House of Commons
Committee on Standards and Privileges

IPSA procedures for investigations and related matters

Twentieth Report of Session 2010–12

Report and Appendix, together with formal minutes and oral evidence

Ordered by The House of Commons
to be printed 8 November 2011
The Committee on Standards and Privileges

The Committee on Standards and Privileges is appointed by the House of Commons to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members’ Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee’s attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

Current membership

Rt hon Kevin Barron MP (Labour, Rother Valley) (Chair)
Sir Paul Beresford MP (Conservative, Mole Valley)
Annette Brooke MP (Liberal Democrat, Mid Dorset and North Poole)
Rt hon Tom Clarke MP (Labour, Coatbridge, Chryston and Bellshill)
Mr Geoffrey Cox MP (Conservative, Torridge and West Devon)
Matthew Hancock MP (Conservative, West Suffolk)
Mr Oliver Heald MP (Conservative, North East Hertfordshire)
Julie Hilling MP, (Labour, Bolton West)
Heather Wheeler MP (Conservative, South Derbyshire)
Dr Alan Whitehead MP (Labour, Southampton Test)

The following were also Members of the Committee during the Parliament:

Tom Blenkinsop MP (Labour, Middlesbrough South & East Cleveland)

Powers

The constitution and powers of the Committee are set out in Standing Order No. 149. In particular, the Committee has power to order the attendance of any Member of Parliament before the committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before the Committee. The Committee has power to refuse to allow its public proceedings to be broadcast. The Law Officers, if they are Members of Parliament, may attend and take part in the Committee’s proceedings, but may not vote.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: www.parliament.uk/sandp.

Committee staff

The current staff of the Committee are Eve Samson (Clerk), Lloyd Owen (Second Clerk) and Miss Christine McGrane (Committee Assistant).

Contacts

All correspondence should be addressed to The Clerk of the Committee on Standards and Privileges, Journal Office, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6615.
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Report

1. The Parliamentary Standards Act 2009, as amended by the Constitutional Reform and Governance Act 2010, contains several provisions requiring IPSA to consult the Committee on Standards and Privileges or the Parliamentary Commissioner for Standards.

2. Section 9A of the Parliamentary Standards Act requires IPSA to determine procedures to be followed by the Compliance Officer in relation to investigations under section 9, and stipulates that before such procedures are determined IPSA must consult the Committee, among others. The Committee was not established in time to comment on the existing procedures. IPSA is currently consulting on revised procedures. Before the Committee responded to the consultation, it took evidence from John Sills, the Director of Policy at IPSA, Louise Edwards, Policy Manager, IPSA, and Martyn Taylor, the Interim Compliance Officer, to help it understand the context and the proposals more thoroughly. The Committee’s response to the consultation is annexed to this Report, together with that evidence.

3. Section 9B of the Act states:

the Compliance Officer may provide to the Parliamentary Commissioner for Standards any information connected with an investigation under section 9 or action taken under schedule for which the Compliance Officer considers may be relevant to the work of the Parliamentary Commissioner for Standards.

The Committee has approved a procedural note by the Commissioner on such references. It is appended to this Report.

4. Section 10A of the Act requires IPSA and the Compliance Officer to prepare a joint statement setting out how the Compliance Officer will work with other bodies or persons, including the Parliamentary Commissioner for Standards, the Director of Public Prosecutions and the Commissioner of the Metropolitan Police. Such bodies must be consulted before the statement is prepared. The Joint Statements, including that relating to the Parliamentary Commissioner for Standards, have now been published on the IPSA website.¹

5. This Report is made solely to inform Members of these matters. It does not require any action by the House.

¹ http://www.parliamentarystandards.org.uk/About%20Us/Pages/Compliance-Officer.aspx
1. You wrote to me on 11 October about IPSA’s consultation on procedures for investigations carried out by the Compliance Officer, because under section 9A of the Parliamentary Standards Act 2009 the Committee on Standards and Privileges is one of the statutory consultees on this matter. This response is based on the Committee’s discussions after you and your colleagues gave evidence to us on the matter. It will be published together with the evidence you gave so that it is available to all Members of the House, and the wider public.

**General considerations**

2. The Consultation asks a number of detailed questions, but before I deal with them, there are general points the Committee has asked me to make.

3. We support the principle of independent oversight of MPs’ expenses. Such oversight should be rigorous, and complaints of improper use of resources should be properly and independently investigated. This is vital if we are to increase public confidence in the system. But there are other ways in which IPSA and the Compliance Officer can increase public trust. These are, ensuring that information is communicated to the press and public in a balanced way and that guidance gives a full picture of the system. The system needs both to be transparent and to be fair, and be seen to be fair. It needs to address both the procedural aspects of investigations, and, at the widest level, the communications strategy for information about both the investigative procedures and individual complaints. Our comments on individual questions are shaped by these considerations.

4. We believe it would be helpful if the document setting out the Procedures for investigation enabled readers and users to appreciate the system of which the Procedures are a part. We ourselves have tried to make it clear that the House of Commons system for investigating complaints is not a substitute for criminal investigations or proceedings. While paragraph 45 of the current edition of the Procedures does refer to suspending investigations to allow for the completion of other investigations or civil or criminal cases, this is not sufficient to explain the relationship between the Compliance Officer’s investigations and those of the police.

5. The Committee accepts that IPSA is bound by the terms of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010), and that there are areas where it does not have discretion. For example, the statute makes clear that it is for IPSA, not the Compliance Officer, to determine and consult on procedures, even though it might appear appropriate for an independent officer to do so on his own behalf. We note that in evidence we were assured that the Compliance Officer and IPSA worked
together to produce the proposals which are being consulted upon. While IPSA has a statutory duty to consult, and to prepare the guidelines, in future consultations it might be clearer to indicate which changes arise from a recommendation from the Compliance Officer.

6. There are other areas where the evidence we took suggested that IPSA could take a less restrictive approach to its statutory duties than it currently does, and in so doing could make its information more helpful. For example, the current consultation relates to procedures under section 9A, which refers to investigations where the Compliance Officer has reason to believe that a Member of the House may have been paid an amount that should not have been allowed. This is quite proper. However, section 6A of the Act gives the Compliance Officer the duty to consider whether IPSA’s decision to refuse a claim or part of a claim is a determination which should not have been made. In evidence the Compliance Officer indicated his view was that guidance on section 6A should not be included in Procedures for Investigation. While there is no statutory requirement for procedures on this matter, or for consultation, we consider it would be helpful if the document setting out procedures under section 9A could include a brief statement setting out the Compliance Officer’s full remit. We see no reason why this would breach the terms of the Act, and it would set the Procedures themselves in context for both Members and the public. We also suggest that the Compliance Officer considers the desirability of fuller, separate, guidance on such reviews.

**Appeal Mechanisms**

7. The current Procedures and the proposals on which IPSA is currently consulting concentrate on matters entirely within the control of the Compliance Officer. The Parliamentary Standards Act makes it clear that Members have a right of appeal to the First Tier Tribunal both against refusals to pay expenses (after they have been confirmed by the Compliance Officer) and against directions to repay, or penalties for failing to comply with the Compliance Officer’s directions after a section 9 investigation. The Procedures should contain information about the relevant appeal mechanisms and they should be included on any future flowchart showing the Procedures.

**Fairness**

8. We also consider that the Procedures should address the fairness of the investigation, and we have concerns about the document as it stands. Some of these concerns would be addressed by ensuring that the Procedures contained clear information about the appeal mechanisms already contained in the Act, as we recommend above. Some need substantive changes to the guidelines about procedures themselves, and it appears that the Compliance Officer’s current practice recognises these difficulties. For example, we note that in the current Procedures the presumption is that hearings with Members should be held in public. In fact the Interim Compliance Officer told us that he did not consider this appropriate. We consider that hearings should be held in private, and we note that the interim Compliance Officer told us that “I would find it quite hard to envisage a situation in which I would be inviting the public into hearings.”

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2 Q 80
Tribunal would presumably be open to the public but these are appellate proceedings against a finding which has already been made.

9. Similarly, while it was clear from our discussions with IPSA and the Compliance Officer that those subject to investigation would in practice be allowed to be represented by others and given advice if they so wish, this is not explicit in the Procedures. We accept that such representation may well be unnecessary in the context of the Compliance Officer’s investigations, and could cause delay, but we consider the Procedures should give an accurate account of the Compliance Officer’s practice. We recommend that in preparing revised Procedures great care is taken to ensure that they are fair at each stage. The Procedures should also reflect the statutory requirement that the member who is the subject of the investigation should be given an opportunity, where the Compliance Officer considers it appropriate, to call and examine witnesses (s.9A(3)(b)). The current Procedures do not appear to address this adequately.

10. We also recommend that IPSA seeks advice on the circumstances in which penalty notices will be fair, given that a penalty of £1,000 can be imposed on an MP who fails to comply with a request for the provision of information or with a requirement contained in a repayment direction. Such penalties could be wholly disproportionate when small sums are under investigation.

11. We note that the current procedures allow the Compliance Officer to require an MP who is issued with a repayment direction to pay an amount reasonably representing the costs incurred by IPSA in relation to the repayment, including the costs of the Compliance Officer in conducting the investigation. We note that IPSA has the power to make ex-gratia payments to cover the costs incurred by MPs who have been investigated, where IPSA is at fault in some way. We consider that the Procedures should provide for the Compliance Officer to recommend such payments in appropriate cases.

**Detailed Comments**

Assessing Complaints/Publication of investigations

12. The consultation document offers separate questions on the procedure for assessing complaints, and the procedure for publishing material, but we believe the two need to be considered together. An investigatory process which cannot withstand press speculation in high profile cases will not increase public confidence. These are issues with which the Commissioner and the Committee are familiar, and if you have not done so already you may find it helpful to look at the Committee on Standards and Privileges’ 6th Report of Session 2010–11, *Publication of information about complaints against Members* (HC 577) which sets out both the Commissioner’s practice and the rationale behind it.

13. IPSA currently has three stage process—initial assessment, preliminary investigation and substantive investigation. The proposal is to reduce this to 2 stages: an assessment stage and an investigation stage. The fact of an investigation would be made public after the assessment stage.

14. The current Procedures for investigations stipulate that
15. We note that in evidence the Interim Compliance Officer made clear that it had not been considered appropriate to give such details in the cases investigated so far, until investigations had been completed. We appreciate the intentions behind this decision, but it has had the perverse effect of putting into the public domain the fact that 40 members were under investigation by IPSA, while not subsequently making clear that nearly half of those investigations were closed at an early stage.

16. As the evidence indicated, even if IPSA decides to keep information about an investigation private, such information can be released by the complainant. As noted in the evidence session, the Parliamentary Commissioner for Standards has had experience of carrying out high profile investigations under immense pressure from the media. Drawing on that experience we recommend that the Procedures should establish a policy that during the Assessment stage there will be no comment on the matter, other than to confirm that a complaint has been received, however much the Compliance Officer is pressed. It may also be desirable to set out very clear, and short, timetables for the preliminary assessment stage.

17. If as a result of the Assessment the Compliance Officer considers that an Investigation is necessary, that fact should be published on the website, with the name of the Member concerned. Similarly, a very high level indication of the matters to be investigated should be included. When the investigation is concluded, there should be a further announcement, including, if appropriate, the information that having investigated, the Compliance Officer did not uphold the complaint. This would reduce speculation about whether a particular case has been closed, or remains the subject of investigation.

18. The Consultation asks whether the Compliance Officer should only release the name of the MP later in proceedings, when the provisional or determinative findings are known. We consider that late release of the name would have several disadvantages. The first is that in any high profile case media pressure on the MP and the Compliance Officer before that stage would be extreme. Earlier disclosure could reduce it. Moreover, there is a public interest in transparency, insofar as it is possible to provide it without prejudicing the fairness of any investigation. We consider there are particular difficulties with releasing details at the stage of the provisional finding. This would increase pressure on the Compliance Officer to confirm that provisional finding, and be unfair to the Member concerned, by prejudicing the further stages of the process.

19. Because of the public interest in transparency, we recommend that, like the Parliamentary Commissioner for Standards, the Compliance Officer publishes statistics on complaints on his website, regularly updated, including the numbers of complaints which are not upheld or not accepted for investigation.
20. There is one further point we note. The consultation paper says:

“Under the Act, the Compliance Officer may decide not to open an investigation if he or she considers it would be disproportionate. In this case, IPSA proposes that the Compliance Officer should inform IPSA of his or her decision. IPSA may, in appropriate cases, review its decision to pay those claims. Any alteration in the status of the claim would be published by IPSA.”

We do not understand the rationale behind this proposal. If the Compliance Officer decides it is disproportionate to open an investigation, it appears oppressive that IPSA may, of its own volition, decide to revisit a claim that it had already determined. Moreover, the Act gives Members power to appeal to the Compliance Officer against IPSA decisions, and they would be likely to use it in such cases. This would mean that the Compliance Officer would end up conducting investigations that he or she had initially decided would be disproportionate.

Other proposals

21. The Committee agrees with the proposals to:

- “Make explicit in the Procedures the requirement that where the Compliance Officer exercises his or her discretion, it is done lawfully, fairly and proportionately. ...”
- “Make clear that the Compliance Officer may decide not to open an investigation on the ground that to do so would be disproportionate.”
- “Re-order the Procedures relating to hearings to make clear that these are distinct from meetings held during the investigation. A hearing is a formal mechanism to make representations about the Compliance Officer’s provisional findings.”
- “Make clear that the Compliance Officer will only call a hearing if the MP agrees that is the best way for his or her representations to be made.”
- “Include in the Procedures the legal framework relating to Repayment Directions, which may be issued in the event that the MP rejects a provisional finding that he or she must repay funds to IPSA. While these provisions have always been set out in the Act, it will bring clarity to the investigative process for them to be included in the Procedures.”
- “Make explicit that where during the course of an investigation a new matter comes to light that may also require examination by the Compliance Officer, he or she can decide either to open a new investigation, or bring the new matter into the current one.”

22. The Committee notes the proposal that the new procedures should:

“Clarify that where the MP under investigation or IPSA are asked formally by notice to provide information to the Compliance Officer for the purpose of an investigation, this information must be provided in writing.”
In almost every case, this will be appropriate, but it should be made clear that where there are good reasons to do so (such as disability) information can be provided in another form, agreed by the Compliance Officer.

23. The Committee notes the intention to:

“Introduce timeframes for various stages of the investigation, including 15 working days for the MP and IPSA to make representations to the Compliance Officer, and five working days for the Compliance Officer to share those representations with the other party.”

In principle, timeframes provide a sensible structure, but given the pressure on Members’ time and the potentially disproportionate financial penalties for failure to provide information the Compliance Officer should have a wide discretion in applying them.

24. The Consultation also asks whether other changes should be proposed. The comments which follow refer to the current edition of the Procedures.

Paragraphs 5 and 6

25. While we support the principle behind the stipulation that requests for investigation should be made in writing on the approved standard form signed by the person making the request, there should be arrangements made for those unable to comply with this condition.

Paragraphs 40–44

26. We have already indicated that we do not think it appropriate that hearings should be public, and nor do we believe that provisional findings should be published separately from final determinations. We agree that the Compliance Officer should have discretion to withhold publication of information if it is appropriate to do so, since some material may be properly confidential, such as medical details or irrelevant matters relating to third parties.

Paragraph 45

27. We consider that the Procedures should give the Compliance Officer a wider discretion to suspend investigations by clarifying that the grounds listed in the Procedures are exemplary rather than prescriptive. If IPSA does not accept this, we consider the Procedures should at the least provide that investigations may be suspended or closed on medical grounds, as well as those given in the current document.
Appendix: Procedural Note from the Parliamentary Commissioner

Parliamentary Standards

Referral from IPSA or its Compliance Officer to the Parliamentary Commissioner for Standards

Introduction

1. The Parliamentary Standards Act 2009—as amended by the Constitutional Reform and Governance Act 2010—created a statutory Compliance Officer for the Independent Parliamentary Standards Authority (IPSA). One of the Compliance Officer’s statutory functions is to investigate circumstances where he or she has reason to believe that an MP may have been paid an amount under the MPs’ Expenses Scheme (in effect since 7 May 2010) that should not have been paid. The Act also makes provision for the Compliance Officer to provide the Commissioner with any information connected with an investigation which he or she considers may be relevant to the Commissioner’s work.

2. The Parliamentary Standards Act 2009 states:

“9B Enforcement

(2) The Compliance Officer may provide to the Parliamentary Commissioner for Standards any information connected with an investigation under section 9 or action taken under Schedule 4 which the Compliance Officer considers may be relevant to the work of the Parliamentary Commissioner for Standards.”

3. IPSA and the Compliance Officer have agreed that where either of them considers that an MP’s conduct justifies it, they shall refer that MP, with the relevant evidence, to the Commissioner to decide whether to inquire into a potential breach of the Code of Conduct or related Rules. Under House of Commons Standing Order No. 150 the Commissioner is able to investigate, if he thinks fit, specific matters which have come to his attention relating to the conduct of Members of Parliament. This enables the Commissioner to consider a referral from IPSA or its Compliance Officer.

Referral to the Commissioner

4. The purpose of a reference to the Commissioner is for him to decide whether the information submitted is such as to justify an inquiry into whether the Member’s conduct has so breached the Code of Conduct for Members of Parliament that the Commissioner should institute an inquiry into the circumstances of that breach and, if necessary, submit a report to the Committee on Standards and Privileges. It would then be for the Committee
to decide what action, if any, to recommend to the House. The Commissioner would not consider any reference until after any avenue of appeal available to the Member under IPSA’s statutory procedures had been exhausted.

5. The Commissioner would expect to accept the outcome of any investigation undertaken by the Compliance Officer relating to his remit. The Commissioner would not therefore expect to reopen the Compliance Officer’s investigation, or its final outcome. He may, however, investigate matters falling outside IPSA’s remit or drawn to his attention in the reference from IPSA or the Compliance Officer.

**Process following a referral to the Commissioner**

6. The process followed by the Commissioner after receiving a reference from the IPSA or the Compliance Officer is as follows:

**I. Review of the reference**

a) The Commissioner will consider all the papers submitted by IPSA and the Compliance Officer, including any submitting statement from either once IPSA’s process had been completed. He will then decide if the information thus submitted is sufficient to suggest to him that the Member may have so breached the Code of Conduct that the Commissioner should institute an inquiry about the circumstances of that breach.

b) If the Commissioner decides not to institute an inquiry on the basis of the reference, he will so inform the Member, IPSA and/or the Compliance Officer with a brief statement of his reasons.

c) If the Commissioner decides to institute an inquiry he will do so in accordance with the process set out in the next section.

**II. Conduct of an inquiry**

a) The Commissioner will inform the Member, IPSA and/or the Compliance Officer and the Committee that he is instituting an inquiry. The fact of the inquiry will be placed on the Commissioner’s website.

b) He will show the Member all the material submitted by IPSA/the Compliance Officer. He will not invite the Member to reopen matters already properly determined through the Compliance Officer’s investigatory process. He will invite the Member to give the Member’s account of the circumstances which led to the submission of the offending claim.

c) The Commissioner will consider the Member’s response and decide what, if any, further inquiries may be necessary. This may include seeking further information and a response from IPSA or the Compliance Officer; further information and a response from the Member him or herself; information and a response from any witness relevant to the matter under inquiry. The Commissioner may invite any of these individuals to give oral evidence in accordance with his established procedures.
d) When the Commissioner is satisfied that he has sufficient information to reach a conclusion to his inquiry, he will do so in accordance with the following options:

i. He may at any time find that the matter is not sufficiently serious to justify him inviting the Committee to consider the circumstances and decide what action, if any, to recommend to the House. In such circumstances, he will write to the Member and report the outcome briefly to the Committee. His letter and the relevant evidence will in due course be placed on the Commissioner’s webpages.

ii. Otherwise, he will prepare a memorandum for the Committee setting out the IPSA/Compliance Officer reference, his findings in relation to the circumstances of any identified breach of the Code of Conduct, including his view on the seriousness of any breach. The Committee will then report to the House on the matter, as it does on other memoranda relating to a Member’s conduct. The Committee’s established practice is to publish the Commissioner’s memorandum with the report to which it relates.

7. This procedural note has been approved by the Committee on Standards and Privileges.

Parliamentary Commissioner for Standards

1 November 2011
Formal Minutes

Tuesday 8 November 2011

Members present:

Mr Kevin Barron, in the Chair

Sir Paul Beresford
Annette Brooke
Mr Tom Clarke
Matthew Hancock

Julie Hilling
Heather Wheeler
Dr Alan Whitehead

Draft Report (IPSA procedures for investigations and related matters), proposed by the Chair, brought up and read.

Ordered, That the Chair’s draft Report be read a second time, paragraph by paragraph.

Paragraph 1 read and agreed to.

Paragraph 2 read, amended and agreed to.

Paragraph 3 read and agreed to.

Paragraph 4 read, amended and agreed to.

Paragraph 5 read and agreed to.

Annex agreed to.

A Paper was appended to the Report.

Resolved, That the Report, as amended, be the Twentieth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned to a day and time to be fixed by the Chair]
Witnesses

Tuesday 25 October 2011

Louise Edwards, Policy Manager, John Sills, Director of Policy, and Martyn Taylor, Interim Compliance Officer, Independent Parliamentary Standards Authority

Ev 1
Oral evidence

Taken before the Standards and Privileges Committee
on Tuesday 25 October 2011

Members present:
Mr Kevin Barron (Chair)
Sir Paul Beresford
Annette Brooke
Matthew Hancock
Heather Wheeler
Dr Alan Whitehead

Examination of Witnesses

Witnesses: Louise Edwards, Policy Manager, John Sills, Director of Policy, and Martyn Taylor, Interim Compliance Officer, Independent Parliamentary Standards Authority, gave evidence.

Q1 Chair: Thanks very much for coming. I wonder whether, just for the record, you could introduce yourselves and perhaps the person sat at the back, as well.

Louise Edwards: I am Louise Edwards and I’m the policy manager at IPSA. On an official level, I’ve been leading on the consultation on the procedures.

John Sills: I’m John Sills. I’m the policy director at IPSA.

Martyn Taylor: Martyn Taylor, interim compliance officer for IPSA, and behind me is my colleague, Philippa Robinson, our investigations manager.

Q2 Chair: Welcome and thank you for coming along. The reason why you’re here is that we’re one of the bodies you have to consult on these matters. I thought it was quite interesting, actually, because, at one level, just as the person to my right is independent of this Committee—he works for it, but the work he does is independent of it—the compliance officer is the same. And yet, this is an IPSA consultation. Is that quite an easy relationship?

John Sills: Yes. I think the reason why IPSA does the policy, if you like, is that it’s actually in the legislation, isn’t it, that we should do that, so we do what’s in the legislation. But I think the relationship does work. Martyn obviously acts independently from day to day, but does report to the board.

Martyn Taylor: It’s probably worth saying that my predecessor requested a review of the procedures, having spent some time working with the ones we’ve currently got, so IPSA does act on request and both he and I have worked with IPSA on developing these current proposals. So it’s not as if IPSA is acting in isolation when it’s working out what the compliance officer will do when he carries out his investigations.

Q3 Sir Paul Beresford: Is there not a logic in turning it on its head? You, as the compliance officer, should have written the document that we were looking at, and IPSA should be consulted on it.

Martyn Taylor: If the legislation were written that way, then—

Q4 Sir Paul Beresford: Well, it could be adapted to that. You take the legislation, IPSA asks you to come forward with the ideas and it then puts the policy out to consultation to the likes of this Committee.

Martyn Taylor: I don’t think it would be particularly problematic if that were the situation, but I don’t consider the way that it works currently to be particularly problematic.

Q5 Sir Paul Beresford: So are you putting in a reaction to the consultation?

Martyn Taylor: I will be, yes.

Q6 Sir Paul Beresford: Will we have a copy of that?

Martyn Taylor: I don’t think it would be particularly problematic if that were the situation, but I don’t consider the way that it works currently to be particularly problematic.

Q7 Matthew Hancock: Can I just come in on that? On the relationship between the compliance officer and IPSA, it’s true, isn’t it, that IPSA appoints the compliance officer?

Martyn Taylor: That’s right.

John Sills: Yes. I think the reason why IPSA does the policy, if you like, is that it’s actually in the legislation, isn’t it, that we should do that, so we do what’s in the legislation. But I think the relationship does work. Martyn obviously acts independently from day to day, but does report to the board.

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Martyn Taylor: That’s right.

John Sills: Yes.

Q8 Matthew Hancock: So in what way are you independent?

Martyn Taylor: IPSA’s board appoints the compliance officer. I am functionally independent, in that, in carrying out the functions of the compliance officer—which is to review complaints by MPs about the way IPSA’s handled claims and investigations into claims MPs have been reimbursed for—I carry those functions out fully independently with no interference from the board whatsoever.

Q9 Matthew Hancock: But you are appointed by IPSA and you have a very close working relationship—which you have just described to us—with it, and your job is to check that IPSA is not making mistakes with respect to MPs.

Martyn Taylor: That’s right.
Q10 Matthew Hancock: So in what sense are you independent?
Martyn Taylor: I am independent in that IPSA has no involvement in the way that I conduct the reviews. It isn’t even necessarily aware of those reviews until such time as it’s appropriate for it to be so. It is worth adding that I am the interim compliance officer, statutorily limited to six months to exercise my powers.

Q11 Matthew Hancock: Are you applying for the permanent post?
Martyn Taylor: No, I’m not. The permanent position is a one-term, five-year post, so there is no particular reason why the incumbent would be particularly beholden to IPSA.

Q12 Sir Paul Beresford: Are we able to know why you’re not applying for it?
Martyn Taylor: It’s a part-time job and I would like a full-time job.

Q13 Chair: Thanks for that, anyway. We take the point about what statute says—it’s just a question about whether the relationship works, in a sense. That’s what the Committee is interested in.

We have obviously seen the document that you published on the consultation. One of the questions I’d like to ask is, can a clear line be drawn between initial assessments and the substantive investigations?

Q14 Chair: May I move on to the issue of hearings?

During the investigation, the compliance officer has the power to issue a formal request to a Member that they provide information in writing or verbally, by way of a meeting. I have a series of questions. Is there a substantive distinction between meetings held during an investigation and hearings?

Louise Edwards: Under the procedures, yes. A hearing relates solely to when an MP is giving representations about findings, so any other meeting during the course of an investigation would be a meeting, not a hearing. A hearing is limited to just one part of the procedures.

John Sills: The hearings are at the MP’s request, aren’t they?

Louise Edwards: They are.
John Sills: So if the MP wants to make representations he or she can request a hearing, whereas a meeting is basically just to find out more information.

Q15 Sir Paul Beresford: It says in your information that an MP shall “be given the opportunity, to request that another person attend the hearing”. Can the MP request that they attend the earlier part?

Louise Edwards: There is nothing in the procedures to stop the MP from being represented or from asking somebody along to any of these meetings.

Q16 Sir Paul Beresford: So the word “request” is inappropriate.

Louise Edwards: The word “request” follows the legislation, but there is no reason why an MP should not ask someone else to speak to the compliance officer during the process. The procedures do not limit the compliance officer in any way in that respect.

Q17 Chair: It is a statutory requirement that procedures relating to representation must provide Members with the opportunity to be heard in person and, if the compliance officer considers it appropriate, to call and examine witnesses. Where and how do the current guidelines cover this, and are you proposing any changes?

Louise Edwards: The current guidelines cover it, beginning at paragraph 23, where the document talks about representations and hearings. All we are proposing to change in this consultation is to make it clear that hearings are one way of giving representations. Under the way in which the procedures are currently drafted, it looks like you can either give representations or have hearings, but that is not the case. A hearing is a form of giving representations. We are making no substantive changes, and we simply want to make it clear what a hearing is.

Q18 Chair: Okay.

The document also proposes that hearings will be called only if the Member agrees that that is the best way for his or her representations to be made. What is the reason behind that change?
Louise Edwards: When we drafted the original procedures last year, there was a clause suggesting that the compliance officer could call a hearing without the MP’s request. That was incorrect, according to the legislation, so we are taking that out. I should say that that clause has not been exercised at any point.

Martyn Taylor: There have not been any hearings.

Q19 Chair: No. We realise that, at this stage.
Will a hearing determine contested issues of fact and, if so, will the Member in question have the opportunity to obtain legal representation, to call witnesses and to cross-examine their own or other witnesses, either in person or through their appointed representative?

Louise Edwards: Under the procedures, it could do and MPs could indeed do that.

Q20 Chair: Will there be an added degree of independence, such as the panel system set out in House of Commons Standing Orders, to provide greater protection for Members’ rights to a fair hearing? We have exercised that on one occasion in recent years; a panel was set up under an independent system. Have you considered that in any way?

Louise Edwards: We have not because we are following the fact that it is the compliance officer’s function to conduct the investigations and take the decisions.

Martyn Taylor: That’s right. But there is a right to appeal to the tribunal after the process, so it does not necessarily end with the compliance officer.

Q21 Chair: So that would effectively be our panel. You are saying that the appeal would be where the panel fitted in.
I have one last question on this issue. How would the compliance officer deal with representations to the effect that the substantive development of the complaint was the fault of IPSA, or if there were other comments about the conduct of IPSA? I saw on the website once—you were not wholly complimentary about how this had been allowed to happen.

Martyn Taylor: Well no—exactly. That, I suppose, is where the compliance officer can show quite clearly that they act independently of IPSA. It has to be right that if fault lies with IPSA, the compliance officer finds fault with IPSA. If IPSA needs to amend its procedures, processes or whatever as a result of those findings, you would certainly expect IPSA to do that.

Chair: Okay.

Q22 Sir Paul Beresford: I am possibly out of step with the questions and so forth. If the Member is found to be at fault, they can be charged for your costs—yes?

Martyn Taylor: They can be, yes.

Q23 Sir Paul Beresford: All right. What about the reverse? Can Members charge IPSA—and if not, why not?

Louise Edwards: Not under the legislation, no.

Sir Paul Beresford: It sounds like a private Member’s Bill, doesn’t it?

Q24 Annette Brooke: Do you receive many complaints about IPSA?

Martyn Taylor: No. Since I have been in post, I have not received any: my predecessor received two. The point at which the compliance officer will carry out a review is once a Member has already asked IPSA to reconsider its original determination. If the Member still disputes the outcome of that consideration, they may ask the compliance officer to carry out a review.

Q25 Sir Paul Beresford: Sorry; I am being persistent. Can we come back to the question that I just asked? Is there a position in which IPSA could consider an ex gratia payment to cover the costs of a Member’s defence?

Martyn Taylor: I am sure that that is possible, in that such payments can be considered at any time. [Interruption.]

Q26 Sir Paul Beresford: Ms Edwards, I take your nod as an agreement.

Louise Edwards: Absolutely; there is nothing to prevent a Member from asking for an ex gratia payment, and if they have a case for consideration.

Chair: Matthew, do you have a question?

Matthew Hancock: I will pass, Chair; I was on the same lines.

Chair: Okay. Can we move on to time frames and the publication of investigations?

Q27 Heather Wheeler: Paragraph 11 of the consultation document talks about changes to substantive investigations. When will the substantive investigation that leads to publication of the fact of a complaint be deemed to have begun, in the light of the changes that you are proposing?

Louise Edwards: It would be the point at which the compliance officer sends notification to the MP and IPSA that he has decided to open an investigation.

Q28 Heather Wheeler: Right. So that notification goes out, and that then is public? I am wondering how you are then going to react to journalists phoning up and asking what is going on.

Louise Edwards: This comes to the question of publication, which, as John mentioned, is one of the key themes of the consultation. As the procedures currently stand, the default position is that the name of the MP and details of the investigation—whatever claim it is into—would be published when that investigation began. On a case-by-case basis, the compliance officer can decide that it is not appropriate to do so.

What we are asking in the consultation is whether that should continue or whether publication should be at the conclusion, when there will be a full set of findings to be published as well. There are arguments both ways. With one way, you avoid speculation about whether a complaint has been made; the flip side of that is that there may be speculation about the conduct of the complaint.

If you publish at the end, the complainant may know of the complaint. If you publish at the end, the complainant may know of the investigation—whatever claim it is into—would be published when that investigation began. On a case-by-case basis, the compliance officer can decide that it is not appropriate to do so.
this because we are very much seeking the views of Members and others on what they think is the best time for the publication of the fact of an investigation.

Q29 Heather Wheeler: Right. That all falls into line. Is it actually possible to make no comment? How do you feel you will play that? What have you done until now?

Martyn Taylor: Up to now, I have not made anything public until the end of the investigation. I should say that in one case, the complainant did go public about the fact that a Member was under investigation, which arguably put that Member in an unfair position. It is a really difficult question and I do not know the answer to it, so your views would be very gratefully received.

John Sills: One of the arguments in favour of at least saying something at the beginning is that you are not completely in control, nor is the compliance officer, because the complainant can always go public.

Q30 Matthew Hancock: Have you considered asking the commissioner his views on this, because this is not a new problem? This is a problem that we as a Committee have discussed many times and which John Lyon has considered in great depth. Over a period of time, iterations and change, what questions he answers from journalists, what is put on the website and what is proactively put out there has been gradually nuanced and improved. It would be quite hard to improve on the system that he has put in place because it has been tested over time, and many, many complaints have gone through it. Of course, exactly the same issue arises in that the complainant can make the matter public.

Martyn Taylor: Absolutely. I am aware of the procedures. It may well be the right answer. What I do get quite a lot of the time are expressions of huge worry about a Member’s reputation, so if I publish the name of a Member at the start of an investigation and they are fully exonerated at the end, they may feel that their—

Q31 Matthew Hancock: Yes, of course, but my point is that you are trying to reinvent the wheel, and we are examples of a wheel—so take a look.

John Sills: We certainly will. There is no doubt that we talk to John, and we will continue to do so.

Q32 Heather Wheeler: Unless I have got this wrong, at the moment your guidelines state that you will say that a Member is under investigation because you have done an initial assessment that they have accepted payment for something for which perhaps they should not have accepted payment. However, you have not actually done that.

Martyn Taylor: No, because it also provides discretion not to do so, should that be decided. My predecessor and I decided that we would not in the cases that we had had.

Heather Wheeler: Thank you. That is very clear.

Q33 Chair: Why did you decide that? You can go on John’s website and see what John does. I am not saying that you should do exactly what John said—that is what this consultation is about—but what would be the reason why you took a decision like that?

Martyn Taylor: The reason the decision was taken was the hope that these investigations should be dealt with quite quickly if they were about fairly small matters and were of a similar nature. The expectation was that you could get those out of the way quite quickly, and then you could publish them instead of having a period in which you had a name out there, speculation about what the case was about and then the publication. It seemed the sensible thing to do at the time.

Q34 Chair: But I know from sitting in on a meeting of SCIPSA, which I sit on ex officio as Chair of this Committee, that you have got some information, I assume—I didn’t want to know the details, but you could give some sort of bullet points about what is currently under investigation. But the public know nothing of that.

Martyn Taylor: There is one current substantive investigation—only one. The others are complaints and a preliminary investigation.

Chair: Okay. We are going to move on to repayment directions and penalty notices.

Q35 Dr Whitehead: You have already mentioned the possibility of a challenge to the decision of the compliance officer at the first-tier tribunal under the Act. That is not mentioned in the current guidance. Is it proposed that it will be included in any updated guidance?

Louise Edwards: It is not proposed simply because it is set out in the legislation, but I have no strong views one way or the other. If people feel that it would be useful to have it in there for the sake of completion, then I’m very happy to consider putting it in, yes.

Q36 Dr Whitehead: There is a problem: in the Act, it doesn’t actually say which first-tier tribunal a Member should appeal to.

Louise Edwards: No. The first-tier tribunal decided it would go to the tax chamber.

Q37 Dr Whitehead: Right. And would that information perhaps be included in the guidelines?

Louise Edwards: Indeed it can be, yes.

Q38 Matthew Hancock: I wanted to go into the question of penalty notices and their different levels, and ask about the judgment around that. These are undoubtedly going to be significant and very sensitive decisions, as and when they come through. The guidance makes no reference to the challenge of a penalty notice either, under a first-tier tribunal. Is that something that, as with Alan’s question, you would be open to including?

Louise Edwards: Absolutely. If we put it in one place about a power being appealable to the tribunal, we would have to put it in all the places where it was—

Q39 Matthew Hancock: Yes. Also, following on from Paul’s earlier comment about this being a one-way system within the Act, not only can costs be incurred by both sides; the whole point of the
compliance officer is to recognise that fault can be on both sides—that IPSA can be as much at fault as an MP can in any error, whether intentional or not. How do you propose to deal with the fact that the Act is one-sided in this sense, and that, where a complaint against IPSA is upheld, there isn’t any recourse? What do you propose to put in the guidance about that?

Louise Edwards: Because it’s not covered in the legislation, we haven’t actually thought about putting anything in the guidance about that.

Q40 Matthew Hancock: Right. Do you recognise it as a problem, though?

Louise Edwards: I recognise it as one-sided. I probably need to think about the implications to decide whether I think it is a problem. There is the option of the ex gratia payment, if an MP decided they wanted that.

Q41 Matthew Hancock: Yes, and you can’t exactly fine IPSA.

Louise Edwards: A penalty would, of course, go straight back to the Consolidated Fund, so there is no going to IPSA in it. There is no mechanism in the legislation for IPSA to pay that penalty, so if we were to introduce something, we would need to think carefully about how that dovetails with the legislation.

John Sills: But it is an issue that you’ve raised and we need to consider it, so we will certainly do that.

Q42 Matthew Hancock: Okay. The guidance refers to £1,000 as the highest penalty for third and subsequent intentional breaches. Does that mean that £1,000 would be the highest penalty, and how frequently could that be levied?

Louise Edwards: The penalty can apply any time that an MP doesn’t adhere to one of the formal requests for information. There is nothing in the legislation which says you can make only one formal request for information, so it could be, if it went that way, a penalty per request. But I would hope and think that, actually, if things had got to that intractable level, there might be another way through.

Q43 Matthew Hancock: For example?

Louise Edwards: There might need to be some careful discussion and negotiation between the compliance officer and the MP, rather than continually imposing penalties; but ultimately, that is what the legislation and the procedures say can happen, and it would be for the compliance officer to conduct it on an individual basis.

Q44 Matthew Hancock: Well, there is another procedure, which is recourse to the parliamentary commissioner, for instance, who has a whole series of other penalties at his disposal, some of which haven’t been used for a good long period. I wondered whether you’d considered that.

Louise Edwards: There is a joint statement in place between IPSA and the compliance officer about how we would work with John Lyon, so that sets out the circumstances in which we, as IPSA, feel we would speak to John Lyon about a concern about an MP’s conduct. Perhaps Martyn wants to talk about the compliance officer side.

Martyn Taylor: Certain. If it appeared to be a conduct matter, I would refer it to the parliamentary commissioner.

Q45 Matthew Hancock: But wouldn’t any refusal to provide information be a conduct matter?

Martyn Taylor: Quite possibly, but it is hard to say, really, until the case presents itself.

Q46 Matthew Hancock: Right. So there is no guidance on that?

Q47 Matthew Hancock: I was just wondering why two sets of penalties are being proposed. One is the set proposed under IPSA: £250, £500 and then £1,000, which are new. The other is the relationship that you have with the commissioner. It seems odd to try to have the two running concurrently. Thought needs to be given as to why there are two sets of penalties, as opposed to a long-standing procedure—whether that is an improvement and how they are going to interact.

Martyn Taylor: It is certainly something that we can go back and think about. It may be worth adding that the parliamentary commissioner may not want to instigate an inquiry before the compliance officer has completed one. If that’s the case I would have to go through the process that is set out here.

Q48 Matthew Hancock: Right. Just one final thing. You were saying that you’ve had no complaints from MPs about IPSA.

Martyn Taylor: I personally have not, but my predecessor—

Q49 Matthew Hancock: Your predecessor had two. Do you think that enough MPs know about the compliance officer and the compliance officer’s role in supporting them in a complaint against IPSA, as opposed to seeing the compliance officer as part of IPSA? Frankly, it is hard to think that MPs know of your role fully, given how few complaints there have been through you.

Martyn Taylor: That may well be right. I wrote to all Members when I was first appointed and set out the two parts of the role. This is my third Committee in three weeks and so I imagine that word will be spreading somewhat. But I am very happy to look at that again to see whether we need to do something to increase awareness.

Matthew Hancock: Okay. Thank you.

Q50 Sir Paul Beresford: Would you not agree that part of the reason for that is that MPs traditionally go out of their way to try to resolve the problem themselves, thereby reducing the numbers of referrals?

Martyn Taylor: It is entirely possible. It could equally be that a lot of questions have been resolved at the reconsideration stage that IPSA has in place.

Q51 Sir Paul Beresford: Would you consider it appropriate that IPSA, as I am sure it does, does all it
Q52 Annette Brooke: The Joint Committee on Human Rights when it looked at the original standards Bill raised a quite a long list of issues. I wonder whether we might work through relevant issues as far as your new proposals are concerned, and to what extent you have looked at compliance with the European convention on human rights. I will ask that rather generally and then come back with some specifics.

Louise Edwards: During the first consultation on the procedures last year we looked at article 6.1 of the European convention on human rights, and with the benefit of our legal advice at the time we were satisfied that the procedures, as a whole, were compliant with article 6.1. We indicated to the compliance officer that that is the light in which he should approach the application of the procedures. That is as far as we have gone so far.

Q53 Annette Brooke: Right. So you have not worked through. Just to take that a bit further, we have talked about fairness this morning in how you apply them, so are satisfied and have you looked at all of your proposals quite rigorously?

Louise Edwards: We have looked at our proposals in terms of fairness. You will see throughout that fairness to the MP against IPSA is balanced, which is one aspect that we have looked at. You will see that there are in here many occasions on which the MP is given the opportunity to comment on provisional findings and to make representations, to make sure that he is able to put his case across fully. But if there are any specific elements where you think fairness has not been recognised, I am very happy to look at that.

Q54 Annette Brooke: Right. So you are looking for specific responses in the consultation, rather than having done the checklist yourself as it comes out to consultation. Just pursuing Matthew’s point about the fines, can you tell us how a test of proportionality would be applied, because one could envisage that the fine could be greater than the amount of the excessive claim?

Louise Edwards: It could. First of all, there is a question of proportionality in the original decision to make a formal request for information, and these penalties are limited to a very specific occasion, which is not responding to a formal request for information. So there is proportionality throughout in the compliance officer’s discretion about whether to do that.

Once a request has been made, obviously there is also the opportunity to take into consideration any factors that influence whether somebody can respond in a given time frame or whether somebody needs longer. Once it gets to the stage where somebody has not adhered to one of those formal requests for information, we are a little bit tied, in that the legislation immediately says that a penalty should be imposed. What this does is simply reflect what that legislation says, and it is quite prescriptive.

Q55 Annette Brooke: Will you be recording what you have said to us? I am just thinking of some of the commissioner’s inquiries—sorry; he is being quoted a lot this morning—where it has taken a little time to get information, sometimes with clear justification, when somebody is sick or something. Will you be recording the basis of your decision to fine?

Martyn Taylor: Absolutely. I would expect to give Members every possible opportunity to provide the information before moving to the territory of imposing fines. If a Member were incapacitated, that would be taken into account. This is really about when there is no particular reason why information should not be forthcoming and no reasons are given why it is difficult to do so. It provides the ability to force the issue, in a sense.

Q56 Annette Brooke: Finally, could you tell us about the standard of proof that would be required in relation to different cases?

Martyn Taylor: It is the civil standards of proof as opposed to the criminal standards of proof, so it is a lower bar. But as I said, the Member has recourse to the first tier tribunal if there is a dispute.

Q57 Annette Brooke: So in more serious cases, that would move into the realm of criminal investigation?

Martyn Taylor: Yes. If there were an indication that there was fraud, for example, I would probably refer it to the police. It would be a matter for them to consider.

Q58 Chair: Under those circumstances, the compliance officer would send that straight to the police. You would not share the evidence with anybody?

Martyn Taylor: No.

Q59 Chair: That would be your decision, as opposed to even IPSA's decision?

Martyn Taylor: Yes.

Q60 Dr Whitehead: I return to the question of, among other things, MPs' awareness of the procedures. Will the role of the compliance officer in reviewing the conduct of IPSA go into the new procedures for investigations?

Martyn Taylor: No. They are two completely separate functions under the legislation. There are the investigation functions and the procedures for investigation, and there are the review functions.

Q61 Dr Whitehead: So it won’t?

Martyn Taylor: So it won’t, no.

Q62 Dr Whitehead: Apart from the specific fault of IPSA in relation to payments made under the allowance scheme that perhaps should not have been made, is there an intention that the compliance officer will be able to investigate other matters to do with IPSA's conduct, or do you consider that your
investigations are restricted just to the question of payments?

Martyn Taylor: It is a statutory limitation. It is about claims, so it does not go wider than claims.

Q63 Dr Whitehead: So there is no function for this to happen?

Martyn Taylor: Not within the compliance officer’s remit, no.

Q64 Dr Whitehead: Is there a function for this to happen under anybody’s remit?

John Sills: If an MP wants to make a complaint about service, for example, they can do that. We have a complaints procedure within IPSA; in the first instance, senior management would look at that. So there is a process there, if you are talking about more general issues. The compliance officer, as Martyn said, is limited essentially to payments.

Q65 Dr Whitehead: As far as what powers you do have as a compliance officer to investigate the conduct of IPSA is concerned, there is no statutory obligation to issue guidelines, but on the other hand, there’s no prohibition against so doing.

Martyn Taylor: No.

Q66 Dr Whitehead: So would it be helpful to clarify in the guidelines your role in respect of reviewing IPSA?

Martyn Taylor: I could certainly draw up some sort of guideline that sets out how I handle a request for a review, if that’s what’s behind your question.

Q67 Dr Whitehead: I think what’s behind the question is the fact that the guidelines at present are completely silent on the matter. Certainly, if you were a Member reading the guidelines, you would have no idea.

Martyn Taylor: That’s because they’re specifically about investigations and not about reviews, so the statutory consultation is about procedures for investigations, not about reviews. I could draw up something internal or publish something which sets out how I might handle a review. I think it right that it has to be separate from this.

Q68 Sir Paul Beresford: On the point about suspension of an investigation, how do you do it, do you give the reasons and is it made public, if appropriate?

Martyn Taylor: If it is appropriate, then yes. Certainly if I were to suspend an investigation, the Member would know. Whether I would make it public would depend on where the investigation was in public terms.

Q69 Sir Paul Beresford: That’s fair enough. Have you expanded on any of the reasons? A reason we get for suspension is the health of a Member.

Martyn Taylor: Health of the Member may well be a reason.

Q70 Sir Paul Beresford: So you feel it would be appropriate to put it in as a reason?

Martyn Taylor: Whether I would state the reason? I’m afraid I haven’t given that any thought.

Q71 Sir Paul Beresford: Okay. We publish statistics. Will you be publishing statistics?

Martyn Taylor: Yes.

Q72 Sir Paul Beresford: Including the number of complaints?

Martyn Taylor: I am obliged to publish an annual report and I envisage including statistics.

Q73 Sir Paul Beresford: Including the unfounded complaints?

Martyn Taylor: Yes.

Q74 Sir Paul Beresford: Can I just jump a little bit back again? I might be misreading this, but it says, “The Compliance Officer shall not normally commence an investigation more than 12 months after the claim”.

Martyn Taylor: Yes.

Q75 Sir Paul Beresford: Many of the expenses scandals were well beyond 12 months.

Louise Edwards: Shall I explain that provision?

Sir Paul Beresford: Yes, please.

Louise Edwards: There are two reasons for that provision. The first is that we wanted to avoid the scenario where a complainant stored up complaints for five years and then submitted them all just before an election. Secondly, there is scope in the procedures for the compliance officer to consider an older complaint if he thinks there is good reason to do so. He has discretion to investigate if something comes to light that is older than 12 months.

Q76 Sir Paul Beresford: Can you give an example that has occurred to you?

Louise Edwards: Of which one?

Q77 Sir Paul Beresford: Where you would extend it back further.

Louise Edwards: Where I would extend it, not being the compliance officer? Perhaps if one investigation led him to look at older claims of a similar nature.

Q78 Sir Paul Beresford: Okay. Finally, “Subject to paragraph 42, in any case where the MP is heard in person, the Compliance Officer shall take reasonable steps to secure that members of the public are able to attend the meeting.” Is it in legislation that they should attend the meeting?

Louise Edwards: I have to check.

Sir Paul Beresford: It’s not normal in that situation for anyone to attend our meetings, I think.

Martyn Taylor: I don’t think it is in the legislation, no.

Q79 Sir Paul Beresford: Do you not think it’s turning into an opportunity for the Daily Mail, my favourite newspaper, to sit there and—

Louise Edwards: When we wrote the procedures the first time—and to be fair we have not changed this—we started from the presumption of full transparency except where there shouldn’t be transparency, hence
the question about publication. We started from the premise that the hearings should be in public, unless there were good reasons for them not to be, and we have carried that through, but we are very happy to take views if people think that would not work in practice.

Q80 Sir Paul Beresford: We’ve decided against that. We publish notes of the meeting, but we don’t have the public sitting behind the Member being investigated. Do you not think that that’s quite adequate and transparent?

Louise Edwards: We would certainly look at a case that that was quite adequate and transparent, but we need to see what people say in the consultation overall. The last time we looked at this issue, we had some responses saying that that would be adequate and some saying that it wouldn’t. The board balanced the views and decided that, generally speaking, hearings should be in public, but the board could take a different view this time.

Martyn Taylor: I should say that, again, the compliance officer has discretion in that area. I made it clear to the SCIPSA meeting that I would find it quite hard to envisage a situation in which I would be inviting the public into hearings.

Q81 Sir Paul Beresford: But the way that’s worded, it’s the other way round. The lean is in favour of—

Martyn Taylor: The way it’s worded, yes, that’s right.

Q82 Sir Paul Beresford: Which is a bit sad. I don’t think we’ve had any complaints that people have not been able to attend.

Martyn Taylor: Well, the great thing about this is that it’s a consultation.

John Sills: Again, we’ll have a think about that.

Q83 Dr Whitehead: For clarification, I just want to go a little further along the line of the distinction between a fault of IPSA in relation to payments made and the conduct of IPSA in terms of its procedures. You’ve stated that there will be nothing in guidelines—indeed, you, as compliance officer, can’t investigate the more general conduct of IPSA, but there are other procedures that may make that possible. There are circumstances in which one may well clearly be linked with the other—“My payment hasn’t been made because IPSA lost all my original forms and I couldn’t replace them. Then it refused to pay me.”

Martyn Taylor: Yes.

Q84 Dr Whitehead: But one is a procedural point and the other is a refusal-of-payment point. How would those two be linked, should there—

Martyn Taylor: If you were to ask me to carry out a review and it turned out that that was the case, that would obviously be a relevant factor in any findings that I produced about IPSA. That’s part of its handling of your claims, in a sense, so it would fall, I would think, within my territory.

Q85 Dr Whitehead: So where would that stop in terms of the previous distinction that was made between the procedures of IPSA and a refusal by IPSA to make a payment?

Martyn Taylor: It’s quite hard to say without specific examples. If you were to ask me to review a determination by IPSA, and you were to list a range of factors such as IPSA had lost the documentation and so on, I would consider those relevant factors when determining how to conduct the review.

John Sills: In your example, if, as a result of IPSA losing documentation, it refused to pay a claim, and that was found to be the reason, that is clearly a matter for the compliance officer. If IPSA was just being very slow but did pay the claim, that’s a more general efficiency issue, which would be handled by IPSA itself.

Q86 Matthew Hancock: What if IPSA refused to pay a claim because it judged that it was not appropriate to pay the claim?

John Sills: If IPSA turns something down, you have the ability to ask for a review, and reviews go to the compliance officer.

Martyn Taylor: Yes.

Q87 Chair: I have just a couple of points. You mentioned, in the answer to Paul, that you publish statistics in your annual report. You’re probably aware that the commissioner does that on a monthly basis. Would it be an onerous task for you to publish them on a monthly basis? I’m talking about the website—

Martyn Taylor: No, not particularly. It’s just not something that we’ve particularly turned our minds to.

Q88 Chair: Fine. The other point is about the figure that has been around in the public domain. I can’t remember and I’m not going to hazard a guess as to who put it into the public domain, but it was said a few weeks if not a couple of months ago that there were about 40 current investigations. We know that 20 have been resolved, because they’re now on your website.

Martyn Taylor: About 40 preliminary investigations were under way. I think that was in June. Of those, about 18 or 19 were closed at that stage and were not progressed to the substantive stage. There are then the 21 substantial cases that I have closed subsequently.

Q89 Chair: There are others ongoing at the moment.

Martyn Taylor: Yes.

Q90 Chair: But of course nobody would know that unless they asked you the question, because that information does not come into the public domain, does it?

John Sills: If I recall, that probably first came up at a SCIPSA meeting when Sir Ian Kennedy was asked.

Q91 Chair: It was at a SCIPSA meeting, and I think I know who said it—I do not have the minutes in front of me—but I just wonder where the others go. In the public’s consciousness, there are 40 of us still being investigated, or that is what they felt in June, and of course that was not the case.

Martyn Taylor: Yes.
Chair: We need to ensure that the messages that are coming out are consistent—and I’m aware of the man sat on my right in that respect. The public clearly have a right to know—perhaps not the individual details, but they have a right to know the figures. When figures are sent around like that, for all intents and purposes they think that there are 19 people still under investigation from what was said. That’s an area that you are obviously consulting on now, and it probably needs to be addressed.

Colleagues, do you have any further questions? No. Then I thank you all very much indeed for coming along, and for helping us out on this, the first time that we’ve done our statutory duty by inviting you to come and talk to us. We will see you again at some stage.