

Injury Allowance Policy



Walsall Council

Version Control

Document title	Injury Allowance Policy		
Owner	Human Resources	Status	Final
Version	2	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	29/09/2021	Last updated by	HR Strategy and Planning
Purpose	This policy provides guidance and support to managers and employees regarding the use of Walsall Council's Injury Allowance Scheme and details the procedure for claiming, processing, authorising and managing such claims.		

This policy links to:

- Corporate Plan
- Walsall Proud
- Sickness Absence Policy
- Redeployment Policy
- Discretionary Pension Policy
- Workforce Strategy
- Behaviour & Standards Framework
- Performance & Ill Health Capability Policy
- Personal Accident and Assault Policy

This list is not exhaustive.

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The aim of this policy is to set out fair and equitable principles for the award of injury allowances and to provide a transparent and clear framework for making and dealing with injury allowance claims. The Council operates the injury allowance scheme under the permissive powers of The Discretionary Payment Regulations 1996.

2.0 Scope

- 2.1 This policy applies to all council employees, including Directors, Executive Directors and the Chief Executive.
- 2.2 With the exception of;
 - 2.2.1 School-based employees/workers where the Governing Body has delegated authority and for whom separate arrangements apply.

3.0 Principles

- 3.1 Injury allowance is payable when an employee is on authorised sickness absence or on a phased return to work with reduced pay or no pay due to an

injury, disease or other health condition that is wholly or mainly attributable to their employment with Walsall Council.

- 3.2 The injury, disease or other health condition must have been sustained or contracted in the discharge of the employee's duties of employment or an injury that is not sustained on duty but is connected with or arising from the employee's employment. This could include attendance at a physical training class or other classes organised and approved by the employer.
- 3.3 There are three main tests for an injury allowance payment to be awarded:
1. Is the condition "wholly or mainly attributable" to the employment?
 2. Has the injury, disease, or other health condition been sustained or contracted in the discharge of the employees duties of employment or an injury that is not sustained on duty but is connected with or arising from the employees employment?
 3. Has, or will the condition result in a loss of earnings?

The level of proof required to determine if a loss of earnings (ability) is attributable to an injury is "on the balance of probability". In all cases the civil burden of proof - "on the balance of probability" (more likely to than not) will be used to determine the outcome.

- 3.4 The following circumstances will not qualify for consideration of injury allowance:
- a. Any injury, disease or other health condition obtained when not undertaking your contractual duties associated with your employment;
 - b. Injury whilst on a normal journey travelling to and from work, except where the journey is part of their contractual duties;
 - c. Any illness or health condition causing sickness absence as a result of disputes relating to employment matters, e.g. conduct, performance or grievances;
 - d. Injury, disease or other health condition directly due to or seriously aggravated by the employee's own negligence or misconduct.
- 3.5 Certification of the employee's injury or disease must be certified by an Independent Registered Medical Practitioner before the employee can receive a temporary or permanent injury allowance payment.
- 3.6 All payments are funded from the service area budget, not the Local Government Pension Scheme.
- 3.7 Injury allowance payments will be reduced by:
- Any state funded benefits received
 - Any related compensation or insurance
 - Any payment from the LGPS (applies to permanent injury allowance)

The injury allowance payment will be offset at the rate the above payments are actually received by the employee.

Additionally the following may apply:

- 50% reduction for contributory negligence (applied at the discretion of the injury allowance panel and dependent on the level of negligence and the amount this was contributory to the injury).

3.8 No injury allowance payments will be made until the claim has been approved by the injury allowance panel.

3.9 Injury allowance payments will only be made once the Payroll and Pensions team have received confirmation of any applicable benefits payable in relation to their injury, disease or health condition.

3.10 Employees will be required to repay any overpayments that occur (refer to 5.2.1).

4.0 Accountabilities

4.1 Managers are accountable for the following;

- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- Investigating accidents and completing the accident form with any associated paperwork;
- Verifying the accident form and associated evidence before submitting an injury allowance claim;
- Recording sickness absence in line with relevant procedures;
- Obtaining a medical report from an Occupational Health consultant or the employee's hospital doctor;
- Maintaining contact with the employee.

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- Claiming any contributory state benefits they may be entitled to and to declare receipt of such benefits or any insurance payments to the council in a timely manner to prevent overpayments of injury allowance;
- Complying with the requirements of this policy and procedure.

5.0 Procedure

5.1 Injury allowance payments

5.1.1 There are two types of injury allowance that can be awarded:

- a. **A temporary injury allowance**, payable to existing employees. The payment is made to the value of any shortfall in salary payments as a result of a work related absence (refer to 5.2).
- b. **A permanent injury allowance** payable to an employee who retires on health grounds, where the reason for ill-health retirement is related to an accident, injury or illness sustained as a result of, or in connection with the discharge of their contractual duties (refer to 5.3).

5.2 Temporary injury allowance payable to existing employees

- 5.2.1 The injury allowance is paid as an income top-up to eligible staff. The allowance will top up sick pay or earnings when on phased return or authorised sickness absence on reduced pay. The payment is made to the value of any shortfall in salary payments as a result of a work related absence, less any applicable deductions (refer to 3.7).
- 5.2.2 The maximum amount payable is the difference between normal monthly contractual salary and the actual reduced contractual payments received during absence from work.
- 5.2.3 The injury allowance payment is subject to National Insurance contributions and income tax but is not subject to pensions contribution deductions.
- 5.2.4 Temporary injury allowances will only be awarded for a maximum period of six months. In exceptional circumstances, the panel can review on a case by case basis and award an extension of up to a further six months (12 months maximum total allowance).
- 5.2.5 Should an employee suffer recurring absences following a return to work, which remains 'wholly or mainly attributable' to the original injury, any remaining/unused allowance (up to a maximum of six months' worth of allowance) may be used to top up the employees pay.
- 5.2.6 There is no automatic transfer to a permanent allowance if the claimant retires on health grounds; a new claim will need to be submitted by the employee and approved (if applicable) by the panel for permanent injury allowance to be awarded.

5.3 Permanent injury allowance payable to employees who have retired on ill-health grounds

- 5.3.1 The injury allowance is paid as an income top-up to other income (i.e. state benefits) to eligible staff up to 85% of previous pay, less any applicable deductions (refer to 3.7).
- 5.3.2 The pay calculation to determine the 85% is based on the best of the last three years of employment.
- 5.3.3 Payments will be graded in accordance with the tier of benefits awarded to the former employee from the pension fund;
- 1st tier – no allowance as the benefits are enhanced to state pension age
 - 2nd tier – 85% as above
 - 3rd tier – 85% as above to cease when benefits cease. Payment to last no longer than 3 years. If benefits are up lifted to 2nd tier the injury allowance will be uplifted too
 - Non contributor to the fund – 85% as above
- 5.3.4 For part-time employees, injury allowance is based on actual pensionable pay and not the full time equivalent.
- 5.3.5 Permanent injury allowance payable to employees who have retired on health grounds will cease at the individuals state retirement age.

6.0 Process

6.1 Injury allowance claim

- 6.1.1 When an injury or accident occurs at work, the manager should review the circumstance and risk assessments. The manager should complete the Accident & Incident Report process. For further information, please refer to the Health and Safety intranet pages.
- 6.1.2 The line manager should seek advice from the Health and Safety team and their HR Advisor in order to assess whether the claim meets the criteria for an injury allowance payment and to ensure that the relevant sections of the injury allowance claim form are completed correctly.
- 6.1.3 The relevant Head of Service should approve and submit the injury allowance claim form to the Director of HR for consideration by the injury allowance panel.
- 6.1.4 The line manager (with H&S and HR support and advice) should ensure that the following documentation is included with the injury allowance claim form as part of an evidence bundle for the injury allowance panel to consider:

- a. Completed Injury Allowance Claim Form (Panel Report)
- b. Evidence that the incident has been reported and recorded along with details of any investigation report if appropriate
- c. Job description
- d. Risk assessment
- e. Related training records
- f. Medical evidence

The process is the same whether the claim is for a temporary or permanent injury allowance payment.

6.2 Injury allowance panel

- 6.2.1 The injury allowance panel members are:
 - Director of HR (Chair) or their nominated deputy
 - Head of Legal or their nominated deputy
 - Head of Finance or their nominated deputy
 - Payroll & Pensions Manager or their nominated deputy
- 6.2.2 All 4 members of the panel must be present for a meeting to be held.
- 6.2.3 The Chair's PA/Administrator will make arrangements to convene the injury allowance panel to consider the evidence presented and make a decision on whether to award an allowance.
- 6.2.4 The following people can attend the injury allowance panel meeting to present (support) the case to the panel members:
 - Employee (Claimant)
 - Head of Service / line manager of claimant
 - Union representative
 - HR Advisor
- 6.2.5 The injury allowance panel will consider the claim and the evidence presented (having due regard for policy, practice, legislation and case law). The injury panel Chair's PA/Administrator is responsible for maintaining appropriate records and panel decisions regarding allowances.
- 6.2.6 Payroll and Pensions team are responsible for notifying the claimant / employee of the panel's decision and providing them with a copy of the injury panel's rationale.
- 6.2.7 If the claim is accepted, the claimant is responsible for informing payroll and pensions team if they are claiming any contributory state benefits they may be entitled to and to declare receipt of such benefits or any insurance payments to prevent overpayment of injury allowance.
- 6.2.8 Payroll and Pensions will then prepare the financial statement including information on any payments already received from other public sources, including benefits and LGPS pension entitlement. Payroll and Pensions team

will inform the council's Insurance and Loss Control Service of any injury allowance claims and the conclusion of claims to avoid any duplication of payments/claims.

6.3 Appeals

6.3.1 There is no internal dispute process against the amount awarded under the injury allowance policy.

6.3.2 There is no separate appeals process under the injury allowance policy. However, if the employee disagrees with the panel's decision, they can appeal to the Specified Person under Stage 1 of the Walsall Council Internal Dispute Resolution Procedure (IDRP) within 6 months of the date of the notification letter. The IDRP procedure can be found on the following HR intranet page:

http://int.walsall.gov.uk/Human_Resources/Pensions/LG_pensions

If the employee/claimant is unhappy with the decision made by the Specified Person, they can then appeal to the Secretary of State for Levelling Up, Housing and Communities.

Department for Levelling Up, Housing, Communities (DLUHC)
The Ministry of Housing, Communities and Local Government
2 Marsham St,
Westminster,
London
SW1P 4DF

Once the Secretary of State has considered the appeal, their decision will be communicated. This decision will be final and binding on all parties.

Appendix 1 - Injury Allowance Process Flowchart



