



HEARINGS – WITNESS EXPENSES POLICY

Released 29 March 2022

1. This document sets out the Commission's policy for the payment of witness expenses in accordance with sections 36–38 of the *Commissions of Inquiry Act 1995* (Tas) (Act).
2. People who attend other Commission processes (e.g. stakeholder consultations or sessions with a Commissioner) or people who wish to attend a hearing to support a witness, cannot claim their expenses under this policy, unless by prior written agreement with the Commission.

APPEARANCE AS A WITNESS

3. A witness is a person who:
 - is served with a notice requiring them to appear before the Commission, either in person or via remote means, to:
 - give evidence at a hearing¹
 - produce any document or thing in their possession or control which the Commission considers relevant to its inquiry²
 - is requested to attend a witness interview with the Commission, either in person or via remote means, regardless of whether they are later required to give evidence at a hearing.³
4. The Commission will determine:
 - who is requested to attend a witness interview
 - who is required to appear as a witness at its hearings
 - whether a witness is required to attend and give evidence at a hearing in person or via remote means, and
 - the order in which witnesses are called and examined.

EXPENSES RELATED TO APPEARANCE AS A WITNESS

5. A witness may be able to claim:
 - travel expenses
 - meal and accommodation allowances

¹ *Commissions of Inquiry Act 1995* (Tas) ss 22(1)(a), 35.

² *Ibid* ss 22(1)(b), 35.

³ *Ibid* s 37(1)(b).



- compensation for loss of income, and
 - legal costs.
6. A person who appears before the Commission (other than as a witness) may also apply in writing to the Commission for travel expenses, meal and accommodation allowances or compensation for loss of income. For example, a person who attends a meeting with the Commissioners.⁴
7. Any expenses, allowances and/or compensation approved by the Commission will be paid in arrears. Payment will only be made in advance in limited circumstances.

Travel, meals and accommodation

Travel expenses

8. Hearings will be held in Hobart and Launceston or other suitable locations across Tasmania.
9. Witnesses who are required to appear before the Commission or attend a witness interview may claim the cost of the use of public transport, taxis, commercial passenger vehicles (e.g. Uber) or hire cars. Witnesses are required to produce GST receipts and may claim the actual costs incurred.
10. If a witness uses their own car to appear before the Commission or attend a witness interview, they are entitled to reimbursement of 75.66 cents per kilometre travelled. In this case, a witness should provide evidence to substantiate the distance travelled.
11. If a witness resides overseas or interstate, the Commission will arrange for them to appear before the Commission or attend a witness interview via remote means. If the Commission considers that travel to Tasmania is necessary, the Commission will book any airfares for witnesses. No flights may be booked and claimed by a witness without the prior written approval of the Commission.
12. If a witness wishes to receive support while they give evidence from a family member or friend who resides overseas or interstate, their support person may observe the hearing via remote means, subject to the making of any order prohibiting or restricting the public reporting of any information.

Part-day travel

13. A meal allowance may be claimed by a witness for part-day travel (i.e. no overnight stay is required). No allowances for accommodation or incidentals are payable for part-day travel.

Meal allowance

14. Witnesses may claim a meal allowance if they are required to travel at least 60 kilometres from their home to appear before the Commission or attend a witness interview.

⁴ Ibid s 37(3) and 38(3). People who attend a session with a Commissioner may be able to claim for meal expenses, travel and accommodation allowances or compensation for loss of income in accordance with the *Sessions with a Commissioner – Participant Expenses Policy*.



15. A meal allowance for breakfast or dinner may be claimed if a witness leaves their home or office prior to the commencement of the earlier times and return after the later times listed below:

- Breakfast (7.00–8.30am): \$13.55
- Dinner (6.00–7.30pm): \$25.95

16. For example, a witness may claim a meal allowance for breakfast if they leave home at 6.30am to travel directly to a hearing and return home at 4.00pm.

17. No receipts are required to claim a meal allowance.

Overnight travel

Meal allowance

18. Where an overnight stay is required, a meal allowance may be claimed if a witness leaves their home or office prior to the commencement of the earlier times and return after the later times listed below:

- Breakfast (7.00–8.30am): \$28.70
- Lunch (12.30–2.00pm): \$32.30
- Dinner (6.00–7.30pm): \$55.05

19. For example, a witness may claim a meal allowance for dinner and breakfast if they leave home to commence their overnight stay at 3.00pm and return home the next day at 11.00am.

20. No receipts are required to claim a meal allowance.

Accommodation allowance

21. Generally, the Commission will organise and arrange for payment of commercial accommodation (e.g. hotel, motel, serviced apartment) for witnesses who are required to travel and stay overnight in order to appear before the Commission or attend a witness interview.

22. If prior written approval is obtained from the Commission for a witness to book their own commercial accommodation, that witness may claim an accommodation allowance. The accommodation allowance is the maximum that will be paid to the witness regardless of the cost of their chosen accommodation.

23. If the Commission has paid for accommodation or the witness has not stayed in commercial accommodation (e.g. they have stayed with family or friends), that witness is not eligible to claim an accommodation allowance.

24. The overnight allowance for accommodation in Tasmania is \$147 per night.

25. Witnesses are required to produce a receipt as evidence that a commercial accommodation expense was incurred to be eligible to claim an allowance.



Incidental expenses

26. Witnesses who are required to stay overnight (in or outside of Tasmania) to appear before the Commission or attend a witness interview may also claim incidental expenses of \$20.40 per night.
27. No receipts are required to claim incidental expenses.

Compensation for loss of income

28. Witnesses are entitled to receive compensation for an actual loss of income related to their time spent appearing before the Commission or attending a witness interview.
29. A witness is not entitled to receive compensation for loss of income related to their time spent on the preparation of a written witness statement or any other preparation associated with their attendance at a hearing.
30. The Act also provides for a person who appears before the Commission (other than as a witness) to also apply in writing to the Commission for compensation for loss of income. For example, a person who attends a meeting with the Commissioners.⁵
31. The Commission may order the payment of compensation for loss of income having regard to such matters as it considers relevant.
32. Generally, a witness will be paid the actual loss of income they have incurred for each hour, or part of an hour, during which they appear before the Commission or attend a witness interview (where doing so prevented their ability to earn such income) up to a maximum of \$38.02 per hour.⁶
33. A witness who suffers an actual loss of income greater than the amount payable above, may apply in writing to the Commission to have their particular circumstances considered.

Legal costs

34. If a witness has a lawyer and legal advice is required to support their appearance before the Commission or their attendance at a witness interview, they may be able to claim those legal costs. A witness may also be able to claim their legal costs associated with their lawyer's attendance at a hearing while they give their evidence.
35. The Commission may order the payment of all or part of a witnesses' legal costs. In considering whether to make such an order, the Commission may have regard to:
 - whether the witness has shown that they had a valid reason to seek legal representation
 - whether in all the circumstances, it would be a hardship or injustice for the witness to bear their own legal costs

⁵ Ibid s 38(3). People who attend a session with a Commissioner may be able to claim compensation for loss of income in accordance with the *Sessions with a Commissioner – Participant Expenses Policy*.

⁶ If a witness appears before the Commission or attends a witness interview as part of their job, and are paid to do so, no actual loss of income has been incurred.



- the nature and possible effect of any allegations made about or by the witness
- whether the witness has been found to have been seriously at fault, to the extent that criminal or other charges have been recommended or instituted
- whether the witness has been served with a Notice to Produce by the Commission to provide information or prepare a statement, and
- any other relevant matter.

36. Any legal costs which are to be paid will be assessed by the Supreme Court of Tasmania.

37. People who have applied for leave to appear at the hearings (other than as a witness) cannot claim their legal costs. Further information regarding applications for leave to appear can be found in [Practice Direction No. 2 – Leave to Appear](#).

HOW TO MAKE TRAVEL ARRANGEMENTS

38. To make travel arrangements, including arranging for the booking of flights and accommodation, witnesses who have been issued a notice to appear and give evidence at the Commission's hearings should contact the Commission's Operations Team:

- By telephone: 1800 950 110 between 9.00am and 5.00pm on weekdays
- By email: office@commissionofinquiry.tas.gov.au

HOW TO MAKE A CLAIM

39. To make a claim, witnesses should:

- Keep all receipts, tax invoices and other records relating to their claim.
- Complete the *Hearings – Witness Expenses Claim Form*, a copy of which can be provided upon request or is available on the Commission's website.
- Send the completed claim form, all receipts, tax invoices, and other records to the Commission to support their claim:
 - By email: office@commissionofinquiry.tas.gov.au
 - By post:
Commission of Inquiry
GPO Box 229
Hobart TAS 7001

Policy document	Hearings – Witness Expenses Policy
Date of first issue	29 March 2022
Version number	1.0
Date of this version	29 March 2022