

Protocol for Witness Expenses and Compensation for Loss of Time



1. Introduction

1.1 This protocol deals with the following issues:

- 1.1.1 claiming for out-of-pocket expenses, such as travelling expenses, incurred as a result of attendance at hearings or other attendances required by the Scottish Hospitals Inquiry (the “Inquiry”); and
- 1.1.2 claiming for loss of income as a result of attending or assisting the Inquiry (this is referred to as “compensation for loss of time” in the Inquiries Act 2005).

1.2 This protocol explains:

- 1.2.1 Who can claim;
- 1.2.2 What they can be claim for;
- 1.2.3 The application process; and
- 1.2.4 How applications are decided.

1.3 Any reference to attendance at the Inquiry means attendance in any premises used for Inquiry business.

2. Persons Eligible To Apply

2.1 In terms of section 40(3) of the Inquiries Act 2005, the following persons are eligible to apply:

- 2.1.1 A person attending the Inquiry to give evidence or to produce any document or other thing; or
- 2.1.2 A person who, in the opinion of the Chair, has such a particular interest in the proceedings or outcome of the inquiry as to justify such a payment.

2.2 The Chair has determined that a single family member or friend who attends with a witness giving evidence to provide support to the witness at a hearing of the Inquiry, with the prior agreement of the Inquiry, is deemed to have a particular interest in the proceedings of the Inquiry for the purposes of paragraph 2.1.2 that justifies payment of expenses actually incurred to that person.

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2.3 Each person making a claim must submit a separate application. So where for example two family member both give evidence to the Inquiry and both incur expenses that are reimbursable, each must make a separate claim; and where a family member or friend attends with a witness to provide support, the family member or friend and the witness must each submit separate applications.

2.4 Awards for travel expenses or compensation for loss of time shall only be made for persons from outside the UK where the Chair of the Inquiry is satisfied that their travel is essential for the fulfilment of the Inquiry's terms of reference.

3. What May Be Claimed

3.1 Examples of witness expenses actually incurred by an eligible person that can be claimed for include:

- 3.1.1 Travel costs;
- 3.1.2 Food and drink; and
- 3.1.3 Accommodation if an overnight stay is necessary to give evidence at the Inquiry. Please note that if you intend to claim for the use of overnight accommodation to enable you to attend the Inquiry, you should obtain the prior written agreement of the Inquiry. Failure to obtain such prior written agreement will result in refusal of the claim.

3.2 Expenses actually incurred will be reimbursed according to the Scottish Government's guidance on travel and subsistence expenses and at the rates that apply to Scottish Government employees. A summary of the parts of that guidance most relevant to the Inquiry's business can be found [here](#). In particular, note that the following apply:

- 3.2.1 Supporting evidence in the form of (e.g.) tickets with the price stated on them or receipts must be provided in relation to every claim for expenses incurred;
- 3.2.2 Costs of standard class rail fares are reimbursed, but not first class;
- 3.2.3 You must obtain the agreement of the Witness Engagement and Support Team in advance to air travel by email to public@hospitalsinquiry.scot. Air travel undertaken without that agreement will not be reimbursed;
- 3.2.4 Taxi may be used only when other forms of public transport are not available or is necessary by reason of, for example, disability;
- 3.2.5 Reimbursement of travel by car or motorcycle is based on mileage and the pence per mile set out in the Scottish Government's guidance; and
- 3.2.6 Subsistence rates are paid for food and drink – actual cost is paid up to a specified maximum rate, which varies according to the amount of time spent away from home travelling to and from, and on, Inquiry business. The cost of alcoholic drinks may not be claimed.

3.3 Payment in respect of loss of income as a result of attending or assisting the Inquiry may only be made in circumstances where the person to be compensated would otherwise face actual financial loss. So a claim for compensation for loss of income can only be made when a loss of wages or other earnings is actually incurred

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due to attendance at/engaging with the Inquiry. The applicant must provide proof of the loss and its amount.

4. The Application Process

4.1 Applications must be made in writing by completing the applicable application form. These forms can be found on, and downloaded from, the Inquiry's website (the form for expenses incurred is [here](#), and that for compensation for loss of income [here](#)). Copies are also appended to this Protocol. Alternatively, you may ask for a copy of the form to be provided when you attend the Inquiry.

4.2 You should submit the form either:

4.2.1 By completing it and leaving it with a member of the Witness Engagement and Support Team, along with copies of any receipts or supporting documentation, before you leave your attendance at the Inquiry; or

4.2.2 By sending it, along with photos or scans of your tickets or receipts and any other supporting documentation, to the Witness Engagement and Support Team by email to public@hospitalsinquiry.scot. Applications must be submitted no later than 7 days after you have incurred the expenditure.

4.3 If reimbursement after expenses are incurred may lead to financial hardship, it may be possible for an application for payment of expenses to be made in advance. If you wish further advice on this, please contact the Inquiry Witness Support and Engagement Team at public@hospitalsinquiry.scot for advice.

4.4 Please note that failure to comply with the procedures set out in this protocol may result in payment being delayed or refused.

5. How An Application Is Decided

5.1 In relation to those meeting the criteria set out in section 2 above, rule 18(2) of the Inquiries (Scotland) Rules 2007 requires the Chair to consider the financial resources of the applicant and the public interest so far as relating to the making of an award. Further, the determination by the Scottish Ministers under section 40 of the Inquiries Act 2005 provides that claims for loss of income may only be made in circumstances in which the Chair considers it necessary, fair, reasonable and proportionate for such an award to be made.

5.2 Subject to the proper assessment of claims in accordance with paragraph 5.4, and compliance with the terms of this Protocol and the relevant Scottish Government guidance and rates applicable, the Chair has determined that it is in the public interest that persons giving evidence at a hearing of the Inquiry, or otherwise attending when required to do so by the Inquiry, should not be out of pocket as a result of so doing. Further, it is generally necessary, fair, reasonable and proportionate that persons losing income as a result of giving evidence or otherwise attending when required by the Inquiry should be compensated for that loss.

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5.3 Accordingly:

5.3.1 awards of travelling and subsistence expenses actually incurred in attending to give evidence or when otherwise required to do so will be made to persons incurring those expenses. No evidence of the financial resources of the applicant will be required, except that where an application for travel and subsistence expenses exceeds £100, whether individually or along with similar applications by the same applicant, the Chair reserves the right to require such evidence; and

5.3.2 awards in relation to compensation for loss of time will be made when actual financial loss, such as loss of wages or salary, has been incurred in attending to give evidence or when otherwise required to do so to persons suffering that loss. No evidence of the financial resources of the applicant will be required, except that where an application for loss of time exceeds £120, whether individually or along with similar applications by the same applicant, the Chair reserves the right to require evidence as to the financial resources of the applicant.

5.4 In assessing the amount of the claim that will be paid, the starting point will be the amount of expenses or loss of wages or salary actually incurred and in respect of which receipts and other documentary evidence can be provided. Consideration will be given to whether those expenses have been proportionately and reasonably incurred and whether the expenses are proportionate and reasonable in amount. Regard will also be had to the amounts that are permitted under the guidance and rates referred to in paragraph 3.2. For the avoidance of doubt, no amount in excess of the amounts specified in, or calculated in accordance with, that guidance will be paid in respect of any claim.

6. Further Information

6.1 If you need any further information about any of the above, or any other matter related to witness expenses and compensation for loss of time please email the Witness Engagement and Support Team at public@hospitalsinquiry.scot.

7. Version control

7.1 This version of the Protocol for Witness Expenses and Compensation for Loss of Time is dated 9 July 2021 and is issued under the authority of the Chair of the Scottish Hospitals Inquiry. It is the first version of this Protocol.

Scottish Hospitals Inquiry - Application for Payment of Travel or Subsistence Expenses



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| 1. Your name: |
| 2. Your contact details: Address: Email: Phone: Your preferred way for the Inquiry to contact you about this application: |
| 3. Why are you involved in the Inquiry (for example, are you a witness, supporting a witness etc)? |
| 4. Details of the expenses you are claiming: travel costs (if any) ¹ : meals and refreshments ² (if any): <i>Please attach receipts/tickets to this form, or provide an explanation as to why you are unable to do so</i> |
| 5. Your bank details (if you wish payment to be made direct to your bank account): Name of bank: Address of branch: |

¹ For travel expenses, please specify start and end point of travel, mode of transport, cost (or for mileage claims, distance travelled) and total. E.g. "Home – Queen Street Station, Bus fare £1.70. Queen Street Station – Edinburgh, train, £26.60 (return). Queen Street Station – Home £1.70. Total £30" Or "Home – Inquiry Premises, Car, 100 miles (50 miles each way), £45. Car parking charges £4. Total £49.

² Please specify the time you left home or your place of work to attend Inquiry business and the time that you arrived back there, or expect to arrive back there, together with the amount claimed.

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Name of account holder(s):

Account number:

Sort code:

DECLARATION

I confirm that the information I have given in this claim form (and any other documents I provide with it) is true and correct to the best of my belief and knowledge.

Your signature:

Date:

Scottish Hospitals Inquiry - Application for Compensation for Loss of Time



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| 1. Your name: |
| 2. Your contact details: Address: Email: Phone: Your preferred way for the Inquiry to contact you about this application: |
| 3. Why are you involved in the Inquiry (for example, are you a witness, supporting a witness etc)? |
| 4. Are you (please tick) (a) employed (b) self-employed (c) not employed / retired? |
| 5. If you are employed, will you be paid for this time absent from work? <i>If no, please provide evidence (for example, a letter from your employer)</i> Please provide details of the calculation of the amount you are claiming (e.g. number of hours and the amount of hourly pay or salary. You should provide evidence of the amount of your hourly pay, the number of hours of work you are missing etc and attach it to this application): |

If you are self-employed, please provide evidence of your daily rate of income by attaching it to this application and set out the calculation of the amount you are claiming here:

6. Your bank details (if you wish payment to be made direct to your bank account):

Name of bank:

Address of branch:

Name of account holder(s):

Account number:

Sort code:

DECLARATION

I confirm that the information I have given in this claim form (and any other documents I provide with it) is true and correct to the best of my belief and knowledge.

Your signature:

Date: