

# Compliance Officer for IPSA

## Summary of investigation and findings

Mr Henry Smith MP  
Member of Parliament for Crawley  
(IN/0017/310311)

11 October 2011

**Martyn Taylor**  
**Compliance Officer for IPSA**  
**PO Box 68209**  
**London SW1P 9TZ**

## Investigation summary

1. The Compliance Officer for the Independent Parliamentary Standards Authority carried out an investigation into whether Henry Smith MP was paid an amount under the MPs' Expenses Scheme (the Scheme) that should not have been allowed.
2. The investigation was conducted in accordance with section 9(1) of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010) (PSA).
3. The investigation was initiated by the Compliance Officer, as he had reason to believe Mr Smith may have received funding for claims relating to a website ([www.henrysmith.info](http://www.henrysmith.info)) that did not comply with the rules of the Independent Parliamentary Standards Authority (IPSA) as set out in the Scheme.
4. On 11 April 2011 the Compliance Officer notified Mr Smith that he was the subject of a preliminary investigation and on 28 June 2011 the Compliance Officer opened a substantive investigation into this matter.
5. On 26 August 2011, the Compliance Officer issued a Statement of Provisional Findings. This statement provides full details of the investigation. The findings are summarised below.

## Findings

6. The Compliance Officer found:
  - a. that, in contravention of the rules of the MPs' Expenses Scheme, Mr Smith received reimbursement for claims he submitted for costs relating to his website at a time when the website contained party political logos in the form of favicons;
  - b. that Mr Smith acted swiftly to rectify the contravention by removing the favicons and by repaying to IPSA the amount of one of the two claims in question as this claim had been submitted in error;
  - c. that Mr Smith was unaware of the presence of the favicons, which his website designer had added at his own initiative, as they were not visible on the website browser used by Mr Smith;
  - d. that IPSA was in part at fault as its validation procedures should have prevented reimbursements being made;
  - e. that seeking a repayment for this contravention, beyond the repayment Mr Smith had already made, would be neither proportionate nor reasonable; and
  - f. that IPSA had strengthened its validation practices.

Resolution

7. Mr Smith made no further representations.
8. No further action was required either of Mr Smith or of IPSA and on 22 September 2011 the investigation was closed.

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**Martyn Taylor**  
**Compliance Officer for IPSA**

**11 October 2011**

# Compliance Officer for IPSA

## Statement of Provisional Findings

Mr Henry Smith MP  
Member of Parliament for Crawley  
(IN/0017/310311)

26 August 2011

**Martyn Taylor**  
**Compliance Officer for IPSA**  
**PO Box 68209**  
**London SW1P 9TZ**

## **A. Introduction**

1. The Compliance Officer<sup>1</sup> for the Independent Parliamentary Standards Authority has carried out an investigation into whether Henry Smith MP was paid an amount under the MPs' Expenses Scheme (the Scheme) that should not have been allowed. This investigation was conducted in accordance with section 9(1) of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010) (PSA).
2. The investigation in respect of Mr Smith was initiated by the Compliance Officer, as he had reason to believe Mr Smith may have received funding for claims relating to a website ([www.henrysmith.info](http://www.henrysmith.info)) that did not comply with the rules of the Independent Parliamentary Standards Authority (IPSA) as set out in the Scheme.
3. This statement sets out the Compliance Officer's provisional findings in respect of this investigation.
4. Mr Smith and IPSA may make representations in writing to the Compliance Officer in respect of the provisional findings in this statement within fifteen working days of the date of this statement.
5. If representations are received, the Compliance Officer will consider these and may prepare a Statement of Findings.

## **B. Summary of the investigation**

6. In December 2010 a member of the public made a complaint to the Compliance Officer about the use of party political logos on the website of an MP, the costs of which were claimed through the Scheme.
7. Sections 10.6 of the Second Edition of the Scheme, which was in effect at that time, stated that "*[expenditure] may not be claimed for (a) funding any material that contains a party political logo or emblem; or (b) publishing any material which could be construed as election campaign expenditure within the scope of the Political Parties, Elections and Referendums Act 2000*". Both the First Edition and the current (Third) Edition of the Scheme stated the same under sections 10.6 and 6.6 (d) and (f) respectively. The Scheme, therefore, does not provide for reimbursements of the costs of material that contains a party logo, no matter the size, location or purpose of the logo.

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<sup>1</sup> For the purposes of this statement, actions of the Compliance Officer may have been carried out by the members of his staff acting on his behalf.

8. Following this complaint, the Compliance Officer carried out an inspection of all the websites of MPs where the costs of the websites had been claimed through the Scheme.
9. When Mr Smith's website was checked as part of this inspection, it was found to contain two favicons in the form of Conservative Party "tree" logos on the title bars of the website. A snapshot was taken of the site and retained as evidence.
10. This inspection gave the Compliance Officer a reason to believe that Mr Smith may have been reimbursed for claims under the Scheme that should not have been allowed, and on 11 April 2011 a Notice of Preliminary Investigation was issued to the MP and IPSA in respect of the claims set out below.

<b>Claim Number</b>	<b>Date</b>	<b>Category</b>	<b>Expense Type</b>	<b>Amount Paid</b>
25231	25/08/10	General Admin	Website - Design/Production	£176.25
45345	29/10/10	General Admin	Website - Design/Production	£587.50

11. On 28 April, Mr Smith wrote to the Compliance Officer to advise him that he had reviewed the claims and that the invoice for £176.25 should not have been raised against Mr Smith because the charging period was invalid. He advised the Compliance Officer that the provider would refund him for this invoice, which in turn Mr Smith would refund to IPSA. He added that claim number 45345 was valid.
12. Upon request, IPSA supplied all original invoices and supporting documentation held on its files relating to the above claims.
13. On 28 June 2011, following an analysis of the documentation from IPSA and the correspondence with Mr Smith, the Compliance Officer notified Mr Smith of his decision to carry out a Substantive Investigation, on the grounds that he was satisfied that Mr Smith may have been paid an amount under the Scheme that should not have been allowed. IPSA received a copy of the Notice of Substantive Investigation on 21 July 2011.
14. Section 9(4) of the PSA provides that the Compliance Officer give the MP and IPSA an opportunity to make representations in respect of the substantive investigation.
15. Mr Smith wrote to the Compliance Officer on 4 July 2011 stating that his website had, deliberately, never had party political logos or images because Mr Smith was conscious of the rules about funding, and requested sight of the evidence on which the Compliance Officer was relying. On 8 July the Compliance Officer replied to Mr Smith, enclosing a copy of the screen shot that had been taken in advance of the Notification of Preliminary Investigation being issued. Mr Smith replied on 12 July. In this letter Mr Smith set out that when commissioning his website he had consciously chosen to ensure

it was non-political on the grounds that MPs represent everyone, regardless of how they voted or whether they can vote. He advised the Compliance Officer that he had taken the matter up with the company that created the website and enclosed correspondence from the company confirming that it had at no time been instructed to include the “tree” favicons, and that it would remove them by 11am on 13 July. Mr Smith further added that his office used the internet browser Google Chrome, on which the favicons are not visible [whereas the Compliance Officer uses Internet Explorer on which they are visible], and that for this reason he was unaware of the presence of the favicons.

16. IPSA submitted representations to the Compliance Officer in writing on 28 July 2011.

17. During the investigation, the Compliance Officer considered, in addition to Mr Smith’s website, IPSA’s validation practices and IPSA’s policy position in respect of the presence of party logos and emblems on MPs’ websites. He also considered the correspondence with Mr Smith and the representations submitted to him.

### **C. Provisional Findings**

18. Following an assessment of the evidence in this case and having given consideration to both Mr Smith’s responses and IPSA’s representations, the Compliance Officer has made the provisional findings set out below.

- i. The rules of the Scheme are clear that reimbursement may not be sought for the costs of material that contains a party political logo or emblem. IPSA has clarified that websites are covered by “material” and that it will not reimburse the cost of material that contains a party logo, no matter the size, location or purpose of the logo.
- ii. Mr Smith submitted claims for costs relating to his website, and received reimbursement for these costs from IPSA, despite the website containing party political logos for the Conservative Party in the form of favicons in the title bars.
- iii. In respect of claim number 25231, Mr Smith has accepted that this claim should not have been made as the charging period was invalid; he has refunded the costs to IPSA.
- iv. However, in respect of claim number 45345, Mr Smith was unaware of the presence of these favicons. The website design company had added the favicons at their own initiative, not at Mr Smith’s instructions (which were that the website should be non-political), and the favicons did not show up on the internet browser used by him.

- v. Mr Smith did contravene the rules of the Scheme and receive reimbursement for claims that should not have been allowed. However, the Compliance Officer accepts that Mr Smith was for understandable reasons unaware that, in respect of claim number 45345, a contravention of the rules had occurred.
  - vi. Notwithstanding the fact that it is not possible retrospectively to check the content of Mr Smith's website at the time the claims were submitted, IPSA's validation effort in respect of these claims fell short. It did not meet its validation standards, which include provision that the front pages of websites for which claims are being made are checked for party political logos or campaign material, and which should have resulted in certain claims being turned down for reimbursement. Although MPs alone are responsible for the accuracy of the submission of their claims, IPSA is in this case in part at fault as it could have prevented reimbursements being made to Mr Smith for amounts that were not allowed under the Scheme by following its validation procedures.
19. When considering whether a repayment or penalty is appropriate in the case of a contravention of the Scheme, the Compliance Officer must consider a range of factors in order to ensure he adopts a proportionate and fair approach. The nature of the contravention, the nature of the claims that have been investigated, the context of the submission of the claims, and Mr Smith's response are therefore relevant factors, and the Compliance Officer has provisionally found the following in respect of these:
- i. The contravention was minor in scale. With the exception of the presence of two party logos as favicons in the title bars of the website, Mr Smith's website was compliant with the Scheme. It is hard to envisage any personal financial, political or other particular advantage to Mr Smith resulting from the presence of a party political logo as a favicon in the website's title bars.
  - ii. The claims in this case were made within a few months of the 2010 General Election, following which the new Scheme came into effect. IPSA has stated in its representations in respect of this case that during this period it took time for both MPs and IPSA itself to become fully familiar with the Scheme, to the extent that for much of this early period IPSA operated a "grace period" during which it returned rather than refused claims it found to be outside the rules.
  - iii. Following the notification that a Preliminary Investigation was underway, Mr Smith took swift and welcome action to review the claims in question. He made a repayment for the erroneous claim and, once he became aware of the presence of the favicons, he ensured these were removed so that the website complied

with the Scheme. A recent inspection of the website confirmed that it remains compliant.

### Conclusion

20. Under section 9(8) of the Act, the Compliance Officer may determine what amount is reasonable to request an MP repay.
21. Taking all relevant factors, as set out above, into account, the Compliance Officer finds that in this case it would be neither proportionate nor reasonable to request a repayment from Mr Smith beyond the repayment Mr Smith has already made for claim number 25231. He finds the same in respect of any additional penalties.
22. The Compliance Officer further finds that IPSA has acted to strengthen its validation practices in respect of section 6.6 (d) and (f) of the Scheme and that IPSA therefore need take no additional action.
23. The Compliance Officer does, however, remind Mr Smith that he alone is responsible for the correct submission of claims and that a general condition of the Scheme is that *“[i]n making any claim under the Scheme, an MP must certify that the expenditure was necessary for performance of their parliamentary functions, and that in incurring the expenditure they had complied with the Scheme”* (section 3.2).

### D. Representations and case resolution

24. Mr Smith and IPSA may make representations in writing to the Compliance Officer in respect of these provisional findings within fifteen working days of the date of this statement.
25. If representations are received, the Compliance Officer will consider these and prepare a Statement of Findings.
26. The Compliance Officer may determine not to prepare a Statement of Findings, as per paragraph 36 of the Procedures for Investigations of the Compliance Officer, if Mr Smith accepts the Provisional Findings.

**Martyn Taylor**  
**Compliance Officer for IPSA**

**26 August 2011**

# Compliance Officer for IPSA

## Investigation Closure Report

Mr Henry Smith MP  
Member of Parliament for Crawley  
(IN/0017/310311)

22 September 2011

**Martyn Taylor**  
**Compliance Officer for IPSA**  
**PO Box 68209**  
**London SW1P 9TZ**

## **Investigation closure report**

On 26 August 2011 the Compliance Officer sent Mr Henry Smith MP a Statement of Provisional Findings in respect of the investigation that was conducted in accordance with section 9(1) of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010) (PSA).

The investigation was into the presence of political party logos on a website that was funded through the MPs' Expenses Scheme. The Statement of Provisional Findings sets out the details of the investigation and the Compliance Officer's reasoning for his findings.

The Compliance Officer also sent a copy of the Statement to the Independent Parliamentary Standards Authority (IPSA).

Section 9(5) of the PSA provides that both the MP in question and IPSA are given the opportunity to make representations to the Compliance Officer about the provisional findings.

On 6 September 2011, IPSA's Chairman, Sir Ian Kennedy, wrote to the Compliance Officer to confirm that he would not be making any further representations in respect of this investigation.

No representations were received from Mr Smith.

No further action is required of Mr Smith or of IPSA, and the Compliance Officer will not be preparing a Statement of Findings further to the Statement of Provisional Findings.

This investigation is now closed.

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**Martyn Taylor**  
**Compliance Officer for IPSA**

**22 September 2011**