



Injury Allowance Policy

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DOCUMENT DEVELOPMENT COVERSHEET*

Name of document	Injury Allowance Policy/Procedure	
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Proposed groups to present document to:				
T&C Sub group		All staff / Area Partnership Forum		
Senior Management Team		Staff Governance Committee		
Date	Version	Group	Reason	Outcome
Dec 2014	1	T&C Subgroup	PO	PRO
Jan 2015	1	SMT	C/S	PRO
Jan 2015	1	APF	C/S	PRO
April 2015	1	SGOV	C/S	PRO
01/09/2017	2	APF + SGC	Agreed to revise review date as current policy is up to date.	PRO

Examples of reasons for presenting to the group	Examples of outcomes following meeting
<ul style="list-style-type: none"> Professional input required re: content (PI) 	<ul style="list-style-type: none"> Significant changes to content required – refer to Executive Lead for guidance (SC)
<ul style="list-style-type: none"> Professional opinion on content (PO) 	<ul style="list-style-type: none"> To amend content & re-submit to group (AC&R)
<ul style="list-style-type: none"> General comments/suggestions (C/S) 	<ul style="list-style-type: none"> For minor revisions (e.g. format/layout) – no need to re-submit to group (MR)
<ul style="list-style-type: none"> For information only (FIO) 	<ul style="list-style-type: none"> Recommend proceeding to next stage (PRO)

*To be attached to the document under development/review and presented to the group
Please record details of any changes made to the document on the back of this form

DATE	CHANGES MADE TO DOCUMENT

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1. Introduction

- 1.1 PCS (AFC) 2013/1 advised NHS Boards of the revised provision for Injury Allowance effective from 31 March 2013. This new allowance replaces the previous Injury Benefits Scheme administered by the Scottish Public Pensions Agency (SPPA). However under transitional arrangements, injuries or illness which were wholly or mainly attributable to the duties of NHS employment, which occurred on or before 30 March 2013 will still be eligible to be claimed under the previous Injury Benefits Scheme administered by SPPA – see section 7 below.
- 1.2 An employee who has an injury, disease or other health condition that is wholly or mainly attributable to their NHS employment which occurred on or after 31 March 2013 may be entitled to an Injury Allowance payment subject to certain conditions as detailed in this procedure. However, the injury, disease or other health condition must have been sustained or contracted in the discharge of the employee's duties of employment or be an injury that is not sustained on duty but is connected with or arising from the employee's employment.
- 1.3 The attribution of injury, illness or other health condition will be determined by NHS Shetland based on the information provided by the employee and the appropriate medical advice. In taking this decision the civil burden of proof - "on the balance of probability" will be used to determine the outcome. Where the employee disagrees with the decision taken there will be a right of appeal as detailed in this procedure.
- 1.4 Payment of the Injury Allowance is not dependent on length of service. The Injury Allowance can be paid to an employee who, due to a work related injury, illness or other health conditions are on authorised sickness absence or a phased return to work with reduced or no pay.

2. Eligibility

- 2.1 The allowance is applicable to all staff remunerated on Agenda for Change, Medical and Dental and Senior Manager Terms and Conditions of Service.
- 2.2 However, the Injury Allowance will not be paid in the following circumstances:
- Injury whilst on a normal journey travelling to and from work, except where the journey is part of their contractual duties for NHS Shetland;
 - Sickness absence as a result of disputes relating to employment matters, conduct or job applications;
 - Injury, disease or other health condition due to or seriously aggravated by the employee's own negligence or misconduct.

3. Scale of Injury Allowance

- 3.1 Injury Allowance will be paid to an eligible employee as a top up to their sick pay or earnings or when on reduced pay as a result of a phased return to work. The calculation will include any contributory state benefits received by the employee to 85% of pay.
- 3.2 The Injury Allowance payment is subject to tax and national insurance contributions but is not subject to pension contribution deductions.
- 3.3 Contributory state benefits received for loss of earnings will be offset at the rate at which they are actually received by the employee. All other benefits or payments received should be ignored.
- 3.4 Employees are required to claim any contributory state benefits they may be entitled to and to declare receipt of such benefit(s) to NHS Shetland. Timely notification will ensure that overpayments of Injury Allowance are

not made. NHS Shetland will require repayment when an overpayment is made in line with the Over/Under Payments of Salary procedure.

- 3.5 The Injury Allowance will be limited to the period of the employment contract and a maximum payment period of 12 months per relevant injury or disease, subject to the Management of Absence and Rehabilitation to Work policies.

4. Application Process

- 4.1 Where an employee considers that they may be eligible for an Injury Allowance payment, the Application for Injury Allowance form (Appendix A) should be completed providing details of the injury or illness, a copy of the DATIX report if relevant and any support received from Occupational Health as a result of the injury or illness. The form, together with any supporting documentation should be forwarded to the employee's line manager for verification. Copies of any current correspondence from the Occupational Health Service associated with the injury or illness outlined in the Application for an Injury Allowance Form should be attached to the form and once signed by the line manager the form should be submitted to the HR Services Manager.
- 4.2 Each application will then be considered by a panel consisting of the HR Services Manager, a member of the Senior Management Team. The Risk and Clinical Governance Lead or Safety Advisor will be requested to provide any supporting evidence, including any DATIX or RIDDOR report as applicable. In cases where the Occupational Health Service have been involved, an up to date report will be requested from Occupational Health seeking their advice on the causation of the injury, illness or health condition prior to any decisions being taken on the Injury Allowance application. This may require the employee to attend a further appointment with Occupational Health if this is considered necessary. In cases where the employee has not already been attending Occupational Health an appointment will be made for them to attend and a report requested prior to any decision being take on the Injury Allowance application. In both

circumstances the Occupational Health reports will be shared with the employee. Where the employee refuses to attend an appointment at Occupational Health a decision will be taken on their Injury Allowance application in the absence of medical evidence.

- 4.3 The panel will then assess the application, the Occupational and/or the Safety and Risk report and any other supporting documentation and take a decision as to whether, in line with the guidance, an Injury Allowance should be paid. The decision of the panel will be confirmed in writing to the employee with a copy to their line manager.
- 4.4 Where applicable, the HR Services Manager will notify the Payroll Department that an Injury Allowance has been approved; the relevant dates and appropriate payment arrangements will be agreed.

5. Appeals Process

- 5.1 Where an employee is unhappy with the decision taken not to pay an Injury Allowance, they will have a right of appeal against this decision. This appeal should be made within 28 days of receiving the decision of the panel and should be addressed to the Director of HR and Support Services clearly detailing the reasons for the appeal. The Director of HR and Support Services and the Employee Director (or alternative substitution from Area Partnership Forum not involved in the case) will consider the original application and supporting evidence and the decision taken by the panel along with the letter of appeal and advise whether the decision not to pay an Injury Allowance was appropriate in the circumstances.
- 5.2 Should further Occupational Health advice be required this will be escalated to the Occupational Health Physician. Any report provided as part of the appeal process will also be shared with the employee. Where required this may include an Occupational Health Physician with no prior involvement in the case reviewing guidance previously provided.

5.3 The Director of HR and Support Services will then advise the employee of the outcome of their appeal and if appropriate arrange payment of the Injury Allowance. This will be the final stage of the process and there will be no further right of appeal.

6. Pay Protection

6.1 Employees eligible for the Injury Allowance payment and who then subsequently have to change jobs permanently through redeployment to a position on lower pay due to a work related injury, illness or other health condition, in some circumstances may be eligible to receive a period of protected pay in line with the provision of pay protection.

7. NHS Injury Benefits Scheme – Transitional Arrangements

7.1 The NHS Injury Benefit provisions will continue to protect eligible employees who suffer a relevant injury or disease **on or before 30 March 2013** as follows:

- The “Sunset” clause provides for a period of 5 years (31 March 2013 to 30 March 2018). This is designed to provide a mechanism for the transition away from current provisions. Eligible employees will continue to be able to claim benefits as currently provided where an injury is sustained or a disease is contracted before 31 March 2013.
- The “Exception” clause applies for an additional period of 20 years (31 March 2018 to 30 March 2038). This is designed to deal with claims associated with delayed onset of symptoms resulting from injuries sustained and diseases contracted before 31 March 2013.

Together these measures provide a period of 25 years transitional protection for those who sustain a work related injury or contract a work related disease before 31 March 2013.

7.2 The NHS Injury Benefits Scheme can provide three forms of financial support for employees affected by injury or disease that is wholly or mainly attributable to their work on or before 30 March 2013 and this includes Temporary Injury Benefit, Permanent Injury Benefit or Death Benefits. The application process for this scheme remains unchanged and will be administered by the Scottish Public Pensions Agency. Further details on making such an application can be found on the SPPA website – www.sppa.gov.uk

7.3 Employees already in receipt of a Temporary or Permanent Injury Benefit on or before 30 March 2013 will not be affected by the introduction of the new arrangements for Injury Allowance.

8. Review

8.1 This process will be subject to ongoing monitoring and review and will be formally reviewed via Area Partnership Forum and Staff Governance Committee.

9. Equality Impact Assessment

9.1 This policy has been equality impact assessed using a rapid impact checklist process.