

# Industrial Injury Claim Procedure

## Policy information

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### Summary of document:

This guidance applies to eligible Hywel Dda UHB employees who are claiming that they have sustained an injury or have contracted a disease or other health condition that they believe is wholly or mainly attributable to their NHS employment and is not due to or aggravated by their own negligence or misconduct.

### Scope:

This procedure applies to eligible Hywel Dda University Health Board employees who are claiming that they have sustained an injury or have contracted a disease or other health condition that they believe is **wholly or mainly attributable to their NHS employment and is not due to or aggravated by their own negligence or misconduct.**

### To be read in conjunction with:

[NHS Injury Allowance guidance | NHS Employers](#) (opens in a new tab)

[768 - All Wales Managing Attendance at work Policy](#) (opens in a new tab)

Owning group: Workforce & OD Team

### Executive Director job title:

Director of Workforce & Organisational Development

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## Introduction and Scope

This procedure applies to Hywel Dda University Health Board (HDUHB) employees who are claiming that they have sustained an injury or have contracted a disease or other health condition that they believe is **wholly or mainly attributable to their NHS employment and is not due to or aggravated by their own negligence or misconduct**.

## Aim

This document provides guidance for HDUHB employees on the process for submitting an industrial injury claim.

## Objectives

The aim of this document will be achieved by the following objectives:

- To set out the process to claim injury allowance and/or normal pay linked to allowances and working patterns during sick leave being reported as due to workplace injury or disease.

## Injury Allowance

Management will need to follow normal absence management procedures during any period of absence. Therefore this guidance should be read in conjunction with the [768 - All Wales Managing Attendance at work Policy](#) (opens in a new tab)

Employees who receive confirmation of a successful claim will subsequently be eligible to receive payments linked to working patterns or additional work commitments (e.g. unsocial hours payments etc) during sickness absence caused by the industrial injury. Employees with successful claims may also be eligible for Injury Allowance should they experience a reduction in salary during the sickness absence period (e.g. when they move from full sick pay entitlement to half sick pay).

**Please note:** Employees will only receive basic pay (ie not be paid any allowances or payments linked to working patterns or additional work commitments) during the sickness absence episode until the outcome of the claim is known, after which payments will be reimbursed retrospectively for successful claims. Employees who have exhausted full sick pay entitlement and remain on sickness absence may also move to half sick pay entitlement until the outcome of the claim is known after which Injury Allowance will be backdated retrospectively for successful claims.

Confirmation of a successful Injury Allowance claim does not represent a legal admission of liability for the injury/illness.

Employees who are absent from work due to sickness which is the result of a confirmed industrial injury may also be eligible to receive Injury Allowance once they have exhausted their full sick pay entitlement and reduce to half pay. Injury Allowance tops up pay to 85% of earnings for a maximum of 12 months during sickness absence. If agreed by the manager, any unused Injury Allowance can also be used to extend phased return to work plans as an alternative to using annual leave (see [768 - All Wales Managing Attendance at work Policy](#) (opens in a new tab)).

## RESPONSIBILITIES

### Employee Responsibilities

All incidents should be reported by the employee or appropriate person immediately, or as soon as practicably possible, following an incident using an electronic incident reporting form (DATIX web).

Individuals who subsequently wish to submit an Injury Allowance claim should do so by completing Part A of the Injury Allowance Claim Form ([Appendix 1](#)) at the earliest opportunity and pass to their line manager. Please note any incomplete applications may be returned pending further information which may delay the outcome.

Employees should continue to comply with their responsibilities under the [768 - All Wales Managing Attendance at work Policy](#) (opens in a new tab) during any period of absence.

Employees who have submitted a claim must continue to submit their timesheets with the allowances or payments linked to working patterns or additional work commitments that they would have worked had they not been absent due to sickness. However, the manager **should not** submit these allowances or payments on their payroll returns until they have written confirmation from Panel that the claim has been successful.

To support their claim, employees must provide all relevant information in line with normal absence management procedures. Employees should notify their line manager that they believe their absence to be work-related and complete the relevant accident reports (e.g. DATIX) at the earliest opportunity.

They must also provide all relevant information, including medical evidence, that is in their possession or that can be reasonably obtained, to enable the employer to determine the claim. This could include:

- a statement (SBAR) giving details of the injury sustained or the disease contracted (that is, the condition) and how it is connected to their NHS employment (that is, what caused it)
- a copy of the accident report they or a colleague completed.

They may also be asked to give permission for Occupational Health or GP records to be accessed or for a new OH referral to be made.

Employees may also wish to provide additional supporting and corroborating evidence to help determine eligibility, for example witness statements, DWP benefit statements, copies of any relevant letters and correspondence relating to any other medical advice received. Further information on corroborating evidence can be found in the Employers Guidance on Injury Allowance which can be accessed at [www.nhsemployers.org](http://www.nhsemployers.org) (opens in a new tab)

### Manager Responsibilities

Management will need to follow normal absence management procedures during any period of absence.

The line manager must complete Part B of the application form and forward all relevant documentation (including Part A completed by the employee and their supporting evidence) to their Senior Manager (band 8a and above)

The Senior Manager will convene a Virtual Panel which will also include a representative from Workforce, Occupational Health and a trade union (independent of the case). The decision of the Panel regarding eligibility for Injury Allowance will be based on all available evidence and this may include:

- details of the injury sustained or the disease contracted (that is, the condition) by the employee
- how it is connected to their NHS employment (that is, what caused it).
- accident report(s) including Datix records.
- occupational health department notes and records
- job description, including details of the location of work, duties of employment and training records, etc.
- sick leave record
- a full statement of events from the employee explaining what injury/disease they are claiming for and the circumstances leading to the claim
- appropriate medical advice, for example, from occupational health service.
- witness statements and any other relevant documentation

## Principles of Process

- The Panel will consider all the documented evidence and a decision will be made based on **the balance of probability** of whether the absence is **wholly or mainly due to NHS Employment**, which is defined as “**more likely than not**”, including any negligence or contributing factors.
- Applications **must** be completed in full to enable the Panel to determine the claim as applicants are not in attendance during consideration of an application i.e. this is a desktop consideration of the documentation provided. Any incomplete applications will therefore be returned for further information.
- The Panel will confirm the outcome of the claim (be it successful or unsuccessful) to the individual and copy to their line manager, in writing within 28 calendar days of the completed submission of the application, by completing Part C of the Claim form.
- Records of the outcome will be maintained and anonymously reported to the appropriate committees.

## Appeal

If an employee disagrees with the outcome of a decision about Injury Allowance or the calculation/ payment of the allowance, they will have a right to appeal against the decision under this process. Please note as there is a provision for appeal under this process, no subsequent formal Requests for Resolution regarding this process will be accepted.

The panel will consist of a:

- Senior Manager from outside the employee’s directorate/ locality.  
and
- Senior Workforce representative (not previously involved in the original decision).

Employees wishing to appeal must submit [Appendix 2](#) Part A within 7 days of receiving the original outcome to their line manager. The line manager should add any relevant additional information in Part B and then email it to their Senior Workforce contact.

On receipt of the request, the Senior Workforce representative will set up the appeal panel. The employee should make every attempt to be available on the day of the meeting to answer questions from

the panel and/or provide additional information where needed. If the employee and/or their representative are unavailable, their manager can be available on their behalf with the employee's consent or a second meeting will be arranged. If the staff member is unable to attend the rearranged meeting the panel will hold the meeting in their absence and make a decision based on the evidence they have at hand.

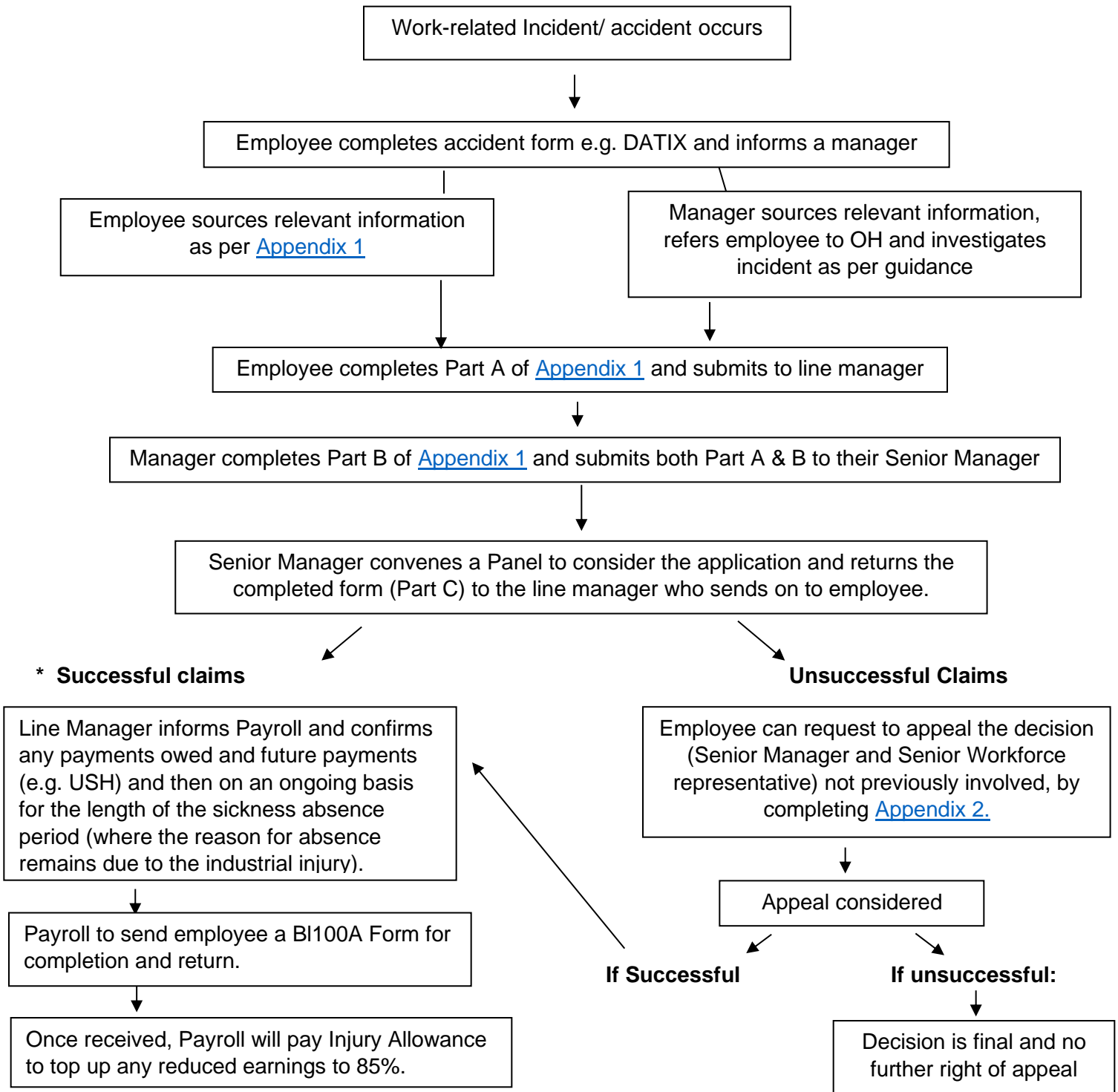
The panel will complete Part C with the outcome within 7 days of the meeting taking place which will be sent to the employee.

Please note the decision of this panel is final and there will be no further right of appeal under this process.

## **References / Further Information**

For further information regarding the NHS Injury Allowance scheme and Frequently Asked Questions please refer to: [NHS Injury Allowance guidance | NHS Employers \(opens in a new tab\)](#)

# Injury Allowance Claims Process Flowchart



\* If a successful claim is received for an absence linked to a previous industrial injury, the line manager will be required to notify payroll that the employee has a **recurring** industrial injury, providing details of the original injury (obtained from the claim form). The manager will again be required to provide Payroll with information regarding any payments owed and payroll will ensure any **remaining/unused** Injury Allowance (to a total of 12 months) is used to top up any reduced earnings during the recurring sickness absence to 85%.

## **APPENDIX 1 – INJURY ALLOWANCE CLAIM FORM**

[Injury allowance claim form](#)

## **APPENDIX 2 – REQUEST FOR REVIEW BY APPEAL PANEL**

[Request for review by appeal panel](#)