



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

Helen Goodman
Former Member of Parliament for Bishop Auckland.

Tracy Hawkings
Compliance Officer for IPSA
June 2020

Introduction

1. This review has been conducted following a request by Helen Goodman, the former MP for Bishop Auckland, to consider a decision of the IPSA contingency panel process in relation the employment contract of one of her staff members.
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 The guidance which applies in this case comes under Staffing costs.
3. The issue at the centre of Ms Goodman's application to the IPSA contingency panel is in relation to the employment contract of one of her staff members. The staff member concerned, was employed by Ms Goodman in 2008 before the Parliamentary Standards Act which led to the formation of IPSA became statute. All staff members employed before May 2010 were subject of a House of Commons employment contract. Any new persons employed by an MP after that date, automatically became subject of an IPSA contract.
4. In May 2010, all existing employees were given the opportunity and encouraged to transfer from a HOC contract to an IPSA contract. There have been other opportunities in the intervening years for those persons to transfer contracts.
5. The case that Ms Goodman presented to the contingency panel was that, her staff member did want to transfer to an IPSA contract and indeed signed a new contract which was dated 23rd May 2010. A copy of the contract was sent to IPSA and a copy retained by the payroll team. The benefit of transferring to an IPSA contract related to improved terms and conditions including an increased redundancy package. Both the MP and the staff member believed the new contract signed in May 2010 was an IPSA contract.
6. When the MP lost her seat in the 2019 election, it came to light that the staff member concerned was still subject of a House of Commons contract and therefore disadvantaged financially by the redundancy package contained within that contract. The sum of money relevant to the claim is £4698.00.
7. Ms Goodman made an application to the contingency panel making the argument, that her staff member should not be financially penalised because of an administrative error, which she believes was the fault of IPSA who supplied the wrong contract. She further argues, that in later years when staff members were reminded they still had an opportunity to transfer IPSA contracts, they did not respond thinking they already were.

¹ The Scheme of MPs' Business Costs and Expenses (Eleventh edition – Introduction).
Helen Goodman review – Final report

8. The case was heard at the contingency panel meeting held on 13th February 2020. Ms Goodman's application was not upheld on the grounds the staff member was subject of a HOC contract and it was the responsibility of the MP to ensure their staff members were subject of the correct contract. In light of the decision, Ms Goodman made a request to the Compliance Officer to conduct a review on 2nd April 2020.

9. *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 or not to confirm or alter it.

10. 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".

11. 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 Goodman.

The Review

12. In conducting the review, the Compliance Officer has reviewed all editions of the scheme dating back to 2010.

13. In addition, the Compliance Officer has reviewed the following information:
 - ◇ The contingency panel application submitted by Ms Goodman.
 - ◇ A letter from the staff member sent in with the contingency panel application.
 - ◇ The minutes of the contingency panel meetings which considered the request.
 - ◇ Reviewed the notes held on the case records management system.
 - ◇ Reviewed the terms of the signed 2010 contract.

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.

- ◇ Sought additional information from the MP and from IPSA payroll staff.
- ◇ Sought information from the HOC HR team and IPSA Head of HR.

The Basis for the Review request by Ms Goodman

14. Ms Goodman was elected as the MP for the Constituency of Bishop Auckland between 2005 and 2019. As previously stated the claim subject of this review relate to the employment contract of one of her staff members who was employed in 2008 as a constituency case worker and subject of a House of Commons employment contract.
15. The Independent Parliamentary Standards Authority (IPSA) is a public body in the United Kingdom created by the Parliamentary Standards Act 2009, largely as a response to the parliamentary expenses scandal of 2009. It establishes and monitors the expenses scheme for Members of the House of Commons, and is responsible for paying their salaries and expenses. IPSA is responsible for: setting the level of and paying MPs' annual salaries; paying the salaries of MPs' staff; drawing up, reviewing, and administering an MPs' allowances scheme; providing MPs with publicly available information relating to taxation issues; and determining the procedures for investigations and complaints relating to MPs.
16. Following the formation of IPSA, all existing staff who were subject of HOC employment contracts were given the opportunity to transfer to IPSA contracts. The staff member concerned, indicated she wanted to transfer her contract to an IPSA contract. Due to an administrative error, which the MP believes was made by IPSA, another contract, for the staff member dated 27/05/2010 was drawn up and signed by the MP. The MP believed the staff member was subject of an IPSA contract as of that date.
17. When the MP lost her seat, it came to light that the staff member was still subject of a HOC contract and therefore not eligible to the improved terms and conditions contained within an IPSA contract.
18. Ms Goodman feels when the 2010 contract was sent to IPSA, they should have realised the wrong paperwork had been submitted and rectified the mistake. The MP is very supportive of her staff member who worked for her for eleven years. She does not believe the staff member should be penalised financially because of an administrative error.

Position of the IPSA Contingency panel

19. This matter was considered by the IPSA Contingency panel held on 13th February 2020. They rejected the application made by Ms Goodman on the basis that, that the employment relationship exists between an MP and their staff member, and it is their joint responsibility to be aware of and understand the terms and conditions in the employment contract.

20. When IPSA was established and introduced standard contracts in 2010, those staff members who were already employed were given the opportunity to move to the new terms. These new terms included a provision for redundancy payments, but also included standardised terms in other areas such as annual leave, notice periods, and pay. Many staff members chose to move onto an IPSA contract, while others chose to retain on their current terms and conditions.
21. Since 2010, IPSA has communicated with MPs on a number of times to offer the opportunity to move staff on pre-IPSA contracts onto the standard IPSA terms. A number of examples of previous communications dating back to 2014 were provided to the MP by a member of the contingency panel to demonstrate the point.

Additional Information gathered during the review.

22. During the course of the review, the Compliance Officer has sought further information from various sources including the HR teams within the HOC and IPSA and the IPSA payroll team in an attempt to understand the process of staff contracts dating back to 2010.
23. Information provided from the House of Commons HR team revealed, at the time IPSA was formed, they drew up a master spreadsheet of all relevant employees who were subject of HOC contracts and sent it to IPSA together with a PDF copy of all HOC contracts.
24. Upon receipt of the spreadsheet, IPSA sent a letter to all MPs in their capacity as employers, and informed them, that both they and their staff they could remain on their existing HOC contracts and all existing arrangements would be honoured, or they could transfer to an IPSA contract. There was a requirement for MPs to complete a form to confirm job descriptions and current salary etc of their staff which had to be returned to IPSA.
25. The IPSA contracts were accessed via the IPSA website. For those who wanted to transfer to IPSA contracts, there was a requirement to complete an on-line contract, download, print and sign before being returned to IPSA. It was only at the point a signed IPSA contract was signed and received by IPSA, that their records were amended to show that a staff member had transferred contracts.
26. It was not until 2012, that there was an amendment to the terms and conditions contained within IPSA contracts and a double redundancy package was offered to all person's subject of an IPSA contract and those who had remained on a HOC contract. One of the main reasons for doing this was to incentivise those people on an old HOC to transfer to an IPSA contract. The contract template was also changed on the IPSA website to reflect the improved terms and conditions.
27. Again, IPSA sent out communications to all persons who were by then, either on an old HOC contract or an IPSA contract to inform them of the changes. Each person in receipt of such a letter had to endorse it to the effect they had seen the communication and indicated they wanted to

change to the 2012 contract. In addition, they had to use the new contract template located on the IPSA website, complete and sign it and return it to IPSA. It was only on receipt of a signed 2012 contract, that IPSA records were endorsed to show a staff member had transferred to the IPSA contract which contained the improved terms and conditions in relation to redundancy arrangements.

28. Due to the passage of time and a change of IT systems, the Compliance Officer has not been able to access a copy of the communications sent out at the relevant times.
29. The process for generating an IPSA Contract between an MP and an employee is via the IPSA website. There is a programme called "Contract Tool", which generates on on-line form. Once all sections of the form were completed, it had to be printed off, signed by the relevant parties and returned to IPSA.
30. This process has historically caused significant confusion which came to light in the elections which took place in 2015 and 2017. Staff who endorsed the letter sent out in 2012 informing them of the improved terms and conditions, believed their contracts would automatically be changed on the IPSA systems. They subsequently found out, this was not the case because a new contract (2012) had not generated, signed and returned to IPSA.
31. There have been other examples, in the most recent election, including this case, where staff members were under the impression they were on IPSA contracts and it was proven not to be the case.

Considerations by Compliance Officer.

32. In conducting this review, the Compliance Officer has to decide whether or not there are any grounds to overturn the decision of the contingency panel. In doing so, the Compliance Officer considers, information received from all parties, reviews the guidance under the scheme and the Parliamentary Standards Act, where relevant, and also considers whether there are any additional factors, which need to be considered.
33. 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 consider 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.

34. In all editions of the Scheme including the first edition, the rules around staff contracts were made very clear. The first edition of the Scheme set out the guidance at paragraph 8.5 which states:

“Subject to paragraph 8.6, and subject to notification by an MP to IPSA by 30 June 2010 of any exceptions in respect of staff employed prior to this Scheme coming into effect and continuing after that date, the salaries of staff employed by a Member will be paid by IPSA provided that the following conditions are satisfied –

(a) the member of staff is employed to do work that complies with one or more of the Job Descriptions published by IPSA from time to time;

(b) the employee's salary is within the range published by IPSA from time to time as being applicable to the Job Description in question;

(c) A contract of employment that complies with the model contract of employment published by IPSA from time to time has been signed by the relevant parties;

(d) the Member has provided to IPSA –

i. a Job Description (including the applicable pay range for the job) for the employee in question,

ii. a signed contract of employment that complies with the model that shall be published by IPSA from time to time; and

(e) the Member has obtained IPSA's approval before a contract of employment was entered into.

35. This guidance has not changed to any great degree in more recent editions of the Scheme, which all state an IPSA contract has to be signed by the relevant parties and provided to IPSA.
36. The only contract that exists between the MP and the staff member concerned is a House of Commons contract which is clearly marked as such and all the text contained within refers to the HOC department of resources.
37. The MP has argued, she believes an administrative error has occurred in this case and an incorrect contract was signed. It is clear from the date of the contract (27/05/10), that the MP did respond to communications out by IPSA and a new contract was signed after the date IPSA came in to force.
38. All communications sent out were sent to the MPs as employers either by personal letter or via a mail merge letter. IPSA contracts were generated via a 'contract tool' accessible via the IPSA website, so it was not a question of the wrong paperwork being sent out by IPSA, but rather the correct paperwork not being accessed via the IPSA website, completed, printed off and signed.
39. Due to the passage of time, it has not been possible for the Compliance Officer to access any of the communications that were sent out at the relevant time(s) to assess how well the process was explained. It is clear this subject has caused a great deal of confusion over the years.

40. In any event, the improved terms to a redundancy package was not introduced until **2012**, and communications went out to all members of MPs notifying them, they would have to generate new contracts from the IPSA website, sign and return them to IPSA, before the new terms and conditions for individuals could be applied. This was not done in this case.
41. It is regrettable for the staff member concerned, that the Compliance Officer can only conclude the original decision of the Contingency panel was correct and is upheld.

Conclusion

42. The Compliance Officer has concluded that the decision of the IPSA contingency panel was correct based on the fact, it is an MPs responsibility to ensure their staff are placed on correct contracts. It is acknowledged this is a genuine mistake and a loyal member of staff who worked for Ms Goodman for eleven years has not received the financial redundancy package she believes she should be entitled to.
43. This is an issue which has clearly created confusion in the past and is still a source of confusion which has been highlighted by the most recent election. This aspect of the review will form the basis for a recommendation.
44. Prior to concluding this review, the Compliance Officer sent a copy of the provisional findings to both Ms Goodman and IPSA offering them the opportunity to make representations. The IPSA CEO has accepted the recommendation set out below, and assured the Compliance Officer, it will be addressed.
45. Ms Goodman has made some representations to the Compliance Officer. She pointed out there was an error in the amount of money she was seeking on behalf of her former employee. The sum of money being sought is £4698 and not £6037 as set out in the Compliance Officer original report. The lower sum has been calculated based on the number of annual leave days, the employee was able to carry forward as a result of being on a HOC contract. (The HOC contract enabled the staff member to carry over 10 additional annual leave days).
46. Ms Goodman also wants to point out the following “Secondly, and more fundamentally, paragraphs 30, 31 and 43 of Ms Hawking's report set out the history and show that this confusion has been faced by other retiring members in 2015, 2017 and 2019. This is in line with my recollection. The fact is there was confusion about the original switch of contracts in 2010. Several members have been affected over the years. Ms Hawkings rightly recommends some improvements to IPSA practices in this respect. In the mean time staff should not be disadvantaged and (employee) should be paid a higher redundancy.
47. The Compliance Officer sent Ms Goodman’s representations to the IPSA CEO and has asked for a response. The view of IPSA remains unchanged in that it is the responsibility of the MP as the employer, to ensure their employee is placed on the correct contract. IPSA provided the facility for IPSA contracts to be accessed via their “Contract Tool”, accessed through IPSA systems, but it

was the MPs responsibility to complete the template with the employee and provide IPSA with a signed copy. This was not done in this case.

48. The Compliance Officer has considered the representations of Ms Goodman and the response of IPSA. The Compliance Officer has also had contact with the staff member concerned. The position of the staff member is that she recalled discussing the matter with Ms Goodman and indicated she wanted to transfer to an IPSA contract. A new contract was drawn up in 2010 which she believed to be an IPSA contract. She did not recall ever seeing any communications from IPSA on the subject, she believed all communications were sent out to MPs only. The employee has no recollection of any discussions in 2012 when the new and improved terms and conditions were offered in relation to redundancy packages.
49. In the circumstances, having considered all of the original information, the representations from Ms Goodman and IPSA and having spoken to the member of staff concerned, the Compliance Officers final determination is that the original decision on the contingency panel was correct. This is on the basis, that the contract of employment exists between an MP and their employees. It is therefore the responsibility of the MP to ensure the correct contract is drawn up.
50. 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>.
45. 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.

Review Recommendation.

1. IPSA should make personal contact with all those members of staff who currently remain on a HOC contract, to ensure they are made aware this is the case and offer them a further opportunity to transfer to an IPSA contract. All communications should be entered on to the case records management system.

Tracy Hawkings

Compliance Officer for IPSA

compliance@theipsa.org.uk