TC02621

Appeal number: TC/2012/03497

MP expenses – refusal by Independent Parliamentary Standards Authority of claim for travel expenses – MP's journey from his Dundee constituency to Westminster effected in two stages – at the first stage he travelled from Dundee to Glasgow to attend a political meeting –at the second stage he travelled from Glasgow to Central London – Compliance Officer for IPSA conceded second stage was claimable – whether first stage was claimable as part of an overall journey necessary for the performance of parliamentary functions

FIRST-TIER TRIBUNAL
TAX CHAMBER

JAMES McGOVERN MP **Appellant**

- and -

THE COMPLIANCE OFFICER FOR THE INDEPENDENT PARLIAMENTARY STANDARDS AUTHORITY **Respondent**

TRIBUNAL: JUDGE ROGER BERNER
MS GILL HUNTER

Sitting in public at 45 Bedford Square, London on 14 March 2013

Edward Cooper, Slater & Gordon, for the Appellant

Ben Hooper, instructed by Bates Wells & Braithwaite London LLP, for the Respondent

DECISION

1. This is an appeal under the Parliamentary Standards Act 2009 ("PSA"). The PSA was Parliament's response to what was popularly known as the MP expenses scandal. It created a new body, the Independent Parliamentary Standards Authority ("IPSA"), which became responsible for preparing, reviewing and revising an allowances scheme for MPs ("the Scheme"). The PSA (as amended by the Constitutional Reform and Governance Act 2010) also created a separate and independent office holder, the Compliance Officer for IPSA. It is, for the reasons we shall describe, the Compliance Officer who is the Respondent in this appeal.

2. This is the first appeal of its nature since jurisdiction in respect of these matters was conferred on this chamber of the First-tier Tribunal. It involves, in the event, so far as the Appellant, Mr McGovern, and IPSA are concerned a modest amount of money. There is, however, a principle at stake.

3. We have referred to the MP expenses scandal as the genesis of the PSA and IPSA. We should at the outset make it clear that this case has nothing to do with scandal. It is not said that Mr McGovern has in any way sought to abuse the Scheme, or any aspect of the system for meeting the proper expenses incurred by MPs in performing their parliamentary functions. He has, as will be seen from the agreed facts, been entirely open and candid in his dealings with IPSA and the Compliance Officer. This case is concerned only with a technical interpretation of certain elements of the Scheme. Mr McGovern has taken a view of how the Scheme should operate in respect of particular expenditure he incurred. IPSA and the Compliance Officer have taken a different view. As this is the first case of its kind, there has been no previous decision on the point. Both views are respectable and, as the proceedings before us have demonstrated, arguable.

4. Mr McGovern is the Member of Parliament for the constituency of Dundee West. This appeal concerns the costs of Mr McGovern's travel on 5 September 2011. On that date Mr McGovern travelled by train from Dundee to Glasgow to attend a Labour Party meeting. He then travelled from Glasgow to Heathrow, by air, and then on to Central London by train. Before us the Dundee-Glasgow travel was referred to as the "first leg" of Mr McGovern's journey; the Glasgow-Central London travel was the "second leg". Mr McGovern paid for his travel by using an IPSA payment card.

5. IPSA determined that Mr McGovern was not entitled to any of the associated travel costs under the Scheme. At the relevant time the version of the Scheme in force was the Third edition; that has since been superseded. It is the Third edition we are required to consider in connection with this appeal. However, relevantly to the circumstances of this appeal, a new edition, the Fifth, was published on 13 March 2013 (the day before the hearing of this appeal) and will have effect from 1 April 2013. As we shall describe, Mr Cooper sought to rely on certain changes to the treatment of expenses of the nature at issue in this appeal that are to come into force under the Fifth edition of the Scheme as supporting his argument on the proper interpretation of the Third edition.

6. Under the procedure in place, Mr McGovern requested that the Compliance Officer review IPSA's determination. The Compliance Officer upheld it. It is from that review decision that Mr McGovern now appeals to this Tribunal in accordance with s 6A(6) of the PSA.

7. Following the making of the appeal, on 1 October 2012 the Compliance Officer accepted that Mr McGovern's claim should be paid in respect of the second leg of the overall journey. The claim in this respect was accepted under para 9.3.d of the Scheme (which we shall set out later). The Compliance Officer maintains that Mr McGovern is not entitled to be paid for the cost of the first leg. For Mr McGovern, Mr Cooper did not contend that the first leg, if a journey on its own and in isolation, should be paid. His submission was that the first leg should be viewed as part of the journey from Dundee to London (albeit via Glasgow) which, as a whole, should be paid, as it comprised a journey undertaken for Parliamentary purposes (albeit with a diversion) under para 9.2.a of the Scheme.

The legislative background

8. We are concerned in this appeal with the application of the Scheme to the expense in question. The legislation which underpins the Scheme is not itself in issue. However, as this is the first appeal of its kind, we think it is helpful if we set out the framework under which the Scheme has been established, and the nature of the appeal to this Tribunal.

9. IPSA was established by s 3(1) PSA.

10. The office of the Compliance Officer was created by s 3(3). The Compliance Officer is appointed by IPSA for a single fixed term on the basis of fair and open competition, and may only be removed by IPSA in certain limited circumstances (see Sch 2, PSA).

11. Section 3A provides:

> "(1) In carrying out its functions the IPSA must have regard to the principle that it should act in a way which is efficient, cost-effective and transparent.
>
> (2) In carrying out its functions the IPSA must have regard to the principle that members of the House of Commons should be supported in efficiently, cost-effectively and transparently carrying out their Parliamentary functions."

12. By s 5(3) IPSA must prepare the Scheme, and review it regularly and revise it as appropriate. In doing so IPSA must consult a number of persons and bodies, including the Speaker of the House of Commons and the Treasury (s 5(4)). The PSA imposes important obligations regarding transparency, including a requirement that the Scheme and any revision be laid before the House of Commons and be published by IPSA, along with a statement of reasons for adopting or revising the Scheme.

13. In order to be paid, an allowance under the Scheme has to be claimed. On receipt of a claim IPSA must determine to allow the claim, in whole or in part, or refuse it. IPSA must publish such information as it considers appropriate in respect of claims for and payment of allowances (s 6 PSA).

14. The review obligation of the Compliance Officer is set out in s 6A(2) PSA. On a refusal or only partial allowance of a claim the MP must first ask IPSA to reconsider its determination and give it a reasonable opportunity to do so. The MP may then ask the Compliance Officer to review the determination (or any altered one arising out of IPSA's own reconsideration). On review the Compliance Officer must decide whether or not to confirm the determination (or altered determination) or alter it.

15. Section 6A(6) – (12) concerns appeals, and those sub-sections are worth setting out in full:

> "(6) The member may appeal to the First-tier Tribunal against a decision of the Compliance Officer under subsection (2)(b).
>
> (7) The appeal must be brought before the end of the period of 28 days beginning with the day on which notice of the decision is sent to the member (unless the Tribunal directs that it may be brought after the end of the period).
>
> (8) The appeal is by way of a rehearing.
>
> (9) On an appeal under subsection (6) the Tribunal may –
>
> (a) allow the appeal in whole or in part, or
>
> (b) dismiss the appeal.
>
> (10) If the Tribunal allows the appeal (in whole or in part) it may –
>
> (a) order the IPSA to make any payments or adjustments necessary to give effect to that decision;
>
> (b) make any other order it thinks fit.
>
> (11) If the Tribunal dismisses the appeal it may make any other order it thinks fit.
>
> (12)The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal)."

16. The Compliance Officer is not an officer of IPSA. His status is separate and independent. It is the Compliance Officer who is the Respondent to this appeal; IPSA is not a party.

Jurisdiction

17. It will be noted from s 6A(8) PSA that this appeal is by way of rehearing. It is not an appeal on a question of law, nor is it in the nature of a judicial review of the decision of the Compliance Officer. In his skeleton argument Mr Hooper recognised that it is for the Tribunal to make its own determination of the matter, starting as it were with a fresh canvas. However, he went on to assert that it was necessary that the Tribunal show the appropriate degree of deference to the view of the Compliance

Officer and that of IPSA. He sought in his skeleton argument to support this proposition by arguing that it flowed from the fact that Parliament has entrusted the principal decision making functions to IPSA and the Compliance Officer, referring to two judicial review cases, namely *R v Social Fund Inspector, ex parte Ali* (1994) 6 Admin LR 205, per Brooke J (as he then was) at p 210E, and from the fact that the underlying issue is about the allocation of public funds, referring in that respect to *R v Secretary of State for the Environment, ex parte Hammersmith & Fulham London Borough Council* [1991] 1 AC 521, per Lord Bridge at p 593F-H).

18. We do not accept Mr Hooper's proposition. As we have said, an appeal of this nature is not in the nature of a review of the decision of the Compliance Officer, or the determination of IPSA. Parliament has entrusted the making of a fresh decision, untrammelled by what has previously been decided, to the Tribunal. Nor does the fact that the case is concerned with the allocation of public funds alter the nature of the proceedings which Parliament has determined should be undertaken in the Tribunal. In particular, each of IPSA, the Compliance Officer and the Tribunal is concerned only with the proper application of the Scheme, and not (as was the case in *Hammersmith*) with the exercise of political judgment.

The Scheme

19. The Third edition of the Scheme was introduced in May 2011 and was replaced by an updated edition in April 2012. A Fifth edition is, as we have mentioned, due to come into effect in April 2013. It is the Third edition that is material to this appeal, as it was the edition in force at the time of the claim.

20. In the Introduction to the Third edition, the Scheme document states that:

> "This Scheme is intended to ensure that Members of Parliament are reimbursed for costs and provision of support necessarily incurred in the performance of their parliamentary functions."

21. That intention, and the boundaries within which, as a general matter, expenses are to be reimbursed, is described in a number of fundamental principles, which overlay the detailed provisions of the Scheme. Those fundamental principles are set out in Schedule 1 to the Scheme, and relevantly include:

> "2. Members of Parliament have the right to be reimbursed for unavoidable costs where they are incurred wholly, exclusively and necessarily in the performance of their parliamentary functions, but not otherwise.
>
> 3. Members of Parliament must not exploit the system for personal financial advantage, nor to confer an undue advantage on a political organisation.
>
> ...
>
> 8. The Scheme should provide value for the taxpayer. Value for money should not necessarily be judged by reference to financial costs alone.

> 9. Arrangements should be flexible enough to take account of the diverse working patters and demands placed upon individual MPs, and should not unduly deter representation from all sections of society.
>
> 10. The system should be clear and understandable. If it is difficult to explain an element of the system in terms which the general public will regard as reasonable, that is a powerful argument against it.
>
> 11. The system should prohibit MPs from entering into arrangements which might appear to create a conflict of interests in the use of public resources."

22. These and the other fundamental principles are those which the framers of the detailed Scheme provisions have to observe. They form the foundation of the Scheme, and as such the detailed provisions of the Scheme fall to be construed in the light of the fundamental principles. Where any doubt arises as to the scope or effect of a Scheme provision, it will accordingly fall to be construed so far as possible so as to conform with the fundamental principles.

23. We are here concerned with travel expenses. Those are covered by the Scheme in Chapter 9 (Travel and Subsistence Expenditure). The key provisions for the purpose of this appeal are those in 9.1 – 9.3:

> "9.1 Travel and subsistence claims may be made for the costs of travel, and travel-related expenditure undertaken by an MP or others, which are necessarily incurred in the performance of the MP's parliamentary functions.
>
> 9.2 MPs may claim for Travel and Subsistence Expenditure for journeys which are necessary for the performance of their parliamentary functions, and fall into one of the following categories:
>
> > a. for MPs who are eligible for Accommodation Expenditure, journeys between any point in the constituency (or a home or office within 20 miles of their constituency boundary) and Westminster or a London area home;
> >
> > ...
> >
> > d. extended UK travel under paragraph 9.3 ...
>
> 9.3 MPs may only claim for extended UK travel if they can demonstrate that the journey undertaken was made for at least one of the following reasons:
>
> a. a matter currently before the House;
>
> b. a matter currently before a Select Committee on which the MP serves, for which travel funding is not provided by another source;
>
> c. a constituent or general constituency matter; or
>
> d. any other necessary travel for parliamentary functions for which funding is not provided by another source."

24. Guidance is given in respect of certain Scheme provisions. In the case of the extended UK travel provision in para 9.3, that guidance precludes claims in certain specific instances, including for "journeys made on Party business". The exclusion of

claims for costs incurred for party political purposes is a theme, along with the requirement that expenses be necessarily incurred in or for the performance of parliamentary functions, that runs through the Scheme as a whole.

The Fifth edition of the Scheme

25. A significant change, in the context of the facts of this appeal, has been made to the Scheme in its Fifth edition. Paragraph 9.3 has been substantially recast. A new sub-paragraph has been included (now para 9.3.b) within the scope of extended UK travel for which a claim may be made:

> "Journeys from Westminster to the constituency (or vice versa) that involved a diversion for a non-parliamentary purpose. The maximum claimable fare is the anytime standard open fare of the direct journey between Westminster and the constituency."

The former para 9.3.d has also been replaced by a new para 9.3.c, which now includes a restriction on the amount that can be claimed for necessary travel to Westminster or the constituency from other places in the UK. From April 2013 such a claim can only be made for the lesser of the anytime standard open fare of the direct journey between the constituency and Westminster and the value of the claim from the starting point to the destination.

26. These changes were made following a review by IPSA and a consultation with the public and interested bodies in November 2012. The question was raised as to whether the cost of journeys between Westminster and the constituency, but which were diverted along the way for a non-parliamentary commitment should be reimbursed. The review made the point (at para 43) that a journey, for example, from the constituency to the diverted destination was not claimable, because it was not for a parliamentary function, but the journey from the diverted destination to Westminster arguably was, as it was necessary for the MP to return to Westminster. However, IPSA stated, it had to date refused claims in respect of both journeys if the diversion was for party political purposes.

27. Following the consultation, and in the 2013 Annual Review document published on 13 March 2013, IPSA announced its conclusions (para 25):

> "The purpose of a journey between an MP's constituency and London must be for parliamentary purposes (otherwise the MP could not claim for it at all). The purpose or location of the diversion does not change this. The need for travel is a consequence of the nature of MPs' work in two locations. Whatever the reason for the diversion, be it political or otherwise, it is not right that an MP is penalised for making an indirect journey by being able to claim nothing at all for a journey that is necessary for their parliamentary functions. In view of this, we will amend the Scheme to allow MPs to claim for diverted journeys between their constituency and London provided that they would be eligible to claim for a direct journey, and will cap the claim at the cost of the standard open fare for that direct journey."

28. No change has been made to paras 9.1 and 9.2, nor to any of the fundamental principles. These provisions remain as they appeared in the Third edition.

Construction of the Scheme

29. It is clear to us that a common sense approach must be taken to construction of the Scheme, and that care should be taken to avoid an unduly legalistic interpretation. The Scheme is written in terms intended to be both clear and capable of being readily understood by the general public. That accords with the fundamental principles.

30. The language of the Scheme is sometimes imprecise. We noted during the hearing for example the reference, in para 9.1, to expenditure being necessarily incurred *in* the performance of parliamentary functions, as opposed to the reference in para 9.2 to journeys *for* the performance of those functions. Such a use of language might indicate a difference between cases of expenditure in the course of the MP carrying out the parliamentary functions and expenditure to enable him to perform those functions (such as expenditure in travelling to Westminster). But this would, we consider, be to take too legalistic an approach. Those terms seem to be used interchangeably, as can be seen by the use of "in the performance" in fundamental principle 2 which, if construed restrictively, would exclude travel from the constituency to Westminster.

31. The language of the Scheme should thus be construed according to the natural meaning it would have to the general public. It should also, as we have described, be construed so as to conform, so far as possible, with the fundamental principles.

The facts

32. The case proceeded entirely on the basis of agreed facts, and we heard no evidence. We have already set out the salient facts, but for completeness the following is the text of the statement of agreed facts (amended by us to refer to Mr McGovern by name, instead of as the Appellant, and to the Compliance Officer, instead of to the Respondent):

> "1. Mr McGovern is the Member of Parliament for Dundee West.
>
> 2. On 5 September 2011, Mr McGovern travelled from Dundee to Glasgow by rail in order to attend a Labour party meeting. Mr McGovern then travelled from Glasgow to Central London by air in order to attend Parliamentary business.
>
> 3. The costs associated with Mr McGovern's travel on 5 September 2011 are as follows:
>
> a. Dundee to Glasgow (single rail fare): £23.90
> b. Glasgow to Heathrow (single air fare; business class): £249.45
> c. Heathrow to Central London (single rail fare): £23.00
>
> Total: £296.35

4. Mr McGovern pre-paid for these journeys using a payment card provided to him by the Independent Parliamentary Standards Authority ("IPSA").

5. IPSA decided that Mr McGovern was not entitled to recover any of these sums and thus sought repayment of the pre-paid amount.

6. Following a request from Mr McGovern to review the determination of IPSA, the Compliance Officer, on 31 January 2012, upheld the decision of IPSA to refuse payment of any of Mr McGovern's travel expenses.

7. The costs that would have been incurred by Mr McGovern if he had flown from Dundee to Central London (had he returned to Dundee from Glasgow after attending the Labour Party meeting) would have exceeded the cost associated with his actual journey on 5 September 2011from Glasgow to Heathrow to Central London. In particular, the flight from Dundee to London city airport would have cost £301.85.

8. The costs that would have been incurred by Mr McGovern if he had travelled by train from Dundee to Central London would have been substantially less than the cost associated with his actual journey on 5 September 2011. Between March and October 2011, Mr McGovern travelled by train from Dundee to Central London on eight occasions. The cost of the tickets for those journeys ranged from £78.50 to £120, and the average cost was £107.

9. On other occasions between March and October 2011, Mr McGovern travelled by air from Dundee to Central London. The difference between the usual travel time between using air travel to get from Dundee to Westminster to using train travel for the same journey is at least 4 hours (and sometimes more). Many MPs from the Dundee area use air as a regular method of travel from Dundee to London. Mr McGovern tends to use the train in circumstances where, due to the limited availability of flights between Dundee and London, train travel will secure his arrival in Westminster sooner than air travel."

Discussion

33. We are concerned with the question whether, instead of only allowing that part of Mr McGovern's travel expense that related to the travel from Glasgow to Central London (as has now been conceded), the whole expense for the entire journey, comprising both legs, should be allowed.

34. In his skeleton argument, and in submissions before us, Mr Cooper made clear that his case was not in respect of the individual journey from Dundee to Glasgow. The argument was that this first leg should be reimbursed as part of the overall journey from Dundee to Central London, via Glasgow.

35. Mr Cooper characterised the basis of the disallowance of this expense as being because Mr McGovern had attended the Labour Party meeting in Glasgow. He argued that if this were the approach then the following expenses would also not be recoverable:

(1) If Mr McGovern had travelled from Dundee to London by train (which passes through Peterborough), and had attended a Labour party event en route in Peterborough before travelling on to Westminster, the journey from Dundee to Peterborough would not be recoverable.

(2) Had Mr McGovern travelled by air from Dundee to London City airport, and had attended after landing a Labour Party event in East London before travelling to Westminster, he would not have been able to recover the cost of travel from Dundee to London City airport.

36. Based on those hypotheses, Mr Cooper argued that this would not be a sensible interpretation of the Scheme. Such an interpretation would suggest that Mr McGovern would effectively be required to return to Dundee to restart his journey in order to secure repayment of his expenses. There was no justification, he submitted, in denying the claim on the footing that it would have provided any undue advantage to a political party.

37. Mr Cooper argued that in each of the examples he gave the travel would have been for the purpose of performing parliamentary functions, albeit that the journey would have been interrupted along the way for a Labour party event. He submitted that treating the whole journey as one for parliamentary purposes would acknowledge the flexibility that is to be expected of MPs; he submitted further that this would be seen as entirely reasonable by the public. He suggested that there was no reason why an MP should have to pay the not inexpensive cost of travel when along the way they complete other duties, or for example visit family or friends.

38. The hypothetical examples were put forward by Mr Cooper as cases where there had been no diversion in the journey. He argued that the mere fact of a diversion should not change the position. The Scheme, he said, did not dictate how any MP should travel from his constituency to Westminster; there was no requirement that an MP should take a direct route or indeed the cheapest route. Fundamental principle 9 allowed flexibility in these matters, acknowledging as it did that MPs have lives outside of parliamentary business.

39. Mr Cooper argued that in this case there was no extra cost to the taxpayer. Permitting payment for the whole journey would be consistent with acknowledgement of the flexibility anticipated of MPs. It would not in any event have been unreasonable for Mr McGovern to travel from Dundee, a regional airport with limited flights to London, to Glasgow, a major international airport with more frequent flights to London, in order to fly to London. This would not then be a case of a diverted journey, but would equate with the example of the Labour party event in East London.

40. Mr Cooper acknowledged that the journey from Dundee to Glasgow, if taken in isolation, might correctly be characterised as otherwise than "wholly, exclusively and necessarily in the performance" of Mr McGovern's parliamentary function. However, he argued that that journey formed part of a full journey from Dundee to Westminster which was undertaken by Mr McGovern in order to perform his parliamentary functions in Westminster. He submitted that the full journey (Dundee to Glasgow to

Westminster) was a journey between a point in Mr McGovern's constituency (Dundee) and Westminster, and as such fell within para 9.2.a of the Scheme.

41. In support of his arguments Mr Cooper drew our attention to the terms of the Fifth edition of the Scheme, so recently promulgated. The acceptance of claims for diverted journeys of the very character of that in issue in this case undermined, he submitted, the Compliance Officer's case based on fundamental principle 2. That principle, along with the other fundamental principles, remains unchanged, as do paras 9.1 and 9.2. If the new para 9.3.b was now expressly to permit such claims, it could not, submitted Mr Cooper, be argued that fundamental principle 2 would preclude such a claim. Such a claim must be capable of being made consistently with fundamental principle 2.

42. We do not accept Mr Cooper's arguments. In our judgment the correct approach to claims potentially falling within para 9.2.a is a two-stage one. First, it is necessary to identify the journey or journeys in question. Secondly, once the relevant journey has been identified, it has to be considered whether such a journey has been necessary for the performance of the MP's parliamentary functions.

43. In this case we have no doubt that the answer to the first stage is that the travel undertaken by Mr McGovern on the day in question consisted of two separate journeys. We accept Mr Hooper's submission in this respect. The first was the journey from Dundee to Glasgow, the second was from Glasgow to Central London. It is not possible in this case to analyse the travel undertaken by Mr McGovern as a single journey. To constitute a single journey, travel would have to be essentially uninterrupted, save for reasonably unavoidable travel interruptions, which would include necessary stopovers, or unforeseen service problems.

44. It does not matter whether the intermediate destination is geographically closer to the ultimate destination. Nor does it matter whether the intermediate destination is on the direct route between the constituency and Westminster. The question in each case is whether there has been a single journey, or more than one journey.

45. As Mr Hooper submitted, the question is one of purpose. Purpose is relevant to both stages of the proper approach. If the purpose of travel is such as to identify an intermediate place as a destination in its own right, then that is an indicator that the travel to that destination is a discrete journey. If, on the other hand, the purpose is to travel directly to Westminster from the constituency, for example, that will indicate a single journey, even if circumstances conspire to interrupt it. The question then is whether the identified journey or journeys is or are necessary for the performance of parliamentary functions. Purpose enters that equation as well. If a purpose of a journey is otherwise than to perform parliamentary functions, then it will not be capable of being claimed. If it is for the purpose of performing parliamentary functions, then a claim may be made.

46. The overarching requirement of fundamental principle 2 is that expenses must be incurred wholly, exclusively and necessarily in the performance of the parliamentary functions. That means in general that there can be no duality of

purpose. Any non-parliamentary purpose will in principle disqualify the expenditure. It will, however, in any case be important to draw a distinction between purpose and effect.

47. This is not, on the other hand, an absolute rule. It is a principle on which the Scheme is founded, but the Scheme may make provision which gives effect to that principle in substance, whilst not following its strict form. The new clause 9.3.b in the Fifth edition of the Scheme is an example of this. That new provision goes outside the strict requirement that an expense must be incurred wholly, exclusively and necessarily in the performance of parliamentary functions by expressly permitting a diversion for a non-parliamentary purpose. But it observes the principle in substance and effect by restricting the maximum claimable fare to that which would have been incurred on a direct journey.

48. That restriction is what conforms new para 9.3.b to fundamental principle 2. There is no equivalent in the Third edition of the Scheme. It cannot therefore be argued that all journeys that include a diversion for a non-parliamentary purpose should be regarded as satisfying the requirements of the Scheme in the form of its Third edition simply because elements of the Scheme, in particular fundamental principle 2, appear in the same form both in the Third and Fifth editions.

49. The ascertainment of purpose will of course depend on the particular facts and circumstances. In the absence of relevant evidence as to purpose, the usefulness of hypothetical examples is limited. We do not consider that Mr Cooper's reference to such examples can assist us in the determination of Mr McGovern's actual claim.

50. Having found that the travel from Dundee to Glasgow was a separate journey, the only conclusion we can reach is that, as Mr McGovern has agreed, the purpose of that journey was to enable Mr McGovern to attend the Labour party meeting. The expense of that journey was accordingly not necessarily incurred in (or for) the performance of Mr McGovern's parliamentary duties, and cannot be claimed under para 9.1. Nor can it be claimed under para 9.2.a, because the journey in question was not between Dundee (the constituency) and Westminster. It was not argued that there was any ancillary purpose in accessing better flight timetables in Glasgow, but even if there had been, the expense would not have been exclusively incurred in the performance of parliamentary functions, and so would also fail to have qualified for reimbursement.

51. One effect of an analysis of Mr McGovern's travel on the relevant day as two separate journeys is that the separate journey from Glasgow to Central London, although not capable of being reimbursed under para 9.2.a (because Glasgow is not Mr McGovern's constituency), was capable of being reimbursed under para 9.3.d as extended UK travel, as the Compliance Officer has conceded in this appeal.

Decision

52. This appeal is, having regard to the concession made by the Compliance Officer, allowed in part. There can be no recovery by IPSA of the total costs of the

travel from Glasgow to Central London of £272.45, but we find that the cost of the travel from Dundee to Glasgow (£23.90) was properly refused under the Scheme.

53. Mr Hooper invited us to exercise our power under s 6A(10)(a) PSA to order IPSA to make such adjustments as are necessary to ensure that the cost of the travel from Dundee to Glasgow is recouped. We decline that invitation. Such an order is appropriate only where it is necessary. Here all that is required is that Mr McGovern should repay £23.90, which he assuredly will. Furthermore, we can only make an order against a party to the proceedings. If such an order were required to be made under s 6A(10)(a), it would first be necessary for IPSA to be made an additional respondent. It is unnecessary for us to contemplate such a course.

Application for permission to appeal

This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

ROGER BERNER
TRIBUNAL JUDGE

RELEASE DATE: 27 March 2013