

Inquiry Procedure Direction No 5: Award of Travel and Subsistence Expenses

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 travel and subsistence expenses properly 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;
 - (c) The Inquiry’s summary of the Scottish Government’s Guidance on Travel and Subsistence Expenses.

Eligibility

6. A person is eligible for an award of travel and subsistence expenses 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 his or her attendance at the Inquiry other than to give evidence or to produce any document or other thing; and
 - Will not be reimbursed by his employer/former employer for travel and subsistence expenses properly incurred or to be incurred in attending the Inquiry.

Expenses and criteria for determination of an application for an award

7. The Chairman may award reasonable amounts to an eligible person as specified in paragraph 6 in respect of expenses properly 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 those expenses.

9. In relation to applications for travel and subsistence expenses exceeding £100, whether assessed individually or along with other similar applications by the same applicant, 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 travel and subsistence expenses will be met from public funds, and of the duty upon the Chairman to have regard to the need to avoid any unnecessary cost as well as the power of the Chairman to award reasonable amounts, the following general principles will apply to applications for travel and subsistence expenses.

11. The Chairman considers that Core Participants have such a particular interest in the proceedings and outcome of the Inquiry that they will be eligible to apply for an award of travel and subsistence expenses in connection with attending the Inquiry whether or not they have been required by the Inquiry to do so.

12. Any other person who attends the Inquiry without being required by the Inquiry to do so will be considered ineligible for travel and subsistence expenses 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 travel and subsistence expenses. Such written explanation should be submitted before any application for expenses 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 travel and subsistence expenses.

13. Where a person expects to travel in attending the Inquiry to give evidence or to produce any document or other thing, he or she will generally be required to make any necessary arrangements for travel, accommodation and regarding meals.

14. Other than in exceptional circumstances, no monies will be issued in advance to cover expected travel and subsistence expenses. Where an applicant wishes to

claim payments in advance, he or she must write to the Chairman at least 14 days before the date of travel setting out his or her reasons as to why he or she should be considered eligible for an advance payment, as well as details of the intended journey. 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 payment in advance of travel and subsistence expenses. If advance payment is approved by the Chairman, the Secretary to the Inquiry will make the necessary arrangements for travel and accommodation.

15. All travel should be taken in the most cost-effective manner. Generally, travel should be by public transport, making appropriate use of any discounted tickets that may be available.

16. Any need for overnight accommodation must be approved in advance by the Inquiry Secretary. Applications made in respect of overnight accommodation without such prior approval will only be paid in exceptional circumstances.

17. Approval for overnight accommodation will not usually be given where the applicant lives within reasonable travelling distance of the location to be attended and the applicant's presence there will not extend beyond 5 p.m.

18. Where any individual item of expenditure applied for is greater than £100, it must be approved in advance by the Inquiry Secretary. Applications made in respect of such items without such prior approval will only be paid in exceptional circumstances.

Application form

19. A person who wishes to apply for an award of travel and subsistence expenses must submit an application form which may be downloaded from the Inquiry website at:

www.edinburghtraminquiry.org

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

21. Where the application relates to expenses already incurred proof such as receipts for each item of expenditure, where required according to the Inquiry's summary of Scottish Government's Travel and Subsistence Expenses, must accompany the application form.

22. Where the application relates to expenses 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 expenses that will be paid;
- A requirement that the applicant provides evidence, after the expenses have been incurred, showing that the expenses were properly incurred; and

- The form in which bills must be submitted to the Secretary to the Inquiry.

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

24. 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

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

(a) where an applicant is claiming expenses 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 expenses 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

26. Payment in respect of an application for expenses already incurred will be made by a Bankers' Automated Clearing System (BACS) transfer.

Inquiry Contact Details:

e-mail: evidence@edinburghtraminquiry.org

26 February 2015