

Inquiry Procedure Direction No 4 - Award of Compensation for Loss of Time

In terms of section 17(1) of the [Inquiries Act 2005 \(“the Act”\)](#), which enables Lord Hardie (“the Chairman”), to decide on the procedure and conduct of the Inquiry, he has directed as follows:

1. This Inquiry Procedure Direction (“this Direction”) relates to an award of compensation for loss of time incurred or to be incurred in attending the Inquiry.
2. For the avoidance of doubt this Direction does not apply to recognised legal representatives and their legal team who are in receipt of an award of publicly funded legal representation.
3. This Direction is effective from the day after its date and will remain in force until it is revoked or varied.
4. While this Direction is intended to cover most situations it may require to be supplemented or varied by the Chairman in particular circumstances.

Relevant Provisions

5. This Direction is subject to, and should be read with, the provisions of:
 - (a) [the Act](#) and, in particular sections 17 and 40;
 - (b) the [Inquiries \(Scotland\) Rules 2007](#) (SSI 2007/560) (“the Rules”) and, in particular Rules 17 – 23 and 28;

Eligibility

6 A person is eligible for an award of compensation for loss of time who:-

- Is a person attending the Inquiry to give evidence or to produce any document or other thing; or
- Is a person who, in the opinion of the Chairman, has such a particular interest in the proceedings or outcome of the Inquiry as to justify such an award of compensation for attending the Inquiry other than to give evidence or to produce any document or other thing ; and
- Will not be compensated by his employer/former employer for loss of time incurred or to be incurred where the person is attending the Inquiry in the context of their employment or former employment relationship.

Compensation and criteria for determination of an application for an award

7. The Chairman may award reasonable amounts to a person by way of compensation for loss of time incurred or to be incurred in attending the Inquiry.

8. In determining whether an award should be made the Chairman must take into account:

- The financial resources of the applicant; and
- The public interest in so far as relating to compensation for loss of time.

9. In relation to applications for compensation for loss of time exceeding £100 the Chairman reserves the right to require evidence as to the financial resources of the applicant.

General Principles

10. In light of the fact that compensation for loss of time will be met from public funds and of the duty of the Chairman to have regard to the need to avoid any unnecessary costs and his power to award reasonable amounts, the following general principles will apply to applications for compensation for loss of time.

11. A person who attends the Inquiry on any particular day without being required to do so as a witness or to produce a document or other thing on that day will be considered ineligible for an award of compensation for that attendance save in exceptional circumstances. Such a person should write to the Chairman setting out his or her reasons as to why he or she should be considered eligible for compensation for loss of time. Subject to the Chairman's discretion to permit consideration of late applications in exceptional circumstances, such written explanation should be submitted before the date of the attendance and, in any event, before an application for compensation is made. On receipt of the written explanation the Chairman will, as soon as may be practicable and after such procedure as he considers necessary, decide whether such a person is eligible for compensation for loss of time.

12. Compensation will generally only be made to compensate for loss of earnings from employment or self-employment.

13. Compensation will not exceed £400 per day.

Application Form

14. A person who wishes to apply for compensation for loss of time must submit an application form which may be downloaded from the Inquiry website at:

www.edinburghtraminquiry.org

15. Hard copies of the form may also be obtained from the Inquiry Secretary.

16. Where the application relates to loss of time already incurred proof must accompany the application form.

17. Where the application relates to loss of time to be incurred and the Chairman determines that an award should be made, he will impose conditions as to:

- An upper limit or limits on the amount of compensation that will be paid;
- The form in which bills must be submitted to the Secretary to the Inquiry; and
- The supply of such documentary evidence as the Chairman considers necessary.

18. The Chairman may also set any other conditions that he considers appropriate.

19. The application form must be returned to the Secretary to the Inquiry, either by first class post, delivered in person at the address stated below, or e-mailed to the address stated below.

Deadline for the submission of applications

21. Subject to the Chairman's discretion to permit consideration of late applications in exceptional circumstances, applications for payment of compensation will be refused unless they are submitted to the Secretary to the Inquiry within the following deadlines:

(a) where an applicant is claiming compensation for loss of time in respect of attendance at the Inquiry to give evidence or to produce any document or other thing, the application form with supporting documents must be submitted to the Secretary to the Inquiry no later than 6 weeks after the last date upon which the applicant attended the Inquiry for that purpose; and

(b) where an applicant is claiming compensation for loss of time in respect of attendance at the Inquiry other than to give evidence or to produce any document or other thing, a separate application form with supporting documents for each calendar month upon which the applicant attended the Inquiry must be submitted to the Secretary to the Inquiry no later than 6 weeks after the last date of that calendar month.

Payment

22. All payments will be made by a Bankers' Automated Clearing System (BACS) transfer.

Inquiry Contact Details

e-mail: evidence@edinburghtraminquiry.org