Compliance Officer for IPSA

Summary of investigation and findings

Mr Jim McGovern MP
Member of Parliament for Dundee West
(IN/0040/080411)

11 October 2011

Martyn Taylor
Compliance Officer for IPSA
PO Box 68209
London SW1P 9TZ

Investigation summary

1. The Compliance Officer for the Independent Parliamentary Standards Authority carried out an investigation into whether Jim McGovern MP was paid an amount under the MPs' Expenses Scheme (the Scheme) that should not have been allowed.

2. The investigation was conducted in accordance with section 9(1) of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010) (PSA).

3. The investigation was initiated by the Compliance Officer, as he had reason to believe Mr McGovern may have received funding for claims relating to a website (www.jimmcgovern.co.uk) that did not comply with the rules of the Independent Parliamentary Standards Authority (IPSA) as set out in the Scheme.

4. On 11 April 2011 the Compliance Officer notified Mr McGovern that he was the subject of a preliminary investigation and on 5 July 2011 the Compliance Officer opened a substantive investigation into this matter.

5. On 24 August 2011, the Compliance Officer issued a Statement of Provisional Findings. This statement provides full details of the investigation. The findings are summarised below.

Findings

6. The Compliance Officer found:
    a. that, in contravention of the rules of the MPs' Expenses Scheme, Mr McGovern received reimbursement for claims he submitted for costs relating to his website at a time when the website contained a party political logo;
    b. that Mr McGovern acted swiftly to rectify the contravention;
    c. that IPSA was in part at fault as its validation procedures should have prevented reimbursement being made;
    d. that seeking a repayment for this contravention would be neither proportionate nor reasonable; and
    e. that IPSA had strengthened its validation practices.

Resolution

7. On 7 September Mr McGovern wrote to the Compliance Officer advising him that he accepted the findings.

8. No further action was required either of Mr McGovern or of IPSA and on 21 September 2011 the investigation was closed.

Martyn Taylor
Compliance Officer for IPSA

11 October 2011

Compliance Officer for IPSA

Statement of Provisional Findings

Mr Jim McGovern MP
Member of Parliament for Dundee West
(IN/0040/080411)

24 August 2011

Martyn Taylor
Compliance Officer for IPSA
PO Box 68209
London SW1P 9TZ

A. Introduction

1. The Compliance Officer[1] for the Independent Parliamentary Standards Authority has carried out an investigation into whether Jim McGovern MP was paid an amount under the MPs' Expenses Scheme (the Scheme) that should not have been allowed. This investigation was conducted in accordance with section 9(1) of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010) (PSA).

2. The investigation in respect of Mr McGovern was initiated by the Compliance Officer, as he had reason to believe Mr McGovern may have received funding for claims relating to a website (www.jimmcgovern.co.uk) that did not comply with the rules of the Independent Parliamentary Standards Authority (IPSA) as set out in the Scheme.

3. This statement sets out the Compliance Officer's provisional findings in respect of this investigation.

4. Mr McGovern and IPSA may make representations in writing to the Compliance Officer in respect of the provisional findings in this statement within fifteen working days of the date of this statement.

5. If representations are received, the Compliance Officer will consider these and may prepare a Statement of Findings.

B. Summary of the investigation

6. In December 2010 a member of the public made a complaint to the Compliance Officer about the use of party political logos on the website of an MP, the costs of which were claimed through the Scheme.

7. Sections 10.6 of the Second Edition of the Scheme, which was in effect at that time, stated that *"[expenditure] may not be claimed for (a) funding any material that contains a party political logo or emblem; or (b) publishing any material which could be construed as election campaign expenditure within the scope of the Political Parties, Elections and Referendums Act 2000"*. Both the First Edition and the current (Third) Edition of the Scheme stated the same under sections 10.6 and 6.6 (d) and (f) respectively. The Scheme, therefore, does not provide for reimbursements of the costs of material that contains a party logo, no matter the size, location or purpose of the logo.

[1] For the purposes of this statement, actions of the Compliance Officer may have been carried out by the members of his staff acting on his behalf.

8. Following this complaint, the Compliance Officer carried out an inspection of all the websites of MPs where the costs of the websites had been claimed through the Scheme.

9. When Mr McGovern's website was checked as part of this inspection, it was found to contain a party political emblem for the Labour Party – a watermark in the form of a rose. A snapshot was taken of the site and retained as evidence.

10. This inspection gave the Compliance Officer a reason to believe that Mr McGovern may have been reimbursed for claims under the Scheme that should not have been allowed, and on 11 April 2011 a Notice of Preliminary Investigation was issued to the MP and IPSA in respect of claims set out below.

Claim Number	Date	Category	Expense Type	Amount
22917	12/07/10	General Admin	Website – Hosting	£23.74
22917	12/07/10	General Admin	Website – Hosting	£136.39

11. Mr McGovern contacted the Compliance Officer by telephone on 18 April 2011 for further information about the Preliminary Investigation and on 19 April to advise the Compliance Officer that he had that day instructed the website hosting company to remove the Labour Party emblems. On 20 April 2011 Mr McGovern sent the Compliance Officer a letter advising him that he would be providing a full response in due course, and on 17 May Mr McGovern sent a letter to the Compliance Officer in which he advised him that he had acted immediately after he had received notification, and with which he enclosed an email from the website hosting company explaining the presence of the emblem on Mr McGovern's website.

12. On 3 June 2011 the Compliance Officer received a further letter from Mr McGovern with which he enclosed correspondence from February 2006 between his office and the House of Commons Fees Office in which confirmation was given to Mr McGovern's office that the website at that time met the relevant criteria to secure funding.

13. Upon request, IPSA supplied all original invoices and supporting documentation held on its files relating to the above claims.

14. On 5 July 2011, following an analysis of the documentation from IPSA and the correspondence with Mr McGovern, the Compliance Officer notified Mr McGovern of his decision to carry out a Substantive Investigation, on the grounds that he was satisfied that Mr McGovern may have been paid an amount under the Scheme that should not have been allowed. IPSA received a copy of the Notice of Substantive Investigation on 21 July 2011.

15. Section 9(4) of the PSA provides that the Compliance Officer give the MP and IPSA an opportunity to make representations in respect of the substantive investigation.

16. Mr McGovern spoke to the Compliance Officer by telephone on 15 July 2011 and submitted representations in writing on 18 July 2011. IPSA submitted representations to the Compliance Officer in writing on 28 July 2011.

17. During the investigation, the Compliance Officer considered, in addition to Mr McGovern's website, IPSA's validation practices and IPSA's policy position in respect of the presence of party logos and emblems on MPs' websites. He also considered the representations submitted to him.

C. Provisional Findings

18. Following an assessment of the evidence in this case and having given consideration to both Mr McGovern's and IPSA's representations, the Compliance Officer has made the provisional findings set out below.

    i. The rules of the Scheme are clear that reimbursement may not be sought for the costs of material that contains a party political logo or emblem. IPSA has clarified that websites are covered by "material" and that it will not reimburse the cost of material that contains a party emblem, no matter the size, location or purpose of the logo.

    ii. Mr McGovern submitted claims for costs relating to his website, and received reimbursement for these costs from IPSA, despite the website containing a party political emblem.

    iii. Mr McGovern therefore contravened the rules of the Scheme and received reimbursement for claims that should not have been allowed. The Compliance Officer has decided not to apportion a particular amount to this contravention on the grounds that it is not necessary in this case to disaggregate the costs of designing and hosting party logos from the other costs of designing and hosting Mr McGovern's website.

    iv. IPSA's validation effort in respect of these claims fell short. It did not meet its validation standards, which include provision that the front pages of websites for which claims are being made are checked for party political logos, emblems or campaign material, and which should have resulted in the claims being turned down for reimbursement. Although MPs alone are responsible for the accuracy of the submission of their claims, IPSA is in this case in part at fault as it could, by

following its validation procedures, have prevented reimbursements being made to Mr McGovern for amounts that were not allowed under the Scheme.

19. When considering whether a repayment or penalty is appropriate in the case of a contravention of the Scheme, the Compliance Officer must consider a range of factors in order to ensure he adopts a proportionate and fair approach. The nature of the contravention, the nature of the claims that have been investigated, the context of the submission of the claims, and Mr McGovern's response are therefore relevant factors, and the Compliance Officer has provisionally found the following in respect of these:

    i. The contravention itself was minor in scale. With the exception of the presence of the party emblem, a watermark in the form of a rose, Mr McGovern's website was compliant with the Scheme. It is hard to envisage any personal financial, political or other particular advantage to Mr McGovern resulting from the presence of a party political emblem on his website, particularly at this time in the electoral cycle. Were a similar contravention to occur in the run-up to a General Election, it is possible that a different finding would be made.

    ii. The claims that have been subject to this investigation were for paid-for services sought by Mr McGovern in pursuit of his parliamentary duties, rather than material goods that could more readily be exchanged or returned.

    iii. The claims in this case were made shortly after the 2010 General Election, following which the new Scheme came into effect. IPSA has stated in its representations in respect of this case that during this period it took time for both MPs and IPSA itself to become fully familiar with the Scheme, to the extent that for much of this early period IPSA operated a "grace period" during which it returned rather than refused claims it found to be outside the rules.

    iv. Following the notification that a Preliminary Investigation was underway, Mr McGovern took swift and welcome action to ensure the website complied with the Scheme. A recent inspection of the website confirmed that it remains compliant.

Conclusion

20. Under section 9(8) of the Act, the Compliance Officer may determine what amount is reasonable to request an MP repay. Taking all relevant factors, as set out above, into account, the Compliance Officer finds that in this case it would be neither proportionate nor reasonable to request a repayment from Mr McGovern. He finds the same in respect of any additional penalties.

21. Mr McGovern need take no further action.

22. The Compliance Officer further finds that IPSA has acted to strengthen its validation practices in respect of section 6.6 (d) and (f) of the Scheme and that IPSA therefore need take no additional action.

23. The Compliance Officer does, however, remind Mr McGovern that he alone is responsible for the correct submission of claims and that a general condition of the Scheme is that *"[i]n making any claim under the Scheme, an MP must certify that the expenditure was necessary for performance of their parliamentary functions, and that in incurring the expenditure they had complied with the Scheme"* (section 3.2).

D. Representations and case resolution

24. Mr McGovern and IPSA may make representations in writing to the Compliance Officer in respect of these provisional findings within fifteen working days of the date of this statement.

25. If representations are received, the Compliance Officer will consider these and prepare a Statement of Findings.

26. The Compliance Officer may determine not to prepare a Statement of Findings, as per paragraph 36 of the Procedures for Investigations of the Compliance Officer, if Mr McGovern accepts the Provisional Findings.

Martyn Taylor
Compliance Officer for IPSA

24 August 2011

Compliance Officer for IPSA

Investigation Closure Report

Mr Jim McGovern MP
Member of Parliament for Dundee West
(IN/0040/080411)

21 September 2011

Martyn Taylor
Compliance Officer for IPSA
PO Box 68209
London SW1P 9TZ

Investigation closure report

On 24 August 2011 the Compliance Officer sent Mr Jim McGovern MP a Statement of Provisional Findings in respect of the investigation that was conducted in accordance with section 9(1) of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010) (PSA).

The investigation was into the presence of political party logos on a website that was funded through the MPs' Expenses Scheme. The Statement of Provisional Findings sets out the details of the investigation and the Compliance Officer's reasoning for his findings.

The Compliance Officer also sent a copy of the Statement to the Independent Parliamentary Standards Authority (IPSA).

Section 9(5) of the PSA provides that both the MP in question and IPSA are given the opportunity to make representations to the Compliance Officer about the provisional findings.

On 6 September 2011, IPSA's Chairman, Sir Ian Kennedy, wrote to the Compliance Officer to confirm that he would not be making any further representations in respect of this investigation.

On 7 September 2011, Mr McGovern wrote to the Compliance Officer to confirm that he accepted the findings.

No further action is required of Mr McGovern or of IPSA, and the Compliance Officer will not be preparing a Statement of Findings further to the Statement of Provisional Findings.

This investigation is now closed.

Martyn Taylor
Compliance Officer for IPSA

21 September 2011