

Sir Ian Kennedy's speech at the Institute for Government, 22.07.2010

May I test your memory? Cast your mind back twelve months. Unless you were living on a remote island you'll remember that newspapers were full of outrage as scandal after scandal emerged about MP's expenses. The reputation of Parliament dropped to an all-time low. MPs felt the full force of the public's anger and hostility.

There were united, loud and uncompromising calls for change, for the creation of a new system. Parliament recognised and bowed before the weight of public opinion. It introduced independent regulation of expenses. It created IPSA.

We are now only a matter of weeks into that changed system. How are things going? Well, you'd be forgiven for thinking IPSA has few friends. A number of MPs are unhappy at how IPSA is working (or isn't, in their view). Some just wish that IPSA did not exist and pine for the old system which was familiar and, of course, served them well. The public, not a homogenous group, range from the uninterested to those who nurture a visceral anger at what was taking place just a year ago under the old scheme of allowances. This latter group is quick to detect any "softness" or "watering down" in IPSA's actions.

Before I offer my reflections, let me tell you where we came from. Then I'll say where I think we are. Just a matter of months ago we had nothing. No rules, no staff, no offices. Just the Board, an implementation team, clear objectives and a worrying timescale. We moved fast. At the end of February, less than five months ago, IPSA had just completed its consultation on the introduction of a new scheme for expenses. It had less than six weeks to take account of the views expressed, and then to build a system from scratch. It had to be ready

for all those MPs entering the new Parliament. It was. Induction was in place, training was on offer.

Practical problems had dogged us and were dealt with: the principal IT contractor withdrew with six weeks to go. The offices in the government's estate could not be obtained despite all our efforts, so other, cheaper, accommodation was secured. Staff then had to be recruited. All sorts of challenges, big and very big, had to be met. An external evaluation of IPSA's actions in establishing itself was carried out by the independent Office of Government Commerce. Last week it reported that the task we faced was nigh on impossible. But, and I quote, "the impossible has been delivered".

So far, so good. Next we had to develop our budget. And given the economic times, the task that IPSA faced and the audience we have, this is no straight-forward task. But, we did it. It was approved by the Treasury. Subsequently, it was approved by the Speaker's Committee. It represents a sizeable chunk of the public's money. We will be vigilant in ensuring that we provide value for money, judged not only from the perspective of MPs but also of the public, to whom we also answer.

May I say one thing about the budget, or rather the process of approving it, before I move on? Parliament established the Speaker's Committee to approve IPSA's annual estimate. As I remarked in my first speech to the Hansard Society, there is an inevitable tension here. The I in IPSA stands for independent. That's what Parliament legislated for. Yet, the regulator's means of operation is controlled by a Committee of the regulated. This is very uneasy territory. And the terms of reference of the Committee do allow it to interpret its brief in such a way as to use consideration of the cost-effectiveness of the estimate, so as to challenge aspects of the scheme or its operation on the ground that doing things a different

way would be more cost-effective. It then requires a very little jump to saying that there should be a different scheme. At that point, IPSA has lost its independent ability to devise the scheme it believes best meets the needs and concerns of the public and MPs, both of whose interests we exist to serve.

Whether this becomes a real issue or remains a theoretical possibility depends on the progress that IPSA and MPs can make in establishing effective channels of communication, rather than everything depending on an annual meeting/showdown with the Speaker's Committee. I shall return to this theme of communication later.

So we were up and running and ready for kick-off on May 7th. Let's just reflect on what we have been able to do in the past 11 weeks.

- IPSA has paid every MP their salary – including those who have not provided their bank details - and paid every staff member working for an MP who has provided the necessary details
- IPSA has held induction sessions with 638 MPs.
- IPSA has held training sessions around the country for 391 MPs' staff
- IPSA's Board and senior management has held open meetings attended by around 200 MPs
- IPSA has paid 113MPs loans and 219 advances with a collective value of over £1million
- IPSA has processed 6,353 claims for expenses from 362 MPs with a collective value of £930,000.

These operational achievements are important. They merit recognition.

But more than that, we have introduced a system of independent, external regulation of MPs expenses for the first time, ending centuries of self-regulation.

The significance of this change to our constitutional architecture cannot be overstated. Implementing it was never going to be straightforward. It constitutes a huge cultural shift. It has not yet been accepted by all MPs even though it was clear that it is what the public was demanding.

IPSA is a regulator. Regulators perform best, ie they get the best results for the regulated and the wider world, if they regulate with the understanding of the regulated. The greater ambition, though it takes longer to achieve, is to regulate with the consent of the regulated. This is a cultural challenge because it depends on perceptions, on trust, on tribal history and on behaviour. MPs work in their own way. No two MPs do the job in the same way, you will hear them say. The regulator's job is to reflect that diversity but to do so within a framework of principles and rules which are common to all. And, the regulator needs to persuade the regulated that the rules reflect their interests and are what they want to be associated with, however varied their particular activities might be. The regulator needs to persuade the regulated that the rules are designed to weed out and cut adrift those amongst them who choose to act in an unprincipled manner. Square the circle and you will see that it translates as: join us in upholding the rules and making the system work so as to distance yourself from those who might bring you or what you stand for into disrepute. The regulated acquires a stake in the notion of regulation and by default in the regulator.

This cultural change is a process; a slow process. The key challenge for IPSA is to persuade MPs that the scheme is something that MPs want to sign up to: to demonstrate their probity and distance themselves from any suggestion of the dodgy. I believe that the very large majority accept this in principle. The problem and the barrier to the necessary cultural change is the level and quality of the dialogue between MPs and IPSA. Currently, it is not as good as it should be. We need to make progress as a matter of some urgency. Understanding grows from dialogue, not through debate by megaphone. IPSA is actively working with the House to establish some sort of liaison group at which problems can be aired, solutions proposed and relationships fostered.

Currently, all too often, issues and concerns are not addressed directly to us. They are played out in hyperbole through the media. We find ourselves in a situation where myths are peddled with such enthusiasm that they become received wisdom. It is the 'have you heard', passed enthusiastically around with an embellishment at each telling. IPSA won't pay advances, IPSA costs more than the old system, the compliance officer is a detective from the Met, IPSA has relationships with private suppliers and is making a profit by forcing MPs to do business with them, IPSA's rules only allow for three members of staff on the minimum wage, IPSA won't cover maternity costs. And the list goes on. All of these are claims that have rained down on us, all made with gusto - and every one untrue.

IPSA's lot is the lot of any newly created body which represents a break with the past. But, we are also contending with additional factors, beyond newness, which make IPSA's position that much more challenging. First IPSA is a regulatory body. Regulators attract opprobrium from those who are regulated, at least initially. They are described as oppressive, bureaucratic, wasteful. Secondly, IPSA was the child of scandal and outrage. It

represented Parliament's reaction to its own excesses. Political leaders vied with each other to see who could wear the hairiest shirt. When Sir Christopher Kelly offered a particularly hairy version, with MPs packed into barracks, the cry went up "implement Kelly". Of course, many of the rank and file hated what Kelly recommended. But, it was not wise to say so! So, ambivalence or contradiction was IPSA's midwife. Thirdly, IPSA exists to regulate a constituency which is understandably jealous of its constitutional privileges and its independence. It has not known any system of external scrutiny for hundreds of years, save from the fourth estate. It is one of the peculiar ironies of fate that MPs voted en masse for the creation of IPSA, only for some, the refuseniks, to expend a great deal of energy criticising it and its staff. IPSA's staff do not deserve this. They are busting a gut to get the new system to a steady state. I and my colleagues on the Board welcome constructive engagement, but it must be constructive.

Clearly, IPSA has to do better to communicate with MPs, there is no question about that. But this is a two way street. MPs have their part to play. We need to be able to have a more mature kind of discussion –based on facts.

When we first launched IPSA we said our intention was to introduce a scheme of rules: a rules-based system to replace the vague and apparently significantly flexible approach previously in place. Then we set out three fundamental criteria which the rules must satisfy: they must be fair, workable and transparent.

So, are the rules fair? Obviously, at one level, fairness is in the eye of the beholder. But, there are certain more objective points of reference. They include the recommendations of the Committee on Standards in Public Life, chaired by Sir Christopher Kelly, and the responses of those whom we consulted in setting up the scheme, including, crucially,

members of the public. By and large, the scheme accorded with the views which emerged from these various sources. We differed, for example, from Kelly as regards travelling first class on public transport, in that we opted for standard class, a policy which has now been extended across Whitehall. We also differed in allowing for the employment of what we called “connected parties” aka family members. We provided for trips at the taxpayers’ expense by MPs’ family members, despite the scepticism of much of the public. What these and the many other decisions we took illustrate, I would suggest, is that we respected our mandate to be independent, evaluated the various arguments and reached what we considered to be fair conclusions. Some of these involved drawing a line. And, of course, when you draw lines someone may fall just on the wrong side and feel aggrieved. This has happened. It does not make the rule unfair. Nor does it mean that ad hoc deviations from the rule should be introduced, because therein lies the unravelling of any rule and a return to the casuistic, or nod and a wink schools of regulation. What it requires is some sensible adjustment to cover contingencies which may from time to time arise, if, for example, the House sits late and the last train has gone. After all, when we drew up the scheme, we were not able to predict a Coalition government, an emergency Finance Bill and efforts by the Opposition to keep the House up till all hours, all in July when the less expensive hotels in London are full of tourists! Had we able to do so, we might be otherwise employed!

Let me take the criterion of transparency next. This is a key to the whole system. It would be wrong to say that it is the only key, since transparency does not exist in the abstract. You have to be transparent about something: in our case, the rules and the conduct of MPs in relation to the rules. But, transparency is of critical importance and is recognised as so by MP and public alike. The climate now and for some time to come is one in which the

conduct of MPs in their use of the public's money is subject to intense scrutiny. As one of the members of the Speaker's Committee remarked when we appeared before them for the approval of our estimate, we have produced a system which makes it most unlikely that anyone will seek to take liberties. I quote "If there is one thing that you have achieved – you have actually achieved more than one thing – it is that any Member of Parliament who tries to fiddle their expenses or stretch the envelope would have to have their head seen to...". I take this as a compliment for IPSA and all the hard work of the staff, so ably led by Andrew McDonald, the Chief Executive.

Of course, transparency is not without its pitfalls. I don't just refer to the need to protect MPs' safety and security, of person and information. These are exceedingly important and at the forefront of how we intend to approach our duty to be transparent. I also refer to what MPs may do during what in other contexts is called the learning curve. The system that we've introduced is something of a culture shock to some. Not only are we placing, quite rightly in our view, the onus on MPs to take responsibility for what they seek reimbursement for, but we are requiring them to do so using a modern technological approach which many may have only a limited acquaintance with. Mistakes, honest mistakes will be made. I know of one example when an MP pressed the "send" key and then just to make sure, or to assuage his/her uncertainty, pressed it again several more times. The result: several claims for the same expenses! What fun for the Barnstable Bugle. What horror for the MP. A blind adherence to transparency would mean that this claim (or these claims) would be refused and the refusal published under the name of the relevant MP. But, I hope that we are not blind. It is quite clear that a grace period is needed during which MPs

can be helped past these and similar hurdles as the system beds in. We will set out the details of this shortly.

This is how a regulator should behave. It gives confidence to the regulated that transparency is a means of letting the world in, but the regulated deserve and the public accepts that there should be a chance to get things straight first. Of course, once the system is operating more smoothly, transparency will be operated in all its brightness. Indeed, spot audits and the like will be introduced. But, we need to take one step at a time.

Now, what about workable, the third factor in our mantra. This is where the water gets choppy. A number of observations have and are being made which are critical of the system that we have introduced. I can't address them all here but I must, obviously, comment on some. The first thing to say is that many of them are expressed in the form of adjectives which, though rhetorically satisfying to the author of them, are a bit short on what the problem is and how we might help. And, how might we help is the default position of the responsible regulator, let it be understood. To say that the system is "clunky", "bureaucratic", "time-consuming" and so on doesn't get us very far. Take "time-consuming". Much has been made of the time that MPs must dedicate to filing their claims. The assertion appears to be that time spent on expenses is time not spent on doing the job of MP. Well, it's not for me to determine what an MP should do with his/her time. But, I venture to suggest that when the taxpayer makes available to MPs tens of thousands of pounds, and given the memories of recent events, it *is* a part of an MP's job to render an account of what has been done with that money. That's part of the deal between MP and the electorate which IPSA exists to facilitate. Now, of course, if the time taken is excessive in proportion to the importance of the task when set against the other calls on an MP's time,

then something needs to be done. But, I venture to suggest that what we are witnessing is the teething troubles of some, rather than some fundamental flaw.

Let me look at some of the other concerns expressed about the system's workability. First, let's take the traffic in e-mails and telephone calls. We have dealt with around 6,000 emails and a similar number of phone calls in less than three months. We would like to be handling both more expeditiously. But, as a regulator we must also point to the concomitant duty on MPs to familiarise themselves with the rules and accompanying guidance. Quite a large number of the interactions would then evaporate. Imagine that an MP telephones and asks why the rent on the lease of his constituency office has not been paid yet by IPSA. Alarm bells would go off. Why would we be getting this call? It is a fundamental premise of the rules that currently direct payments will not be made by IPSA. The MP must pay and then recover the cost. This is what the rules and the guidance spell out in the clearest detail. Indeed, the whole system of advances or loans was set up to assist him/her in the process. To offer one more example, IPSA was obliged to pay MPs their salaries. To do so, we needed the details of MPs' bank accounts so as to transfer the money. By the date for letting us have this information, over 250 MPs had not provided them. By the day of payment there were still over 50 MPs whose details we did not have. Yet all MPs were paid on time. We would have welcomed a less one-sided approach to the new system!

To be judged workable, the system has to deliver money to the MP on presentation of the evidence of payment in a timely manner. Some say that the system is too slow and that they are in debt as a consequence. We have made advances and loans available, and paid out hundreds of thousands on this basis to help MPs to meet short-term indebtedness. But, that said, we were initially slower than we would have wished. We, as well as MPs, were

learning how to operate the new system. And part of that learning involved making sure that MPs provided the necessary documentation and that it did not, for example, straddle the periods before (as regards which we have no jurisdiction) and after the election: a relatively common occurrence. As we and MPs have become more adept, payments have been made more speedily, in keeping with our service target of payment within 12 days. Of course, to receive payment a claim has to be made.

Are these the teething problems of an organisation created from scratch at breakneck speed, or proof of the endemic failings of a flawed organisation. To the gainsayers, as the OGC described them, it is the latter. A more measured response would opt for the former.

IPSA has introduced independent regulation. IPSA has introduced rules accepted as fair. IPSA has paid all MPs and their staff. IPSA has processed significant sums of the public's money to MPs to help them do their jobs. Not everything is perfect, but that is the accurate situation.

For the future, we need to move away from expenses being an issue. Doing so requires effective dialogue. IPSA has made it clear that we are anxious to hear from and listen to MPs and the public as regards improvements and adjustments to the scheme which may be necessary or desirable. We hope that by the various adjustments that we have already made, we have demonstrated our willingness to do so. But, as I've said, dialogue is a two-way process. It is not easy when the dominant strain is one of negativity. We recognise that passions have sometimes run high as huge cultural and practical changes have had to be dealt with by busy MPs. For our part, we have tried, with varying degrees of success, to explain that an organisation which began from scratch and had to install not only a functioning system but also a new piece of constitutional architecture in an impossible time

frame, will not get everything right initially. But, we have sought to reach out to help MPs who have found it difficult to find their way through the system. And, more generally, we have been able to demonstrate real progress and a growing satisfaction that the job is getting done. What we need now is to build on what I detect to be a growing, if not rapprochement, then at least engagement. We need a way to talk, frankly but constructively away from the microphones and cameras. We need to build up a degree of trust and mutual understanding, even respect, for what we separately are charged with doing by way of public service. In practical terms, as I have already said, this means, among other things the establishment of some sort of liaison group where my colleagues on the Board and I can meet whomever Mr Speaker and MPs regard as appropriate. And the public should also be represented, as Parliament wisely decided in establishing the Speaker's Committee to which we submit our annual estimate. Whether the group should be the Speaker's Committee itself is not for us to choose. That there should be a group is agreed by all. We look forward to its early establishment.

Much of what I have said is in the form of an end of term report. But, I should not end by only looking backwards. What of the future? Well, obviously, what I have described as the bedding down of IPSA's system must proceed apace. We must reach a steady state as soon as possible. Then, we can move on to the larger and infinitely more challenging task of addressing the further remit given to us by Parliament at the end of the last Parliament. I refer to the setting of MPs' salaries.

IPSA has broken the link between expenses and pay. This was right. Expenses should not be a backdoor way of supplementing salaries. That way lies danger, as the last Parliament discovered in all its horror. Pay has to be addressed in its own right. And doing so confronts

us with a range of challenges. We must initiate and orchestrate a national conversation to answer what we have called the big exam question: what does a modern 21st century legislator need from the public purse to do the job s/he was elected to do? The public and MPs must be part of this conversation. It must include an understanding of what a 21st century legislator does and what, in the view of the electorate s/he should do. What, for example, is or should be the balance between work in Westminster and work in the constituency? What do the electorate want and what do MPs think is right? The answer has implications not just for expenses but also, perhaps, for any comparator to be used in trying to assess the appropriate level of salary. And, any such conversation can only be had when the public's confidence in MPs and in our democratic institutions has been sufficiently restored. IPSA will play its part in this process. And, ultimately, it will be for IPSA to decide. But others need to engage and engage constructively. The future promises to be interesting.

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