



Review of a determination by IPSA to refuse an expense claim

Mr Chris Grayling MP
Member of Parliament for Epsom and Ewell
COM-1134

12 October 2016

Peter Davis
Compliance Officer for IPSA
4th Floor
30 Millbank
London
SW1P 4DU

Introduction

1. In March 2016, Mr Chris Grayling MP submitted a claim to the Independent Parliamentary Standards Authority (IPSA) for Office Costs Expenditure under the *MPs' Scheme of Business Costs and Expenses* (the Scheme). The claim, although initially paid by IPSA, was subsequently rejected and the MP was required to repay the value of the claim.
2. On 30 August 2016, Mr Grayling contacted the Compliance Officer for IPSA to request a review of the decision by IPSA to refuse the expense claim.
3. *Section 6A of the Parliamentary Standards Act 2009* (the Act) provides that if:
 - (1)(a) *the IPSA determines under section 6(3)¹ 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.*
4. Paragraph 9 of the notes for *Guidance on the Conduct of Reviews by the Compliance Officer for IPSA* states that:
 9. *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.*
5. The claim referred to is numbered 491993 and totals £175.57. It relates to payments made for 'MailChimp', an email marketing service which sends targeted communications to large numbers of recipients on behalf of the client.
6. IPSA operates a system of *streamlined validation* where those claims identified as high risk are subject to individual validation while the remainder are automatically processed

¹ 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.

for payment. Using this process, the above claim was initially paid to the MP without individual validation.

7. A proportion of those claims paid through the streamlined process are selected for post payment scrutiny. IPSA will examine claims submitted by an MP over a three-month period to identify any unusual patterns or repeated errors. If any invalid claims are identified by this process, the MP is asked to repay the money. Claim number 491993 was the subject of post payment review but was not identified for repayment.
8. The claim was again scrutinised by IPSA following a request from a member of the public, made under the Freedom of Information Act (FOIA), for copies of the receipts and invoices associated with the claim². While gathering information to respond to the FOIA request, it was noted that the claim was potentially ineligible; it was returned to the Operations Team who, on this occasion, decided to reject the claim. The MP was subsequently notified of the requirement to repay the expense.
9. Mr Grayling requested that IPSA conduct an internal review of their decision to require repayment of the claim. The review concluded that the claim was not eligible. The MP was therefore at liberty to request a further review of the decision by the Compliance Officer for IPSA.

The Basis for the Review

10. During the internal review of the claim by IPSA, the reviewing officer concluded that it was not allowable and noted the following.
11. *“The content of the claim, which provides updates on multiple issues to constituents in email format, is considered to constitute a newsletter.”*
12. *In addition, in evidence provided with the claim and in the details provided with the claim form, the MP’s staff member refers to the claim as a newsletter in an email to the MP. Furthermore, the newsletter is saved on the MP’s parliamentary website under a page entitled “Newsletters”, where the MP invites members of the public to sign up to it.*
13. *It should also be noted that, on the same webpage, under the section “Pre-2010 Newsletters”, the MP states that: “Following changes to the rules over MP’s newsletters by the Independent Parliamentary Standards Authority, Chris is no longer permitted to publish his regular Parliamentary update, From the Clock Tower. You can read past*

² IPSA’s reference for the request is CAS-54600, and was responded to on 10 August 2016. Copies of the supporting documentation in question can be found at Annex A.

editions by clicking the links below.” It is not clear why the MP submitted a claim for a newsletter when he was apparently, publicly aware that they are not eligible under our rules.

14. *Paragraph 6.6.c of the Scheme states that “Office Costs Expenditure may only be claimed for the performance of parliamentary functions. It may not be claimed for: c. newsletters”.*
15. The following information was submitted by the MP to the Compliance Officer on 30 August 2016 in support of his request for a review of the above decision.
16. *“My issue is that no claim was made for the production of a newsletter, as indicated in the email below. The claim was made for a piece of software that allows emails to be sent to a group of constituents. You will see from the long email chain that I sought to ensure that I was acting within the rules, changing the nature of what I had done previously to fit with the guidance I was given. I believe that if I had written this communication as a letter to constituents and put it in the post, the cost of the postage would have been an eligible expense. It would certainly have been permissible to put it in parliamentary envelopes. However it appears, despite the guidance I was given, that IPSA believe it is outside the rules if the distribution is done electronically. I believe that the purpose of the scheme is to prevent the publication of glossy newsletters, of the kind previously produced with the communication allowance, and not to prevent me from emailing constituents about a couple of non-political issues that literally thousands have contacted me about over the years.*
17. *If this is not the case, then there cannot be an explanation for IPSA accepting claims for the use of Mail Chimp, since this software is solely and exclusively used for bulk emailing. You will see that IPSA specifically said that claims using Mail Chimp are accepted.”*

The Review

18. In conducting the review, the Compliance Officer has utilised the Seventh Edition of the Scheme³ and, in addition, has consulted the following:
 1. Validation Notes – notes appended to a claim submitted by an MP by the IPSA Validator describing the reason for the rejection of a claim;
 2. Workflow History – shows the date the claim was opened by the MP or proxy, the date of submission to IPSA and details of how the claim was processed by IPSA; and
 3. Correspondence between IPSA and the MP.

³ From April 2015 to March 2016

4. Correspondence sent to the Compliance Officer by the MP alongside his request for a review.

19. The following areas of the Scheme are relevant to the review:

20. Fundamental Principles

(2) MPs have the right to be reimbursed for unavoidable costs where they are incurred wholly, exclusively, and necessarily in the performance of their parliamentary functions, but not otherwise.

21. Chapter 6: Office Costs Expenditure

6.1 Office Costs Expenditure (OCE) is provided to meet the costs of renting, equipping and running an MP's office or offices and surgeries where these costs are not claimable from other budgets under this Scheme, or from other sources.

6.5 MPs are entitled to exercise discretion over claims for items that meet the purposes of the Office Costs Expenditure budget, provided that the claims meets the general conditions of the Scheme and the conditions of this chapter.

6.6 Office Costs Expenditure may only be claimed for the performance of parliamentary functions. It may not be claimed for:

- c. newsletters*

Considerations

22. In his request for a review, Mr Grayling contends that he sought approval for the expenditure prior to formally making a claim. It is correct that on 21 January 2016, Mr Grayling's office contacted IPSA's MP Support team via telephone and email to seek confirmation that claims for MailChimp met the terms of the Scheme. The email included the full content of the proposed mailing to the MP's constituents.

23. In response, IPSA's MP Support team correctly stated: *"IPSA are unable to pre-approve any claims"* but:

"what would be allowable to send through a service such as mailchimp would be for example contacting constituents about a current (non-political) issue. General newsletters are not allowable under the Scheme."

The guidance is correct, albeit vague, and does confirm that newsletters are not allowable. Nevertheless, the Compliance Officer acknowledges that it could have left Mr Grayling confused as to the eligibility of any future claim for MailChimp services.

24. Chapter Two of the Scheme states that IPSA will not provide prior approval for any claim, except where it is specifically set out in the Scheme. It also states that IPSA will not provide advice on whether a specific item is claimable. Paragraph 2.1 of the Scheme states that IPSA can only determine whether or not a claim is allowed following receipt of the claim. The reason for this is that an objective decision on whether a cost is eligible under the Scheme can only be made once IPSA is in receipt of all of the details of the expenditure and any supporting evidence.
25. The Compliance Officer accepts that IPSA's inability to pre-approve claims may be frustrating, nonetheless it exists for a valid reason and has been in place since IPSA was established. MPs should by now be aware that approval for expenditure cannot be granted until a claim with the full details of the expenditure has been made.
26. Further, while the Compliance Officer acknowledges that Mr Grayling may have been left confused by the guidance from IPSA this can have no bearing on the outcome of the review. The decision by the Compliance Officer is predicated solely on a judgement of whether the expense is allowable under the Scheme.
27. The submission by Mr Grayling that the expense was not claimed for a newsletter but for a piece of computer software is erroneous if the software is to be used exclusively or predominantly for the circulation of newsletters.
28. The Scheme is unequivocal when addressing newsletters which are not allowable; what is less clear, in some cases, is what constitutes a newsletter. In this case however there is no room for doubt. Communication to a large number of constituents on a number of diverse issues, whether circulated electronically or on paper is a newsletter. In addition Mr Grayling makes several references to the document being a newsletter, as follows:
- a. Those who wish to sign up to receive the document must do so on the MP's website using a form entitled 'Newsletter Sign Up' which states: *"Subscribe to Chris' monthly newsletter to keep up to date with the latest news, campaigns and developments in the Epsom & Ewell constituency."*
 - b. A full copy of the communication sent to IPSA for approval, and indeed others dating back to 2001, can be found on the MP's website under the section entitled 'Newsletters'.
 - c. On the same page, under a section 'Pre-2010 Newsletters', the website correctly states: *"Following changes to the rules over MP's newsletters by the Independent Parliamentary Standards Authority, Chris is no longer permitted to publish his regular Parliamentary update From the Clock Tower. You can read past editions by clicking the links below."*

- d. In the evidence originally sent to IPSA alongside the claim, the document subject of this review is referred to as a “newsletter” by a member of the MP’s staff.

Conclusion

29. The Compliance Officer has no doubt that the document circulated using Mailchimp and thus the subject of this review is a newsletter. The terminology repeatedly used by Mr Grayling on his website and in communication with IPSA merely serves to reinforce this.
30. The Scheme is unequivocal in stating that Office Costs Expenditure may not be claimed for newsletters, which logically includes any costs associated with their production and distribution. In the evidence provided by the MP in support of his claim, purchase of the MailChimp subscription is described as being for the distribution of a communication referred to as a “newsletter”. It is therefore not permitted.
31. **The Compliance Officer does not consider that the claim in question is allowable under the Scheme and therefore upholds the determination by IPSA to seek repayment.**
32. 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>.
33. 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.



Peter Davis
Compliance Officer for IPSA
compliance@theipsa.org.uk

Documentation submitted by the MP in support of the claim and disclosed to a member of the public by IPSA under the Freedom of Information Act

GRAYLING, Chris

From: MailChimp Billing <billing@mailchimp.com>
Sent: 12 February 2016 07:50
To: GRAYLING, Chris
Subject: MailChimp Receipt



Your order has been processed.

Order

Processed on Feb 12, 2016 7:49 am British Time (London).

Pay as you go

25000 credits

£175.57

Discounts

Save 10% on future purchases by enabling [Two Factor Authentication](#)

Exchange details

Exchanged from \$250.00 at rate 0.70226859442205. Exchange rate from Chase Paymentech at Feb 12, 2016 1:30 am British Time (London).

Paid via

ending in on February 12, 2016

£175.57

Issued to

Chris Grayling
chrisgraylingmp
chris.grayling.mp@parliament.uk
Chris Grayling MP

Issued by

MailChimp
c/o The Rocket
Science Group, LLC
675 Ponce De Leon
Ave NE

GRAYLING, Chris

From: |
Sent: 01 March 2016 12:54
To: GRAYLING, Chris
Subject: FW: Update from Chris Grayling - Oyster Card and Epsom Hospital

The newsletter below. I have updated your website with the EU statement & photo.

From: Chris Grayling MP [mailto: | **On Behalf Of** Chris Grayling MP
Sent: 12 February 2016 09:51
To: _____
Subject: Update from Chris Grayling - Oyster Card and Epsom Hospital

**Update from Chris Grayling -
Oyster Card and Epsom Hospital**

[View this email in your
browser](#)

Dear constituent

I am writing to you with an update on a couple of issues.

Firstly, the latest news on Oyster cards for Epsom. I had a letter from the Minister just before Christmas confirming that this is being worked on now, and whilst she did not this time give me a timetable for the change, she did promise me that officials are on the case and that it was her intention that it would happen and that she is 'looking forward to its implementation'. I met her again last week, and she confirmed to me that work is progressing on when and how the introduction will happen. They are apparently trying to sort out some technical problems, as well as to work out how the Oyster fare system will interact with the current fare system at Epsom.

Secondly, the latest news about Epsom Hospital. You may have read that there are discussions taking place about the future of the stroke unit. The NHS has taken a national decision to have a smaller number of "hyper" stroke units to deal with the immediate impact of stroke. In London there has been a reduction in the number of stroke deaths after a similar change. There are now discussions in Surrey about how to approach this. There is strong pressure being put on those involved that even if Epsom is not chosen as one of these new units, it must retain a proper stroke unit to provide ongoing support for those affected.

The Epsom and St Helier Trust has also just published the outcome of the review of its estates. Among other things they are continuing to explore the option of a new hospital at Sutton, as a way of improving facilities. This is at the very early stages, and there is no evidence yet that this is a viable project. I will keep you posted.

As always, if you need to contact me for a surgery appointment, please ring the office on 01372 271035 or email chris.grayling.mps@parliament.uk.

Best wishes

Chris Grayling