



**Isle of Man
Government**

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Temporary Injury Allowance Process and Procedures

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Introduction

Staff who are injured or become ill due to their employment may be entitled to a top up payment if their pay is reduced as a result of their health problems. Arrangements for this financial support change in April 2015.

This document provides information and guidance for staff affected by work related injury or ill health on possible entitlement to the new injury allowance.

This guidance should be read in conjunction with the Managing Sickness Absence Policy and the sick pay provisions contained within your terms and conditions of service. Payment of this allowance is not an acceptance of blame on either the employee or the employer.

Who is eligible for Temporary Injury Allowance?

Employment groups who are eligible to this process of injury allowance are as follows:-

- Civil Servants
- Isle of Man Whitley Council
- Manx Pay Terms and Conditions Staff
- NHS Maintenance Staff
- Salaried Medical and Dental Staff
- National Joint Council Staff
- Fire and Rescue Service Staff
- Port Services Staff
- Education Support Staff
- Public Transport Staff
- Manx Utilities Staff
- Groups with analogous Civil Service terms and conditions

Temporary Injury Allowance (TIA)

A Temporary 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.

Temporary Injury Allowance is a payment made by the employer to eligible staff that tops up sick pay, or reduced earnings when on phased return to work, to 85 per cent of pay.

Pay is the contractual full sick pay arrangements as defined in the employee's terms and conditions.

Qualifying for Temporary Injury Allowance

TIA is paid when the injury is wholly or mainly attributable to the discharge of duties. Wholly means totally and mainly means for the most part. Attributable is defined in case law as a contributory causal connection; it need not be the sole, dominant, direct or proximate cause and effect.

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 an injury that is not sustained on duty but is connected with or arising from the employee's employment.

Payment of TIA is not dependent on length of service. This means that all staff are covered from their first day of employment.

Situations where an injury allowance may be considered

Some examples

- Physical or psychiatric injury sustained or disease contracted due to a specific incident or series of incidents
- Injury sustained or disease contracted that does not manifest itself for several years, for example, asbestosis or Hepatitis C
- Injury sustained while travelling on official duty, for example, road traffic collision while travelling from one workplace to another; or travelling to work as part of your contractual duties
- Injury ,sustained off duty, for example, while providing professional treatment which required professional training or knowledge at the scene of an RTC
- Incidents to employment (for example, exposure to noxious substances) causing injury, condition or disease over a period

Circumstances where Injury Allowance is unlikely to be considered

Injury Allowance is unlikely to be considered where a person:

- Is injured on a normal journey travelling to and from work, except where the journey is part of their contractual duties of employment
- Is on sickness absence as a result of disputes relating to employment matters such as investigations or disciplinary action, or as a result of a failed application for promotion, secondment or transfer.
- Sustains an injury or disease which is aggravated by the claimants own negligence or misconduct.

Neither is it payable:

- Where there is no reduction in pay below 85 per cent
- Where the employment contract ends

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

- Where the injury 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.

Who makes the decision about entitlement to TIA?

The employer is responsible for determining entitlement for TIA and must decide if the injury, disease or other health condition is wholly or mainly attributable to the employee's duties of employment. Payment of this allowance is not an acceptance of blame on either the employee or the employer. The employer may refer to Occupational Health for guidance on establishing if the employee meets the criteria. Decisions on payment should take into account individuals sick pay entitlements to enable the timely payment of Injury Allowance.

Claiming for Injury Allowance

The employee should complete the Temporary Injury Allowance Claim Form and inform their manager that their absence is work related. The manager will need to establish whether the absence is wholly or mainly attributable to the employee's duties and if so when to start paying Injury Allowance. It is only payable when pay reduces below 85% so it is important that the manager can make a decision about entitlement before this happens so that timely payment of the allowance can be made. All claim forms are to be agreed and signed by the Accounting Officer/Chief Executive of the Department/Office/Board. Where the employer or employee is uncertain on how to deal with the claim, either party can contact the Office of Human Resources for advice.

If the claim is approved, the Injury Allowance Claim Form should be sent to Payroll Section and copied to OHR by the manager. If the claim is rejected, an appeal against the decision will be referred to the PSPA (see section Disputes against the Decision). The application form and supporting documentation should be sent to OHR for forwarding onto the PSPA Appeals panel. The decision of the PSPA Appeal panel will be final.

Confidentiality and Privacy Notice

The Office of Human Resources (OHR) and relevant Department, Board or Office Privacy Notices describe how personal information about an employee is collected and used during and after their working relationship within the Isle of Man Government and what legal basis there is for gathering and retaining that information in accordance with the Data Protection Act 2018 including the General Data Protection Regulation. For further details about the information collected and retention periods, please refer to the [Office of Human Resources' Privacy Notice](#) and the relevant Department, Board or Office's Privacy Notice which are incorporated in to this document by reference.

Supporting Documentation

As well as notifying your manager that you believe your absence to be work related at the earliest opportunity, you must provide all relevant information, including

medical evidence, that is in your possession or that can be reasonably obtained, to enable the manager to determine the claim. This will include:

- A statement giving details of the injury sustained or the disease contracted and how it is connected to your employment (that is what caused it)
- A copy of the accident report you or a colleague completed, including a copy of the RIDDOR form if applicable
- You will also be asked to give permission for your occupational health or GP records to be accessed.
- Job description, including details of the location of work, duties of employment and training records
- Sick leave record

How is TIA Calculated

Temporary Injury Allowance is a top-up payment. It tops up sick pay and/or earnings up to 85% of full sick pay. TIA is subject to income tax and national insurance contributions but is not subject to GUS pensions contribution deductions.

The following payments will be included when calculating what constitutes 85% of earnings:

- Contributory state benefits received for loss of earnings, for example statutory sick pay or incapacity pay
- Contractual Sick pay
- Any earnings when on a phased return to work on reduced pay
- Any occupational pension payable from public funds

Overpayments

If an overpayment of TIA is made the employer can recover this by deducting the overpayment from future wages or salary. The employer and payroll will take into account the amount and period of time over which the over-payment was made when agreeing the programme of repayments with the employee.

Phased Return to Work

Eligible employees who agree a phased return work programme with their manager may receive the TIA as a pay top up if their pay is reduced during this employer approved period of rehabilitation.

Policy Intention

The intention is for the Temporary Injury Allowance to be a flexible payment that supports staff when they are off sick and on return to work. As such it can be paid for a maximum of 12 months per illness, for example, during sickness absence on reduced or no pay and during any agreed phased return to work after pay has been reduced, with an absence episode linked to the original injury.

Where an injury is exacerbated by a further injury or incident at work (which may not on its own have led to a period of sickness absence) then a new injury may commence. See Annex A for examples of application.

Duration of payment of TIA

TIA is payable for a period of up to 12 months per injury, in conjunction with absence management, return to work, rehabilitation policies and temporary redeployment.

The intention is for TIA to be a flexible payment that supports staff when they are off sick and on return to work. As such it can be paid for a maximum of 12 months per injury, for example during sickness absence on half or nil pay and during any agreed phased return to work after pay has been reduced, provided the absence remains linked to the original injury.

The allowance ceases to be paid when one of the following conditions is satisfied:

- 12 months maximum payment period is reached
- Pay is no longer reduced below 85 per cent
- Employee returns to substantive employment
- Employee is redeployed; where they have to change jobs permanently to a position of lower pay due to a work related injury, disease or other health condition when Permanent Injury Benefit may be payable.
- The contract of employment is terminated, possibly resulting in access to ill health retirement benefits if they are a member of the Government Unified Scheme or Permanent Injury Benefit.

Disputes against the decision to award TIA

If your claim for TIA is unsuccessful and is turned down by your employer, you may request a review by an independent appeals panel. The [appeal](#) will be considered by the PSPA.

You and your employer will submit all paperwork and documentation in evidence of your claim to the Office of Human Resources. OHR will forward all documentation to the PSPA, who will review the claim

The panel will determine your claim no later than 28 days from your submission.

The decision of the appeals panel is final.

Monitoring and Review

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

- Number of applications approved/refused by employers
- Length of time of award of TIA
- Number of applications approved/refused by the PSPA Appeal panel.

Examples of Application

Each example below assumes the employee has met the eligibility criteria. There is no right to exhaust the full 12 months allowance. It is there to provide support to staff alongside an employer's structured absence management policies and procedures.

- Paul has full sick pay entitlements with six months full pay and six months half pay. Paul triggers the Temporary Injury Allowance payment when his pay reduces below 85 per cent. This is at the point he moves from full pay to half pay.
- Sally has recently had a period of long term absence which has reduced her sick pay entitlement to zero. Given the immediate move into a no pay situation the employer will need to determine eligibility for Temporary Injury Allowance promptly. On confirmation of Sally's eligibility then her income is topped up to 85 per cent as defined, from the first day of absence (applied retrospectively as necessary).
- Tony's sick pay entitlement provides for 4 months full pay and 4 months half pay. On confirmation of Tony's eligibility his income is topped up to 85 per cent as defined, at the end of the 4 months period of full pay. This continues for a period of 3 months at which point his employer, further to discussion with Occupational Health Services, places him on a period of phased return to work on full pay as per his terms and conditions of employment. In this scenario Tony's manager, in discussion with Occupational Health, agree to a longer period of phased return and if his pay drops below 85 per cent at any point during this time then the Temporary Injury Allowance will provide a top-up to that level.

Recurring Absences

- Should Paul, Sally or Tony suffer recurring absences following a return to work, which remains "wholly and attributable" to the original injury, any remaining/unused allowance (to a total of 12 months) may be used to top their pay up to 85 per cent.
- If Paul were to return to work after 8 months absence but subsequently had a recurrence of symptoms of the original injury resulting in a period of absence then he would be entitled to return to full sick pay entitlement and further payment of Temporary Injury Allowance would only occur when sick pay reduced below 85 per cent.
- If Sally were to return to work after 8 months absence but subsequently had a recurrence of symptoms of the original injury resulting in a period of absence, then as she has already had a period of long term absence prior to the injury at work Sally is likely to have a shorter period of full sick pay thereby triggering access to the remaining Temporary Injury Allowance of four months (12 minus the 8 months allowance already accessed)

As above the employer will need to review the situation regularly and a decision on ongoing entitlement to the Temporary Injury Allowance will need to be made as individual circumstances change.