



Review of a determination by the IPSA Contingency Panel to refuse an application.

Antoinette Sandbach

Former Member of Parliament for Eddisbury.

Tracy Hawkings

Compliance Officer for IPSA

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Introduction

1. This review has been conducted following a request by Antoinette Sandbach, the former MP for Eddisbury, to consider a decision of the IPSA contingency panel process to refuse to pay for legal costs in relation to the vacant possession of property owned by the MP following the death of a sitting tenant. Ms Sandbach had purchased the property in (Insert) with an elderly sitting tenant, in the expectation she would occupy the property at the end of her term of office.
2. IPSA publishes and operates The Scheme of MPs' Business Costs and Expenses (the Scheme) in exercise of the powers conferred on it by section 5(3)(a) of the Parliamentary Standards Act 2009. "The Scheme is intended to ensure that MPs' use of taxpayers' money is well regulated, and that MPs are resourced appropriately to carry out their parliamentary functions."¹
3. The guidance which applies in this case comes under Chapters Four, Eight and Ten of the "The Scheme" (Eleventh Edition).
4. Ms Sandbach lost her seat in the snap December 2019 General Election. Following the loss of her seat, she initiated legal proceedings for the vacant possession of a property she owned with the executors of a former tenant, who was by this time deceased. The total cost for the legal fees was £584.34. (CAS-157626).
5. The invoice for the legal fees was submitted on 25th February 2020 and initially paid by IPSA. However, a post payment review of Ms Sandbach account identified that this was an ineligible claim as legal fees in this context are not catered for under the Scheme for MPs Business Costs and Expenses. IPSA are now seeking a repayment from the MP.
6. Ms Sandbach queried the repayment request with a member of staff from MP Support and as a result, of the discussion the staff member submitted an application to the IPSA contingency panel on 9th November with the request that the panel consider the circumstances of the application as exceptional.

¹ The Scheme of MPs' Business Costs and Expenses (Eleventh edition – Introduction).

7. The case was heard at the contingency panel meeting held on 12th November 2020. The application was refused and in light of this, a request has been made to the Compliance Officer to conduct a review. The request was made to MP support on 20th November but not communicated to the Compliance Office until 5th January 2021.
8. *Section 6A of the Parliamentary Standards Act 2009* (the Act) provides that if:
 - (1)(a) the IPSA determines under section 6(3)² 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 to confirm or alter it.
9. 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”.
10. As IPSA had conducted an internal review through the Contingency panel process, there is no impediment to the Compliance Officer accepting the request for a review from Ms Sandbach.

² 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.

The Review

11. In conducting the review, the Compliance Officer has utilised the eleventh edition of the Scheme.
12. In addition, the Compliance Officer has conducted the following enquiries:
 - ◇ Reviewed the contingency panel application submitted on behalf of Ms Sandbach.
 - ◇ Reviewed the minutes of the contingency panel meeting which considered the application.
 - ◇ Reviewed the notes held on the IPSA case records management system.
 - ◇ Reviewed supplementary information which included:
 1. notes made during a meeting between the MP and her account manager during a wind-up meeting held in December 2019.
 2. A letter written to Ms Sandbach by her account manager summarising the meeting.

The basis for the review request by Ms Sandbach.

3. The application subject of this review relates to legal fees incurred for the vacant possession of a property owned by the MP which was purchased with a sitting tenant in September 2016.
4. Ms Sandbach was unable to determine the lease unless the tenant decided to vacate the property or in the event of their death.
5. Following the loss of her seat in December 2019, Ms Sandbach discovered the sitting tenant had died and engaged a legal firm to sort out vacant possession of the property with the executors of the tenant's estate
6. On 14th December 2019, Ms Sandbach and her office manager had a meeting with her account's manager at IPSA. The purpose of the meeting was to discuss the winding-up of Ms Sandbach parliamentary affairs. There were several matters discussed at the meeting and notes were taken by both the accounts manager and Ms Sandbach's office manager.
7. From the notes taken by the office manager, the subject of the property was discussed and the fact there was a sitting tenant who had recently died. An extract from the notes can be seen below:

“Costs associated with moving out of CO/constituency accommodation – penalties in lease and legal fees and any linked costs etc – claim from relevant accommodation/winding-up budget. Queries regarding costs associated with accommodation to [Initials of account manager]”

8. There is a letter written to Ms Sandbach from the accounts manager which will be referred to in the IPSA section of this report.
9. It is the position of Ms Sandbach that she submitted the invoice of the advice of the account manager following the wind-up meeting on 14th December. She acted in good faith following the advice she received. The invoice submitted to IPSA on 25th February 2020 and paid to Ms Sandbach on 26th February 2020.
10. As previously mentioned, a post payment review revealed the payment was made in error as it was not eligible under the ‘Scheme’ and IPSA are now seeking repayment.
11. Ms Sandbach believes her circumstances were exceptional and argues that IPSA could have exercised their discretion as they can do within the contingency panel process. She had funds remaining in her wind-up budget which would have covered the legal costs.

Position of IPSA

12. This matter was considered by the IPSA Contingency panel held on 12th November 2020. The panel rejected the application made by Ms Sandbach on the basis that there was no clear evidence that Ms Sandbach was given incorrect advice from her account manager. They did acknowledge it may have been a genuine misunderstanding. The panel also stated the legal fee costs would have been necessary in any event as part of the process of Ms Sandbach gaining possession of her home, she did not, therefore, incur the costs based solely on the advice received. The panel also noted there had been a previous application in respect of the property which had previously been rejected.

Considerations by Compliance Officer.

13. In conducting this review, the Compliance Officer must decide whether there are any grounds to overturn the decision or part of the decision of the contingency panel.

14. The guidance on the contingency panel process is set out in Section 10.10 of “the Scheme” which states:

IPSA may decide to accept or reject an application at its discretion. In considering its decision IPSA shall take in to account the following factors:

- a. whether there are exceptional circumstances warranting additional support.*
 - b. whether the MP could reasonably have been expected to take any action to avoid the circumstances which gave rise to the expenditure or liability; and*
 - c. whether the MP's performance of parliamentary functions will be significantly impaired by a refusal of the claim.*
15. The Compliance Officer also reviews the Scheme to see if their areas within it, which cover the claim made. In this case, this type of expense is not covered under the Scheme. The Scheme states at paragraph 4.14 “Removal costs for moving to new accommodation may be claimed from the contingency fund. No pre-approval is required. Other costs associated with moving, including any legal costs, must be claimed from the accommodation costs budget”. However, this is in the context of an MP moving to accommodation whilst in office in order to assist them in their parliamentary duties. It does not cover the circumstance where an MP moves to a property following the loss of their seat. Neither is it an eligible claim under the winding-up budget.
16. The Compliance Officer has also considered whether the circumstances were exceptional and whether the MP could have reasonably been expected to take any action to avoid the circumstances which gave rise to the expenditure. The third strand at paragraph 23.c above is not a factor in this case as by the time the application had been made to the contingency panel, Ms Sandbach was no longer an MP.
17. Ms Sandbach argues that her circumstances were exceptional based on advice she states was given by her accounts manager and she submitted the claim on that basis. The Compliance Officer has reviewed the letter written to Ms Sandbach following the meeting with her account’s manager and the only mention of the property with regards to costs was in relation to rental costs. The notes made by Ms Sandbach staff member is detailed at paragraph seven. It is clear there was a discussion in relation to the property and the Compliance Officer does not doubt Ms

Sandbach submitted the claim because she thought it was an eligible claim that could be made and she did so in good faith.

18. The fact remains this expense is not covered under the Scheme and so what must be considered is whether the contingency panel could have exercised its discretion on the basis they believed the circumstances were exceptional. The fact the panel rejected the claims means they did not feel the circumstances were exceptional on this occasion.
19. The Compliance Officer has interpreted the word “exceptional” in the context of the Scheme to mean, the exceptional circumstances arose in connection with the MP’s parliamentary role and not due to a set of personal circumstances. The Compliance Officer does not believe that the circumstances of the expenditure can be deemed to be exceptional in this case.
20. The Compliance Officer cannot overturn the decision of the contingency panel because they have correctly applied the rules under the “Scheme” and the criteria of the contingency panel process. The “Scheme” does allow for the exercise of discretion but that is not applicable in this case. The Scheme states at paragraph 10.19 “In addition to any other payments or assistance provided by this Scheme, IPSA may, at its discretion and on an individual basis, provide any additional financial assistance to MPs it deems necessary to assist them in carrying out their parliamentary functions”. The costs incurred for legal fees did not relate to a parliamentary function.

Conclusion

21. The Compliance Officer has concluded that the decision of the IPSA contingency panel was correct in respect of their decision not to approve Ms Sandbach application for legal fees.
22. Prior to concluding the review, the Compliance Officer sent a copy of the provisional findings to both Ms Sandbach and IPSA offering them the opportunity to make representations.
23. 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>.

24. 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.

Recommendations

None

Tracy Hawkings

Compliance Officer for IPSA