

PROCEDURES FOR INVESTIGATIONS OF THE COMPLIANCE OFFICER FOR IPSA

Determined by IPSA under section 9A of the Parliamentary Standards Act 2009

Second Edition February 2012

Preamble

The Compliance Officer for the Independent Parliamentary Standards Authority (IPSA) is an independent office holder created by the Constitutional Reform and Governance Act 2010. The Compliance Officer has two functions:

- to investigate complaints that a claim under the MPs' Scheme of Expenses and Costs may have been wrongfully paid to an MP; and
- to review a decision by IPSA not to pay, in whole or in part, a claim under the Scheme.

These Procedures set out how the Compliance Officer shall conduct investigations under the first of the functions listed above.

Introduction and General Provisions

1. These procedures apply to an investigation conducted by the Compliance Officer for IPSA ("the Compliance Officer") to determine whether a Member of the House of Commons may have been paid an amount under the MPs' Scheme of Expenses and Costs ("the Scheme") that should not have been allowed.
2. In these procedures, a Member of the House of Commons shall be taken to include a former Member of the House of Commons.
3. The Compliance Officer shall maintain a record of all investigations requested and conducted under these procedures, including the steps taken and exercise of discretion under these procedures.
4. Where the Compliance Officer exercises discretion under these procedures, it shall be exercised lawfully, fairly and proportionately.

Requesting an Investigation

5. An investigation may be conducted:
 - a. on the Compliance Officer's own initiative;
 - b. at the request of IPSA;
 - c. at the request of the MP concerned; or

d. in response to a complaint by an individual;

provided that the Compliance Officer is satisfied that he or she has reason to believe that the MP may have been paid an amount under the Scheme that should not have been paid.

6. Where IPSA, the MP or another person requests the Compliance Officer to conduct an investigation, the request shall:
 - a. be made in writing;
 - b. set out in detail the reasons why the person making the request considers that the MP should not have been allowed the amount in question; and
 - c. be delivered to the Compliance Officer personally or by post to Compliance Officer for IPSA, 7th Floor, Portland House, Bressenden Place, London SW1E 5BH or by email to compliance@parliamentarystandards.org.uk.
7. Failure by a person to comply with these procedures when making a request to the Compliance Officer to conduct an investigation shall not be a bar to the Compliance Officer initiating an investigation.

Assessing a request for an investigation

8. The Compliance Officer may initiate an investigation where he has reason to believe that an MP may have been paid an amount under the Scheme that should not have been allowed.
9. The Compliance Officer shall not initiate an investigation more than 12 months after the claim in question was published by IPSA unless, in the opinion of the Compliance Officer, exceptional circumstances justify initiating an investigation after more than 12 months have elapsed.
10. The Compliance Officer may decide to reject a request for an investigation if the Compliance Officer considers it unfair or disproportionate to initiate an investigation. Reasons for this decision may include:
 - a. the Compliance Officer considers the complaint to be trivial or vexatious;
 - b. the complaint does not relate to a claim by the MP for payment of an amount under the Scheme;
 - c. the complaint is about a matter that is time-barred under these procedures;
 - d. the complaint substantially repeats allegations that have already been the subject of an investigation by the Compliance Officer (unless there is significant fresh evidence or material to the complaint); or
 - e. the complaint has been made anonymously, and there is no other good reason to investigate.
11. For the purposes of determining whether to initiate an investigation, the Compliance Officer may request information from any source that the Compliance Officer deems appropriate.
12. If the Compliance Officer decides not to initiate an investigation, the Compliance Officer shall write to the complainant, if applicable, to the MP concerned and to IPSA to inform them that the Compliance Officer has rejected the request for an investigation. Unless there are exceptional

reasons not to, the Compliance Officer shall include in this letter the reasons for the rejection of the request for an investigation.

Notification of an investigation

13. When the Compliance Officer initiates an investigation, he shall notify the MP concerned, IPSA and, if applicable, any person who requested the investigation, that an investigation is to be conducted. Notification to all persons shall be given at the same time.
14. An investigation shall be regarded as commencing when the Compliance Officer notifies the MP concerned that an investigation has been initiated.
15. The notification to the MP shall include an outline of the matters that are to be investigated, in sufficient detail to enable the MP to understand the nature of the case to be answered.
16. The notification to IPSA shall include a copy of the outline given to the MP of the matters to be investigated.
17. Paragraphs 18 to 48 below apply where the Compliance Officer has reason to believe that an MP may have been paid an amount under the Scheme that should not have been allowed, and the Compliance Officer has initiated an investigation in respect of that amount.

Gathering information

18. For the purposes of conducting the investigation, the Compliance Officer may request information from any source that the Compliance Officer deems appropriate, including the MP and IPSA. This information may be requested in writing or orally by way of a meeting.
19. In addition to paragraph 18 above, the Compliance Officer may by notice require the MP and IPSA to provide:
 - a. information in writing or in some other format agreed with the Compliance Officer that relates to a matter being investigated by the Compliance Officer in relation to that MP; and/or
 - b. any documents in their custody or under their control that relate to a matter being investigated by the Compliance Officer.
20. The MP and IPSA shall, in the absence of any indication to the contrary, comply with any such request as set out in paragraph 19 above within 15 working days of notice of the request being given, unless an application for an extension of time is agreed by the Compliance Officer. Failure by the MP to comply with a request under paragraphs 19 may cause the Compliance Officer to issue a Penalty Notice to that MP.
21. A requirement for information as set out in paragraph 19 above may be for the original versions of documents or may be satisfied by the production of copies of any documents requested, provided that originals (where available) are retained for inspection if required.
22. The Compliance Officer shall provide to each of the MP and IPSA copies of information or documents which the other has provided to the Compliance Officer during the investigation, when giving the receiving person the opportunity to make representations.

Statement of provisional findings

23. Before the Compliance Officer makes any provisional findings about the matter under investigation, the MP and IPSA may make representations to the Compliance Officer in accordance with paragraphs 30 to 38 below.
24. Following any representations made under paragraph 23 above, the Compliance Officer shall prepare a statement of provisional findings as to whether the MP has been paid an amount under the Scheme that should not have been allowed.
25. The statement of provisional findings may include:
 - a. a finding that the MP has failed to comply with any requirement to provide information to the Compliance Officer for the purpose of the investigation; and
 - b. findings about the role of IPSA in the matter under investigation, including any finding that it was wholly or partly IPSA's fault that the MP was paid an amount under the Scheme that should not have been allowed.
26. The Compliance Officer shall send the statement of provisional findings to the MP and IPSA, who shall each be given 15 working days to make representations about the statement of provisional findings, in accordance with paragraphs 30 to 38 below.

Statement of findings

27. Following an opportunity for the MP and IPSA to make representations about the statement of provisional findings under paragraph 26 above, the Compliance Officer shall prepare a statement of findings as to whether the MP has been paid an amount under the Scheme that should not have been allowed.
28. The statement of findings may include findings relating to the matters set out in paragraph 25 above.
29. The Compliance Officer may determine not to prepare a statement of findings where the MP:
 - a. accepts the findings set out in the statement of provisional findings;
 - b. agrees to repay to IPSA, in such manner and within such period as the Compliance Officer considers reasonable, such amount as the Compliance Officer considers reasonable; and
 - c. makes the repayment accordingly.

Representations

30. Where the Compliance Officer provides an opportunity for the MP and IPSA to make representations as required by paragraphs 23 and 26 above, paragraphs 31 to 38 below shall apply.
31. Unless otherwise agreed with the Compliance Officer, the Compliance Officer shall provide the MP and IPSA with 15 working days for representations to be made.

32. Unless made by way of a hearing in person, representations shall be made in writing.
33. The Compliance Officer may by notice indicate to the MP and IPSA any specific points that the Compliance Officer considers they should address in their representations.
34. Representations shall normally be made only in relation to the subject matter of the notification of the investigation.
35. The Compliance Officer shall send each person's representations to the other person within 5 working days of its receipt by the Compliance Officer. The other person will be permitted to respond within such period as the Compliance Officer may reasonably decide.
36. The Compliance Officer shall give the MP the opportunity to be heard in person by the Compliance Officer by way of a hearing for the purpose of making representations.
37. Where the MP is being heard in person under paragraph 36 above:
 - a. the Compliance Officer shall offer IPSA the opportunity to attend the hearing and be heard in person;
 - b. the MP may request that another person(s) attend the hearing with the Compliance Officer to represent the MP; and
 - c. the MP may request another person(s) be called to the hearing to be asked about the matter in question. Where the Compliance Officer agrees that another person attend to be asked about the matter in question, the Compliance Officer shall send a written request to that person to attend.
38. Unless it appears to the Compliance Officer, having regard to all the circumstances and, in particular, any guidance provided by IPSA, appropriate to impose restrictions, in any case where the MP is heard in person the Compliance Officer shall take reasonable steps to secure that members of the public may attend the hearing.

Repayment directions

39. Where the Compliance Officer has made a finding under paragraph 27 above that the MP has been paid an amount under the Scheme that should not have been paid, and the Compliance Officer has judged it reasonable to request the MP repay an amount to IPSA and that amount has not been repaid, the Compliance Officer:
 - a. shall give the MP a repayment direction; or
 - b. if the Compliance Officer has also made a finding under paragraph 27 that IPSA was wholly or partly at fault in the MP being paid an amount under the Scheme that should not have been paid, may give the MP a repayment direction.
40. Where a repayment direction is given under paragraph 39(a) above, it shall require the MP to repay to IPSA the amount that should not have been paid under the Scheme.
41. Where a repayment direction is given under paragraph 39(b) above, it shall require the MP to repay to IPSA such amount (not exceeding the amount that should not have been paid under the Scheme) as the Compliance Officer considers reasonable.

42. The repayment direction shall specify the period within which repayment must be made.
43. The Compliance Officer shall provide IPSA with a copy of the repayment direction as soon as possible after it is given to the MP.
44. The MP may, before the end of the repayment period, request that the Compliance Officer extend that period. The Compliance Officer shall notify IPSA of any decision to extend the repayment period.
45. Where an MP has been given a repayment direction the MP may appeal to the First-tier Tribunal with respect to the findings of the Compliance Officer made under paragraph 27.
46. Where an MP has been given a repayment direction and the Compliance Officer has also made a finding under paragraph 27 that IPSA was wholly or partly at fault in the MP being paid an amount under the Scheme that should not have been paid, the MP may appeal to the First-tier Tribunal in respect of:
 - a. the decision by the Compliance Officer to issue a repayment direction;
 - b. the amount the MP is required to repay; and/or
 - c. any requirement for the MP to pay interest and/or costs.

Publication

47. The Compliance Officer shall not generally publish information in relation to particular Assessments while those Assessments are under way. Where an Assessment results in an investigation, paragraph 48 shall apply.
48. The Compliance Officer shall publish at the start of each investigation, in such manner as the Compliance Officer considers appropriate:
 - a. the name of the MP; and
 - b. the nature of the matter investigated.
49. Unless it appears to the Compliance Officer, having regard to all the circumstances and, in particular, any guidance provided by IPSA, appropriate to defer or withhold publication, the Compliance Officer shall publish at the conclusion of the investigation, in such manner as the Compliance Officer considers appropriate:
 - a. all representations made to the Compliance Officer by the MP and IPSA during the investigation;
 - b. any provisional finding made by the Compliance Officer;
 - c. any agreement by the MP to repay to IPSA such amount as the MP considers to be reasonable; and
 - d. any finding made by the Compliance Officer.

Combined and suspended investigations

50. Where, during the course of an investigation, the Compliance Officer has reason to believe that the MP may have been paid other amounts under the Scheme other than those under investigation that should not have been allowed, the Compliance Officer may give notice to the MP and IPSA of the Compliance Officer's intention to initiate a new investigation or to join all such investigations into a single investigation. The Compliance Officer may take into account the views of the MP prior to joining all such investigations.
51. The Compliance Officer may at any time, by notice to the MP and IPSA, suspend an investigation for such period as appears to the Compliance Officer to be necessary for:
- a. the completion of any other investigation relating to any of the matters to which the investigation relates;
 - b. the determination of any civil or criminal proceedings arising out of those matters; or
 - c. such other exceptional circumstance that warrants suspension.

GUIDANCE ON RECOVERY OF OVERPAYMENTS

Prepared by IPSA under Schedule 4 of the Parliamentary Standards Act 2009

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Charging of interest

1. Paragraph 1(6)(a) of the Parliamentary Standards Act 2009 (“the Act”) provides that where the Compliance Officer issues a repayment direction to an MP, the Compliance Officer may require that the MP pay to IPSA interest on the amount that a member must repay under the direction.
2. In determining whether to use this provision, the Compliance Officer shall be guided by the principles of fairness, proportionality and the public interest. The Compliance Officer shall have regard to all the circumstances of the case, and in particular to whether:
 - a. the amount to be repaid is substantial; and
 - b. the MP was at fault in making the claim.
3. The rate of interest payable by the member shall be specified in the repayment direction, and will be determined by the Compliance Officer, having regard to the extant base rate and commercially available interest rates.

Charging of costs

4. Paragraph 1(6)(b) of the Act provides that where the Compliance Officer issues a repayment direction to an MP, the Compliance Officer may require that MP to pay to IPSA an amount reasonably representing the costs incurred by IPSA in relation to the repayment, including the costs of the Compliance Officer in conducting the investigation.
5. In determining whether the repayment direction should include such a requirement, the Compliance Officer shall be guided by the principles of fairness, proportionality and the public interest. The Compliance Officer will have regard to all the circumstances of the case, and in particular to some or all of the following factors; whether:
 - a. the MP was at fault in making the claim;
 - b. it was the first error by the MP in question; and
 - c. the MP was the cause of any time wasting or obstruction during the investigation.
6. Where the Compliance Officer finds that the payment of a wrongful claim was wholly or partly IPSA’s fault, the MP shall not generally be required to pay costs under the repayment direction.
7. The scheme for the calculation of costs is below.

Length of the Investigation	A sum – to be determined by the Compliance Officer - allocated per eight hour slot spent exclusively on the investigation.
Information-gathering costs	A proportion – to be determined by the Compliance Officer – of the costs incurred in obtaining, recording and/or administering information gathered by the Compliance Officer for the purpose of the investigation.
Meeting and/or hearing costs	A proportion – to be determined by the Compliance Officer – of the costs incurred in arranging and holding meetings and/or hearings with the MP during the investigation.
Any other costs of the investigation	A proportion – to be determined by the Compliance Officer – of the other costs incurred during the investigation not provided for elsewhere in the scheme for the calculation of costs.
Any other costs incurred by IPSA in relation to the investigation	A proportion – to be determined by IPSA and agreed by the Compliance Officer – of the costs incurred by IPSA during the investigation.

8. Where the Compliance Officer exercises discretion under these procedures, this discretion is not absolute. At all times it shall be exercised lawfully, fairly and proportionately.

GUIDANCE ON PENALTY NOTICES

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Failure to comply with a request for provision of information

1. If the Compliance Officer makes a finding under paragraph 9(5) of the Parliamentary Standards Act 2009 (“the Act”) that the MP has without reasonable excuse failed to comply with a requirement under paragraph 9(3) (provision of information to Compliance Officer), the Compliance Officer may, by a penalty notice, impose a penalty on the MP.
2. The penalty will be a sum of money payable by the member to IPSA, who shall pay it to the Consolidated Fund.
3. In determining the amount of the penalty, the Compliance Officer will take into account whether the MP has previously failed to comply with a request under paragraph 9(3) for provision of information.
4. In determining the amount of the penalty, the Compliance Officer will normally be guided by the following:
 - a. a penalty of the amount of 250 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, one quarter of the maximum amount of the penalty) on the first occasion that an MP fails to comply with a request for provision of information;
 - b. a penalty of the amount of 500 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, one half of the maximum amount of the penalty), on the second occasion that an MP fails to comply with a request for provision of information; and
 - c. a penalty of the amount of 1000 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, the maximum amount of the penalty), for the third and all subsequent occasions that an MP fails to comply with a request for provision of information.

Failure to comply with a repayment direction

5. If the Compliance Officer is satisfied that the MP has without reasonable excuse failed to comply with any requirement contained in a repayment direction, the Compliance Officer may, by a penalty notice, impose a penalty on the MP.

6. The penalty will be a sum of money payable by the member to the IPSA, who shall pay it to the Consolidated Fund.
7. In determining the amount of the penalty, the Compliance Officer will take into account whether the MP has previously failed to comply with any requirements contained in a repayment direction.
8. In determining the amount of the penalty, the Compliance Officer will normally be guided by the following:
 - a. a penalty of the amount of 250 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, one quarter of the maximum amount of the penalty) on the first occasion that an MP fails to comply with any requirement in a repayment direction;
 - b. a penalty of the amount of 500 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, one half of the maximum amount of the penalty), on the second occasion that an MP fails to comply with any requirement in a repayment direction;
 - c. a penalty of the amount of 1000 pounds (or, in the event that the maximum amount of the penalty, as provided for in paragraph 7(2) of Schedule 4, is increased pursuant to paragraph 7(3) of Schedule 4, the maximum amount of the penalty), for the third and all subsequent occasions that an MP fails to comply with any requirement in a repayment direction.
9. Where the Compliance Officer exercises discretion under this guidance, this discretion is not absolute. At all times it shall be exercised lawfully, fairly and proportionately.

Appeal against a penalty notice

10. An MP who has been issued with a penalty notice under paragraphs 1 and 5 above may appeal to the First-tier Tribunal with respect to the decision by the Compliance Officer to issue the penalty notice.