

Injury Allowance – Protocol and Procedure

1.0 Introduction

NHS staff* who are injured or become ill due to their employment may be entitled to financial assistance if their pay is reduced as a result of their health problems.

**Bank staff - If the member of staff has a bank contract they may be entitled to a local temporary payment made by East London NHS Foundation Trust. The normal provisions of Injury Allowance protocol would not be applicable. The member of staff should complete Form B. This includes those staff who hold substantive contract but undertake regular bank work at ELFT.*

Injury Allowance is a payment made by East London NHS Foundation Trust in accordance to the NHS Injury Benefits regulations.

An employee may be entitled to an injury allowance payable by the Trust when an employee is temporarily absent from work due to an injury, condition or disease sustained whilst carrying out the specific duties of their job.

The NHS injury allowance can be used to top up an employee's sick pay or earnings (if they are on a phased return). It can be paid for up to 12 months per episode. The employee may be able to claim if they meet all of the following:

- You are employed within the NHS under the NHS terms and conditions of service handbook* or where the injury allowance is provided for in your employment contract.

**. For those covered by the NHS terms and conditions of service handbook (Amendment 51, 02/2023), pay is as defined in paragraph 14.4 , and paragraphs 14.4 and 14.5 in Section 14(a) (England).*

- You have had an accident or contracted an illness/disease that is 'wholly or mainly attributable' to your East London NHS Foundation Trust employment.
- You are on authorised sickness absence or a phased return to work
- You have had your earnings reduced to less than 85% of your pay because of your ill health.

2.0 Eligibility

What kind of situations may lead to payment of injury allowance?

- Physical or psychiatric injury sustained or disease contracted due to a specific incident or series of incidents.

- An injury sustained or disease contracted that does not manifest itself for several years e.g. asbestosis, Hepatitis C following a needle stick injury.
- An injury sustained whilst travelling on official duty, for example, road traffic accident (RTA), whilst travelling in an official car from one NHS premises to another.
- An injury sustained off duty, for example, whilst providing professional treatment which required professional training or knowledge at the scene of a road traffic accident (RTA).
- An injury inflicted off duty, the cause of which can be attributed to NHS employment (for example, being assaulted on the way home from work by ex-patient)
- An injury, disease or other health condition contracted due to a series of incidents relating to NHS employment (for example, exposure to noxious substances causing injury, condition or disease over a period).

Are there any circumstances where injury allowance cannot be considered?

Injury allowance cannot be considered if:

- You are injured whilst on a normal journey travelling to and from work, except where the journey is part of your NHS duties of employment.
- You are on sickness absence as a result of employment related matters such as an investigation, capability proceedings or disciplinary action, or as a result of a failed application for promotion, secondment or transfer.
- You sustain an injury or disease at work which is due to or aggravated by your own negligence or misconduct.

Neither is it payable:

- If your pay has not dropped below 85 per cent
- After your employment contract has ended.

When is Injury Allowance unlikely to be payable?

Injury allowance is unlikely to meet the wholly and mainly attribution test in the following circumstances:

- Where the injury, disease or disease is attributable to some other cause, for example the natural progression of a pre-existing condition, normal wear and tear or a non work related injury, condition or disease.
- Where a person suffers from a pre-existing or non-work related condition (injury or disease) unless there is some new work related cause and effect over and above the original problem.

What if there is more than one cause of the injury, disease or other health condition?

If both NHS related and non-NHS related factors are involved, it is necessary for the employer to assess their relative importance. In such cases Injury Allowance is only payable if, on the balance of probabilities, the injury, disease or other health condition is wholly or mainly attributable to their NHS duties. Employers may also wish to seek specific advice from their occupational health department.

What about previous injuries?

If you injure yourself at work and exacerbate a previous work related injury, you should be able to prove that your current condition is wholly or mainly attributable to your employment easily even if the injuries were under two different employers. If the previous injury was not work related, you would need to be able to show that your sickness absence is “wholly or mainly attributable” to the recent work-related injury.

Who decides if an employee is entitled to injury allowance?

Injury Allowance is determined and paid by East London Foundation Trust (ELFT) as the NHS Employer.

What happens if I have to change jobs permanently as a result of a work related injury/illness?

If you are eligible for Injury Allowance and are redeployed permanently to a position at a lower pay due to a work related injury, illness and /or other health condition, you will receive a period of protected pay that is the same as local provision for pay protection during organisational change.

3.0 Advice and support

Managers or members of staff should take advice from their People Relations Advisor when considering an application for Injury Allowance and follow the guidelines and refer to the Injury Allowance Process Flowchart.

It is also important to liaise with the Trust’s payroll provider to ensure the IA application is processed and actioned in a timely manner once it has been approved by the Trust.

Further information is also available for employers/employees as follows:

Injury Benefits – Employers guide

Injury Allowance – Employee guide

4.0 Application process

1. Employee completes application Form A before they experience a reduction in pay to avoid any delay with processing the IA payment. The employee confirms if they are in receipt of any Department of Work and Pensions benefits subject to the eligibility criteria and advice from the People Relations Advisor/Trade Union representative
2. Employee signs the application/declaration form and submits it to their line manager.
3. Manager confirms if sickness has been recorded as an Injury at work/work related injury on their Healthroster record or their sickness notification form.
4. Application Form is discussed with the local People Relations Advisor and if agreed forwarded to the Clinical Lead/Deputy Service Director and Senior People Relations Advisor to complete and authorise.
5. A copy of Form A is saved on Employees Staff File
6. The employee is notified of the decision by the line manager/Clinical Lead/Deputy Service Director
7. If agreed the Senior People Relations Advisor requests the NHS Injury Allowance Eligibility Form (Form D) from payroll.
8. Form D NHS Injury Allowance Form is approved and returned to payroll

5.0 Approval Process

The decision as to whether an employee should be paid IA rests with the Clinical Lead/Deputy Service Director with support and guidance from the Senior People Relations Advisor. Their decision will be based on the information submitted by the employee and supplementary information provided by the line manager.

The Line Manager who receives the original request for IA should:

1. Ensure that incident forms have been completed as necessary.
2. Undertake an investigation and record findings as part of the incident review process. This will include a full statement of events explaining what injury/disease the applicant is claiming for and the circumstances leading to the claim.
3. Review the employee's Application Form and submit it to the Clinical Lead/Deputy Service Director and enclose the following documentation.
 - all incident reports
 - all Occupational Health Department notes and records
 - a full job description
 - sick leave records

The Clinical Lead/Deputy Service Director should consider the following with the Senior People Relations Advisor:

- The nature of the injury/disease.
- Any relevant incident reports, Occupational Health records or investigation reports.
- The impact of the injury/disease on the employee's duties and how it reduces their earning ability.
- The employee's job description and sickness record.
- The employee's full statement of the events that led to their claim

When considering an injury/disease that is both NHS and non NHS related the Clinical Lead/Deputy Service Director must consider whether it is more related to NHS employment or not on the balance of probabilities. If the injury/disease is pre-existing or non work-related there must be some new work-related contribution to their loss of earnings ability over and above the original.

The decision and rationale for the decision should be recorded at the authorisation section of Form A.

The employee should be notified in writing of this decision and a copy will be sent to the Line Manager.

If the Injury Allowance has been accepted then the Senior People Relations Advisor will contact Payroll for a copy of the NHS Injury Benefits Injury Allowance Eligibility form. Payroll will issue this form for final authorisation.

6.0 How is Injury Allowance calculated?

Injury allowance is a top up payment. It tops up sick pay or earnings when on a phased return to work, and certain other income (as specified below) to 85 per cent of pay as defined in appropriate contractual documentation i.e. as noted in paragraph 14.4 of the NHS terms and conditions of service handbook*, or as specified in their separate contractual sick pay arrangements.

Paragraph 14.4 - The definition of full pay will include regularly paid supplements, including any recruitment and retention premia, payments for work outside normal hours and high cost area supplements. Sick pay is calculated on the basis of what the individual would have received had they been at work. This would be based on the previous three months at work.

Injury Allowance payment will be subject to Income Tax and National Insurance contributions but is not subject to pension contribution deductions.

7.0 Appeal Process

If the employee's application for temporary injury allowance has been rejected in respect of an injury sustained or disease contracted whilst at work then the employee can appeal against the decision by writing to the Service Director

for their own Directorate within 15 working days of the receipt of the letter confirming the outcome of the final decision.

The appeal should include an explanation of what factors under the grounds for appeal that the employee felt were not taken into consideration or that the rationale for refusal was disputed.

The Service Director, supported by the local People Business Partner, will be required to hold a meeting with the manager and the employee within 15 days after the employee has told them they want to appeal. Both parties must agree on the date of the meeting. The Service Director will write to the employee saying what the decision is within 5 working days from the date of the meeting. All requests including appeals must be decided on within 3 months from the first receipt.

8.0 Temporary Local Payment (Bank Workers)

As Bank workers do not fulfil the conditions of the Injury Allowance criteria they may be able to apply for a local temporary payment. This applies to bank only workers and also substantive staff who work regular bank shifts. The payment is based on the average payment of the previous three months at work. The payment will be made for **up to 1 month** only if the employee is unable to work as a result of the injury at work or becomes ill due to their employment.

It is at the discretion of the Clinical Lead/Deputy Service Director of the service where the injury occurred to authorise payment of any pre-booked bank shifts that the employee was unable to fulfil due to the injury at work or becoming ill due to their employment. Any payment for pre-booked shifts will be taken into account when calculating the duration of a temporary payment to a maximum period of 1 month combined.

In exceptional circumstances it may be possible for the Clinical Lead/Deputy Service Director to extend this local payment for a further 1 month by completing Form C.

The application and authorisation process follows the same process as that for Injury Allowance for substantive staff.

9.0 Roles and Responsibilities

Employee/Bank worker

- Notifies Manager/Supervisor that they have been injured or become ill due to their employment.
- Completes Inphase incident form
- If employee/bank worker is unable to return to work following the incident then they notify their Manager/Supervisor/manager on shift where incident occurred.
- Employee/bank worker follows sickness absence process.
- Employee/bank worker completes either Form A and/or Form B and sends completed form to Line Manager/manager where incident occurred
- Employee/bank worker must sign declaration form to confirm they are not in receipt of Department of Work and Pensions benefits.

Manager/Supervisor

- Manager/Supervisor ensures Inphase incident form is completed and witness statements are obtained where appropriate.
- Manager ensures sickness is recorded as an injury at work on healthroster.
- Manager receives completed forms and liaises with their People Relations Advisor
- Manager completes any payroll related paperwork ie. change form after final approval

People Relations Representative

- People Relations Advisor advises on Injury Allowance process and Local Temporary Payment Process
- PR Advisor ensures appropriate paperwork is completed
- Senior PR Advisor notifies payroll if employee will be eligible for Injury allowance and requests the NHS Injury Allowance Eligibility form
- Senior PR Advisor liaises with Clinical Lead/Deputy service Director for authorisation of NHS Injury Allowance Eligibility form
- Senior PR Advisor sends NHS Injury Allowance Eligibility form Form and supporting information to payroll. All paperwork should be sent to ELFTPAYROLL@uhb.nhs.uk
- PR Advisor saves a copy of all forms on staff File.
- PR Advisor liaises with payroll to ensure payments are being processed and actioned in a timely manner.

Clinical Lead/Deputy Service Director and Senior People Relations Advisor

- Reviews Form A and/or Form B and authorises or declines request
- If approved, authorises NHS Injury Allowance Eligibility

- Notifies Line Manager and those involved in decision
- If there are extenuating circumstances to consider extending the Local temporary Payment complete Form C.

Payroll

- Sends the NHS Injury Allowance Eligibility form to the local People Relations Advisor/line manager once verifying if the employee's sickness has been recorded as an injury at work.
- Payroll process completed NHS Injury Allowance Eligibility form as required by the Trust.
- Payroll process the change form for staff that may be eligible for a local temporary payment.

10.0 Additional Information

[Injury Benefits - Staff Guide.pdf](#)

[Injury Benefits - Employers Guide.pdf](#)

<https://www.gov.uk/statutory-sick-pay/eligibility>

11.0 Forms

FORM A - Application for NHS Injury Allowance (SUBSTANTIVE STAFF ONLY) [Form A - Application for injury allowance.docx](#)

FORM B - Application for a Local Temporary Payment (BANK STAFF ONLY) [Form B - Application for Local Temporary Payment \(Bank\).docx](#)

FORM C – Extension to Local Temporary Payment (BANK STAFF ONLY) [Form C - Extension to Local Temporary Payment \(Bank\).docx](#)

NHS Injury Benefits Injury Allowance Eligibility (SUBSTANTIVE STAFF ONLY) provided by Payroll

12.0 Flow Chart of Process



