

Review of a determination by the IPSA relating to a contingency panel application.

**Review conducted at request of Mr Daniel Kawczynski
Member of Parliament for Shrewsbury and Atcham.**

Brigadier JT Blair-Tidewell
Compliance Officer
October 2023

Introduction

1. This review has been conducted following a request by Mr Daniel Kawczynski, the MP for Shrewsbury and Atcham to consider a determination made by the IPSA Contingency Panel relating to an application for a payment of £935.07 for an electricity bill. The application was rejected by the IPSA Contingency Panel on 19 July 2023.

2. IPSA publishes and operates The Scheme of MPs' Staffing and Business Costs (the Scheme) in exercise of the powers conferred on it by section 5(3)(a) of the Parliamentary Standards Act 2009. "The Scheme is intended to ensure that MPs' use of taxpayers' money is well regulated, and that MPs are resourced appropriately to carry out their parliamentary functions".¹

3. The guidance which applies in this case comes under Chapter Ten – Miscellaneous Costs and Financial Assistance within the Sixteenth Edition of the Scheme 2023-2024 (revised July 2023) as the guidance that was in place at the relevant time.

4. *Section 6A of the Parliamentary Standards Act 2009* (the Act) provides that if:

(1)(a) the IPSA determines under section 6(3)² that a claim is to be refused or that only part of the amount claimed is to be allowed, and

(b) the member (after asking the IPSA to reconsider the determination and giving it a reasonable opportunity to do so) asks the Compliance Officer to review the determination (or any altered determination resulting from the IPSA's reconsideration).

(2) The Compliance Officer must -

(a) consider whether the determination (or the altered determination) is the determination that should have been made, and

(b) in light of that consideration, decide whether to confirm or alter it.

¹ The Scheme of MPs' Staffing and Business Costs. (Sixteenth edition).

² Section 6(3) of the Act states that on receipt of a claim, the IPSA must – (a) determine whether to allow or refuse the claim, and (b) if it is allowed, determine how much of the amount claimed is to be allowed and pay it accordingly.

5. In addition, Paragraph 9 of the notes for Guidance on the Conduct of Reviews by the Compliance Officer for IPSA states that:

“The Compliance Officer will, taking into account all information, evidence and representations, decide whether the determination (or the altered determination) is the determination that should have been made under the Scheme and in light of that, whether or not to confirm or alter it”.

6. As IPSA has conducted an internal review on this matter, there is no impediment to the Compliance Officer accepting the request for a review from Mr Kawczynski.

The Review.

7. This review has been conducted in accordance with the Scheme of MPs’ Staffing and Business Costs. 16th edition 2023-2024 (revised July 2023).

8. In addition, the Compliance Officer has conducted the following enquiries:

- a. Reviewed the application made by Mr Kawczynski’s office to the IPSA Contingency Panel.
- b. Reviewed the notes held on the IPSA Contingency Panel records for the meeting on 19 July 2023.
- c. Reviewed information provided by the IPSA MPs Services Team on accommodation budget policy.
- d. Held a face-to-face meeting with Mr Kawczynski on 11 September 2023.
- e. Held a remote meeting with Mr Kawczynski on 28 September 2023.
- f. Reviewed Mr Kawczynski’s electricity bills and bank payment history over the period relevant to the application.

The basis for the review request by Mr Kawczynski.

9. Over the last four years, Mr Kawczynski has utilised his entire accommodation budget and any applicable uplifts to pay rent for his accommodation in London. During this time the MP has not therefore claimed for any associated costs such as utility bills.

10. When Mr Kawczynski's dependant uplift ended, he was no longer able to afford the rent for his then accommodation and was required to move to less expensive accommodation. On leaving his accommodation and ending his contract with his electricity provider Mr Kawczynski received a final bill for £935.07.
11. Mr Kawczynski submitted an application to the IPSA Contingency Panel in July 2023 for £935.07 to pay for what he considered to be an unexpectedly large bill which he attributed to unforeseen increases in electricity costs.
12. The MP provided additional information to the Compliance Officer which will be covered in that section of this report. (See paragraph 16 onwards).

Position of IPSA

13. The application for contingency funding was considered by the IPSA Contingency Panel at a meeting held on 19 July 2023.
14. The Panel noted the following:
Context:
 - a. The MP has incurred an electricity bill of £935.07. This is a final bill, which has been received when moving out of his accommodation. The MP set up a regular direct debit and this is the sum owed above this.
 - b. The bill is from 9th July 2023, therefore likely the costs include utility usage from previous years.
 - c. The overall background to these costs is that the MP moved accommodation because the property was no longer affordable with the ending of the MP's dependent uplift.
 - d. IPSA has provided assistance to the MP already around the move – for instance the MP had a recent contingency application relating to an overlap in accommodation costs granted. Also end of tenancy cleaning costs were approved as part of the overlap.

Budget Situation and Claims:

- e. The MP has not typically claimed for utility costs at his rental property. Over the past 4 years there are no records of the MP claiming for utility or associated costs at the property. Instead, the MP has largely spent the budget available on rental costs.
 - f. In 2020-21 and 2021-22 the rental costs of £2,400/month led to small budget overspends.
 - g. In 2022-23 the MP would have had £2,000 remaining after rent payments. However, an increase to rental costs in Nov 2022 of 12.8% to £2,708/month meant that the MP only had £346.85 remaining in the 2022-23 budget.
 - h. In the current year 2023-24, had the dependent uplift not ended and the MP not moved, rental costs would have been £464 below available budgets.
 - i. Although there was a 12.8% rental increase in 2022-23, this only covered 5 months. Overall, this meant the MP's rental costs were only 6.4% higher for the full year.
15. Noting the guidance set out in paras 10.6 to 10.8 of the Scheme of MPs' Staffing and Business Costs, the Panel concluded the information provided by the MP did not constitute exceptional circumstances and declined the application. The Panel also decided not to award the £346.85 underspend from the 2022/2023 financial year, which the MP could have claimed during the year, to offset the bill.

Considerations of the Compliance Officer

16. The Compliance Officer, on receipt of a request for a review, shall consider whether it is within his or her jurisdiction and whether the MP has given IPSA a reasonable opportunity to reconsider the determination.
17. The Compliance Officer will, considering all information, evidence, and representations, decide whether the determination (or the altered determination) is the determination that should have been made under the Scheme and considering that, whether to confirm or alter it.

Information provided by Mr Kawczynski

18. Prior to meeting with Mr Kawczynski his office provided the following additional information in regard to his application:

"We would like to include further evidence.

The Accommodation Budget was only sufficient to allow Daniel to claim Rent for his second home. It was not sufficient to cover the costs of all the normal associated costs of a second home.

As you can see from the Budget, Daniel did not claim for Council Tax or utility bills, which he paid for himself. His monthly direct debit to EDF was deemed by them as sufficient to cover his bill. Unfortunately, the unforeseen enormous increases in energy costs meant this unexpected one-off charge on leaving the property.

We would ask IPSA to kindly look once again at allowing this Contingency Application, and I would be grateful if you could let me know how we can submit this additional evidence.”

19. The Compliance Officer held meetings with Mr Kawczynski on 11 and 23 September 2023 to better understand the context for the application. Mr Kawczynski argued that his remuneration as an MP was insufficient for him to meet his parliamentary duties in full and cited numerous occasions when he had paid to host constituents and undertake what he considered to be constituency and parliamentary activity at his own expense. He felt particularly strongly that his accommodation budget was insufficient to rent a suitable property in London from which he could undertake his duties.
20. On the subject of his electricity bills, Mr Kawczynski explained he had a direct debit in place with his electricity provider (EDF) and that this had been sufficient to date to cover his bills up to this time. However, he stated the bill for £935.07 received when closing his account was unexpected. He went on to say he was unable to pay the bill and, if the Contingency Panel decision was not reversed, would be forced to borrow money to do so or default on the payment.

Analysis undertaken by the Compliance Officer

21. The Compliance Officer reviewed Mr Kawczynski’s electricity bills for the period 2021-2023, and record of payments made, and noted the following.

- a. Mr Kawczynski's account with EDF tipped from being in credit to being in debit in Sep 2022. At the time the debit was £684.57, this peaked at £1,107.98 in Dec 2022, reducing to £935.07 in June 2023.
 - b. EDF spread any negative balance over the remaining months of the 12-month payment period (June to June), adding it to the anticipated bill for usage each month.
 - c. This, and a number of tariff changes due to increased energy costs, saw Mr Kawczynski's monthly direct debit payment rise from £109 in 2022 to £533 in 2023.
 - d. When the account for the property was closed there remained an outstanding negative balance of £571.95, and an unpaid bill for May/June 2023 of £363.12 which had to be paid in full.
 - e. Mr Kawczynski received monthly bill statements from his electricity supplier which included his account balance and specific direction that any outstanding balance would need to be paid off before Mr Kawczynski would be able to close his account with EDF and change electricity supplier.
22. The Compliance Officer in conducting the review has considered the relevant sections within the Scheme which are set out below:

Chapter Ten - Contingency Payments

- a. 10.6. MPs may apply to IPSA for contingency funding, under the following circumstances:
 - where they have incurred a cost, or liability for a cost, which is not covered by the Scheme, but which they consider to be in support of their parliamentary functions;
 - where their spending under a particular budget has exceeded or may exceed the budget limit for the year and they consider this to be the result of exceptional circumstances.
- b. 10.7. In order to apply for contingency funding, MPs must complete an application form and follow the process as set out in guidance.
- c. 10.8. IPSA may decide to accept or reject an application under paragraph 10.6 at its discretion. In considering its decision IPSA shall take into account the following factors:
 - whether there are exceptional circumstances warranting additional support;
 - whether the MP could reasonably have been expected to take any action to avoid the circumstances which gave rise to the expenditure or liability; and

- whether the MP's performance of parliamentary functions will be significantly impaired by a refusal of the claim.
- The Scheme makes provision for the exercise in certain circumstances of discretion by MPs and by IPSA. Such discretion is not absolute. At all times it must be exercised reasonably, taking account of the fundamental principles of the Scheme.

23. Other Financial Assistance

In addition to any other payments or assistance provided by this Scheme, IPSA may, at its discretion and on an individual basis, provide any additional financial assistance to MPs it deems necessary to assist them in carrying out their parliamentary functions. (10.21).

Conclusion

24. Having reviewed the facts of the case, including additional information provided by Mr Kawczynski, I conclude the IPSA Contingency Panel were correct in rejecting the application. In reaching this conclusion I have been guided by the criteria set out in paras 10.6 to 10.8 of the scheme as follows:

- Are there exceptional circumstances warranting additional support?** No. The term 'exceptional' is not defined in the Scheme of MPs' Staffing and Business Costs so I have taken it to mean 'unusual; not typical'³. Although Mr Kawczynski is amongst a minority of MPs who chose to live in accommodation that absorbs, or exceeds, their entire accommodation budget he is not the only one. Like them, he is perforce required to pay for any associated costs from his own pocket. Mr Kawczynski has chosen to be in this position for a number of years. Neither does the increase in Mr Kawczynski's electricity bills over the period in question constitute exceptional circumstances.
- Could Mr Kawczynski reasonably have been expected to take any action to avoid the circumstances which gave rise to the liability?** Yes. Mr Kawczynski's account with his electricity provider went into a negative balance in September 2022. This is clearly detailed in his statement of the 28th of that month. Further, the monthly bills received by Mr Kawczynski contain a note which explains any outstanding balance must be paid before the customer can change electricity supplier. Mr Kawczynski had been in debit to his electricity provider for nine months at the point he chose to move into new accommodation.

³ Compact Oxford English Dictionary, third edition (revised) 2008.

c. **Will the MPs performance of parliamentary functions be impaired by a refusal of the claim?**

No. This criterion is more complex to assess. Mr Kawczynski's approach to the conduct of his parliamentary functions means he is already, and by his own admission, routinely exceeding his office and accommodation budgets. In this context, the rejection of his application will exacerbate his already strained financial situation and may impact his ability to perform his duties in his current manner. Set against this, and taking into account the other criteria above, allowing Mr Kawczynski to exceed his budget in this case would run counter to IPSA's fundamental principles of Value for Money, Probity and Accountability.

Decision

25. Notwithstanding my finding to uphold the decision of the Contingency Panel based on the additional information provided by Mr Kawczynski and taking into account the impact of this decision on his ability to perform his parliamentary duties, it would be reasonable to allow him to claim up to the limit of his 2022/2023 accommodation budget.
26. Due to the facts of the case, and the decision by the Compliance Officer to allow the MP to claim a portion of the funds originally applied for, the Compliance Officer consulted with the CEO of IPSA prior to promulgation of the Review.
27. The CEO response is set out below:
"Thank you for your considered analysis of this matter. I am comfortable with the outcome you put forward, which recognises the Scheme's requirement for exceptional circumstances and the desire to treat all Members on an equitable footing in terms of budget allocation. Utilising the underspend from the prior year is a reasonable compromise in all of the circumstances."
28. The Compliance Officer is grateful the CEO for his comments.
29. Section 6A (6) of the Act provides that an MP requesting a review may appeal the decision of the Compliance Officer to a 'First-tier Tribunal' if they are not satisfied with the outcome. The appeal must be submitted within 28 days of receiving the decision. Further information on how

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to appeal a decision by the Compliance Officer can be found at the following address:
<https://www.gov.uk/guidance/mp-expenses-appeal-a-compliance-officers-decision>.

30. In accordance with the Guidance on the Conduct of Reviews by the Compliance Officer for IPSA, details of the review will be published in a manner decided by the Compliance Officer.

(Signed electronically)

Brigadier JT Blair-Tidewell
Compliance Officer