaign. In conclusion, the Director acknowledged that his assessment of the report involved making a fine judgement. He too would welcome any clarification of where the line in relation to party political content should be drawn and which consideration of the complaint against Mr Bruce might bring.

57. I informed Mr Bruce of the Director’s comments when I met him on the following day. Mr Bruce said that when, in the past, his office had checked with the DFA whether they wished to see his planned publications, his staff had been told this was not necessary. The Department had confirmed there was no bar on Members circulating newsletters during a Scottish election period: he could not help but feel that, with the benefit of hindsight, the Department was now judging his 2007 newsletter as if additional restrictions did apply in such periods. For several years when the boundaries of his Westminster and the Holyrood constituency had been contiguous, he had issued a joint report with the MSP, about which there had been no complaint. He could not therefore see that including in his recent newsletter photographs illustrating the fact that he worked with the local MSP was at all controversial. He could not accept that the DFA’s strictures were justified. While he was ready to accept advice that, maybe, certain aspects of his newsletter could have been done better, he could not see any justification for Ms Simpson’s complaint about it being upheld.

(c) Mr Sadiq Khan

58. I sent Mr Khan an initial draft of the factual sections of this report, incorporating the DFA’s comments on Mr Newman’s complaint against him, on 18 July. Mr Khan subsequently came to see me and wrote to me conveying his response to the Department’s comments. The text of Mr Khan’s letter of 25 July is at WE 20.

59. Mr Khan said that he was disappointed that I judged that I should report formally to the Committee on Standards and Privileges about Mr Newman's complaint, especially as the DFA had said that it did not think either of the grounds of the complaint—relating to the use of the Labour Party logo or to the photograph of Mr Khan outside his office on page 1—was justified. He also expressed disappointment that in commenting to me on the complaint, the Director of Operations had gone into other matters which did not form part of Mr Newman's complaint. It seemed to him that he was in danger of being penalized, for reasons other than the complaint, simply because he had taken the trouble to seek the Department's advice, which, under the rules of the House, he was not obliged to do.

60. Mr Khan explained the nature and timing of the dealings his staff had had with Departments of the House about his newsletters. These are set out in full in his letter at WE 20 and it is not necessary for me to repeat them here. It emerged from his account that Mr Khan's staff had initially approached the Department of the Serjeant at Arms (SAA), not the DFA, for clearance of the text. By the time the DFA had seen the text of the proposed newsletter on 18 April, the deadline set by Mr Khan's printers had passed and the copy could not be amended. Mr Khan's staff had also thought they were able to proceed because, when passing the text to the DFA, the SAA's Department had said that it did not see any problems with the publication.

61. Mr Khan pointed out that there were no local elections in London in 2007, so there was no apparent or real electoral advantage in him getting out his newsletter when he did. Timing had entirely been dictated by practical considerations, including printing and distribution opportunities. He would not have submitted the invoices for his newsletter to be paid out of his Parliamentary allowances had the DFA not indicated that they would be paid—which he understood to mean that the newsletter must have complied with the rules of the House. Mr Khan concluded:

"I believe that my office and I have always adhered to Parliamentary standards and rules with regards to the publication and distribution of literature. However without prejudice to this, and following this incident, I will ensure that all future submissions to the Serjeant-at-Arms and Department of Finance and Administration are sent off with additional good time".

62. I subsequently checked with the Departments concerned Mr Khan's account of his staff's dealings with the DFA and the Department of the SAA. The latter pointed out that Mr Khan's staff could not have contacted them initially on 9 April as this was, in fact, Easter Monday. They were surprised that Mr Khan's staff had gained the impression that they could have commented on the proposed copy for the newsletter within one hour as they could never turn around such requests in that period, and the responsible officer was in any case on leave at the time. That officer had processed the matter quickly on her return. In saying that she could not see any problems with what was proposed, she had been speaking only of her own area of responsibility, as was implied by the fact that she had forwarded the material to the DFA for it to consider in the light of its different remit.

63. The DFA's Director of Operations commented that Mr Khan was entirely correct to say that Members are under no obligation to seek prior approval for newsletters from his Department. However, doing so provided some comfort in the event of a complaint and ensured that reimbursement from the relevant allowance would be agreed by the Department. His staff had not been aware of the initial view expressed by the Department of the SAA and he could understand "*Mr Sadiq's distress that apparently contradictory advice came from different departments of the House*". In general House staff wished to be as helpful to Members as possible, as his staff had been in agreeing to reimburse Mr Khan's expenditure despite their earlier advice that his newsletter did not meet the House's rules. Arguably this had been something of a pragmatic response to the fact that the newsletter had already been printed and costs incurred. The Director concluded:

"I remain of the view that strictly speaking Mr Khan's newsletter was outside the rules in a number of respects. This is also clear from my officer's initial advice to Mr Khan's office. The contraventions are not dissimilar from other cases you are considering and it is this Department's job to be as consistent as possible in its interpretation of the House's rules. But I can also see that some extenuating circumstances arise in this case."

64. I informed Mr Khan of the comments of the Director of Operations and the Assistant Serjeant at Arms (set out in the two immediately preceding paragraphs) when sending him a revised draft of the factual sections of this report. Mr Khan replied on 18 November.²⁹ He acknowledged that his Parliamentary staff would not have contacted the Serjeant's Department on Easter Monday (this was a simple error of recollection by the relevant member of his staff) but he had been assured that the contact had been made at the very beginning of the working week. His staff were clear as to the nature of the response they had received from the Serjeant's Department:

"Were my office informed that it took longer than one hour to review the soft-copy then this would have been accounted for in the production schedule— and I do not believe that insinuation that they arbitrarily chose to allow the Serjeant-at-Arms only one hour to complete a review is warranted in the draft report."

65. Mr Khan commented that he thought it reasonable to assume that his staff had been misinformed by a member of the Serjeant's Department both as to the time required to clear the draft of his report and the person to whom it should be sent for clearance. In his view, the issues raised by the two Departments' responses to my inquiry had "strayed considerably" from the initial complaint and "should be attributed to a communications failure made by extremely busy individuals working with good intent." His office had made efforts to avoid such incidents happening again and had liaised successfully with the DFA about further publications issued by Mr Khan in September 2007.

66. Mr Khan said that he was puzzled how, when the Director of Operations accepted that his staff had been given apparently contradictory advice by the two departments of the House involved, the Director could still maintain that, strictly speaking, Mr Khan's newsletter had been outside the rules. He summed up his view of the matter as follows:

*"As the original complaint has not been upheld [by the Director], and there have been no further complaints from any constituent about any part of my newsletter, and seeing as the DFA did agree that the only points of correction were not 'significant enough to withhold payment' ... I would hope that this matter can now be concluded."*³⁰

67. Finally, Mr Khan commented that if Members were to be encouraged to seek prior approval for their publications, as he had done, it was important that there was better communication between the DFA and the Serjeant's Department, and better guidance to Members about exactly who to contact and how much time to allow for gaining their approval.³¹

Findings of Fact

(a) Complaint against Mr Norman Baker

68. Mr Baker circulated some 39,000 copies of an eight-page newsletter to his constituents in the early part of this year. He paid for the distribution of the newsletter himself: the cost of printing was covered partly from advertising revenue, leaving a residue of £985 to be funded from his Parliamentary allowances.

69. The newsletter included an "*advertising feature*", paid for by Ms Sharon Bowles, a Liberal Democrat MEP and one of the 10 MEPs representing the South East Region, out of money made available to her by the European Parliament. The article included reference to Ms Bowles's support for Sir Menzies Campbell's campaign to persuade supermarkets to remove unnecessary packaging. The amount paid by Ms Bowles for the feature was not significantly out of line with the amount paid by others who advertised in the newsletter.

70. Mr Baker did not seek DFA advice on his newsletter. He says that he did not regard the piece—which was clearly marked as an advertisement—or its contents as political. His sole motive in including the feature was to minimize the cost to public funds of producing and distributing the newsletter.

71. Whilst acknowledging that it is not an easy case, and that Mr Baker's actions reduced the call on UK Parliamentary funds, the DFA takes the view that the content of

30 Ibid.

31 I note that paragraph 20 of the guidance on producing newsletters and other publications from the Communications Allowance circulated to all Members in April 2007 says that the DFA will aim to review draft publications within 3 working days.

the article promotes the actions of Sir Menzies Campbell and so breaches the ban on party political content embodied in relevant rules of the House and guidance about newsletters issued by the Department. Mr Baker responds that the context of the piece was not part of editorial matter relating to him but was clearly marked as an advertising feature. It had been approved as qualifying for funding under the rules of the EU Parliament and was not party political in nature. He rejects the Department's view of the newsletter, although he says that he will welcome further elucidation of what constitutes party political or campaigning material. Officials of the EU Parliament have confirmed informally that they would not regard Ms Bowles's advertisement as contravening EU rules, which include a prohibition on funding activities of an electoral nature.

(b) Complaint against Rt Hon Malcolm Bruce

72. Mr Bruce distributed a total of 35,092 copies of his annual Parliamentary report, funded from the IEP, to his constituents during the period 21 March–26 May 2007. As a result of delay in the expected completion of the newsletter, and a further delay in arranging its distribution by the Royal Mail, a significant number of these reports were distributed during the Scottish Parliament election period. This had not been Mr Bruce's intention, nor did the timing of distribution breach any rule of the House.

73. The text of the report—which had not been reviewed in advance by the DFA—included two photographs and accompanying captions referring to the local Liberal Democrat MSP (and candidate for re-election) and one referring to the Leader of the Liberal Democrats in Scotland (also a candidate in the Scottish Parliament elections). There was no reference to them in the article accompanying each of these photographs. Mr Bruce says that he did not have time to check the captions which accompanied the photographs and would have amended them had he done so. Nevertheless he believes that his newsletter complies with the relevant rules and guidelines of the House.

74. The DFA's Director of Operations takes the view, on balance, however, that the photographs created the impression of promoting the Liberal Democrat Party. He also has reservations about some of the language used in the leading article in the newsletter about post office closures, which in his view focuses too much on attacking the Government and not enough on Royal Mail's plans and Mr Bruce's own constituency campaign against the closures. Mr Bruce, on the other hand believes that it was perfectly reasonable to include photographs which demonstrated that he worked together with the local MSP. The Leader of the Scottish Liberal Democrats, who featured in a photograph illustrating transport matters, had at the time been Transport Minister in the Scottish Executive. As to the language used in the article to which the Director takes exception, Mr Bruce contends that the statements concerned are purely factual.

(c) Complaint against Mr Sadiq Khan

75. In May 2007, Mr Khan distributed 40,000 copies of his Parliamentary newsletter, funded from the CA, to households in his constituency. He submitted the text of the newsletter in advance to the Serjeant at Arms and to the DFA. His staff received what

they believed to be an all-clear from the Serjeant's Department. However, as they were under pressure of printing and distribution deadlines, they did not await the DFA's advice before proceeding to print Mr Khan's newsletter. Mr Khan attributes what happened to his staff having been misinformed by the Serjeant's Department as to the person from whom they needed to gain advice and how long it would take to get it. The staff concerned see this as a misunderstanding of what happened.

76. The front page of the newsletter included a prominent Labour Party logo in the heading and a photograph of Mr Khan standing outside his office beneath a sign describing him as the "Labour Member of Parliament for Tooting". Neither Mr Khan nor the DFA consider that these breached the relevant guidelines of the House. However, the DFA's Director of Operations has expressed concern that, having sought DFA advice, Mr Khan did not allow time to receive and act upon it. He also has concerns about some other aspects of the content of the newsletter. Although these were not sufficiently serious in his staff's view to justify withholding payment for the newsletter on this occasion, the Director remains of the view that, strictly speaking, Mr Khan's newsletter was outside the rules in a number of respects. Mr Khan, however, argues that it is inappropriate for the Director to express reservations on matters not mentioned in the original complaint. He notes that the DFA has no reservations in respect of the two matters mentioned in the complaint and expresses concern that he is in danger of being penalized for reasons other than the complaint, simply because he had taken the trouble to consult the DFA, which the rules did not require him to do. The timing of publication of his newsletter had been dictated entirely by practical factors, rather than any consideration of electoral advantage, and he and his office had acted in good faith throughout.

Conclusions

77. Having set out the complaints against Mr Baker, Mr Bruce and Mr Khan, the views of the DFA (and, in Mr Khan's case, the comments of the Serjeant's Department) and the response of each of the Members, I consider in turn the issues raised by each complaint and whether or not each Member's newsletter breached the relevant rules of the House.

(a) Complaint against Mr Norman Baker

78. Mr Donovan's complaint against Mr Baker falls into two parts:

- a) whether it is acceptable for the IEP to be used to fund a publication that also carried party political material, which Mr Donovan contends Mr Baker's advertising feature is, even if that material is in the form of advertising;

- b) whether Ms Bowles and the Alliance of Liberals and Democrats for Europe paid proportionally the same as other advertisers in Mr Baker's newsletter or were subsidized in some way by the IEP.³²

79. Taking first the second ground of complaint, it is clear to me that, were there to have been any element of subsidy, this would have been improper. However, the evidence supplied by Mr Baker indicates that Ms Bowles paid a proportionate amount in relation to other advertisers for her advertising feature. This is accepted by the DFA. **I therefore dismiss this aspect of Mr Donovan's complaint.**

80. The first ground of the complaint is, however, not so easily disposed of. It involves making a judgement about whether or not the inclusion of Ms Bowles's advertising feature broke the prohibition imposed by the rules of the House on the inclusion of party political or campaigning material in a newsletter funded from the IEP.³³

81. In addressing that point the first issue to consider is whether Ms Bowles's advertising feature falls within the scope of the House's rules. Paragraph 5 of the DFA's supplementary guidelines on the use of Parliamentary allowances for funding publications (quoted at paragraph 15 (b) above and reproduced at WE 9) is clear on the point:

"No party political or campaigning material is allowable in any part of a publication funded, in whole or in part, from the allowances." (emphasis added).

I am sure, therefore, that both Mr Donovan and the DFA's Director of Operations are right to argue that the mere fact that an item in a Parliamentary newsletter is labelled an 'advertising feature' does not take it outside the scope of the rules. In other words, Members are allowed to include in their newsletters material from third parties—whether in the form of advertisements or advertising features—only so long as the content conforms to the rules of the House, including the ban on party political or campaigning activity. So I do not think Mr Baker is relieved of editorial responsibility for the content of Ms Bowles's insert simply because it was described as an advertising feature and paid for from EU Parliament (ie. public) funds. His argument that the fact that the insert was clearly labelled an advertising feature "should have signalled to the reader that it was not part of editorial content relating to the MP"³⁴ does not get him off the hook.

82. Did Ms Bowles's advertising feature breach the ban on party political or campaigning activity? Mr Baker argues in effect that since the feature met the EU Parliament's rules, (a judgement which EU officials have indicated informally they share), it must be presumed also to meet the rules of the House.

83. I note, however, that the EU rules and accompanying guidelines prohibit the use of EU Parliament appropriations to fund political parties or electoral campaigns. The

³² See paragraph 8 above and WE2.

³³ I have set out the detail of the relevant rules in paragraph 15 above.

³⁴ WE 17

guidelines speak of “the electoral nature of a political and information activity”.³⁵ The scope of the prohibition in the EU rules therefore appears to be somewhat narrower than that in the relevant rules of the House—embracing clearly the prohibition on campaigning material in the latter but less clearly its ban on all party political activity. In any event, the fact that Ms Bowles’s advertising feature appears to conform with EU rules is not determinative of whether or not it conforms with the rules of the House. A separate judgement on that is still necessary.

84. In his letter of 4 September³⁶ Mr Baker goes on to dispute the view of the DFA’s Director of Operations that the contents of the advertising feature are party political in character. The Director argues³⁷ that the feature ‘*promotes the actions of the (then) Liberal Democrat Leader, Sir Menzies Campbell, and in so doing breaches paragraph 11 of the IEP guidelines by “advancing perspectives or arguments with the intention of promoting the interests of any political party or organization you support”*’ Mr Baker says that Ms Bowles was simply seeking, as an elected local representative, to report back to those she represents on work she had been doing. The use of party labels is permissible and there could be no objection to Ms Bowles reporting back on her attempts to curb excess packaging. Her feature did not seek to denigrate political opponents.

85. Mr Baker continues:

*“The suggestion that this advertisement is unacceptably political would therefore seem to rest solely on the reference to my party leader Sir Menzies Campbell. I would argue that this is in fact much less political than the use of pictures showing candidates wearing rosettes, the use of party logos, and the colour-coding of leaflets in party colours, all of which are allowed (and none of which featured in my leaflet).”*³⁸

The fact, however, that Mr Baker regards the content of Ms Bowles’s feature as “much less political” than the use of party logos, etc does not absolve us of the need to judge whether or not that content crosses the line into party political material.

86. In my opinion, on balance it does. The fact that the rest of the advertising feature focuses on what Ms Bowles has been doing does not detract from the fact that it includes a passage promoting her party leader. It is also relevant that her feature describes what she has been doing as backing his campaign.

87. Finally Mr Baker argues that his motivation throughout in accepting Ms Bowles’s and other advertising has been to reduce the call on public funds, and that it would be:

35 Part 3 – guidelines, paragraph 2.

36 WE 17

37 Letter of 27 June 2007, see paragraph 30 above.

38 WE 17

“... unhelpful to the House generally if a Member were to be criticized for successfully reducing the call upon public funds.”³⁹

Leaving aside the question whether Ms Bowles’s feature, having been paid for out of funds provided by the European Parliament, has not also been financed from “public funds”, I understand entirely Mr Baker’s point that if he had not accepted her contribution he could simply have charged a higher sum to his IEP, and would then have avoided exposure to criticism in this respect that he had breached the rules of the House. But paragraph 5 of the DFA’s guidelines on funding publications from the Parliamentary allowances⁴⁰ is very clear that no party political material is allowable “*in any part of a publication funded, in whole or in part, from the allowances*” and that if such material is included, the whole cost must be met from a source other than the allowances. Laudable though I accept Mr Baker’s motives may have been, they do not in my view allow him to escape culpability in this respect.

88. I therefore recommend that the first ground of Mr Donovan’s complaint, as set out in paragraph 78 above, be upheld.

89. In so recommending, I have in mind not only the view I have expressed in paragraph 86 above about the content of Ms Bowles’s advertising feature but one other point. Ms Bowles is referred to in that feature as the “local Lib Dem MEP” and Mr Baker refers to her in his letter of 4 September⁴¹ as an “elected local representative” (emphasis added). Although Ms Bowles undoubtedly represents the region of which Mr Baker’s constituency is part, she is in fact one of 10 MEPs representing that region, of whom 2 are Liberal Democrats, 4 Conservative, 1 Labour, 1 Green Party, 1 UKIP and 1 Independent.

90. That Mr Baker chose to accept advertising solely from a Liberal Democrat MEP could in my view serve to reinforce any perception that his newsletter is a party political publication. In itself, the inclusion of material from another elected representative is not fatal, as the House’s rules permit joint publications provided they do not contain party political or campaigning material. But given that, in my view and that of the DFA, Ms Bowles’s feature does contain party political material, the selective inclusion in the newsletter only of material from one of the ten MEPs representing the South East Region, who happens to be drawn from the same party as Mr Baker arguably itself imports a party political element into his newsletter.

(b) Complaint against Rt Hon Malcolm Bruce

91. Ms Simpson’s complaint about the newsletter issued by Mr Bruce focussed on two points:

- a) the timing of issue of the report, in the run-up to Scottish Parliament elections;

39 Ibid

40 Reproduced at WE 9.

41 WE17

- b) the inclusion in the report of the photographs of the Liberal Democrat candidate for re-election as the local MSP, and of one showing Mr Bruce with the Scottish Liberal Democrat Leader.

92. As regards the first of these grounds, there is, as I have already noted⁴² no rule of the House prohibiting a Member from distributing a Parliamentary newsletter or report in the run-up to a Scottish Parliament (or indeed a Welsh or Northern Ireland Assembly, or a local government) election.⁴³ However, such newsletters must not include party political or campaigning material. Mr Bruce's newsletter was funded from the IEP. Paragraph 11 of the DFA's guidance on publications funded from the Parliamentary Allowances⁴⁴ says in this connection:

"You must not use IEP funded publications ... to promote, criticize or campaign for or against anyone seeking election."

The more recently published guidance on the Communication Allowance (CA) draws attention (in the particular context of photographs of Members wearing Party rosettes) to the special care which is needed close to or during an election period.⁴⁵

93. It follows from the absence of any rule prohibiting Mr Bruce from distributing a newsletter in the run-up to the Scottish Parliament election that Ms Simpson's complaint cannot be upheld on this ground. In his letter of 22 May,⁴⁶ Mr Bruce explains that it was not in fact his original intention that the report should go out over the election period, but that a combination of practical factors led to this. In the event, the report was extensively, though not exclusively, circulated during the election period. Whilst this was not contrary to the rules, it meant that the content of the newsletter was bound to receive particular scrutiny.

94. It is in that context that the three photographs mentioned in Ms Simpson's complaint fall to be considered. The DFA's Director of Operations takes the view that these stray across the line into party political or campaigning material, in that taken together they create an impression of promoting the Liberal Democrat Party. Mr Bruce argues that the two photographs of him with Ms Radcliffe (the former MSP) are simply intended to show him working closely with her on issues of local concern: they were "*just representative of the kind of work I do.*" The photograph of him with Mr Stephen is justified by the fact that it illustrates an article about transport, and Mr Stephen was at the time Transport Minister in the Scottish Executive.

42 See paragraph 19 above.

43 I note that, in a recent report, the Committee has expressed surprise at the absence of such a prohibition (First Report of Session 2007–08, HC 94, paragraph 25).

44 WE 9

45 Rules and guidance on producing newsletters and other publications from the Communications Allowance, paragraph 17.

46 WE 14

95. The inclusion in Parliamentary reports of photographs of Members with local elected representatives is sensitive ground. On the one hand, a Member may work closely with such representatives on particular issues and may reasonably wish to illustrate that he has done so. On the other—particularly when the local representative is of the same political party as the Member—care is needed to avoid the inclusion of such material as a means simply of promoting the profile of the local representative concerned. This last is a particular consideration as a relevant election approaches.

96. The Committee has had occasion to consider such matters in another recent report.⁴⁷ On that occasion it did not criticize the inclusion of photographs of two people who were candidates at the May 2007 local government election in Reading because in one case the newsletter had been distributed some months ahead of the election and the person who featured in the photograph had clearly been involved with the Member in the particular local campaign the photograph illustrated; and in the other case the newsletter had (with the exception of one ward, not the one in which the person concerned was a candidate), been distributed in advance of the election period.

97. In the present case, Mr Bruce's newsletter was widely distributed in the Holyrood constituency in which Ms Radcliffe was a candidate during the Scottish Parliament election period. It would have been clear to Mr Bruce when he received the revised Royal Mail schedule for the distribution of his newsletter that this was going to happen. It is therefore unfortunate that Mr Bruce does not appear to have reviewed the content of his newsletter with this in mind and in particular that according to his letter of 22 May (WE14) he did not have time to check the captions to the photographs. He concedes that they might have been more appropriately worded. The inclusion of one photograph showing Mr Bruce with Ms Radcliffe and one showing him with Mr Stephen might have been capable of justification provided the captions had been appropriately worded along the lines suggested by Mr Bruce and the link with the accompanying article had been made explicit. However, the inclusion of all three photographs with the captions as published seems to me excessive. In the context of the impending election campaign they could only serve to raise the profile of the Liberal Democrat Party in general and Ms Radcliffe in particular, and in so doing promote their interests at the Holyrood elections, contrary to paragraph 11 of the DFA guidelines on publications funded from the IEP.

98. **On this ground, I recommend that the complaint against Mr Bruce be upheld.** In reaching this view, I also record that I share the opinion expressed on balance by the DFA's Director of Operations that the wording of the lead article about post office closures on page 1 of Mr Bruce's newsletter could appropriately have been adjusted to reduce its critical focus on the actions of the Government in favour of a heightened focus on the actions of Mr Bruce himself. This alone would not, I think, justify upholding Ms Simpson's complaint but it is a consideration to be borne in mind when

47 Eighth Report of Session 2006–07, HC 1071.

assessing the impact on readers of the report as a whole in the context of an election period.

(c) Complaint against Mr Sadiq Khan

99. Mr Newman’s complaint about Mr Khan’s newsletter focussed on two issues:

- a) the inclusion on its front page of the Labour Party’s red rose logo; and
- b) the picture, also on the front page, of Mr Khan standing beneath a sign describing him as the “Labour Member of Parliament for Tooting”.

Mr Newman expressed shock at what he saw as the expenditure of public money on promoting the Labour Party, contrary to what he understood to be the rules of the House.⁴⁸

100. My inquiries into the complaint have disclosed that while Mr Khan sought to clear the text of his newsletter in advance with the relevant Department of the House, his staff initially approached the wrong Department (the Department of the Serjeant at Arms rather than the DFA). A misunderstanding appears then to have occurred both as to which was the appropriate Department and about the length of time which would be required to clear the draft copy of the newsletter. A comment by an official in the Serjeant’s Department that they didn’t see any problems but it would be sensible to get the DFA’s input, was mistakenly understood to constitute a green light. By the time the draft text had reached the appropriate official in the DFA the material had, under pressure of deadlines, been sent to the printer and the die was cast.

101. Several lessons emerge from this saga. They include:

- a) the importance, which Mr Khan himself has noted,⁴⁹ of Members being given as clear guidance as possible about who to approach in respect of which type of issue and how long they should allow for officials to provide the advice sought. These points are already touched on in the guidance issued to Members⁵⁰ but it appears from what happened in this case that they would bear repetition.
- b) When, nevertheless, an inquiry reaches the wrong official, the importance of it being redirected as rapidly as possible to the right one.
- c) The desirability of any advice given to Members being as clearly and precisely expressed as possible, and the degree of authority it carries also being made clear.
- d) The need for Members to allow sufficient time for advice to be obtained from the right quarter and wherever possible to avoid being boxed in by overly strict publication schedules.

⁴⁸ WE 7

⁴⁹ WE 21

⁵⁰ See, for example, paragraph 1.5 of the booklet on the Communications Allowance and paragraph 20 of the detailed guidance on newsletters at Appendix 2 to the booklet.

102. In drawing attention to these “lessons”, I do not intend to cast doubt on the good faith of everyone involved—Mr Khan, his staff and those in the relevant department(s) of the House. As Mr Khan himself concedes, we are dealing here with “extremely busy individuals working with good intent”,⁵¹ and have the advantage of being able to view what happened with the benefit of hindsight.

103. It may well be that, when assessing the significance of any breach of the House’s rules revealed by Mr Newman’s complaint, the Committee will want to give some weight to the sequence of events revealed by my inquiries. I am sure it will also want to attach weight to Mr Khan’s evident intention to clear the text of his April newsletter in advance with the House authorities and the efforts he and his staff have made subsequently to avoid any problems arising again.

104. We are left, however, with the question whether Mr Khan’s April 2007 newsletter did in fact breach the House’s rules. I examine in turn each of the two aspects of Mr Newman’s complaint—the photograph and the party logo on page 1 of the newsletter—and the other issues about its content raised by the DFA’s Director of Operations.⁵²

105. **I do not think that the photograph of Mr Khan standing outside his constituency office beneath a sign describing him as “Labour Member of Parliament for Tooting” breaches the rules of the House.** It is not contrary to those rules for a Member to describe himself as “the Labour Member for X” or “the Conservative Member for Y” and Members of all parties frequently so describe themselves, for example when in correspondence with constituents. (Whether it is appropriate that the rules should allow them to do so is a separate matter of policy.) Although the small print in the photograph certainly makes clear Mr Khan’s party allegiance, that is far more strikingly revealed by other features of the front page of his newsletter, notably the logo and the use of the party colour (red). **I do not therefore recommend that Mr Newman’s complaint be upheld on this ground.**

106. **I take a different view of the logo.** The DFA’s guidance on the use of logos in newsletters funded from the CA says:

*“The use of party logos, whilst not disallowed entirely, is restricted to proportionate and discreet use ...”*⁵³

The DFA’s Director of Operations clearly regarded the size of the logo as acceptable. He commented on this point:

*“The logo, of which there is only one, whilst slightly large is in keeping with the size of the banner heading ...”*⁵⁴

51 WE 21

52 See paragraph 46 above.

53 For the text of the relevant paragraph in full, see paragraph 18(c) above.

54 See paragraph 45 above.

I take this comment to mean that the Director considers the logo to meet the requirement that it be “proportionate” in that it is proportionate to the red banner heading of which it is part. But is it “discreet”? The logo is 43mm high and some 65mm wide. I doubt that the logo is “proportionate” if one looks at the intended purpose of the document and the size and overall content of the A4 page on which it is reproduced. It is certainly not, in my view, “discreet”.

107. I am fortified in taking this view of the logo by the approach taken by the Committee in another recent case.⁵⁵ In that case, the Committee concluded that a logo 47mm high and wide, in colour, as a centred heading on facing pages of a Member’s report and associated with the name of the Member’s party, did not come remotely near meeting the “discreet and proportionate” test. The circumstances of Mr Khan’s case are not the same in that the logo appeared only once and it was not associated directly with the name of the Member’s party (though if any reader were in doubt on that point, they had only to look at the photograph lower down the page which I have previously discussed to gain confirmation of it). However, the size of the logo (in my view, disproportionate when viewed in the context of the page as a whole), its bold appearance and prominent position and its association with a Labour Party campaign slogan means that it too fails to meet the “proportionate and discreet” test. **Accordingly, I recommend that this aspect of Mr Newman’s complaint be upheld.**

108. In making this recommendation, I also draw the Committee’s attention to the reservations expressed by the DFA’s Director of Operations about some of the content of Mr Khan’s newsletter, to which I have referred in paragraph 46 above. He notes that his staff were concerned by the references in the Graveney Ward item on page 2 of the newsletter to local “Labour” councillors, and by the references to the Government’s “commitment” and “priorities” in parts of the section on “Looking forward to the future” on page 3. **I share the Director’s view that these references (particularly the references to the Government on page 3) are “small examples of this newsletter promoting a political party or its policies”.** Whilst Mr Khan can fairly point out that the DFA did not feel so strongly about them as to decline, on the basis of them, to fund his newsletter, they are, I believe, factors to be weighed in the balance when forming an overall assessment of Mr Newman’s complaint.

Postscript

109. In its First Report of the current session,⁵⁶ the Committee welcomed my intention to bring forward for its consideration a further report examining some general issues relating to the Communications Allowance which have been identified by recent cases. It will be apparent to the Committee that the three cases covered in the present report also raise such issues, including the question of the distribution of a newsletter during an election period (Mr Bruce) and the acceptability or otherwise of distinguishing party

⁵⁵ Conduct of Mr Elfyn Llwyd, Mr Adam Price, and Mr Hywel Williams, First Report of Session 2007–08 (HC 94).

⁵⁶ HC 94

logos (Mr Khan). The views the Committee expresses on these three cases will inform the further report, to the preparation of which I shall now turn.

27 November 2007

Sir Philip Mawer

Written evidence received by the Parliamentary Commissioner for Standards

1. Letter to the Commissioner from Mr C Swainland, 9 June 2007

I am writing to confirm in writing our email correspondence of 2nd and 3rd May. I am sorry for the delay but I have been unable to reply sooner.

My complaint regarded the House of Commons fees office funds being used by our local MP for little more than electioneering at the public expense. Although this is unfortunately legal, on April 25th, Ms Kirkbride used the money to carry a four page cover spread in the local paper (the paper stated that it was paid for by the fees office). The photo spread advertising her work as a Conservative MP was coloured blue and looked like any other piece of Conservative election literature. The local candidates made much of their links with the town MP.

As you are aware the public finding of political parties is extremely unpopular with the general public and most people I have mentioned Ms Kirkbride's actions to have been shocked that it is allowed to happen. To carry out such advertising, paid for at taxpayers' expense, in the middle of a local election campaign falls below the standard that I as a member of the public would expect of my MP.

Having contacted the Electoral Commission they have suggested that I refer the matter to you. I look forward to your reply.

9 June 2007

2. Letter to the Commissioner from Mr Tristan Donovan, 11 April 2007

I wish to bring to your attention concerns I have about the use of parliamentary funds for a recent newsletter produced by the Member for Lewes, Norman Baker MP.

At the end of March, Mr Baker distributed an 8-page magazine entitled Talk of the South Downs to every household in his constituency (a copy is enclosed). The magazine states that it was funded by Mr Baker's incidental expenses provision and by advertising revenue (see the back page).

The Green Book clearly states that the incidental expenses provision cannot be used to meet the costs of party political activities or campaigning (Section 5.1.1). I believe it may be the case that part of the content of Mr Baker's magazine could be in breach of that rule.

My concern is about the article on page 7 of the magazine promoting the Liberal Democrats' national policies and the work of Sharon Bowles, a Liberal Democrat MEP. The article does not provide information about the work of Mr Baker and clearly promotes the Liberal Democrat party.

While the article is described as advertising paid for by the Alliance of Liberals and Democrats for Europe, I believe it raises two questions that should be investigated further.

Firstly is it acceptable for the incidental expenses provision to be used for a publication that also carries party political material even as advertising? Surely if this is the case it would allow Members of Parliament to partially subsidise the cost of party political literature using the incidental expenses provision by including content that promotes the work of the Member in a non-party political way.

Second if the article was paid for by the Alliance of Liberals and Democrats for Europe, it would be proper for them to have paid proportionally the same amount as other advertisers in the magazine. If the alliance paid less than other advertisers for the same amount of space, it would suggest the incidental expenses provision has subsidised that advertising.

I hope you will agree with me that this matter deserves further attention.

11 April 2007

3. Facsimile of Mr Norman Baker's Annual Report

Sharon Bowles MEP - standing up for you ADVERTISING FEATURE

Scrap the wrap!

Local Lib Dem MEP Sharon Bowles is demanding that supermarkets slash unnecessary packaging to reduce Britain's huge waste mountain.

Latest figures show that 4.6 million tons of packaging waste are increasing local grocery bills and choking landfill sites across the country.

Lib Dem Leader Ming Campbell has challenged supermarkets to come clean on the amount of waste they are producing and to draw up plans to reduce it.

He is being backed by local MEP Sharon Bowles who has launched her own 'scrap the wrap' campaign against fruit and vegetables wrapped in plastic coverings.

Although EU rules are

sometimes blamed for cucumbers, apples and even swedes being sold in shrink-wrapped plastic sleeves, Sharon Bowles says that the fault lies entirely with supermarkets.

"There is no EU requirement for fruit and vegetables to be sold like this, and it doesn't happen to the same extent in other European countries. Our supermarkets are simply obsessed with producing excessive packaging."

Sharon has welcomed recent environment initiatives by Marks and Spencers and Tesco, but says there is much more that can be done.

She added, "I will keep up the pressure on the supermarkets to act."



● Sussex Lib Dem MEP Sharon Bowles

This column is supported by the Alliance of Liberals and Democrats for Europe



4. Letter to the Commissioner from Ms Ethel Simpson, 28 April 2007

Two years ago, in March, I wrote you about MP Malcolm Bruce issuing his Parliamentary report, paid for from the incidental expenses provided to MPs, on the eve of the General Election.

He has now issued his latest report smack in the middle of the Scottish elections. It is clearly designed to bolster the campaign of Lib–Dem candidate Norah Radcliffe. She is even included in two of the pictures and Lib–Dem Scottish leader Nicol Stephen is also included.

Yet again, this is blatant electioneering by Malcolm Bruce using tax–payers money and is grossly unfair to all the other candidates in this hotly–contested seat. He could have issued his report at any time well before or after the election.

I know from my previous correspondence with you that what he has done is legal, but it is unjust and unethical—tantamount really to dirty tricks using tax–payers money.

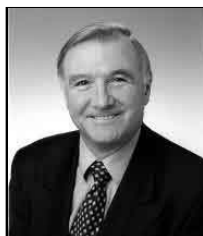
The amount of MPs' expenses is a bigger sore point than ever in my neck of the woods. This sort of behaviour only brings them further into disrepute.

As I suggested before, MPs should be banned from using their incidental expenses to issue leaflets at least six months before an election or during other elections.

I'm sorry to have to bring the case of Malcolm Bruce to your attention again, but, as a tax–payer, it bugs me to think some of my money is being used to promote the Lib–Dems. You will gather I am not one of their supporters!

28 April 2007

5. Facsimile of Mr Malcolm Bruce's Report



Malcolm Bruce MP

Member of Parliament for Gordon 2007 Annual Report

Supporting local post offices

The Government has been systematically reducing the number of post offices and the range of services they are able to offer. Malcolm Bruce has been actively getting in touch with local postmasters and postmistresses, making representations directly to Royal Mail and ministers and intervening in the House of Commons.

The Government have now started another round of closures. Malcolm is determined to do what he can to minimise these and ensure that the needs of our communities are fully taken into account.

"We not only need to keep a network of post offices, we have to ensure that they can provide a sufficient range of services to meet public need and to provide a viable



Malcolm Bruce and Nora Radcliffe at work with residents on how to save Gordon's post offices

income. We also need to recognise that post offices often support other businesses," says Malcolm.

Leading on climate chaos

As Chairman of globe UK Malcolm Bruce has paved the way for international debate on climate change policy. Thanks to an able and energetic director recruited by Mr Bruce and Joan Ruddock MP, GLOBE has set up an influential international legislators' forum drawn from the G8 plus 5 countries. The most recent meeting was in February at the United States Senate.

The scale of its success can be measured by the statement issued in Washington which called on the G8 plus 5 governments to "identify a measurable long term goal to stabilise greenhouse gases in the atmosphere...at a level between 450 and 550 parts per million, recognising that meeting the EU's two degrees Celsius target would require stabilisation at the lower end of the range."



Malcolm Bruce with the UK delegation at the GLOBE Legislators' Forum in Washington DC

Indicating the urgency of the crisis we face, the meeting called for "negotiations on such a framework to be launched at the Bali meeting of the UN Forum for Climate Change in November and be concluded by 2009."

Dear Resident,

Spring 2007

Representing the people and communities of Gordon is a busy and varied job, and the past year has been no exception.

As Chairman of the IDC I have engaged in international activities on poverty reduction, development and climate change. I have also contributed to the debate on Iraq, Afghanistan and the Middle East peace process.

Closer to home I have helped secure a future for Met Office forecasting in Aberdeen, called on the PM to support Aberdeen's role in the proposed Energy Technologies Institute, kept up pressure for continued transport improvements and given backing to local farmers and

businesses.

A lot is done behind the scenes and I have had many meetings with a variety of people and organisations connected to the constituency.

Please do not hesitate to get in touch with me if I can give any advice or assistance.

Yours sincerely

Malcolm Bruce

Malcolm Bruce MP

Road, rail and air highlighted

In recent years we have secured welcome by-passes and trunk road upgrades but more are needed. These include the earliest possible start to upgrading the A90 at Tippiery, eliminating the traffic lights and bottleneck at Inveramsay, which divert heavy traffic down B roads, and a third Don crossing in Aberdeen.

Malcolm also wants much better public transport links – especially a commuter rail service between Inverurie and Stonehaven with a new station at Kintore. He has called for an assurance there will be no reduction of service on the Aberdeen to London mainline rail route.



Malcolm Bruce with Scottish Liberal Democrat leader Nicol Stephen. Malcolm has been campaigning for better public transport links in Aberdeenshire

Representing Aberdeen Airport Malcolm Bruce recognises what a vital link it provides people and businesses in the North East. "I have welcomed the new opening hours and the planned upgrade but have called for compensation for those on the approaches who may suffer additional noise nuisance," he said.

Malcolm Bruce MP - working all year round

Fair deal for farmers



Malcolm Bruce and Nora Radcliffe MSP help local farmers

Malcolm Bruce takes a close interest in farming issues and the challenges facing our farmers amidst constant change and uncertainty.

He spent a day last year with one of the Huntly vets to see for himself the tough job vets and farmers are engaged in. After all, in recent years farmers have had to confront the crises of BSE and foot and mouth as well as all the other diseases and problems livestock farming faces. He supports calls for a fairer appeals system and asked ministers to ensure that Scottish farmers are not disadvantaged by regulations applied by the Scottish Executive

Fighting poverty

In 2005 Malcolm Bruce was elected chairman of the International Development Select Committee of the House of Commons.

The cross party committee monitors the work of the Department for International Development, which has a rising budget of almost £5 billion directed towards reducing poverty in the world's poorest countries.

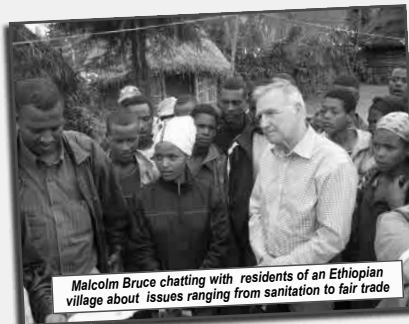
Malcolm explains, "We take evidence from all kinds of experts in Westminster before making field visits to talk directly to poor people and learn from them what they believe works to reduce poverty and give them the chance to develop. We have given particular attention to Africa recently where poverty is most acute and difficult.

"But we have also looked at the deteriorating situation in Palestine and called for

revenues to be restored to the Palestinian Authority and for the peace process to be put back on track.

"We have also reported on natural disasters, HIV/AIDS, sanitation and water and Fair Trade."

More information is available on www.epolitix.com www.selectcommittees.co.uk/all_committees/international/



Malcolm Bruce chatting with residents of an Ethiopian village about issues ranging from sanitation to fair trade

Consistent on Iraq

Malcolm Bruce opposed the invasion of Iraq but has taken no satisfaction from the loss of life suffered by our service men and women nor the appalling toll of death and injury inflicted on Iraqi

civilians.

He has supported the call for the withdrawal of British troops this year. We have destroyed the Iraqi civil service, police and armed forces after the invasion and these

have had to be rebuilt. Nevertheless he believes the Iraqi authorities need to be on notice that they have to run their own country. It will take a long time before Britain will recover the respect and integrity we had before the invasion and be able to pay a leading role in the world. Bringing this disastrous engagement to an end is, Malcolm feels, an essential first step.



Malcolm (right of the chairman) questions the PM

News in brief...

Veterans Badge



Men and women who served in the armed forces up until the end of 1969 are now eligible for a veterans' badge. Malcolm Bruce has highlighted this and dozens have consequently applied for their badge. If you think you are eligible you can contact the constituency office for an application form.

Backing Energy Technologies Institutes



Malcolm Bruce called on the Prime minister to back Aberdeen's bid to be a prime part of the Government's proposed Energy Technologies Institute. The Prime Minister agreed on the "excellence of Aberdeen and the facilities there and the potential for renewable technologies. Malcolm has also called for The Government to recognise the need for our oil and gas industry to be globally competitive and not subject to frequent and damaging tax changes.

Championing deaf people



As Chairman of the All Party group on deafness Malcolm Bruce is calling for the Government to give legal recognition to sign languages and do more to train and provide sign language interpreters.

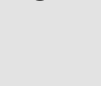
"Finland, with a similar population to Scotland, has 600 interpreters for our less than 30. We have a long way to go," Malcolm explained.

Olympic hopes



Malcolm Bruce has led the call for a 50 metre Olympic pool in Aberdeen. "Gordon has its own Olympic hopeful in Inverurie swimmer and British champion, Hannah Miley. To be truly UK national the 2012 Olympics should lead to investment like a new pool for Aberdeen and I am trying to ensure this happens," he said.

Fighting for Aberdeen Met Office



As the local MP, Malcolm led the all party campaign to secure the future of the Met Office in Aberdeen after the board proposed to transfer all weather forecasting to Exeter.

He led a debate in Parliament and held two meetings with the Defence Minister responsible. The Minister was persuaded to keep most of the operation intact in Aberdeen although morale was severely damaged and ironically the marine forecasting was retained in Aberdeen but not the Shipping forecast.

Malcolm explained, "Aberdeen is now the only civilian forecasting operation the Met Office has outside Exeter. It was absurd to think that Exeter could cover the whole of Scotland. The Met Office would certainly have lost business to competitors and not been able to service their public service users in Scotland such as police, local authorities, skiers and mountain rescue."

Contact Malcolm

Malcolm Bruce MP holds regular surgeries across the constituency. Please contact his constituency office at 71 High Street Inverurie, AB51 5ST
Tel: 01467 623413
e-mail: milsomr@parliament.uk

Malcolm Bruce MP - working all year round

6. Letter to the Commissioner from Ms Ethel Simpson, 5 May 2007

Thank you very much for your reply to my letter. As I have a bee in my bonnet now about the use of MP's incidental expenses as an electioneering ploy I am happy to make a formal complaint against Malcolm Bruce in the hope that something will be done about it.

In my view, a limit should be placed on the times MPs can use these expenses for their leaflets—on the grounds that to use them to further their own (or fellow party members') prospects at elections is unethical and unfair to other parties.

When I have pointed out to fellow tax-payers that Malcolm Bruce has been using our money to fund some of his leaflets they have been aghast—and angry.

Most people never notice the timing—and, in the latest case, almost undecipherable print at the bottom of his so-called Parliamentary reports.

It really does concern me that MPs are now held in so much contempt—mainly because of their huge expenses. I think it's one reason for the low polls now.

I feel Mr Bruce, because of his age and standing in politics, should set an example and be whiter than white in his use of public money.

Mr Bruce featured prominently in all Norah Radcliffe's election material. As an example, I am enclosing a letter from him, presumably sent out all over the constituency, which I got on the eve of poll. It shows how much he used his name to boost her campaign. This backs up my case that he timed the issue of his Parliamentary report to help her.

If it is all right with you, I would be interested in hearing the outcome of my complaint.

5 May 2007

7. Letter to the Commissioner from Mr D Newman, 9 May 2007

I recently received the enclosed leaflet from my local MP Sadiq Khan, which was delivered through my door.

I was somewhat surprised to see that the leaflet appears to contain the Labour Party 'rose' on its front page (see enclosed copy of Labour logo downloaded from the Labour Party website). My understanding from what I have read in the press is that communication from a local Member of Parliament, paid for out of his Communications Allowance, must not in any way promote the party to which the Member belongs.

As a supporter of the Labour Party myself, I was shocked to see tax payers' money being spent in this way. I was also concerned at the picture on the front cover of the leaflet which clearly displays Mr Khan standing beneath a sign stating that he is the 'Labour Member of Parliament'.

I would very much appreciate your assistance in clarifying the matter.

9 May 2007

8. Facsimile of Mr Sadiq Khan's Newsletter

Sadiq Khan MP

On Your Side



Sadiq delivering footballs to Fircroft Primary School



Contact Sadiq



In your area



Sadiq in Parliament



Our Environment

INSIDE
THIS
ISSUE

A message from Sadiq

"It has been a privilege to serve as your Member of Parliament for Tooting since May 2005.

I was born in St George's Hospital, attended local primary and secondary schools and still live in the area with my family. I am a Tooting boy through and through and work hard to help our community and ensure that we get the best deal from Government initiatives and legislation.

Inside this newsletter you will find out about the work I have been doing in Parliament and in your neighbourhood, as well as how you can contact me.

Please get in touch. I am here to help, whatever your politics."

Sadiq Khan

Wandsworth Common Fairtrade Campaign

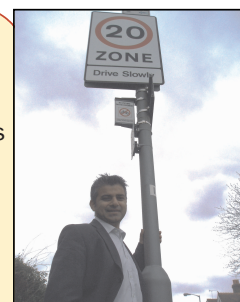
Sadiq's campaign to make Tooting a Fairtrade zone was launched on Wandsworth Common earlier this year. Sadiq has been working alongside Wandsworth's Fairtrade Group to lobby the Council to pass a Fairtrade resolution and to encourage local schools and churches to use Fairtrade products.

"Supporting Fairtrade products is an easy way to make a long term contribution to tackling global poverty. I am keen for Tooting to lead the way in making Wandsworth a Fairtrade borough".



Nightingale traffic calming

Sadiq successfully campaigned with local residents in Nightingale Ward for traffic calming measures to be introduced. This has led to a 20mph speed limit on several roads in the area, enforced by speed bumps and one way streets. *"Local residents were dedicated to this campaign and our hard work paid off. The traffic calming measures will make the roads safer for everyone."*



Balham safer station

Balham Station has been officially accredited with National Safer Station Status, following a campaign led by Sadiq.

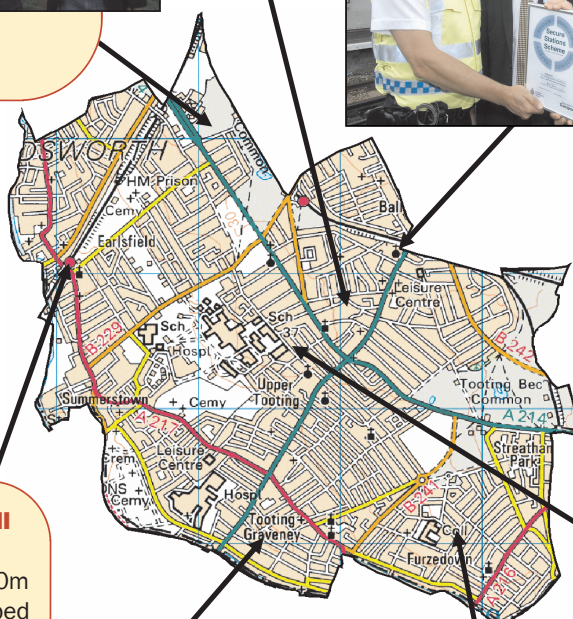


"I will continue to work with Southern Trains, local police and the Council to ensure Balham remains safe for all users."



Earlsfield Station Access for all

When Earlsfield Station wasn't included in the Government's £370m Access for All funding, Sadiq stepped in. He arranged for local people to meet Government Ministers and railway bosses and took them to see the station for themselves. Due to this successful campaign, lifts will soon be installed at both Earlsfield and Balham Stations.



Tooting Safer Neighbourhood Teams

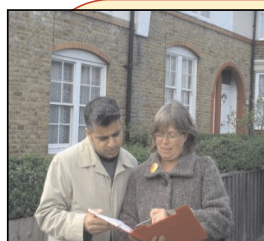
Sadiq has been out on the beat with Tooting's Safer Neighbourhood Teams (SNTs). All seven wards in Tooting now have their own dedicated police team to tackle crime and anti-social behaviour. *"The Government have brought back the Bobby-on-the-Beat. SNTs provide a familiar and immediate point of contact for all residents."*



Cleaner Streets in Graveney Ward

Fly-tipping and inadequate refuse collection has been a persistent problem in Graveney Ward and Tooting Town Centre. Sadiq and local Labour Councillors responded to this by collecting a petition demanding

the Council to clean up the area and use all the provisions available to them in the Cleaner Neighbourhoods Act. *"This is an ongoing campaign. Several improvements have been made so far, but we are still working hard to make Graveney's streets and environment cleaner."*



Furzedown Project 'Let's Talk' Pensions

Sadiq organised an event at The Furzedown Project Community Centre for local residents to discuss the future of the pension system with the Secretary of State for Work & Pensions. *"I believe that there is no substitute to an open and frank discussion when it comes to these complex issues."*



Sadiq in Parliament

Speaking up for Tooting in the House of Commons

I have spoken in over 60 debates since my election (one of the highest amongst new MPs) and have taken every opportunity to raise the issues that are important to people in Tooting. I have questioned Ministers from all Government Departments as well as putting several questions to the Prime Minister. I have spoken in debates about affordable housing, the NHS, public transport, legal aid, social exclusion, anti social behaviour, crime and education, to name but a few, and have highlighted specific matters of concern and points of interest brought to my attention by Tooting residents. **All my questions and speeches can be viewed in full on my website www.sadiqkhan.org.uk**

Your voice in Parliament

During the last two years I have helped thousands of local people who have contacted me about issues as diverse as tax, pensions, benefits, immigration, housing and school admissions.

In addition to responding to direct requests from my constituents, I regularly go out to meet local people on their doorsteps, hold roaming advice surgeries and carry out surveys to hear the issues, concerns and ideas of local people for myself, which I can then raise in Parliament.

I am also in regular contact with our local schools, hospitals and police service. They are at the front line of our most important public services and their feedback is an invaluable resource for my work.



Parliamentary Groups and Committees

As well as taking part in debates in the House, I am a member of 4 Parliamentary groups and committees:

- I sit on the **Public Accounts Committee**, where I scrutinise Government spending
- I am the **Chair of the All Party Parliamentary Group on Citizens Advice**
- I chair the **Parliamentary Labour Party's Home Affairs Committee**
- I am **Vice Chair of the All Party Parliamentary Group on Child and Youth Crime**

Looking towards the future



The Environment:

I believe that climate change is the most serious threat we face in the future and we need to tackle it now. Reducing the UK's CO₂ emissions is a responsibility the Government takes seriously. The Government is demonstrating this commitment with actions, not just words.

The Government has published the Climate Change Bill to create a more sustainable environment in Britain. We are exceeding our obligations under the Kyoto Accord and, with current presidency of the UN Security Council, we will also ensure that climate change is a key issue on the international agenda.

Education:

Education remains the top priority for the Government and I have been working with Education Ministers to ensure that Tooting schools benefit from the record investments in education that we have seen in recent years.

The Government acknowledges the importance of a good learning environment. Starting in 2008 all secondary schools in Tooting will be fully refurbished when they receive part of the £2 billion invested in the Building Schools for the Future Programme.

Transport:

I have led a successful campaign for the expansion of the Pay-as-you-go Oyster card service to Wandsworth Common, Earlsfield and Balham stations. This will provide cheaper fares for local residents and cut ticket office queues.

The Mayor of London has invested money so train companies can install Oyster Card readers to overground stations. I am urging them to do so as soon as possible.

I will continue to work with the Mayor of London and Transport for London to improve the service on the Northern Line. **You can check my website for updates.**

Your Parliament



Sadiq with pupils from Oak Lodge School at Parliament



Sadiq held an event in Parliament to honour Tooting's war veterans

Sadiq giving a tour of Parliament to a group of Tooting residents

The House of Commons is your Parliament Come to see it in action!

"I have been working to make Parliament more accessible for all Tooting residents.

Many of our schools and community groups have come to the Palace of Westminster for tours given by professional guides. You can visit Parliament to watch laws being made, attend debates, committees or judicial hearings, use the Archives, tour the estate and climb Big Ben. All these activities can be booked through my office. I look forward to seeing you here soon!"

Seven ways to contact Sadiq

- 1. WRITE** to 58 Trinity Road, Tooting Bec, SW17 7RH
OR House of Commons London SW1A 0AA
- 2. PHONE** 020 7219 6967 or 020 8682 2897
- 3. FAX** 020 7219 6477
- 4. EMAIL** sadiqkhanmp@parliament.uk
- 5. WEBSITE** www.sadiqkhan.org.uk
- 6. VISIT** Sadiq at one of his advice surgeries
- 7. INVITE** Sadiq to your Community Group.

Sadiq's Advice Surgeries

1ST AND 3RD SATURDAY OF THE MONTH

11.15am-12.15pm (by appointment only)
Tooting Library, Mitcham Road, London, SW17 9PD

To book an appointment call 020 7219 6316

MONDAY AFTER THE FIRST SATURDAY OF THE MONTH

10.00-11.00am (no appointment needed)
Earlsfield Library, Magdalen Road, London, SW18 3NY

MONDAY AFTER THE THIRD SATURDAY OF THE MONTH

10.00-11.00am (no appointment needed)
Balham Community Centre, 91 Bedford Hill, SW12 9HE



Design and layout by Sadiq Khan MP. Printed by Uniprint Ltd, SW17. Promoted on behalf of himself by Sadiq Khan MP, House of Commons, London SW1A 0AA. The Cost of this publication has been met by the Communications Allowance of Sadiq Khan MP. This newsletter is delivered to postcodes within the Tooting Constituency.

Any Problems? Let me know!

Do you have any local problems or issues you would like Sadiq Khan, your MP, to follow up?
If so please let him know using the space below and return to 58 Trinity Road, Tooting SW17 7RH:

.....

.....

.....

- ☐ Please sign me up for *Totally Tooting*— Sadiq Khan's free newsletter to all constituents
- ☐ I am interested in joining the Sadiq Khan Supporters Network
- ☐ I can help deliver newsletters from Sadiq Khan MP in my local area

Name..... Address

Phone Email@.....

Sadiq Khan MP may use the information you provide to contact you again. If you would prefer not to be contacted please write to the address above.

9. DFA Guidelines on Use of Parliamentary Allowances (published April 2006)

Funding publications from the Parliamentary Allowance

1. This factsheet sets out the rules that apply if you use the Incidental Expenses Provision (IEP) to meet some or all of the costs of preparing, printing and distributing publications to your constituents. Distribution costs may also be met from your Staffing Allowance. Please note that separate rules apply during any Dissolution period.

Scope of permitted publications

2. Subject to the rules which follow, you may use your allowances to fund newsletters, circulars or annual reports, small calendars or business cards.

3. The following are not permitted: questionnaires and surveys relating to national issues (see paragraph 10 below), 18th birthday cards, Christmas cards and merchandising.

Principles

4. The sole purpose of the editorial elements of the publication must be to inform constituents about your work as a Member and/or to provide information about how to contact you.

5. No party political or campaigning material is allowable in any part of a publication funded, in whole or in part, from the allowances. Members wishing to produce a joint publication with their local party, an MSP, MEP or AM must ensure the entire content is free of such material. If you wish to include material not allowed under these rules, you must fund the whole cost of your publication from another source.

6. You alone are responsible for ensuring that these rules are fully observed. If they have not been, you will be asked to repay any costs involved, and you may also expose yourself to allegations of misuse of the allowances. The Department of Finance and Administration (DFA) can provide advice on the rules and review any publication on your behalf.

Distribution

7. Parliamentary newsletters and other publications must be sent or made available (e.g. in libraries or community centres) to all constituents or all constituents within a locality. Publications should not be targeted at constituents based on age, race or social background.

8. Parliamentary newsletters and other publications may be included in the same mail drop as any political material but it must be placed in a separate envelope or cover. The IEP should not be used to meet the cost of distributing the non parliamentary material.

9. You must not use prepaid envelopes or other House stationery for these publications. The cost of envelopes and postage can be met from your Incidental Expenses Provision (IEP).

Content

10. The following material is likely to be allowable, subject to paragraph 11 below:

- Information about you
- Factual information about Parliament, debates etc
- Details of surgeries and how to get in touch
- Factual material about your work as a Member
- Factual information about local public services e.g. the local authority

- Surveys/questionnaires relating to specific local matters or for use by the Member locally
- Paid advertising by locally based businesses, if the receipts are set against the cost of the publication or reimbursed to the Incidental Expenses Allowance.

11. You must not use IEP funded publications:

- To promote, criticise or campaign for or against anyone seeking election
- For the purpose of advancing perspectives or arguments with the intention of promoting the interests of any political party or organisation you support, or damaging the interests of any other such party or organisation
- For fund raising
- For general surveys based upon social background or demographics
- To conduct business activities, or to obtain inappropriate private benefit.

Payment arrangements

12. Your publications must include a short notice explaining that costs are to be met from the allowances, and giving the source of any other funds.

13. It is your responsibility to keep records of any receipts e.g. from advertising, to make any necessary entry in the Register of Members' Interests, and to notify the HM Revenue & Customs if appropriate.

Procedures

14. The Department of Finance and Administration is responsible for interpreting and enforcing the rules relating to Parliamentary allowances, as set out in the Green Book. If you are satisfied that your publication conforms to the above rules, you may meet the costs from your allowances in the normal way. Members are not required to submit publications to the DFA prior to printing. You may also use the House emblem (the crowned portcullis).

15. If you want advance on the proposed content of any publication, you may approach the DFA whose experienced staff will undertake a review on your behalf. The Department will aim to complete this within 3 working days. Members are advised to make allowance for this process before going to print. While the Department will always offer advice in good faith, responsibility for ensuring compliance with the rules remains unchanged. However, in the event of a complaint, the Parliamentary Commissioner for Standards will wish to know whether advice was sought.

Tax liability

16. HM Revenue & Customs reserve the right to assess as income payments made from public funds in respect of Members' publications. However, DFA is advised that in general they are unlikely to levy a tax charge if your publication meets the above rules.

April 2006

10. Letter to Mr C Swainland from the Commissioner, 13 June 2007

Thank you for your letter of 9 June confirming your wish to complain about a four page wrap-round cover which Ms Kirkbride added to the "Bromsgrove Advertiser" on 25 April and which was funded from her Parliamentary Allowances. You express concern about this on two grounds:

1. the timing of distribution of the material during the local election campaign;
2. the use of the colour blue in it which, you say, made it look "like any other piece of Conservative election

literature”.

As you may know, Members of Parliament are provided with an allowance to enable them to communicate proactively with their constituents. Members must use the allowance for Parliamentary, not for party political or campaigning purposes.

The relevant guidelines provided to Members allow the use of Party colours in publications funded from the Allowance. They do not prohibit Members from circulating material to constituents during a local election period. On this basis, I am afraid I cannot uphold your complaint against Ms Kirkbride. Nor am I aware of any other respects in which her recent publication breaches the House’s rules.

I should add, however, that I have received a number of other complaints recently which suggest that the possibility of Members being prohibited from circulating material in the immediate run-up to local or similar elections should at least be considered. If I may, I will refer to your complaint in that context, as another example of public concern on this matter.

In view of Ms Kirkbride’s personal involvement in this, I am copying this letter and yours to Ms Kirkbride, so that she has the opportunity to comment to me on the wider issues which your complaint raises.

13 June 2007

11. Letter to Mr Norman Baker from the Commissioner, 16 April 2007

I enclose a copy of a letter of complaint I have received from one of your constituents, Mr Tristan Donovan.

This complaint focuses on an article on page 7 of the newsletter “Talk of the South Downs” which you recently circulated to your constituents. The article in question—identified as an “advertising feature” paid for by the Alliance of Liberals and Democrats for Europe—featured the work of Sussex Liberal Democrat MEP Sharon Bowles in opposing the excessive use of food packaging by supermarkets.

Mr Donovan alleges that the article clearly promotes the Liberal Democrat Party (and Ms Bowles in particular) and therefore breaches the requirement in paragraph 5.1.1 of the “Green Book” on Members’ Pay and Allowances, etc. that the Incidental Expenses Provision (IEP)—out of which it appears the newsletter was in part funded—cannot be used to meet the costs of party political activities or campaigning.

You will see that Mr Donovan asks, (a) whether it is acceptable for the IEP to be used for a publication that also carries party political material even as advertising; and, in effect, (b) whether the Alliance of Liberals and Democrats for Europe paid proportionally the same as other advertisers in the newsletter, or were subsidised by the IEP.

As you know, paragraph 14 of the Code of Conduct approved by the House provides:

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

Guidance issued by the House’s Department of Finance and Administration (DFA) in force when your newsletter was issued (and a copy of which I enclose) also contains a number of relevant provisions (paragraphs 5 and 11). I draw your attention to paragraph 5 in particular which reads:

“No party political or campaigning material is allowable in any part of a publication funded, in whole or in part, from the allowance. Members wishing to produce a joint publication with their local party, an MSP, MEP or AM must ensure the entire content is free of such material. If you wish to include material not allowed under these rules, you must fund the whole cost of your publication from another source.”

In the light of these provisions, I should be grateful if you will let me have your response to Mr Donovan's complaint and your comments on the two questions he poses. It would be helpful if, when replying, you could let me know:

1. How many copies of your newsletter were distributed, how and to whom.
2. How precisely its publication and distribution were funded, including a breakdown of the contributions made by the IEP and by each individual advertiser (including the Alliance of Liberals and Democrats for Europe) to meeting those costs.
3. Whether you sought advice from the DFA at any point on the newsletter.

Once I have your response I will consult the Director of Operations in the DFA, ..., (to whom I am copying this letter) on the issues raised, before deciding how to proceed.

I enclose a copy of a note I send all Members who are the subject of a complaint, setting out the procedure I follow in handling such matters. If, at any time, you would like a word about the complaint, please do not hesitate to get in touch on the number above.

16 April 2007

12. Letter to the Commissioner from Mr Norman Baker, 2 May 2007

Thank you for your letter of 16 April concerning the above. I am of course happy to respond fully to you on this matter to the best of my ability.

Let me begin by addressing the three specific questions you raise, which for convenience, I deal with in the order you set out.

1. 39,000 copies were printed. Of these, 35,297 were delivered to addresses within the constituency by the Royal Mail. Most of the remaining copies were delivered to addresses within the constituency by volunteers, with a small residual being retained in my constituency office.
2. (a) In respect of how the costs were met, the Royal Mail delivery bill amounted to £1,658.95, which represents a unit cost per leaflet of 4.7p. This sum was paid entirely by me from my own personal resources, and involved the use neither of public funds nor advertising revenue.

(b) The contributions from individual advertisers are attached at Schedule A. Out of consideration for those businesses, I would ask that this information could be regarded as for your eyes only. You will see, however, that the amount paid by Sharon Bowles MEP was at a fully competitive rate, occupying roughly the same space as, for example, the advert from ... on the back page, for which the same rate was charged.

(c) The total cost of printing the leaflet was £2,115.00, which, deducting the contributions from advertisers, leaves a claim from public funds of £985, actually yet to be submitted.
3. I have sought guidance from the DFA in previous years on matters to do with my Annual Report, including content, but did not do so this year. In retrospect, that might have been helpful.

I am not certain if you have seen a full copy of the Annual Report in question, but I enclose a copy now in case not. You will see that it contains a significant number of advertisements, of which that from Sharon Bowles MEP is but one, and I wish to make it clear that the sole reason for their inclusion in the publication was to keep the costs to the public purse to the lowest possible level.

As the complaint relates only to an advert, which is clearly labelled as such, it would seem that there is no concern about the editorial content. It follows therefore that, had I not sought advertisements to offset part of the cost of publication, you would not have received a complaint. It would have been open to me not to have used advertising and to have charged a larger amount to public funds through the allowance system available to Members. There was really no advantage to me in including advertising, other than that of the public interest, as all this does is reduce the amount of editorial space available.

The second substantive point I would make is that the advertisement from Sharon Bowles MEP is funded by an allowance supplied by the European Parliament, also therefore from public funds though not directly those of the British Exchequer, and also has to meet eligibility criteria. These include one, amongst others, that material supplied should report on the work of the MEP in question. It is not permissible to criticise other parties or groups. In other words, the criteria are not dissimilar to those which apply to MPs in the House of Commons using the allowance system for publications.

The inclusion of the phrase, “This column is supported by the Alliance of Liberals and Democrats in Europe”, is one required by the European Parliament for such advertisements. I attach the relevant extract from this guidance, “Internal Regulations concerning the use of appropriations on budget line 4000, ALDE’s Group Budget Chapter 7”, as Appendix 1, and would refer you to 7.2 and 7.5 in particular. The document itself makes it plain that the guidance is “in conformity with the decisions of the Bureau of the European Parliament of 13 December 2000”. I am able to email you the entire document, if that would be helpful.

In summary therefore, the piece in question was a genuine advertisement, clearly marked as such, for which an appropriate and standard rate was charged. Because it conforms to a scheme run by the European Parliament for MEPs to use public funds to publicise their work, a scheme which has similar standards to that operated by the House of Commons, I did not regard the piece or its contents as political. My only motivation in including this advertisement, and indeed all the others, was to minimise the cost to public funds.

I am very happy to try to answer any further points you might have, or indeed to meet, if you feel that would be helpful.

2 May 2007

13. Letter to Mr Malcolm Bruce from the Commissioner, 9 May 2007

I enclose a copy of a letter dated 28 April from Ms Simpson, one of your constituents, in which she expresses concerns about your recently circulated annual report. You will see that Ms Simpson’s concern focuses on:

1. the timing of issue of your report, in the run-up to Scottish Parliament and local elections.
2. the inclusion in the report of 2 photographs of a Liberal Democrat candidate for the Scottish Parliament, Ms Nora Radcliffe, and of one showing you with the Scottish Liberal Democrat Leader, Mr Nicol Stephen.

Ms Simpson did not say in terms in her letter that she wished to make a formal complaint about your report and on receipt of her letter I therefore wrote to ask her if she did wish to do so. She has now confirmed that she does.

I see that your annual report was paid for out of your Incidental Expenses Provision (IEP). Paragraph 14 of the Code of Conduct for Members approved by the House provides:

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

The guidelines issued by the House’s Department of Finance and Administration (DFA) on funding publications from the IEP (a copy of which I enclose) provide that:

“No party political or campaigning material is allowable in any part of a publication funded, in whole or in part, from the [Parliamentary] allowances” (paragraph 5).

They also provide (paragraph 11) that IEP-funded publications must not be used:

“to promote, criticise or campaign for or against anyone seeking election.”

I have made clear in correspondence with Ms Simpson that the guidance relating to IEP-funded publications does not contain anything limiting or preventing their publication during a local or Scottish parliament election period. Nonetheless her complaint raises, I believe, an important issue of principle, which is also relevant to several other complaints concerning reports or newsletters issued by other Members I have recently received.

Accordingly, in line with the procedures agreed by the House for handling complaints—a note of which I enclose—I am writing to invite your response to Ms Simpson's complaint. It would be helpful if this could include information about the date(s) or period, and the manner of distribution of your report, as well as the number of reports that were distributed and the area covered.

If you would like a word about this matter, please do not hesitate to get in touch. I am copying this letter and enclosures to ... (the Director of Operations in the DFA), whose advice I shall seek in the light of your response before deciding how best to proceed.

9 May 2007

14. Letter to the Commissioner from Mr Malcolm Bruce, 22 May 2007

Thank you for your letter of 9 May.

I think it would be helpful if I explained the process through which I went prior to the distribution of the annual report, which, incidentally is not yet complete and covers my Westminster constituency which differs significantly from the Scottish Parliament boundaries in that 36 per cent of the electorate lives in the City of Aberdeen and the Scottish Parliament constituency of Aberdeen North.

Work started last November when I approached the Royal Mail with a view to distributing the report early in the New Year and was offered a distribution date in February. Preparation took longer than expected due to staff changes and the introduction of new software.

When it was near completion Royal Mail changed the proposed distribution dates to the period covering 21 March to 26 May. Had we not accepted these dates the distribution would have slipped to a period starting in July, which would have made the information in the annual report more than half a year out of date and outside the 2006/07 financial year.

For these reasons I took the view that we could not delay any further nor abandon the near completed artwork and start again. The firm intention was for the distribution, which normally takes place early in the New Year, to be complete well before the election.

As far as the content was concerned I was careful not to use it in a party political way. There is no other mention of my party in the report apart from the caption of the picture of Nicol Stephen. The pictures of Nora Radcliffe were just representative of the kind of work I do.

I also mention Joan Ruddock by name and refer to the Prime Minister and a defence minister but would hardly regard this as promoting the Labour Party.

The captions were inserted at the last minute and I did not have time to check them. However at the time the photographs were taken Nora Radcliffe was the MSP but I would have left the letters out. Nicol Stephen was Transport Minister and Deputy First Minister at the time and that is how I would have chosen to describe him.

As far as I have been able to check, out of a total of 35,092 reports a maximum of 13,063 were distributed in the Gordon Holyrood constituency during the period of the election. A further 11,708 were distributed either side of polling day in the Aberdeen North part of my constituency. 7,618 were distributed before or after the election period.

I believe both in the content of the report and its distribution I adhered to the guidelines and would refute that this is party political or campaigning material or promoting any candidate.

However, given the House has now voted for a communication allowance which will increase the amount of material members will send out in their constituencies I would appreciate clear guidelines for the future—subject to the understanding that MPs will inevitably present themselves in a positive light in this kind of literature and therefore partisan opponents are likely to take exception.

I hope this reply meets your requirements but please get in touch if you need any further information.

22 May 2007

15. Letter to Mr Sadiq Khan from the Commissioner, 15 May 2007

I enclose a copy of a letter I have received from a Mr D Newman, one of your constituents, expressing concern about the Parliamentary newsletter—funded from the new Communications Allowance (CA)—which you recently circulated in your constituency. You will see that Mr Newman complains about:

1. the prominent display of the Labour Party logo in the heading on page 1 of the newsletter;
2. the photograph of you (also on page 1) standing beneath a sign stating that you are the ‘Labour Member of Parliament for Tooting’.

He asks whether these amount to material promoting the Labour Party, and whether they are therefore in breach of the rules relating to the CA.

Paragraph 14 of the Code of Conduct for Members provides:

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

The rules and associated guidance relating to the CA were circulated to Members last month. They make clear that the allowance must not be used to meet the costs of party political activities or campaigning.

In relation to party logos, the guidance about newsletters funded from the CA says (paragraph 16):

“The use of party logos, whilst not disallowed entirely, is restricted to proportionate and discreet use; alternatively you may prefer to use the House emblem (the crowned portcullis) as this reflects the Parliamentary nature and purpose of the material being circulated.”

As regards the photograph about which Mr Newman complains, I am aware that Members have for some time been allowed to describe themselves as the “Labour [or Conservative] Member for X” when writing to constituents.

I have informed Mr Newman of both these points. Nonetheless I feel it right to put his complaint to you and invite your response, in accordance with the procedures for handling complaints approved by the Committee on Standards and Privileges and set out in the enclosed note.

I shall also be seeking advice on the complaint from the House’s Department of Finance and Administration (DFA), with which I shall share your response. When you respond I should be grateful if you could make clear, in addition to any other comments you wish to offer:

1. How many copies of your newsletter were distributed.
2. When, how and to whom.
3. Whether you consulted the DFA at all on the draft text of the newsletter.
4. What is the nature of the “Sadiq Khan Supporters Network” mentioned in the tear-off slip on the final page of the newsletter.

5. What is the nature of the 'newsletters' referred to in the final tick box on this same slip. Do those to be delivered include Labour party material?

I look forward to hearing from you. If you wish a word at any point, please do not hesitate to get in touch.

15 May 2007

16. Letter to the Commissioner from Mr Sadiq Khan, 22 May 2007

Thank you for your letter, dated 15th May 2007, dealing with the five questions you asked.

Please note, for your records, that Mr Newman's post code is actually ... (he got it wrong in his letter!).

1. I distributed 40,000 copies of the newsletter—one per household in my constituency—using the funds in my Communications Allowance.
2. The newsletters have been delivered during May by a local private company—County Distributions Group.
3. Prior to printing, my office contacted both the Serjeant-at-Arms and the DFA to send them a copy of the newsletter for their approval. The DFA did raise queries with two elements of my newsletter's content—neither of which were the subject of Mr Newman's complaint—but felt that neither point of query warranted a change to the document, nor a prevention of using my Communications Allowance to pay for the production or distribution of the newsletter. My office can provide you with both the name of the gentleman from the DFA who e-mailed his approval and a copy of the email itself if you require it.
4. The 'Sadiq Khan Supporters Network' is a group of constituents who volunteer to assist me with my Parliamentary, as opposed to political, work. Their time is used stuffing envelopes with 'Totally Tooting'—my regular newsletter.
5. 'Totally Tooting' is a non-political newsletter that I send out to update my constituents about my Parliamentary and constituency work. I am happy to provide you with previous editions of 'Totally Tooting' should you wish to see these.

I hope this letter has allayed the concerns that Mr Newman purported to raise in his letter of 9th May 2007.

My office and I have always adhered to the Parliamentary standards and rules, so I am confident that you will decide not to uphold the complaint raised. If, of course, you require any further information then please do not hesitate to contact me.

22 May 2007

17. Letter to the Commissioner from Mr Norman Baker, 4 September 2007

Thank you for your letter of 18 July, and the opportunity to be able to discuss this briefly with you subsequently. I am sorry not to have been able to get this reply to you before the House rose and before holidays intervened.

I have read carefully the letter you sent to me, which in turn incorporated comments from the Director of Finance and Administration at the Fees Office.

The original complaint from Mr Donovan was on two grounds. One of these questioned whether the fee paid by Sharon Bowles MEP was proportionate. I note that it has been accepted by the DFA that the fee was indeed proportionate and that you appear to be satisfied on this count.

The other issue related to whether the advertisement should be deemed political. I have noted the comments of the DFA in this regard.

The first point I would make is to reiterate that the piece was clearly marked as an advertisement. This should have signalled to the reader that it was not part of editorial content relating to the MP.

Second, the advertisement had been approved as qualifying for public funds under the scheme operated under the auspices of the European Union, which naturally also has rules on party political content of publicly financed material. The EU rules do not regard the disputed advertisement as political.

Third, I would also dispute that the contents of the advertisement were political. Sharon Bowles MEP is an elected local representative, who was seeking to use an avenue to report back to her constituents on the work she has been doing, just as Westminster MPs report back to their constituents. Under the rules relating to the IEP, and now the Communications Allowance, it is permitted to use party descriptions. Nor, I suspect, is there an objection to reporting back on her attempts to curb excess packaging. Nor was there any content which sought to denigrate political opponents.

The suggestion that this advertisement is unacceptably political would therefore seem to rest solely on the reference to my party leader Sir Menzies Campbell. I would argue that this is in fact much less political than the use of pictures showing candidates wearing rosettes, the use of party logos, and the colour-coding of leaflets in party colours, all of which are allowed (and none of which featured in my leaflet).

Fourth, the underlying allegation appears to be that by producing this leaflet, public funds might have been used to aid party political activities or campaigning. Your letter, paragraph 8, specifically draws attention to paragraph 5.1.1 of the Green Book in this regard, and the DFA refers, in your paragraph 20, to the material having “been paid from public funds”. Can I reiterate that the reverse is actually the case, insofar as the matter relates to public funding provided to me as a Westminster MP.

It has already been accepted that the fee paid for the advertisement was proportionate, and indeed the highest amount paid for any advertisement in this publication. There is therefore no question of cross-subsidy, as the DFA accepts and as is included at your paragraph 21.

The net result of the inclusion of this advertisement, therefore, and indeed all the other advertisements, has been to reduce the call upon public funds available to me. Under the rules, it was open to me to omit this and all other advertisements and simply to submit a higher demand under the IEP. Had I done so, no complaint would have been generated, as the complaint that has been made relates not to the editorial content but exclusively about an advertisement. It follows that there has been no use of public funds to aid party political campaigning, contrary to paragraph 5.1.1 of the Green Book. On the contrary, there has been the extensive use of advertisements, including the one from Sharon Bowles MEP, to reduce the call upon funds made available to MPs.

You will note that, of the total bill for publication and distribution of the newsletter of £4,157.95, all of which would have been claimable under IEP, it was my stated intention to claim only £985 from public funds, thereby saving the taxpayer over £3000.

I have not yet claimed the £985 pending resolution of this matter (though I note that the DFA recognises that this is a borderline case and that, at paragraph 22, it suggests that should I “seek reimbursement of the costs, that this should be made”) and I recognise that if I were not to claim, then the complaint would automatically fall.

I think it is useful, however, for this issue to be raised, for the definition of “party political campaigning” to be further considered, and in particular for the relationship between the approved scheme of the Westminster and European parliaments to be considered.

Lastly, in general terms, I must say I think it would be unhelpful to the House generally if a Member were to be criticised for successfully reducing the call upon public funds.

I hope this is helpful and look forward to hearing from you further.

4 September 2007

18. Letter to the Commissioner from Mr Malcolm Bruce, 24 July 2007

Thank you for your letter of 18 July 2007 and the accompanying draft memorandum incorporating comments from the DFA and inviting my comments. I appreciate the courtesy.

I must admit to being very disappointed in the Director of the DFA's comments.

I have produced annual reports for a number of years now and do not believe there is anything in this one that differs significantly from previous ones. In particular, when the Westminster and Holyrood boundaries were co-terminous I put out a joint report with the local MSP. My report was on one side and hers on the other—clearly demonstrating that we worked together. I believe other MPs followed this approach.

Since the Westminster boundary changes in 2005, I concluded for organisational reasons it would be better to produce my own.

I thought it was perfectly reasonable to incorporate photographs of Nora Radcliffe to demonstrate that we worked together on issues in which the Scottish and Westminster Parliaments both have an interest.

Had I elaborated on the work we had done together on behalf of local post offices or farmers I believed I would have been straying into campaigning on Nora Radcliffe's behalf. I do not believe that informing people that we did work together is in breach of the rules.

The pictures illustrate that we visited post offices and farmers together. As it happens we also spent the day with the same local vet but I thought it only appropriate to mention my own visit.

Turning to the photograph with Nicol Stephen, which the Director describes as “superfluous to the article with which it was connected” I can only point out that the article was about transport and Mr Stephen was Transport Minister when the photograph was taken. The picture is on the railway line at Kintore and the story refers to my ongoing support for a new station at Kintore.

The Director then states he has reservations about some of the language used in the article on post office closures and possibly the one on climate change, although he does not identify what these are.

I can only assume it relates to what I say about the Government's actions but I firmly maintain that these are statements of fact—i.e. the Government has reduced the number of post offices and the range of services and has now started another round of closures.

As to the article on climate change I would point out that when I was Chairman of Globe UK, the vice-chair, Joan Ruddock, and I did recruit an able and energetic director who has set up an international forum on climate change involving Parliamentarians from the G8 plus countries. I chaired the first one in London the week before Gleneagles and the Washington one referred to in the annual report was addressed by no fewer than 8 US Senators.

Although it is acceptable to use a party logo, party colours, feature members wearing rosettes and describe the Member by his party description I did none of these things. The only reference to the Liberal Democrats is in the caption describing Nicol Stephen as Scottish Liberal Democrat Leader. The logo used was the portcullis and the colour used is House of Commons green.

I did not submit the final proof to the DFA for approval as I was not required to and understood that in relation to reports being paid for out of IEP the DFA did not wish to see advance proofs. As I have described there were difficulties securing a delivery slot with Royal Mail and pressure to get the report printed in time to meet what was eventually offered.

I did not want to overlap the election period but was left with no choice if it was to be completed within the 2006/07 budget period. As the rules do not preclude issuing reports during local or Scottish elections I decided for reasons of budgeting and topicality to accept the delivery slots offered.

I should also point out that approximately forty per cent of the electorate live outside the Holyrood constituency of Gordon and the distribution was not completed until after the election. I think that should be measured against Mrs Simpson's claim that “this is blatant electioneering”.

This report was produced with full consideration of the rules of the House and in the belief that it complied. I do not accept that the photographs in question amount to promotion of the Liberal Democrats. I have also stated that I do not believe the text contravenes the guidelines.

I am extremely concerned that a report that was produced in good faith and in accordance with the rules could become the subject of a published criticism of my actions.

If there is any future guidance or clarification arising out of this I would have thought informal briefing to the Member or Members would be all that is required or justified.

Of course, I will in future be happy to accept clear guidance and submit proofs to the DFA. I would stress that guidance is open to interpretation and I am sure I and other Members would appreciate further clarification.

I am so concerned about the implications of this that I would very much appreciate the opportunity to meet with you and discuss this matter further before it goes forward for publication.

24 July 2007

19. Letter to the Commissioner from the Director of Operations, DFA, 13 August 2007

Thank you for your letter of 26 July enclosing one from the Rt Hon Malcolm Bruce MP. Mr Bruce has commented on your draft report and specifically on my observations contained within it. You have invited any further comments I might have.

Can I first mention that Mr Bruce is right to say that Members are not required to submit proofs of reports before publication. However, he is not right to say the Department 'did not wish to see advance proofs'. We have for some time offered a checking or screening service for Members in respect of their Parliamentary reports and this has been made very clear in our guidance. Indeed, the new Communications Allowance guidance encourages Members to use the service we offer.

On the substantive issues made by the complainant on which I have already commented, I note Mr Bruce's disappointment with my views. I can only try to explain more clearly the general points I have already made. First, the photographs and associated captions (two include Ms Radcliffe and one Mr Stephen), in my view, create an impression of promoting the Liberal Democrat Party. For this reason had the Department been asked to comment before publication we would have asked for some changes. The caption referring to Mr Nicol Stephen identifies him solely as the Scottish Liberal Democrat Leader and makes no reference to his role as Transport Minister. Arguably, this reinforces the overall party political impression one could gain from the report. However, I must acknowledge that I was unaware of Mr Stephen's former role as Transport Minister when I wrote to you in July and I concede this does put the inclusion of that particular photograph in a somewhat different light.

On the text of the report, it was, as Mr Bruce surmises, his references to the government's closure programme of Post Offices that left me with concerns. In general, we try to dissuade Members from attacking (or praising) the government of the day on their policies. In this case, which I accept is a difficult one, we would have asked Mr Bruce to adjust the text to reduce or eliminate the emphasis it placed on the government's alleged actions and focus instead on the Royal Mail's plans or his own constituency campaign.

The reason for writing to you again therefore is first, to acknowledge and to accept Mr Bruce's argument that the guidance is open to interpretation; and secondly, to reiterate that it is the House itself that has asked the Department to undertake this very function (i.e. of interpreting the guidance). Had my staff been asked by Mr Bruce prior to publication to review his report we would have advised him that in our judgement, in the two respects set out above, his report crossed the line into party politics. That said, I also acknowledge Mr Bruce's right to argue that on this quite fine judgement the Department has erred. I, too, would welcome any clarification this process now taking place through your offices might establish.

13 August 2007

20. Letter to the Commissioner from Mr Sadiq Khan, 25 July 2007.

Thank you for seeing me on the 25th of July and your letter, dated 18th July 2007, which enclosed the draft memorandum 'Complaints about Parliamentary Newsletters'. As I explained, I am very disappointed that this matter may be reported formally to the Committee on Standards and Privileges, especially as the complaints have not been found to be in breach of any rules. I would like to submit the following comments for inclusion in the report.

With regards to the initial complaint made by Mr David Newman, I welcome the Director of Operations decision that neither grievance was a breach of the Department of Administration's guidelines nor use of the Communications Allowance.

I am disappointed that, notwithstanding the above, you and the Director of Operations of the Department of Finance and Administration have sought to look into matters well outside the remit of Mr Newman's initial complaint.

In the interests of providing you with the clearest understanding into the publication of my newsletter, I feel that I should clarify the timeline of events.

There is no requirement on Members to seek advice from anyone before printing and distributing newsletters. However, on Monday 9th April, my office contacted the Serjeant-at-Arms to enquire how long it would take for the relevant Officer to examine my newsletter and indicate whether they felt it was in accordance with Parliamentary guidelines. My office was informed that such a review could be done within an hour of receiving the (electronic) soft-copy and that the electronic copy should be sent to a Ms B. We had diligently investigated quotes for the cheapest cost of producing the newsletter. Due to pressures from the printers, the only window available to us in the near future required the newsletter to be sent to them on the 17th April. A similar exercise had been undertaken with distributors of the newsletters. If the newsletters did not reach the distributors by the 23rd April we would not be able to have the newsletters delivered by the local company for a considerable time by which some of the news would have been out of date.

There were no elections held in London during 2007, and so there was no apparent or real electoral advantage in getting out the newsletter at that particular time. I note that one of the reasons why Mr A had minor concerns (as set out in his email of 19th April 2007) about my Newsletter was that "with local elections approaching this is a sensitive time" (see Page 2 of enclosures).

On Monday 16th April my office sent an electronic copy to Ms B requesting confirmation that the soft-copy did indeed comply with Parliamentary protocol. She replied, an hour later, that it was being forwarded onto Ms C—also in the Serjeant-at-Arms' office (see Page 1b of enclosures).

My office chased up Ms C. On the 18th April she confirmed that she "didn't (sic) see any problems" with the newsletter but asked Ms B to send it onto Mr A in the DFA to look at it. I have attached a copy of the email (see page 1a of enclosures).

My office took the above to be an approval by the Serjeant-at-Arms of the newsletter. On the basis of the above, and bearing in mind our prearranged slot with both printers and distributors, my office assumed they were in order and proceeded to send this to the printers. Once again, this is notwithstanding the fact that prior approval is not required, and is not normally sought, by Members.

Because I wanted further confirmation of the above my office chased, by way of email, Mr A requesting his own written confirmation stating that he was happy with the design and content of the newsletter. A further copy of the Newsletter was sent to him (see page 4 of enclosures). Later on that afternoon he replied noting his two minor concerns, which are detailed in the report. At this point my office contacted the printers to cease the print-run, and they learnt that a significant portion of the order had been completed. My office then spoke to Mr A to deal with the points he had raised and to enquire if this situation was of the severity that any submitted invoices would have been refused. Mr A said that these issues were not of such significance as to withhold payment of the invoices (see page 3 of enclosures).

I would further point out that there were no elections, of any kind, in my constituency in, or around, the time of the newsletter going out. There was no advantage to me personally in delaying further advice. The reason I

didn't wait for further confirmation was primarily due to the email from the Assistant Serjeant-at-Arms on the 18th of April, as well as the consequential long delay should our window with the printers and distributors be missed.

I now understand that the decision not to postpone the printing and await Mr A's amendments may have made the Director of Operations 'a little less comfortable' (page 8 of the draft memorandum), but seeking the Serjeant-at-Arms and Department of Finance and Administration's approval is not compulsory, and my office did allow the Serjeant-at-Arms' office time, which we had been previously advised would be sufficient, to suggest any amendments (which they did not) before printing. Further, the Assistant Serjeant-at-Arms, Ms C, did not see any problems with the newsletter. I would further add that the queries raised by Mr Newman were not picked up by the Serjeant-at-Arms or Department of Finance and Administration. In fact, no one else has complained about my newsletter and the Director of Operations has confirmed that neither of the matters raised by Mr Newman breached the guidelines. I would further point out that the Director of Operations has volunteered further comments about matters that have not been raised by Mr Newman or any other constituent.

Whilst I can see the usefulness of general policy issues being clarified by way of the Draft Memo, I feel slightly aggrieved that a complaint that is not in breach of any rules is being used as the basis of this.

Can I also reassure you that my office and I would not have submitted the invoices to be paid out of Parliamentary allowances had we not been assured by the Department of Finance and Administration that they would be deemed payable—which I understood to mean that it must have complied with the existing guidelines.

I believe that my office and I have always adhered to Parliamentary standards and rules with regards to the publication and distribution of literature. However without prejudice to this, and following this incident, I will ensure that all future submissions to the Serjeant-at-Arms and Department of Finance and Administration are sent off with additional good time.

Please do not hesitate to contact me should you wish to discuss this further.

25 July 2007

21. Letter to the Commissioner from Mr Sadiq Khan, 18 November 2007

Thank you for sending me the latest draft of your report to the Committee on Standards and Privileges, which I received on Thursday 14th November, and your invitation to respond to it.

Previous correspondence between us will have detailed my concerns with being included in this report, so I shall only discuss points raised in 'Further Comments by the Members Concerned, (a) Mr Sadiq Khan' (which can be found on p.10 of the draft report).

Your report is valid in respects that it is now clear my staff did not contact the Serjeant-at-Arms office on Monday 9th April, as this was Easter Monday. I have again spoken to the member of my office ... who contacted the Serjeant-at-Arms office to question why they provided me with this date when I was drafting my correspondence of 25th July. He has informed me that the exact date he made the call was an error on his part, and had been made in all innocence because he was trying to remember when a telephone call had taken place. As he was simply enquiring when we needed to submit a soft-copy of the newsletter he telephoned the Serjeant-at-Arms, rather than send an email (my office, like that of other Members, is a very busy environment and as such does try to manage its time as effectively as possible). I know the member of staff wishes that an e-mail had been sent—in order to keep a 'paper trail' for such an occasion as this—but as he was simply seeking to find out whom to send the soft-copy through to, and how long would be required to review it, he thought a telephone call would be sufficient. I have been assured that the telephone call did take place and was made at the very beginning of the working week—which would transpire to be Tuesday 10th April—and if there is any method of seeing a record of internal telephone calls placed by my office on this date this could be verified quite easily. I do not doubt that my employee's recollection is correct and he did

telephone the Serjeant-at-Arms office, albeit at a different date to the 9th April. I would like to offer my apologies if this mistake has in any way inconvenienced the production of this report.

The draft report states that the Serjeant-at-Arms office were ‘surprised that Mr Khan’s staff had gained the impression that they could have commented on the proposed copy for the newsletter within one hour as they could never turn around such requests in that period, and the responsible officer was in any case on leave at the time’. My member of staff was simply calling the Serjeant-at-Arms to find out two simple points—who to send the soft-copy through to, and how long would be required to review it. I do not believe that my staff could have mistaken the response given to them. Were my office informed that it took longer than one hour to review the soft-copy then this would have been accounted for in the production schedule—and I do not believe that insinuation that they arbitrarily chose to allow the Serjeant-at-Arms only one hour to complete a review is warranted in the draft report.

I note that the Department of Finance & Administration are not disputing that they were contacted by my member of staff. I think it reasonable to assume that my member of staff had indeed been misinformed by a member of the Serjeant-at-Arms’ office as to the time the Serjeant-at-Arms would require to review the soft-copy, as they were also misinformed whom to send it to (see my letter dated 25th July 2007)—for example, had they been correctly informed that Ms C was the person to send the soft-copy to they would not have sent it to Ms B.

I note, and agree with, the Director of Operations of the DFA that “some extenuating circumstances arise in this case”.

I do feel that this particular draft report—which has strayed considerably from the initial complaint made by my constituent—should be attributed to a communication failure made by extremely busy individuals working with good intent. As far as my office is concerned, we have made efforts to avoid such incidents happening again—in September 2007 my office sought approval of the DFA before the production of further pieces of literature. The DFA advised on a couple of minor points and advised my office to make minor changes. On this occasion we happily accepted the unambiguous (and non-contradictory) advice on the draft literature which was amended ahead of the commencement of printing.

As the original complaint has not been upheld, and as there have been no further complaints from any constituent about any part of my newsletter, and seeing as the DFA did agree that the only points of contention were not ‘significant enough to withhold payment’ (Mr A’s email dated 19th April and provided with my correspondence of July 25th) I would hope that this matter can now be concluded.

I am puzzled how the Director of Operations maintains that ‘strictly speaking Mr Khan’s newsletter was outside of the rules’ when he also accepts that my office was given contradictory advice previously by the Department of the Serjeant-at-Arms office.

As I have always stressed, I believe that my office have acted in good faith and in accordance with Parliamentary protocols and procedures. Whilst I acknowledge that there is no obligation for Members to seek approval from the Serjeant-at-Arms or the Department of Finance & Administration, I do think that if we are to encourage more Members to adhere to ‘best practice’ as I do, and seek prior approval, it is important that there is better communication between the DFA and the Serjeant-at-Arms departments and better guidance to Members about exactly who to contact and how much time to allow for their approval (including time permitted for further approval being given by the DFA) to further drafts of the newsletter that are subsequently amended to take into account initial DFA advice.

Please do not hesitate to contact me should you wish to discuss this matter further.

18 November 2007

Appendix 2: Memorandum from Mr Norman Baker, 3 December 2007

Response to Memorandum submitted by the Parliamentary Commissioner for Standards in respect of complaint lodged by Mr Tristan Donovan

Thank you for the opportunity to respond to this memorandum. You have been supplied in the memorandum with copies of correspondence between the commissioner and myself so I do not propose to reiterate my position at length. The following comments are thus intended only to respond to the memorandum itself and to summarise my position.

My comments are as follows:

1. The total cost of printing and distributing this leaflet was £4157.95. As in previous years, I sought to minimise the cost of this to the public purse, notwithstanding that had I omitted the advertisements, all of this could legitimately have been claimed under parliamentary expenses. I have issued such a leaflet each year and in some other years, have submitted no claim at all. The claim in respect of this leaflet was for £985 to cover the residual shortfall after advertising revenue had been taken into account, around only 24% of the total cost.
2. It is common ground that there is no issue with any part of the leaflet with the exception of the advertisement placed by Ms Sharon Bowles, so perhaps ironic that had this advert not been included and a higher claim made against public funds, no complaint would have arisen.
3. I ask the committee to accept that my motivation in including this advert, and indeed all others, was to minimise the call upon UK public funds. I think it would be unfortunate if that approach were to be discouraged as a result of this complaint.
4. In respect of the advert itself, I have conceded that I did not seek advice from the DFA on this and, obviously, rather wish I had.
5. I did however establish that the content of the advertisement, paid for out of funds made available by the European Parliament, was permissible under that scheme, a fact that the Commissioner has had confirmed informally by officials of the EU parliament (page 28 lines 10-12). Whilst I accept that that does not in itself mean that the rules of the UK parliament have been followed, I would argue that this fact should nevertheless be taken into account and given some weight.
6. That said, the question is whether the advertisement in question breaches the House's rules. I accept that Paragraph 5 of the DFA's supplementary guidelines, quoted in the memorandum on page 31, refers to the presence of "political or campaigning material...in any part of a publication", but would argue that the fact that the piece in question was clearly labelled as an advertisement should nevertheless be taken into account and given some weight.

7. As regards the content itself, you will have noted that I dispute that this does constitute a breach of the rules. It must be permissible to feature a local MEP, and I understand that the use of a party label is also permissible. Nor, I would argue, can efforts to reduce packaging be regarded as inappropriate, so I presume that the objection rests on the reference to the then Lib Dem leader Sir Menzies Campbell.
8. In my letter of 4 September to the Commissioner, I draw attention to the fact that this reference is far less political than some elements which are expressly permitted in publications fundable from UK parliament public funds, including the use of pictures showing candidates wearing rosettes, the use of party logos and the colour-coding of leaflets, none of which featured in my leaflet.
9. I would argue that, particularly given the relatively recent changes to the rules to allow proactive communications to be funded from parliamentary allowances, initially the IEP and now the Communications Allowances, the lines between permissibility and impermissibility are not yet clear, and given what is expressly permitted, as referred to in the paragraph above, it was not unreasonable to assume that the mention of a party leader would also be permissible.
10. In his report, the Commissioner raises several new points which I have not previously had the chance to respond to. On page 34, the Commissioner provides support for his conclusion that one part of Mr Donovan's complaint should be upheld by emphasising the use of the word "local" to describe Sharon Bowles. I confess that I do not understand the objection, nor why that description should have weighed heavily with the Commissioner. Ms Bowles is as local an MEP as it is possible to get, given the nature of the electoral system currently in use for European Parliament elections. Whether Ms Bowles is "local" or not does not seem to me to be relevant to the issue at hand.
11. The Commissioner also suggests that the fact that Ms Bowles is of the same party as myself "arguably imports a party political element into his newsletter" and points out that other MEPs of different parties did not feature in advertisements.
12. I would argue here that the fact that Ms Bowles features does not in itself import a party political element. That must turn on how she features.
13. Nor is it fair to draw attention to the absence of advertisements from MEPs of other parties (page 34). No publication can be expected to run advertisements from individuals or organisations hostile to it—would the Daily Mail run an advertisement for the Daily Express?—but that does not mean that any advertisement that does appear, in this case from Ms Bowles, is therefore automatically political.
14. To conclude, I should mention that at the time the complaint was lodged, I had not actually claimed the £985 in question and it would of course have been open to me not to have done so, at which point the complaint would have fallen. I did not in fact submit the claim until very recently, as I wanted to wait for the outcome of this process, but finally did submit it given the long delay in paying the publisher that had ensued, and on the advice of the Fees Office.

15. I chose to allow the complaint to run, firstly because I do not believe I have broken the rules for the reasons given in my letters to the Commissioner and in the paragraphs above, but secondly because I think it may be helpful for the committee to be able to consider further both the definition of political material in respect of permissibility under this scheme, and the inter-relationship of the House's scheme with that of the European Parliament and perhaps other elected bodies as well.
16. Lastly, I draw your attention to the fact that both the Director of Finance and Administration and the Commissioner recognise that this is not a clear-cut case. The DFA notes (page 12, line 24) that in his view, "this is a difficult and novel case." Later (page 13, line 25) he adds: "The issues are not straightforward and there is therefore a case for saying on this occasion, should Mr Baker seek reimbursement of the costs, that this should be made." And later still (page 20, line 26) he opines: "If you determine that there has been a breach of the rules, it is a relatively minor one."
17. The Commissioner (page 28, line 71) describes this as "not an easy case". He also reaches his view that it has crossed the line into impermissibility only "on balance" (page 33, line 6).

I am grateful for the opportunity to set out these further thoughts.

Appendix 3: Letter to the Clerk of the Committee from Mr Malcolm Bruce, 3 December 2007

As I have already given my comments to the Commissioner, I will confine myself to a number of specific points.

I wish to stress that for the six years that the Holyrood and Westminster constituency boundaries were co-terminus it was my practice to issue a combined annual report with the MSP. My report appeared on one side of an A3 sheet and the MSP's appeared on the other.

This was common practice in a number of constituencies and among other parties as well. I am not aware of any complaint being generated.

For that reason I could see no reason why I should not continue to highlight the fact that I worked with the Gordon MSP on a variety of issues relevant to the constituency and both Parliaments.

Transport issues are the responsibility of both Westminster and Holyrood especially concerning railways which are an important part of what I am working on. The photograph was designed to show my representations to the then Transport Minister on the specific issue of a station at Kintore.

I did not see this as promoting the Liberal Democrats any more than my mentions of Joan Ruddock or the Prime Minister were promoting the Labour Party.

Perhaps most important of all is the timing of publication around election time. I carefully checked before publication that there was no constraint on distributing reports, paid for out of IEP, around an election time. I could therefore see no reason to abandon the report, which I would have had to do if I had given up the Royal Mail household distribution slot.

In spite of the rule regarding elections it seems my report is being judged because of its proximity to elections. The implication, given both the DFA and the Commissioner agree that it is finely balanced, is that the complaint may not have been upheld if the timing had been different.

In addition the commissioner refers to recent guidance issued under the Communications Allowance. My report predates this and was paid for under the IEP and published prior to the new guidance being issued. It seems therefore it is being judged retrospectively under the new rules for the CA rather than those existing at the time under IEP.

I very much welcome the guidance for the future, wish to assure the committee that I did not for a minute believe I was breaching any rules or guidelines and would not have published had I thought I was.

I have sought DFA approval for all publications I have since issued under IEP or CA and would in future do so and apply unconditionally with any guidance given.

I am proud of my record of upholding the standards of the House over nearly 25 years as a member, and give the committee my personal assurance of my continued determination to do so.

I hope that in the light of my further submission above the committee will be prepared to acknowledge that the very fact that the complaint has been scrupulously investigated has been a salutary experience.

Publishing a critical report of a member is a serious step for the committee to take. No breach was intended and given that the change in the guidelines has been issued since my report was published I hope the committee will decide not to uphold the complaint.

The committee can be fully confident that I will continue to follow guidelines meticulously to avoid any possible justification of future complaint.

Appendix 4: Memorandum from Mr Sadiq Khan

Letter to the Clerk of the Committee from Mr Sadiq Khan, 6 December 2007

Report to the Committee on Standards & Privileges

I am writing in response to your letter of 28th November 2007, which enclosed with it the Report from the Parliamentary Commissioner for Standards into Mr D Newman's complaint against me.

Your letter invited me to submit a Memorandum of written evidence for the Committee to consider, in addition to the Report. Please find my memorandum enclosed. I am also enclosing a colour copy of a newsletter from Rob Wilson MP.¹ I would also ask that the advertisements in Appendix 2 of the Committee on Standards & Privileges (1st Report of Session 2007-08) be given to all.

In summary, I believe that both complaints made by Mr D Newman should be dismissed. This was the conclusion of the DFA Director of Operations also. The Commissioner has decided to disagree with one of the findings of the DFA Director of Operations, in relation to the "logo issue". You will see from the Memorandum that I disagree with the Commissioner and respectfully submit that he has misdirected himself on this point in relation to the definition of "proportionate and discreet" and has used a precedent that is distinguishable from my newsletter.

The DFA Director of Operations has made some additional points during the course of the investigation by the Commissioner that I have dealt with in my letters to the Commissioner, in my meeting with him and in the Memorandum, that I will not rehearse in this letter.

I would further point out that there were no elections, of any kind, in my constituency or around London at the time of the newsletter's distribution. There was no advantage to me personally in delaying further advice. (It would appear from the Commissioner's finding on the "logo issue" that even if I had obtained further advice and acted upon it that I would have not been immune from a complaint being upheld). The reason I didn't wait for further confirmation was primarily due to the email from the Assistant Serjeant-at-Arms on the 18th of April, as well as the consequential long delay should our window with the printers and distributors be missed.

I believe that my office and I have always adhered to Parliamentary standards and rules with regards to the publication and distribution of literature.

¹ Not printed.

As I have also stressed, I believe that my office have acted in good faith and in accordance with Parliamentary protocols and procedures.

I look forward to hearing from the Committee shortly.

Memorandum from Mr Sadiq Khan, 5 December 2007

Introduction

1. I have had the opportunity to read the Report from the Parliamentary Commissioner for Standards (hereafter referred to as the Report), and would like this Memorandum to be considered by the Committee, in addition to the report, before a conclusion is reached.

2. I have separated the Memorandum into two main subheadings;

A: Complaints made by my constituent, Mr D Newman

- The leaflet “*prominently*” (my italics) displayed the Labour Party’s red rose logo on the front page of my newsletter (hereafter called “**The Logo Issue**”).
- A picture, on the front page of my newsletter, of me standing beneath a sign stating that I am the “Labour Member of Parliament for Tooting” (hereafter called “**The Labour MP Issue**”).

B: Additional comments from the Department of Finance and Administration (DFA)’s Director of Operations

- The reference to “Labour Councillors”, in the ‘Cleaner Streets in Graveney Ward’ window found on page.2 of my newsletter.
- The references to the Government’s “commitment” and “priorities” in the section ‘Looking towards the future’, which is on p.3 of my newsletter. (Both hereafter called the ‘**DFA Additional Comments**’).

3. I would invite the Committee to read the following documents in addition to the Memorandum;

- Item 16 (p.51 of the Report)
- Item 20 (p.55 of the Report)
- Item 21 (p.57 of the Report)

Background

4. The Communications Allowance was introduced on 1st April 2007, and is intended to assist members to “*communicate proactively*” (my italics) with their constituents.

5. There are three basic areas where advice can be sought by Members, before they draft a newsletter (such as the one that forms the basis of this report);

a) Looking at newsletters other Members have produced

and/or

b) Speaking to other, more experienced, Members and seeking advice from more experienced colleagues

and/or

c) Obtaining prior approval of the newsletter from the DFA and/or Serjeant-at-Arms

6. I sought advice from all three sources of expertise before producing my newsletter.

Preliminary Comments

7. The newsletter was produced and distributed in April & May 2007. There were no elections in Tooting and/or London during 2007.

8. The DFA Guidelines (see item 8, p.44 of the Report) states inter alia;

“Principles

4. The sole propose of the editorial elements of the publication must be to *inform constituents about your work as a Member* (my italics) and/or to provide information about how to contact you”

Content

10. The following material is likely to be allowable, subject to paragraph 11 below;

- *Information about you*
- *Factual information about Parliament, debates etc*
-
- *Factual material about your work as a Member*
- *Factual information about local services e.g. the local authority”*

(My italics)

Dealing with the issues

A: Complaints made by my constituent, Mr D Newman

“The Logo Issue”

9. I note that the Commissioner disagrees with the views of;

- An official in the Serjeant-at-Arms department (before publication). See para.43, p.17 of the Report.

- An official in the DFA (before publication). See para.43, p.17 of the Report.
- The DFA's Director of Operations (after publication and after complaint). See para.45, p.17 of the Report.
- My view, taking into account, my own responsibility to comply with the relevant rules of the House.

10. The Commissioner cites the case of the conduct of **Mr Llwyd, Mr Price & Mr Williams** as "fortification" for his view. I have had a chance to consider this Report from the Committee of Standards and Privileges. It would appear from this that the Commissioner maybe using this case as a precedent.

11. I would respectfully distinguish my case from the above examples for the following reasons;

- Para 14 & 15 (p.5) of the Report from the Committee on Standards & Privileges (1st Report of Session 2007-08) confirmed that the complaint against Mr Williams was upheld on the grounds that his use of the Party logo was not "proportionate and discreet". Whereas the complaint against Mr Llwyd's use of the logo was **not** upheld as Mr Price's advertisement had been prior-approved by the DFA and this "should be the yardstick" against which Mr Llwyd's advertisement should be held (as the size of Mr Llywd's logo was the same as Mr Price's). Unlike Mr Williams' advertisement, **which did not receive prior-approval**, I did get prior-approval. **The correct comparison is with Mr Price, and not Mr Williams. Accordingly, the complaint against me should also be dismissed, like it was in relation to Mr Price (on this point in the complaint against him).**
- The logo in my newsletter appears once over four sides of A4. (Assuming that the Committee does not accept my above submission that the correct comparator to my newsletter should be Mr Price, rather than Mr Williams). When considering whether my logo is "proportionate and discreet" the Committee should consider it over four pages. In Mr Williams case, his logo was 47mm high & wide, in colour, as a centre heading on each and every page of an advertisement against a logo appearing only once on a newsletter of four pages (as is the position in my case). Accordingly, when assessing whether the logo was proportional over all, the fact that there are three pages without a logo clearly dilutes the impact of the logo and makes it "proportionate and discreet".

Mr Williams logo was;

47mm + Name of Political Party (on every page) multiplied by the number of pages

Whereas my logo was;

43mm x 65mm (but without the Name of Political Party) on one page divided by 4 pages

12. In the Plaid Cymru example, the name of the Party is next to the logo. There is no reference to my political party next to the logo on my newsletter.

13. The Commissioner, in my view, placed a disproportionate amount of weight on the photograph of me in front of my constituency office. With respect, I find it a real stretch for the Commissioner to use the factual description of myself (which I use in my correspondence, business cards and office) LINKED to the colour red to therefore conclude that the logo is disproportionate and indiscreet.

14. I would ask the Committee to look at the photograph of me outside my constituency office and pay particular attention to the 'strap line' under the photo. This states 'Contact Sadiq' and is next to the box 'Inside this issue' (on p.4 of the newsletter I list seven ways for my constituents to contact me). The DFA Guidelines (para.4, item.8 p.44 of the Report) specifically state that one of the purposes of the newsletter should be to "provide information about how to contact you". I am the first Member of Parliament for Tooting to have a constituency office since the early 1990s, and this was the reason for the small photograph – to promote a way of contacting me, rather than promoting my political party.

15. The photograph in question is also extremely small in context of the whole page. It is one of five photographs on the first page (and not even the largest photograph!).

16. Further, the Commissioner accepts that it is not contrary to the rules for a Member to describe themselves as "the Labour Member for X". This is a statement of fact. I would further point out that there is also nothing in the rules prohibiting the use of certain colours.

17. I would distinguish my case also from the case of **Mr Rob Wilson (HC 1071)**. In that case the Conservative Party logo was accompanied by the words "Reading East Conservatives". In fact, in a four page leaflet he used the logo coupled with the name of his political Party on three occasions prominently in the foreground, and has the Party logo (the Conservative 'Oak Tree') embedded on all four pages in the background. My newsletter is clearly distinguishable from this case as well. I have attached a colour copy of his newsletter to this Memorandum for convenience.

18. Just like the Plaid Cymru case, it was the coupling of the particular choice of words with the logo that created the impression that the report was Party political rather than a Parliamentary publication.

19. I think the Commissioner may have been on stronger ground if the largest picture on p.1 of my newsletter had been of me standing outside my office (with the sign describing my political party) rather than in being one of five photos (and one of the smallest).

20. I would add that if the picture on p.1 of my newsletter, which confirms that I am a "Labour Member of Parliament for Tooting", is within the rules and identifies to the reader that I am a Labour MP. Why would I need to put a logo on the same page?

21. Accordingly, I respectfully submit that the Commissioner has misdirected himself on this issue.

“The Labour MP issue”

22. The Commissioner dismisses this complaint and does not recommend that Mr Newman’s complaint be upheld. I note, on this occasion, that he agrees with

- An official in the Serjeant-at-Arms department (before publication).
- An official in the DFA (before publication).
- The DFA’s Director of Operations (after publication and after complaint).
- My view, taking into account, my own responsibility to comply with the relevant rules of the House.

23. I also note that the Commissioner accepts that it is not contrary to the rules for a Member to describe himself as “the Labour Member for X”, on p.1 of the newsletter.

B: Additional Comments from the DFA’s Director of Operations

“DFA additional comments”

24. I would draw the Committee’s attention to the following parts of the report;

- i) Para 103, p.39 of the Report
- ii) Para 101, p.38 of the Report
- iii) Para 66, p. 26 of the Report
- iv) Para 100, p.37 of the Report
- v) Para 63, p.25 of the Report

25. The Director of the Serjeant-at-Arms has confirmed that he could understand “Mr Khan’s (sic) distress that apparently contradicting advice came from different departments of the House”.

26. And also, “But I can also see that some extenuating circumstances arise in this case”

27. Dealing with the substantive concern,

(1) “Labour Councillor”

If the Committee examine the box “Cleaner Streets in Graveney Ward” (p.2 of newsletter) they will see that it is a statement of fact, as all three Councillors in Graveney ward are Labour representatives. It is therefore “*factual material about my (sic) work as a Member*” and “*factual information about local services e.g. the local authority*” as specifically allowed in the DFA Guidelines. Had the ward been a ‘split ward’, with representatives from more than one Party, I could perhaps understand the concern.

28. The map in the boxes sought to show the work that I had been doing in each of the wards in the constituency of Tooting.

29. I would respectfully draw the Committee's attention to the DFA Guidelines, the key paragraph of which I have set out above (see para.8, bullet points 1, 3 & 4)

(2) The Government's "commitment" and "priorities" in parts of the section "Looking towards the future"

30. I also find these concerns unfair. I would respectfully ask the Committee to read the section, half way down page 3 of my newsletter, and the entire leaflet in the context of the DFA guidelines. The Environment is a key theme throughout the newsletter.

31. On p.1, I have a photo of the (then) Secretary-of-State for the Environment, and I am holding an energy-efficient lightbulb. Next to a picture of a bike (an environmentally friendly mode of transport), I state what I believe to be the most serious threat we face. I then set out some unarguable sentences of facts. I am unclear which of these are partial or inaccurate.

32. Once again, had I preceded the word "Government" with that of "Labour" I could understand some concern, however even then they would still be a statement of fact.

33. I hasten to add that I have not commented on and/or criticised any other political party's stance or policies on the environment (which may have led me to fall foul of the DFA Guidelines).

34. I am confused how a MP can write about the policies of a Government (when it is from the same Party as the MP) without being accused of "promoting a political party or its policies" if these sentences are adjudged to be in breach of the rules (albeit in a small way).

Conclusion

35. I note that the DFA believes my newsletter is a "borderline" decision, where the benefit of the doubt should be given to me.

36. I still feel aggrieved that I appear to be penalised for reasons other than the original complaint, simply because I took the trouble to seek advice (in relation to "the DFA's Additional Comments"). Worse, where I took the advice on my newsletter and was given the green light to ensure that the newsletter was within the scope of the rules the Commissioner has decided to overturn the DFA's Director of Operations findings (in relation to "the Logo Issue").

37. Further as there were no elections in London I had nothing to gain politically by taking any risks, especially as I had sought prior approval from the relevant authorities.

38. I would hope that the Committee dismisses all the complaints against me

Formal minutes

Tuesday 11 December 2007

Members present:

Sir George Young, in the Chair

Mr Kevin Barron	Mr Chris Mullin
Mr David Curry	Mr Paddy Tipping
Mr Andrew Dismore	Dr Alan Whitehead
Nick Harvey	

Draft Report [Conduct of Mr Norman Baker, Mr Malcolm Bruce and Mr Sadiq Khan], proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 35 read and agreed to.

Several Papers were ordered to be appended to the Report.

Resolved, That the Report and Appendices be the Second Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

[Adjourned till Tuesday 15 January 2008 at 10.30 am]

Reports from the Committee on Standards and Privileges in the current Parliament

Session 2007-08

First Report	Conduct of Mr Elfyn Llwyd, Mr Adam Price and Mr Hywel Williams	HC 94
Second Report	Conduct of Mr Norman Baker, Mr Malcolm Bruce and Mr Sadiq Khan	HC 182

Session 2006-07

First Report	Evidence to the SSRB Review of Parliamentary pay, pensions and allowances	HC 330
Second Report	Conduct of Mr David Cameron	HC 429
Third Report	Complaints about alleged misuse of Parliamentary dining facilities	HC 431
Fourth Report	Conduct of Mr Julian Brazier	HC 682
Fifth Report	Handling of future complaints on misuse of the private dining facilities	HC 683
Sixth Report	Conduct of Mr George Galloway	HC 909
Seventh Report	Conduct of Mr Gregory Campbell	HC 992
Eighth Report	Conduct of Mr Martin Salter and Mr Rob Wilson	HC 1071

Session 2005-06

First Report	Conduct of Mr Jonathan Sayeed	HC 419
Second Report	Conduct of Mr John Horam	HC 420
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Fifth Report	Electoral Administration Bill: Simplification of Reporting Requirements	HC 807
Sixth Report	Mr Stephen Byers (Matter referred on 19 October 2005)	HC 854
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Sixteenth	Review of the Guide to the Rules Relating to the Conduct of Members: Consultation Document	HC 1580

