

Members' Financial Loss Allowance Scheme

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Introduction

1. This Scheme was made in accordance with the resolution of the Court of Common Council of 13 April 2006.
2. The object of the Scheme is to provide a means of addressing the situation where a Member demonstrably suffers financial loss and, as a result, is likely to incur hardship by virtue of undertaking his/her civic duties.
3. It is the responsibility of the Finance Committee to monitor/scrutinise the Scheme.
4. The Town Clerk is required to submit an annual report to the Finance Committee setting out the payments made under the Scheme during the preceding year.

Eligibility

1. Subject to the relevant form being completed at the appropriate time, entitlement to payment under the Scheme commences on the date upon which a Member is elected to the Court of Aldermen or the Court of Common Council.
2. The entitlement ceases on the date upon which a Member ceases to be a Member of the Court of Aldermen or the Court of Common Council.

Qualifying/Non-Qualifying Duties

1. The following are defined as qualifying duties for the purpose of payments under the Scheme:-
 - a. attendance at meetings of the Court of Aldermen, Court of Common Council, committees, sub-committees, panels or working groups;
 - b. attendance at any other meeting convened by the Court of Aldermen, Court of Common Council, committee or sub-committee, including call-over meetings, to discuss matters relevant to the discharge of the City of London Corporation's functions;

- c. attendance at any meeting which is an induction training session, seminar, presentation or briefing arranged by Chief Officers of the City of London for Members of a committee, sub-committee, panel or working group to discuss matters relevant to the discharge of the City of London Corporation's functions;
 - d. attendance at external meetings as a representative of the City of London Corporation where information is available from either the City or the outside body as to the duration of such meetings and where the outside body confirms that it does not operate an allowance scheme of its own;
 - e. attendance at visits, inspections and business events arranged by the City of London Corporation.
2. The following are defined as non-qualifying duties for the purpose of payments under the Scheme:-
 - a. constituency work/meetings;
 - b. hospitality events including committee dinners, banquets and receptions;
 - c. service on an outside body which is a charity and where none of the trustees receive payment.

Definition of Earnings

1. This Scheme provides that a Member is entitled to payment in respect of any loss of earnings or social security benefits suffered by reason of the performance of his/her duties.
2. Earnings are defined as follows:-
 - a. in the case of employment as an employed earner, any remuneration or profit derived from the employment and includes:-
 - any bonus, commission, payment in respect of overtime, royalty or fees;
 - any holiday pay, except payable more than four weeks after the termination of the employment;
 - any payment by way of a retainer;
 - any statutory sick pay under Part X1 of the Contributions and Benefits Act or statutory maternity pay under Part X11 of the Contributions and Benefits Act;

- any payment in lieu of notice, and any compensation in respect of the absence or inadequacy of any such notice, but only in so far as such payment or compensation represents loss of income;
 - b. in the case of a Member who is self-employed, an actual quantifiable loss evidenced by the production, annually, of a certificate signed by an accountant. The City of London Corporation will reimburse the reasonable cost of obtaining an accountant's certificate upon the Member completing a claim and producing evidence of the payment.
 - c. income from a pension.
3. Examples of the possible circumstances of a claim, the factors to be considered and the evidence required to substantiate the claim are set out in Annex 1.

Members in receipt of Social Security Benefit

1. There may be instances when a Member is also in receipt of a Social Security Benefit. In such circumstances, the Member concerned has the same entitlement under this Scheme as any other Member.

Income Threshold

1. The Scheme incorporates an income threshold above which payments for financial loss/hardship will not be paid.
2. The threshold is set at £50,000 for 2012/13.

Rates of Payment

1. The daily rates of payment set out in paragraph 7 (3) are based on those paid to magistrates under the scheme operated by the Courts Service and shall be increased with effect from 1 May each year in line with the magistrates' scheme.
2. The Scheme incorporates separate daily rates of payment for financial loss/hardship sustained for duties of up to two hours, four hours and eight hours duration.
3. The daily rates of payment for financial loss for 2012/13 are as follows:-

Rate	£
Gross Rate – Self-employed Members	
Up to two hours	29.15
Up to four hours	58.29
Up to eight hours	116.58
Net Rate – Other Members	
Up to two hours	23.32
Up to four hours	46.63
Up to eight hours	93.27

4. The maximum claimable period per week is eight hours.
5. The rates of payment specified will apply until the Scheme is amended or replaced, in which case the revised rates of payments will be paid from the date from which the amendment takes effect.

Claims

1. Claimants are required to:-
 - a. make an annual declaration as to their employment status and annual income;
 - b. submit claims on a quarterly basis or at such other intervals as agreed with the Town Clerk;
 - c. provide appropriate documentary evidence (eg. a letter from the claimant's employer confirming the amounts deducted or an accountant's certificate if the claimant is self-employed) in support of their claim;
 - d. at the year end, provide a copy of their P60 (if employed) or his/her tax return to confirm eligibility for the previous year.
2. Claims must be made on the appropriate form (example attached as Annex 2) and submitted to the Town Clerk.

3. Except where so authorised by the Town Clerk, any claim for financial loss must be made within three months of the date of the duty to which the claim relates.

Factors to be considered

In considering claims for financial loss, the City of London Corporation must ensure that the claim is fair and reasonable. Examples of the factors that may be taken into account when considering claims are set out below:-

1. The loss must be claimed in connection with the performance of a Member's civic duty.
2. There must be a direct link between the loss claimed and the performance of the Member's qualifying duty. It must be demonstrated that the loss would not have been incurred but for the performance of that Member's duty.
3. The loss must have been incurred personally by the Member and not, for example, by a spouse, partner, other relative or an employer or organisation.
4. The loss must be actual rather than future or hypothetical and must be capable of being quantified to the extent that the amount is at least equal to or greater than the actual amount claimed.
5. The City of London Corporation may reasonably require Members to furnish evidence of loss and the City may determine the sufficiency of the evidence provided.
 - a. There must be adequate documentary evidence to support a claim (see Annex 1 for examples).
 - b. A senior manager in the Town Clerk's Department will be nominated to examine the documentary evidence provided. The evidence must be independent and sufficient to enable the senior manager to consider whether the claim is fair and reasonable. The senior manager must be able to quantify the loss. The amount payable should be formally recorded and agreed with the Member concerned.
 - c. The documentary evidence may contain sensitive information and to maintain confidentiality it must be retained by the nominated senior manager.

- d. A copy of the decision setting out the amount payable in response to a claim should be passed to the officer responsible for processing claims.
6. The nature of the normal work carried out by a Member may be taken into account when determining whether a loss has been incurred. It would not be reasonable to expect Members to re-arrange their normal work to avoid incurring a loss, but it is reasonable to expect the City of London and Members to co-operate in ensuring, as far as reasonably possible, that Members' duties and normal work are made as coterminous as possible so as to minimise financial loss to Members.

Taxation

1. In terms of taxation, the treatment of payments for financial loss will depend on whether a Member is employed or self-employed.
2. If the Member is employed and taxed under Schedule E, the Member is treated as holding an unpaid office. In these circumstances, financial loss payments are not considered to be an emolument of the office as they merely compensate an individual for loss of earnings.
3. If a Member is self-employed and taxed under Schedule D on profits he/she derives from carrying on a trade or business, financial loss payments, which compensate for loss of profit or for the fact that additional business expenses have been incurred, must be brought to account for tax purposes (including VAT).
4. Members have a personal responsibility to ensure that they comply with Inland Revenue requirements and may wish to take advice from the Inland Revenue or their own tax adviser.
5. The City of London Corporation is required to submit a return of all self-employed financial loss payments made annually to the Inland Revenue.

Over-Payment

1. The City of London Corporation reserves the right to re-claim any over-payment made under the Scheme and, in such circumstances, further claims will not be entertained from the Member concerned until the monies due have been re-paid.

Suspension

1. Payments shall not be made to a Member who is suspended.

Appeal Procedure

1. Following a determination by the senior manager in relation to a claim, if the Member concerned disputes the decision the first line of appeal is to the Town Clerk in writing.
2. The Town Clerk will consider the circumstances of the claim and, if necessary, seek further justification from the Member concerned. The further justification must be supplied within a reasonable time and prior to a decision being made and any payment authorised.
3. Should it prove impossible to settle the dispute under the procedure set out in paragraph 13 (2), the matter shall be referred to the Chairman and Deputy Chairman of the Finance Committee and the Chief Commoner for final determination.

Annex 1 – Claims – Examples

Circumstances/Consideration/Evidence

Circumstances of Claim	Factors for consideration by COL	Evidence
Members who have wages/salary deducted by their employer for any period they are absent from work whilst performing a civic duty may claim for loss of wages/salary.		Letter from employer or other evidence (eg. pay slip) showing that wages/salary has been deducted.
Self-employed sole practitioner (eg. freelance journalist).	Has work been turned down which had a fixed deadline or which he/she is contracted to do during the period when they are meeting a CoL commitment? Could alternative arrangements outside hours involving the CoL commitment have been made?	Letter from an accountant estimating loss. Details of lost contract or the deadline for completing the work.
A retailer or other trader shuts the business to attend CoL meeting.	Is the business one that operates only in normal daytime working hours? If not, could any loss of profit be made good at other times? If it is, loss of profit but not loss of revenue could be made good to the limits of the Financial Loss Scheme.	Accountant's letter showing average daily or half daily profit. Letter to be produced annually, or at other times if circumstances require it (eg. profit could be made seasonally).
Retailer pays	Is the business one	Evidence of payment

Circumstances of Claim	Factors for consideration by COL	Evidence
somebody to assist so that the business can be kept open.	that is normally or necessarily open during hours carrying a CoL commitment? If so, payment could be claimed.	made.
Member's income is partly or wholly commission.	Any loss in commission normally represents a future or hypothetical loss rather than a direct or actual loss. Not all business contracts will result in commission and appointments may be arranged for other times. However, there may be circumstances in which commission might be claimed (eg. a salesperson working fixed hours in a saleroom might be able to show average commission earned every day).	Documents showing average commission earned on evidence of fixed hours.
Members who have 'care' responsibilities (eg. caring for a child or an elderly relative) may claim for the cost of employing a carer to enable them to perform their civic duties.	The relevant period of time over which cost is incurred is subject to the limits prescribed and must be necessary to enable attendance at CoL business. In cases where it is essential for paid assistance to be for longer, the period of necessary expenditure is the qualifying period for payment.	Declaration that expenditure has been actually and necessarily incurred.

Annex 2 – Claim Form

Members’ Financial Loss Allowance Scheme

Completed forms should be submitted to the Town Clerk.

Section A – Personal Details

Title	Initials	Surname
<i>(enter Title)</i>	<i>(enter initials)</i>	<i>(enter Surname)</i>

Declaration

With respect to the claim as detailed in Section B of this form, I have actually and necessarily suffered loss of earnings, which I would have otherwise made, for the purpose of enabling me to perform my duties as a Member of the Court of Aldermen or Court of Common Council.

I declare that the amounts claimed do not exceed those which I am entitled to receive in accordance with the rates prescribed in the City of London Corporation Members’ Financial Loss Allowance Scheme.

I declare that the above statements are correct.

Except as set out in this form, I have not made, and will not make, any claim under any enactment for financial loss payment in connection with the duties in respect of which this claim is made.

I am signing that all the information I have provided is accurate.

Signed

Dated

Section B – Details of Claims for month of (enter month)

Claims will be verified against information held by the City of London Corporation and provided by the claimant.

Date of Event	Title of Event [e.g Finance Committee]	Hours Claimed	Financial Loss [Self-employed (S) Employed (E)] £	Details of Documentary Evidence Submitted in Support of Claim (copies to be attached)
<i>(enter details)</i>				
Total:-				