

**GUIDANCE NOTES FOR WITNESSES AT AN**

**ADJUDICATION HEARING**

The Northern Ireland Local Government Commissioner for Standards (the Commissioner) was appointed under the Local Government (NI) Act 2014 (the 2014 Act) to act as an independent investigator and adjudicator to consider complaints about alleged breaches of the Northern Ireland Local Government Code of Conduct for Councillors (the Code).

The Commissioner does not herself investigate complaints; it is the Deputy Commissioner and his staff who undertake investigations. The Commissioner alone, or a suitably qualified person appointed by her as Acting Commissioner, decides whether a Councillor has failed to comply with the Code. That decision is made following an Adjudication Hearing which is usually held in public unless exceptional circumstances apply.

This Guidance sets out how you may be called as a witness at an Adjudication Hearing, the procedure that will be followed and how you can claim any expenses you have incurred in attending an Adjudication Hearing.

**Are witnesses required to attend?**

The Commissioner has the same powers as the High Court to compel the attendance of parties to the complaint and any other witnesses, as well as the production of evidence.

**How are witnesses called to Adjudication Hearings?**

Witnesses may be called by the Councillor who has allegedly breached the Code. Where you have been asked to attend by a Councillor, it will be for that Councillor to advise you of the Adjudication Hearing and confirm your attendance. The Councillor will be sent a form to provide information about you and to let us know about any reasonable adjustments you require, due to disability, to enable you to attend the Hearing.

Witnesses can also be called by the Deputy Commissioner. In these circumstances the Deputy Commissioner will contact you to advise you of the Adjudication Hearing. A form will be sent to you to complete and return. You will be asked to confirm your attendance and will be given an opportunity to provide information about any reasonable adjustments you require.

Whether you have been called as a witness by the Councillor or the Deputy Commissioner, these Guidance Notes set out what you can expect to happen at the Adjudication Hearing.

**What happens when you arrive at the venue for the Adjudication Hearing?**

As a witness you are not permitted to enter the Hearing room until you are invited to give your evidence. When you arrive, make your way to reception and give your name and indicate whether you are a witness for the Deputy Commissioner or for the Councillor. You will be directed to a room specifically set aside for you and other witnesses. There will be one room for the Deputy Commissioner’s witnesses and a separate room for witnesses for the Councillor.

**When will you be called?**

It will not be possible to give you an exact time when you will be needed to give your evidence as there may be preliminary matters that require to be dealt with at the beginning of an Adjudication Hearing. You may have to wait some time before being invited to give evidence and you should not leave the waiting room or the building except for a comfort break. If the Adjudication Hearing is stopped for any reason, you will be informed, and you will also be informed when you need to be back in the waiting area.

You may have been called to attend the Adjudication Hearing on more than one day. Every effort will be made to hear your evidence on the first day you are called. However, in the event your evidence cannot be heard, you will be advised as soon as possible that you can leave. You will be asked to leave without entering the Hearing room and provided with the date and time you should return to give evidence.

**How is the Hearing conducted?**

The Commissioner decides how the Adjudication Hearing is conducted, but normally a Hearing will be progressed as follows:

1. The Deputy Commissioner or his representative will introduce the witness he has called to present their evidence.
2. If you are called as a witness by the Deputy Commissioner, your evidence will be heard in stages;
	* Your Evidence – the Deputy Commissioner will ask you questions about your knowledge of the matters complained of and may refer you to documents or other evidence
	* Cross-examination - the Councillor or the Councillor's representative will ask you questions about your evidence
	* Re-examination - the Deputy Commissioner may ask you questions about matters which have been raised during cross-examination
	* Additional questions may be asked by the Commissioner
	* The Commissioner may allow the Deputy Commissioner or the Councillor (or the Councillor's representative) to ask further questions if any new matter arises as a result of the Commissioner’s questions.

1. Once the Deputy Commissioner has completed presentation of the investigation evidence, the Councillor will have an opportunity to give his or her evidence and to call witnesses.
2. If you are called as a witness by the Councillor your evidence will be heard in stages:
	* Your Evidence – the Councillor (or the Councillor's representative) will ask you questions about your knowledge of the matters complained of and may refer you to documents or other evidence
	* Cross-examination - the Deputy Commissioner will ask you questions about your evidence
	* Re-examination - the Councillor (or the Councillor's representative) may ask you questions about matters which have been raised during cross-examination
	* Additional questions may be asked by the Commissioner
	* The Commissioner may allow the Councillor (or the Councillor's representative) or the Deputy Commissioner to ask further questions if any new matter arises as a result of the Commissioner’s questions.

**Giving your evidence**

The Commissioner will ask all witnesses to swear an oath or make a solemn affirmation. Before your evidence, the Commissioner will ask you whether you wish to swear an oath or make a solemn affirmation. Cards with an appropriate form of words will be provided by the Commissioner’s staff at the Adjudication Hearing.

When giving evidence, you should listen carefully to each question, and answer it as clearly as you can. Some answers will be a simple yes or no. Others questions will need you to provide more explanation.

* If you do not understand a question, ask for it to be repeated or clarified.
* Take your time, speak slowly and clearly. Please make sure that the Commissioner and the person asking the question can hear your answers.
* Answer the questions honestly and accurately, if you do not know the answer to a question, you should say so.
* You can ask the Commissioner for guidance.
* Talk to the Commissioner when giving your evidence.

Once you have completed giving your evidence, the Commissioner will confirm whether you may leave the witness table. You may then take a seat in the public area and listen to the remainder of the Adjudication Hearing if you wish.

**Expenses**

Witnesses may incur expenses and may need to take time off from work if required to attend an Adjudication Hearing. The Commissioner’s office will pay on request a witness’s reasonable expenses and compensation for loss of earnings or income if that witness has been required to attend an Adjudication Hearing.

Expenses and compensation for loss of earnings or income will only be paid at the rates set out at Appendix A.

The Commissioner will not pay the expenses of any third party who attends an Adjudication Hearing with a witness, such as a friend, family member or legal representative.

Witnesses should use public transport (standard class) wherever possible.

Claimants must provide full documentation to support their expenses claim. In the case of loss of income, evidence must be provided to show that income was lost and how much was lost.

## For further information please contact

 The Legal Officer

**NI Local Government Commissioner for Standards**
Progressive House
33 Wellington Place
Belfast
BT1 6HN

Telephone: 02890 233821

Text Phone: 02890 897789

Freephone: 0800 343424

Email: nipso@nipso.org.uk

Freepost: Freepost NILGCS

# Appendix A

## Schedule of Allowances

## Travelling Allowances

**Introduction**

Parties, witnesses and other individuals may be eligible to claim certain expenses and allowances for attending an Adjudication Hearing. All claims should be made as soon as possible after the conclusion of the Hearing and, at the latest, **within one calendar month of the conclusion of the Hearing**.

Payment of expenses and allowances is subject to certain conditions and limits. These limits may change periodically. If you are in any doubt as to what you may claim please contact the Finance Officer for help (contact details are listed at the end of this form).

**The claim form you will need can be obtained from the Commissioner’s staff at the Hearing. Please note that supporting documentation/receipts will be required to process expenses claims.**

**What can I Claim?**

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| **Item** | **Conditions** |
| **Travel Costs in excess of £5** *The first £5 of travel expenses will only be reimbursed when the Commissioner or Deputy Commissioner has required your attendanc*e. | •bus or train at the standard class return fare or any available cheap fare•mileage rate of **15p** per mile for car or motorcycle;•taxi fares only in the most exceptional of circumstances, to be approved where in advance where possible (in cases of extreme urgency, or heavy luggage is to be conveyed, no suitable means of public transport, or for medical reasons). Receipts ***must*** be provided;•air travel, economy class, within the UK and Republic of Ireland limited to economy or standard class fares and you must obtain approval from the Commissioner **before** travelling. |
| **Car Parking** | Car parking fees are not normally payable unless you can prove that you needed to use your own vehicle. You *must* provide receipts. |
| **Overnight Expenses**where an overnight stay is essential | We may pay actual expenses for dinner, bed and breakfast up to a limit of £71 per night (excluding VAT where applicable) where an overnight stay is essential. **If you believe an overnight stay is essential please contact the Commissioner in writing to seek approval in advance of the Hearing.** |
| **Loss of Earnings** | If you lose pay as a result of attending the Hearing, we can repay your loss up to a limit of £45 per day. If you are employed we will need your employer to certify that you were not paid for the day(s) in question. If you are self-employed, you must provide a written declaration showing that work could not be deferred or advanced, the amount of income lost (with, where possible, a copy invoice for recent work), details of the work which could not be carried out and for whom. You are not entitled to any loss of earnings allowance if you took paid holiday or special leave with pay to attend the hearing. |
| **Registered Child or Adult Care Expenses** | If you need to engage a registered child minder or adult carer in order to attend the hearing, we can repay your costs up to £5 per hour, per child. We require an invoice or receipt as proof of expenditure. We will not pay child or adult care expenses for any period covered by a claim for loss of earnings or for non registered minders. |
| **Helpers' Expenses** if you need to be accompanied because of a medical condition | If you need to be accompanied because of a medical condition, friends or relatives may be able to claim the same travel and other expenses as you (but not a fee). If you need professional assistance, e.g. through an agency, we will pay reasonable costs on production of a receipt, subject to the same conditions. In order for payment to be considered, there needs to be independent confirmation in advance of the Hearing that a helper’s presence is necessary. This may take the form of a doctor’s note or some other certificate that demonstrates the need for a helper submitted, in advance, for approval. |
| **Professional Advisor Fees** | There may be circumstances where the Commissioner requires the attendance of professional to provide advice, or the production of professional reports. In such cases reimbursement will be made in line with the rates agreed in advance of any work being undertaken.  |

**Certification of Claims:**

A member of our staff (usually the Finance Officer) will examine all claims, check eligibility and certify attendance. The onus is on the claimant to provide accurate information and original receipts when making a claim for expenses. The method and cost of travel will be checked to ensure that this can be verified as reasonable. Should there be any errors or discrepancies on the claim form, the claim will not be processed by our Finance Department. The form will be returned to the claimant with an accompanying letter explaining the reason(s) why it has not been processed.

**How is payment made?**

Payment will normally be made by cheque. We aim to make payment as quickly as possible. This will normally be made within 2-3 weeks of your claim being received by our Finance Department. You will receive written confirmation when your payment has been processed.

**The provision of the above guide will be applied consistently to all claims. However, if you have an enquiry about expenses which are not covered by these Guidance Notes, you can write to the Finance Officer at the address below.**

**Useful Contact Details**

Finance Officer

NIPSO

Progressive House

33 Wellington Place

Belfast

BT1 6HN

Or

Telephone: 028 90897750 or 0800343424