



Review of a determination by the IPSA Contingency Panel to refuse an application.

Ross Thomson
Former Member of Parliament for Aberdeen South.

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Introduction

1. This review has been conducted following a request by Ross Thomson, the former MP for Aberdeen South, to consider a decision of the IPSA contingency panel process to refuse to pay an overspend on office costs.
2. IPSA publishes and operates The Scheme of MPs' Business Costs and Expenses (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 Section C Chapter Six and Annex A of the "The Scheme" (Eleventh Edition).
4. The annual budget allocated for office costs as detailed within "the Scheme" is £25,430. Due to the fact a snap General Election was called in December 2019, the budgets were amended on a pro-rated basis. This means that the budgets for MPs who lost their seats in the December election were effectively reduced by twenty-five per cent which covered the period January to March 2020.
5. The pro-rated budget for office costs was £19,073. Mr Thomson's total spend for the period April to December 2019 was ££22,013.01. He had therefore incurred an overspend of £2,940.01. on his office costs for this period.
6. Mr Thomson subsequently made an application for his case to be considered at the IPSA contingency panel. The case he presented argued that the circumstances were exceptional in his case.
7. The case was heard at the contingency panel meeting held on 26th March 2020 and revisited again on 2nd April 2020. Mr Thomson's application was not upheld and in light of this, he made a request to the Compliance Officer to conduct a review on 7th April 2020.
8. *Section 6A of the Parliamentary Standards Act 2009* (the Act) provides that if:

¹ The Scheme of MPs' Business Costs and Expenses (Eleventh edition – Introduction).

(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 or not to confirm or alter it.

9. 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”.

10. As IPSA had conducted an internal review through the Contingency Panel process, there is no impediment to the Compliance Officer accepting the request for a review from Mr Thomson.

The Review

11. In conducting the review, the Compliance Officer has utilised the eleventh edition of the Scheme and the Dissolution guidance to MP's issued by the House of Commons.

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

- ◇ Reviewed the contingency panel application submitted by Mr Thomson and supporting report.
- ◇ Reviewed the minutes of the contingency panel meetings which considered the application.
- ◇ Reviewed the notes held on the IPSA case records management system.
- ◇ Reviewed the information held by IPSA relating to Mr Thomson's total spend on office costs.
- ◇ Reviewed additional information provided by IPSA with regards to budget costs.
- ◇ Reviewed additional Information received as a result of telephone meeting with Mr Thomson on 9th April 2020.

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.

The Basis for the Review request by Mr Thomson.

13. As previously stated the application subject of this review relate to an overspend on office costs. At the time Mr Thomson was the MP representing the Aberdeen South Constituency.
14. The annual accommodation budget (as set out in “the Scheme”) for office costs is £25,430. However due to a snap General Election being called for 13th December, the budgets for MP’s losing their seats was pro-rated to £19,073. For the period April to December 2019, Mr Thomson’s total spend on office costs was £22,013.01 and therefore he had incurred an overspend of £2,940.01.
15. In addition to his contingency panel application, Mr Thomson provided a separate report for the panel to consider. In summary, the day after, Mr Thomson announced his intention to seek re-election, he was subject of an allegation, which was reported in the National media. He felt he had no choice but make the difficult decision to stand down. This decision was officially announced on 3rd November 2019, but Mr Thomson made the decision not to stand before this date, following the allegations being reported to the Parliamentary Commissioner for Standards.
16. Due to the fact, Mr Thomson became the subject of intense media scrutiny following the allegation, he decided to leave the Country and flew to America in order to receive support from his family. The matter had caused him a great deal of personal upset and distress.
17. While Mr Thomson was away, his staff office began closing the Constituency office down. He believed he and they were following the statutory guidelines contained within dissolution guidance and IPSA’s guide for MPs standing down and winding up their offices. This meant that following the statutory notice period given to his staff, their employment would cease on the 20th December. Therefore, they began the office wind up process to ensure everything was completed by that date.
18. This included, arrangements for all the signage to be removed, and an office clean. The MP is also seeking consideration for the purchase of some IT equipment which he donated to a fellow MP. The details of the items subject of the application can be seen in the table below:

Expenditure	Total Cost	Month cost incurred
Office Clean	£144.00	November 2019
Removal of Signage	£360	November 2019

Office equipment – Letter folding machine.	£1846.80	September 2019
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19. Mr Thomson acknowledges this was a mistake and the work should not have been paid for until after 13th December and claimed from the wind-up budget. The case in relation to the item of office equipment is that this was ordered in September 2019 when the MP was still in office and before the snap election was called. His position on this is that had he remained in office and been eligible for his full budget, he would not have incurred an overspend. In addition, the equipment was donated a fellow MP as a result of his office closing, and he feels he should be given some dispensation toward the costs.
20. Mr Thomson believes his office team genuinely acted in what they thought was the best interests of everyone and following the IPSA guidelines around staff notice periods. He does not feel, he should be penalised for a genuine misunderstanding, in what was a very difficult time for all concerned.
21. Section 10 of the Scheme, states an MP can apply to the contingency panel when 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
22. The position of Mr Thomson is that, he believes the circumstances are exceptional based on the following:
 - ◇ His personal circumstances which caused him to have to take the difficult decision not to stand for re-election. Those circumstances being, that Mr Thomson was subject of allegations which he states were malicious and part of a politically motivated smear campaign.
 - ◇ The intense media intrusion which arose as a result, which forced him to leave the Country for the sake of his physical and mental wellbeing.
 - ◇ The fact his team genuinely believed the office had to be closed down by 20th December.
 - ◇ The fact a snap election was called for December 2019 – had he had access to his full-term budget, an overspend would not have been incurred.
 - ◇ A genuine misunderstanding which led to claims being generated earlier that the official wind up period of 13th December.

- ◇ Mr Thomson has not been able to gain employment due to his current state of ill-health and has no current source of income.

23. Mr Thomson believes, the decision of the IPSA contingency panel was incorrect. On 7th April, he requested the Compliance Officer conduct a review.

Position of IPSA

24. This matter was considered by the IPSA Contingency panels held on 26th March and 2nd April 2020. The panel rejected the application made by Mr Thomson on the basis that, the claims subject of the application was made prior to his decision to stand down and so this could not be deemed an exceptional circumstance. The panel did not believe the calling of a snap election was a factor in this case.

25. At the second panel meeting consideration was given to transferring part of the expenditure to the wind-up budget but then rejected on the basis of paragraph 3.12 of the Scheme which states costs may not be transferred between budgets.

26. The panel felt they could not consider Mr Thomson's personal circumstances or mental health.

Considerations by Compliance Officer.

27. In conducting this review, the Compliance Officer has to decide whether or not there are any grounds to overturn the decision of the contingency panel.

28. The guidance on the contingency panel process is set out in Section 10.10 of "the Scheme" which states:

IPSA may decide to accept or reject an application at its discretion. In considering its decision IPSA shall take in to account the following factors:

a. whether there are exceptional circumstances warranting additional support;

b. 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

c. whether the MP's performance of parliamentary functions will be significantly impaired by a refusal of the claim.

29. The Compliance Officer believes there are two paragraphs of the Scheme which are relevant and need to be considered in this case.

Paragraph 8.2 states *“The winding-up budget is available to former MPs following a general election either because they have not stood for election, or because they have lost their seat at the election. It is also available to those who cease to be MPs during a Parliament”*.

Paragraph 8.3 states *“Former MPs may claim for winding-up costs incurred for a maximum of two months. For former MPs who either stand down or lose their seats at a general election, this two-month period starts from the day after the election. For those who cease to be MPs during a parliament, the winding-up period starts on the day after the seat is vacated”*.

30. The Compliance Officer in this review will address costs incurred as a result of the Constituency office being closed as a separate issue to the purchase of the item of office equipment. It is clear from all the information provided that the costs incurred for the office clean and removal of signage were generated as a result of the Mr Thomson’s decision not to seek re-election. The service was paid for in advance on 1st November but not carried out until January 2020. The total cost for both services is £504.00.
31. Mr Thomson announced his decision not to stand for re-election on 3rd November following a referral to the Parliamentary Commissioner for standards. Technically IPSA are correct in that the expenditure was incurred before the date Mr Thomson made his decision to stand down or the wind-up budget was implemented (1st Nov). However, the Compliance Officer believes this is a harsh judgement in the circumstances. From the contingency panel minutes, it is clear that at least one panel member felt the money could reasonably come from the wind-up budget.
32. The Compliance Officer does believe the circumstances were exceptional. Mr Thomson had every intention of standing for re-election until he was the subject of allegations. In the circumstances he felt compelled to stand down. His team were left with the responsibility of sorting out the practicalities of closing down a constituency office and did so in good faith. The Compliance officer has seen information supplied by Mr Thomson’s office manager in which she says she sought advice from IPSA before commissioning the office clean and removal of signage and was told to make the necessary arrangements and the money could come from the winding up budget. This conversation is not recorded on the case record management system, but not every conversation is recorded. There is certainly evidence that the office manager made frequent contact with IPSA during this period and the advice if given was reasonable and sensible. It is worthy of note, that had the costs been incurred after 13th December, the claims would not have been questioned. If IPSA feel the money cannot be taken from Mr Thomson’s wind up budget, then it should come out of the contingency panel fund.
33. On the question of the office equipment ordered in September at a cost of £1846.88, the Compliance Officer believes the contingency panel were correct in their decision to refuse this claim due to the time lapse involved. However, as the equipment was donated to a fellow MP, within 2 months of purchase, it would not be unreasonable for IPSA to consider reducing the amount of money they are seeking from Mr Thomson in the circumstances.

Conclusion

39. The Compliance Officer has concluded that the decision of the IPSA contingency panel was incorrect in respect of the costs incurred for the cleaning service and removal of signage (£504), but correct in respect of the office equipment purchased in September (1846.88).
40. However, in the circumstances that the MP decided not to stand for re-election and the fact the equipment was given to a fellow MP, IPSA could consider a partial reduction in the costs they are seeking from Mr Thomson and would urge them to consider this option in light of Mr Thomson's current circumstances. He had more than enough money left in his wind-up budget to cover the total amount of the purchase costs.
41. Prior to concluding the review, the Compliance Officer sent a copy of the provisional findings to both Mr Thomson and IPSA offering them the opportunity to make representations. (Insert if any received)
42. 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 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>.
43. 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.

Review Recommendation

Not applicable

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