

# **Ealing Council**

## **Work Related Injury/Illness Policy and Process**

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# Work Related Injury/Illness Policy and Process

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# **WORK RELATED INJURY/ILLNESS POLICY AND PROCESS**

## **1 POLICY STATEMENT**

- 1.1 Ealing Council is committed to the wellbeing of all its employees and seeks to ensure so far as is reasonably practicable that the risks of being involved in an accident or sustaining an injury at work are minimised.
- 1.2 This policy sets Ealing Council's process for determining whether sickness absence is due to a work related injury and eligibility for an injury allowance payment. .
- 1.3 Ealing Council's Local Terms and Conditions of Service contain Accident Reporting procedures that must be followed to enable an investigation and assessment of whether an employee has sustained a work-related injury, together with the Investigation Procedures set out in the Corporate Health and Safety Handbook available on the Council's Intranet.

## **2 SCOPE**

- 2.1 This policy applies to all employees who have a contract of employment with Ealing Council, except Teaching and Support Staff employed in schools (who are covered by their own arrangements). It does not apply to non-employees such as Agency Workers.

## **3 DEFINITIONS**

- 3.1 For the purposes of this policy, a work-related injury is where:

An employee becomes incapacitated for work by reason of an accident, injury or industrial disease sustained in the course of his/her duties with Ealing Council (and not being wholly or mainly due or seriously aggravated by the employee's own serious and culpable negligence or misconduct).

- 3.2 Injury Allowances:

Where it is determined that an employee has sustained an injury/illness on duty the Council shall pay the employee an injury allowance payment, under the Local Agreement on the Terms and Conditions of Service, Part 2, paragraph 5.2.1. which is the equivalent of fully pay after any deductions allowable under the sickness scheme (i.e. for SSP/Incapacity Benefit). Any deductions will cease if the employee becomes subject to a notice period. The allowance will not be linked to the normal Occupational Sick Pay entitlements and will not be affected if normal Occupational Sick Pay has been paid in the previous twelve months.

- 3.4 For provisions relating to injury when off duty, refer to paragraph 5.2.2 of part 2 and paragraph 5.1.2 of the Local Agreement on Terms and Conditions of Service.
- 3.5 The Council does not treat “work-related stress” as qualifying for an injury allowance, even though claims are submitted from time to time.
- 3.6 Any acceptance by Ealing Council that the injury is work related does not indicate an acceptance of liability on behalf of Ealing Council. Ealing Council’s Insurance and Risk Manager carries out an independent assessment not covered by this note.

#### **4 REPORTING OF ACCIDENTS, INJURIES AND INDUSTRIAL DISEASES**

- 4.1 Employees must notify their designated managers of all details of any accident, injury or industrial disease on duty at the earliest possible opportunity and within 72 hours of it occurring. (See Corporate Health and Safety Handbook on the Council’s Intranet for details of the Accident Reporting and Investigating Procedure). Where an employee is incapacitated and not able to report personally, someone on his or her behalf can notify the employee’s manager (e.g. next of kin, colleague, friend or relative). Whoever does, should provide as much information as they possibly can to enable the manager to record all the details of the accident, injury or industrial disease.
- 4.2 Where an accident, injury or industrial disease leads to sickness absence, employees must follow the Council’s Sickness Absence Reporting Procedures. Employees may be required to participate in any necessary medical examinations as required by the Council, which may be carried out by the Occupational Health Unit.
- 4.3 Designated managers must ensure that employees complete reports of all accidents, injuries or industrial diseases on the Council’s Accident Report Form F2508 (BI510). Where an employee is unable to complete the relevant form or requires some assistance, the designated manager should either complete the relevant form on the employee’s behalf, or assist the employee to complete it. (Refer to the Accident Report Form Guidance Notes on where and when to send the form)
- 4.4 The designated manager must ensure that a full investigation of the incident takes place immediately and the accompanying Council’s Investigation Form is also completed. Occupational diseases should be reported on Form F2508A and are only reportable when a doctor provides notification that an employee suffers from a reportable work related disease. The purpose of the investigation is to determine whether the employee is unfit as a result of an injury/illness sustained in the course of his or her duties.
- 4.5 The Corporate Health and Safety team will provide advice to managers on the investigation and on whether accidents, injuries or industrial diseases are reportable to the Health and Safety Executive under the Reporting of Injuries, Diseases and

Dangerous Occurrences Regulations 1995 (RIDDOR). The purpose of RIDDOR is to enable an investigation to commence to determine if there are likely to be more cases and to prevent a recurrence, and to establish whether there has been a breach of statutory duty for which proceedings may be initiated. Accidents, injuries or industrial diseases, which result in death, defined major injury or an employee being incapacitated for work for more than three days must be reported on the appropriate form and submitted to the Health and Safety Executive.

- 4.6 The designated manager must notify the Director of Human Resources and Organisational Development and employing Service Director on receipt of a work-related injury and keep them fully informed of progress in assessing the claim.
- 4.7 If an employee has not completed an Accident Report Form and subsequently believes that their sickness absence or injury is caused by work, they should report this in writing to their Line Manager as soon as possible, setting out the reasons why they were not able to fill in a form in the first instance and why they believe that work has contributed or caused their sickness absence or injury. Where an employee has failed to provide a reason for not submitting the accident report form within 72 hours, or if the Council regard the reason as unsatisfactory and/or is unable to investigate whether there has been an industrial injury for whatever reason, the employee will not be entitled to an industrial injury allowance.

## **5 INVESTIGATION**

- 5.1 The designated manager in consultation with the Corporate Health and Safety team must investigate the specific cause of the injury claim and recommend to the employing Service Director and Director of Human Resources and Organisational Development on whether the defined criteria for 'industrial injury' has been met. The investigation should consist of an interview with the employee and any witnesses (internal or external). The designated manager may seek medical advice from the Council's Occupational Health Physician on the root cause of the sickness absence. The designated manager must send a report of their completed investigation to the employing Service Director and Director of Human Resources and Organisational Development.
- 5.2 The designated manager may obtain medical advice from Ealing Council's Occupational Health Unit on the root cause of the employee's sickness absence. Where it is necessary to obtain a second medical opinion, the Occupational Health Unit shall obtain this through an independent medical referee. Where Ealing Council wishes to obtain further medical advice, Ealing Council will meet any costs associated with the examination. The investigation should be completed as quickly as possible.
- 5.3 The investigation must consider all the relevant facts, including where relevant information from: -

- The job description/role profile
- Risk assessments for the area of work
- Attendance record
- Witness/Incident statements
- Medical advice
- Training and development records
- Any details the employee has previously raised, for example, during Return to Work from sickness absence meetings or supervision
- Consequent management actions and any adjustments made as a result
- Time sheets, work logs, rotas, annual leave and flexi time records and
- Any other information pertinent to the situation e.g. whether the employee was doing something in the course of their work that they were specifically prohibited from doing, such as ignoring training or instructions which would have avoided the injury or whether other employees have experienced similar problems)

5.4 This list is not exhaustive and is at the Council's discretion.

## **6 DECISION MAKING**

- 6.1 The Director of Human Resources and Organisational Development or nominated member of the senior HR group will assess the investigation report and make a decision in consultation with the employing Service Director, taking into account whether the employee's industrial injury claim is work-related and an industrial injury allowance is payable.
- 6.2 The Director of Human Resources and Organisational Development or nominated member of the senior HR group will send written confirmation of the decision to the employee within ten working days of the decision. Where the handling of a claim would be compromised by the need to comply with the timescale and in the event more time is needed, the timescale may be extended. In this case, the employee will be informed in writing and given the reasons for the extension.
- 6.3 In practice, an employee will not be informed about whether s/he qualifies for an industrial injury allowance until the investigation and assessment has been completed. Payment of sick pay under the Sickness Payment Scheme, if eligible, will be payable in the interim to ensure uninterrupted salary payments.
- 6.4 Copies of the injury claim and related documentation should also be sent to the Council's Insurance Section.

## **7 INDUSTRIAL INJURY ALLOWANCE**

- 7.1 The Director of Human Resources and Organisational Development or nominated member of the senior HR group will inform the Payroll Section of the decision where it will affect payment of sick pay.
- 7.2 In accordance with the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service (the Green Book) sickness absence though industrial disease, accident or assault arising out of or in the course of employment is entirely separate. The period of absence in respect of one shall not be offset against the other for the purpose of calculating entitlements under the sickness absence payment scheme.
- 7.3 If it has been determined that the employee is unfit as a result of an injury/illness sustained in the course of his/her duties they will receive the equivalent of full pay after any deductions allowable under the sickness scheme (i.e. in the case of full pay periods sick pay will be an amount which when added to Statutory Sick Pay and Incapacity Benefit receivable will secure the equivalent of normal pay, Local Government Services, National Conditions of Service, the Green Book, part 2, paragraph 10.5). Any deductions will cease if the employee becomes subject to a notice period.
- 7.4 The Director of Human Resources and Organisational Development or nominated member of the senior HR group in consultation with the employing Service Director shall review the case periodically and at any time when there is a change in circumstances.
- 7.5 The injury allowance is no longer payable if an employee's employment with Ealing Council ceases.

## **8 APPEAL**

- 8.1 If an employee is not satisfied with the decision on their entitlement to an injury allowance they may appeal in writing to the Executive Director of Corporate Resources within 5 working days of being advised of the decision. There is no appeal against the amount of payment the employee may be entitled to.

## **9 RELATIONSHIP WITH MANAGING SICKNESS ABSENCE**

- 9.1 All periods of sickness absence including work related injuries should be managed in line with the Council's Managing Sickness Absence Policy and Guidance for Managers. The aim of any sickness absence review discussion will vary to address the requirements of the specific case and should focus on the need to support the employee on achieving a return to work, where possible. In cases of sickness absence, the Council's Medical Redeployment, Ill Health Retirement and/or Medical Capability Review Procedures will be referred to on an individual case-by-case basis.

## **10 RELATIONSHIP WITH DISCIPLINARY POLICY AND PROCEDURE**

- 10.1 The Council will not tolerate any acts of dishonesty, fraudulent claims, serious/gross negligence, misconduct and/or a serious breach of health and safety rules. These acts will be regarded as acts of gross misconduct and will be considered under the Council's Disciplinary Procedure, which may result in the offending employee's possible dismissal.

## **11 MONITORING**

- 11.1 Sickness absence related to work related injury claims are recorded on the Council's Human Resource database and monitored as part of Ealing Council's HR management statistics and Best Value Performance Indicator 12.

## **12 LINKED REFERENCES**

- 11.1 Managers should be aware that there are a number of linked references and other provisions that may apply to employees in specific circumstances related to this policy, which are tabled below:

1. Accidents on duty (Local Agreement on Terms and Conditions of Service, Part 2, Paragraph 5.2.1; Part 3, Paragraph 5.1.1)
2. Accidents off duty (Local Agreement on Terms and Conditions of Service, Part 2, Paragraph 5.2.2; Part 3, Paragraphs 5.1.2, 5.1.3)
3. Assaults on Employees-Legal representation (Local Agreement on Terms and Conditions of Service Part 2, Paragraph 5.3; Pt 3, 5.2)
4. Indemnification Against Risk of Assault (Local Agreement on Terms and Conditions of Service Part 2, Paragraph 5.4)
5. Payments to Employees in the Event of Death or Permanent Disablement Arising from Assault (National Conditions of Service, Part 3, Paragraph 7)
6. Allowances to Employees Injured in the Course of their Employment (Greater London Provincial Council The London Agreement Paragraph 2.7 referring to former GLJC and GLWC agreements so named)
7. Injury Allowance as a result of reduced remuneration whilst in relevant employment (Local Government (Discretionary Payments) Regulations 1996 reg 34)
8. Council's Constitution, Part 8 – Officer delegated powers: 6.3 Functions Delegated to the Director of Human Resources
9. Managing Sickness Absence Policy and Guidance
10. Corporate Health and Safety Policy
11. Corporate Health and Safety Handbook: Accident Reporting and Investigation Procedure
12. Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)



13. Management of Health and Safety at Work Regulations 1999
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14. Health and Safety at Work etc Act 1974
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This policy does not cover entitlements that arise where an employee dies or loses employment with the Council as a result of industrial disease, accident or assault.

### **13 ASSOCIATED FORMS**

- Accident Report Form
- Accident Investigation Form
- PD26 Notification of Sickness Absence Form

## APPENDIX 1 - WORK RELATED INJURY PROCESS FLOWCHART

