

**Consultation on Amendments to the
MPs' Expenses Scheme Rules**
June 2010

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CHAPTER 1

INTRODUCTION – SCOPE OF THIS CONSULTATION

About IPSA

- 1.1 The Independent Parliamentary Standards Authority (IPSA) is a new statutory body, independent from Parliament, Government and political parties. It was established by the Parliamentary Standards Act 2009 (“the 2009 Act”), which received Royal Assent on 21 July 2009. The 2009 Act required IPSA to devise and administer an expenses regime for MPs, and to administer MPs’ salaries and pension contributions. The new rules for expenses came into effect on 7 May 2010.
- 1.2 IPSA’s first priority was to develop a new scheme that was fair, workable and transparent, and which would be operated from the start of the new Parliament. The new Scheme marks a significant break from the past, with a new organisational and administrative means of reimbursing expenses. IPSA knew that there may be anomalies in the Scheme, and it will seek to refine the rules as evidence is presented to it. IPSA’s current challenge, and one which it will address in the weeks that follow, is to address any anomalies that have been highlighted in the initial weeks of the Scheme’s operation.

Background

- 1.3 The 2009 Act obliges IPSA to review the scheme regularly, and to consult on any proposed changes which it wishes to make. But this is not the only reason IPSA is consulting now. IPSA is committed to developing the new expenses scheme through open, informed public debate and scrutiny.
- 1.4 Since the scheme came into effect five weeks ago, IPSA has provided induction training on the online expenses system to 600 MPs, held seven open meetings with MPs, and responded to over 4,500 enquires from MPs and their staff via the dedicated telephone and email helpline. IPSA has had positive feedback, but it has also received suggestions on areas for improvement. IPSA has listened to these views and has identified some anomalies and unintended consequences which it wishes to put right, as it said it would when launching the scheme.
- 1.5 In addition to addressing these anomalies, there are also some technical amendments which need to be made to the Scheme. These flow from the Constitutional Reform and Governance Act 2010 (“the 2010 Act”), which was given Royal Assent on 8 April 2010. IPSA also wishes to clarify arrangements for interns and for providing MPs with assistance on cash flow.

1.6 None of the proposals in this consultation would fundamentally alter the nature of the MPs' Expenses Scheme, which was widely welcomed by political parties and the public, when it was launched. IPSA does not believe the proposed amendments will add significant costs to the Scheme. The 2010 Act amendments do not affect the amount that MPs can claim or the types of expenses they may incur and therefore they will not add costs to the Scheme. Out of the other proposed amendments to rectify anomalies within the Scheme, only Amendment 10, which would allow MPs to claim in certain circumstances for hotel and subsistence for their staff, would add costs to the Scheme. IPSA estimates this potential increase to be a maximum of £1.5m. All of the other proposed amendments are either cost neutral and have already been factored into IPSA's budget, or they will come out of a capped budget which will not impact the Scheme's costs.

What happens next?

1.7 This consultation is being conducted in accordance with the Cabinet Office's Code of Practice on consultation. But the imperative to rectify the anomalies in the Scheme means that IPSA is keen to implement any changes sooner rather than later. For this reason, IPSA will not be consulting for the twelve-week period recommended in Cabinet Office Code. In order to have the revised scheme in place for summer recess, this consultation will run for three weeks and IPSA will be inviting responses on the proposed changes by 7 July 2010. Any changes which are made to the Scheme following the outcome of this consultation will be effective from when the Scheme went live on 7 May 2010.

CHAPTER 2

CONSTITUTIONAL REFORM AND GOVERNANCE ACT 2010: CONSEQUENTIAL AMENDMENTS

2.1 Set out below are a number of technical amendments to the Scheme which flow from the changes that the 2010 Act made to the 2009 Act. These are statutory provisions which IPSA is obliged to implement. These amendments principally reflect the creation of a Compliance Officer with powers to review IPSA's determinations of MPs' claims as well as to conduct investigations where there is reason to believe that an MP has been paid an amount under the Scheme that should not have been allowed.

2.2 The effects of the amendments are as follows:

2.3 To add the clarification that "any duty of IPSA to pay an allowance to a member is subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons."

This section of the 2010 Act amends Section 5 of the 2009 Act, which requires IPSA to prepare and keep under review an expenses scheme. It obliges IPSA to pay MPs' expenses, in line with the expenses scheme, and subject to any disciplinary actions taken against the MP by the House of Commons. Substituted section 4(7) of the 2009 Act (which replicates existing section 4(2)) makes equivalent provision in respect of the payment of MPs' salaries by IPSA.

2.4 To enable IPSA to recover either from MPs' salaries or from expenses claims payable under the Scheme:

- **amounts that an MP has agreed to repay following an investigation by the Compliance Officer into whether the MP has been paid an amount that should not have been allowed, or**
- **amounts that the Compliance Officer has directed an MP to repay following such an investigation, together with any additional amounts that the Compliance Officer has directed the MP to pay by way of interest, costs incurred by IPSA in relation to the overpayment and/or penalties.**

This section is necessary to ensure that if an MP is incorrectly paid, either for his or her salary or expenses claims, IPSA can recover the funds which have been paid. It also will give

new powers to the Compliance Officer to require payment of interest and costs in relation to an overpayment in certain circumstances, and to enforce penalties.

2.5 To provide that MPs whose claims are refused by IPSA have a right to request (after asking IPSA to reconsider the determination) that their claims are reviewed by the Compliance Officer, and for IPSA to make any payments or adjustments necessary to give effect to the Compliance Officer's decision.

This clause will enable MPs to appeal instances where their claims have been rejected by IPSA to the independent Compliance Officer for review. The final decision in approving the claim will then lie with the Compliance Officer, subject to a right of appeal to the First-tier Tribunal.

2.6 To indicate that IPSA will publish information relating to claims in accordance with the procedures relating to such publication that IPSA has determined since the Scheme came into effect and which are also currently subject to consultation.

This amendment is necessary in order for IPSA to publish claims, in line with its publication strategy, which is currently undergoing public consultation.

2.7 To require IPSA to provide the Compliance Officer with any information (including documents) which the Compliance Officer reasonably requires for the purposes of conducting an investigation.

This section will oblige IPSA to disclose information it holds in regards to an MP's expense claim, which has been referred to the Compliance Officer for investigation. The Compliance Officer can also initiate investigations himself. We are currently conducting a consultation on the role of the Compliance Officer.

Q1. Are there any comments you wish to make about the way we reflect statutory changes from the 2010 Act?

CHAPTER 3

PROPOSED AMENDMENTS TO THE MPS' EXPENSES SCHEME

- 3.1 IPSA conducted a public consultation on the proposed expenses scheme from 7 January to 11 February 2010. That consultation focused on the scheme principles and the types of expenses for which MPs would be able to submit claims for reimbursement. In total, IPSA received over 2,700 responses to the consultation, which informed the MPs' Expenses Scheme which we published in March 2010.
- 3.2 This consultation is focusing on amendments to specific rules within the Scheme which have caused concern in the initial operation of the Scheme. The following proposals reflect concerns which have been raised to IPSA by MPs over recent weeks, and our desire to rectify any anomalies which the Scheme currently contains. Any changes adopted will take effect from 7 May 2010, enabling IPSA to address the anomalies and concerns.

Staff for MPs (Summary of the Scheme)

MPs to claim for incidental expenses of interns

- 3.3 When the MPs' Expenses Scheme was launched, the initial informal advice received was that all those engaged in Parliamentary work should have a contract of employment to demonstrate clearly compliance in particular with the National Minimum Wage (NMW) legislation. The use of IPSA model contracts, job descriptions and salary ranges was central to that.
- 3.4 IPSA has received over the last few weeks many comments on the role of interns and it is clear that the practice of engaging interns in Parliamentary work is largely based on those interns being unpaid but receiving basic expenses, principally lunch and travel expenses.
- 3.5 The practice of using unpaid interns as 'workers' conflicts with National Minimum Wage (NMW) legislation, which states that almost all workers over the compulsory leaving age are entitled to at least the NMW. The term 'worker' has a legal definition which depends on the existence of an employment contract or a contract to personally perform services. These contracts can be written, oral or implied. The underlying principles that would be taken into account in considering whether an individual is a worker would be whether the individual is remunerated

through money or benefits in kind, and whether there is a contractual obligation on the individual to perform the work and in return an obligation on the MP to provide the work.

3.6 Being called an 'intern' does not exempt someone from qualifying for NMW. Guidance produced by the Department of Resources at the House of Commons in 2007 also suggests that an individual's eligibility for minimum wage is dependent on a range of circumstances which should be considered in each individual case.

3.7 Evidence suggests that there is a mutual benefit in the relationship between interns and MPs. Interns gain valuable experience and make valuable contacts that can be helpful for the future. Therefore IPSA wishes to seek views on how MPs may claim for travel and lunch expenses for interns, who are otherwise unpaid, while meeting all legal obligations.

Q2. How should MPs be able to claim for the payment of travel and lunch expense to interns who are not 'workers' and do not have contracts of employment? How may MPs operate safely within the exemptions provided from paying minimum pay rates within the legislation?

Accommodation Expenses (Part 5 of the Scheme)

Non-London Area MPs who own homes in both London and in or around their constituencies to claim associated accommodation expenses

3.8 Currently under Part 5 of the Scheme, accommodation expenses are only payable to non-London MPs. Section 5.6 states:

Members may only claim for Accommodation Expenses in relation to rental property at one location, which may be either:

- *in the London Area (which for the purposes of this Scheme is defined as those constituencies listed at Schedule 2), or*
- *within the Member's constituency, or within 20 miles of any point on the constituency boundary.*

3.9 This means that non-London Area MPs who own homes in both London and in or around their constituency, and who do not or cannot claim a mortgage subsidy, are not eligible to claim

associated expenses, such as utility bills and council tax. IPSA recognises that because these MPs will not be able to claim the associated costs of running their homes, that this rule then creates a perverse incentive for them to decide to rent a third property in order to claim for the associated expenses that they incur from running their home. This is not value for money for the taxpayer because the accommodation expenses which they will be claiming for their third home would be more than the associated running costs which they could claim for their London or constituency home.

3.10 For this reason, IPSA proposes to amend the rules to allow non-London area MPs who own a home in London and in or around their constituency to claim for the associated costs.

3.11 This change would be cost neutral, as IPSA's original projections accounted for all non-London area MPs claiming associated costs. The current anomaly in the Scheme means that a small number of MPs would be ineligible to claim these expenses.

Q3 . Do you agree with this proposal?
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Travel and Subsistence Expenses (Part 7 of the Scheme)

MPs able to claim expenses for air travel when travelling on any ticket

3.12 Part 7.9 of the Scheme states:

Members may claim reimbursement for costs incurred in relation to allowable journeys by air, coach or ferry. In each case only the costs of economy class tickets or the equivalent will be reimbursed.

3.13 This means that for air travel, MPs can claim reimbursement for costs incurred in relation to permissible trips if an economy class or equivalent ticket is purchased. IPSA wishes to amend this wording to clarify that MPs may still travel on an alternative class ticket, such as business class, as long as that ticket is cheaper than an economy ticket at the time of booking. This would allow MPs who book in advance to have greater flexibility when travelling, at no additional cost to the taxpayer.

3.14 This change would either be cost neutral or result in a saving as it will allow MPs to book cheaper air fares.

Q4. Do you agree with this proposal?

If MPs travel together by private vehicle only one can claim for costs

3.15 Part 7.11 of the scheme states:

Where more than one MP travels in the same car, only the driver may claim for the cost of that journey.

3.16 IPSA realises that MPs sharing a car may often switch over when driving, or that a family or staff member may be the driver. This does not take away from the fact that it is likely that the MP is incurring an expense for the journey, and a claim for reimbursement will be necessary.

3.17 For this reason, IPSA would amend the scheme to state that when there are two or more MPs travelling together in a car one of them may put in a claim for expenses on behalf of all the MPs who are travelling together. The MP who submits the claim does not need to be the driver of the car.

3.18 This proposal is cost neutral as it will result in one MP making a claim for mileage per car journey.

Q5. Do you agree with this proposal?

MPs' staff to be allowed to claim for hotels and subsistence

3.19 Section 7.17 of the Scheme states:

MPs may claim Travel and Subsistence Expenses in respect of the following journeys made by members of their staff:

- *journeys between the MP's constituency office and Westminster;*
- *travel within the constituency or within 20 miles of the constituency boundary; and*
- *travel elsewhere within the UK for the purposes of relevant training.*

3.20 IPSA wishes to clarify the rules to state that MPs' staff can, in certain circumstances (such as when attending a training event), claim for hotels and other subsistence costs, as well as travel which is already explicitly mentioned in the scheme.

3.21 This proposal may result in an increase to the cost of the Scheme if MPs choose to submit claims for hotel expenses for their staff. IPSA estimates this increase to be up to £1.5m.

Q6. Do you agree with this proposal?

MPs can claim for subsistence away from the Parliamentary estate when the House sits after 7:30pm

3.22 Section 7.30 of the Scheme states:

Members may claim reimbursement of the costs of an evening meal (excluding alcoholic drinks) eaten on the Parliamentary Estate, only where they are required to be at the House of Commons because the House is sitting beyond 7:30pm.

3.23 To allow for greater flexibility for MPs, IPSA wishes to amend the Scheme to clarify that MPs do not have to purchase or eat this meal on the Parliamentary Estate.

3.24 This proposal is cost neutral as it merely clarifies where MPs may purchase or consume their evening meal.

Q7. Do you agree with this proposal?

All MPs who are eligible for accommodation expenses can claim for Travel and Subsistence

3.25 The wording of section 7.2(a) of the Scheme states:

Members may claim Travel and Subsistence Expenses for journeys which are necessary for the performance of their parliamentary functions, and fall into one of the following categories:

- *For MPs who are in receipt of Accommodation Expenses, journeys between any point in the constituency (or a home or office within 20 miles of their constituency) and Westminster or a London Area home...*

3.26 The use of the word “receipt” implies that MPs who are eligible for accommodation expenses but who choose not to claim them should not be eligible for travel and subsistence expenses. IPSA wishes to amend the scheme to confirm that all MPs who are eligible for but do not claim accommodation expenses, or the London Allowance Living Payment, can claim for journeys as described under 7.2 and 7.3.

3.27 This proposal is cost neutral as it clarifies the existing rules.

Q8. Do you agree with this proposal?

Staffing Expenditure (Part 8 of the Scheme)

MPs’ staff to be paid from the date they begin work

3.28 Section 8.5(e) of the Scheme states that in order for IPSA to pay MP’s staff:

The Member has obtained IPSA’s approval before a contract of employment was entered into.

3.29 Under the current wording, this means that IPSA will only pay MPs’ staff from the date in which we approve their job contract. IPSA recognises that there are members of staff who have been working for MPs prior to it receiving their contracts, and we wish to pay them for the time they have worked.

3.30 To resolve this, IPSA proposes to change the scheme to allow us to pay MPs’ staff from the date they began work.

3.31 This proposal is cost neutral as IPSA had budgeted to pay MPs’ staff from the 7 May 2010.

Q9. Do you agree with this proposal?

Financial Arrangements for MPs

Assistance with cash flow

3.32 IPSA is currently offering MPs two forms of financial assistance to help with cash flow. First, MPs can apply for accelerated payments against an invoice for a number of items of

expenditure, where initial outlays can be high. Second, MPs can apply for an interest-free advance of up to £4,000, which has to be repaid in stages from August 2010. It is hoped that once the routine payment of expense claims begins from 23 June 2010 the demand for such arrangements will diminish. However, to ensure that IPSA can continue to assist MPs with cash flow issues, it is proposed that repayments need not now begin until January 2011 with repayment due by March 2011, although continuing assistance could also be obtained.

3.33 Technically, this longer term assistance, which is not tied to particular items of allowable expenditure, becomes a loan and there may be tax consequences. IPSA would need therefore to insert a rule into the expenses scheme which clarifies that IPSA has the power to provide such assistance. The rule would be cast in broad terms to allow IPSA some flexibility to respond to particular needs without frequently resorting to rule changes. It would say that IPSA may provide financial assistance that it deems to be necessary to allow MPs to carry out their parliamentary duties effectively.

Q10: Do you agree that a new rule should be introduced to allow IPSA to provide MPs with the necessary financial assistance to allow them to carry out their parliamentary duties effectively?

CHAPTER 4

HOW TO RESPOND TO THIS CONSULTATION

- 4.1 IPSA has set out here its proposed approach towards amending the MPs' Expenses Scheme, to allow all those with an interest to consider our proposals, and put their views forward. The consultation period runs from 16 June to 7 July 2010. Please ensure you send your response before the closing date as responses received after 7 July 2010 may not be considered.
- 4.2 Once the consultation period has closed, IPSA will move quickly to analyse the responses. It will then use the responses to amend the existing expenses scheme, which will be published in late July 2010.
- 4.3 The responses will be published in full, including the identity of the respondent, unless the respondent indicates otherwise and as soon as possible after the close of the consultation period. IPSA will also publish our analysis of the responses.
- 4.4 IPSA asks for responses by email if possible to schemeconsultation@parliamentarystandards.org.uk - please mark the email with the subject "consultation response." Responses should be in Word format or a rich text format, with as little use of colour or logos as possible. If you do not have access to email, you may send a paper copy of your response to:
- Consultation Responses
Independent Parliamentary Standards Authority
7th Floor, Portland House
Bressenden Place
London SW1E 5BH
- 4.5 If you require a hard copy of the consultation paper you can request one by writing to the above address or by emailing schemeconsultation@parliamentarystandards.org.uk.

