

Procedures and Guidance for the Compliance Officer for IPSA

REPORT ON THE CONSULTATION OF 2014

15 December 2014

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Introduction

1. This report follows the recent consultation on proposals to reform the procedures and guidance for the Compliance Officer for IPSA.
2. The Independent Parliamentary Standards Authority is the body which regulates and administers MPs' pay and their business costs and expenses. The Compliance Officer for IPSA is a statutory office holder created by the Constitutional Reform and Governance Act 2010 (CRAAG). The Compliance Officer has two main functions:
 - a. to investigate complaints that a claim under the MPs' Scheme of Business Costs and Expenses may have been wrongfully paid to an MP; and
 - b. to review a decision by IPSA not to pay, in whole or in part, a claim under the Scheme.
3. We are required to provide the Compliance Officer with procedures and guidance to assist him in these functions. We consulted on revisions to these procedures and guidance from 29 September to 2 November 2014.
4. We proposed three main amendments to the procedures and guidance:
 - a. to require the Compliance Officer to publicise the facts of the investigation once it has concluded, instead of at the start;
 - b. to limit attendance at hearings conducted as part of an investigation to the MP, other parties and witnesses; and
 - c. to provide new guidance to the Compliance Officer to follow when reviewing a decision by IPSA that a claim should not be paid.
5. As we set out in the consultation document, we believed that these changes would:
 - a. reduce the risk that an investigation would be prejudiced by an unwillingness to participate;
 - b. reduce the risk that MPs will suffer unfair reputational damage before any allegation has been proved; and
 - c. maximise the ability of the Compliance Officer to gather necessary and relevant evidence.
6. In total, we received 31,225 written and emailed responses to our consultation as well as a petition with 203,861 e-signatures. The petition and 31,111 of the responses were generated by the campaigning organisation, 38 Degrees. All the main responses, and the standard wording from the 38 Degrees responses are published on our website www.parliamentarystandards.org.uk.

7. Many of the respondents were provided with incorrect information about our proposals by 38 Degrees. The title of its campaign was “IPSA: Don't hide MPs' expenses” and the text “MPs work for us, so what they spend our money on shouldn't be kept secret. It's crucial that MPs' expenses are kept public. It's a matter of public interest and should be kept in the public domain.”
8. In fact, IPSA is completely committed to transparency. We make sure that all of the data about MPs' expenses is available for the public to inspect.
9. Ever since we began operating in May 2010 we have published every penny that MPs have spent on business costs and expenses. We publish the full details of these business costs and expenses every two months on our dedicated publication website www.parliamentary-standards.org.uk. These data are downloadable and can be accessed freely by anyone.
10. Each September we also publish additional data about MPs and their use of taxpayer funds. Through our commitment to transparency, the taxpayer is able to develop a greater understanding of MPs' use of public funds than ever before. So we have never hidden MPs' expenses, and have never made any proposal to do so.

The new Procedures and Guidance

11. We are grateful to all the respondents who responded to our consultation. We have listened carefully to all of the arguments made and have made some changes to the proposals we consulted on:
 - a. the Compliance Officer will continue to publicise the facts of the investigation at its start, not when it has concluded;
 - b. attendance at hearings conducted as part of an investigation will be limited to the MP, other parties and witnesses, but MPs will be offered the opportunity to hold the hearing in public if they wish; and
 - c. we will provide new guidance to the Compliance Officer to follow when reviewing a decision by IPSA that a claim should not be paid.
12. The new procedures and guidance will be published on 15 December 2014 and will come into effect on 1 January 2015.

Responses to the Consultation

Publication

Question 1: What comments do you have on the proposal to remove the requirement for the Compliance Officer to publish the fact of an investigation?

13. The current procedures require the Compliance Officer to publish the fact of an investigation at its outset, before publishing a Statement of Findings at the conclusion. We consulted on whether to move the requirement to publish to the conclusion of an investigation, rather at the beginning.

Summary of responses

14. Nearly all the responses were focussed on this question. It generated a wide range of comments, with most opposed to our proposed changes.
15. In addition to the 31,111 emails generated a result of the campaign from 38 degrees, all of which contained similar wording, 114 other respondents addressed this question. Of these, 108 opposed our proposals and 4 expressed support. Both the Speaker of the House of Commons and the Committee on Standards addressed this question and, without offering a clear view themselves, invited IPSA to consider whether the advantages of the proposed change outweighed the transparency of the current system.
16. We also received a petition, organised by 38 Degrees, with 203,861 e-signatures asking that we “don’t hide MPs’ expenses investigations”.
17. From the text of the responses, it is clear that many of the respondents were unaware that our proposals would continue to require publication at the conclusion of any investigation, and some thought the proposals related to the publication of individual expense claims. There was also confusion as to what is currently published, in terms of both individual business costs and expense claims, and investigation. In his formal response to the consultation, IPSA’s Compliance Officer stated that: “the proposal merely changes the timing of publication and not the amount of information to be provided.”
18. Some respondents stressed the need for total transparency, noting that the public have a right to know not just that their MP *has been* investigated, but whether they are *currently being* investigated. The House of Commons Commissioner for Standards commented that “the public expects, and IPSA would benefit from, procedures which displayed greater transparency”.
19. Some respondents disagreed with the comparison that we made to other professional regulators, such as the General Medical Council and the Bar Standards Board. The Newspaper Society commented: “The consultation paper refers to the practices of a small number of other professional bodies in support of its proposed change to the

rules. These professionals however operate mostly in the private sector. They are not public officials, paid from public funds, nor are they elected by the public to perform duties on the public's behalf. There is not therefore the same overwhelming public interest in full transparency in their processes." The Parliamentary Commissioner for Standards made similar remarks, noting that IPSA is "not responsible for the professional regulation of MPs' conduct in the same way" that other professional bodies are.

20. We had argued that media publicity could potentially prejudice an investigation. But the Parliamentary Commissioner for Standards also stated that "there is...a risk that withholding information about investigations will simply heighten rather than reduce media interest".
21. A number of respondents said that potential witnesses might be encouraged to come forward once we had made public that an investigation was underway. One member of the public stated: "One of the lessons from the recent child abuse investigations has been that the publication of the fact of the investigation has proved an essential trigger for other victims coming forward. This is not without parallels with IPSA. If members of the public ... know that an MP is being investigated and have suspicions of their behaviour on another count, the publication of the fact of the investigation will tend to increase the likelihood that...[they will]...raise their concerns. "
22. Of the four individuals who were in favour of the proposal, one member of the public stated: "I think the case you have made is strong... The continuing punitive attitude towards MPs is intensely damaging to political life. Your proposal would be a tiny step in the right direction".

IPSA's position

23. IPSA has always been committed to the principle of transparency. We proposed to publish exactly the same information as is currently published, but at the conclusion of an investigation rather than at the beginning. The public would still retain their right to scrutinise the conduct of both MPs and the Compliance Officer, whilst allowing the Compliance Officer to conduct thorough inquiries. We were concerned that publication at the outset of an investigation could prejudice the investigation's outcome.
24. However, as we noted in our consultation document, there is a balance to be struck. While many of the responses were mistaken about the actual content of the proposals, the depth of feeling in favour of transparency was clear. Responses from other regulatory authorities such as the Parliamentary Commissioner for Standards were particularly persuasive.
25. Having considered the responses, we have decided to retain the requirement for the Compliance Officer to publish the fact of an investigation once it has been formally opened. We will now not change our procedures in this area.

Public hearings

Question 2: What comments do you have on the proposal to remove the requirement that the Compliance Officer take steps to ensure that members of the public may attend a hearing?

26. The current procedures permit MPs under investigation the opportunity to request a hearing, and require the Compliance Officer to “take reasonable steps to secure that members of the public may attend”. We were concerned that the fact that the presence of members of the public at a hearing may, in some circumstances, limit the amount of evidence that IPSA’s Compliance Officer can to obtain evidence to assist his investigation.

Summary of responses received

27. There were relatively few responses to this question, with 28 respondents addressing it directly. Of these, 10 were in favour while 18 were opposed.
28. Many respondents were unfamiliar with our existing procedures and did not appreciate that no public hearing has ever been requested by an MP so far. Those opposed stressed the need for transparency, and argued that any MP who was convinced of his or her innocence should relish the opportunity to prove it in the presence of the public.
29. But the Speaker of the House of Commons, the Committee on Standards, and the Parliamentary Commissioner for Standards all supported our proposal. The Committee on Standards stated: “In this case, we agree that private hearings strike an appropriate balance between fairness and transparency.” The Commissioner noted: “this facility has not been used in the last three years, but [I] consider that the potential for it to happen places unreasonable pressure on an MP who wishes to take up the opportunity of a hearing”.
30. The Committee on Standards in Public Life broadly supported the proposal, commenting: “As the consultation suggests, it would be in line with the practice of other regulators for such hearings to be conducted in private. The CSPL would want any such change to be accompanied by a requirement to publish written evidence transcripts of the hearing at the conclusion of the investigation, as is the case with cases considered by the Committee on Standards”.

IPSA’s position

31. We remain of the view described in our consultation, that the Compliance Officer should not be required to ensure that members of the public attend a hearing. We continue to believe that such a requirement could act as a disincentive for MPs to request a hearing, leading to lost opportunities to gain evidence. This would plainly not be in the public interest.

32. We are nonetheless persuaded that some MPs may wish to have the public in attendance at a hearing. We propose therefore to amend the procedures to require the Compliance Officer to accede to such a request.

Reviews

Question 3: What comments do you have on the creation of new procedures for the Compliance Officer to follow when considering a review of a decision by IPSA that a claim should not be paid?

33. Following a request from an MP, IPSA's Compliance Officer also reviews decisions by IPSA not to pay a claim for business costs and expenses. The legislation does not require IPSA to produce procedures that cover this element of the role, but we consider that the introduction of non-binding guidance would ensure that the public and MPs can have confidence in the way in which the Compliance Officer conducts such reviews.

Summary of responses received

34. 16 respondents answered this question and 13 expressed support for the proposals to provide guidance.

35. The Solicitors Regulation Authority said: "Guidance on decision-making is always helpful if properly drafted", while the Compliance Officer himself noted that: "the non-statutory guidance proposed by IPSA fleshes out the process that will be followed ...; it provides guidance for an MP and serves to reduce the risk of confusion. It also serves to increase transparency in the work of the Compliance Officer".

36. Most respondents noted that written guidance would increase consistency in decisions made, and provide clarity to MPs seeking reviews.

37. However, the Newspaper Society commented: "Our members consider that paragraph 14 of the guidance is vague and unhelpful. Paragraph 14 (b) of the guidance suggests that the Statement of Review should not be published at all where legal proceedings are ongoing and/or not all relevant avenues of appeal have been exhausted at the time the review is completed. Our members would contend that it would be sufficient to provide that publication of the Statement of Review be postponed until after the legal proceedings have concluded, or the time limit for lodging an appeal has expired".

IPSA's position

38. Our proposals clarify a procedure which has been in place informally for a number of years. We are encouraged by the positive responses to this question and will amend the procedures accordingly.

39. Further, we agree with the Newspaper Society and propose to make their suggested change to the guidance, regarding the publication of a Statement of Review, in the interests of transparency and clarity.

Other matters

Question 4: What other comments do you have on the draft new Procedures and Guidance for the Compliance Officer?

Summary of responses received

40. Respondents took this opportunity to stress the need for transparency in all the Compliance Officer's dealings with MPs. One respondent commented: "Not only must IPSA's procedures be transparent, they must be seen to be transparent."

41. A handful of individuals expressed concern that the Compliance Officer is given too much discretion in the new procedures, and questioned how the Compliance Officer can be held to account for decisions.

IPSA's position

42. We agree that transparency is vital. The Compliance Officer publishes information on all investigations and reviews undertaken on his website, www.parliamentarycompliance.org.uk, alongside all responses to Freedom of Information Act requests, and quarterly and annual statistics on the handling of cases.

43. The Compliance Officer reports to IPSA's Board and publishes an annual report on his activities over the financial year, which is published on both IPSA and the Compliance Officer's websites.

Question 5: What likely or actual impact do you believe the new Procedures and Guidance may have on equality and diversity?

Summary of responses received

44. Only a handful of responses specifically addressed this question. The Solicitors' Regulation Authority responded: "We agree that there is no obvious impact from consideration of the draft, but it would be appropriate for there to be monitoring of the impact to avoid any unconscious bias and identify any patterns that need to be investigated."

IPSA's position

45. We do not consider that these new Procedures will have any impact on equality and diversity, but we will continue to monitor any potential impact.

Third Edition of the Procedures and Guidance for the Compliance Officer for IPSA

PROCEDURES FOR INVESTIGATIONS BY THE COMPLIANCE OFFICER FOR IPSA

[Third Edition February 2014]

Introduction and General Provisions

1. The Compliance Officer for the Independent Parliamentary Standards Authority (IPSA) is an independent office holder created by the Parliamentary Standards Act 2009 (PSA) as amended by the Constitutional Reform and Governance Act 2010.
2. These Procedures, determined by IPSA under section 9A PSA, apply to an investigation conducted by the Compliance Officer to determine whether a Member of the House of Commons (MP) may have been paid an amount under the MPs' Scheme of Business Costs and Expenses (the Scheme) that should not have been allowed. The Compliance Officer will follow these Procedures in the conduct of his or her investigations.
3. Where the Compliance Officer exercises discretion under these Procedures, it shall be exercised lawfully, fairly and proportionately.
4. The Compliance Officer may, under section 9(1) PSA, conduct an investigation if he or she has reason to believe that an MP (the MP concerned) may have been paid an amount under the Scheme that should not have been allowed. This may be initiated by the Compliance Officer, as a result of a complaint by an individual (the complainant) or following a request for an investigation made by IPSA or the MP concerned.
5. In addition to this document, reference should be made to section 9 and Schedule 4 PSA.

Guidance and Information

The boxes in grey in this document are not formally part of the Procedures and are included as guidance or for information purposes only.

Complaint or request to initiate an investigation

6. Where a complaint has been made to the Compliance Officer or he or she is requested to conduct an investigation, the complaint or request (as the case may be) shall:
 - a) be made in writing;

- b) set out the reasons why it is said that the MP should not have been allowed the amount in question;
- c) include any relevant evidence; and
- d) be submitted to the Compliance Officer using the online complaint form available at www.parliamentarycompliance.org.uk or alternatively via email or by post using contact details available on the website.

Scope of complaint/request

It should be noted that a complaint or request for an investigation that does not relate to a claim by an MP for payment of an amount under the Scheme will fall outside of the Compliance Officer's jurisdiction.

Gathering Information

- 7. For the purposes of these Procedures, the Compliance Officer may request information from any source that the Compliance Officer deems appropriate, including the MP concerned and IPSA. This information may be requested in writing or orally by way of a meeting.
- 8. The Compliance Officer shall consider the information received under paragraphs 6 and 7 and decide whether or not, in any exercise of his/her discretion, to initiate an investigation.

Decision whether or not to initiate an investigation

These paragraphs set out the Compliance Officer's policy in relation to his/her discretion whether to initiate an investigation.

The Compliance Officer may decide not to initiate an investigation if he or she considers it would be unfair, inappropriate or disproportionate to do so. Reasons for this decision may, amongst others, include:

- a) the Compliance Officer considers the complaint or request to be trivial or vexatious;
- b) the complaint or request substantially repeats allegations that have already been the subject of consideration by the Compliance Officer (unless significant fresh evidence or material has come to light);
- c) the complaint or request has been made anonymously and there is no good reason to investigate despite this; or
- d) there are ongoing investigations by other public bodies or criminal or civil proceedings related to the subject matter of the complaint or request which should be completed before any investigation is commenced.

Notification of a decision whether or not to initiate an investigation

9. Where the Compliance Officer decides that a request or complaint is not valid or not to initiate an investigation, he or she shall notify the person making the complaint or request of this decision. Unless there are exceptional reasons not to, the Compliance Officer shall include in this notification the reasons for the decision not to proceed. Where appropriate, the Compliance Officer shall send a copy of this notification to the MP concerned and IPSA.
10. Where the Compliance Officer decides to initiate an investigation, he or she shall notify the MP concerned, IPSA and the complainant (if any). The notification shall set out a summary of the scope of the matters to be investigated and be sent to all persons at the same time.

Formal request for information

11. Where, under section 9(3) PSA, the Compliance Officer formally requires the MP concerned or IPSA to provide information for the purposes of the investigation, the Compliance Officer shall send a notice to the MP concerned or IPSA, as applicable, which may specify:
 - a) the information required;
 - b) the format in which it is to be provided (which may be in documentary or electronic format and may be copies, or if appropriate, originals); and
 - c) the date by which it is to be provided (which will normally be within 15 working days of receipt of the notice).
12. The Compliance Officer may extend the time period specified under paragraph 11c on receipt of a written application by the MP concerned or IPSA giving the reasons for such an application.
13. Failure by the MP concerned to comply with a request for information under section 9(3) PSA within the time period set out in the notice or as agreed by the Compliance Officer further to an application for an extension, may cause the Compliance Officer to issue a Penalty Notice to that MP (see Schedule 4 PSA).

See Annex A for the Procedures for Penalty Notices where an MP has failed to respond to a request for information under section 9(3) PSA.

Representations/hearings in advance of Statement of Provisional Findings

14. Before the Compliance Officer makes any provisional findings about the matters under investigation, the MP concerned and IPSA shall be afforded an opportunity to make representations to the Compliance Officer in accordance with paragraphs 15 to 20 below.
15. The Compliance Officer shall send a notification to the MP concerned and IPSA:
 - a) inviting representations and setting out specific points which the Compliance Officer would like addressed; and

- b) specifying the date by which representations are to be received (which will normally be within 15 working days of receipt of this notice).
16. The Compliance Officer shall at the same time inform the MP concerned and IPSA of all material information which the Compliance officer has received (which may be communicated in summary or by the supply of copy documents).
17. The Compliance Officer shall send any written representations received from the MP concerned and IPSA to the other person within 5 working days of its receipt by the Compliance Officer. The other person will be permitted to respond within such period as the Compliance Officer may reasonably decide.
18. The notification under paragraph 11 above sent to the MP concerned shall in addition:
- a) offer an opportunity to meet with the Compliance Officer in order to make representations in person; and
 - b) where the Compliance Officer considers it appropriate, offer an opportunity for a hearing for the purpose of resolving factual disputes, at which witnesses may be called and examined.
19. Where the MP concerned has made oral representations under paragraph 18a), the Compliance Officer will agree a note of those representations with the MP concerned and send these to IPSA within 5 working days of the note being agreed.
20. Where further to paragraph 18b), the MP concerned has requested a hearing, or the Compliance Officer has decided to arrange one on his or her own initiative:
- a) the Compliance Officer shall set a date and location for the hearing and may issue directions for the proper running of the hearing;
 - b) the Compliance Officer shall offer IPSA the opportunity to attend and to call and examine witnesses;
 - c) the MP concerned and IPSA may be represented;
 - d) the MP concerned and IPSA shall apply in writing to the Compliance Officer in advance of the hearing to request the attendance of the witnesses. The written request shall include a brief summary of the evidence which it is proposed that the witness will give and shall be sent to the Compliance Officer not later than 21 days before the date set for the hearing; and
 - e) if the Compliance Officer agrees the proposed witnesses should be invited to attend, the Compliance Officer shall send a written request to that person.
21. Hearings shall be held in private, unless the MP concerned requests a public hearing.

Statement of Provisional Findings

22. The Compliance Officer shall send a copy of the Statement of Provisional Findings to the MP concerned and IPSA. The Statement shall include a summary of the scope of the investigation as set out in the notice served under paragraph 10, the evidence obtained, representations made and the provisional conclusions and recommendations.

Under section 9(6) PSA a Statement of Provisional Findings may include:

- a) a finding that an MP has failed to provide information when formally requested to do so; and
- b) findings about the role of IPSA in the matters under investigation including findings that the MP being paid an amount under the Scheme that should not have been allowed was wholly or partly IPSA's fault.

Representations in advance of Statement of Findings

23. At the same time as sending the Statement of Provisional Findings, the Compliance Officer shall offer the MP concerned and IPSA an opportunity to make further representations in writing within a period specified by the Compliance Officer (which will normally be within 15 working days of receipt of the Statement of Provisional Findings).
24. The Compliance Officer shall send each person's representations to the other person within 5 working days of its receipt by the Compliance Officer. The other person will be permitted to respond within such period as the Compliance Officer may reasonably decide.

Statement of Findings

25. Where the Compliance Officer has prepared a Statement of Findings, he or she shall send a copy to the complainant (if any), the MP concerned and IPSA. The statement shall include a summary of the scope of the investigation as set out in the notice served under paragraph 10, the evidence obtained, representations made, the conclusions and recommendations and any Repayment Direction made.

Circumstances in which Compliance Officer need not Issue a Statement of Findings

Further to section 9(8) PSA, the Compliance Officer may determine not to issue a Statement of Finding where the MP:

- a) accepts the Compliance Officer's provisional findings;
- b) agrees to repay to IPSA in such manner and within such period as the Compliance Officer considers reasonable, such amount as the Compliance Officer considers reasonable; and
- c) makes the repayment accordingly.

Repayment Directions and Penalty Notices

Under paragraph 1 of Schedule 4 PSA, the Compliance Officer, where he has made a finding in the Statement of Findings that the MP concerned was paid an amount under

the Scheme which should not have been allowed and which has not already been repaid, may make a Repayment Direction. This will specify the amount to be paid and the time period within which it must be paid. Failure to comply with this can lead to the imposition of a Penalty Notice.

See Annex A for Guidance on Penalty Notices where a Penalty Notice is imposed for failure to comply with a Repayment Direction.

See Annex B for Guidance on recovery of overpayments.

There is a right of appeal against Repayment Directions and Penalty Notices to the First Tier Tribunal, which must be lodged within 28 days of the day on which the Direction or Penalty Notice, as the case may be, was sent to the MP concerned.

Closure Report

26. The Compliance Officer may issue a Closure Report to the complainant (if any), the MP concerned and IPSA stating that the investigation is closed. Any Closure Report shall include details as to any agreement by the MP concerned to repay any amount to IPSA and whether or not any amount has been paid.

Publication

27. Subject to paragraph 28, the Compliance Officer shall publish, in such manner as he sees fit:

- a) the notification sent out under paragraph 10;
- b) the Provisional Statement of Findings or a summary thereof;
- c) any agreement by the MP concerned to repay to IPSA an amount further to section 9(8)(c) PSA or a summary thereof;
- d) any Statement of Findings or a summary thereof;
- e) any Closure Report; and
- f) any Penalty Notice issued under paragraph 6 of Schedule 4 PSA.

28. The Compliance Officer may decide not to publish:

- a) in the case of a Penalty Notice, where fewer than 28 days have passed since it was sent to the MP concerned;
- b) where legal proceedings in relation to any investigation or claim are ongoing and/or not all relevant avenues of appeal have been exhausted; or
- c) in exceptional circumstances, provided that the reason for not doing so outweighs the public interest in publication.

Combined and suspended investigations

29. Where, during the course of an investigation, the Compliance Officer has reason to believe that the MP concerned may have been paid other amounts under the Scheme other than those under investigation that should not have been allowed, the Compliance Officer may give notice to the MP concerned and IPSA of the Compliance Officer's intention to initiate a new investigation or to join all such investigations into a single investigation. The Compliance Officer may take into account the views of the MP prior to joining all such investigations.
30. The Compliance Officer may at any time, by notice to the MP and IPSA, suspend an investigation for such period as appears to the Compliance Officer to be necessary for:
 - a) the completion of any other investigation relating to any of the matters to which the investigation relates;
 - b) the determination of any civil or criminal proceedings arising out of those matters; or
 - c) such other exceptional circumstance that warrants suspension.

Miscellaneous

31. In these Procedures, a Member of the House of Commons shall be taken to include a former Member of the House of Commons.
32. The Compliance Officer shall maintain a record of all investigations requested and conducted under these Procedures.
33. Failure to follow any of the procedural requirements set out in this document shall not affect the validity of any determination made by the Compliance Officer.

GUIDANCE ON PENALTY NOTICES

Prepared by IPSA under Schedule 4 of the Parliamentary Standards Act 2009

Third Edition 2014

Failure to comply with a request for provision of information

1. If the Compliance Officer makes a finding under paragraph 9(5) of the PSA that the MP has without reasonable excuse failed to comply with a requirement under paragraph 9(3) (provision of information to Compliance Officer), the Compliance Officer may, by penalty notice, impose a penalty on the MP.
2. The penalty will be a sum of money payable by the member to IPSA, who shall pay it to the Consolidated Fund.
3. In determining the amount of the penalty, the Compliance Officer will take into account whether the MP has previously failed to comply with a request under paragraph 9(3) for provision of information.
4. In determining the amount of the penalty, the Compliance Officer will normally be guided by the following:
 - a) a penalty of the amount of 250 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, one quarter of the maximum amount of the penalty) on the first occasion that an MP fails to comply with a request for provision of information;
 - b) a penalty of the amount of 500 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, one half of the maximum amount of the penalty), on the second occasion that an MP fails to comply with a request for provision of information; and
 - c) a penalty of the amount of 1000 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, the maximum amount of the penalty), for the third and all subsequent occasions that an MP fails to comply with a request for provision of information.

Failure to comply with a repayment direction

5. If the Compliance Officer is satisfied that the MP has without reasonable excuse failed to comply with any requirement contained in a repayment direction, the Compliance Officer may, by a penalty notice, impose a penalty on the MP.
6. The penalty will be a sum of money payable by the member to the IPSA, who shall pay it to the Consolidated Fund.
7. In determining the amount of the penalty, the Compliance Officer will take into account whether the MP has previously failed to comply with any requirements contained in a repayment direction.
8. In determining the amount of the penalty, the Compliance Officer will normally be guided by the following:
 - a) a penalty of the amount of 250 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, one quarter of the maximum amount of the penalty) on the first occasion that an MP fails to comply with any requirement in a repayment direction;
 - b) a penalty of the amount of 500 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, one half of the maximum amount of the penalty) on the second occasion that an MP fails to comply with any requirement in a repayment direction;
 - c) a penalty of the amount of 1000 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, the maximum amount of the penalty) on the third and all subsequent occasions that an MP fails to comply with any requirement in a repayment direction.
9. Where the Compliance Officer exercises discretion under this guidance, this discretion is not absolute. At all times it shall be exercised lawfully, fairly and proportionately.

Appeal against a penalty notice

An MP who has been issued with a penalty notice under paragraphs 1 and 5 above may appeal to the First-tier Tribunal with respect to the decision by the Compliance Officer to issue the penalty notice.

GUIDANCE ON RECOVERY OF OVERPAYMENTS

Prepared by IPSA under Schedule 4 of the Parliamentary Standards Act 2009

Third Edition 2014

Charging of interest

1. Paragraph 1(6)(a) of the PSA provides that where the Compliance Officer issues a repayment direction to an MP, the Compliance Officer may require that the MP pay to IPSA interest on the amount prescribed by the direction.
2. In determining whether to use this provision, the Compliance Officer shall be guided by the principles of fairness, proportionality and public interest. The Compliance Officer shall have regard to all the circumstances of the case, and in particular to whether:
 - a) the amount to be repaid is substantial; and
 - b) the MP was at fault in making the claim.
3. The rate of interest payable by the member shall be specified in the repayment direction, and will be determined by the Compliance Officer, having regard to the extant base rate and commercially available interest rates.

Charging of costs

4. Paragraph 1(6)(b) PSA provides that where the Compliance Officer issues a repayment direction to an MP, the Compliance Officer may require that MP to pay to IPSA an amount reasonably representing the costs incurred by IPSA in relation to the repayment, including the costs of the Compliance Officer in conducting the investigation.
5. In determining whether the repayment direction should include such a requirement, the Compliance Officer shall be guided by the principles of fairness, proportionality and the public interest. The Compliance Officer will have regard to all the circumstances of the case, and in particular to some or all of the following factors; whether:
 - a) The MP was at fault in making the claim;
 - b) It was the first error by the MP in question; and
 - c) The MP was the cause of any time wasting or obstruction during the investigation.

6. Where the Compliance Officer finds that the payment of a wrongful claim was wholly or partly IPSA's fault, the MP shall not generally be required to pay costs under the repayment direction.

7. The scheme for calculation of costs is below:

Length of the Investigation - A sum to be determined by the Compliance Officer allocated per eight hour slot spent exclusively on the investigation.

Information Gathering Costs - A proportion, to be determined by the Compliance Officer, of the costs incurred in obtaining, recording and/or administering information gathered by the Compliance Officer for the purpose of the investigation.

Meeting and/or hearing costs - A proportion, to be determined by the Compliance Officer, of the costs incurred in arranging and holding meetings and/or hearings with the MP during the investigation.

Any other costs of the investigation - A proportion, to be determined by the Compliance Officer, of the other costs incurred during the investigation not provided for elsewhere in the scheme for the calculation of costs.

Any other costs incurred by IPSA in relation to the investigation - A proportion – to be determined by IPSA and agreed by the Compliance Officer – of the costs incurred by IPSA during the investigation.

8. Where the Compliance Officer exercises discretion under the procedures, this discretion is not absolute. At all times it shall be exercised lawfully, fairly and proportionately.

Guidance on the Conduct of Reviews by the Compliance Officer for IPSA

First Edition

Introduction and General Provisions

1. The Compliance Officer for the Independent Parliamentary Standards Authority (IPSA) is an independent office holder created by the Parliamentary Standards Act 2009 (PSA) as amended by the Constitutional Reform and Governance Act 2010.
2. Any Member or former Member of the House of Commons (MP) may apply to the Compliance Office for a review of a decision by IPSA that a claim under the MPs' Scheme of Business Costs and Expenses (the Scheme) is to be refused or that only part of the amount claimed is to be allowed.
3. This document contains information and guidance on reviews conducted by the Compliance Officer under section 6A PSA. It also covers determinations by IPSA under section 9A(5) PSA.
4. Where the Compliance Officer exercises discretion under these Procedures, it shall be exercised lawfully, fairly and proportionately.

Request for a review

5. Where a request for a review is made to the Compliance Officer, it shall:
 - a) be made in writing;
 - b) set out the reasons why it is said that IPSA's decision was incorrect;
 - c) confirm that the MP has already requested IPSA to reconsider the determination, allowed a reasonable opportunity for it so to do, and the outcome of that reconsideration;
 - d) include any relevant evidence; and
 - e) be submitted to the Compliance Officer using the online review form available at www.parliamentarycompliance.org.uk or alternatively via email or by post using contact details available on the website.
6. The Compliance Officer on receipt of a request for a review shall consider whether it is within his or her jurisdiction (does it relate to a refusal in part or whole of a claim under the Scheme) and whether the MP has given IPSA a reasonable opportunity to reconsider the determination.

Notification of receipt of a request for a review

7. Where the Compliance Officer is in receipt of a request for a review, he or she shall notify IPSA and request an account of IPSA's actions taken in considering the claim and copies of supporting evidence

Gathering information/representations

8. For the purposes of conducting the review, the Compliance Officer may request information and representations from any source that the Compliance Officer deems appropriate, including the MP concerned and IPSA. This information may be requested in writing or orally by way of a meeting. If in writing, it shall be supplied by such date as is set by the Compliance Officer (which will normally be within 15 days of receipt of the request).

Statement of Review Decision

9. 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. The Compliance Officer shall give IPSA a statement of any such decision (Statement of Review), which may include a statement of his or her findings about the way in which IPSA has dealt with the claim.

Payments/adjustments and Right of Appeal

11. IPSA shall, pursuant to section 6A(4) PSA, but subject to the MP's right of appeal under section 6A(6) to the First-tier Tribunal, make any payments or adjustments necessary to give effect to the Compliance Officer's decision.
12. IPSA shall not make any payments or adjustments until it is no longer possible for the member to appeal and all relevant appeals have been withdrawn or determined.

Publication

13. Subject to paragraph 12, the Compliance Officer shall publish, in such manner as he sees fit a summary of the Statement of Review including the outcome of the review.
14. The Compliance Officer may decide not to publish where:
 - a) fewer than 28 days have passed since the outcome of the review was sent to the MP who submitted the claim;

- b) legal proceedings in relation to the investigation or claim are ongoing and/or not all relevant avenues of appeal have been exhausted, until after the legal proceedings have concluded, or the time limit for lodging an appeal has expired;
or
- c) in exceptional circumstances, provided always that the reason for not doing so outweighs the public interest in publication.

Combined and suspended reviews

15. Where, during the course of a review, the Compliance Officer receives a further request which is related to the first, the Compliance Officer may give notice to the MP concerned and IPSA of the Compliance Officer's intention to join the reviews into a single process. The Compliance Officer may take into account the views of the MP and IPSA prior to joining all such reviews.
16. The Compliance Officer may at any time, by notice to the MP and IPSA, suspend a review process for such period as appears to the Compliance Officer to be necessary for:
- a) the determination of any civil or criminal proceedings arising out of those matter; or
 - b) such other exceptional circumstance that warrants suspension.

Miscellaneous

17. The Compliance Officer shall maintain a record of the review process.
18. Failure to follow any of the procedural requirements set out in this document shall not affect the validity of any determination made by the Compliance Officer.