

Committee on Standards and Privileges

Response to IPSA Annual Review of the MPs' Scheme of Expenses and Costs

1. The Committee on Standards and Privileges has been nominated by the Speaker, in accordance with section 5 of the Parliamentary Standards Act 2009, as a statutory consultee for the IPSA annual review of the MPs' scheme of expenses and costs.
2. This response principally deals with matters where we consider IPSA's proposals may have implications for standards in the House, although we also raise matters where our common experience as MPs from different political parties, across the United Kingdom, leads us to believe there are general points to be made.
3. Before turning to the detail of the consultation, we wish to put on record a general principle underpinning this response. Each Member has to choose how best to serve his or her constituency, whether it is through focusing on casework, through wider campaigns or through concentrating on the business of the House. We welcome the implicit recognition of this in the Review's approach to staffing arrangements, but urge IPSA to bear in mind that its task is not to determine Members' job descriptions. It is for the electorate, and for local parties, to judge whether a Member's approach to the job is acceptable.
4. We now turn to the consultation questions. We have not necessarily dealt with each question in the consultation but have addressed the broad principles raised.

Equality and Diversity

5. We note that IPSA considers it does not have data to suggest that equality in pay is a matter of concern, and we welcome IPSA's consideration of this matter, and its willingness to consider whether aspects of the Scheme may have an effect on diversity. We also note that staff are employed by individual Members who are themselves bound by the relevant legislation.

MPs' Staffing Provisions

Party Political Activity

6. The consultation raises the issue of the use of resources intended to support parliamentary functions for party political activity, and asks whether changes to the scheme are needed, such as prohibiting or permitting certain sorts of party political activity. At present the scheme "relies on individual MPs ensuring that staff are given tasks only relating to the performance of their parliamentary functions."¹

1 Ipsa consultation, para 30

7. The United Kingdom parliamentary system, like other such systems, is based on political parties. There will inevitably be areas of overlap: indeed many parliamentary duties are themselves political, and parties are acknowledged in the Standing Orders of the House of Commons. An MP's parliamentary duties may not be confined to Westminster. The Committee on Standards in Public Life, drawing on the House of Commons Modernisation Committee, defined an MP's task as:
- Representing and furthering the interests of their constituency.
 - Representing individual constituents and taking up their problems and grievances.
 - Scrutinising and holding the Government to account and monitoring, stimulating and challenging the Executive.
 - Initiating, reviewing and amending legislation.
 - Contributing to the development of policy whether in the chamber, committees or party structures and promoting public understanding of party policies.
 - Supporting their party in votes in Parliament (furnishing and maintaining the Government and Opposition).²

The CSPL also considered that such activities should be supported:

2.5 The expenses system needs to ensure that MPs are provided with reasonable levels of support in all these areas. The regime must also have sufficient flexibility to allow for the fact that individual MPs can give different emphases to different aspects of the role over time. The ability of MPs to determine for themselves how best to do their job is an important aspect of parliamentary privilege, a doctrine which is a key tenet in our unwritten constitution.³

8. As political parties are at the heart of our parliamentary system, it is difficult to draw a clear distinction between parliamentary and political in every case. In many cases political campaigning and parliamentary work can and should be distinguished, but there will always be boundary issues, and matters for judgment. The Committee on Standards and Privileges's various Reports show where the line has been drawn in specific cases.
9. Guidance on where the boundary falls, using examples, could be useful, but IPSA should not attempt to draw up exhaustive rules on this matter. We have already noted that it is not for IPSA to determine MPs' job descriptions. MPs are currently expected to ensure that staff are given tasks only relating to the performance of their

2 Twelfth Report from the Committee on Standards in Public Life, *MPs' expenses and allowances: Supporting Parliament, safeguarding the taxpayer*, November 2009, Cm 7724, p 31

3 *Ibid*

parliamentary functions, and should continue to exercise their judgement, bearing in mind that it could be challenged by a complaint. Prescription in this area would run counter to the reforms IPSA itself has introduced in creating the Office Costs Expenditure budget which, as the consultation paper notes “avoided the risk of micro-managing what MPs could claim, and reflected a more general practice of MPs taking responsibility for the expenditure they required to run their offices.”⁴

10. To turn to the specific suggestions in paragraph 31 of the consultation.

a. Attending party conference during working hours without taking leave

We agree that the public purse should not support attendance at party conferences, but working hours can be flexible. It would be entirely reasonable for staff to take time off in lieu of overtime, for example (and elsewhere in the consultation IPSA indicates a great deal of unpaid overtime is already worked).

b. campaigning in local elections etc

We agree that this would clearly fall outside the permissible use of public money. However any policing of this would have to take account of the fact that many MPs' staff campaign in their own time and have a democratic right to do so.

c. writing a speech for a constituency or party event that criticises the MP's political opponents or promotes a party line

The Committee agrees that party political campaigning or purely party events should not be supported by public funds. Nonetheless, we do not think the formulation in the consultation paper is tenable. A Member's contribution to parliamentary proceedings may well involve political criticism or promotion of a party policy, and is undoubtedly parliamentary. As representatives, MPs need to communicate with those they represent, and Members are expected to set out their views in public meetings and other constituency events open to the public, where the debate may well include explanation of their party's position, or of the reasons for opposition to another party's policies. Such events can in turn inform an MP's activities at Westminster.

IPSA's Role

11. We do not offer a view on whether IPSA should continue to draw up centralised job descriptions for Members' staff, but IPSA also asks whether it should investigate offering assistance in central recruitment and performance management where these can achieve enhanced cost effectiveness. In making this proposal, the consultation does not refer to the Personnel Advice Service (PAS) in the House of Commons which provides advice, guidance and support on matters relating to the employment of staff (including employment law, staff recruitment, performance management and confidential advice on individual cases, such as poor performance). PAS already

provides guidance and support on recruitment and appraisal processes, although this is a relatively small part of its workload since there is less demand for support in these particular areas than in others. We consider that all advice about personnel should be given from a single source; it would be confusing to go to one body for advice on recruitment and appraisal and another on employment law. It would also be difficult to separate the two in this way, risking duplication and contradictory advice. If IPSA does decide to provide central support to Members about staffing matters, it should be prepared to offer all the services currently provided by PAS.

12. At present, we could not support transferring PAS responsibilities to IPSA. In principle there is logic in the body which administers the staff budget providing personnel advice. However, the widespread complaints about IPSA's approach to giving advice on matters within its current remit reported by the Members' Expenses Committee suggest it is not currently equipped to give such a range of sensitive advice. Moreover, the service provided by the House currently requires three full-time members of staff; IPSA's suggestion that a single staff member could suffice suggests it would not give sufficient priority to its statutory duty to have regard to the principle that Members should be supported in their work.

The MP's Office, Pay and Budgets

13. We note IPSA's proposals on these matters. We are sure that others will make more detailed comments on practicalities. We do not think that IPSA can draw conclusions from the level of spending; while we are confident that money provided will almost always be spent, there will also always be some underspend if a budget is capped. Our impression is that the numbers of staff intended to be supported by the budget is broadly right; there is some flexibility for individual Members to ensure the arrangements meet their needs.
14. IPSA is right to reject the idea of Members making a business case for the number of employees required; apart from the disadvantages identified by IPSA itself, it would set IPSA in the position of determining MP's job descriptions. We favour the retention of the current system, in which all MPs have the same staffing budget and Office Costs Expenditure. Varying the budget according to the location of staff would give a perverse incentive to base staff at Westminster, where many overheads are carried by the parliamentary authorities, rather than in local constituency offices funded through IPSA allowances. The cost of increasing accommodation at Westminster is likely to be far higher than that of funding accommodation in the constituency. The single exception should be that London Members are given some support towards meeting the additional costs of staffing in the capital.
15. We are pleased that IPSA is consulting on whether staffing budgets should be based on pay band maximums since this recognises the need for MPs to recruit and retain high quality staff. IPSA is better placed than we are to judge whether current difficulties in staff retention make it necessary to change the way the staffing budget

is calculated. Although the NAO concluded that “the staffing budget could make it difficult in future years MPs to retain good people”, currently public sector expenditure is severely constrained, and any decision should take account of that constraint.

Other Proposals

Accommodation Expenditure: claims after leaving Parliament

16. The Committee agrees that it is sensible to amend the rules to allow MPs who lose their seats to claim for the associated expenditure on property formerly required for their parliamentary functions for up to two months after leaving Parliament, as well as for rental payments.

Office Costs Expenditure

17. As the consultation document explores, there is a tension between ensuring that public money is not used for the costs of producing or publishing any material which could be construed as campaign expenditure, and maintaining MPs' websites as places where the public can find information about an MP's views.
18. The Consultation notes that IPSA does not provide funding for newsletters. We make no comment on this, and are not arguing for a return to a communications allowance, but we invite IPSA to consider the extent to which its rules may make it harder to communicate with those do not have or use Internet access, who remain a substantial proportion of the population. In principle, we see no reason why material which can be communicated by publicly funded website should not be communicated in another written form. If the difference in costs between printed material and electronic communication is so high that this is not practicable, it would be helpful for IPSA to explain this.
19. We consider the current constraints on the use of party logos on publicly funded websites are proportionate. In principle it would be reasonable to allow Members to include a brief summary of their views on the subject of a non-partisan referendum on a publicly funded website, but extensive campaigning should not be so funded. In practice, we believe this would be difficult to define and to police, so do not support allowing such material on publicly funded websites.

Home based offices for MPs' staff

20. The Committee considers that it is reasonable to allow Members' staff (and Members themselves) to reclaim expenditure they incur in working at home, and to do so even if that home is more than 20 miles from the constituency boundary. When a Member or member of staff primarily works from home, it is reasonable to expect their premises to be designated as a constituency office. Such registration is appropriate where the home is the main workplace and the intent is to reclaim a percentage of expenditure such as energy and water bills and insurance.
21. However, Members and staff may be based elsewhere and work at home occasionally, but still require telephone and Internet access from home to perform their functions efficiently. An appropriate portion of such costs (but not associated accommodation costs) should be reclaimable. In these cases requiring registration as a "constituency office" is misleading. It opens those concerned to accusations that they are misusing the expenses system and have not provided an office, when there was no intention that they should do so. As the recent report of the Committee on Members' Expenses demonstrates, 82% of Members are failing to claim expenses to which they are properly entitled, because they wish to protect their reputation by avoiding media coverage, which suggests a fear of inaccurate and adverse press reporting.⁵ IPSA should consider introducing a category which would allow costs incurred in home-working to be reclaimed without exposing the claimant to reputational risk. Such a category should of course be transparent, and claims should be published.

Claims for late night travel

22. IPSA asks whether the budget limit for taxis be increased from £80 to allow MPs if they wish to return to their London Area residence rather than claiming £150 for a hotel and whether, if so, the limit should be £100, £120 or another figure. We see no reason why there should be different limits for taxi fares and overnight accommodation, although given the distances involved, and the requirement that in most cases Members attend the House the following morning, we expect such high fares would rarely be claimed. We are surprised that only 13 Members have claimed for hotel costs when the House is sitting late: this may be an indication that legitimate claims are being deterred by the current system.

Resettlement Grants

23. IPSA is consulting on introducing an interim resettlement grant for MPs who involuntarily leave office, for example following a defeat in an election. Our response is based on the assumption that IPSA is also likely to be considering what arrangements should be proposed for resettlement grants in the new remuneration

5 First Report from the Members' Expenses Committee *The Operation of the Parliamentary Standards Act*, HC 1485, para 128

package it proposes to implement from April 2013. It would be desirable for any interim package (which may well prove unnecessary) to be based on principles which could be applied to more permanent arrangements.

24. The issue of resettlement grants is particularly current, since if the Boundary Commission changes are approved there will be an extensive reduction in the number of seats (which might in itself produce significant cost savings). Much will depend on the definition of “involuntary” exit from the House: an extensive boundary change may in effect be involuntary exit.
25. We invite IPSA to consider whether all forms of resettlement allowance should be restricted to those who leave involuntarily. In particular, we note that in its report on MP's Expenses and Allowances, the Committee on Standards in Public Life recommended:

The resettlement grant should be retained for MPs who lose their seats at a general election, as the result of deselection or because of boundary changes. MPs who voluntarily stand down at a general election should no longer receive the grant. They should instead receive eight weeks' pay from the date of the general election.⁶

26. The CSPL considered that some payment should be made even to those who retire voluntarily because:

It is important that MPs are able to focus fully upon working for their constituents up until the dissolution of Parliament. Finding alternative employment may be more likely to be a problem for those MPs who choose not to take on outside interests while serving their constituents.

10.17 Moreover, an MP's job does not end on the day they leave office – live casework needs passing on to successors, other case files need to be safely stored or disposed of as offices are cleared out, and staff must be made redundant and supported in finding new jobs. Former MPs do not receive any salary for doing this work. The resettlement grant provides some compensation.⁷

We agree.

27. Restricting all resettlement grants to those who suffer electoral defeat or deselection provides a perverse incentive for MPs to remain in office longer than is desirable, or, where boundaries are changed, to seek selection even if there is little or no prospect

⁶ Twelfth Report from the Committee on Standards in Public Life, MPs' expenses and allowances: Supporting Parliament, safeguarding the taxpayer, November 2009, Cm7724, Recommendation 30

⁷ Ibid, paras 10.16-17

of success. An MP who wished to retire could game this requirement by choosing to stand in a seat where he or she had no prospect of success. There may also be a public interest in encouraging an orderly transition between MPs, although, as the CSPL indicated, the terms of a grant for those who involuntarily leave office need not be the same as for those who stand down.

28. There is no logical basis for option b of the consultation, to pay one month's salary for each of the years since the former House of Commons scheme ended. It takes no account of Members' length of service or objective needs. We are surprised to note that reintroduction of the former House of Commons system is accompanied by the observation that "There is a significant cost associated with this option" when the other options which follow have the same or higher cost.

Expenses rules during a General Election

29. We support the principle that there should be increased scrutiny of expenditure over the three-week short campaign, to ensure it is not used to support party political work. We agree that public money should not be spent on campaigning purposes, and that only claims relating to Parliamentary work should be reimbursed. However, we have some concerns over the practicality of introducing the system which IPSA proposes, which appears to envisage that some costs will be first paid by the Member and the proportion spent on parliamentary purposes subsequently reclaimed from IPSA. For many categories of expenditure this will be unproblematic, but there may be difficulties if this applies also to arrangements which are normally paid direct to suppliers (for example, office rental costs), and there is potential for unfair treatment of third parties. IPSA's consultation notes that "One of IPSA's fundamental principles is that [...] it should not unduly deter representation from all sections of society": we also consider that Members should not be expected to advance large sums from their private resources to support their parliamentary work, even if this is subsequently repaid. We urge IPSA to consider the practicalities of its proposal carefully. One solution might be for Members who intended to use their constituency offices for at least some election related activity to agree (and pay for) the level of activity in advance.

Recall Arrangements

30. IPSA asks whether the rules should allow MPs to claim for the cost of return to Parliament in the event of the a recall, and whether there should be restrictions on the type or value of such claims. A Member's primary duty is to attend the House of Commons for important and urgent matters. By definition, an unexpected recall will be for an important and urgent matter. While it is reasonable to expect a Member to return to the House in the case of recall by the cheapest *easily* practicable route, there should be no limit on the value of such claims when they are by scheduled transport and no cheaper method is readily available.

31. If recall takes place when a Member is on a family holiday it may affect the whole family, particularly when very young children are involved. In such cases, it would also be appropriate for IPSA to pay reasonable necessary costs for measures to reduce the disruption. The necessary measures and the costs involved will depend on the circumstances of each case; IPSA should be prepared to be flexible. Decisions to fund new travel arrangements may depend on the personal circumstances of people who are not MPs, and may not even be adult; IPSA will need to consider carefully what information should be released about such arrangements.

Legal Expenses Insurance

32. The consultation asks whether IPSA should provide “legal expenses insurance”. By this, we assume that IPSA means Employment Practice Liability Insurance, which also covers compensation if a case is lost. This has become necessary as a result of IPSA’s decision not to allow costs for employment claims to be met from within existing expenses. We note IPSA refused to provide this insurance centrally at the outset, and that it had to be negotiated by the Parliamentary Resource Unit, a shared service provider for MPs, which in this case consulted with all the political parties. We also note IPSA’s statutory duty to have regard to the principle that Members of the House of Commons should be supported in efficiently, cost-effective and transparently carrying out their Parliamentary functions. We are disappointed that IPSA did not ask itself at the outset whether reducing the support available to Members in their capacity as employers was consistent with this duty.
33. We consider that either IPSA should allow office allowances to be used to deal with employment claims (which would allow the flexibility within budgets for members to “self insure”) or that such insurance should be provided centrally for all Members, unless a Member can demonstrate equivalent cover is provided as part of other insurance. We note that some payments for members of staff leaving employment are commonplace in both the public and private sector (for example, payment in lieu of notice, or compromise agreements) and invite IPSA to consider whether its scheme allows Members the flexibility which is normal for other employers.
34. I hope these comments assist your work. In the interests of transparency, the Committee will be making this response public.