



## Review of a determination by IPSA to refuse an expense claim

Ms Siobhain McDonagh MP  
Member of Parliament for Mitcham & Morden

21 September 2016

**Peter Davis**  
**Compliance Officer for IPSA**  
**4<sup>th</sup> Floor**  
**30 Millbank**  
**London**  
**SW1P 4DU**

## Introduction

1. During 2015, Ms Siobhain McDonagh MP submitted four claims to the Independent Parliamentary Standards Authority (IPSA) for Office Costs Expenditure under the *MPs' Scheme of Business Costs and Expenses* (the Scheme). The claims although initially paid by IPSA were subsequently rejected and the MP was required to repay the cost of the claims.
2. On 27 July 2016, Ms McDonagh 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)<sup>1</sup> 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 claims referred to are numbered 413542, 409393, 409390 and 409392 and total £125. They all relate to payments made to medical practices for the provision of extracts from patients medical records.
6. IPSA operates a system of *streamlined validation* where those claims identified as high risk are subject to individual validation while the remainder are automatically processed

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<sup>1</sup> 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.

for payment. Using this process, the above claims were initially paid to the MP without individual validation.

7. A proportion of those claims paid through the streamlined process are selected for post payment scrutiny. IPSA will examine claims submitted by an MP over a three-month period to identify any unusual patterns or repeated errors. If any invalid claims are identified by this process, the MP is asked to repay the money. Claims 413542, 409393, 409392 and 409392 were identified through this process. The validator reviewing the claims concluded that the expenses were not for a “*parliamentary purpose*” and were therefore not allowable. The MP was notified of the requirement to repay the expense.
8. Ms McDonagh requested that IPSA conduct an internal review of their decision not to pay the claims. The review concluded that the claims were 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

9. During the internal review of the claims by IPSA, the member of staff conducting the review concluded that the claims were not allowable because:
10. *“IPSA has previously stated that:*  
  
*The Scheme only permits claiming for costs that are incurred wholly, exclusively and necessarily in performance of an MP’s parliamentary functions. The third of these criteria is considered to exclude costs for which there is an alternative source of funding.*
11. *That position would also apply to these claims. While there was no doubt some good done by the MP for their constituents by paying for these medical reports it is not the role of an MP to pay for the costs of their constituents. Additionally, there were other sources of funding such as the constituent themselves, charitable organisations, or social services.*
12. *A claim for a constituent would not be considered as an essential office cost as while an MP serves their constituency they have no defined legal responsibility to pay for the costs of constituents.*
13. *Therefore as a private individual an MP would be free to pay these costs but they cannot use public money mandated solely for their essential office costs for this purpose.”*
14. The following information was submitted by the MP’s office in support of her request for a review of the above decision.

15. *"I am writing with regard my recent claims regarding GPs demanding payment in exchange for providing constituents' medical evidence for housing cases, and following Mr Boo's<sup>2</sup> response to me.*
16. *I have been claiming these payments for years, and I attach a table below which details the successful claims that have been made over the last few years.*
17. *After making the most recent claims, I received the attached email on the 6<sup>th</sup> of June to let me know that 'this is not an a legible (sic) expense within the scheme as this is not a cost which has been for the parliamentary purposes.' This is incorrect, a lot of GP practices demand payment before issuing constituents' medical reports.*
18. *On the 9<sup>th</sup> June, I sent the attached email requesting a review of this decision, given that I have been making this claim for years, and that it is a necessary cost incurred in the course of my parliamentary duties.*
19. *Finally, after one month of waiting, I received the attached email from IPSA on the 7<sup>th</sup> July to inform me that 'the review has determined this is not an allowable expense within the scheme ... [as] there were other sources of funding available'.*
20. *Furthermore, Mr Boo's letter of 22<sup>nd</sup> July states 'the cost of paying for a constituent's medical records should properly fall to the constituent'.*
21. *But what exactly are the other sources of funding? The constituents who come to me are in dire circumstances, and are unable to make these payments themselves. But without the medical evidence provided by the GPs their housing applications stand absolutely no chance. In short, they need medical records that they cannot afford to stand any chance of rehousing.*
22. *I see this as an absolutely necessary cost for me to do my job. If I did not pay for these reports, the constituent won't be able to foot the bill – and that hinders my job significantly.*
23. *To be clear, this is a claim made in the normal daily course of my work, and I have been making this claim for years. This is a claim made exclusively for the purposes of carrying out my parliamentary duties – and I receive absolutely no financial gain from this.*

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<sup>2</sup> Mr Marcial Boo is the Chief Executive of IPSA

24. *I have taken up the matter of these GP practice payments both with NHS England and with my local CCG who both confirmed that GPs were well within their rights to make such charges.*
25. *I have negotiated discounts where possible, such as the Rowan's Surgery, which now only charges £10 per letter, as opposed to over £50.*
26. *This is a claim that really must be allowed going forward. In line with IPSA rules, it is a claim that is 'incurred wholly, exclusively and necessarily in performance on an MP's parliamentary functions', and there is absolutely no 'alternative source of funding'.*
27. *Surely, if these payments have been legitimate in the past, there would have had to be a change in the scheme for them now to be illegitimate? I would be grateful if you could indicate the change of regulation that has occurred to make this the case.*
28. *Furthermore, Mr Boo's letter states that 'we have decided to ask only that you repay the total sum of the claims that you have submitted since January 2016 for this purpose'. I do not understand how this particular distinction has been drawn.*
29. *I sincerely hope this matter can be investigated with the utmost importance, and look forward to your review".*

## The Review

30. In conducting the review, the Compliance Officer has utilised the Sixth Edition of the Scheme<sup>3</sup> 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.
31. The following areas of the Scheme are relevant to the review:

### *Chapter Two: 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.*

### *Chapter Three: General Conditions of the Scheme*

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<sup>3</sup> From April 2014 to March 2015

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.*

#### *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.*

#### *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.*

32. Ms McDonagh submitted 25 similar claims between November 2011 and November 2014 all of which were allowed. In addition, an examination of IPSA's records reveals that a further three similar claims have been submitted by the MP in 2016, all of which were allowed<sup>4</sup>.

## Considerations

33. Under normal circumstances, a review by the Compliance Officer for IPSA is based entirely on an assessment of the relevant areas of the *MPs' Scheme of Business Costs and Expenses*. The review lays out the respective arguments for and against the payment of the claim(s) and their merits and concludes with a judgement as to whether the claims are allowable under the Scheme. In almost every case there is room for doubt, hence the dispute and the consequent review. In this particular review, I can find no areas for equivocation.

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<sup>4</sup> In his correspondence to the MP of 22 July 2016, Mr Marcial Boo, the IPSA Chief Executive, extends the repayment requirement to include these claims.

34. In the MP's correspondence to the Compliance Officer, Ms McDonagh points out that previous similar claims have been allowed by IPSA and suggests that a change to the Scheme would be required if the claims subject of this review are to be rejected; that is not the case. The Scheme clearly states that *"no decision by IPSA to allow or refuse a particular claim will bind IPSA in subsequent claims of the same nature"*. Therefore, the fact that previous claims have been allowed, although frustrating, can have no bearing on this review.
35. That aside, utilising the Scheme to identify whether these claims are allowable is of limited value. The Scheme correctly confines itself to defining allowable expenses and addressing areas where there could feasibly be room for misinterpretation or doubt. It is not logical or practicable for the Scheme to cover the plethora of possible expenses an MP could incur; the category into which this claim falls.
36. The only area of the Scheme which could possibly cover an expense of this kind is Office Costs Expenditure, however, the chapter is confined to *"the costs of renting, equipping and running an MP's office"*. Office costs relate solely to the practical necessities of renting, equipping and running a constituency office. They do not extend to claims of the kind under consideration in this review.
37. There is no legislative requirement for the MP to make these payments and there is nothing within the Scheme that could be remotely construed as applicable. Therefore, the payment by the MP of charges levied by a medical practice should rightly be regarded as a gift or donation to the individual who requires the records.
38. While it is laudable that the MP wishes to assist her constituents in their applications for social housing it is not the role of the Scheme to meet these costs. There are numerous agencies that require payment for the production of extracts from registers or records which may be useful to an MP in their casework; it is inconceivable that the Scheme should be utilised as a source of funding for any of them.
39. There are other possible sources of funding such as Social Services, the Citizens Advice Bureau, the NHS, the Third Sector or the constituent. However, should none of these prove to be viable, it is not a relevant consideration here. The Scheme cannot be viewed by MPs as a repository in circumstances where no other source of funding is readily available.

## Conclusion

**40. The Compliance Officer can find no merit in the argument that the claims subject of this review are allowable under the Scheme.**

41. It is a matter for IPSA whether they require repayment of a proportion of these claims or seek restitution for them all.

42. 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>.

43. 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.

Peter Davis

**Compliance Officer for IPSA**

[compliance@theipsa.org.uk](mailto:compliance@theipsa.org.uk)