

November 2005

# Jury service

Guidance for medical practitioners summoned  
for jury service

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## 1. Changes to the Criminal Justice Act 2003

Section 321 and Schedule 33 of The Criminal Justice Act 2003<sup>1</sup> came into force in England and Wales on 5 April 2004 and amended the law relating to juries. The revision of Schedule 33 of the Act means that doctors, as well as judges, lawyers, politicians, vicars, bishops and peers are eligible to sit on a jury. Previously, under the Juries Act 1974, doctors, among other groups, had the right to be excused from jury service. The new government policy was introduced to expand the pool of potential jurors to ensure that juries properly reflect the community they serve. In Northern Ireland, doctors still may receive a jury summons but are not expected to attend court, providing they respond to the Crown Court to inform them of this. The Scottish Executive Justice Department has advised that these changes do not apply to doctors in Scotland and that the Law Reform (Miscellaneous Provision) (Scotland) Act 1980 applies. Doctors in Scotland remain exempt while registered and practising.

In July 2005, representatives of the general practitioners, senior hospital doctors and junior doctors committees attended a meeting with Her Majesty's Courts Service to discuss doctors' concerns about how completing jury service may affect them. These include how this may impact on waiting lists, emergency cover, service provision, significant delays in completion of undergraduate and postgraduate training, continuity of care and staff shortages – especially in the specialties. The meeting was constructive and prompted the production of this guidance, which is aimed at medical practitioners who have received or may receive a jury summons. It explains the professional and financial implications serving on a jury may have, and the process of applying for deferral or discretionary excusal should this be necessary.

It is your legal obligation to serve as a juror when summoned to do so. It can be an extremely valuable experience. The Employment Relations Act 2004<sup>2</sup> protects employees from suffering detriment from their employer if summoned to serve on a jury, although the employer can request that you apply for deferral or excusal if your absence would be likely to cause substantial injury to your employer's undertaking, and they bring this to your attention. **If your employer brings to your attention that your absence would cause 'substantial injury to the undertakings of the business' and you fail to apply for excusal or deferral at their request, this protection may not apply. Medical practitioners are therefore advised to always notify their employer when summoned to serve on a jury.**

Jury service usually lasts for up to two weeks, although cases can be shorter or longer than this. If a trial that you have been selected to sit on is likely to last longer, you should tell the court if it would be difficult for you to commit to that length of time and the reasons why, and the court will try to accommodate your requirements as far as possible. It may be appropriate when explaining the difficulties you have with serving for a long period to mention some of the reasons included in section 4: Making a robust case for deferral or discretionary excusal.

## 2. Jury summons

As medical practitioners, you may receive a jury summons at any time. You are not eligible to serve in certain circumstances although for doctors this usually only applies to those aged over 70 who are not eligible to serve. You also do not have to serve if you:

- are a member of the armed forces and your commanding officer rules that it would be prejudicial to the service if you were neither excused nor received deferment
- have served on a jury in the previous two years.

If you do not fall into one of these categories, you are under a legal obligation to participate as a juror. However, in some circumstances, serving as a juror may be particularly difficult for you because of your professional responsibilities. If this is the case you are entitled, as is anyone who receives a jury summons, to apply for deferral or discretionary excusal.

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<sup>1</sup> (2003) *The Criminal Justice Act*. London: The Stationery Office

<sup>2</sup> (2004) *Employment Relations Act*. London: The Stationery Office

### 3. Deferral and discretionary excusal

The Jury Central Summoning Bureau can normally accommodate those who would find it unusually inconvenient to serve at the time stated on the summons by granting deferral, providing compelling evidence is supplied. By applying for deferral you are requesting that a more convenient time within the next 12 months is arranged for you to attend court as a juror. You must return the reply form **within seven days of receipt**, state this is what you wish to do, and provide an explanation for your request in the boxes provided. All periods over the following 12 months that would also be inconvenient for you to serve must be included, with the reasons stated, as by law **deferral can only be granted once**. The Summoning Bureau will consider this application and you should receive a letter within 10 working days either confirming your deferral and the date of your jury service or declining the application. If deferral is granted, in the majority of cases the new date will fall outside those that you stated were unsuitable on your application and it will still be under the same summons. If it is not possible to defer you to a date outside those that you have stated would be inconvenient, the bureau will telephone to discuss this with you.

If you feel that serving as a juror would be extremely inconvenient for you, and there are no periods over the following 12 months when you would feel able to attend court as a juror, you may apply for discretionary excusal. Again, you must complete and return the reply form **within seven days of receipt**, explicitly stating the reasons for your request. All applications for discretionary excusal are considered on an individual basis, and will only be granted if very good reasons are given. Deferral will always be considered in the first instance.

The written application for deferral or discretionary excusal may continue onto another sheet of paper if necessary. It is possible that the Summoning Bureau will contact you for further information, although normally a summoning officer will confirm acceptance or rejection of your request in writing within 10 working days.

More information on deferment and discretionary excusal can be found on the Criminal Justice System's website at: <http://www.cjsonline.gov.uk/juror/summoning/deferral/index.html> or Her Majesty's Court Service's website at [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk)

#### In summary

<b>Deferral</b>
<ul style="list-style-type: none"><li>• <b>application to delay jury service</b></li></ul>
<ul style="list-style-type: none"><li>• <b>must include on reply all other unsuitable dates over the next 12 months</b></li></ul>
<ul style="list-style-type: none"><li>• <b>can only be granted once</b></li></ul>
<ul style="list-style-type: none"><li>• <b>explicit reasons for your application must be stated on reply slip and returned within seven days</b></li></ul>

<b>Discretionary excusal</b>
<ul style="list-style-type: none"><li>• <b>application to be excused from jury service because there are no periods over the following 12 months that would be convenient for you to serve on a jury</b></li></ul>
<ul style="list-style-type: none"><li>• <b>explicit reasons for your application must be stated on reply form and returned within seven days</b></li></ul>

#### 4. Making a robust case for deferment or discretionary excusal

The Criminal Justice System recognises that there will be occasions where it is not reasonable for a person to serve on a jury at the time that they are summoned. Summoning officers are expected to carefully and sympathetically consider applications, with regard to individual circumstances. **The meeting between BMA representatives and Her Majesty's Courts Service revealed that doctors' applications for deferral or discretionary excusal will be considered carefully, but acceptance of these cannot be guaranteed.** It is the individual practitioners' responsibility to apply for deferral or discretionary excusal. Your employer cannot apply on your behalf, although it would be beneficial when stating your reasons for your application to have discussed this with your employer beforehand. It is important to include in your request all the implications that your absence from practising will have.

For all doctors these may include:

- if there would be implications for service delivery if you attended court
- if your colleague(s) are on leave (sick or maternity) during the time you have been summoned and/or you work in a hospital/department/practice, where there would be difficulty finding cover
- if there would be difficulty hiring a locum to cover in your absence
- if you have specialist expertise that cannot be provided by your colleague(s) or it would be difficult to hire a locum to cover in your absence
- if extended time away from work would require you to re-train
- if you are regularly cited to appear in court (for example A&E doctors that are regularly called to give evidence in court as an expert witness)
- if you and/or your colleagues would suffer severe financial loss as a result of your service (for example through hiring a locum, or the reduction/closure of a service – see section 6: Financial implications of jury service, below).

For those in/involved in training these may include:

- if you have a responsibility for training junior doctor(s) or medical student(s) that cannot be provided for by your colleague(s) or it would be difficult to find cover to provide this
- if you are a doctor in training and serving on a jury would be likely to extend your absence from your hospital training programme to longer than one month within a two-year training programme, for example because you have already had time off for sickness (a maximum of one month's absence should normally be allowed in a two-year hospital training programme – pro rata for shorter training programmes – at the discretion of the director of postgraduate education), thus requiring the training period to be extended
- if you are a GP registrar and taking time off from training would extend your leave to more than one week in any six-month period and more than six weeks over a three-year period or that serving would be detrimental to your education and/or necessitate extension of the training period
- if serving would jeopardise the likelihood of getting experience or training signed off by the deanery on schedule
- if serving might extend beyond the end of your current contract, thus rendering the time served in post too short for it to be recognised for training by the relevant royal college, and making the search for the next post impossible (see last bullet point below)
- if attendance in court would significantly interfere with a crucial stage of your training and/or examinations
- if the timing coincides with the application or interview stage for new posts
- if you are on attachment, in which case missing time (possibly weeks) would interfere and possibly delay completion of your education. You may need to convince the summoning officer that missing a particular specialty placement will require that placement to be repeated later on, which has the potential to disrupt your training seriously.

For general practitioners (GPs) these may include:

- if you are a single-handed practitioner or work in a small practice
- if there is a high patient load per doctor.

More information regarding implications specific to GPs is included in appendix 1.

## **5. The right to appeal**

Applicants can exercise their right to appeal should their application for deferral or excusal be rejected. This should be put in writing to the Head of the Jury Central Summoning Bureau at:

Jury Service queries  
Jury Central Summoning Bureau  
The Court Service  
FREEPOST LON 19669  
Pocock Street  
London  
SE1 0YG  
Tel: 0845 3555567  
Email: [jurysummoning@hmcourts-service.gsi.gov.uk](mailto:jurysummoning@hmcourts-service.gsi.gov.uk)

If this is unsuccessful, applicants can appeal to the judge at the court to which they have been summoned. This will be coordinated by the bureau. If appealing one week before jury service is due to commence, the court should be contacted in the first instance and the appeal will be forwarded to the judge if the matter is not resolved. The judge's decision will then be final.

The Jury Central Summoning Bureau does not cover Scotland or Northern Ireland. There is no right to appeal in Scotland, but complaints can be lodged with the Principal Clerk of Session and Justiciary at the Supreme Court in Edinburgh.

## 6. Financial implications of jury service

Jurors are entitled to:

- travelling expenses
- subsistence allowance
- an allowance for other financial loss including loss of earnings/benefits.

Financial loss includes:

- loss of earnings / benefit
- fees paid to carers or childminders which you have to make solely because of jury service
- other payments which you have to make solely because of jury service
  - you must provide the court with a receipt, or a signed letter, which explains what the payments were for and gives the amounts. You will also be asked why you had to make the payment.

You may claim for more than one financial loss but the total amount that the court can pay you cannot be more than the maximum allowance, which **includes loss of earnings**, so for example consultants will be able to reclaim loss of private practice income or the cost of hiring a locum to cover duties **up to the maximum limit** (see appendix 3).

Usually payment will be paid into your bank account approximately 10 days after a claim is made. The details of what jurors are entitled to are shown in appendix 2.

The amounts payable to jurors for jury service may not take into account usual income level or financial commitments. Medical practitioners can suffer severe financial loss as a result of attending a court hearing as a juror. It is possible to apply for discretionary excusal from jury service for valid business reasons and in instances where there would be unusual hardship or loss. Medical practitioners are advised to calculate their expected financial loss that would result from serving on a jury and to include this information on their application for discretionary excusal should this be significantly more than the maximum amount of allowance payable for other financial loss, but would need to demonstrate unusual financial hardship before excusal could be considered (appendix 3).

If you do participate in jury service, some doctors may be able to apply for special leave with pay. Special leave does not necessarily include jury service, but it does include similar kinds of activity, for example magisterial duties, and can be applied for, if applicable, through the human resources department.

### **Financial implications specific to general practitioners (GPs)**

Instances where a locum needs to be hired for the period of absence of a GP partner or employee may result in significant financial loss for the practice concerned. The maximum allowance for loss of earnings paid to jurors will not be enough to cover the cost of a locum. A GP serving for more than four hours a day for a week could receive a maximum of £285 (appendix 2), which considerably underestimates the amount that is needed to pay a locum to cover. The new general medical services contract does not include the hours that a GP must be available and therefore GPs are not obliged to replace themselves. This could potentially leave their practice and patients short, especially with the increasing shortage of locums. There is no financial support for GPs from the NHS if called upon to serve on a jury, and **if** they are able to find a locum they have to fund this with their take-home pay.

The general practitioners committee of the BMA is aware of the problems specifically facing GPs summoned for jury service and resolutions were passed at the local medical committee (LMC) conference and the 2005 annual representative meeting:

'That conference in considering support for practices where GPs have been called for jury service and:  
(i) deplores that no proper provision has been made  
(ii) instructs the negotiators to seek to establish adequate support.'

### **Insurance cover**

Practices may wish to review their partnership contracts and/or consider locum cover insurance to protect themselves in the event of partners being absent for an extended period on jury service. GPs are advised to check their building's insurance policy to see if this covers loss of income as a result of jury service. After checking with their underwriters, some GPs have established that their cover does include this.

It is possible to purchase insurance to cover expenses while doing jury service. The Medical Insurance Advisory Bureau (contact details below) offers this as part of its locum policy and charges £24 per year. Claims can be up to £250 per day for a maximum of 60 days (with an initial deferred period of four days). It is considered that this may still be insufficient to adequately reflect the financial loss experienced by GPs and that it needs to be effective from day one.

Robert Lynch  
National Healthcare Manager  
The Medical Insurance Advisory Bureau  
Dorchester House  
Station Road  
Letchworth  
Herts  
SG6 3AW  
Tel: 0800 587 3589

BMA Services is looking at the possibility of incorporating optional cover in addition to its standard insurance policy for GP surgeries in the eventuality that a partner or salaried GP is summoned for jury service.



## Appendix 2.

### Expenses and allowances

#### Travelling expenses

A claim for the cost of a return journey between the home and the court can be made as follows:

- bus or train: the standard return fare
- bicycle: 6.5p per mile
- motorbike: 27.3p per mile (if no public transport available, 29.1p per mile)
- own car:
  - 27.3p per mile (if no public transport available 41.5p per mile). It is expected that the most direct route to the court will be taken
  - parking fees may be paid at some courts. Contact the court office to find out about this before any fees are paid
- in an emergency or where there is no bus or train:
  - the court may pay the cost of a taxi. This should be checked with the court beforehand and a receipt should be retained if this is agreed.

#### Subsistence allowance

A fixed allowance towards the cost of food and drink while you are at the court will be made, depending on the amount of time that is spent away from home or work each day of the jury service (although this may be reduced if the court provides food). The allowance is approximately:

- £5 for up to 10 hours a day (£4.51 in Scotland)
- £10.67 for more than 10 hours a day.

#### Loss of earnings

Jurors must provide the court with evidence of loss of earnings when claiming. If you have an employer they must fill in a Certificate of Loss of Earnings. Included with this should be details of whether returning to work is possible on the days or half days that do not require a court appearance. It is possible that your loss of earnings will be more than the maximum allowance payable by the court.

The employer must:

- stamp the certificate with the official business stamp; or
- attach an original compliment slip or sheet of headed notepaper to it, which has the name and address of the business printed on it; or
- provide some other evidence of the business which the court may keep.

The certificate and letter, if applicable should be brought to the court on the first day of service. Table 1 in appendix 3 shows the amount that can be claimed for serving.

#### Allowance for other financial loss

It is also possible to claim for:

- fees paid to carers or childminders which are made solely because of jury service (a receipt and letter signed by the carer must be provided)
- other payments which you have to make because of jury service (a receipt or signed letter explaining why the payments had to be made must be provided).

Appendix 3.

**Maximum allowance payable for loss of earnings**

**Table 1. The maximum amount that jurors can claim for loss of earnings (England and Wales).**

	Less than four hours per day (£)	More than four hours per day (£)
Day 1-10	28.48	56.96
Day 11-200	56.96	113.93
Day 201 onwards	100.00	200.00

The maximum loss of earnings payable to Scottish jurors is £52.63 for the first 10 days and a maximum of £105.28 for subsequent days.

Allowances are reviewed annually, usually changing in at the beginning of April, and therefore may differ from the above. The allowances sheet that you are sent at the time of your jury service will state the allowances applicable at that time.