



## The establishment of the Independent Parliamentary Standards Authority

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This note briefly describes the background to the decision to create the Independent Parliamentary Standards Authority (IPSA) It then outlines the functions given to IPSA by the *Parliamentary Standards Act 2009* and *Constitutional Reform and Governance Act 2010*. It also sets out the steps taken in establishing IPSA, including the appointment of the Speaker's Committee on IPSA and the Chair of IPSA, Sir Ian Kennedy.

The Note summarises the proposals from the (Kelly) Committee on Standards in Public Life to amend the *Parliamentary Standards Act 2009* in respect of the governance of IPSA and the existence of a separate Commissioner for Parliamentary Investigation. The Government accepted these recommendations and following Government amendments to the *Constitutional Reform and Governance Bill 2009-10*, the powers in the 2009 Act to create a statutory Code covering the registration of Members' interests were not proceeded with; nor a statutory Commissioner for Parliamentary Investigations. Instead, an Compliance Officer has been established with powers to impose civil penalties and repayment duties, with appeals to a tribunal. Cases could still be referred to the Standards and Privileges Committee if a parliamentary sanction was felt appropriate. IPSA was also given responsibility for determining and reviewing the level of MPs' pay and pensions, but these powers are not yet in force. The Speaker's Committee is to have external members, as well as the Standards and Privileges Committee.

IPSA is an independent body and there is no ministerial responsibility for its work. Nominations for the membership of the Speaker's Committee in the new 2010 Parliament must be brought before the House on a motion. At present there are two ex officio members: the Speaker and the Leader of the House, Sir George Young.

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## 1 Background

In May 2009, the *Daily Telegraph* began publishing a series of articles on claims made by Members for allowances, having obtained unredacted information that was being prepared for release by the House of Commons in response to Freedom of Information rulings. The redacted information was released on 18 June 2009.<sup>1</sup>

In part because of the leaking of information about allowances, but for other reasons as well, the pressure on the Speaker to resign grew. On 18 May, he announced that he had convened a meeting of party leaders to discuss the events, review party leaders' announcements and agree an approach to deal with the situation.<sup>2</sup>

The reaction to the announcement was not overwhelmingly supportive – Speaker Martin was told that a motion of no confidence in him was to be tabled that day.<sup>3</sup> Following the Speaker's statement, David Heath suggested that it was necessary “for this House to resolve to accept unequivocally the results of Sir Christopher Kelly's decisions”. However, the Speaker replied that “steps have to be taken within this House” before the CSPL reported in the autumn”.<sup>4</sup>

The following day, immediately after prayers, the Speaker announced that he would resign on 21 June;<sup>5</sup> he also, later in the day, announced the outcome of the meeting of party leaders, in relation to expenses. He said that further restrictions would be placed on what could be claimed under Personal Additional Accommodation Expenditure (second home allowance). He also announced that the Leader of the House would make a statement on proposals made by the Prime Minister, and supported by other party leaders, for the regulation of the House of Commons by an independent body:

[...]

The meeting also received a paper from the Prime Minister, which was endorsed by the other party leaders, calling for a fundamental reform of allowances—moving from self-regulation to regulation by an independent body. The Government will consult widely on this proposal. Further to this, the Leader of the House will be making a statement tomorrow, which will allow the House a full opportunity to ask questions, and Members to air their views on the decisions we have made and the proposals for the future.

**The Leader of the House of Commons (Ms Harriet Harman):** Further to your statement, Mr. Speaker. As you said, the Prime Minister provided a document for today's discussions with you and other party leaders. For the convenience of Members, I will deposit this paper in the Library tonight, and copies will be made available for Members in the Vote Office.<sup>6</sup>

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<sup>1</sup> Houses of Parliament, [MPs' allowances published online](#)

<sup>2</sup> HC Deb 18 May 2009 c1205

<sup>3</sup> A motion, in the name of Douglas Carswell and 22 other Members, entitled “No Confidence in the Speaker” appeared among the *Remaining Orders and Notices*, published on 19 May 2009. It read:

That this House has no confidence in Mr Speaker and calls for him to step down; notes that Mr Speaker has failed to provide leadership in matters relating to hon. Members' expenses; believes that a new Speaker urgently needs to be elected by secret ballot, free from manipulation by party Whips, under Standing Order No. 1B; and believes that a new Speaker should proceed to reform the House in such a way as to make it an effective legislature once again.

<sup>4</sup> HC Deb 18 May 2009 c1206

<sup>5</sup> HC Deb 19 May 2009 c1323

<sup>6</sup> HC Deb 19 May 2009 cc1421-1422

The then Leader of the House deposited *Proposals for Fundamental Reform of the Parliamentary Allowances System* in the Library.<sup>7</sup>

On 20 May 2009, the then Leader of the House made a statement to the House and the MEC met and agreed changes to the rules on the PAAE. After describing the background to the meeting convened by the Speaker and outlining the decisions taken by the meeting on allowances, the Leader of the House set out some details on the proposed parliamentary standards authority:

The proposal on which we seek to consult would see Parliament legislate to delegate specific responsibilities to a new, independent parliamentary standards authority, which would revise and update the codes of practice for Members of this House, investigate complaints where a Member of this House is alleged to have breached the code of conduct, take forward the implementation of the recommendations of the Committee on Standards in Public Life on allowances and take responsibility for authorising claims for payment under the new allowance system. It would be able not only to disallow claims, but to require payback of claims wrongly paid out and to impose financial penalties.

It is clearly appropriate that the new body should also take responsibility for such issues in the Lords, including administering and regulating the systems for peers' allowances, overseeing the code governing peers' conduct and the Register of Lords' Interests, ensuring high standards of propriety and financial conduct, investigating alleged abuses of the system and recommending any necessary sanctions.

[...]

The new authority would also maintain the register of Members' financial interests in this House and deal with the disclosure of second incomes. Discipline issues that might require sanctions such as suspension from the House, which would have a bearing on Members' ability to perform their work, would remain a matter for the whole House through the Standards and Privileges Committee. Only the electorate, or those who are themselves democratically elected, should be able to prevent a Member from doing their work in this House.<sup>8</sup>

There was all-party support for the plans and on 10 June, the then Prime Minister Gordon Brown confirmed the plans for an independent body to take responsibility for Members' allowances. In his statement on Constitutional Renewal, he said that:

The proposed new authority would take over the role of the Fees Office in authorising Members' claims, oversee the new allowance system, following proposals from the Committee on Standards in Public Life, maintain the Register of Members' Interests, and disallow claims, require repayment and apply firm and appropriate sanctions in cases of financial irregularity. I welcome the cross-party support for these proposals, which will be contained in the Bill that we will introduce very soon. I believe that the whole House will also wish to agree that, as part of this process, the new regulator should scrutinise efficiency and value for money in Parliament's expenditure, and ensure, as suggested to Sir Christopher Kelly, that Parliament costs less.

Secondly, the House will be asked to agree a statutory code of conduct for all MPs, clarifying their role in relation to their constituents and Parliament, detailing what the electorate can expect and the consequences that will follow for those who fail to deliver. It will codify much more clearly the different potential offences that must be

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<sup>7</sup> [Proposals for Fundamental Reform of the Parliamentary Allowances System](#), 19 May 2009, Dep 2009/1474

<sup>8</sup> HC Deb 20 May 2009 c1506

addressed, and the options available to sanction. These measures will be included in a short, self-standing Bill on the conduct of Members in the Commons, which will be introduced and debated before the summer Adjournment. This will address the most immediate issues about which we know the public are most upset, but it will be only the first stage of our legislation on the constitution.<sup>9</sup>

The then Leader of the Opposition David Cameron indicated his support for the proposals but raised questions about accountability:

We will back the establishment of a Parliamentary Standards Authority to supervise all matters relating to Members of Parliament' pay and expenses, but there are still serious questions to be answered, not least about how it will relate to the House and to whom it will be ultimately accountable.<sup>10</sup>

The Liberal Democrat Leader Nick Clegg also indicated his support for the proposals, saying, "I also strongly welcome the move towards a Parliamentary Standards Authority and an MPs' code of conduct. These changes should be implemented immediately with no more delay".<sup>11</sup>

Over the weekend of 13-14 June, the Leader indicated that it was her intention that the legislation establishing the PSA would have received Royal Assent by the Summer Recess.<sup>12</sup>

### **1.1 The *Parliamentary Standards Act 2009***

On 23 June 2009 the *Parliamentary Standards Bill* had its first reading. Harriet Harman made a statement in which she emphasised the need for swift legislative action:

... I shall set out in my Business Statement the date for second Reading of the Bill but the House should know that we intend that its committee stage as well as Report and Third Reading will be taken on the floor of the House and we hope that there is sufficient consensus – following the consultation which has been led by my Rt hon friend the Justice Secretary – for it to reach Royal Assent by the time the House rises for the summer recess so that it can be ready to start work with the Kelly Committee's recommendations by the end of the year.<sup>13</sup>

Before its introduction and whilst it was going through both Houses, the political parties continued to negotiate the contents of the Bill.<sup>14</sup>

The *Parliamentary Standards Act 2009* completed all its stages before the summer recess, and received Royal Assent on 21 July 2009. The Act established the Independent Parliamentary Standards Authority (IPSA) and provides for there to be a Commissioner for Parliamentary Investigations. It also establishes a Speaker's Committee for the Independent Parliamentary Standards Authority.

The passage of the Bill is described in the Library Standard Note 5121 *The parliamentary stages of the Parliamentary Standards Bill*,<sup>15</sup> and another Standard Note, *In Brief: Oversight of Members of Parliament and the Parliamentary Standards Act 2009*, provides a brief

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<sup>9</sup> HC Deb 10 June 2009 c796

<sup>10</sup> HC Deb 10 June 2009 c799

<sup>11</sup> HC Deb 10 June 2009 cc802-803

<sup>12</sup> Andrew Grice, "Expenses inquiry to report early", *Independent*, 15 June 2009

<sup>13</sup> HC Deb 23 June 2009 c679

<sup>14</sup> HC Deb 1 July 2009 c402

<sup>15</sup> House of Commons Library Standard Note, *The parliamentary stages of the Parliamentary Standards Bill*, SN/PC/5121, 22 July 2009

overview of the Act.<sup>16</sup> The Act has subsequently been amended, so these Notes are for historical record only, as is the Appendix to this Note on the Commissioner for Parliamentary Investigations.

## 2 The Independent Parliamentary Standards Authority

The Independent Parliamentary Standards Authority (IPSA) is a body corporate and consists of five members: a chair and four ordinary members. Under the Act it “must appoint a chief executive” and “may appoint other staff”. The Act gives the Speaker of the House of Commons the power to appoint an interim chief executive, who has the power to “incur expenditure and do other things in the name of and on behalf of the IPSA” before IPSA has been constituted but ending at a time determined by the IPSA.<sup>17</sup>

The Act gives IPSA a number of administrative and regulatory functions:

- Administrative functions
  - Payment of MPs’ salaries;
  - Payment of MPs’ allowances;
  - Dealing with allowances claims;
- Regulation functions
  - Preparing and revising an allowances scheme for MPs;
  - Determining procedures for investigations etc.

The administrative functions are to be carried out by the chief executive but the Act imposes a duty on the IPSA that “So far as possible” the “administration functions and its regulation functions must be carried out separately”.<sup>18</sup>

IPSA is required by section 3A to act in a way which is efficient, cost effective and transparent, and that Members should be supported in such ways in order to carry out their parliamentary functions. Section 5A requires the scheme for MPs allowances to be published together with a statement of the reasons for adopting that scheme. Section 6(8) requires IPSA to publish appropriate information on claims and payments of allowances, determining its procedures in this respect after consulting the Speaker, the Leader, the Standards and Privileges Committee, the Compliance Officer and any other person IPSA considers appropriate.

IPSA set up a website to provide information about its implementation programme at [www.parliamentarystandards.org.uk](http://www.parliamentarystandards.org.uk)

### 2.1 IPSA Board

The Act specifies that the IPSA is to consist of five members, one to chair it and four other members. It further specifies that:

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<sup>16</sup> House of Commons Library Standard Note, *In Brief: Oversight of Members of Parliament and the Parliamentary Standards Act 2009*, SN/PC/5139, 29 July 2009

<sup>17</sup> *Parliamentary Standards Act 2009* (chapter 13), Schedule 1, paras 14 and 15

<sup>18</sup> *Ibid*, para 17

(2) At least one of the members of the IPSA must be a person who has held (but no longer holds) high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005 (c. 4)).

(3) At least one of the members of the IPSA must be a person who is qualified under Schedule 3 to the National Audit Act 1983 (c. 44) to be an auditor for the National Audit Office.

(4) One of the members of the IPSA (“the Parliamentary member”) must be a person who has been (but is no longer) a member of the House of Commons.

It also specifies that “Apart from the Parliamentary member, a person who has been a member of the House of Commons at any time within the last five years may not be a member of the IPSA”.<sup>19</sup>

Advertisements for members of the IPSA Board were placed in the press on 13 September 2009.<sup>20</sup> The *Parliamentary Standards Act 2009* contains the following provisions about the appointment of the IPSA Board:

2 (1) The chair of the IPSA is to be appointed by Her Majesty on an address of the House of Commons.

(2) An ordinary member of the IPSA is to be appointed by Her Majesty on an address of the House of Commons.

(3) A motion for an address under sub-paragraph (1) or (2) may be made only with the agreement of the Speaker.

(4) The person the subject of the motion must have been selected by the Speaker on merit on the basis of fair and open competition.

(5) The Speaker must not select a candidate without the agreement of the Speaker’s Committee for the Independent Parliamentary Standards Authority.<sup>21</sup>

The Speaker’s Committee comprises the Speaker, the Leader of the House of Commons, the chairman of the Committee on Standards and Privileges, and five backbenchers appointed by the House (see section 3).

## 2.2 Interim Chief Executive

On 10 September 2009, the Speaker appointed Andrew MacDonald as Interim Chief Executive, under provisions in Schedule 1, para 15 of the Act. The Interim Chief Executive will hold the post until the IPSA Board appoint a permanent Chief Executive.<sup>22</sup>

His role is described in a series of frequently asked questions about the IPSA implementation programme:

The Interim Chief Executive (ICE) will take forward the IPSA implementation programme, working with the Chair and Members once they are appointed. The ICE

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<sup>19</sup> *Parliamentary Standards Act 2009* (chapter 13), Schedule 1, para 1

<sup>20</sup> Also available at [www.theipsa.co.uk](http://www.theipsa.co.uk)

<sup>21</sup> *Parliamentary Standards Act 2009* (chapter 13), Schedule 1, para 2

<sup>22</sup> Independent Parliamentary Standards Authority, *Latest News*, 10 September 2009

will be the accounting officer for the IPSA implementation programme and for the IPSA until a permanent Chief Executive is appointed.<sup>23</sup>

On 16 September 2009, Jack Straw, then Secretary of State for Justice, issued a written ministerial statement to update the House on progress on the implementation of the IPSA. He welcomed the appointment of Andrew MacDonald as Interim Chief Executive. He also noted that although the Ministry of Justice had incurred expenditure on establishing IPSA, it would recover it to ensure IPSA's independence:

My Department has been working with the House of Commons and other interested parties to ensure that the early establishment of the IPSA remains on track. Any expenditure incurred by the Ministry of Justice on behalf of the IPSA that is properly due to the IPSA will be recovered, subject to Parliament's approval of the necessary new estimate for the IPSA, ensuring IPSA's independence. A new estimate for IPSA will be presented shortly as part of the winter supplementary estimates for 2009-10.<sup>24</sup>

### **3 Speaker's Committee for the Independent Parliamentary Standards Authority**

The *Parliamentary Standards Act 2009* specifies the membership of the Speaker's Committee for the Independent Parliamentary Standards Authority as:

- (a) the Speaker of the House of Commons,
- (b) the Leader of the House of Commons,
- (c) the person who chairs the House of Commons Committee on Standards and Privileges, and
- (d) five members of the House of Commons who are not Ministers of the Crown, appointed by the House of Commons.

It leaves the Committee to determine its own procedure.<sup>25</sup> The Act gives the Committee the following duties, to:

- agree the Speaker's nominations for membership of the IPSA Board and for Commissioner for Parliamentary Investigations;<sup>26</sup>
- review the estimate and decide whether it is satisfied that the estimate is consistent with the efficient and cost-effective discharge by the IPSA of its functions. It has to consult the Treasury about the estimate. The Act makes the following provisions:
  - (5) Before deciding whether it is satisfied or making modifications, the Committee must consult the Treasury and have regard to any advice given.
  - (6) After the Committee has reviewed the estimate and made any modifications, the Speaker must lay the estimate before the House of Commons.
  - (7) If the Committee does not follow any advice given by the Treasury, or makes any modifications to the estimate, it must prepare a statement of its reasons and the Speaker must lay the statement before the House of Commons.

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<sup>23</sup> Independent Parliamentary Standards Authority, *Implementation Programme – Frequently Asked Questions*

<sup>24</sup> HC Deb 16 September 2009 c157WS

<sup>25</sup> *Ibid*, Schedule 3

<sup>26</sup> *Ibid*, Schedule 1, para 5 and Schedule, para 1



(8) Any repayments received by the IPSA may be retained by the IPSA and applied by it for the purposes of its functions.<sup>27</sup>

The Secretary of State for Justice explained during Committee stage of the *Parliamentary Standards Bill 2009-10* that in drawing up this part of the legislation, Ministers took into consideration the experience of the Speaker's Committee on the Electoral Commission, established by the Political Parties, Elections and Referendums Act 2000.<sup>28</sup>

The five other Members of the Speaker's Committee were nominated on 28 October 2010, in a motion tabled by the Deputy Leader of the House, at the request of the Speaker. Barbara Keeley noted that the nominations had been put forward by the three Front Benches at the request of the Speaker.<sup>29</sup> They were:

- Sir Stuart Bell
- Liz Blackman
- Nick Harvey
- Don Touhig
- Sir George Young

The Speaker, the Leader of the House and the Chair of Standards and Privileges Committee are ex officio Members. There was a short debate on the motion, where a number of Members commented that these Members were already associated with the administration of allowances, and that there had not been time to make alternative nominations by an amendment to the motion. Nor was there an opportunity for elections to the committee by the whole House. However, David Heath, for the Liberal Democrats, pointed out that this Committee would only be constituted for the remainder of this Parliament.<sup>30</sup>

Nominations for the membership of the Committee in the new Parliament must be brought before the House on a motion. There are currently two ex-officio Members in post, the Speaker and the Leader of the House, and a third, the Chair of the Standards and Privileges Committee is expected to be appointed shortly, together with the five backbench members.

The CSPL report of November 2009 discussed below considered that in order to buttress public confidence three non-MP members should be added to the Committee and this was enacted in the *Constitutional Reform and Governance Act 2010*. These appointments have not yet been made.

#### **4 IPSA's budget**

On 12 October 2009, Jack Straw issued a written ministerial statement, in which he indicated that the Ministry of Justice anticipated incurring £1.1 million of expenditure in connection with the establishment of IPSA. He stated that expenditure by IPSA itself would be covered by a separate Estimate:

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<sup>27</sup> *Ibid*, Schedule 1, para 22

<sup>28</sup> HC Deb 30 June col 217; *Political Parties, Elections and Referendums Act 2000* (chapter 41), section 2

<sup>29</sup> HC Deb 28 October 2009 c397

<sup>30</sup> HC Deb 28 October 2009 c397-401

**The Secretary of State for Justice and Lord Chancellor (Mr. Jack Straw):** Further to my statement of 16 September, about progress on the implementation of the Independent Parliamentary Standards Authority, parliamentary approval for additional resources of £1,100,000 for this new expenditure will be sought in a winter supplementary estimate for the Ministry of Justice. Pending that approval, urgent expenditure estimated at £1,100,000 is being met by a repayable cash advance from the Contingencies Fund.

Parliamentary authority for expenditure by the Independent Parliamentary Standards Authority will also be sought, in a new estimate.<sup>31</sup>

A separate IPSA Estimate was laid for £6.571m.<sup>32</sup>

## 5 Appointment of Speaker's Committee and Chair of IPSA

The October 2009 edition of *Parliamentary News* (the monthly update for staff of both Houses of Parliament) included the following information on the establishment of IPSA:

There are two project teams involved in this work. An IPSA Implementation Team, on secondment from the Ministry of Justice, will support the interim Chief Executive and is currently recruiting board members for the IPSA. For further information visit [www.theipsa.co.uk](http://www.theipsa.co.uk).

A Commons IPSA Project Team is responsible for:

- Supporting House staff, including the Operations Directorate, and the IPSA Implementation Team;
- Considering the consequences of the set up of the IPSA on the Department of Resources, the House and two financial estimates;
- Reviewing the Member governance structures in the House in the light of the creation of IPSA;
- Communicating with stakeholders, including staff and Members.

The Commons IPSA Project Team's current priority is to work with the IPSA Implementation Team on a transfer and redeployment scheme for affected staff, mainly in the Operations Directorate, which best deals with two objectives: to allow both the IPSA and Operations Directorate to function during a transitional period around the next election, and to provide some long-term job security for those staff.<sup>33</sup>

During the debate on nominations to the Speaker's Committee on 28 October, a number of Members referred to the possible timetable for establishment of IPSA and the interaction with the report from the (Kelly) Committee on Standards in Public Life. Barbara Keeley noted the independence of IPSA:

**Peter Bottomley:** Could the Deputy Leader of the House confirm that we are talking about an independent body that will be supervised by the members of the Committee that we are discussing and that it would be open to them not to change, or indeed to change, any recommendations that Kelly makes?

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<sup>31</sup> HC Deb 12 October 2009 cc11WS-12WS

<sup>32</sup> HC 18 2009-10

<sup>33</sup> "Update on the Independent Parliamentary Standards Authority (IPSA)", *Parliamentary News*, Issue 7, October 2009

**Barbara Keeley:** I think that the answer is yes. The Independent Parliamentary Standards Authority is clearly an independent body—it has the word “independent” in its title. That is the key reason for moving to the new scheme and for our working so hard a couple of months ago to get the 2009 Act through. There will be consultation, but one of the new authority’s key functions, as we recognised in setting it up, is to prepare, review and revise schemes of allowances.<sup>34</sup>

On 4 November the Speaker announced that he had selected Professor Sir Ian Kennedy as chair-designate of IPSA, following a process of fair and open competition laid down by the *Parliamentary Standards Act 2009*. He added that that maximum amount to be paid to Sir Ian would be £100,000 per annum. Sir Ian is an academic lawyer who specialises in health ethics and was former head of the Health Commission. His appointment as chair had to be confirmed by the House of Commons, as a motion for an address to the Crown is required under Schedule 1 before the appointment is confirmed.<sup>35</sup>

## 6 Appointments to the Board of IPSA

The new members of the IPSA Board were announced on 24 November 2009. These are:

- Lord Justice Scott Baker
- Isobel Sharp
- Jackie Ballard
- Ken Olisa

Biographies are available from [IPSA](#) and from press reports.<sup>36</sup>

A motion for an address to appoint these Board members was debated on 2 December 2009. There had been an attempt to table an amendment to replace the former MP, Jackie Ballard, with another ex-Member, but in the event Mr Speaker selected an amendment from Christopher Chope to remove Ms Ballard’s name with no substitution. Some concern was expressed that Ms Ballard had been an MP only for the period 1997-2001.<sup>37</sup> The Liberal Democrats used a procedural device to ensure that this amendment was not voted upon and the main motion was then passed.<sup>38</sup>

### 6.1 Committee on Members’ Allowances

The Votes and Proceedings on 16 December 2009<sup>39</sup> noted that the Speaker had nominated the Committee on Members’ Allowances as the committee to be consulted by IPSA in preparing an allowances scheme. Section 5(4)(d) of the *Parliamentary Standards Act 2009* requires IPSA to consult ‘any committee of the House nominated by the Speaker’ in

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<sup>34</sup> HC Deb 28 October 2009 c410

<sup>35</sup> HC Deb 4 November 2009 c859 “Lawyer will head new body to oversee MP’s expenses” 4 November 2009 *Daily Telegraph*

<sup>36</sup> <http://www.parliamentarystandards.org.uk> / “Diana coroner to join MP expenses panel” 25 November 2009 BBC News

<sup>37</sup> HC Deb 2 December 2009 c1238

<sup>38</sup> HC Deb 2 December f2009 c1249

<sup>39</sup> P146

preparing or revising an allowances scheme.<sup>40</sup> A Committee on Members' Allowances has not yet been appointed for this Parliament.

## 7 Recommendations relating to IPSA from the CSPL

On 4 November 2009, the Committee on Standards in Public Life published its report [MPs' expenses and allowances](#).<sup>41</sup> A separate Standard Note 5188 [Committee on Standards in Public Life's Review of Members' Allowances](#) sets out the main Kelly recommendations. However, the report also recommended changes to the *Parliamentary Standards Act 2009* in a number of areas, arguing that "there are a number of areas relating to the new body's scope, powers and governance, where significant improvements can be made."<sup>42</sup> The main recommendations were:

- Responsibility for the register of interests and code of conduct should be returned to the Commons (para 13.25)
- There should be no Commissioner for Parliamentary Investigations. Instead a compliance officer within IPSA should be responsible for policing the expenses system, advising MPs and promoting best practice (para 13.38). The officer should be given explicit powers to require repayment from MPs as a civil matter (para 13.45).
- IPSA should take over responsibility for determining and reviewing the level of MPs' pay and pensions (13.32)
- The Speaker's Committee should contain three lay members who had not been MPs or peers, to promote its independence (13.59)
- The Standards and Privileges Committee should also contain two lay members who have not been MPs or peers, with full voting rights (13.67)
- IPSA should have a specific statutory duty to support MPs in carrying out their parliamentary functions (para 13.14)
- Members of Parliament should be required to attend an induction session run by IPSA before being able to receive allowances (14.18).

In response to a question from the then Shadow Leader of the House, Sir George Young, following her statement on Kelly, Harriet Harman commented as follows on the prospects of further legislation:

On the question about proposals for changes in the legislation on the structure of IPSA, obviously if a new Act of Parliament is brought forward and a new authority set up, it would start its work and Parliament can keep the legislative framework under review. However, I do not think that we should be addressing the question of legislating to change the IPSA structure. The important thing is for it to be getting on with its work.<sup>43</sup>

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<sup>40</sup> The Committee's webpage provides further background [http://www.parliament.uk/parliamentary\\_committees/cma.cfm](http://www.parliament.uk/parliamentary_committees/cma.cfm)

<sup>41</sup> Twelfth report Cm 7724 November 2009

<sup>42</sup> Ibid para 13.4

<sup>43</sup> HC Deb 4 November 2009 c863

There had been media speculation that Sir Ian had considered resigning very shortly after his appointment was announced, following his comments that IPSA would not necessarily implement all the Kelly reform proposals.<sup>44</sup> However, Sir Ian and Sir Christopher held a meeting on 10 November which was described as very positive:

Sir Christopher Kelly and Sir Ian Kennedy held their first meeting today to discuss the way forward on reforms of MPs' expenses and allowances. It was a good and friendly meeting. Both Sir Christopher and Sir Ian are clear about the task ahead and the direction of travel. The CSPL's report contains recommendations that now require detailed work by IPSA. IPSA must also by law consult on the new scheme for allowances. There is a lot of work to do, and Sir Christopher and Sir Ian expect to meet regularly.<sup>45</sup>

Following the Queen's speech on 18 November 2009, the then Leader of the Opposition, David Cameron, asked why there had been no announcement of legislation to implement the Kelly proposals..<sup>46</sup>

In response, at Business Questions on 20 November 2009, Harriet Harman indicated that some proposals could be dealt with by resolution, such as a single fixed term for members of IPSA. She also indicated that the motion to appoint Sir Ian Kennedy as chair would now be taken with the motion for the remaining appointments to the IPSA Board.

I should like to reinforce what I said on 4 November: we, and all parties, accept Sir Christopher Kelly's report and look to the Independent Parliamentary Standards Authority to implement it. I did say at the time that there were further issues that it might fall to the House to deal with; they include the issue of additional lay members on the Standards and Privileges Committee, common auditing arrangements between the independent parliamentary standards commissioner and the House, and restricting the chair of IPSA to serving for one five-year term. We can, incidentally, do the latter by resolution of the House, when we confirm-as I hope that we will-the chair's appointment. When the House deals with the motion appointing the chair, it might be a good opportunity to deal with the other four members of IPSA.<sup>47</sup>

Ms Harman also indicated that she was minded not to implement section 8, which requires IPSA to devise a statutory code of conduct:

I do not believe that we need to legislate on the House retaining responsibility for the code of conduct and the Register of Members' Financial Interests, but we can accept Christopher Kelly's proposal and not bring into effect the change that would take responsibility for that code of conduct away from the House and give it to IPSA.<sup>48</sup>

It was noted that if section 8 (code of conduct) was not brought into effect, then section 15 would not apply. This 'sunset clause' section required a Minister to introduce statutory instruments to extend the life of sections 8 to 11 (and sections 3(3) and (4) and Schedule 2) two years after clause 8 is brought into effect. In the event this sunset clause was removed by the *Constitutional Reform and Governance Act 2010*.

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<sup>44</sup> "Kelly's expenses proposals may be overruled" 7 November 2009 *Guardian*; "Expenses chief causes panic after threat to quit" 15 November 2009 *Sunday Telegraph*

<sup>45</sup> "Latest news" 10 November 2009 Independent Parliamentary Standards Authority <http://www.parliamentarystandards.org.uk/news.html>

<sup>46</sup> HC Deb 18 November 2009 c16

<sup>47</sup> HC Deb 19 November 2009 c130

<sup>48</sup> HC Deb 19 November 2009 c137

## 8 Implementing CSPL- Standards and Privileges Committee response

The Standards and Privileges Committee published its twelfth report on 26 November.<sup>49</sup> The report was concerned solely with those recommendations from Kelly which affected the Committee. The range of Standards and Privileges recommendations are discussed in Library Standard Note [5188](#).

The Committee noted the CSPL proposals to reduce the role of the Commissioner for Parliamentary Investigations, which if implemented, would draw the Parliamentary Commissioner for Standards back into the role of investigating allegations of misuse of allowances. They accepted the recommendation not to vest responsibility for the registration of Members' Interests with IPSA and noted:

22. We note and accept the CSPL's recommendation that the provision in the Parliamentary Standards Act to vest responsibility for the registration of Members' interests in the IPSA should be reversed.<sup>[17]</sup> Our understanding is that this will mean that the House, the Parliamentary Commissioner for Standards, the Registrar and the Committee will retain their present responsibilities for drawing up and administering the Rules on interests. We have noted the Government's statements that this will be achieved by not commencing the relevant provisions of the Parliamentary Standards Act.<sup>[18]</sup>

## 9 Government proposals for *Parliamentary Standards Act* changes

On 10 December 2009 the Leader of the House issued a written ministerial statement which set out the Government's response to the CSPL in respect of legislation. The full text is given below:

### **Parliamentary Standards (Legislative Proposals)**

**The Leader of the House of Commons (Ms Harriet Harman):** The Committee on Standards in Public Life (CSPL) published its report on MPs' expenses and allowances on 4 November. The Government are grateful to the Committee for its work and welcome the Committee's recommendations.

The House has sought clarification on the question of what further legislation the Government will bring forward in the light of the CSPL's recommendations, which I set out in this statement today. The House will wish to be aware that in preparing this statement the Lord Chancellor and Secretary of State for Justice has had constructive discussions with both Sir Christopher Kelly, Chairman of the Committee on Standards in Public Life, and Professor Sir Ian Kennedy, Chairman of the Independent Parliamentary Standards Authority. I am pleased, on behalf of both the Lord Chancellor and myself, to be able to report to the House that both Sir Christopher and Sir Ian are in agreement with the proposed approach to further legislation and on the amendments set out below.

Many of the CSPL recommendations relate to the substance of a new parliamentary allowances scheme. Others, however, relate to the scope and functions of the Independent Parliamentary Standards Authority (IPSA), now being set up under the provisions of the Parliamentary Standards Act 2009 which passed into law earlier this year.

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<sup>49</sup> HC 67 2009-10

Those substantive recommendations of the CSPL report that relate to the drawing up of the allowances scheme are, of course, under the provisions of the Act, now a matter for consideration by and decision of the new independent authority. The IPSA will shortly be conducting its statutory consultation on a proposed new allowances scheme. Its chair has already made clear that the CSPL recommendations will be central to this consultation.

In relation to the recommendations identified as requiring legislation, the Government's proposals are as follows:

*Power to make deductions from resettlement grant*

The Committee recommends that

"where an MP is found to have seriously abused the expenses system or otherwise seriously breached the code of conduct, the Standards and Privileges Committee should always consider recommending that the House reduce or remove the resettlement grant from that MP as part of any sanctions to be imposed and should be prepared to do this for past as well as for future breaches of the rules. The new statutory scheme should empower the House of Commons to impose such a sanction by resolution".

(Recommendation 33).

The Parliamentary Standards Act already provides that the IPSA's power to pay MPs' salaries is subject to anything done in exercise of the disciplinary powers of the House. This enables the IPSA, for example, to give effect to a resolution of the House following an S&P recommendation that an MP should lose salary for a specified time. The Government will bring forward legislation to make the same provision in relation to allowances (including resettlement grant).

*Statutory duty of efficiency, cost-effectiveness and openness*

The Committee recommends that

"the independent regulator should have a statutory duty to support MPs efficiently, cost-effectively and transparently in carrying out their parliamentary functions"

(Recommendation 41).

IPSA itself is already under a duty to carry out its functions efficiently and cost effectively and is subject to the Freedom of Information Act. The Government will also bring forward legislation to ensure that there is specific reference to supporting MPs to carry out their parliamentary duties in an efficient, cost-effective and transparent way. (See also response to recommendations 49 and 60).

*Register of Financial Interests and Code of Conduct*

The Committee recommends that

"responsibility for maintaining the register of financial interests and the associated code of conduct should be removed from the independent regulator and returned to the House of Commons"

(Recommendation 42).

The Government propose to repeal section 8 of the 2009 Act and the consequential references to it.

### *Pay and pensions*

The Committee recommends that

"the independent determination of MPs' pay and pensions should be entrenched in primary legislation in the same way as expenses. The independent regulator should therefore be given statutory responsibility for setting MPs' pay levels and overseeing MPs' pensions as well as for dealing with expenses"

(Recommendation 43).

Provision for pay to be included in the IPSA's remit was in an early pre-introduction version of the Parliamentary Standards Bill but was removed after representations made in the intensive cross-party talks.

Now there is a clear consensus that IPSA should take on responsibility for pay and pensions, the Government will bring forward legislation to give IPSA the power to set, as well as to administer, the MPs' pay system, after consulting the Senior Salaries Review Body. The powers for both pay and pensions would therefore take effect in 2011-12. MPs' pay in 2011-12 would then be set by the IPSA on the basis of the SSRB recommendation for that year. Pay in 2012-13 and subsequently would be set by the IPSA following consultation with the SSRB and others as appropriate.

### *Breaches of the rules on expenses*

The Committee recommends that

"responsibility for investigating allegations about breaches of the rules on expenses should be vested in the independent regulator, which should be able to appoint its own compliance officer for this purpose. The compliance officer should be able to conduct an investigation on his or her own initiative, at the request of the independent regulator, or in response to a complaint from a member of the public or an MP"

(Recommendation 44).

Provision for the IPSA to appoint an officer responsible for investigations and compliance, who would act at arm's length from the other functions of the IPSA, was included by the Government in the original draft of the Parliamentary Standards Bill but was amended after strong representations from the Chairman of the Standards and Privileges Committee. As there is now clear consensus on this, the Government propose to amend the Parliamentary Standards Act to provide for a compliance officer to be appointed by the IPSA through a process of fair and open competition. The compliance officer will be an independent office holder. The powers of the compliance officer to investigate complaints will be similar to those presently vested in the Independent Commissioner. The powers in relation to sanctions will be significantly different (see below).

### *Enforcement powers of the IPSA*

The Committee recommends

"that the independent regulator's enforcement regime should be strengthened by giving it the power to:

Compel MPs to cooperate with the new body, including through the provision of relevant information.



Require the repayment of wrongly paid or misclaimed sums, with associated costs if appropriate

Impose, subject to the procedural safeguards laid out in the Act, its own non-parliamentary sanctions for breaches of the expenses regime (including where necessary of a financial nature) analogous to those available to HMRC and DWP, without the need to report to the Commissioner for Parliamentary Standards"

(Recommendation 45).

The Parliamentary Standards Bill which the Government presented to Parliament contained provisions allowing the IPSA to recommend sanctions. They were removed during the Bill's passage.

As it now appears that allowing sanctions to be imposed directly by the regulator is acceptable, the Government will introduce amendments to the 2009 Act to give the compliance officer the power to impose sanctions, namely a civil penalty, as well as requiring restitution of wrongly paid allowances. Repayments, monetary penalties and costs will also be made recoverable as a civil debt. In addition, the Government will provide a route of appeal from the decisions of the compliance officer to the first-tier tribunal. Since allowances claims are not covered by privilege, there should not be any difficulty in this regard.

Cases could still be referred to the Committee on Standards and Privileges if it is felt that parliamentary sanctions are also needed or to the prosecuting authorities if the offence of making false declarations may have been committed.

#### *Lay members of the Speaker's Committee*

The Committee recommends that

"the Speaker's Committee on the independent regulator should include three lay members drawn from outside Parliament who have not previously been MPs or peers. They should be chosen through the official public appointments process and formally approved by the House"

(Recommendation 48).

The Government propose to bring forward legislation to provide for the appointment of lay members of the Speaker's Committee.

#### *General duty to act openly and transparently*

The Committee recommends that the independent regulator should be placed under a general duty to act openly and transparently, to give reasons for any revisions to the expenses scheme, and to report, and take account of, the views of the general public as well as the House of Commons (Recommendation 49).

Section 5(4) of the Parliamentary Standards Act requires the IPSA to consult a number of people and bodies in preparing an allowances scheme, including "any person the IPSA considers appropriate".

The Freedom of Information Act 2000 already applies to the IPSA, including a duty to issue a publication scheme.

The Government are however content to bring forward amendments to the 2009 Act to add an additional requirement that the IPSA must give reasons for its revisions to the allowances scheme, to give reasons for adopting a determination in respect of MPs'

pay, and to consult the general public. (See also response to recommendations 41 and 60.)

#### Sunset provisions

The Committee recommends that

"the sunset provisions in the Parliamentary Standards Act 2009 should be repealed"

(Recommendation 53).

The sunset provisions, set out in section 15 of the Act, were inserted in the House of Lords. They deal with the code of conduct on financial interests and the position of the independent commissioner for investigations. As both the role of the IPSA in relation to the code and the commissioner are to be repealed, the sunset clause has no further purpose and therefore can be similarly repealed.

#### Publication of claims

The Committee recommends that

"the independent regulator should continue to publish, at least quarterly, each individual claim for reimbursement made by MPs with accompanying receipts or documentary evidence. The information published should not be confined to claims actually reimbursed"

(Recommendation 60).

As part of the proposed amendments to the 2009 Act to give effect to recommendations 41 and 49, which require the IPSA to act transparently, the Government will bring forward legislation to place on the IPSA the duty to publish claims made and allowances paid, with such details as it considers appropriate. The 2009 Act already requires IPSA to determine procedures for the circumstances in which findings of investigations should be published. (See also response to recommendations 41 and 49.)

There are three further recommendations which would require legislation to achieve, but on which it has been accepted that immediate legislation is not necessary.

#### Publication of electoral candidates' financial interests

The Committee recommends that

"all candidates at parliamentary elections should publish, at nomination, a register of interests including the existence of other paid jobs and whether they intend to continue to hold them if elected. The Ministry of Justice should issue guidance on this in time for the next general election. Following the election, consideration should be given as to whether the process should become a statutory part of the nomination process"

(Recommendation 37).

The Ministry of Justice is working on the guidance. The Ministry of Justice will discuss the approach with the Electoral Commission and others as appropriate before guidance is issued, in time for the next general election. A decision about whether to implement this on a statutory basis will, as the Committee suggests, be taken in the next Parliament.

Hon. Members who are members of devolved legislatures

The Committee recommends that the practice of permitting a Westminster MP simultaneously to sit in a devolved legislature should be brought to an end, ideally by the time of the elections to the three devolved legislatures for May 2011 (Recommendation 40)

This is not strictly an issue about MPs' allowances. The Committee recommends that this provision should be in place by May 2011 and the Government will consult interested parties before implementing it in the next Parliament.

Term of office of IPSA Chair

The CSPL recommends that

"the chair of the new regulatory body should be appointed for a single, non-renewable five year term. The other members of the new body should in principle be appointed on the same basis, but some flexibility may need to be shown in relation to those appointed in the first round"

(Recommendation 47).

Paragraph 4(1) of schedule 1 to the 2009 Act provides for the chair of the IPSA to be appointed "for a fixed term not exceeding five years". Paragraph 4(3) provides that "a person who has held office as a member of the IPSA (whether as the chair or an ordinary member) may be re-appointed as a member once only, for a further period (whether consecutive or not) not exceeding three years".

The CSPL acknowledges the need for flexibility in relation to the first round of appointments. The Government accept the principle of the recommendation, but believes that amendments to the legislation are not required now. They could be made at a later date if still required. <sup>50</sup>

These proposals were enacted in amendments to the *Constitutional Reform and Governance Bill 2009-10*, which received royal assent in April 2010, just before dissolution of the 2005 Parliament.

## **10 Compliance Officer**

### **10.1 Appointment of Officer**

The *Constitutional Reform and Governance Act 2010* removes section 8 of the *Parliamentary Standards Act 2009* which had previously provided for a Commissioner for Parliamentary Investigations, and a statutory Code of Conduct for Members. It also substitutes a new version of section 9. Instead, it introduces a Compliance Officer for IPSA with the role of investigating complaints about the misuse of Members' allowances. Responsibility for maintaining a Code of Conduct will rest with the House of Commons. The IPSA board was made responsible for appointing the Compliance Officer.<sup>51</sup> [Schedule 4](#) substituted a new Schedule 2 into the *Parliamentary Standards Act 2009*, which sets out method of appointment, remuneration etc. This was the occasion of some comment; Mr Straw indicated that IPSA would begin the appointments process as soon as possible, so that a postholder would be appointed as soon as possible after April 2010.<sup>52</sup>

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<sup>50</sup> HC Deb 10 December 2009 36WMS

<sup>51</sup> HC Deb 1 February 2010 c50

<sup>52</sup> HC Deb 1 February 2010 c86

An interim Compliance Officer has now been appointed, as noted in an IPSA newsletter to MPs on 3 June:

**Interim Compliance Officer** Alan Lockwood has been appointed to the role of Interim Compliance Officer by IPSA's Board.

During the next six months Alan will be in charge of setting up the compliance office and ensuring that policies and procedures are developed and implemented.

Alan has a distinguished military career with the Royal Air Force during which he led operations in Bosnia, Iraq and Afghanistan. Since leaving the RAF, Alan has been active in politics, defence and the media, and has served as a Trustee Board Member with the Citizens Advice Bureau.<sup>53</sup>

The Compliance Officer is independent of IPSA and is responsible for investigating complaints regarding breaches of the expenses rules by an MP or IPSA.

The Compliance Officer may conduct an investigation if he has reason to believe that an allowance has been overpaid; he may conduct an investigation on his own initiative, at the request of IPSA or the MP concerned, or following a complaint from an individual. The MP and IPSA must provide any relevant information required.

There is a two stage process whereby the Compliance Officer prepares provisional findings after which the MP and IPSA may make representations and the MP may call and examine witnesses, as set out in *Explanatory Notes for the Constitutional Reform and Governance Bill 2009-10*:

New section 9(4) and (5) set out a two stage process whereby the Compliance Officer, following his or her investigation, prepares provisional findings and then concludes the investigation by issuing a statement of his or her definitive findings. The MP concerned and IPSA will have an opportunity to make representations to the Compliance Officer during the course of the investigation and following receipt of the Compliance Officer's provisional findings. By virtue of procedures made under new section 9A(2)(b) and (3), in making representations during the investigation phase an MP will have an opportunity to give oral evidence to the Compliance Officer and to call and examine witnesses.

New section 9(6) provides that the findings of the Compliance Officer may include a finding that the MP concerned has failed to co-operate with the investigation by not providing the Compliance Officer with requested information within the timeframe specified and/or findings about the role of IPSA in respect of the matters under investigation. The Compliance Officer may, therefore, make a finding that the MP concerned had been paid expenses which should not have been paid under the allowances scheme but that part of the responsibility for this rests with the IPSA.

By virtue of new section 9(7) and (8) the Compliance Officer need not make a definitive finding if the MP has accepted the provisional finding, such other conditions as may be specified by the IPSA are met and the MP repays the IPSA such amount as the Compliance Officer considers reasonable. The Compliance Officer will have a discretion whether to terminate an investigation through this procedure.<sup>54</sup>

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<sup>53</sup> IPSA Bulletin no 2 3 June 2010 <http://www.parliamentarystandards.org.uk/>

<sup>54</sup> *Constitutional Reform and Governance Bill: Government Amendments to give effect to certain recommendations of the Committee on Standards in Public Life -Explanatory Notes-* 2010 Not available electronically

In section 9A, IPSA is required to determine the detailed procedures for the conduct of investigations and also the procedures for publicising Compliance Officer conclusions. These must be fair.

## 10.2 Compliance Officer enforcement powers

The *Constitutional Reform and Governance Act 2010* inserted Schedule 4 into the *Parliamentary Standards Act 2009*. Section 9B(2) allows the Compliance Officer to provide information to the Parliamentary Commissioner for Standards if relevant to the work of the Commissioner. The Compliance Officer must give a repayment direction, which may also require the Member to pay interest on the overpaid amount and/or pay to IPSA the costs incurred by IPSA in relation to the overpayment, including the costs of the Compliance Officer investigation. Members may appeal against a direction to the First-tier Tribunal, or request an extension of the repayment period from the Compliance Officer.

IPSA may recover overpaid amounts by making deductions from pay and allowances, as if a county court order had been applied for. The Compliance Officer may also serve penalty notices up to £1,000. There is also provision for appeals against these notices. The *Explanatory Notes* to the amendments give greater detail.

## 10.3 Appeals processes

A new section 6A created an appeal mechanism for Members if IPSA refuse an expense claim or agree to pay in part only. The *Explanatory Notes* state:

Under new section 6A(1) an MP, after having given IPSA a reasonable opportunity to reconsider its decision to refuse (in whole or in part) an expenses claim, may ask the Compliance Officer to review IPSA's decision (including any modification of that decision following IPSA's own review). On completion of the review by the Compliance Officer, he or she may either confirm that IPSA's determination of the expenses claim was correct or alter that determination. Where the Compliance Officer decides to alter IPSA's determination, the Compliance Officer may also make findings about the way in which IPSA dealt with the expenses claim (new section 6A(3)).<sup>55</sup>

An MP may appeal against the Compliance Officer's decision to a First Tier Tribunal, established under the *Tribunals Courts and Enforcement Act 2007*. This would be a re-hearing under new section 6A(8). There is a right of appeal, on a point of law only, to the Upper Tribunal, with a time limited 28 days for appeal. Mr Straw defended the right of MPs to call witnesses, as proportionate to meet JCHR recommendations for fairness.<sup>56</sup>

## 10.4 Relations with other bodies

Section 10A requires IPSA and the Compliance Officer to issue a joint statement setting out how they will work with the Parliamentary Commissioner for Standards, the DPP, the Metropolitan Police, and any other appropriate person. The *Explanatory Notes* set out how these new powers do not replace or override the disciplinary powers of the House:

New section 10A(3) provides that the investigatory and enforcement powers of the Compliance Officer do not affect the disciplinary functions of the House of Commons. It will, therefore, be open to the House to impose its own parliamentary sanctions on an MP who has been the subject of enforcement action by the Compliance Officer.

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<sup>55</sup> *Constitutional Reform and Governance Bill: Government Amendments to give effect to certain recommendations of the Committee on Standards in Public Life -Explanatory Notes-* 2010 Not available electronically

<sup>56</sup> HC Deb 1 February 2010 c86

Conversely the Compliance Officer may exercise his or her investigatory and enforcement powers in respect of an MP who is, or has been, prosecuted for an offence or disciplined by the House in respect of the same conduct (new section 10A(4)).<sup>57</sup>

## **10.5 Offence of providing false or misleading information for allowances claims**

The *Parliamentary Standards Act 2009* created a new criminal offence, with a maximum imprisonment term of 12 months, as follows:

### **10 Offence of providing false or misleading information for allowances claims**

(1) A member of the House of Commons commits an offence if the member—

(a) makes a claim under the MPs' allowances scheme, and

(b) provides information for the purposes of the claim that the member knows to be false or misleading in a material respect.

The power of the House to withhold pay and allowances as a disciplinary sanction was explicitly set out in an amendment to section 5 of the *Parliamentary Standards Act 2009*.

## **11 Other IPSA powers not yet in force**

### **11.1 Determination of Members' pay**

The *Constitutional Reform and Governance Act 2010* gave IPSA responsibility for determining Members' pay, but this will not come into effect until April 2012, and is so not further discussed in this Note. For background, see [Research Paper 10/18 Constitutional Reform and Governance Bill: Committee Stage Report](#).

### **11.2 Responsibility for MPs' pensions**

The *Constitutional Reform and Governance Act 2010* gave IPSA the power to make schemes for MPs pensions. This power is not yet in force and is not further discussed in the Note.

## **12 IPSA in the 2010 Parliament**

IPSA consulted on the form of its expenses scheme in a consultation paper in January 2010. This was a statutory duty under the *Parliamentary Standards Act 2009*.<sup>58</sup> The IPSA expenses scheme was published on 29 March 2010 as a House of Commons paper and came into force on 7 May 2010. This paper also contained an annex which set out a report on that consultation exercise<sup>59</sup> IPSA issued its guidance on the scheme on 6 May 2010, which is interleaved online with the expenses scheme.<sup>60</sup> There have been a number of updates to the original guidance, which are available from the IPSA website.

IPSA was immediately responsible for gathering relevant information from Members and their staff to implement the new allowances system from the beginning of the new 2010

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<sup>57</sup> *Constitutional Reform and Governance Bill: Government Amendments to give effect to certain recommendations of the Committee on Standards in Public Life -Explanatory Notes-* 2010. Not available electronically

<sup>58</sup> MPs' Expenses: A Consultation IPSA January 2010.

<sup>59</sup> HC 501 2009-10

<sup>60</sup> <http://www.parliamentarystandards.org.uk/>

Parliament in order to make payments. It undertook induction of Members and staff. Information is available on its website.<sup>61</sup>

Several policy matters have still to be settled. Three consultations are due to be launched shortly by IPSA, on a publications scheme, on the role of the Compliance Officer and on amendments to the expenses scheme.

There was considerable critical reaction from Members as to how IPSA was operating, in particular in relation to the treatment of returning staff and the alleged difficulties in obtaining advice from IPSA. There have been several comments on IPSA in Business Questions:

**Mr David Winnick (Walsall North) (Lab):** As someone who argued in the last Parliament strongly for full and total transparency over Members' claims and opposed the Tory private Member's Bill that would have exempted Parliament from freedom of information legislation, may I ask the Leader of the House whether he is aware that the new system that the Independent Parliamentary Standards Authority has established is deeply bureaucratic and complex, and that it undermines both the work we have been elected to do and that of our staff? Do the chair and chief executive of IPSA not bear a heavy responsibility for discrediting what we all hoped, and certainly the public hoped, would be a new start to end the scandal of what occurred in the previous Parliament?

**Sir George Young:** I recognise the concern on this issue. I attended a meeting between returning Members and members of IPSA a few days ago, and it was a lively meeting. No one wants to go back to the old, discredited system whereby the House fixed its allowances and they were administered by the House, and it was absolutely right to hand them over to an independent body. None the less, I recognise the legitimate concerns that have been expressed by Members.

IPSA announced some immediate changes to its scheme on 25 May 2010 in a letter to MPs.<sup>62</sup> Further arrangements are also been considered in another letter of 9 June to assist those returning Members who are finding that their costs are not fully met by the IPSA scheme.<sup>63</sup> This letter also acknowledged concerns about the online approach and the advisory service being offered by IPSA.

Parliamentary Questions to the Leader of the House from David Winnick on the administrative structure of IPSA were met with the response that there was no ministerial responsibility for IPSA.<sup>64</sup> However a written ministerial statement by the Prime Minister David Cameron on 2 June 2010 stated that the Deputy Prime Minister would have policy responsibility for IPSA:

The Deputy Prime Minister will also have policy responsibility for the Electoral Commission, Boundary Commission and Independent Parliamentary Standards Authority.<sup>65</sup>

Ann Clywd raised this apparent discrepancy at Business Questions on 3 June 2010, with the following response from Sir George Young:

**Sir George Young:** Yes, he is. I understand the concern that the right hon. Lady has raised, and let me explain the thinking behind this. The Bill setting up IPSA was

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<sup>61</sup> <http://www.ipsa-home.org.uk/InfoForMpsandStaff.html>

<sup>62</sup> IPSA Press Release 25 May 2010 <http://www.ipsa-home.org.uk/docs/Press%20release%2025.05.10.pdf>

<sup>63</sup> Letter to MPs 9 June 2010 *Staffing Budgets, Constituency Office rentals and Interims*

<sup>64</sup> HC Deb 2 June 2010 c45w

<sup>65</sup> HC Deb 2 June 2010 c23-24WMS

sponsored by the Ministry of Justice, and any legislation that dealt with IPSA would have to have a Government Department sponsoring it. To that extent, therefore, it is true to say that responsibility for IPSA and all the other bodies falls under the umbrella of the Deputy Prime Minister. However, it is also the case that at the moment IPSA is an independent body, so questions about how much people get paid and how it operates are not ones that Ministers can answer-hence the reply to the hon. Member for Walsall North. Against that background, however, I hope that she will accept that those two apparently conflicting statements can actually be reconciled.<sup>66</sup>

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<sup>66</sup> HC Deb 3 June 2010 c587



## **Appendix: Commissioner for Parliamentary Investigations**

The *Parliamentary Standards Act 2009* provided for there to be a Commissioner for Parliamentary Investigations. These provisions were not brought into effect, following amendments to the Act in the *Constitutional Reform and Governance Act 2010*. The provisions as to appointment were contained in the original Schedule 2 to the 2009 Act and are not further discussed here. Section 9 of the Act set out the Commissioner for Parliamentary Investigations' responsibilities:

(1) The Commissioner may conduct an investigation if the Commissioner has reason to believe that a member of the House of Commons—

(a) may have been paid an amount under the MPs' allowances scheme that should not have been allowed, or

(b) may have failed to comply with a requirement included by virtue of section 8(7) (registration of interests) in the MPs' code of conduct relating to financial interests.

(2) An investigation may be conducted—

(a) on the Commissioner's own initiative,

(b) at the request of the member, or

(c) in response to a complaint by an individual.

(3) For the purposes of an investigation, the IPSA must provide the Commissioner with any information the Commissioner reasonably requires.

(4) If, after conducting an investigation, the Commissioner finds that the member was paid an amount under the scheme that should not have been allowed, the Commissioner must refer the Commissioner's findings to the House of Commons Committee on Standards and Privileges.

(5) But the Commissioner need not refer the findings if—

(a) the member accepts the findings,

(b) such other conditions as may be specified by the IPSA are, in the Commissioner's view, met in relation to the case, and

(c) the member repays to the IPSA, in such manner and within such period as the Commissioner considers reasonable, such amount as the Commissioner considers reasonable.

[...]

(6) If, after conducting an investigation, the Commissioner finds that the member failed to comply with a requirement included in the code by virtue of section 8(7), the Commissioner must refer the Commissioner's findings to the Committee on Standards and Privileges.

However, the Act provided that the Commissioner for Parliamentary Investigations did not have to report his findings to the Committee on Standards and Privileges in cases where the Member concerned accepts his findings, and in various other circumstances. In debate, at Committee stage in the House of Lords, it was explained by the Parliamentary Under-Secretary of State, Ministry of Justice, Lord Bach, that this would allow "minor cases to be settled by the commissioner without reference to the committee, provided that any general

conditions fixed by IPSA are met and the Member acknowledges the error and agrees to repay the overpayment or correct the entry in the register, as appropriate”.<sup>67</sup>

IPSA was required by the Act to determine the procedures under which the Commissioner for Parliamentary Investigations operates:

(9) The IPSA must determine—

- (a) procedures in relation to investigations under subsection (1);
- (b) procedures in relation to complaints under subsection (2)(c);
- (c) procedures in relation to the circumstances in which the Commissioner’s findings are to be published.

In determining these procedures and conditions under which a report to the Committee on Standards and Privileges is not necessary, IPSA had to consult:

- the Leader of the House of Commons,
- the House of Commons Committee on Standards and Privileges,
- the Commissioner, and
- any other person the IPSA considers appropriate.

The Act also required that the procedures under which the Commissioner for Parliamentary Investigations operates “must be fair”:

(11) The procedures must be fair and, in particular, provide a member who is the subject of an investigation or complaint with an opportunity—

- (a) to make representations to the Commissioner about the investigation or complaint;
- (b) to make representations to the Commissioner, before the Commissioner’s findings are referred to the Committee on Standards and Privileges, about the findings.

(12) Procedures by virtue of subsection (11)(a) must include—

- (a) an opportunity to be heard in person;
- (b) an opportunity, where the Commissioner considers it appropriate, to call and examine witnesses.<sup>68</sup>

If these provisions had come into effect, the non-statutory Parliamentary Commissioner for Standards would have continued to have responsibility for considering complaints which did not relate to the new allowances scheme or the new rules about registration of financial interests. The Commissioner would also have retained responsibility for the other registers maintained by the House. The Act provided that such functions can be transferred, subject to

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<sup>67</sup> HL Deb 14 July 2009 c1078

<sup>68</sup> *Parliamentary Standards Act 2009* (chapter 13), section 9

the agreement of the Speaker and the House, to the IPSA or the Commissioner for Parliamentary Investigations.<sup>69</sup>

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<sup>69</sup> *Parliamentary Standards Act 2009* (chapter 13), section 11; see also HC Deb 30 June 2009 cc204-07