

IPSA was recently given what the Guardian called a “clean bill of health” by the National Audit Office (NAO). We do provide value for money for the taxpayer. This verdict was just the latest. Our budget had just been approved after over three months of discussion and three formal hearings by the Speaker’s Committee (SCIPSA). The NAO had simultaneously approved our accounts. We then appeared before the Public Accounts Committee to be examined on the NAO’s report on our value for money. And this is not the end of it. There is yet more scrutiny of our efficiency and cost-effectiveness in the offing: not just the PAC’s report, but also the forthcoming review by the newly revived Members’ Allowances (now Expenses) Committee. And we’ve only been in operation for 15 months! As is well known, there are some MPs who do not wish us well. Constant attritional scrutiny is one way of expressing this sentiment. Some might think it disproportionate. We have to get on with it, despite the very obvious consequence that it diverts us from providing the very service that MPs ask for.

What we want to get on with is to address the next important task that Parliament has set us. MPs’ expenses and costs have been successfully dealt with through the Expenses Scheme, albeit there is still some way to go as we make the system increasingly simpler to operate. Success can be measured by the fact that 99.7% of claims made by MPs are within the rules, claims are dealt with on time, and, critically, the public’s confidence in the system has grown and continues to grow. Our next task is to tackle the questions of MPs’ pay and pensions. This is what we are beginning to work on now. We want to engage the public and MPs in answering what I have called “the big exam question – what does a modern 21<sup>st</sup> century Member of Parliament need from the public purse so as to do the job”? This is an immensely important task. For Parliament to have given it to us constitutes a complete break with the past. For the first time, an independent body will determine what MPs should receive by way of remuneration, and recompense for their expenses and costs – the total package of funding, seen in the round.

As I’ve said, this is our next challenge. But, while we and most others believe that we have dealt with MPs’ expenses and costs and are ready to move on, some would challenge that view. Some MPs do not want to move on. They do not accept that expenses and costs have been dealt with. They continue to assail IPSA, what it does and how it does it.

Fundamentally, their criticisms and attacks are not just about the system that we have put in place (its rules and operation), though, as I have said, we recognise that they are not perfect and need regular attention. They go much deeper. Their concern is about IPSA’s role; what exactly is IPSA for and what should we be doing in operating the expenses system? Till these questions are addressed and settled, they will continue to affect relations between MPs and IPSA, even as we move the discourse on to the broader issue of proper remuneration. These are the questions, therefore, that I intend to deal with in what follows.

Since we are dealing with MPs, it might be best to start with the law that Parliament passed in 2009 and then amended in 2010. The Parliamentary Standards Act lays on IPSA a number

of duties. Of greatest importance in understanding what IPSA is for is the duty to “have regard to the principle that Members of the House of Common should be supported in efficiently, cost-effectively and transparently carrying out their Parliamentary functions”. Notice that the duty could simply have been expressed that IPSA “should support MPs in... carrying out their Parliamentary functions”. But, it was not: instead the duty is to “have regard to the principle that it should ... .” The difference is critical.

Why it is critical is because IPSA is a regulatory body. The “regard” which the law requires us to give to the principle of supporting MPs is for IPSA, as the regulator, to decide upon. It is a matter of policy for IPSA. Obviously, we are keen to do all that we can to ensure that our regard for the principle satisfies MPs’ needs. But, equally obviously, we must also take account of the public interest in carrying out our duty, as must any independent regulator. It follows that, since it is a matter of policy, the judgement of the way in which IPSA is to “have regard to the principle that it should support MPs ...” is a matter for IPSA alone to make.

The SCIPSA, made up of 8 MPs and 3 Lay Members, is the body to which we must present our proposed budget for the following year. Its role is to satisfy itself, in deciding on our budget, that in complying with our statutory duties, we do so in an efficient and cost-effective manner. The logic is clear. IPSA decides its policy: the way in which it is to comply with its statutory duties, not least the duty to “have regard ...”. (Obviously, the remedy of judicial review exists if we interpret our role wrongly). SCIPSA then decides whether in carrying out our policy we do so in an efficient and cost-effective manner. If our statutory duty were simply “to support...” MPs in the performance of their Parliamentary functions, SCIPSA would be entitled to ask a different set of questions about our efficiency and cost-effectiveness. But, to repeat, that’s not our statutory duty. So, SCIPSA must not proceed from the premise that it is.

This conclusion as to the nature of our duty informs an issue of central importance to IPSA. It is quite clear that members of SCIPSA do not think that IPSA properly supports MPs in the performance of their parliamentary duties. This is also a view held by a number of MPs. The National Audit Office’s recent survey of MPs’ opinions tells the same story. This view of what IPSA should be doing (and, to some, is failing to do) by way of support, stems from a difference between IPSA’s approach to its duty to “have regard ...” and what MPs (and, it appears, SCIPSA) believe our duty to be and what we should be doing as a consequence.

To illustrate this difference, a helpful starting point is the view put to us by SCIPSA that our role in administering the Expenses Scheme is that of “client care” and that viewed from that perspective we are failing MPs to some degree. But, as we understand it, “client care” is a concept used in the service sector (lawyers, accountants, private doctors) or in the retail sector to refer to being solicitous to the needs and concerns of clients (and regularly asking them for their views) for the obvious reason that it is the client who pays the bill and who could take his business elsewhere. In our context, of course, the analogy is seriously misleading. It assumes that our “clients” are MPs. But, if “client care” means what has been

suggested, it is the taxpayer who pays the bill for MPs' expenses. To that extent, it is the taxpayer who is our "client". It is the taxpayer whose interests we exist to serve. This is even more so because the taxpayer cannot go elsewhere: IPSA is the body charged by Parliament with dealing with MPs' expenses. Of course, IPSA must (and does) also weigh carefully the needs and concerns of MPs. But, to repeat, the analogy and the conclusions drawn from it are inapt.

Let's take the question of "support" for MPs a step further. I have already explained that IPSA's duty is to "have regard ..." and that it is for IPSA to determine what that duty consists of, as it relates to the support of MPs. So, what "support" means, and who decides become the big questions. As regards who decides, there can be no doubt that it is for IPSA to decide. That's our role. It is not for SCIPSA to decide. Their role is to comment on IPSA's cost-effectiveness, not to stipulate what we should be cost-effective about. Nor is it, secondly, for MPs to decide. The reason is so obvious that it needs to be stated repeatedly. If it were for MPs to decide what constitutes proper support, any semblance of independent regulation would collapse on itself. MPs would simply say that they want this or that from IPSA and IPSA's role would simply be just to hand it over. It would be as if a bank's executive responsible for regulatory affairs were to telephone the FSA and advise that his bank found this or that rule or operating practice a nuisance and demand that it be changed and the FSA would be expected to ask what changes would best suit the bank! This may have been how self-regulation worked for MPs. It isn't how independent regulation works.

To repeat, it is for IPSA, as the regulator, to determine what level of support is proper for MPs. In reaching its view, IPSA must, of course, act reasonably. It must listen to MPs. It must gather evidence, examine past practices and take the views of bodies such as those of the Senior Salaries Review Body (eg the SSRB's report in 2007 on what the proper levels of staffing should be for MPs). Ultimately, as an independent regulator, IPSA must then make its own determination on the basis of what, in the light of all the various factors and evidence, best serves the public interest. The public interest, as judged by IPSA, is the sole criterion. This is what IPSA has done and will continue to do, whether it is in relation to its decisions on staffing levels (which are currently being reviewed), the employment of connected parties, or the continuing and evolving modifications of its rules and operating procedures. It is not for others charged with scrutinising our cost-effectiveness to substitute their view of what is in the public interest for that of IPSA. Their role, their scrutiny must be confined to whether we do what we have decided to do in an efficient and cost-effective manner.

It follows that it is not for SCIPSA merely to hear that MPs wish for this or that and then to suggest that, if IPSA does not meet this wish, IPSA is therefore not cost-effective. To do so places SCIPSA in the role of establishing policy. That is not SCIPSA's role.

There is an even wider point which arises from what I have already set out. It may help if I touch on it here for the sake of completeness.

It has been suggested to us that there is an inherent tension, born of the structure of the legislation creating IPSA, between our role as a regulator and our role as a provider of services. In large part this suggestion grows out of what, in our view, is a misunderstanding of our role in relation to supporting MPs which I have already addressed at length: the notion that our role is to comply with whatever MPs may urge on us by way of their need for support. It also grows out of the notion that if, as a provider of services, we don't do what MPs and others expect, it's because we've got our regulatory mission wrong. The mission should, therefore, be revised (the Scheme should be changed), so that it delivers the required services. On this view, the provision of services comes first and the services should be those urged by MPs. The regulatory framework should follow. The tension should be resolved by putting the cart where it belongs – after the horses!

The supposed tension, on examination, therefore, becomes a device for urging change on IPSA, so that the Scheme becomes a vehicle for meeting MPs' preferences and the services are provided accordingly. We, however, do not recognise this supposed tension. IPSA, as a regulator, has established the Scheme of Expenses. In doing so it has made a variety of judgements, guided by its independent assessment of the public interest. IPSA has then put in place a series of operational mechanisms to give effect to this Scheme, reflecting, necessarily, the judgements on policy underlying the Scheme, together with particular judgements on particular aspects of operation, such as the level of assurance to be called for before paying out claims, or the level of risk to be tolerated.

The administration of the Scheme, therefore, is informed by and follows the Scheme and the policy lying behind it. There is no inherent tension between our duty to regulate and our duty to administer. Clearly and quite properly, IPSA must then be held to account as to how it delivers that administration. That is the role of SCIPSA: to determine whether, in its administration, IPSA is sufficiently efficient and cost-effective. There is a limit, therefore, to the extent to which SCIPSA may comment on IPSA's administration. It can say that our process for ensuring that claims are valid is inefficient or not cost-effective in x or y way. But, it is not SCIPSA's role to state, for example, that IPSA's appetite for risk is inappropriate, or that a system based on allowances (as the term was used under the old system) would be better. Parliament left such decisions to IPSA alone to make.

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