



Statement of Provisional Findings

Mr Phil Boswell MP

Member of Parliament for Coatbridge Chryston and Bellshill

COM-1065

12 May 2016

Peter Davis
Compliance Officer for IPSA
4th Floor
30 Millbank
London
SW1P 4DU

Introduction

1. This Statement of Provisional Findings is issued in accordance with Section 9 and 9A of the Parliamentary Standards Act 2009 (the Act) and the Third Edition of the Procedures for Investigations by the Compliance Officer for the Independent Parliamentary Standards Authority (the Procedures).
2. On 24 February 2016, following a complaint from a member of the public, the Compliance Officer opened an investigation into claims submitted by Mr Phil Boswell MP under the Seventh Editions of the MPs' Scheme of Business Costs and Expenses (the Scheme).
3. The complaint relates to a number of short videos commissioned by the MP and uploaded to his YouTube channel. The complainant alleges that the content of the videos is party-political. Claims for the production of the videos were made by Mr Boswell under his Office Costs Expenditure budget.
4. The investigation has now been concluded. Prior to publication, and in accordance with the Procedures, both IPSA and Mr Boswell were given sight of the draft findings and provided with the opportunity to make representations. Where appropriate, these have been incorporated into the published document or added as appendices¹.
5. The MP was notified of his option under Paragraph 18 of the Procedures for a meeting in order to make any representations in person. Mr Boswell has not requested a meeting.
6. The Procedures also require that I provide each party with any documentation submitted by the other. However, the requirement does not apply in this case, as neither party has provided any documentation.
7. The Compliance Officer is grateful to Mr Boswell for his cooperation.

The Investigation

8. In the course of his investigation, the Compliance Officer has:
 - a) Obtained all relevant information and data from IPSA;
 - b) Conducted open source research;
 - c) Obtained copies of the videos no longer available on YouTube; and
 - d) Met and corresponded with the MP.

¹ The formal representations submitted by Mr Boswell can be found at Annex C.

9. The expenditure subject of the investigation relates to the costs incurred in the production of four videos, each of which is between 60 and 90 seconds in length. They are intended as a way of keeping constituents informed about the MP's work and local events.
10. The videos in question were uploaded to the MP's channel on the video-sharing website YouTube, where they are publicly available to watch at the following address: https://www.youtube.com/channel/UCPIHgDveEA1Q9_9RdWmEkBQ/featured.
11. Having viewed the YouTube videos, the complainant made the following observations:
 - a) In two of the videos the MP does not feature, they only contain a local SNP councillor, Julie McAnulty; and
 - b) The councillor makes political statements with regard to international and local events.
12. The four videos are collectively entitled "*Keeping You Informed*". At some point after the two videos containing the SNP councillor were loaded onto YouTube they were removed and replaced by alternative shorter versions, but still featuring the Councillor. The other two videos feature Mr Boswell. Taking into account the additional versions of two of the videos, the total number of videos reviewed as part of this investigation is six.
13. Transcripts of the videos have been made and are contained in Annex A. The full versions of the two videos which were edited down are no longer available to watch on YouTube but have been uploaded to the Compliance website for viewing at www.parliamentarycompliance.org.uk.
14. Mr Boswell submitted two claims to IPSA in relation to the videos, both of which were supported by invoices from a company called 'Deep Fried Film'. The company describes itself as being involved in motion pictures and film and is based in Coatbridge.
15. The first invoice (see Annex B) is dated 20 July 2015 and contains a number of cost headings. The majority of these relate to work undertaken by Deep Fried Film on the MP's website. There are however two cost headings that relate, in part, to the production of the videos and these are referred to as:

17.07.2015 – photo/video shoot-2 hours - £60; and

18.07.2015 – photo/video post-production (1 day) - £150

As a proportion of the work undertaken by Deep Fried Film under these headings was also in relation to the MP's website, the costs of which are allowable under the Scheme, the Compliance Officer considers that £105, representing half the cost, must be repaid.

16. The claim submitted by Mr Boswell in relation to this invoice is numbered 455429 and the total value of the claim is £480².
17. The second invoice is dated 7 September 2015 and is for three days of “video production”; the invoice refers specifically to the videos *Keeping You Informed*. The claim submitted by Mr Boswell is numbered 455427, it is for £450 and the description provided by the MP is “video production”. The entire sum relates to the videos which are the subject of this investigation. Both invoices are contained in Annex B.
18. The Seventh Edition of the Scheme covers the period from April 2015 onwards. The following are relevant extracts from the Scheme.

Fundamental Principles

2. *Members of Parliament 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

- 3.2 *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 had complied with 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 MPs’ parliamentary functions:*

- b. work which is conducted for or at the behest of a political party;*
- d. activities which could be construed as campaign expenditure within the scope of the Political Parties, Elections and Referendums Act 2000.*

² While total amount of the claim is £480, IPSA only paid £270. The remaining £210 was returned to the MP as it was claimed under the wrong expense type. It was re-submitted under the correct expense type in November 2015 and paid in full.

Chapter Six: Office Costs Expenditure

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

18. The term newsletter is not defined by the Scheme but is described by the Merriam-Webster Dictionary as:

“A short written report that tells about the recent activities of an organisation and that is sent to members of the organisation” and “a small publication (as a leaflet or newspaper) containing news of interest chiefly to a special group”.

19. In the age of digital media, and where the subject matter is as described above, the Compliance Officer regards an on-line oral communication as construing a newsletter. Indeed, in Episode 1 of his *Keeping You Informed* videos, Mr Boswell refers to the need to use *“both social media and traditional methods”* in order to *“reach out to as many of our constituents as we can”*.

20. Taking the videos in sequence, the Compliance Officer would summarise the content as follows:

Episode 1 – Mr Boswell is setting the scene for the videos that follow, describing how he intends to update constituents in the videos that follow;

Episode 2 – In the first version, Cllr McAnulty makes adverse comments about government foreign policy before making overtly political statements regarding the SNP. In the revised version the criticism of government policy remains but the reference to the SNP is removed;

Episode 3 – Mr Boswell makes adverse comment about government domestic policy before speaking favourably about an initiative by the Scottish Government; and

Episode 4 – In the first version, Cllr McAnulty speaks specifically about the NHS and talks favourably about investment by the Scottish Government. She then makes a negative reference to Labour policy when they were in government before making a positive comment about SNP policy.

In the revised version, Cllr McAnulty repeats her comments about the NHS but confines her subsequent remarks to Scottish Government policy on the NHS.

21. In a meeting with the Compliance Officer, Mr Boswell said that the work undertaken by Deep Fried Films was not merely about the production of the videos but also about instructing Mr Boswell and his team how to produce future videos themselves.

22. He went on to say that when he realised that the initial versions of episodes two and four may not comply with the Scheme, he had them removed and replaced with edited versions.
23. When informed that the Compliance Officer believed that all six of the videos were outside the Scheme, he expressed surprise. He subsequently approached the Compliance Officer requesting information on the areas of the Scheme he had breached.
24. Notwithstanding the above, the MP made an immediate offer of repayment for the full cost of production.

Summary of the Provisional Findings

25. Throughout the Scheme, there are repeated references to the need for MPs to ensure that the expenses they claim are for a parliamentary purpose. The most definitive example of this is in Fundamental Principle 2, which states that any claim must be for an expense *“incurred wholly, exclusively and necessarily in the performance of [an MP’s] parliamentary functions, but not otherwise”*. References to the work of the Scottish Government are not parliamentary.
26. Chapter Six of the Scheme specifically excludes claims for newsletters, and while traditionally this would be seen as a paper document, the Scheme must adapt to govern the use by MPs of modern forms of mass communication. In the script delivered by the MP in episode 1, he gives a comprehensive description of a newsletter when referring to the content of forthcoming videos.
27. There is a grey area between work which can be said to be parliamentary in nature and work which is party-political in nature. MPs are by their very nature political and there will always be a judgement to be made between work conducted in the exercise of an MP’s parliamentary functions and work conducted for or at the behest of a political party.
28. For example, the use of an SNP councillor to front two of the videos is, in itself, party-political, but falls within this ‘grey area’ by virtue of her secondary status as an employee of the MP. However, all references by an SNP councillor to the work of the SNP alongside attacks on the policies of other parties are clearly party-political and well outside what could be considered an acceptable use of public funds.
29. The Compliance Officer holds the view that only one of the videos for which Mr Boswell has made claims is within the Scheme. The revised version of episode 2 is confined to challenging government policy and holding the Government to account – arguably a core

‘parliamentary function’. It does not step beyond that which would be expected of any opposition MP.

30. The areas in which the Compliance Officer believes the other five videos contravene the Scheme is as follows:

Episode 1 – is confined to setting the scene for the videos that follow. It is entirely devoted to a description by Mr Boswell of the series of newsletters he intends to produce. He informs those watching that he will *“inform and update constituents on the latest and most pertinent issues of the day”* and *“keep you informed, updated and involved”*.

When viewed in the context of what follows, the Compliance Officer regards this episode as part of a series of newsletters. It is therefore not allowable under the Scheme.

Episode 2 – the initial version is unequivocally party-political for the reasons already covered.

Episode 3 – refers to the work of the Scottish Parliament and not the UK Parliament.

Episode 4 – again, the initial version is party-political, while the revised version refers to the Scottish Government and not the UK Government.

Conclusions

31. The original four videos to which the invoices refer are all, for the reasons outlined in this report, in breach of the Scheme and should not have been claimed.
32. **Mr Boswell is therefore required to repay all £450 received from IPSA following the submission of claim number 455427 and £105 in relation to claim number 455429. The total payment required is £555.**

Representations and case resolution

33. Section 9(5) of the Parliamentary Standards Act and paragraph 26 of the investigative procedures permit Mr Boswell and IPSA a further opportunity to make representations in writing to the Compliance Officer in respect of these provisional findings. In order to comply with this requirement, both parties will be given fifteen working days from the date of publication of this statement to submit any further representations. These must be received by the Compliance Officer by 3 June 2016.
34. If further representations are received, the Compliance Officer will consider these before preparing a Statement of Findings.

35. In accordance with Sections 9(5), 9(7) and 9(8) of the Parliamentary Standards Act and the Notes for Guidance and Information of the Procedures for Investigation, the Compliance Officer may determine not to prepare a Statement of Findings if no further representations are received. This is on the proviso that Mr Boswell agrees to repay the figure specified by the Compliance Officer in full³.
36. If however, no such agreement can be reached or if at any point Mr Boswell were to renege on making the repayment, then the Compliance Officer would be required to prepare a Statement of Findings which must include a Repayment Direction⁴.
37. In the event that the Compliance Officer does not publish a Statement of Findings, he will publish a closure report confirming repayment by the MP.



Peter Davis

Compliance Officer for IPSA
compliance@theipsa.org.uk

³ *Parliamentary Standards Act 2009* s.9(8), Chapter 13, London : The Stationery Office, Available at: <http://www.legislation.gov.uk/ukpga/2009/13>, (Accessed 15 March 2016)

⁴ Section 1, Part 1 of Schedule 4, *ibid*.

Transcript of videos claimed by Phil Boswell MP

Episode 1

Phil Boswell MP: *Hello, I'm Phil Boswell the MP for Coatbridge Chryston and Bellshill. With nearly 100,000 constituents spread over a large geographical area, we want to reach out to as many of our constituents as we can, using both social media and traditional methods. These videos we're making are designed to inform and update constituents on the latest and most pertinent issues of the day. The videos will be presented by not only myself but also my experienced and knowledgeable team. Collectively, we aim to keep you informed, updated and involved in our goal of creating a fairer Scotland.*

Episode 2 (original)

Cllr Julie McAnulty: *The UK Government is bombing Syria by stealth. It's clear that there's an unaccountable executive at the heart of Westminster, acting against democracy. Westminster has not learnt the lessons from Iraq and Afghanistan. Why aren't we looking at the cutting of sales of arms? Why are we not looking at cutting financial support to those who support ISIS? These are the questions the SNP is asking of Michael Fallon, the defence secretary. Democracy has to be held to account. We cannot go to war without the will of the people and we cannot allow Parliament to be overruled by David Cameron. The SNP is your voice, the people's voice.*

Episode 2 (edited)

Cllr Julie McAnulty: *The UK Government is bombing Syria by stealth. It's clear that there's an unaccountable executive at the heart of Westminster, acting against democracy. Westminster has not learnt the lessons from Iraq and Afghanistan. Why aren't we looking at the cutting of sales of arms? Why are we not looking at cutting financial support to those who support ISIS?*

Episode 3

Phil Boswell MP: *In the week thirteen million families were left reeling from the punitive and brutal welfare changes from the latest Westminster budget, there is some good news from the Scottish Government. £11 million savings in fuel and energy costs. This is an exciting new project targeting Scotland's most disadvantaged communities. It's a partnership between social landlords, local authorities and the Scottish Government. It's unique because it's a non-profit making organisation and the most disadvantaged communities should save £11 million. The advantage to everyone is, we're talking fuel poverty at source. In particular, we're working with pensioners and the working poor making energy more affordable for those most in need.*


Episode 4 (original)

Cllr Julie McNulty: I'm here at Monklands hospital, Lanarkshire's busiest A&E. And there's some good news. According to figures just in, Monklands hospital, along with other hospitals in Scotland have achieved a 95% turnaround rates within 4 hours for patients attending A&E. It's a major achievement and it's a vindication of the hard work of NHS staff, but it's also vindication of the Scottish Government's decision to invest an extra £383 million into frontline services, bringing the NHS budget in Scotland to over £12 billion for the first time. It's all a far cry from 2007 when the then-Labour government tried to shut the hospital behind me, and the SNP in coming to power saved it. It just goes to show, the SNP truly is the party of the NHS.

Episode 4 (edited)

Cllr Julie McNulty: I'm here at Monklands hospital, Lanarkshire's busiest A&E. And there's some good news. According to figures just in, Monklands hospital, along with other hospitals in Scotland have achieved a 95% turnaround rates within 4 hours for patients attending A&E. It's a major achievement and it's a vindication of the hard work of NHS staff, but it's also vindication of the Scottish Government's decision to invest an extra £383 million into frontline services, bringing the NHS budget in Scotland to over £12 billion for the first time.

Annex B – Invoices claimed

 <p>DEEP FRIED FILM</p>	<h1>INVOICE</h1>
<p>To: Phil Boswell MP Cambridge, Chelston and Felshill Artium Business Centre Unit 3 North Colceen Road Coatbridge ML5 4SH T: _____</p>	<p>Ref _____</p> <p>Date issued: 20th July 2015</p>

Service Description	Price
14.07.2015 - Design of pop up banner (1hour)	£30.00
14.07.2015 - Production of Pop up banner	£100.00
14.07.2015 - 24 hour delivery charge	£50.00
17.07.15 - Photo/video shoot - 2 hours.	£60.00
18.07.15 - Photo/video post production (1day)	£150.00
20.07.15 - Pop up banner design alterations - (1hour)	£30.00
	£480.00

Deep Fried Film, 107c Alexander street, Coatbridge, ML5 3JH.
 Tel: _____ E: admin@deepfriedfilm.org.uk



INVOICE

For

Phil Boswell MP
Coatbridge, Chryston and Bellshill
Milton Business Centre
Unit 3
North Calder Road
Coatbridge ML5 4EF
T:

Ref:

Date issued: 7th September 2015

[illegible]

Deep Fried Film, 107c Alexander street, Coatbridge, ML5 3JH.

Tel: E: admin@deepfriedfilm.org.uk

Annex C – Formal Representations from MP

PHIL BOSWELL MP
Coatbridge, Chryston and Bellshill



HOUSE OF COMMONS

Compliance Officer for the
Independent Parliamentary Standards Authority
LONDON SW1A 0AA
4th Floor
30 Millbank
London
SW1P 4DU



1st April 2016

Dear Sir,

I refer to my email of 18th March in which I informed you of my intention to submit representations regarding your Statement of Provisional Findings (16th March 2016).

Paragraph 15 of your findings states that 'some of which relate to the MP's website'. Having looked at Annex B, I am unclear what this statement means. I have made no expense claims for my website through Deep Fried Films, as it was created/maintained by my staff.

Further on in Paragraph 15, notation number 1 states 'the claim for £270 is an error by the MP who intends submitting a claim for the balance'. As discussed during our meeting of 2nd March, you will recall that my staff member explained that the error in fact lay with IPSA, who had paid out only £270 of the £480 I had claimed. I have enclosed a copy of an email chain from February in which I tried to resolve this issue. I did not make a partial claim and will not 'explain that I had only claimed for a portion of the full invoice' as advised by IPSA as a solution to their error.

Paragraph 20 states that 'Mr Boswell said that the claims submitted for work undertaken by Deep Fried Films was **primarily** about instructing....' What I said during our meeting was that it was **also** about instructing my team and me.

Paragraph 21 states that 'He went on to say that he realised that the initial versions....' What I said during our meeting was that **when** I realised the videos may not be compliant, after being contacted by the press, I asked for the videos to be replaced with different versions. This may seem pedantic, however your paragraph as it stands may be misinterpreted that I may have been attempting to mislead IPSA.

The Conclusion states that the total payment I am required to make is £555. With reference to what I have already stated above regarding Paragraph 15, as IPSA have only made a payment of £270 to me for invoice number 455429, I believe I therefore owe £345.

Yours faithfully

Phil Boswell MP

Municipal Buildings
Kildonan Street
Coatbridge
ML5 3LV
Tel: 01236 434565
Email: phil.boswell.mp@parliament.uk
www.philboswellmp.scot

From: IPSA info <info@parliamentarystandards.org.uk>
Sent: 23 February 2016 11:03
To: BOSWELL, Phil
Subject: RE: Phil Boswell MP - Expenses Tracking ID:0058504

Dear Mr Boswell,

Thank you for your email.

In order to claim for the extra amount that you were due on the previously submitted invoice 455429, you will need to log on to your Expenses system and create a new claim form as if you were submitting a normal claim. The claimed amount would be £210, as stated. In the notes section of the claim form if you could explain that you only claimed for a portion of the full invoice previously, and would like to claim for the rest of it now.

Please ensure you submit the claim and submit all supporting documentation to us as you usually would.

If you require any further help with this, please do not hesitate to contact us again.

Kind regards,

Independent Parliamentary Standards Authority (IPSA)

4th Floor
30 Millbank

London

SW1P 4DU

Tel: 020 7811 6400

info@parliamentarystandards.org.uk

www.parliamentarystandards.org.uk

Follow us on Twitter: @ipsauk

Watch our training videos on [YouTube](#) to help guide you through IPSA's online expenses system.

----- Original Message -----

From: Phil Boswell

Received: 12/02/2016 15:36

To: <Enquiry>; Independent Parliamentary Standards Authority

Subject: Phil Boswell MP - Expenses

FAO

1. Hi as discussed I send an email further to the conversations with IPSA on the video invoices. This was first discussed in late 2015 and latterly with and in December/January and in Feb 2016. I understand there is also a partial note on IPSA file to this effect.

ONLINE EXPENSES shows;

2. 455427 £450 Video Production – PAID by IPSA and onto Contractor
455429 £480 Pop up Banner design & Production & Photo/Vid – Only £270 PAID by IPSA but full amount paid to Contractor.
455430 £900 (Both above Scope described in less detail) – PAID by IPSA, REPAID by Phil Boswell MP as this is a duplication as notified to IPSA in discussions and note on IPSA record in 1. Above.

Thank you [] for your help in this as you spotted why I could not reconcile this account. The Invoice 455429 has only had £270 paid to me from IPSA in spite of the Invoice being for £480 and this is why I could not reconcile the overall account. As advised previously, Invoice 455430 is a duplication of 455427 & 455427 so has been repaid to IPSA (Repayment form attached).

The Contractor was paid for both 455427 £450 & 455429 £480 in 2015, please advise how best to process payment of outstanding amount of £210 from Invoice 455429?

Please contact me using this email for anything pertaining to this subject.

Phil Boswell MP
Coatbridge, Chryston and Bellshill

Contact data will be collected for the purpose of newsletter mailings. Per data protection compliance regulations, please inform me if you would like to opt-out.

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