

Court attendance and jury service

- Policy Number:** C6 (QH-POL-121)
- Publication date:** June 2020
- Purpose:** To outline employee entitlements for court attendance and jury service and the related expenses.
- Application:** This policy applies to all permanent, temporary, full-time and part-time Queensland Health employees.
- Casual health service employees are only entitled to the jury service leave provisions of this policy.
- This policy does not apply to Queensland Ambulance Service employees. Instead, Queensland Ambulance Service employees are to refer to their local policy/procedure.
- Delegation:** The 'delegate' is as listed in the relevant Department of Health Human Resource (HR) Delegations Manual, or Hospital and Health Services Human Resource (HR) Delegations Manual, as amended from time to time.

Legislative or other authority:

- *Human Rights Act 2019*
- *Industrial Relations Act 2016*
- Criminal Practice (Fees) Regulation 2010
- PSC Directive 13/14 – Court Attendance and Jury Service
- PSC Directive 9/11 – Domestic Travelling and Relieving Expenses

Related policy or documents:

- Travelling and Relieving Expenses HR Policy D3 (QH-POL-126)
- Employees to notify supervisor if charged with or convicted of an indictable offence HR Policy E4 (QH-POL-127)

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1 Policy statement

This policy is to be read in conjunction with specific awards, agreements, administrative arrangements and policies applying to occupational groups.

2 Court attendance as a Crown witness

The following procedures have been approved when employees are required to attend court as Crown witnesses:

2.1 Notification

Employees are to notify their Health Service Chief Executive (HSCE)/Department executive (or delegate) as soon as possible of the date they are required to attend court as a Crown witness.

2.2 Attendance on a normal working day

The employee is entitled to special leave with pay. Queensland Health pays the employee's salary or wage due for the time they are absent from the office in respect to any absence as a witness.

2.3 Attendance on a rostered day off

Queensland Health pays the employee's salary or wage that would have been due for a normal working day to compensate the employee for the loss of their rostered day off. A rostered day off does not include a day off taken because of time accrued from working additional hours.

Queensland Health pays a part-time employee's salary or wage that would have been due for a normal working day to compensate the employee for the loss of their rostered day off or non-working day.

2.4 Travelling expenses

In cases when an employee is required to travel, a travelling allowance is to be payable in accordance with PSC Directive 9/11 - Domestic Travelling and Relieving Expenses.

3 Court attendance as a witness

3.1 Notification

Employees are to notify the HSCE/Department executive (or delegate) as soon as possible of the date they are required to attend court as a witness.

3.2 Entitlements

Entitlements for employees required to attend court as a witness are in accordance with PSC Directive 13/14 – Court Attendance and Jury Service, when attending as a witness:

- in an official capacity
- on behalf of the State or Commonwealth other than in an official capacity
- in a private capacity, civil action etc.

3.3 Part-day court attendance

When reasonable, employees who are not required to attend court for a complete day are to attend work for the balance of their working day.

3.4 Official capacity

An employee subpoenaed or called as a witness to give evidence in the employee's official capacity, is:

- regarded as being on official duty and granted special leave with pay not chargeable to any leave account for attendance and necessary travel time
- to pay any fees or allowances received for their attendance as a witness to Queensland Health for payment into Queensland Health funds
- entitled (when applicable) to be paid a travelling allowance as prescribed in the PSC Directive 9/11 - Domestic Travelling and Relieving Expenses or the relevant industrial instrument
- to continue to be paid the higher duties rate for court attendance falling within their relieving period, if performing higher duties. The higher duties rate is paid irrespective of the length of the employee's relieving period. The higher duties period is not interrupted by the requirement to attend court in their official capacity.

3.5 On behalf of the State or Commonwealth

An employee subpoenaed or called as a witness by the State or the Commonwealth to give evidence (other than in the employee's official capacity) is:

- regarded as being on official duty and granted special leave with pay not chargeable to any leave account for attendance and necessary travel time
- to pay any fees received for their attendance as a witness to Queensland Health for payment into Queensland Health funds
- entitled to retain any allowances received, or expenses reimbursed, for travel, accommodation or meals while attending court as a witness

- to continue to be paid the higher duties rate for court attendance falling within their relieving period, if performing higher duties. The higher duties rate is paid irrespective of the length of the employee's relieving period.

3.6 Private capacity or civil action

An employee subpoenaed as a witness, other than in the above circumstances:

- may choose to be granted, either special leave without salary, recreation leave, long service leave, time off in lieu of overtime or accrued hours (when applicable)
- is entitled to retain any attendance fees or allowances received, or expenses reimbursed, in respect of their attendance as a witness.

4 Jury service

4.1 Notification

Employees are to notify the HSCE/ Department executive (or delegate) as soon as possible of the date they are required to undertake jury service.

Employees are also required to:

- immediately notify their delegate on the receipt of a Notice to Prospective Juror
- produce a certificate of attendance from the sheriff's office on the conclusion of jury service.

4.2 Entitlements

Employees required to undertake services as a juror are entitled to:

- be granted special leave with pay not chargeable to any account for attendance and necessary travel time
- retain any allowances received or expenses reimbursed for travel, accommodation or meals while attending court as a juror
- continue to be paid the higher rate for jury service falling within their relieving period, if performing higher duties. The higher duties rate is paid irrespective of the length of the employee's relieving period.

4.3 Jury service fees

All fees paid to employees for service as a juror during the period for which leave is granted, are to be paid to Queensland Health for payment to Queensland Health funds.

When (on any day during the approved period for which leave is granted) the salary of an employee is less than the fees payable for that day, the employee is entitled to retain the difference between the salary and the fee.

Fees received by employees can be retained when serving as a juror for a period which is not covered by leave, for example, when sequestered (i.e. 'locked up') to consider a verdict over a public holiday, over a weekend or when the employee is on any other form of paid or unpaid leave.

4.4 Part-day jury service

When reasonable, employees who are not required to attend jury service for a complete day are to attend work for the balance of their working day.

4.5 Recreation leave, long service leave and illness

When jury service is to be undertaken during a period when recreation leave or long service leave has been granted, an application to the sheriff may be made for exemption from jury service because of the employee's leave. An employee absent from work through illness may make an application to the sheriff for an exemption from jury service, although a supporting medical certificate may need to be produced.

When a notice is received that an employee is required for jury service and the employee wishes to cancel all, or a portion of recreation leave or long service leave previously granted, action may be taken to cancel the leave not required (providing there is no contravention of award provisions). Leave to undertake jury service would then be granted in accordance with the approved arrangements.

4.6 Leave processing

In granting leave for jury service to employees, care must be taken to ensure that:

- special leave on full pay is only granted for the period necessarily required for jury service
- all fees payable to Queensland Health are received from the employee concerned.

Definitions:

Full salary	For this policy means the ordinary hours worked by the employee, and includes: <ul style="list-style-type: none"> • the amounts payable to the employee for those hours, including (for example) projected allowances, loadings and penalties but excluding reimbursement allowances • any other amounts payable under the employee's employment contract.
Rostered day off	For this policy, means: <ul style="list-style-type: none"> • an employee whose ordinary hours of duty are Monday to Friday: Saturday and Sunday • an employee whose ordinary hours of duty include a Saturday and/or Sunday: one of the two days each week, or four days each fortnight, that the employee is not rostered for duty • for a part-time employee, the employee's four rostered days off per fortnight, as distinguished from their non-working days, i.e. the days the part-time employee does not work.

History:

June 2020	<ul style="list-style-type: none"> • Policy application amended as a result of changes to the Hospital and Health Boards (Changes to Prescribed Services) Amendment Regulation 2019.
January 2020	<ul style="list-style-type: none"> • Policy: <ul style="list-style-type: none"> – formatted as part of the HR Policy review – updated to include reference to the <i>Human Rights Act 2019</i>.

March 2018	<ul style="list-style-type: none"> • Policy: <ul style="list-style-type: none"> – formatted as part of the HR Policy review – amended to update references and naming conventions – updated to include casual employee application for jury service in accordance with the <i>Industrial Relations Act 2016</i> – updated to amend the procedure for attending court as a Crown witness.
September 2013	<ul style="list-style-type: none"> • Policy formatted as part of the HR Policy Simplification project. • Amended section 3.7 to confirm that the discretion to excuse an employee from jury service on the basis of illness is not that of the employer but the Sheriff. • Updated references and naming conventions.
February 2009	<ul style="list-style-type: none"> • Amended section 9.2 to correctly reflect the court attendance entitlements • Amended to reflect updated Directive 9/08 – Domestic Travelling and Relieving Expenses • Amended to correctly reflect the Domestic Travelling and Relieving Expenses HR Policy D3.
April 2008	<ul style="list-style-type: none"> • Developed as a result of the HR policy consolidation project.
Previous	<ul style="list-style-type: none"> • IRM 2.6-1 Crown Witness Expenses • IRM 11.5-2 Leave - Special - Expenses to Attend Court • IRM 11.5-3 Leave - Special - Jury Service