



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 either lost their seats or stood down 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 has made several applications to the IPSA contingency panel. The claims subject of this review relates to claim number 60042966 (£90 claimed for repair and light fitting replacements) and claim number 60036645 (£40 claimed BT bill).
7. Mr Thomson subsequently made an application for his case to be considered at the IPSA contingency panel. The case he presented was that his circumstances were exceptional.
8. The case was heard at the contingency panel meeting held on 9th July 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 15th September 2020.
9. *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.

10. 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”.

11. 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

12. 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.

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

- ◇ Reviewed the contingency panel application submitted by Mr Thomson.
- ◇ 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.

The Basis for the Review request by Mr Thomson.

14. 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.

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.

15. The annual 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 a total overspend of £2,940.01.
16. Due to his personal circumstances, Mr Thomson made the decision not to seek re-election and announced the news on 3rd November 2019. The period of Purdah for the December election came in to effect on 6th November 2019.
17. The claim for £90 was submitted in October 2019 for work that was completed in July. The claim was initially rejected by IPSA on the basis that it was submitted to them outside of the 90-day timescale. Mr Thomson’s position is that the electrician submitted the invoice late despite several requests from his office manager to provide it. Mr Thomson has supplied copies of screenshots which corroborate the fact that his office manager had made attempts to obtain the invoice.
18. The claim for the £40 BT bill was received by IPSA in February 2020(during the wind-up period) and covered expenditure incurred in January 2020. The bill was paid by Mr Thomson’s staff with the use of his procurement card. However, because his budget was already overspent and the fact Mr Thomson could not provide an invoice in support of the claim, it was rejected by IPSA and his staff member was advised to mark it up ‘to be repaid’ and the account would be reconciled at the end of the wind-up process.
19. 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
20. 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.
 - ◇ 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.
 - ◇ Mr Thomson has not been able to gain employment due to his current state of ill-health and has no current source of income.

Position of IPSA

21. This matter was considered by the IPSA Contingency panel held on 9th July 2020. The panel rejected the application made by Mr Thomson on the basis that, the Panel did not believe the circumstances were exceptional or that the invoices were unforeseeable.
22. The panel minutes reveal that both invoices were paid to the service providers but the expenditure added to Mr Thomson's overall budget overspend. That being the case, the fact that the claim for the electrical costs were submitted outside of the 90-day timescale was immaterial. In addition, IPSA do not accept Mr Thomson's contention that his account manager advised his office manager that the BT bill would be reconciled as part of the wind-up process, merely that it would be considered. The contingency panel considered it and rejected the claim on the grounds that Mr Thomson had been unable to provide an invoice as proof of expenditure.
23. The panel felt they could not consider Mr Thomson's personal financial circumstances or ill-health as a factor in the deliberations.

Considerations by Compliance Officer.

24. 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.
25. 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.*

26. 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”.

27. To take each claim individually. The repair work and replacement of light fittings were completed in July 2019, but the invoice not submitted until October 2019. By the time the invoice was submitted, there are two factors which need to be considered. Firstly, the invoice was submitted late and outside of the 90-day timescale which are afforded to MPs to submit claims (Acknowledging the MPs office had trouble obtaining a copy of the invoice) and secondly by the time the claim was considered Mr Thomson’s pro-rated budget was already overspent. The work was commissioned before Mr Thomson made the decision not to stand for re-election so the Compliance Officer cannot therefore consider the option that this could be paid for out of the wind-up budget as she did in a previous review.
28. In relation to the BT bill. The claim was made in February as part of the wind-up process and rejected on the basis Mr Thomson could not provide a copy of the relevant invoice. This was also the reason why the Contingency Panel were unable to support Mr Thomson’s application. The rules within the ‘Scheme’ around the provision of supporting evidence are quite clear (Sect 1.1) and state that claims must be:
- c. submitted no more than 90 days after the expenditure was incurred; and
 - d. supported by the evidence required by IPSA no later than seven days after the claim is submitted.

Conclusion

29. The Compliance Officer has concluded that the decision of the IPSA contingency panel was correct in respect of both invoices for the reasons outlined above. The Compliance Officer acknowledges that had Mr Thomson been able to provide the invoice in respect of the BT bill for £40, it could have been considered as part of his wind-up budget.
30. The Compliance Officer further acknowledges the personal circumstances of Mr Thomson and the fact he is currently experiencing financial hardship and ill-health. The Compliance Officer recommends to IPSA that in any subsequent attempt to recover the debt from Mr Thomson, they consider a pragmatic and reasonable approach and negotiate a realistic repayment plan in respect of all monies owed.
31. In 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)

32. 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>.

33. 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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