



Review of a determination by IPSA to refuse an expense claim

Mr Nadhim Zahawi MP
Member of Parliament for Stratford-on-Avon

14 December 2016

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Introduction

1. On 6 June 2016, Mr Nadhim Zahawi 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 was initially paid by IPSA through its streamlined validation process, but was subsequently highlighted in a post-payment review and rejected. As such, the MP was required to repay the cost of the claim.
2. On 12 October 2016, Mr Zahawi 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 is numbered 509918 and is in the sum of £70.00. It relates to printing costs for leaflets² advertising *Independent Shop Awards* in the MP's constituency. As noted above, IPSA operates a system of *streamlined validation* where those claims identified as high risk are subject to individual validation while 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.

² The leaflet can be seen at Annex A

6. A proportion of the claims paid through the streamlining 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 509918 was identified as not allowable through this process.

7. The validator reviewing the claim concluded that it was not allowable and provided the following explanation:

"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.

I have also noted that the poster says "prizes will be awarded" by the MP. The MP would not be permitted to claim for the awarding of prizes, and so any related advertising is equally not claimable."

8. Mr Zahawi requested that IPSA conduct an internal review of their decision not to pay the claim. The review concluded that the claim was not eligible and included the following:

"The MP requested a review, arguing that a claim had been validated, allowed, and paid for precisely the same cost in the previous financial year³.

Paragraph 6.1 of the MPs' Scheme of Business Costs and Expenses states that "Office Costs Expenditure is provided to meet the costs of renting, equipping, and running an MP's office or offices and surgeries".

The claim clearly does not meet the requirements of paragraph 6.1 of the Scheme, as it is not a cost incurred in renting, equipping, or running an MP's office(s) or surgeries. While it is noted that paragraph 6.5 of the Scheme provides MPs with discretion when making claims from the Office Costs Expenditure budget, such claims must meet the general conditions of the Scheme and the conditions of the OCE chapter. The MP's claim is not considered to meet these requirements.

The review notes that the claim could be considered to constitute hospitality (which is ineligible under paragraph 6.6.f), and the risk that the activity itself could be considered a form of campaigning or self-promotion by the MP in the constituency. It has been noted that, on previous occasions, claims have been disallowed for gifts, prizes, trophies, certificates, and other similar costs on these grounds.

The review also notes that the leaflet in question refers to the awarding of prizes following the close of the competition to nominated businesses. As the MP would not be permitted

³ The leaflet for which payment was allowed in 2015 can be seen at Annex B

to claim for items awarded as prizes to local businesses, claims that advertise the awarding of these prizes should similarly be considered ineligible.

Finally, it is noted that a copy of the leaflet provided by the MP as documentary evidence with the claim bears the logo of a local radio station. Claims involving advertising costs for local businesses clearly do not relate to the performance of an MP's parliamentary functions, and are therefore not eligible under the Scheme."

9. As IPSA's internal review again rejected the claim, the MP was at liberty to request a further review of the decision by the Compliance Officer for IPSA.

The Basis for the Review

10. The following information was submitted by the MP in support of his request for a review:

"The claim I made under the expense type stationery purchase was for leaflets advertising my Independent Shop Awards which I run in my constituency encouraging constituents to vote for their best independent shop in a number of categories. I have run it for the last two years and found it is a great way of engaging my constituents and showing how we should appreciate and help our local shops and High Streets by shopping locally.

I made the same claim in 2015 under form number 413341 for the printing of exactly the same leaflet in the previous year which was processed and allowed. I was advised by the MP account manager via email on the 14 September that the claim was allowed back in 2015 because 'the validator judged the claim to be allowable under the Scheme. Since that time, when the advice of the Policy team has been sought, such claims have been determined to not be allowable.' I have asked and am yet to be given an answer on when this 'change in policy' was communicated to MPs and where in the scheme it is mentioned.

I asked for the decision to be reviewed on 20 September and was given further reasons for why this decision was upheld which I would also like to comment on.

Paragraph 6.1 of the Scheme states that Office Costs Expenditure is provided to meet the costs of renting, equipping, and running an MP's office(s) and surgeries. The review request has been rejected because the claim clearly does not meet the requirements of paragraph 6.1. Part of being an MP is about engaging with and helping your constituents. An MP's job description and how much they do locally varies, we all have different levels of engagement. Myself and my colleagues run events such as Independent Shop Awards, Jobs Fairs, Apprenticeships Fairs and Funding Fairs. I understand that these events do not fit the description of 'renting, equipping, and running an MP's office and surgeries', however on scrutiny of colleagues' expense claims I see leaflets for these other events have been approved. There seems to therefore be some inconsistency as to what type of leaflets are allowed for what type of event. If the costs of holding these types of events are to be funded out of MPs own pockets then that needs to be made much clearer and it should

not be the case that some expenses outside of this description are allowed and others are not. I fail to see how my claim for this leaflet is any different to that of a claim for a Jobs Fair leaflet. Another example of inconsistency in applying paragraph 6.1 is when MP's rent a room for public meetings. I can see Members have claimed for this, including myself, and the claims have been approved. The wording of paragraph 6.1 has not changed between 2015 and 2016, and yet my claim was approved last year.

*The leaflet on form 509918 refers to the awarding of prizes, following the close of the competition, to nominated businesses. As claims for prizes (including trophies, gifts, and certificates) are not eligible under the Scheme, claims that advertise the awarding of such prizes are also not eligible. It was an Independent Shop Awards so of course it would have an award, otherwise it would not be an 'Independent Shop **Awards**'. Whether that statement had been put on the leaflet or not, the very word suggests there would be awards. The prizes and awards were not claimed from IPSA.*

It has also been noted that the copy of the leaflet provided by the MP bears the logo of a local radio station. Claims involving advertising costs for local businesses do not relate to the performance of an MP's parliamentary functions, and are therefore not eligible under the Scheme. If you look at the leaflet, it is clearly not the intention of the leaflet to advertise the company. The aim of the leaflet is to advertise my Independent Shop Awards. The radio station's logo was on the 2015 leaflet and no issue was raised at that time⁴."

The Review

11. In conducting the review, the Compliance Officer has utilised the Seventh and Eighth Editions of the Scheme⁵ 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;
 3. CRM History – computer records of all interactions between the MP and IPSA; and
 4. Correspondence between IPSA and the MP, and with the MP directly.
12. At the core of Mr Zahawi's argument is that IPSA allowed a claim for the printing of an identical leaflet in 2015. He contends that without an alteration to the Scheme in the interim, which has not occurred, there can be no justification for IPSA rejecting a claim for the same leaflet in 2016.
13. Chapter Two of the Scheme includes the following:

⁴ The colouring and bold text are an accurate representation of the review request received from Mr Zahawi.

⁵ April 2015 to March 2016 and April 2016 to March 2017 respectively.

Determination and Review of Claims

2.3 No decision by IPSA to allow or refuse a particular claim will bind IPSA in subsequent claims of the same nature.

14. As a result, the decision taken by IPSA in 2015 to allow the claim for printing in 2015 has limited bearing on this review as IPSA is not bound by previous decisions. Additionally, Mr Zahawi makes reference to claims made by other MPs for job fairs and apprenticeship fairs which have been allowed. It is arguable that Paragraph 2.3 of the Scheme is again applicable here as IPSA are not bound by decisions taken when allowing or refusing similar claims.

Relevant Areas of the Scheme

Fundamental Principles

- 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.*

Chapter Three: General Conditions of 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*
- 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.*

3.4 The following are examples of activities that are not considered as necessary for the performance of an MP's parliamentary functions:

- a. work which is conducted for or at the behest of a political party;*
- d. activities which could be construed as campaign expenditure.*

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.

6.5 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.

6.6 Office Costs Expenditure may only be claimed for the performance of parliamentary functions. It may not be claimed for:

- a. any alcoholic drinks;*
- b. stationary provided by the House of Commons;*
- c. newsletters;*
- d. funding any material, excluding a website, that contains a party political logo or emblem;*
- e. personal accountancy or tax advice; or*
- f. hospitality (including refreshments in the office).*

Considerations

15. As referred to earlier, when considering a claim of the same nature, the Scheme does not bind IPSA to reach the same decision. Nevertheless, application of the Scheme rules by IPSA should be consistent. Therefore, the decision by IPSA to allow a claim by Mr Zahawi for printing costs in 2015 and to refuse a claim for the printing of an almost identical leaflet in 2016, weakens any argument they put forward for refusal.
16. The Compliance Officer also notes that IPSA's view has not merely shifted slightly leading to a position where, on balance, they believe the claim is not allowable. They cite numerous reasons why, in 2016, the claim no longer complies with the Scheme, such as:
 - a. the leaflet represents a form of campaigning and self-promotion;
 - b. the use of Office Costs Expenditure is confined to the costs of renting, equipping and running an MP's office or offices and surgeries;
 - c. the leaflet makes reference to prizes and as payment for prizes would not be allowable under the Scheme, advertising prizes is equally not allowable;
 - d. the claim could be construed as a *form of hospitality*;
 - e. the claim does not comply with the General Conditions of the Scheme; and
 - f. the leaflet carries the logo of a local radio station; advertising costs for businesses do not relate to the performance of an MP's parliamentary functions and are not eligible under the Scheme.
17. Neither the original Validator nor the internal reviewer expand on their reasoning to assist the MP in understanding the rationale for the change. The Compliance Officer struggles to understand how such a profound shift can occur in such a short time frame. While he understands that this may be the result of streamlined validation⁶, the disparity between the handling of the two claims still exists. The review will consider the reasons for refusal in sequence, albeit that in some cases the rationale is obscure.

⁶ See paragraphs 5 and 6.

18. IPSA refer to the leaflet as a form of *campaigning or self-promotion*. Campaigning on behalf of a political party is covered by the General Conditions of the Scheme and the Fundamental Principles, although no reference is made to *self-promotion*. The 2015 leaflet contains a photograph of the MP which has been omitted from the 2016 version; arguably therefore, the 2015 leaflet, which was allowed, is more susceptible to the accusation of *self-promotion* than the 2016 leaflet.
19. The Compliance Officer has, throughout this review, take the content of the leaflet at face value and in doing so sees an attempt to stimulate local independent businesses. Almost anything done by a sitting MP is susceptible to a charge of campaigning.
20. There is an abundance of evidence of IPSA permitting printing costs under Office Costs Expenditure including for job fairs and apprenticeship fairs. In addition they have permitted a claim for a *funding fair* designed to assist “*local businesses, clubs and community groups to access every opportunity available for funding and support*”. Mr Zahawi would argue, and I would concur, that these claims are analogous to his claim. The *funding fair* in particular is being arranged to aid and promote local businesses and while Mr Zahawi has chosen a different method of assisting local businesses they have a common aim both of which are parliamentary.
21. IPSA argue that the printing cost for the leaflet does not comply with the requirement that Office Costs Expenditure is provided *to meet the costs of renting, equipping an MP’s office or offices and surgeries*⁷. The above examples demonstrate that this rule is not being strictly applied and that in a number of cases the discretion permitted by paragraph 6.5 is being utilised to permit Office Costs that go beyond this stricture.
22. Unless paragraphs 6.1 and 6.5 are applied consistently then IPSA risks accusations of subjectivity and a lack of equability in their application of the Scheme.
23. The Compliance Officer rejects the reviewer’s contention that the leaflet may constitute *hospitality*, there is no evidence of this and the leaflet should again be taken at face value. In addition, the Compliance Officer rejects the notion that merely because the leaflet mentions prizes, which would not be allowable under the Scheme, the leaflet itself is not allowable. The principle purpose of the leaflet is to advertise the awards not prizes.
24. IPSA believe that the claim does not comply with the General Conditions of the Scheme. At the core of these conditions is the requirement that a claim must support the MP’s

⁷ Chapter Six, paragraph 6.1

parliamentary function and where an MP exercises discretion when making a claim this should be done *reasonably*.

25. The Compliance Officer would argue that promoting local business was at the core of a constituency MP's role and that organising a competition to find the best local business in a number of categories was not an unreasonable method of doing this. If the Scheme is to permit discretion in this area, IPSA should not second guess how an MP can best represent his constituency and therefore exercise his 'parliamentary functions'.
26. Mr Zahawi has included on the leaflet the logo of a local radio station and justifies this due to Touch FM providing the prizes for the competition. The Compliance Officer regards the inclusion of the logo on the leaflet as free publicity for a commercial business, which would not be allowable under the Scheme. Its presence is questionable and while the Compliance Officer does not think it is sufficient to disallow the claim he would not wish to see it on future iterations of the leaflet unless the radio station met a proportion of the printing costs.

Conclusion

- 27. The Compliance Officer believes that the expense is one which can be met by Office Costs Expenditure. In exercising his discretion to use a competition to stimulate local business he has acted in a similar manner to other MPs.**
- 28. The Compliance Officer can find no breach of the General Conditions of the Scheme. The claim does not fall within any of the exclusions noted in paragraph 3.4 and Mr Zahawi has utilised his discretion to exercise his 'parliamentary functions' reasonably.**
- 29. The other arguments put forward by IPSA for disallowing the claim have no merit.**
- 30. The Compliance Officer concludes that the claim for £70 is allowable and that the debt associated with the claim should be cancelled.**
31. Fundamental Principle 10 stipulates that the Scheme *"should be clear and understandable. If it is difficult to explain an element of the system in terms which the general public will regard as reasonable, that is a powerful argument against it"*.
32. The Compliance Officer believes that the public will struggle to comprehend the change in the position taken by IPSA regarding their application of the Scheme between 2015 and 2016. Reference to streamlined validation will not assist in this regard. In addition, it is hard to justify refusing this claim when so many other similar claims have been paid.

33. Further, the Compliance Officer understands that IPSA are considering the issue of how to define an MP's 'parliamentary functions', and the discretion provided to MPs, as part of their ongoing comprehensive review of the Scheme. The Compliance Officer would invite IPSA to consider this case in the wider context of that consideration.
34. A representation from IPSA is contained at Annex C.
35. 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>.
36. 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 grey ink, appearing to read 'Peter Davis', is shown on a light grey background.

Peter Davis
Compliance Officer for IPSA
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Stratford-on-Avon Independent Shop Awards 2016

Local MP Nadhim Zahawi is holding a competition to find the best places to eat, drink, stay and shop in his constituency.

Prizes will be awarded for:

- Best Village Shop
- Best Pub
- Best Hotel or B&B
- Best Restaurant
- Best Café
- Best Independent Shop



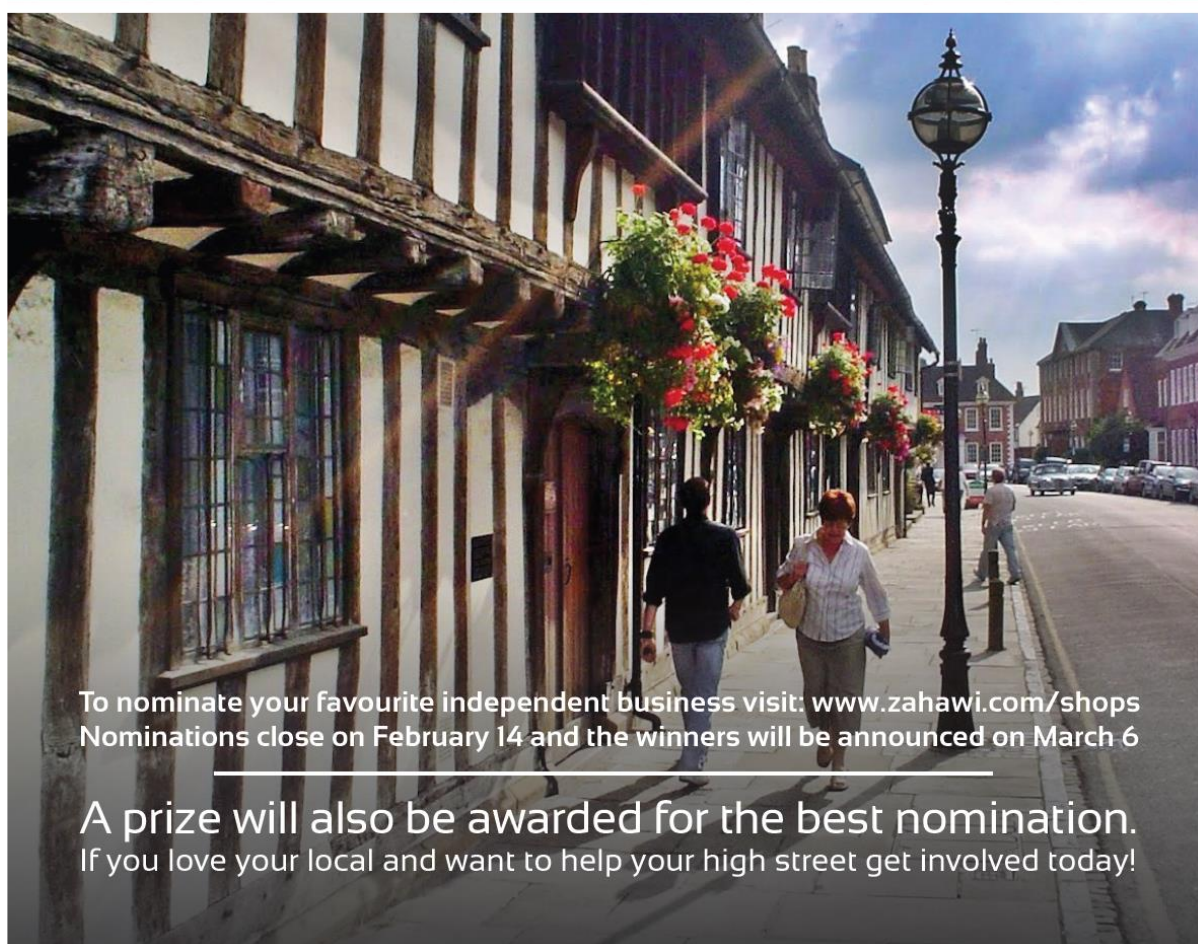
To nominate your favourite independent business visit: www.zahawi.com
Nominations close on 18th March and the winners will be announced 29th April
If you love your local and want to help your high street get involved today!

Stratford-on-Avon Independent Shop Awards 2015

Local MP Nadhim Zahawi is holding a competition to find the best places to eat, drink and shop in his constituency.

Prizes will be awarded for:

- The best independent shop
- The best pub
- The best café or restaurant
- The best village shop



To nominate your favourite independent business visit: www.zahawi.com/shops
Nominations close on February 14 and the winners will be announced on March 6

A prize will also be awarded for the best nomination.
If you love your local and want to help your high street get involved today!

Annex C
Representation from IPSA



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Mr Peter Davis
Compliance Officer for IPSA
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9 December 2016
Our ref: CEO-2016-198

Dear Peter,

Thank you for your letter of 30 November regarding your review of Mr Nadhim Zahawi MP's claim for printing costs for leaflets advertising *Independent Shop Awards* in his constituency. You asked whether IPSA wanted to make any representation.

I note and accept your determination. As you set out in your report, one of the fundamental principles of the MPs' Scheme of Business Costs and Expenses is that 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. There is often a judgement to be made - by my staff in their capacity as the validators of MPs' claims, and by MPs themselves when submitting claims for expenditure - as to what constitutes a "parliamentary function" and indeed what is an "unavoidable" and "necessary" cost in the performance of those functions. We always endeavour to exercise our judgement fairly, consistently and reasonably.

I note that you agree with our judgement that the inclusion of a logo on the leaflet should be considered free publicity for a commercial business, which would not be allowable under the Scheme. We also questioned its presence and I believe that my staff were not unreasonable to conclude that the claim was ineligible on this basis, and to question more generally whether the costs for advertising a competition is an unavoidable cost in the performance of an MP's parliamentary functions. But equally, our application of the rules of the Scheme must be consistent, and it was reasonable for Mr Zahawi to expect the claim in question to be permitted on the basis that a very similar claim was made, and allowed, last year.

I am grateful for your work, and we will consider whether, as a result of your ruling, there are any implications for how we apply the rules of the Scheme in future.

Best wishes,

A handwritten signature in blue ink, appearing to read 'Marcial Boo', followed by a horizontal line.

Marcial Boo