

TEMPORARY INJURY ALLOWANCE (TIA)

PUBLIC SECTOR PENSIONS AUTHORITY (PSPA) APPEAL PROCEDURE GUIDE

In April 2015 arrangements for Temporary Injury Allowance (TIA) changed and responsibility for determining entitlement for TIA moved from the Public Sector Pension Authority (PSPA) to the employer/Accounting Officer. The responsibility for considering appeals still rests with the PSPA.

This Guide should be read in conjunction with the [Temporary Injury Allowance Process and Procedures](#).

A Flowchart to illustrate the Procedure is attached at the back of the Guide.

1. APPEAL PROCESS

If a claim for TIA is unsuccessful and is turned down by the Accounting Officer, the employee may request a review by an independent appeal panel. The appeal will be considered by the PSPA.

2. WHO MAY APPEAL?

Employment groups who are eligible to appeal are as follows:-

- i. PSC Civil Servants
- ii. PSC Manual and Craft Workers
- iii. Manx Pay Terms and Conditions Staff
- iv. NHS Maintenance Staff
- v. Salaried Medical and Dental Staff
- vi. National Joint Council Staff
- vii. Fire and Rescue Service Staff
- viii. Port Services Staff
- ix. Education Support Staff
- x. Public Transport Staff
- xi. Groups with analogous Civil Service terms and conditions

3. WHAT DOES THE APPEAL PANEL DO?

The PSPA Appeal Panel hears appeals from employees who wish to appeal the decision regarding their Temporary Injury Allowance Application.

4. WHAT IS THE CONSTITUTION OF THE INDEPENDENT APPEAL PANEL?

- i. The Appeal Panel will be made up of three hearing officers from the Executive of the PSPA, none of whom should have had any involvement with the original decision.
- ii. The Appeal Panel will be supported, as required, by the independent medical advisers currently contracted to give medical advice on ill health retirements and permanent injury awards made under the Unified Scheme and Public Sector Injury Benefit Scheme 2015 respectively.
- iii. OHR or the PSPA may be contacted for advice with regard to the procedure.

5. PROCEDURE TO SUBMIT AN APPEAL

- i. An appeal must be submitted to the Accounting Officer or delegate within three calendar months from the date of the letter from the employer notifying the Appellant of the decision. The Appellant must complete and sign the application form at **Annex A**.
- ii. Appellants must state clearly on what grounds they are appealing the Accounting Officer's decision. If this information is not provided within the three calendar months referred to above, the appeal cannot be heard and the process is concluded.
- iii. New evidence should not be brought to the appeal unless it has been seen by both Sides. If such new evidence is medical advice which is submitted by the Appellant, it should be considered first by the Accounting Officer or delegate, who will have the opportunity to revisit their decision.
- iv. The Appellant and the Accounting Officer must submit all paperwork and documentation in evidence of the Appellant's claim to the Office of Human Resources within 10 working days of the submission of the appeal.
- v. OHR will forward copies of the documentation to the Appellant, the Accounting Officer and the PSPA.
- vi. The PSPA will invite all parties to the appeal hearing, giving at least 5 working days' notice.

6. APPELLANT'S RIGHT OF ACCOMPANIMENT

- i. The Appellant has the right to be accompanied, or with prior permission, represented by a work colleague or staff association/trade union representative at the appeal hearing. It is the Appellant's responsibility to arrange this and to ensure that the person they choose to accompany them is available to attend the hearing.
- ii. If the Appellant, their work colleague or trade union / staff association representative is unable to attend a hearing on a date specified due to illness or any other extenuating circumstances, an alternative date will be arranged. The Appellant must propose another date and time, ideally no more than 7 working days after the proposed date, and the PSPA will make the necessary arrangements.

7. APPEAL FORMAT

The format for an appeal is set out in **Annex B**.

8. RESPONSIBILITY OF THE PSPA APPEAL PANEL

The Panel should:

- i. Ensure that documents received from the Accounting Officer makes it clear why an application for TIA is being rejected.
- ii. If necessary, seek advice from the independent medical advisor/s contracted by the PSPA.
- iii. If necessary, adjourn a hearing in order to obtain additional evidence or information or a further response from the Accounting Officer – in such cases the Appeal panel will identify another hearing date and agree this with both parties.
- iv. Make its decision based on documentation before it as well as the views of the independent medical advisor/s.
- v. The Appeal Panel will determine the claim no later than one calendar month from the date of the Appellant's submission.

9. DECISION

- i. The Panel will inform the Accounting Officer and the Appellant of the decision and the reasons for the decision in writing within 5 working days of the Appeal hearing, with copies sent to the Appellant's work colleague or staff association/trade union representative, the Accounting Officer and OHR. (See **Annex C**)
- ii. The Accounting Officer will confirm the amount and payment terms (including the date payment is to commence and cease) of the TIA to the Appellant and make the necessary arrangements with Payroll for the TIA to be paid.
- iii. The decision of the Appeal Panel is final.

10. DATA PROTECTION AND INFORMATION SECURITY

All parties are reminded to ensure the secure handling of both manual and electronic data whilst it is under their control, and to comply with Data Protection Requirements.

11. MONITORING AND REVIEW

The following statistical data will be monitored and reviewed by OHR on a quarterly basis:

- Number of applications approved/refused by TIA Appeal Panels.

12. USEFUL WEB LINKS

Temporary Injury Allowance Regulation E 56

https://www.gov.im/hr/iompsc/cs_regs/section_E/sickpay.xml

Temporary Injury Allowance Procedures

<https://www.gov.im/lib/docs/hr/iompsc/tiaprocessandprocedurefinalvers.pdf>

Temporary Injury Allowance Form

<https://www.gov.im/lib/docs/hr/iompsc/tiaapplicationformfinalversion0.pdf>

Management of Sickness Absence

https://www.gov.im/lib/docs/hr/Sickness_Absence/managementofsicknessabsenceendor.pdf

13. GLOSSARY OF TERMS

Accounting Officer	Chief Officer
Appellant	Employee who is appealing their Accounting Officer's decision not to award a TIA
Calendar month	<p>The period from a day of one month to the corresponding day of the next month if this day exists, or the last day of the next month</p> <p>Examples:</p> <ul style="list-style-type: none"> • The outcome decision is dated 21 October. <ul style="list-style-type: none"> ○ The appeal must be made by 21 January. • The outcome decision is dated 30 November. <ul style="list-style-type: none"> ○ The appeal must be made by 28 February (or 29 February in a leap year). • The outcome decision is dated 31 March. <ul style="list-style-type: none"> ○ The appeal must be made by 30 June.
Parties	The Accounting Officer or delegate (Respondent) and the employee (Appellant)
Respondent	Accounting Officer or delegate representing the Department, Board or Office where the employee (Appellant) is employed.
Working day	A week day: Monday to Friday.

APPLICATION FORM - NOTICE OF APPEAL AGAINST TIA DECISION

Appellant to submit this form to their Accounting Officer within three calendar months from the date of the letter from their Department/Board or Office notifying them that their claim for TIA was unsuccessful.

Appellant should submit the completed form to:

Accounting Officer or Delegate
 Department/Board or Office
 Address

Appeal by: _____ (Name)

1. Date of written notification of decision of Department/Board or Office _____

2. **I APPEAL AGAINST this result**

3. I **will be / will not be** submitting additional evidence not taken into consideration at the original TIA application. *

4. A concise statement of the grounds on which I wish to appeal is annexed to this application.

5. A statement listing the documents which I wish to submit in support of my appeal is also annexed to this application.

(Supporting documentation must be submitted to OHR within 10 working days of the date of the appeal)

6. I authorise the documents listed in the attached statement to be shared with OHR, members of the Appeal Panel and its medical advisers.

Signature _____ Date _____

Print Name _____

Address to which all notices and other documents are to be sent _____

For office use only

Date on which the appeal was received in OHR _____

*Delete as appropriate

Encs

Note: Remember to include Annexes as per No 4 and No 5 above.

CONDUCT OF TIA APPEAL HEARING PROFORMA

To consider an Appeal against the decision regarding a TIA for Appellant Name

To consider **Appellant's** appeal against 'use exact wording of Appeal'
Panel to convene 30 minutes prior to the hearing to review the process and any relevant issues.

1.Introductions	<p>Panel: Chair, Name and two panel members: Name and Name</p> <p>Name, the Appellant will be accompanied at the hearing by Name (work colleague or staff association/trade union representative).</p> <p>The Respondent, Name, Job Title, will represent the Department of ...</p> <p>Name will take the notes of the hearing.</p> <p>Name/s will attend as witness/es.</p>
2.Purpose	To consider an appeal against TIA decision of Name, Department of ... on Date .
3.Procedure	<p>Temporary Injury Allowance PSC CS Regulation E 56. https://www.gov.im/hr/iompsc/cs_regs/section_E/sickpay.xml</p> <p>Temporary Injury Allowance PSC Manual & Craft https://www.gov.im/hr/whitley/articles/article52.xml</p>
4.Timing	During the hearing either party may ask for a short adjournment.
5. Paperwork	Check everyone has paperwork.
6. Case for Appellant	<p>Name Appellant, I invite you to make your opening statement and to present your case for appeal</p> <p>Name Respondent may question Name Appellant and/or Name Rep and each witness after they have given evidence</p> <p>The Panel may also question Name Appellant and/or Name Rep</p>
7. Case for Respondent	<p>Name Respondent I invite you to present your response.</p> <p>Name Appellant and/or Name Rep may question Name Respondent.</p> <p>The Panel may also question Name Respondent and each witness after they have given evidence.</p>
8. Re-examination	<p>We should like to ask Name Appellant and Name Rep and Name Respondent if they wish to re-examine any evidence before proceeding to the next stage.</p> <p>Name Appellant to respond first.</p> <p>Name Respondent to respond thereafter.</p>

9. Final statements	Ask Name Appellant and Name Rep first and then Name Respondent if there is anything else they wish to add as a final statement / to sum up.
10. Adjourn and consider the case	<p>The Panel will adjourn to consider its decision.</p> <p>All other parties will leave the hearing (show them to waiting area).</p> <p>If it is necessary to recall either party in order to resolve points of uncertainty on the evidence given, both parties will be recalled notwithstanding the fact that only one may be concerned with the point giving rise to doubt.</p>
11. Options	When the Panel is satisfied that it has a full and complete understanding of the issues, it will adjourn the hearing in order to consider the facts and the options available. The Panel shall either confirm or reject the decision.
12. Decision	<p>The decision of the Panel will be confirmed in writing within 5 working days of the hearing with a copy to the Appellant's work colleague or staff association/trade union representative and a copy to the Accounting Officer and OHR.</p> <p>In the event that the decision is overturned a copy of the letter from the PSPA Appeal Panel and a copy of the authorised form will be forwarded to Payroll.</p> <p>The decision of the Appeal Panel is final.</p>

Notes

- a) The person accompanying the Appellant has a statutory right to address the hearing but no statutory right to answer questions on behalf of the Appellant. They should be allowed to address the hearing in order to:
 - Present the Appellant's case;
 - Sum up the Appellant's case;
 - Respond on behalf of the Appellant to any view expressed at the hearing;
 - Confer with the Appellant during the hearing.
- b) The person accompanying the Appellant may not address the hearing if the Appellant does not wish it and must not prevent other parties from presenting their cases.
- c) It is generally expected that the Appellant will attend and respond in person.
- d) However, in exceptional circumstances, for example where the medical condition prevents normal communication, or in the event of mental health issues where the Appellant has given specific permission, the person accompanying the Appellant may respond on their behalf.
- e) Decisions should be based on an assessment of the facts as presented at the hearing.

TEMPLATE LETTER FOLLOWING PSPA APPEAL HEARING

Decision must be confirmed in writing by Chair of PSPA Appeal Panel within 5 working days of the hearing.

Accounting Officer, Department/Board/Office

Address

Private and Confidential

Name

Address

Date

Dear

Public Sector Pensions Authority (PSPA) Appeal Panel Hearing

I write further to the Temporary Injury Allowance (TIA) Appeal hearing which took place on [date].

- i. After a careful consideration of all the surrounding circumstances of your case, the Panel has decided to uphold the decision of your Accounting Officer and confirmed that your claim for TIA is unsuccessful;

The rationale for the decision was

The decision of the Appeal Panel is final.

or

- ii. After a careful consideration of all the surrounding circumstances of your case, the Panel has decided to allow your appeal, and confirm that your claim for TIA is approved.

The rationale for the decision was

In the event of ii.

Your Accounting Officer will confirm the amount and payment terms of the TIA and will make the necessary arrangements with Payroll for the TIA to be paid.

Yours sincerely

.....

Chair

PSPA Appeal Panel

Copy to: Accounting Officer

OHR

Payroll (in the event of ii. including a copy of the authorised application form)

PSPA TEMPORARY INJURY ALLOWANCE APPEAL PROCEDURE

