

Minor changes to the Scheme of MPs' Business Costs and Expenses

Consultation report, May 2019



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Introduction

1. This is the report on the consultation held by the Independent Parliamentary Standards Authority (IPSA) on minor changes to the Scheme of MPs' Business Costs and Expenses ('the Scheme') and IPSA's publication policy. It includes IPSA's response to the questions consulted on.
2. The consultation ran between 28 January and 18 February 2019. We received 12 responses, including from 10 MPs, one MP's staff member and the Committee on Standards in Public Life (CSPL). We are grateful to all who replied.
3. We have summarised responses throughout this report, but do not identify any individual respondents, with the exception of the CSPL.

Background

4. Following a comprehensive review, IPSA published a revised, simplified Scheme in 2017. The intention was that this version should last, with minimal amendment, until the next Parliament. In 2018, the only changes made to the Scheme were in relation to MPs' annual budgets and nightly limits for hotel claims.
5. However, a number of issues arose in the last year which we believed should be addressed in the Scheme for the 2019-20 financial year.
6. The sections below set out the proposed changes included in the consultation, as well as the responses we received and IPSA's position as a result of those responses.
7. As a result of a separate consultation on MPs' remuneration in 2018, IPSA decided to introduce a new winding-up payment for MPs who lose their seats at a General Election and those who stand down at a snap election. This change is not addressed in this report, but has been introduced in the 2019-20 Scheme.

Use of IT equipment for campaigning

8. Our evaluation work following the June 2017 General Election showed that one area which caused confusion for MPs and their staff was the use of IT equipment for campaigning in the dissolution period. IPSA's position was that any IPSA-funded IT equipment should only be used for parliamentary purposes, and MPs should not use it at all for campaigning. The House of Commons, on the other hand, offered MPs the option of making a flat-rate £100 payment to 'hire' the House-loaned equipment for campaigning during the five-week dissolution period. It was sometimes difficult for MPs and their staff to know which IT equipment they had purchased through IPSA and which they had on loan from the House; and therefore if they paid the £100 fee, which IT equipment they were actually allowed to use for campaigning purposes.

9. Therefore, we consulted on a proposal to implement a similar flat fee before the next election, to allow MPs to repay a proportion of the cost of their IPSA-funded IT equipment in order to ‘hire’ it for campaigning use, if they choose to do so. We believe that this change would mean a much clearer and more coordinated approach by IPSA and the House of Commons in the pre-election period.

Do you agree that the Scheme should be amended so that MPs can pay a ‘hire’ fee in order to use their IPSA-funded equipment for campaigning before any election?

Consultation responses

10. Nearly all respondents agreed with the proposed change. Several noted that this (and other changes) seemed sensible and pragmatic.
11. One MP said that they were opposed to paying any fee to use equipment, because constituents still expect MPs to assist with casework in the pre-election period. The MP said it would be ‘daft’ to insist that MPs have separate computers to look at parliamentary correspondence and campaigning correspondence. They further suggested that it would be fairer to prohibit equipment from being taken to be used in party political offices, which would stop the equipment from being used primarily for campaigning purposes.

Our position

12. We have made this change to the Scheme. The new rule is at paragraph 10.16 of the 2019-20 Scheme. There was near-unanimous support among the respondents, and as stated above, we believe this change would mean an improvement in the way IPSA supports MPs in the pre-election period. It would also improve compliance, both with the Scheme and with election rules, in providing a simple way for MPs to account for use of their IPSA-funded equipment for campaigning purposes.
13. One MP objected to paying a fee to use IT equipment in this way. However, it is a matter of electoral law that IPSA cannot be a ‘donor’ for campaigns. This will need to be clearly communicated to all MPs, especially ahead of the next general election.
14. We acknowledge that there are potential risks associated with the new approach, and MPs who choose to pay a fee to IPSA to ‘hire’ their IT equipment for campaigning should be aware of these before deciding whether to do so. First, in accordance with Electoral Commission guidance, an MP would need to be able to demonstrate that they have paid a reasonable commercial rate for the hire of the equipment. Those with particularly high-value IT equipment may find that the flat fee is not a justifiable amount. Second, in paying the fee, an MP would need to ensure that they remain within the campaign spending limit for elections.

15. To ensure that MPs are fully aware of the risks and their responsibilities in this area, we will ask MPs to sign a declaration that they understand and accept the terms of hire. We will also ensure that the guidance produced ahead of the next General Election is clear in this area.

Discretion for IPSA to vary the 90-day period for claim submission

16. The Scheme requires that claims for reimbursement must be submitted no more than 90 days after the expenditure was incurred. Meanwhile, the rules allow IPSA to vary the 90-day period at the end of a financial year, but previously there was no other discretion provided explicitly for IPSA to either shorten or extend the 90-day period at other times.
17. In practice, the 90-day period has been strictly adhered to in the vast majority of cases; claims are returned to the MP through the validation process where the evidence provided shows the cost was incurred more than 90 days earlier. IPSA has chosen to shorten the 90-day period at the end of a financial year a number of times in the past; but since the introduction of the current year-end process in which MPs are expected to accrue for costs not yet claimed from the previous year, this has not been necessary.
18. However, on rare occasions, we have allowed claims outside of the 90-day period where there are exceptional circumstances. Most of the time, these involve system issues which mean that a claim submitted by an MP does not appear until later.
19. We believe it is reasonable for IPSA to have discretion to vary the 90-day period, outside of the year-end process, where there are exceptional circumstances. We consulted on a proposal to formalise this discretion in the Scheme.

Do you agree that the Scheme should be amended so that IPSA has discretion to vary the 90-day period in exceptional circumstances?
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Consultation responses

20. Nearly all respondents expressed their support for this change. No respondents were opposed.

Our position

21. Given the near-unanimous support of respondents, we have made this amendment to the Scheme. The revised rule is at paragraph 1.6 of the 2019-20 Scheme. This is a pragmatic change which would allow IPSA to deal with exceptional circumstances in a formal and transparent way.

22. MPs or their staff members may request an extension through the online system by adding a note to the claim to explain the exceptional circumstances which prevented them from claiming within the normal timeframe.

Discretion to extend the winding-up period

23. The Scheme provides a winding-up period for former MPs who leave Parliament to cover outstanding costs, close down their offices and wind up their affairs. Winding-up costs may be claimed for a maximum of two months, and previously there was no provision in the Scheme for IPSA to extend the winding-up period in circumstances that fall outside of a General Election.
24. An example of when this might occur is where an MP is subject to a successful recall petition and therefore made to vacate their seat. The Scheme is silent on the circumstances of a recall petition, so by the current wording the winding-up period would begin on the day the seat becomes vacant. If the former MP stands in the subsequent by-election, this comes with a number of complications, particularly if the by-election is held outside of the two-month winding-up period. If the MP intends to stand, but the two-month period is immovable, the MP would be expected to give notice to their landlords at the start of the period, and their staff members' employment would finish at the end of the two-month period at the latest. Then, were the former MP to be re-elected, they would be without staff and potentially without an office or accommodation. Their staff members would have received any redundancy payments they were entitled to, but would have lost their continuity of service.
25. We consulted on a proposal to provide discretion for IPSA to extend the two-month winding-up period in these or similar circumstances. For an MP who was subject to a successful recall petition, this would mean that the winding-up period could start from the date their seat was made vacant – and therefore they would not have access to any of the regular staffing, office, or other budgets provided to MPs – but they could opt to wait until the outcome of a subsequent by-election to complete tasks such as giving notice to their staff and landlords.

Do you agree that the Scheme should be amended so that IPSA has discretion to extend the winding-up period in exceptional circumstances?
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Consultation responses

26. Again, nearly all respondents expressed support for this change, and none opposed it.

Our position

27. We have made this change to the Scheme. The revised rule is at paragraph 8.4 of the 2019-20 Scheme. This is a pragmatic change which would allow IPSA to deal with exceptional circumstances in a formal and transparent way.
28. We have also amended the rules to make clear that in the context of an election, the winding-up period starts the day after polling day. The previous wording refers to when an individual 'ceases to be an MP', which could be construed as the date when Parliament is dissolved. The revised rule is at paragraph 8.3. For those who cease to be MPs during the parliament, the winding-up period starts on the day after the seat is vacated; this has not been changed.
29. Extending the winding-up period beyond two months could involve increased costs, because staff salaries and other financial commitments (such as rent) would potentially be paid for a longer period of time. However, we believe that on balance, this would result in a much more manageable situation administratively, and a fairer one for an MP's member of staff.

Other minor changes

30. The consultation addressed a number of other minor amendments to the Scheme which would not change the existing policy approach, but would help to make the rules clearer in these areas. Some have arisen due to implementation of IPSA's new online system.
 - Changes to clarify the role of MPs' designated proxies and how MPs should request proxy nomination; these clarifications are the result of changes to processes relating to proxies with the implementation of IPSA Online, and to ensure we are complying with data protection regulations. (Chapter 1)
 - Additional guidance to state that MPs are responsible for planning, forecasting and managing their own budgets using the tools available to them in IPSA Online. This is a change necessitated by the implementation of the new system, in which IPSA staff will no longer be able to produce budget reports for MPs. (Chapter 3)
 - A change to the wording which introduces the list of activities which are not claimable under the Scheme, to clarify that the purpose of the rule is simply to list costs which are not claimable under the Scheme. (Chapter 3)
 - A change to make clear that reward and recognition payments cannot be made to staff who are connected parties of the employing MP. This is stated elsewhere in that section of the Scheme, but feedback suggested that this could be stated in both places, for clarity and added emphasis. (Chapter 7)

- A change to make clear that MPs can also claim for Ultra Low Emission Zone charges, which will come into effect in central London in April 2019. This was consistent with the existing policy to allow MPs to claim for congestion zone charges. (Chapter 9)

Do you agree that the Scheme should be clarified in these areas?

Consultation responses

31. Again, the vast majority of respondents expressed support, either for these changes in particular, or more generally for all proposed changes, noting that they seemed sensible and pragmatic.
32. One MP respondent highlighted the importance of being able to produce budget reports.
33. Another MP questioned whether the restriction on making reward and recognition payments to connected parties contravened employment law or constitutes discrimination.

Our position

34. We have made these change to the Scheme. Most respondents were in agreement.
35. With regard to the comment on budget reports, MPs and nominated proxies will be able to run reports from the new online system. We expect the new system to greatly improve the accessibility of budgetary information for MPs. The additional guidance simply emphasises that in future, IPSA will not be able to run these reports on MPs' behalf.
36. The rule preventing reward and recognition payments for connected parties is not a new rule, but rather a clarification of the existing one. We have conducted equality impact assessments of the whole Scheme previously, and do not believe there is a risk of discrimination or contravention of employment law.

Implementation

37. The revised Scheme for 2019-20, incorporating the changes above, was laid in the House of Commons on 13 March 2019. It is effective as of 1 April 2019. The Scheme can be found on IPSA's website: <http://www.theipsa.org.uk/publications/scheme-of-mps-business-costs-expenses/>.