



From the Speaker of the House of Commons

SUBMISSION TO THE INDEPENDENT PARLIAMENTARY STANDARDS AUTHORITY'S FIRST ANNUAL REVIEW OF THE MPs' EXPENSES SCHEME

Thank you for inviting me, as a statutory consultee under section 5 of the Parliamentary Standards Act 2009, to comment on IPSA's annual review of the MPs' Expenses Scheme. I very much welcome the opportunity to do so.

I have regularly acknowledged that the old expenses regime was utterly discredited and ripe for radical reform. The Parliamentary Standards Act 2009 recognises this, albeit belatedly, and makes independence the essential hallmark, separating MPs and the Palace of Westminster more broadly from those who have to process and approve expenses claims. That hallmark of independence remains fundamental and, although the architecture, principles and rules by which IPSA operates could and should evolve, the institutional division between those who claim and those who deal with claims must and will endure. It is crucial, however, that in all IPSA does, nothing dissuades ordinary citizens from becoming MPs.

In making this submission I should emphasise that the views which I will outline here are exclusively my own and have no relationship to my status as the Chairman of the Speaker's Committee on IPSA or as Chair of the House of Commons Commission.

In setting out my thoughts I am mindful of three further factors which I should highlight at the outset.

- The core question is, as Sir Ian Kennedy states in his foreword to the consultation document, “public confidence” in arrangements surrounding MPs and their expenses.
- The recent difficulties in the administration of the Expenses Scheme which Sir Ian freely acknowledges are largely the consequence of the extraordinary speed with which IPSA was established, asked to conduct an initial public consultation and then implement an entirely new system from scratch. That pace was dictated by the Parliamentary Standards Act 2009 and, in all candour, by the intensity of public opinion over the expenses scandal. As a consequence of the overwhelming priority placed on speed of implementation, other factors, including the direct cost of IPSA

itself, the burden in terms of Member and staff time required to comply with the Scheme and the virtues of simplicity took second place. This is, it is my contention, the fundamental reason why, as Sir Ian again rightly asserts in his foreword, “the last eight months have been demanding, both for MPs and their staff and IPSA”. The objective now should be to achieve transparency in a less resource-intensive way.

- I also note that this consultation exercise involves not one issue but two major issues. The immediate matter is how to achieve a better outcome in a number of key areas which you have identified (family life, the definition of the London area and the means by which renting, and supporting staff in, a constituency office should be met) and in this response I provide thoughts on each of these questions. There is also, however, a much larger medium-term question. This question is not about the details of the Scheme but, rather, about its fundamental character and, therefore, about what sort of regulator IPSA should aspire to be. In the interests of completeness, I have also set out my thinking on this larger issue, but it is inevitably tentative. A short submission is not the place to outline a whole scheme but to address some key themes and components which should inform it.

I should also stress that as Speaker I have not been in a position to conduct surveys among Members or their staff and it would have been improper to do so. Others will doubtless make submissions based on such data. My views set out here are based on my observation of events as they have unfolded within the House over the past 18 months and what evidence (much of which has been supplied by IPSA itself) is publicly available. Bluntly stated, although the case for an independent expenses system is as strong as ever and there can be no retreat from it, my Parliamentary colleagues have several legitimate grievances – undue delay in payment of claims, disproportionate time spent on making claims because the system is too bureaucratic, damage to family life caused by IPSA’s housing and travel policies and the unduly restrictive approach taken to the rental and staffing of offices. If Members are not to be treated unfairly or hampered in serving their constituents, and if aspiring candidates are not to be deterred from seeking election to Parliament, these policies should now be changed for the better.

THREE KEY THEMES

The consultation document identifies three key themes which I will address in turn.

A. THE IMPACT OF THE EXPENSES SCHEME ON AN MP’S FAMILY LIFE.

This is a profoundly important question, not least because it is likely to be crucial in determining the size and character of the “pool” of people willing to contemplate attempting to become a Member of Parliament. You will be aware of the work the

Speaker's Conference has undertaken on this issue. IPSA has correctly stated that it would not wish to create a scheme which served as a disincentive for individuals to undertake a parliamentary career. I believe there is sufficient evidence, in the information which the IPSA consultation document itself cites, for real concern in this regard. The present definition of a "dependent member" of a family, where the Member of Parliament concerned is not deemed to be a "sole carer", namely that it ends when the child has reached the age of five, does strike me as extremely narrow. It also disregards the realities of family life in which each parent is a "shared carer" and at times will of necessity become the carer "of last resort" (this is especially but not exclusively true for female parliamentarians). It also strikes me as unreasonable for there to be an explicit or implicit assumption that the primary "family home" will be and should be in the constituency rather than in London. Although it is so in most cases, it is not invariably the case. The lives of MPs are too complicated and varied for this to be so. A more widely recognised definition of dependency would extend to the age of 18 (but not 21) and this should be reflected in rental accommodation regulations.

I also favour a similar level of flexibility on the matter of family travel between the London and constituency addresses of Members of Parliament. It strikes me as out of step with the expectations of modern times to ask young children to undertake lengthy train journeys unaccompanied, or to expect that a carer should be placed in an adverse position financially because of his or her entirely commendable decision to accompany a child on such a trip. On that basis, I would favour an extension of the present travel rules relating to dependent children between the ages of 5 and 16 or 18 (but again not 21) to incorporate a carer.

Finally, in this section, I agree with the assertion in Question 24 that it would be sensible to remove rule 7.3 (b) which excludes claims for travel between Members' constituency homes and constituency offices as the journey concerned is not a "daily commute" in any normal sense.

B. THE LONDON AREA

I turn now to the definition of the London area adopted last March. Anomalies abound (the respective fate of the two Milton Keynes MPs is an obvious example) and it has been the cause of undoubted hardship, with some MPs concluding that they have little option but to sleep in their offices on Monday and Tuesday nights. As the consultation document observes, the change in the rules which has been introduced meant that the number of MPs considered to be de facto London residents increased dramatically from 25 (implausibly low) to 128 (improbably high) or a more than five-fold increase in the overall tally. It is entirely right that IPSA now examines the implications of the current regime and asks whether it must change.

There are two difficulties with the current criteria. They are:

1. The formula “any part of an MP's constituency is within 20 miles of Westminster” takes no account of where within that constituency public transport facilities might be located, let alone where the Member of Parliament concerned actually lives.
2. The formula “it is possible to commute from any part of the constituency to Westminster by rail within 60 minutes at peak times” ignores the fact that the late evenings which House business demands on Mondays and Tuesdays (and can do on other sitting days) cannot equate to any common sense concept of “peak times”. For many MPs, unfortunately, the choice is between attending to their parliamentary duties in the fullest sense (and thus risking uncertain overnight arrangements) or leaving at a time when they can be sure of returning home.

This is far from an ideal situation. I accept that any formula will involve “winners” and “losers”. It is impossible to design one which is absolutely equitable. The option which IPSA belatedly selected, against its own initial instincts, strives so hard to ensure that there are no winners that it all but maximises the number of losers. The balance needs to be changed.

In the absence of any more compelling option to have been floated publicly, it is my conclusion that the original IPSA scheme based on Zones 1-6 of the Transport for London map was the least bad option available to us and it should now be reinstated as the model.

C. THE EFFECTS OF THE LIMITS ON EXPENDITURE FOR STAFFING AND RENTING A CONSTITUENCY OFFICE.

There are, as IPSA will be aware, numerous issues here but I think that most of the complaints which have been received could be met by addressing one central issue. At the moment, as the consultation document outlines, there are three budgets which are designed to provide support here, namely Staffing Expenditure, Constituency Office Rental Expenditure (CORE) and General Administrative Expenditure (GAE). I have two thoughts to offer.

- At present, CORE and GAE are treated as totally discrete budgets. MPs cannot overspend on one of them and offset this through an “underspend” on the other. The division between these two budgets strikes me as more robust in theory than in practice. The fundamental issue is transparency. As long as it is obvious what an

MP has spent money on and that he or she can be held accountable by IPSA for that expenditure, whether it comes from a “Pot A” or a “Pot B” is surely immaterial. It would encourage more flexibility and introduce a welcome element of simplification if either the current rather rigid prohibition on “viring” were abandoned or if the two budgets were simply merged with a maximum sum for the combined account set at a figure no higher than the combined figures of the two budgets today.

- There is also, however, room for savings on the Staffing Expenditure aspect of the budget which could take place without diminishing the service received by Members and through them their constituents. A high percentage of all MPs staff are located at the Palace of Westminster itself rather than in a parliamentary office in the constituency. If in the judgment of the Member concerned there is a real need to base a member of staff at Westminster and not in the constituency, well and good. But if the decision is determined not on the basis of need but because of IPSA’s rules then this is something that needs re-examining in the interests of the economic and effective use of taxpayers’ money. It is more expensive to the public purse to base a staff member at Westminster rather than in the constituency and, given the major role played by Members’ staff in delivering a service to their constituents, it may in many circumstances not be the efficient place for them to be. I would, therefore, urge IPSA to explore what incentives it can offer to consider a modest reallocation of such staff consistent with the need to provide the best possible support to Members and constituents.

There are two issues relating to employment of staff that I would like to touch on which have concerned a number of Members in recent months.

- Members are usually exceptionally busy, and many of them find some aspects of the employment relationship challenging. As small employers, they are subject to the full force of employment law, and the House tries to alleviate some of the difficulties by providing them with a Personnel Advisory Service (PAS) to give advice on best practice and to help them through problems such as intractable long-term sickness absence cases, disciplinary matters and employment tribunals. One area where I believe more support could be provided is on finance to help difficult HR cases – giving Members greater access to funds to resolve problems flexibly, e.g. being able to pay for legal advice on staffing matters in certain defined circumstances, or to settle messy dismissal or potential tribunal cases with a cash settlement. I am not arguing that Members should be given *carte blanche*. They would be bound by the existing overall financial limits and would be reimbursed only if they had followed the correct procedures and taken PAS’s advice. But I do believe that more flexibility in this area – at no additional cost to the public purse – would go a long way towards alleviating a genuine problem.

- A number of Members have also expressed concern about the adequacy of the Staffing Expenditure budget in relation to staff pension contributions. Under the previous regime, pension contributions made on behalf of Members' employees were paid from central funds and did not impact on Members' staffing budgets. The IPSA scheme requires Members to meet pension costs from their Staffing Expenditure and the budget has been increased by just over £4,000 per annum to reflect this.
- However, a number of individual Members feel that this is insufficient to meet the additional costs, leaving them worse off in real terms. As I understand it, this is particularly the case where a Member's staff costs were at or near the upper limit. It is important that Staffing Expenditure is set at a level that ensures no negative effect on Members' ability to employ staff on the salary rate that they were previously able to pay.

IPSA IN THE MEDIUM-TERM: WHAT SORT OF REGULATOR?

In his foreword to the IPSA consultation document Sir Ian Kennedy squarely addresses the extremely challenging question of what sort of IPSA we should want to see operating by the middle to end of this Parliament. It is a challenging question because it is a part philosophical and part practical dilemma. The practical aspects are very important. As Sir Ian asserts bluntly, the cost to the taxpayer of the current IPSA regime is "considerable" and it is not obvious while the rules continue in their present form that this cost will reduce naturally. Furthermore, as the opening paragraph of the consultation document notes: "This review takes place in the context of sharp downward pressure on expenditure across the public sector". This pressure has increased since the establishment of IPSA in the middle of 2009.

It seems to me that a regime involving MPs and public expenditure must meet three criteria:

1. There must be absolute and public transparency as to what has been spent.
2. An independent body (IPSA) must analyse, assess and approve that expenditure and have the authority to refuse or reclaim monies where on the basis of the rules it properly sees fit to do so.
3. The costs and bureaucracy of IPSA must be the minimum required to satisfy 1 and 2.

This brings me to the philosophical question of what sort of regulator IPSA should wish to be. Does it regard itself as a regulator ('Regulator A') which should engage in

continuous and intrusive oversight (and indeed be taking prescriptive views of what MPs should do and how they should discharge their duties), or as a body ('Regulator B') with a responsibility for enforcing standards by audit, inspection and the publication of its findings? To my mind, the Regulator B model is the one which is more likely to deliver on the three criteria which I have just set out. Needless to say, such a new model must also produce a saving to the public purse. The Regulator A model would bring with it considerable hazards.

So how may we pursue the 'Regulator B' model? It seems to me that the makings of a solution lie within paragraph 18 of the consultation document, which refers to the need for a decision that "a system that is easy to understand is preferable to a larger rule book which seeks certainty but necessarily falls short of delivering it" and in paragraph 81 which, while discussing the future of the "90 day rule", refers to the suggestion that "there should not be a time limit in the financial year, but that all claims incurred in the particular financial year should be submitted by a month after the end of that financial year."

A Regulator B model for IPSA might be based on the following structure.

- Each Member of Parliament would receive an advance allocation for two budgets: personal expenses and office expenses. The maximum sum for personal expenses would be allocated on the basis of the average total expenses claimed over the past five years minus a percentage figure to reflect the public expenditure conditions of our times. IPSA would set the rules for legitimate expenditure. Members would make individual decisions as to how to determine what they wished to claim as expenses within these budgets. The entirety of this exercise would then be published.

The merits of this approach would, in my opinion, be three-fold.

1. It would be unambiguously transparent and accountable to the electorate. IPSA would retain the independence and powers required to ensure public confidence in the system.
2. It would introduce the element of flexibility which the reality of life as a Member of Parliament needs.
3. It would be far simpler to oversee and so lead to substantial savings for the public.

CONCLUSION

The basic tenets of my submission can be readily summarised. The old expenses regime

was wrong and had to be replaced. The fundamental principle that the new system should be independent remains sound. The sheer speed with which the new arrangements had to be introduced has led to significant operational problems and real grievances amongst Members, threatening both their family lives and their capacity to discharge their duties as MPs as fully as they wish. Relatively modest changes to policies on accommodation, travel, the rental of offices and the staffing of them, combined with a reasonable flexibility in the use of Members' budgets, would yield real benefits to Members and constituents alike. Similarly, a decision by IPSA to reject extensive prescription and instead to enforce standards by audit, inspection and publication, would be a decisive step in the right direction.

IPSA has asked for views on what changes should be made. I hope you will see merit in the proposals contained in this submission. Thank you for this opportunity to share my thoughts with you. I wish you very well with this consultation exercise. In the spirit of transparency, I will be releasing this submission publicly at the same time as I offer it to you.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "John Birt". The signature is fluid and cursive, with a horizontal line underneath the name.

Speaker

8 February 2011