

MEP Expenses: What wisdom can we gain from the case of R v. WISE?



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This month former MEP Thomas Wise was sentenced to two years' imprisonment for making false claims on his MEP expenses. In the wake of the furore over politician's expenses will this now satisfy the public's appetite, fuelled by a charged British press, or is this the start of a public purge that might yet see more politicians in our criminal courts? If so, are there lessons to be learnt from the Wise case?

MEPs receive, in addition to their salary and generous expenses, an allowance from the European Parliament to assist them discharge their duties called "Parliamentary Assistance Allowance", for the payment of staff and contractors (or service providers). An amount of up to €17,000 per month is available to each MEP under this allowance. This is a considerable amount of money and yet the rules governing how this vast sum shall be spent have been less than perfectly clear, and have been revised many times.

The European Parliament rules of procedure provide at rule 8 that;

"The bureau shall lay down rules governing the payment of expenses and allowance to members".

That is it, it is left to a body of MEPs comprising the President of the European Parliament and 14 Vice Presidents constituting "the Bureau" to take financial, organisational and administrative decisions on matters concerning MEPs [Rule 22].

The Handbook for Members states that the Parliamentary Assistance Allowance is to cover expenses arising out of the employment or use of the services of one or more assistants, chosen at the MEP's discretion. The only administrative obligation on the European Parliament is to pay the remuneration in accordance with the member's instruction. It is the member who makes the contract with the employee or service provider, not the Parliament. The European Parliament has no direct interest in what the services being provided are, or by whom.

The Bureau rules governing the payment of expenses require that a signed application for an allowance together with a copy of the contract made with the service provider be filed with the Director General of Finance. The service provider must be paid direct by the European Parliament or via a designating paying agent, and not through the MEP. The contract between the MEP and the employee or service provider must include details of their name, length of the contract, a summary of work to be done, where, remuneration and the contract must specify that the European Parliament is not a party to it. A standard form of document is provided. Given that there are 736 MEPs from 27 different countries with a combined Parliamentary Assistance Allowance of over €150m per annum, it is understandable if the legion of claims received by the European Parliamentary Payments Office are not closely scrutinised. The choice of who to employ and for what is at the discretion of the MEP.

In January 08 an internal audit of the Parliamentary Assistance Allowance was printed, the "Galvin Report". It has never been released by the European Parliament to the public, we only have a leaked copy from the Tax Payers Alliance, and that is perhaps not surprising given that the report reveals wholesale abuses by MEPs. The report refers to claims for paying assistants of whom no records exists, who were then paid bonuses; and of payments being made to companies whose audited accounts revealed that they had no trading activity. In order to use up the full allowance, considerable bonuses were paid to employees and payments were made direct to MEP's political parties. The Galvin Report highlights the fact that only a summary of work to be done is required to be given in the contract and the model contract contains only a generic description

“To assist [the MEP] in connection with the exercise of the office of the member.”

In May of this year The Times reported that a third of British MEP's employ their family on expenses. In addition to the assistance allowance an MEP is entitled to claim the expenses of running a constituency office, which for many is their home. They are not required to file receipts for this.

Whilst the public cry foul over MEP expenses, the Members deny any actual wrong-doing and say that they only claim what they are entitled to. The culture at Brussels is 'use it or lose it', with the result that ways to spend whatever allowances are made available are found. Is the position any different at Westminster? The enquiries conducted by the British media since The Daily Telegraph revelations in May of this year suggest not. MPs at Westminster have been exposed for violating the spirit of the Rules if not the precise wording of them.

The Rules governing an MP's allowances are set out in “the Green Book”. A principle of the rules is that, “claims must only be made for expenditure that it was necessary for a Member to incur to ensure that he or she could properly perform his or her Parliamentary duties.”

Where Mr Wise got into difficulty was in the submission of an allowance claim that was false, namely it purported to be for payment of a monthly sum to a researcher but the monies went to his account and he paid the researcher only part of the money. At court he admitted false accounting a charge which it seems to me could very easily be levelled at countless other MEPs and MPs. If the claim for expenses was made in a false document which the MEP or MP knew was misleading or was deceptive in a material way then he or she acted dishonestly. Wherever an MEP or MP knew that his or her expenses claim was misleading and likely to cause another person to believe it to be genuine (that is to say allowable) then criminal proceedings could be brought against him or her.

The extravagance of the claim made by MPs has been widely reported in the media and it beggars belief that MPs did not think that reasonable and honest people would consider such claims to be dishonest.

If a person is told that claims for expenses in addition to his salary can be claimed then it is to be expected that he will do so. In April 2009 the Daily Mail reported on how the credit crunch had impacted on the expense accounts of City financiers, with “A crackdown on gourmet lunches, first class travel and even trips to strip clubs...” Whether the expenses are made available to persons in the public or private sector, all claims must be made honestly. The rules regarding what and how expenses are paid must be in clear terms, and in the public sector there must be transparency and fairness, if Mr Wise is not to be made a scapegoat and nothing otherwise changes.

Stephen Welfare is a Litigation Partner in the City law firm Royds LLP and he acted for Tom Wise following a recommendation by a political colleague.

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