

Compliance Officer for IPSA

Summary of investigation and findings

Mr Jake Berry MP
Member of Parliament for Rossendale and Darwen
(IN/0031/080411)

1 December 2011

Martyn Taylor
Compliance Officer for IPSA
7th Floor Portland House
Bressenden Place
London SW1E 5BH

Investigation summary

1. The Compliance Officer for the Independent Parliamentary Standards Authority carried out an investigation into whether Jake Berry MP was paid an amount under the MPs' Expenses Scheme (the Scheme) that should not have been allowed.
2. The investigation was conducted in accordance with section 9(1) of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010) (PSA).
3. The investigation was initiated by the Compliance Officer, as he had reason to believe Mr Berry may have received funding for claims relating to a website (www.jakeberry.org) that did not comply with the rules of the Independent Parliamentary Standards Authority (IPSA) as set out in the Scheme.
4. On 11 April 2011 the Compliance Officer notified Mr Berry that he was the subject of a preliminary investigation and on 27 June 2011 the Compliance Officer opened a substantive investigation into this matter.
5. On 1 December, the Compliance Officer issued a Statement of Findings. This statement provides full details of the investigation. The findings are summarised below.

Findings

6. The Compliance Officer found:
 - a. that Mr Berry submitted claims for costs relating to his website, and received reimbursement for these costs from IPSA, at a time when his website contained party political logos for the Conservative Party – a contravention of the Scheme;
 - b. that Mr Berry acted swiftly by removing the logos; further
 - c. that Mr Berry, voluntarily and at his own instigation, sent IPSA a cheque to repay the amount for which he had received reimbursement.
 - d. that IPSA was in equal part at fault as its validation procedures fell short and should have prevented reimbursement being made;
 - e. that the contravention was minor in scale and was the result of an oversight;
 - f. that Mr Berry did not gain any personal financial, political or other particular advantage from the presence of a party political logo on his website;
 - g. that Mr Berry was now personally funding his website, but that if Mr Berry acted to make the website compliant with the Scheme, his claim would be considered valid and IPSA would return his repayment to him; and
 - h. that IPSA had strengthened its validation practices.

Resolution

7. Mr Berry has confirmed that he wishes to keep his website separate from public funding and does not wish to receive a repayment of the reimbursement he had previously made.
8. Consequently, no further action was required either of Mr Berry or of IPSA and on 1 December 2011 the investigation was closed.

Martyn Taylor
Compliance Officer for IPSA

1 December 2011

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Statement of Findings

Mr Jake Berry MP
Member of Parliament for Rossendale and Darwen
(IN/0031/080411)

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Martyn Taylor
Compliance Officer for IPSA
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A. Introduction

1. The Compliance Officer¹ for the Independent Parliamentary Standards Authority has carried out an investigation into whether Jake Berry MP was paid an amount under the MPs' Expenses Scheme (the Scheme) that should not have been allowed. This investigation was conducted in accordance with section 9(1) of the Parliamentary Standards Act 2009 (as amended by the Constitutional Reform and Governance Act 2010) (PSA).
2. The investigation was initiated by the Compliance Officer who had reason to believe Mr Berry may have received funding for claims relating to a website (www.jakeberry.org) that did not comply with the rules of the Independent Parliamentary Standards Authority (IPSA) as set out in the Scheme.
3. This statement sets out the Compliance Officer's findings.

B. Summary of the investigation

4. In December 2010 a member of the public made a complaint to the Compliance Officer about the use of party political logos on the website of an MP, the costs of which were claimed through the Scheme.
5. Sections 10.6 of the Second Edition of the Scheme, which was in effect at that time, stated that "*[expenditure] may not be claimed for (a) funding any material that contains a party political logo or emblem; or (b) publishing any material which could be construed as election campaign expenditure within the scope of the Political Parties, Elections and Referendums Act 2000*". Both the First Edition and the current (Third) Edition of the Scheme stated the same under sections 10.6 and 6.6 (d) and (f) respectively. The Scheme, therefore, does not provide for reimbursements of the costs of material that contains a party logo, no matter the size, location or purpose of the logo.
6. Following this complaint, the Compliance Officer carried out an inspection of all the websites of MPs where the costs of the websites had been claimed through the Scheme.
7. When Mr Berry's website was checked as part of this inspection, it was found to contain party political logos for the Conservative Party. A snapshot was taken of the site and retained as evidence.

¹ For the purposes of this statement, actions of the Compliance Officer may have been carried out by the members of his staff acting on his behalf.

8. This inspection gave the Compliance Officer a reason to believe that Mr Berry may have been reimbursed for claims under the Scheme that should not have been allowed, and on 11 April 2011 a Notice of Preliminary Investigation was issued to Mr Berry and IPSA in respect of the claims set out below.

Claim Number	Date	Category	Expense Type	Amount
50786	25/11/10	General Admin	Website - Design/Production	£411.25
50786	25/11/10	General Admin	Website - Hosting	£57.58
50786	25/11/10	General Admin	Website - Design/Production	£17.63

9. Mr Berry contacted the Compliance Officer by telephone on 15 April 2011 for further information about the Preliminary Investigation and advised the Compliance Officer that he had removed the party political logos.
10. On 26 April 2011, Mr Berry wrote to the Compliance Officer advising him he was investigating the matter, and on 3 May 2011 Mr Berry wrote a letter to the Compliance Officer which set out that Mr Berry, when commissioning his website, had specifically requested that the site be designed in a non-political manner, and that on receiving the Notice of Preliminary Investigation he had immediately had the logos removed and had advised the Compliance Officer of his actions.
11. On 7 June 2011 Mr Berry called the Compliance Officer to enquire after the investigation, and on 8 June Mr Berry met the Compliance Officer about the case. On 8 June Mr Berry also wrote to the Compliance Officer and enclosed at his own instigation a cheque for £486.46 by way of a voluntary repayment.
12. Upon request, IPSA supplied all original invoices and supporting documentation held on its files relating to the above claims.
13. On 27 June 2011, following an analysis of the documentation from IPSA and the correspondence with Mr Berry, the Compliance Officer notified Mr Berry of his decision to carry out a Substantive Investigation, on the grounds that he was satisfied that Mr Berry may have been paid an amount under the Scheme that should not have been allowed. IPSA received a copy of the Notice of Substantive Investigation on 21 July 2011.
14. Section 9(4) of the PSA provides that the Compliance Officer give the MP and IPSA an opportunity to make representations in respect of the substantive investigation.
15. On 6 July 2011, Mr Berry met the Compliance Officer to discuss the provisional findings.
16. IPSA submitted representations to the Compliance Officer in writing on 28 July 2011.

17. On 24 August, the Compliance Officer issued his Statement of Provisional Findings.
18. On 10 October Mr Berry met the Compliance Officer to discuss the Statement of Provisional Findings. No new information was introduced for the Compliance Officer to consider.

C. Findings

19. During the investigation, the Compliance Officer considered, in addition to Mr Berry's website, IPSA's validation practices and IPSA's policy position in respect of the presence of party logos and emblems on MPs' websites. He also considered the correspondence with Mr Berry and the representations submitted to him.
20. Following an assessment of the evidence in this case and having given consideration to both Mr Berry's responses and IPSA's representations, the Compliance Officer has made the provisional findings set out below.
 - i. The rules of the Scheme are clear that reimbursement may not be sought for the costs of material that contains a party political logo or emblem. IPSA has clarified that websites are covered by "material".
 - ii. Mr Berry submitted claims for costs relating to his website, and received reimbursement for these costs from IPSA, at a time when his website contained party political logos for the Conservative Party.
 - iii. Mr Berry's claims, therefore, contravened the rules of the Scheme and should not have been reimbursed.
 - iv. However, although MPs are responsible for the accuracy of the submission of their claims, Mr Berry had commissioned a website that was not party political in nature, and the presence of the logos was an oversight. It is clear that there was no intention to contravene the rules of the Scheme.
 - v. IPSA's validation effort in respect of these claims fell short. It did not meet its validation standards, which include provision that the front pages of websites for which claims are being made are checked for party political logos or campaign material, and which should have resulted in certain claims being turned down for reimbursement. IPSA is, therefore, in this case in equal part at fault as it should

have prevented reimbursements being made to Mr Berry for amounts that were not allowed under the Scheme by following its validation procedures.

21. When considering whether a repayment or penalty is appropriate in the case of a contravention of the Scheme, the Compliance Officer must consider a range of factors in order to ensure he adopts a proportionate and fair approach. The nature of the contravention, the nature of the claims that have been investigated, the context of the submission of the claims, the manner in which the claims were handled by IPSA, and Mr Berry's response are therefore relevant factors, and the Compliance Officer has provisionally found the following in respect of these:

- i. The contravention itself was minor in scale and was the result of an oversight. With the exception of the presence of the party logos, Mr Berry's website was compliant with the Scheme. Mr Berry did not gain any personal financial, political or other particular advantage from the presence of a party political logo on his website, particularly at this time in the electoral cycle. Were a similar contravention to occur in the run-up to a General Election, it is possible that a different finding would be made.
- ii. The claims that have been subject to this investigation were for paid-for services sought by Mr Berry in pursuit of his parliamentary duties.
- iii. The claims in this case were made around six months following the 2010 General Election, following which the new Scheme came into effect. IPSA has stated in its representations in respect of this case that during this period it took time for both MPs and IPSA itself to become fully familiar with the Scheme, to the extent that for much of this early period IPSA operated a "grace period" during which it returned rather than refused claims it found to be outside the rules.
- iv. IPSA's validation effort fell short as it should have prevented these claims being processed for payment.
- v. Throughout the investigation Mr Berry has acted in a helpful and responsive manner. Following the notification that a Preliminary Investigation was underway, Mr Berry took swift and welcome action to ensure the website complied with the Scheme.
- vi. In addition, Mr Berry, voluntarily and at his own instigation, sent IPSA a cheque to repay the amount for which he had received reimbursement. Consequently, Mr Berry's website is currently funded personally by him.

22. Taking these factors into account, the Compliance Officer finds that it would be neither proportionate nor reasonable to request a repayment, such as Mr Berry has already made, nor to impose penalties.
23. Further, he finds that given the legitimacy of claiming for the cost of a website that complies with the rules of the Scheme, such as Mr Berry's now does, the voluntary repayment made by Mr Berry to IPSA may be repaid to him by IPSA, should Mr Berry wish his website to be Scheme-funded.
24. The Compliance Officer also finds that IPSA has acted to strengthen its validation practices in respect of section 6.6 (d) and (f) of the Scheme and that IPSA therefore need take no additional action.

D. Case resolution

25. Mr Berry has indicated that he wishes to continue to self-fund his website. Consequently, no further action is required of Mr Berry or of IPSA.
26. The investigation is now closed.

Martyn Taylor
Compliance Officer for IPSA

1 December 2011