

THE ICL PUBLIC INQUIRY

Inquiry Chairman: The Right Honourable Lord Gill

Inquiry Protocol: Compensation for loss of time

In order to operate most effectively and most efficiently, an Inquiry such as this needs to operate flexibly. Procedures may need to be adopted, or may need to be adapted, to enable this. The procedure outlined is not intended to cover every eventuality or every procedural issue that will arise. When procedural decisions need to be taken, they will be taken by the Inquiry Chairman with the assistance of the Inquiry legal team and of representations or submissions from others, if the Chairman considers that would be appropriate and desirable.

Power to make an award

1. The Chairman may award reasonable amounts to a person for compensation for loss of time (S40(1) (a)).
2. In doing so he must have regard to the financial resources of the Applicant (Rule 18) and the public interest so far as relating to the making of an award (rule 18)

Eligibility

3. A person is eligible to be considered for an award only if:
 - a. he or she is a person attending the Inquiry to give evidence or to produce any document or other thing, or
 - b. a person who, in the opinion of the Inquiry Chairman, has such a particular interest in the outcome of the Inquiry as to justify such an award;

Applications

4. Applications for awards for compensation for loss of time must be submitted in writing prior to loss of time being incurred. Applications will require evidence in support together with evidence as to the Financial Resources of the Applicant.
5. An award will only be exceptionally made to a person whose attendance has not been required by the Inquiry Chairman.
6. If you are in employment, you should discuss with your employer. If your employer is not prepared to allow you to attend as part of your normal working hours and deducts wages for the time you are not in work, you may apply for an award and, if granted, submit a Claim to cover loss of time. Proof that your employer has not paid you, will be required as part of your Claim when made.
7. If a witness is giving evidence in the context of their current employment, it is expected that their employer will continue to pay their wages for the time involved.
8. There are separate protocols for applications for Legal Representation at Public Expense and for reimbursement of Travel & Subsistence expenses.

Awards

9. The Chairman will determine an application for an award for compensation for loss of time within a reasonable time and notify the Applicant in writing, and where the Applicant has a recognised legal representative, also the recognised legal representative.
10. An award for amounts to be incurred by way of compensation for loss of time, will include conditions:
 - c. setting an upper limit, or limits, on the sums which will be paid;
 - d. setting out the form in which invoices must be submitted to the Chairman; and
 - e. specifying the supply of such documentary evidence as the Chairman considers necessary.
11. No award will be made retrospectively for compensation for loss of time which has already arisen.
12. The Chairman, either initially or at any time after making an award, may impose conditions or further conditions on the award.

Claims

13. Following awards being made, an Applicant who has been granted an award must submit a Claim form (available from the Inquiry Secretariat) to the Inquiry within one month of the loss of time being incurred, or otherwise forfeit their right to claim. Claims will not be received any later than one month after closing submissions. The Claim must be submitted to the Chairman at the address stated below and be accompanied by supporting evidence.

(Arrangements will be put in place for claims to be received by hand, during the course of the oral hearings, by the Inquiry Secretariat Office at the hearing venue. A receipt will be given).

Procedure for the assessment of amounts payable under an award for compensation for loss of time

14. The Solicitor to the Inquiry will assess within 21 days any Claim submitted following an award for compensation for loss of time and notify the Applicant in writing of her determination.
15. When assessing a Claim the Solicitor to the Inquiry must have regard to the actual sums lost by the Applicant as a result of attending the Inquiry or, if no such sums can be identified, such other amount as the Solicitor to the Inquiry considers proportionate and reasonable having regard to all the circumstances and in particular whether the Claim accords with the conditions and terms of the award made by the Chairman, and whether it is proportionate and reasonable in amount. Amounts must be excluded where any condition set by the Chairman has not been complied with.
16. Where the Solicitor determines that the full amount of an Applicant's Claim should be paid, that assessment will be the final assessment.

17. Any aspect to which the Solicitor objects will be identified and the nature of objection specified and an amount will be proposed for each aspect in respect of which a reduction is sought.
18. The Applicant must provide the Solicitor to the Inquiry with a written response to the points of dispute within 21 days of their having been sent to the Applicant.
19. The Solicitor to the Inquiry and the Applicant may agree in writing to extend the 21 day periods allowed for.
20. In the event the Applicant does not respond to the points of dispute within 21 days of the date when the points of dispute were sent and there has been no agreement in writing to extend the deadlines allowed for, the Solicitor will issue a final assessment.
21. In the event the Applicant responds to the points of dispute the Solicitor must reconsider the initial assessment of the amount of the award and following re-assessment must issue the final assessment within a reasonable time.

Compliance with requirements under this protocol

22. Any requirement under this protocol that a document is given or sent to the Inquiry is satisfied by that document being:
 - a. sent to the Inquiry's designated postal address by first class post;
 - b. faxed from the sender's designated fax number to the Inquiry's designated fax number or
 - c. sent by email in Word format to the Inquiry's designated email address.

The Inquiry's contact details for each of the above methods of communication are set out below.

23. Any requirement under this Section that a document is given or sent to the Applicant is satisfied by that document being:
 - a. sent to the Applicant's designated postal address by first class post;
 - b. faxed to the Applicant's designated fax number; or
 - c. sent by email to the Applicant's designated email address, provided the Applicant has notified the Solicitor in writing that documents sent by email will be accepted.

Payment of an award

24. All payments will be made by a Bankers' Automated Clearing System (BACS) transfer. To enable payment to be made, an Applicant will be required to complete the appropriate documentation which will be provided by the Inquiry.
25. When completed and signed, the documentation should be returned to the Inquiry Secretary to whom any queries relating to the processing of payments should also be directed.

Queries

26. Should you require more information or wish to discuss any aspect of arrangements for claiming for loss of time or expenses, please call the Inquiry Secretary on 0131 240 6863.

Inquiry's contact details

27. The Inquiry's contact details are as follows:

The Inquiry Secretary
Inquiry Secretariat
The ICL Inquiry
3rd Floor,
Lothian Chambers,
59-63 George IV Bridge,
Edinburgh,
EH1 1RN.
Email: info@theICLinquiry.org
Telephone: 0131 240 6863
Fax: 0131 240 6811

Issued under the authority of the Chairman on 2 May 2008

Failure to adhere to, and comply with, any of the matters or procedures set out in this Protocol could result in payment being delayed or refused.