



Review of a determination by IPSA to refuse an expense claim

Mr Stephen Pound MP
Member of Parliament for Ealing North

31 August 2016

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Introduction

1. On 14 March 2016, Mr Stephen Pound MP submitted a claim to the Independent Parliamentary Standards Authority (IPSA) for Office Costs Expenditure under the *MPs' Scheme of Business Costs and Expenses* (the Scheme). The claim although initially paid by IPSA was subsequently rejected and the MP was required to repay the cost of the claim.
2. On 4 July 2016, Mr Pound contacted the Compliance Officer for IPSA to request a review of the decision by IPSA to refuse the expense claim.
3. *Section 6A of the Parliamentary Standards Act 2009* (the Act) provides that if:
 - (1)(a) *the IPSA determines under section 6(3)¹ 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.*
4. Paragraph 9 of the notes for *Guidance on the Conduct of Reviews by the Compliance Officer for IPSA* states that
 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.*
5. The claim referred to is numbered 491754 in the sum of £89.00 and relates to the purchase of a lockable briefcase. IPSA operates a system of *streamlined validation* where those identified as high risk are subject to individual validation whilst the rest are processed for payment. . Using this process, the above claim was initially paid to the MP without individual validation.

¹ 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.

6. Claims paid through this streamlined process are subsequently subject to post payment scrutiny, where a member of IPSA's operations team looks at all the claims made by an MP, in the round, over the three-month period. He or she is able to see whether there are any unusual patterns, or repeated errors. If any invalid claims are identified by this process, the MP is asked to repay the money. Claim 491754 was identified through this process. The validator reviewing the claim concluded that it was not allowable but provided no explanation for the decision, merely requesting repayment.
7. Mr Pound requested that IPSA conduct an internal review of their decision not to pay the claim. The review concluded that the claim was not eligible. The MP was therefore at liberty to request a further review of the decision by the Compliance Officer for IPSA.

The Basis for the Review

8. The following information was submitted by the MP's office in support of his request for a review.
9. *"I submitted a claim for reimbursement of £89.00 paid to buy a lockable briefcase for use solely in connection with my Parliamentary duties.*
10. *The original submission correctly stated "for advice surgery casework and notes".*
11. *As I do not have a constituency office I hold my twice weekly advice surgeries in various locations in Ealing North and none have any secretarial support or supplies available.*
12. *If I was to hold the advice surgeries in furnished office accommodation the claims would be very much higher.*
13. *In order to maintain confidentiality and for efficiency of operation I collect the case files and appointment list on Friday mornings from Westminster and carry them in the briefcase to the Friday surgery location.*
14. *I then take notes from that surgery and relocate them in the briefcase.*
15. *I carry the case and contents to the Monday morning surgery and repeat the process and then bring the briefcase back to Westminster in order for the work to be dealt with.*
16. *Between Monday and Thursday I use the briefcase for taking documents to and from meetings held in the constituency and for bringing in letters that are posted or delivered to my home address.*

17. *I also use the briefcase on weekday evenings to take committee papers and policy documents from Westminster to the constituency for attention.*
18. *My point would be that I would never have wanted a briefcase if I were not an MP and I would probably not need one if I hired either a permanent constituency office or an occasional equipped office.*
19. *I do find it particularly galling that all civil service grades are supplied with a free briefcase in order to securely carry documents and yet their paperwork is deemed to be more sensitive than that of Members of Parliament!*
20. *If IPSA are determined not to agree to this I would be grateful if they would indicate how best I should carry the documents between Westminster and the community centres and civic halls where I hold my surgeries.*
21. *Under the circumstances I respectfully ask that the disallowed claim be reconsidered as the briefcase is used solely and exclusively for the pursuance of my parliamentary duties and in the absence of any reasonable alternative.*

The Review

22. In conducting the review, the Compliance Officer has utilised the Seventh Edition of the Scheme² and, in addition, has consulted the following:
 1. Validation Notes – notes appended to a claim submitted by an MP by the IPSA Validator describing the reason for the rejection of a claim;
 2. Workflow History – shows the date the claim was opened by the MP or proxy, the date of submission to IPSA and details of how the claim was processed by IPSA; and
 3. Correspondence between IPSA and the MP.
23. The following areas of the Scheme are relevant to the review:

Chapter Three: General Conditions of the Scheme

3.2 In making any claim under the Scheme, an MP must certify that the expenditure was necessary for the performance of his or her parliamentary functions, and that in incurring the expenditure he or she complied with the Scheme.

3.3 The Scheme makes provision for the exercise in certain circumstances of discretion by MPs and by IPSA. Such discretion is not absolute. At all times:

- a. it shall be exercised reasonably; and*

² April 2015 to March 2016.

b. MPs and IPSA shall satisfy the requirement of the Parliamentary Standards Act that MPs must only be paid or reimbursed for costs necessarily incurred for the performance of their parliamentary functions.

Chapter Six: Office Costs Expenditure

6.1 Office Costs Expenditure (OCE) is provided to meet the costs of renting, equipping and running an MP's office or offices and surgeries, where these costs are not claimable from other budgets under this Scheme, or from other sources.

6.2 All MPs are eligible for Office Costs Expenditure, whether or not they rent a constituency office.

6.5 MPs are entitled to exercise discretion over claims for items that meet the purposes of the Office Costs Expenditure budget, provided that the claims meet the general conditions of the Scheme and the conditions in this chapter.

Fundamental Principles

1. MPs should always behave with probity and integrity when making claims on public resources. MPs should be held, and regard themselves, as personally responsible and accountable for expenses incurred, and claims made, and for adherence to these principles as well as to the rules.

2. MPs have the right to be reimbursed for unavoidable costs where they are incurred wholly, exclusively, and necessarily in the performance of their parliamentary functions, but not otherwise.

7. The presumption should be that in matters relating to expenses, MPs should be treated in the same manner as other citizens. If the arrangements depart from those which would normally be expected elsewhere, those departures need to be explicitly justified.

24. During their internal review, IPSA made the following observations:

"There are numerous items which may be deemed necessary for an MP but which IPSA does not allow MPs to claim for. These decisions are reached by comparing what other citizens could reasonably claim an expense for at work."

"For example an MP may need a suit or other formal clothing in order to perform their parliamentary duties, as the House of Commons has a dress code. IPSA would not pay for the suit as most other workplaces would not allow an employee to claim for the cost of one."

“Similarly the purchase of a briefcase would not qualify, whatever the use of the briefcase it is not a standard expense in other areas and so an exception should not be made. A doctor or lawyer who may carry sensitive information would not be reimbursed for a means of carrying that information.”

“The review request is therefore rejected under the 7th fundamental principle of the Scheme.”

25. Mr Pound is one of a small number of MPs who choose not to have a permanent constituency office. As a consequence of this decision, papers required during surgeries must be transported to public buildings where the surgeries are held. However, he is not alone in running surgeries in public buildings; many MPs with constituency offices still choose to run surgeries at other locations and do not submit similar claims.
26. In his submission to the Compliance Officer Mr Pound contends that if he *“was to hold the advice surgeries in furnished office accommodation the claims would be very much higher”*. In 2014-15, the average claim for Office Costs Expenditure by an MP was £16,669.63 while Mr Pound claimed £15,707.62. The average expenditure on staffing by all MPs during the same period was £127,293.70 while Mr Pound spent £142,922.70. The decision by Mr Pound not to run a constituency office does not result in a saving to the public purse.
27. The Office Costs Expenditure budget is not confined to claims associated with constituency or home offices. It explicitly states that claims associated with running surgeries are included³.
28. In their internal review IPSA applied Fundamental Principle 7 which stipulates that MPs should be *“treated in the same manner as other citizens”*. They qualified this in their narrative by stating that: *“A doctor or lawyer who may carry sensitive information would not be reimbursed for a means of carrying that information.”* However, these examples are not drawn from either the Scheme or the *Guidance for MPs’ Business Costs and Expenses*, they are not accompanied by supporting evidence and could therefore be construed as arbitrary.
29. In his submission to the Compliance Officer, Mr Pound states: *“I do find it particularly galling that all civil service grades are supplied with a free briefcase in order to securely carry documents”*. As the Compliance Officer was unable to verify the accuracy of this statement he contacted the MP and received the following response:

³ Chapter 6, Paragraph 6.1

“[redacted] Job Centre Plus confirm that officers making home visits or travelling between offices with sensitive documents are provided with briefcases.

Colleagues in the Northern Ireland Office state the same and are searching for the section within the terms and conditions which authorises this.”

30. The Compliance Officer has not sought to verify either of these examples but has spoken to three government departments, none of which had any knowledge of their staff routinely being provided with briefcases. The statement made by Mr Pound to the Compliance Officer in his review request, that *“all civil service grades are supplied with a free briefcase”* is not accurate.
31. The handbook on *Members’ Personal Safety and Security* while providing general advice on the carriage of documents does not make any reference to a requirement that an MP should utilise a locking briefcase for the carriage of papers. The Parliamentary Information Rights and Information Security (IRIS) team do not issue written standards on the carriage of documents.
32. The Compliance Officer has instigated research by IPSA to establish whether previous similar claims have been allowed. Two claims have come to light described as *“laptop/briefcase”* and one as *“computer/document case”*.
33. The Compliance Officer is aware that many MPs, in keeping with other professional people, use portable electronic media for document storage when attending meetings in preference to printing the documents required. IPSA was therefore requested to research whether the purchase of laptop bags had previously been allowed under the Scheme.
34. In the financial year 2015-16, nineteen claims for laptop bags were identified as having being paid.

Considerations

35. A review by the Compliance Officer is based entirely on an assessment of the relevant areas of the *MPs’ Scheme of Business Costs and Expenses* and whether, as a result, a claim is allowable under the Scheme. Therefore, the argument put forward by Mr Pound that his decision not to run a constituency office makes his requirement for a briefcase more compelling, can have no bearing on the outcome. His decision is a matter of personal choice.
36. His argument that not running a constituency office reduces the size of his claims is also not relevant to the outcome of the review and, as demonstrated above, inaccurate.

37. Chapter Six of the Scheme allows an MP to exercise discretion when making claims for Office Costs Expenditure, providing they adhere to the General Conditions of the Scheme contained in Chapter Three. The General Conditions also permit the use of discretion with the additional caveats that the discretion should be “*exercised reasonably*” and that costs should be “*necessarily incurred for the performance of their parliamentary functions*”. In reaching a decision, the Compliance Officer must therefore be satisfied that the briefcase is to be used for parliamentary purposes and that the claim satisfies an objective test of reasonableness.
38. IPSA’s contention that professional people in other fields would not receive financial support for the secure transportation of documents is arbitrary and provides only limited support to their use of the ‘other citizens’ threshold required by Fundamental Principle 7. However, there is also minimal evidence to support a contrary view that ‘other citizens’ would expect such an expense to be paid.
39. There is no specific requirement for a locking briefcase arising from the handbook on *Members’ Personal Safety and Security*. Also, the Parliamentary Information Rights and Information Security (IRIS) team do not make that stipulation.
40. There can be no question that the briefcase is to assist Mr Pound in the performance of his parliamentary function, therefore the outcome of the review rests upon whether the expense passes the reasonableness test required by the General Conditions of the Scheme and the ‘other citizens’ threshold required by Fundamental Principle 7.

Conclusion

41. **The Compliance Officer believes that the respective arguments for and against allowing this expense are almost equally valid. The key determinant in reaching a decision has been the parallel that can be drawn between an expense claim for the carriage of documents in electronic format and one for the carriage of paper documents.**
42. **The Compliance Officer concludes that there can be no distinction made between the two and if claims are to be allowed for laptop bags, they must equally be allowed for briefcases. The altered determination⁴ made by IPSA was therefore incorrect and the claim should be paid.**
43. While in this instance the Compliance Officer feels constrained by precedent when reaching his conclusion, he is dubious as to whether either laptop bags or briefcases meet the ‘other citizens’ threshold required by Fundamental Principle 7. He is also concerned

⁴ Section 6A(2) Parliamentary Standards Act 2009

about the apparent inconsistency in applying the Scheme. He would therefore request that IPSA gives consideration to future claims for these two items to ensure that there is uniform application of the rules by all validators.

44. 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>.
45. The IPSA Chief Executive has written to the Compliance Officer following sight of the draft review. His correspondence is contained in Appendix A.
46. 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.

A handwritten signature in black ink, appearing to read 'Peter Davis', is centered on a light gray background.

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Appendix A

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19 August 2016
Our ref: CEO-2016-138

Dear Peter,

Thank you for your letter of 27 July regarding your review of Mr Stephen Pound's claim for a briefcase. You asked whether IPSA wanted to make any representation.

I note and accept your determination. We remain of the view that a briefcase bought by an MP may not be used "wholly and exclusively" for parliamentary purposes. But we will consider whether, as a result of your ruling, there are any implications for how we apply the principles of the MPs' Scheme of Business Costs and Expenses in future.

Best wishes,

Marcial Boo