

Review of a determination by the IPSA relating to an overspend on the MP's accommodation budget for the financial year 2021/22.

**Review conducted at request of Peter Gibson
Member of Parliament for Darlington.**

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Introduction

1. This review has been conducted following a request by Peter Gibson, the MP for Darlington. In April 2022, the MP made an application to the IPSA Contingency Panel requesting the Panel award him additional funds of £514.10 to offset an overspend on his accommodation budget for utility services. The Panel rejected the application and informed the MP that he should repay the money.
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 Four – Accommodation Costs and Chapter Ten – Contingency Process within the Thirteenth Edition of the Scheme 2021/22. This is the guidance that was in place at the relevant time. In this case, the end of year guidance published by IPSA to all MPs is also relevant.
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. (Eleventh 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 considered this matter through the Contingency Panel process and the Director of Policy and Engagement has also considered it further as a result of an enquiry from the Chair of SCIPSA and reached the same conclusion, there is no impediment to the Compliance Officer accepting the request for a review from Mr Gibson.

The Review.

7. In conducting the review, the Compliance Officer has utilised the thirteenth edition of the Scheme which came into force in 18th March 2021.
8. In addition, the Compliance Officer has conducted the following enquiries:
 - Reviewed all the information provided by Mr Gibson.
 - Reviewed the notes held on the IPSA case records management system.
 - Reviewed the information from the contingency panel process.
 - Held a telephone consultation with Mr Gibson’s Office Manager.
 - Researched the Scheme for MPs Business Costs and Expenses.
 - Reviewed end of year guidance published by IPSA
 - Researched energy cost increases

The basis for the review request by Mr Gibson

9. During the financial year 2020/2021, Mr Gibson incurred an overspend on his accommodation budget which included charges for utility services from an energy company for the supply of electricity to his London Accommodation.
10. In April 2022, Mr Gibson made an application to the Contingency Panel for the sum of £514.10. to cover the overspend. He did not initially present a mitigating argument to explain the circumstances of the

overspend and his application was rejected with a caveat that he should be contacted to established if there were any mitigating circumstance(s) he would like the panel to consider. The initial application was considered on 7th April 2022.

11. The matter was considered again at a panel on 14th April 2022. In the intervening period, the MP had been contacted and stated the overspend had incurred due to an unforeseen increase in energy costs and the fact he had experienced problems with his utility providers and as a result he did not receive a true indication of how much he owed to the provided until the end of March 2022.
12. The panel considered the application again on 14th April and rejected the application for the second time.
13. The MP then contacted his account manager and Head of MP Services to explore whether the overspend could be transferred to his 2022/23 budget as the accommodation budget had been increased by 7.7% as IPSA had recognised and responded to the general increase in cost-of-living crisis.
14. The Head of MP services explained this was not possible as the rules did not allow it and gave a full explanation with a clear rationale.
15. In May 2022, the MP wrote a letter to the Chair of the Speakers Committee for the Independent Parliamentary Standards Authority (SCIPSA). SCIPSA is a statutory body established under the Parliamentary Standards Act 2009. SCIPSA can make enquiries to the Chair and Chief executive officer at IPSA in the event an enquiry is made by an MP. The Chair of SCIPSA contacted IPSA and an explanation was provided as to why the claim made by Mr Gibson was rejected. (See IPSA section for further detail).
16. In August 2022, Mr Gibson contacted the Compliance Officer and requested a review. The MP has made two points which he has asked to be considered:
 - a. Energy prices started to rise in Quarter 2 and 3 in the financial year 2021/22 and IPSA did not respond to this until the start of the new financial year and increased the accommodation budget by nearly 8%.
 - b. He changed energy providers part way through the year, and it came to light, the first provider had been overcharging him. The situation was not rectified for several months, and it was not until December and late March that the total costs were known. He has not appreciated until late on,

this would contribute to his overspend. He did not expect such a large bill as he had rarely stayed at the accommodation due to covid restrictions.

17. The response to the argument presented in paragraph 16 is considered in the compliance section of this report.

Position of IPSA

18. As previously stated, IPSA considered this matter at contingency panels on 7th and 14th April. The application was rejected on the grounds, Mr Gibson had not set out an argument which would demonstrate the overspend was incurred due to exceptional circumstances. This is a requirement that must be made out before the panel can award additional monies.
19. The panel also pointed out; the MP's accommodation budget was already overspent prior to the utility bills being considered. IPSA had enabled some funding to be transferred across to his 22/23 budget which was permissible under the rules but stated the MP was liable to pay for the energy bills.
20. The MP contacted his account manager and Head of MP services to query whether the energy bills could be moved to the 2022/23 budget. It was explained to the MP that end of year guidance is something that applied to all organisations and not just IPSA. When it comes to the provision of services, they must be paid for with the financial budget which covers the year the services were used. IPSA are accountable to an annual audit in line with public sector financing rules.
21. Following Mr Gibson contacting the chair of SCIPSA, the Director of Policy and Engagement responded by explaining "The Contingency Application process is intended for those exceptional, unexpected events that can befall offices during the financial year. The Panel that considers these applications needs to balance our twin objectives of supporting Members and their offices in their parliamentary duties and our duty to the taxpayer. The Panel therefore needs to be assured of the exceptionality of the applications it receives. In this case there was insufficient evidence of that exceptionality."

Considerations of the Compliance Officer

22. The Compliance Officer, on receipt of a request for a review, shall consider whether it is within his or her jurisdiction (IE 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.
23. 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.
24. The rules relating to Contingency Panel applications can be found at section 10 within the “Scheme for MPs Business and Staffing Costs, which are set out below:

25. **Chapter Ten – Contingency Payments**

MPs may apply to IPSA for a contingency payment, under the following circumstances:

- a. 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;
- b. 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. (Para 10.8)

IPSA may decide to accept or reject an application under paragraph 10.8 at its discretion. In considering its decision IPSA shall take into account the following factors:

- a. whether there are exceptional circumstances warranting additional support;
- b. whether the MP could 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. (Para 10.10).

26. The scheme places the onus on the MP to demonstrate the grounds for exceptional circumstances. The argument presented by Mr Gibson was that the rise in energy prices started to have an impact during the financial year 2021/22 but was not responded to by IPSA until the next financial year. In addition, he

provided information to demonstrate the difficulties he had encountered because of a change of energy providers which meant, he did not know, until March 2022, the amount of money owed by him to the provider.

27. IPSA have counter argued, the MP is the accountable person and should have set aside an amount, as he knew he would be required to pay energy bills. They further argued, his accommodation budget was overspent in other areas and so he would have incurred an overspend in any event. They did assist Mr Gibson by allowing other parts of his budget to be carried over in to the 2022/23 financial year where it was permissible to do so under the rules. They were unable to do this with utility bills for the reasons set out above.

Conclusion

28. The Compliance Officer must consider all the facts and make a determination based on the information provided and the guidance set out with “The Scheme.” The Compliance Officer has considered whether the information provided by Mr Gibson amounts to an exceptional circumstance. He has argued there was a rise in energy prices in 2021/22 and due to problems with his energy providers did not receive an accurate bill until March 2022 and this contributed to his general overspend. The Compliance Officer has researched this point and whilst there is no dispute energy prices did start to rise during this period, the large increases in consumer costs of energy really started in April 2022 by which time IPSA had increased the budget. The increase on energy bills applied equally to all other MPs, the overwhelming majority of whom, stayed within their respective budgets.
29. The Director of Policy and Engagement gave a clear explanation to the Chair of SCIPSA when he wrote IPSA must balance the needs of MPs in carrying out their parliamentary functions with their duty to the public as a regulatory body
30. The Compliance Officer does not feel there are any grounds to change the determination reached by IPSA during the Contingency Panel Process. IPSA are also correct when they say, they cannot transfer an overspend for services provided into the next year’s budget.
31. The determination of the Compliance Officer is to uphold the original decision of IPSA.

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.

Tracy Hawkings
Compliance Officer.