



Review of a determination by IPSA to refuse an expense claim

Rt Hon Sir Hugh Robertson
Former Member of Parliament for Faversham and Mid Kent
COM-1059

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Introduction

1. At the 2015 General Election, Sir Hugh Robertson stood down as the MP for Faversham and Mid Kent. All MPs who stood down at the election were required to settle and close their accounts with the Independent Parliamentary Standards Authority (IPSA). During this process, Sir Hugh was informed that he was required to repay £845.97, relating to an Accommodation Expenditure budget overspend.
2. On 21 December 2015, Sir Hugh repaid this amount in full but also requested that the Compliance Officer for IPSA conduct a review of the decision by IPSA to refuse the expense claim (and the subsequent requirement to repay). He contends that this action was only instigated after he wrote to IPSA on four occasions during 2015 in an attempt to resolve the situation, without receiving a response.
3. *Section 6A of the Parliamentary Standards Act 2009* (the Act) provides that if:
 - (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)*

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 the 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

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. Under the terms of the *MPs' Scheme of Business Costs and Expenses* ('the Scheme'), MPs who spend more than their allocated budget in any financial year (i.e. overspend their budget) will be considered to have been paid an amount that should not have been paid.

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.

As such, the determination made by IPSA to seek repayment of a budget overspend constitutes a determination to refuse an expense claim.

6. The Compliance Officer has establish that an internal review of the initial decision to reject the claim has been conducted by IPSA and the original decision upheld.
7. As a result there is no impediment to the Compliance Officer accepting the request for a review.

The Basis for the Review

8. In his request for a review, Sir Hugh commented as follows.

The full facts will be in the file submitted by IPSA. However, in essence, this relates to my overnight accommodation claims in the financial year 2012-13. After trying to resolve it on a number of occasions, including face to face meetings in my office in 2013, both IPSA and I agreed to have a full and final meeting to agree and finalise my position in January 2015. This meeting took place in Portcullis House and IPSA produced the attached financial summary after the meeting².

Subsequently, and as agreed at the meeting, I surrendered my tenancy and took a series of actions to keep to the terms of that agreement. Totally without warning, IPSA then produced first one, and then another, recalculation of the sums previously agreed. I have no means of checking those calculations as I no longer have any records and my Parliamentary staff have been made redundant.

In essence, I believe that IPSA should honour its agreement made at our meeting in January 2015, and outlined in the attached letter. If they miscalculated, and I have no means of checking whether that is the case or not, it is their fault, not mine.

The Review

9. In conducting the review, the Compliance Officer has relied upon the Fifth, Sixth and Seventh Editions of the Scheme (April 2012 to present) and, in addition, has utilised the following:
 - Correspondence exchanged between the MP and IPSA;
 - Records of meetings held between the MP and IPSA; and
 - All data held by IPSA relating to the claims.

² Pertinent details of this financial statement can be found below at paragraphs 26 to 28.

10. The following areas of the Seventh Edition of the Scheme are relevant to the review:

Chapter 1: Conditions

1.1 Claims for reimbursement under this Scheme must be:

- a. submitted using the online expenses system or another mechanism agreed with IPSA;*
- b. submitted personally by the MP, or with IPSA's agreement by his or her designated proxy (except where paragraphs 1.2 or 1.3 apply)*
- 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.*

Chapter 2: Determination and Review of Claims

2.1 Where an MP:

- a. has been paid an amount (or has had an amount paid by IPSA on his or her behalf) that IPSA subsequently determines should not have been paid either in full or in part;*
or
- b. agrees to repay an amount following an investigation by the Compliance Officer;*
or
- c. is directed by the Compliance Officer to repay an amount, together with any additional amounts that the Compliance Officer has directed the MP to pay by way of interest, penalties and/or costs incurred by IPSA in relation to the overpayment (including the costs of the Compliance Officer in carrying out the investigation); and*
- d. has not repaid the amount if requested to do so by IPSA;*

Then IPSA shall arrange for the amount to be deducted from further payments of claims to which the MP may become entitled.

2.2 If the MP has no further claims pending from which the overpayment can be deducted, or the value of the repayment required is greater than the value of any pending further claims, IPSA will require the MP to repay the amount in question within one month of being notified of the outcome of the review or investigation.

MPs who spend more than their allocated budget in any financial year will be considered to have been paid an amount that IPSA subsequently determines should not have been paid.

Chapter 3: General Conditions of the Scheme

3.1 Unless specified elsewhere, all budgets and financial limits set out in this Scheme are for a year commencing on 1 April, and ending on 31 March of the following year. All references to a 'year' are to be read in this context.

3.2 Where a Parliament commences or is dissolved within a year, IPSA may calculate proportionally reduced budgets for the remainder of the year and set them out accordingly.

3.3 IPSA may from time to time amend the budgets and financial limits set out in this Scheme.

MPs may incur business costs and expenses above the stated limits in the Scheme if they wish to do so. However any business costs and expenses above these limits will not be met from the public purse.

3.4 Expenses may not be transferred between budgets, nor may they be charged in advance of the beginning of a year, except with IPSA's agreement. Amounts not utilised in any particular year's budget may not be carried forward into subsequent years, except in relation to Start-Up Expenditure.

Amounts incurred above the budget limit in any particular year may not be rolled forward to subsequent years. Such amounts will need to be repaid to IPSA in accordance with paragraphs 2.11-2.13.

Individual claims for expenses and costs may be claimed from only one budget. Where a specified cost may be claimed from either the Staffing Expenditure or Office Costs Expenditure budgets, the entirety of the claim must come from one budget alone and will not be split between budgets.

11. As noted above, the issue with Sir Hugh's Accommodation Expenditure budget originated in the 2012-13 financial year. During this year, the MP was allocated an Accommodation Expenditure budget of £22,425, which consisted of the standard London Area budget of £20,000 plus an additional £2,425 uplift for dependant caring responsibilities. During 2012-13, the MP overspent by £1,867.67. This figure consisted of a budget overspend of £1,713.06 and a claim on the MP's payment card for £154.61 which was not allowed.
12. Sir Hugh was aware of this amount at the time, and an agreement was made with IPSA that it would be rolled over to the next financial year. This would have the effect of reducing his Accommodation Expenditure budget for 2013-14 by £1,867.67.
13. The Fifth Edition of the Scheme, in place during this period, did not explicitly prohibit claims made above the budget limit in any particular year from being rolled forward to

subsequent years. However, this agreement was never actioned by IPSA, and the agreed adjustment to the following financial year's budget was not made.

14. As the reduction to Sir Hugh's Accommodation Expenditure budget was not applied in 2013-14, the MP was again allocated a budget of £22,425, which consisted of the standard London Area budget of £20,000 plus an additional £2,425 uplift for dependant caring responsibilities. During 2013-14, Sir Hugh again overspent his budget, on this occasion by £612.66.
15. Sir Hugh was aware of his 2013-14 overspend at the time, and of the previous overspend of £1,867.67. A further agreement was reached with IPSA that both overspends (2012-13 and 2013-14), totalling £2,480.33 would be rolled over to his Accommodation Expenditure budget for 2014-15.
16. Prior to the application of the agreed adjustment to Sir Hugh's 2014-15 accommodation budget, his budget allocation was £23,025 (consisting of a standard London Area budget of £20,600 plus an additional £2,425 uplift for dependant caring responsibilities). Adjusting the budget to take account of the overspends in the previous two financial years should have seen it reduced by IPSA to £20,544.67. However, the adjustment was not correctly applied and the budget was only reduced by £1,713.06 to £21,311.94. This represented the original overspend from 2012-13 only and did not include the £154.61 claim on the payment card (which was not properly processed by IPSA until later in 2014) or the overspend from 2013-14.
17. As a result of IPSA amending the budget incorrectly, £767.27 remained outstanding. This consisted of the £154.61 claim on the payment card incurred in 2012-13 which has not yet been correctly processed and the £612.66 budget overspend incurred in 2013-14.
18. In an email to the MP in January 2015, these errors were acknowledged by IPSA and the correct figures were sent to the MP (encompassing both full overspends incurred in 2012-13 and 2013-14). However, no action appears to have been taken by IPSA to amend the figures on their systems with the result that £767.27 remained outstanding until later in the year.
19. In January 2015 a meeting was held with staff from IPSA's MP Support Team during which Sir Hugh expressed concern that he would overspend on his Accommodation Expenditure budget for 2014-15. As a result, he was given advice that, in order to avoid this, he could terminate his tenancy early. An action which he undertook.
20. Sir Hugh left the meeting believing that his actions would ensure that there would be no ongoing overspend in his Accommodation Budget. This, he believes was reaffirmed in an

email from IPSA dated 4 February 2015 which showed a projected underspend in his Accommodation Expenditure budget for 2014-15 of £296.40.

21. In a financial statement sent to the MP on 2 March 2015, IPSA informed him that he had £296.72 remaining in his Accommodation Expenditure budget. However, following this, the MP made three further claims for accommodation expenditure costs (two electricity bills and one council tax bill) totalling £374.42, causing an overspend in his 2014/15 accommodation budget of £78.70. The statement made no reference to outstanding overspends in previous financial years.
22. In April 2015, IPSA realised that they had made an error and had not recovered the outstanding payment card debt or the Accommodation Expenditure budget overspend from 2013-14 totalling £767.27 and they wrote to Sir Hugh accordingly. At the point he stood down as an MP, he was required to repay £845.97; this consisted of the outstanding amount of £767.27 and the new overspend from 2014-15 of £78.70.
23. On 12 June 2015, the IPSA Head of Operations wrote to Sir Hugh acknowledging the mistakes that had been made both during the January meeting and earlier. The correspondence confirmed that the figure owing was £845.97 and provided a breakdown of how this figure had been calculated.
24. In his correspondence to IPSA, Sir Hugh has continued to argue that they have disregarded both his meeting with the MP Support Team in January 2015 and the financial statement of 2 March 2015, which led him to believe he had £296.72 remaining in his Accommodation Expenditure budget. At the time of the meeting (and the statement), the figure of £296.72, covering only the financial year 2014-15, was correct. However, further claims were made by the Sir Hugh against his accommodation budget following the meeting and the drafting of the financial statement, which led to the overspend of £78.70.
25. Nonetheless, it is reasonable to assume that until April 2015, Sir Hugh may have expected his outstanding debt to be £78.70³. Indeed, the Chief Executive of IPSA wrote to Sir Hugh on 16 December 2015 stating:
“I strongly sympathise with your position. You acted in good faith on the basis of our oral and written advice, prior to and after January 2015, that you owed nothing to IPSA”; and
“I am embarrassed by, and apologise for, the mistakes we have made. On various occasions we have given you incorrect advice about sums outstanding. This is clearly unacceptable.”

³ Sir Hugh does not take issue with this figure or the requirement that it should have been repaid.

Conclusions

26. Having reviewed all the available information, the Compliance Officer concurs with Sir Hugh that on numerous occasions over a substantial time period, IPSA had the opportunity to resolve the issues with his accommodation budget and, due to errors on their part, failed to do so.
27. Nonetheless, having carefully studied all the accommodation expenditure budget data for the period under review, the Compliance Officer is satisfied that the overspend of £845.97 is correct and therefore must be repaid.
28. Sir Hugh contends that, during meetings with IPSA in January 2015, and in the financial statement he received thereafter, he had reached an agreement with IPSA that they should now honour. While the figures presented at that meeting by IPSA were incorrect, the agreement was predicated on an assumption that Sir Hugh would submit no further claims against his accommodation budget for 2014-15. In submitting three further claims against the budget, he is not without his share of culpability in having arrived at this situation.
29. It is understandable that Sir Hugh continues to question the accuracy of the current repayment figure. However, the Compliance Officer has undertaken his own detailed examination of the budget data and is completely satisfied that the current figure is accurate. There can be no question of IPSA honouring an agreement made in January 2015 when money is owed to the public purse, regardless of mistakes they may have made.
30. The total to be repaid was £845.97, however, as Sir Hugh has already repaid the amount in full, no further action is required by either party.
31. Section 6A(6) of the Act provides that an MP (or former 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>.
32. 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 cursive script, appearing to read 'Peter Davis', is displayed within a light gray rectangular box.

Peter Davis

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