

IPSA's Response to the *Consultation on Amendments to the MPs' Expenses Scheme Rules*

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Part 1: Introduction

- 1.1 This document is the post-consultation report for IPSA's *Consultation on Amendments to the MPs' Expenses Scheme Rules*. This consultation was published on 16 June 2010 and closed on 7 July 2010. The consultation covered:
- technical amendments which flow from the Constitutional Reform and Governance Act 2010;
 - arrangements for claiming travel and subsistence expenses to interns and volunteers;
 - seven amendments to the rules to correct anomalies and unintended consequences from the original Scheme drafting; and
 - arrangements to provide MPs with assistance on cash flow.
- 1.2 IPSA is required by the Parliamentary Standards Act 2009 to consult with statutory consultees on any proposed changes to the Scheme. Statutory consultees include Members, the Speaker, and the Leader of the House of Commons; HM Revenue and Customs, HM Treasury, the Senior Salaries Review Board, and the Committee on Standards in Public Life. In addition, IPSA launched a public consultation.
- 1.3 IPSA received 66 responses, 38 of which addressed the questions posed in the consultation paper. These 38 responses came from 20 MPs, seven organisations, seven staff members of MPs, and four members of the public.
- 1.4 Copies of the responses can be accessed on our website at <http://www.ipsa-home.org.uk/>.

Part 2: Consultation Proposals and IPSA's Response

- 2.1 The Consultation on Amendments to the MPs' Expenses Scheme Rules requested that respondents provide their views on ten proposals. A summary of responses, and IPSA's position for each, follows:

Q1. Are there any comments you wish to make about the way we reflect statutory changes from the 2010 Act?

Summary of responses

- 2.2 Only four respondents commented on these amendments. Responses are summarised as follows:
- Andrew Miller MP argued that there should be a mechanism for the MP to repay IPSA in an agreed manner;
 - Richard Burden MP requested that any changes which are made are in order to support MPs' effectiveness in doing their job, and also that the procedures of the Compliance Officer are well thought through;
 - Hugh Bayley MP expressed concerns about the independence of the Compliance Officer, and his or her ability to police complaints against MPs and IPSA simultaneously. However, Mr Bayley did not disagree with any 2010 Amendments; and
 - The TaxPayers' Alliance noted that they broadly support of all these changes, with particular mention of the proposal for the Compliance Officer to recover overpayments.

IPSA's position

- 2.3 The technical amendments are statutory provisions which flow from the Constitutional Reform and Governance Act 2010 ('the 2010 Act'), and IPSA is obliged to implement them. IPSA has reviewed the comments it received on these amendments and has incorporated them into the Scheme. These changes principally reflect the creation of the Compliance Officer, who has powers to review IPSA's determinations of claims and investigate MPs if there is reason to believe that an MP has been paid an amount under the Scheme that should not have been allowed.
- 2.4 The 2010 Act amendments have been reflected in the Scheme at paragraphs 3.11, 3.12, 3.15, 4.5, and 4.6.

Q2. How should MPs be able to claim for the payment of travel and lunch

expense to interns who are not 'workers' and do not have contracts of employment? How may MPs operate safely within the exemptions provided from paying minimum pay rates within the legislation?

Summary of responses

- 2.5 IPSA received 23 responses to this question; eleven from MPs, five from MPs' members of staff, four from members of the public, and three from organisations.
- 2.6 The majority view was that the work of interns contributes significantly to the service that MPs provide for their constituents, and that interns benefit from their experience through the development of a variety of skills and engagement in the political forum.
- 2.7 One common concern in the responses was that if IPSA does not pay travel and lunch expenses for the incidental expenses of interns, the service that MPs provide to the public will suffer. Another frequent concern was that if MPs cannot offer to cover interns' expenses, only those individuals who can support themselves will be able to afford to work as interns, thus closing off the opportunity for individuals from less advantageous backgrounds to engage in the political arena. Lisa Nandy MP, for example, noted that her first involvement in politics was through work experience and she was concerned that although she wished to offer 'ordinary people' the opportunity to undertake a similar position in her office, she was financially unable to provide their expenses out of pocket. To ensure careers in politics are open to all, Unlock Democracy underlined that it is imperative that internship opportunities are not exclusively open to graduates on placement years at University.
- 2.8 The Parliamentary Resources Unit (PRU) reported that they ended their Internship Programme when IPSA's Scheme was introduced with the requirement to provide interns with contracts of employment, which would require the payment of the National Minimum Wage (NMW). The PRU argued that the individuals on their programme, who signed an agreement based on a template from Unite, benefited greatly from their training and mentoring. The PRU paid additional expenses within HMRC guidelines to those individuals requiring additional financial assistance, and also accommodated interns with physical disabilities. They recommended that IPSA developed an Intern Agreement which allows MPs to pay reasonable expenses to interns from their Staffing Expenditure or General Administrative Expenditure budgets.
- 2.9 Several responses alluded to the differences between work experience, internships, and volunteering. Hugh Bayley MP noted that whilst he rarely uses interns, he sometimes offers work experience to students. He welcomed views on how we differentiate between intern and work experience. Martin Horwood MP suggested that IPSA does not understand how the practice of volunteer-interns works in practice, and that it is a form of work encouraged by government, the National Council for Voluntary Organisation, Business in the Community, and other large companies. He suggested that IPSA look at good practice from Volunteering England, as the practice of engaging interns and not paying minimum wage does not break the law.

- 2.10 Two respondents, including Adrian Sanders MP and a member of the public, explicitly stressed that for interns not to be considered as ‘workers’, it is essential that internships contain a significant educational element. Both emphasised that interns should under no circumstances replace paid staff and should therefore not be expected to work fixed hours or undertake specific tasks at specific times. One member of the public suggested particular attention needs to be given to the way internships are advertised, as many of these advertisements seem to be actual ‘jobs’ rather than internships.
- 2.11 Lord Norton of Louth, who is responsible for the Westminster placement operated by the University of Hull, raised concerns about the opportunities for students who wish to do work experience with MPs. Lord Norton argued that under *Edmund v Lawson QC* [2000] there is a distinction between those who take up an internship or training as part of their professional training and who have a contract through a third party, and those who are directly employed by the person for whom they undertake work. His position was that his work placement students fall into the former category and therefore they should not be considered workers covered by NMW legislation. He went on to state that if IPSA does not allow claims for incidental expenses to be claimed there will be a negative impact on the students, who will no longer have the opportunity to develop further skills gained through the experience of working with MPs.
- 2.13 Gareth Thomas MP noted that he is no longer able to offer internships (which he said were voluntary arrangements which did not constitute formal employment), because he cannot claim for their incidental expenses. He noted he would be happy to pay the minimum wage, but he considered that his current staffing budget did not allow for this.
- 2.14 Three respondents argued that interns must be paid the NMW. One argued that Parliament should be encouraging social mobility, and if IPSA does not provide a mechanism for these individuals to be paid, it is effectively denying individuals from lower income backgrounds this opportunity. Another respondent argued that to minimise possible abuses to the system, such as subsidising connected parties, every intern should be classed as an employee and receive the NMW, and have his or her expenses paid from the MPs’ “office” budget. Unlock Democracy went further by recommending that this matter should be consulted on separately and that its scope should be extended to the question of whether or not interns should be paid the London Living Wage. Unlock Democracy also challenged the assumption that MPs are currently exempted from paying NMW. They stated that paying interns a NMW would increase their productivity, and that the added cost of doing so would be supported and fully understood by the taxpayer.
- 2.15 One MP’s member of staff argued that a ring-fenced budget should be in place as is currently already the case in several other countries and notably in the European Union institutions where the recruitment and payment of interns is being centrally organised and structured.

- 2.16 The Unite Parliamentary Staff Branch stated that interns who are in practice ‘workers’ must be eligible for the NMW to minimise exploitation, but that those voluntary workers or interns who are not eligible for NMW should have their expenses paid through a separate ‘interns fund’ which would allow MPs to employ interns and pay them fairly through a Living Wage or London Living Wage. Unite suggested that voluntary workers or interns should have a written agreement with the MP. They raised concerns that should IPSA choose not to allow MPs to claim for the incidental expenses of interns, it would exclude people from less affluent backgrounds from working for MPs.
- 2.17 Intern Aware expressed their appreciation for having this issue addressed in the consultation and re-iterated that all interns in Parliament should have the right to have a contract of employment.

IPSA’s position

- 2.18 The responses to this question are clear that interns and volunteers play a valuable role in Parliament. IPSA understands there is a beneficial relationship between interns and volunteers and MPs. Interns and volunteers develop skills and experience in the political arena, and MPs receive assistance in their Parliamentary functions. For this reason, IPSA will allow MPs to claim incidental expenses for interns or volunteers if they meet certain conditions, as stated in the Scheme at paragraphs 8.2 (f) and 8.7. These conditions are that MPs must have a signed agreement with any interns or volunteers, and this agreement must be submitted to IPSA before any claims can be made. IPSA will not be approving each agreement. IPSA has published a model agreement for MPs to use, which is available on our website. Once this agreement has been submitted, MPs may submit claims for incidental expenses, which are limited to reasonable travel, food, and non-alcoholic beverages. Claims will be charged to MPs’ Staffing Expenditure budget.
- 2.19 The model intern and volunteer agreement is applicable for those individuals who are not ‘workers’ and therefore not subject to the NMW. Individuals in this position cannot be required to carry out specific duties for the MP; they are assisting the MP with his or her duties on a voluntary basis. Should the nature of the intern’s or volunteer’s work change so that they should be regarded as “worker”, the MP has an obligation to contact IPSA and provide the intern or volunteer with a contract of employment, subject to NMW legislation.

Q3. Non London Area MPs who own homes in both London and in or around their constituencies to claim associated accommodation expenses

Summary of responses

- 2.20 IPSA received 19 responses to this question. The majority of respondents welcomed the proposed amendments. Twelve MPs, three organisations, two MPs’ members of staff and two members of the public agreed with this proposal.
- 2.21 Strong value for money arguments were put forth in favour of this proposal. The PRU noted that they have been supporting MPs in submitting their expenses claims, and

that they are aware of several MPs who own their homes in London who are considering moving to rented accommodation. They could then claim for rent and their associated costs. Adrian Bailey MP supported this proposal, but he argued that as many MPs have mortgages which they cannot claim for, this proposed amendment will not completely remove the incentive for them to rent a third property.

- 2.22 One member of the public expressed a concern that a “...*blanket allowance for unrestricted expenses such as utility bills, council tax etc is open to abuse by MPs, some of whom purchase extremely large properties for their shared parliamentary business and private work.*” The respondent suggested that claiming associated expenses should be limited “*to the residential Council Tax, utility bills etc for a one bedroom flat in the cheaper of the two locations.*”

IPSA’s position

- 2.23 IPSA recognises that under the original drafting of the Scheme, there is a perverse incentive for MPs who own their homes to rent a third property in order to claim for the associated expenses that they incur from running their home. This is not value for money for the taxpayer. The accommodation expenses which they could claim for their third home would be more than the associated running costs which they could claim for their London or constituency home. For this reason, IPSA has amended the rules to allow non-London area MPs who own home in London and in or around their constituency to claim for the associated costs. This change has been reflected in the Scheme at paragraph 5.2(c).

Q4. MPs able to claim expenses for air travel when travelling on any ticket.

Summary of responses

- 2.24 IPSA received 10 responses to this question. Nine agreed and one disagreed. Of those which were in favour of this proposal, five were MPs, one came from an organisation, one from an MP’s member of staff, and two from members of the public. One member of the public opposed this proposal.
- 2.25 The majority (nine out of ten) respondents supported this proposal. The Senior Salaries Review Body agreed that MPs should be able to claim for an alternative class ticket if it is cheaper at the time of booking, but they questioned whether this is ever the case. They referenced their recommendation to the House of Lords, which states that members should claim for economy class tickets within Europe, but allow members to claim for business class tickets for long-haul flights.
- 2.26 The one respondent who opposed this proposal claimed that it would be open to abuse by MPs who may claim that discounted First Class travel is cheaper than a full cost Standard Ticket, while discounted Standard Class tickets may also be available if pre-booked.

IPSA’s position

- 2.27 To clarify the policy for air travel, IPSA has amended the rules so that MPs can claim reimbursement for the costs incurred in relation to permissible trips up to the value of an economy class, or flexible economy, class ticket for the same journey available at the time booking. The amended rule is located at paragraph 7.9 of the Scheme.
- 2.28 The rule is supplemented in the Scheme Guidance, which states that MPs should balance low-cost, generally inflexible tickets, against the probability that they will have to cancel or reschedule their travel and incur associated charges when booking their tickets.

Q5. If MPs travel together by private vehicle only one can claim for cost

Summary of responses

- 2.29 IPSA received nine responses to this question. All respondents agreed with this proposal, including five MPs, two organisations, one MP member of staff and one member of the public. The TaxPayers' Alliance suggested that IPSA ensures that this proposal only allows the MP who *incurred* the expense to be reimbursed, so that there is no room for abuse. One member of the public recommended ensuring that this rule aligns with those in the private sector.

IPSA's position

- 2.30 IPSA wishes to clarify the Scheme to state that when two or more MPs are travelling together in a car, only one may put in a claim for expenses on behalf of all the MPs who are travelling together. It has amended the rules to reflect this at paragraph 7.11 in the Scheme.

Q6. MPs' staff to be allowed to claim for hotels and subsistence

Summary of responses

- 2.31 IPSA received 13 responses to this question. All respondents supported this proposal, including seven MPs, four organisations, one MP's member of staff and one member of the public.
- 2.32 Respondents agreed that MPs should be allowed to claim for hotel accommodation for their staff members if they are required to work far away from home for training or to attend a meeting or other work related purposes. This would be in line with practice in the private sector. The 1922 Committee agreed with this proposal, and added in their response that there should not be an artificial divide for staff members between working in Westminster or the constituency office. The United Parliamentary Staff Branch agreed with this proposal and stated that it is important that there is no financial disincentive for MPs to permit their staff to attend training.
- 2.33 One respondent raised concerns about the manner in which IPSA publishes expenses claims for staff members to ensure that their privacy is protected. Another argued that IPSA's policy must be for expenses which were incurred for Parliamentary work, and not any other form of business.

IPSA's position

- 2.34 IPSA recognises that staff members occasionally travel to assist MPs with their Parliamentary functions, or to attend necessary training. It is understandable that on these trips they will incur subsistence expenses, typically food and non-alcoholic beverages, and in some instances they will require a hotel if it is unreasonable for them travel home, or if they need to attend a meeting or training the night before. For this reason, IPSA has made a provision for MPs to submit expenses claims for their staff's subsistence and hotels expenses. This rule and the associated limits are set out in paragraphs 7.32 and 7.33 of the Scheme.

<i>Q7. MPs can claim for subsistence away from the Parliamentary estate when the House sits after 7:30pm</i>

Summary of responses

- 2.35 IPSA received 11 responses to this proposal; nine of which agreed and two of which disagreed. Respondents in favour of this proposal included five MPs, two organisations, one MP's member of staff and one member of public. Two respondents, including one organisation and one member of the public opposed this proposal.
- 2.36 Respondents were generally content with this amendment; however one noted that he was against the principle of allowing MPs to make subsistence claims in these circumstances at all, regardless of where the meal was eaten. The TaxPayers' Alliance and a member of the public raised concerns that this proposal would permit MPs to choose not to attend a late sitting but rather go for dinner, and therefore should be refused. Both of their responses also stated that this proposal is not cost neutral because food purchased on the Parliamentary estate is subsidised, whereas food elsewhere is more expensive.

IPSA's position

- 2.37 This amendment is clarifying the existing rule. IPSA does not wish to prescribe the location where an MP can purchase or consume a meal if there is late sitting of Parliament. This would be unnecessarily prescriptive. The limit remains at £15 so there is no significant cost risk with this amendment. The amended rule can be found at paragraph 7.30.
- 2.38 HM Revenue and Customs have advised that meals away from the Parliamentary estate will be taxable. IPSA has advised MPs of this in the Guidance which accompanies the Scheme.

<i>Q8. All MPs who are eligible for accommodation expenses can claim for Travel and Subsistence.</i>

Summary of responses

- 2.39 13 responses were received to this question. Eight MPs, two organisations, two members of the public and one MP member of staff responded positively to this proposal. Caroline Lucas MP provided an example of her own situation in which she had originally not opted to claim for a second home, believing it was the 'ethical and frugal' option, but the current rules discourage her from this by prohibiting her claim for travel expenses.

IPSA's position

- 2.40 Non-London Area MPs who decide not to claim accommodation expenses would be prevented from claiming travel expenses from their constituency home to Westminster. Not only would this be unfair, but there would be an incentive for MPs to claim accommodation expenses in order to claim travel and subsistence expenses. Amending the rule to state that MPs who are 'eligible for' accommodation expenses rather than in 'receipt of' addresses this problem. IPSA has reflected this amendment, as supported by respondents to the consultation, at paragraph 7.2(a) of the Scheme.
- 2.41 Supporting guidance will make clear that non-London Area MPs will be able to claim either Travel and Subsistence for the journey defined at paragraph 7.2(a), or the London Area Living Payment (as allowed in paragraph 6.2), but not both.

Q9. MPs' staff to be paid from the date they begin work.

Summary of responses

- 2.42 14 responses we received to this question, all of which agreed with this proposal, including eight MPs, three organisations, two members of the public and one MP's member of staff.
- 2.43 The PRU recommended that as they had advised MPs to have their offices up and running as soon as possible after the election, (which often meant that staff contracts had not yet been approved by IPSA), some flexibility of paying staffing retrospectively is reasonable. An MP's member of staff welcomed the proposed amendment as he explained that current rule had "caused significant hardship to members of staff" and imposed "barriers on 'normal' people getting into politics".

IPSA's position

- 2.44 IPSA does not wish to inflict hardship upon MPs' members of staff, nor does it wish to marginalise any parts of the population from entering politics. IPSA does, however, wish to ensure that MPs, as employers of the staff members, meet the requirements set out in paragraph 8.5 of the Scheme.
- 2.45 IPSA recognises that the coinciding of the General Election of 6 May 2010, and the MPs' Expenses Scheme going live on the next day, gave rise to circumstances in which staff members were employed before their contracts were approved. For this

reason, it has amended the expenses rules to provide IPSA with the discretion to pay MPs' staff from the date they started work, subject to conditions covered in paragraph 8.5 and 8.6 of the Scheme. This rule applies retrospectively, but it will also cover similar circumstances arising after future elections.

Q10. Cash flow: Do you agree that a new rule should be introduced to allow IPSA to provide MPs with the necessary financial assistance to allow them to carry out their parliamentary duties effectively?

Summary of responses

- 2.46 12 of the 13 respondents to this question agreed with a creating new rule to assist MPs with necessary financial assistance. This proposal was especially welcomed by the MPs who responded to the consultation. Among the twelve respondents, six MPs, four organisations and two members of the public agreed with the proposed amendment.
- 2.47 Several MPs, as well as the 1922 Committee, supported this proposal but stated that it falls short of providing a complete solution to their financial concerns. John Mann MP noted that he did not think that the provision of short term loans will overcome longer term cash flow issues, and that IPSA should review its policy of requiring MPs to pay for items themselves. Anne McKechein MP agreed with the proposal but suggested that direct payments to suppliers would be a more preferable mechanism to assist MPs with their finances. The view that certain invoices should be sent directly to IPSA, thus eliminating the need for loans, was also shared by an MP's member of staff. Hugh Bayley MP noted that if there is tax implication for IPSA's measures to assist with cash flow, MPs should be able to claim for the costs of an accountant.
- 2.48 One member of the public noted that whilst he supported this proposal as a temporary financial arrangement, he would have concerns about large advance payments over a protracted time span.
- 2.49 Only the TaxPayers' Alliance did not support this proposal. Their argument was that, given what they perceived to be MPs' generous salary and reimbursement arrangements, no extra financial support was necessary. They requested that the two forms of financial assistance which IPSA seeks to offer are only available to MPs during the first 12 months after a general election.

IPSA's position

- 2.50 As the consultation paper noted, this proposal was designed to give IPSA greater flexibility to assist MPs expensing cash flow difficulties. IPSA cannot predict whether such problems in individual cases will last only for the fixed period so IPSA does not propose to limit the assistance to this first year of Parliament or any other period.
- 2.51 Other issues like direct payments will be covered in IPSA's annual review of the MPs' Expenses Scheme in the autumn. The new rule to allow this financial assistance is at 12.15 in the Scheme and the Guidance has been updated accordingly.

Part 3: Additional Issues Raised

- 3.1 Whilst some respondents chose to respond to the questions in the consultation document, others raised other areas of the MPs' Expenses Scheme which are not covered in this consultation. IPSA is required to consult on any proposed changes to the Scheme and may choose to look at these areas in future consultations.
- 3.2 The subjects which respondents raised are broadly defined as comments on the fundamental principles of the Scheme; direct payments to suppliers, specific concerns in regards to the Travel and Subsistence, Staffing, Constituency Office Rental Expenditure and General Administrative Budgets; and IPSA's service delivery.

Part 4: Conclusion

- 4.1 IPSA has reviewed the responses to the *Consultation on Amendments to the MPs' Expenses Scheme* and they have informed the second edition of the Scheme. IPSA is grateful for all the comments it received to this consultation, and for the suggestions which respondents provided. All the changes which have been made come in with immediate effect and expenses claims can be backdated to 7 May 2010.
- 4.2 IPSA will be undertaking a wider review of the Scheme in autumn 2010. *The MP's Expenses Scheme: Second Edition* will remain valid until IPSA publishes a subsequent scheme.
- 4.3 Any further questions on this consultation or the MPs' Expenses Scheme should be directed to our support services team at info@parliamentarystandards.org.uk or please call 020 7811 6400.