

DSA invited comment on the compensation code for out of pocket expenses paid to candidates whose tests are cancelled



Response from

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1 INTRODUCTION

- 1.1 The Motor Schools Association of Great Britain (MSA) makes the following response to the DSA request for comments on the compensation code for out of pocket expenses paid to candidates whose driving tests are cancelled
- 1.2 Out of Pocket Expenses was an agenda item, at the request of the MSA, at the DSA meeting with ADI representative groups held on 19 April 2007.
- 1.3 The note of that meeting states
 - 1.3.1 Bob Jarvis [DSA Head of Customer Relations] advised that DSA have been looking at this for some time and proposals will shortly be submitted to the DSA Executive Board for consideration. There is no legal requirement to reimburse any out of pocket expenses, although DSA currently compensate the candidate for 1½ hours and, if they have evidence, for loss of pay. Peter Harvey suggested that a minimum of 2 hours should be paid. He also queried why it is that Examiners get paid when they do not work; whereas ADI's are expected lose pay if DSA cancel a test.
 - 1.3.2 Rosemary [The DSA Chief Executive] invited any thoughts on compensation, to be provided to Bob Jarvis by the end of April. The paper to the Executive Board will be deferred to June.
 - 1.3.3 Bob cautioned that any increase in repayment of out of pocket expenses would have to be funded from income.

2 GENERAL COMMENTS

- 2.1 The comment that there is “no legal requirement to reimburse any out of pocket expenses” is true in as much that there is no law requiring out of pocket expenses to be paid.
- 2.2 However, the law relating to consequential loss and the expectation that a large organisation, particularly one which is an arm of government, will abide by the concept of natural justice and make good losses that an organisations actions or inactions have caused to occur together with many years of historical precedent means that the DSA do pay out of pocket expenses to candidates whose tests are cancelled at short notice.
- 2.3 The question is how much should they pay?

3 CURRENT POLICY

3.1 The current DSA refund policy is contained in various leaflets and forms, the following is reproduced from the leaflet “Customer service a guide to our service standards” last updated October 2005 and available on the DSA web site.

Refunding fees and expenses

We will either refund the test fee or arrange another test at no further cost to you in the following circumstances.

We will ~ refund certain expenses that you had to pay on the day of the test if we cancelled your test at short notice, unless it was because of bad weather or poor light. We do consider reasonable claims for:

- *any standard pay or earnings you lost through taking unpaid holiday leave (usually for half a day), after tax and National Insurance contributions but not including any overtime or commission payments; and*
- *reasonable cost of travel to and from the test centre if you were taking a theory test, or the cost of hiring a vehicle for the test, including travelling to and from the test centre if you were taking a practical test. We will refund your mileage if you have used your own vehicle to travel to and from the test centre. We will generally pay up to one and a half hours of vehicle hire. Costs are usually based on your instructor’s or trainer’s standard hourly lesson rate, rather than on a flat rate applied by your instructor or trainer for using the vehicle on the day of the test.*

We do not pay the cost of driving lessons or any training course that you arranged before a particular test appointment, or extra lessons that you decide to take while waiting for a rescheduled test.

3.2 This policy has been unacceptable for some time and prior to the re-organisation of area offices it would appear that the policy was modified with local offices making payments over and above those suggested by the guidelines.

3.3 However, since the closure of local offices who understood local needs, the new offices covering much larger areas and who do not have the benefit of local geographical knowledge have refused to make payments outside the written guidelines. This would seem to run contrary to statements made by the DSA that the closure of regional offices would not affect driving instructors.

3.4 Understandably those trainers affected have taken exception to this sudden change and the financial effect this has had on their on their pupils.

4 CALCULATING LOSSES

4.1 Traditionally driver trainers have charged clients for the use of their vehicle for the driving test in one of two ways:

4.2 A fixed fee to cover travel to and from the test centre and hire of the car for use on the test -

4.2.1 Instructors calculate their fixed fees based on a number of factors but in particular they calculate the average time taken to give the pupil at least an hours driving time to try and settle their nerves – time for the test – and time to de-brief the client at the end of the test and then enough time for the client to return home.

4.2.2 As an example many instructors organise their diaries so that each lesson starts on the hour 09:00, 10:00 etc. they do this by timing lessons at forty five minutes each and allowing fifteen minutes travelling time between pupils. If the pupil requires a double lesson then they charge for one hour and forty five minutes. An instructor charging £18.00 per lesson the equivalent of £24.00 per hour might charge a fixed price of £96.00 for the use of the car on the day of the test.

4.2.3 This figure is to cover the use of the car for four hours.

4.2.3.1 For example a pupil has a test at 10:44. In order to fit in an hours driving before the test the instructor has to pick the pupil up at around 09:40 this means he is unable to carry out an 09:00 lesson so the charging period will start from 09:00. The instructor needs to allow at least forty two or three minutes from the test start time for the examiner to be clear of the car. Some tests do take longer than others but it is reported that it is unusual for the last test of the day to overrun. Test ends around 11.27 allowing a journey time of around half an hour to forty minutes for the client to drive home the instructor would not be free until after 12:00 too late for a mid-day lesson so the charging period will run to the next hour. The instructor will then be available for a lesson at 13:00. The test period will have lasted from 09:00 to 13:00 a period of four hours which at a lesson price of £18.00 for a forty five minute lesson totals £96.00 for the use of the car on the day of the test.

4.3 One hour pre test hire of the car, hire of the car for the test and journey time home -

4.3.1 For those instructors who operate a more flexible diary system and allow one hour before the test to include the journey to the centre and a pre-test briefing for the test. Then allow time for the test and a further thirty minutes to return the pupil to home might charge for two and quarter hours £54.00.

4.3.2 However, with the mixture of increased traffic volumes and the reduction by the DSA in the number of local driving test centres, journey times for many candidates are on the increase. When DSA state that candidates may have to travel up to seven miles in the most densely populated areas

and thirty miles in rural areas to reach a centre the concept of paying for only one and half hours is laughable in many cases.

- 4.3.3 One and half hours less forty five minutes for the test actually allows for only twenty two or three minutes before and after the test, this is not acceptable. And does not encourage *safe driving for life* if driving instructors are under pressure to rush clients to and from the driving test centre.
- 4.4 The statement *We do not pay the cost of driving lessons or any training course that you arranged before a particular test appointment, or extra lessons that you decide to take while waiting for a rescheduled test* is no longer acceptable.
- 4.5 If the DSA cancel a test at short notice and are then unable to provide another appointment in a timely fashion say within two or three days they should pay for interim lessons until the next test.
- 4.6 Suggesting that the driving practice immediately before a test is a lesson during which learning takes place is nonsense. The pre test drive is really about re-familiarisation with the driving school vehicle, getting to the centre on time, and calming the nerves. To suggest, as has been done in the past, that the pupil receives learning benefit from the pre-test “lesson” is just outdated.

5 SOLVING THE PROBLEM

- 5.1 DSA should pay compensation to the pupil in the amount charged by the instructor. If they feel the amount is high they should request clarification of how the amount is calculated but the agency should not waste time querying reasonable costs claimed by candidates backed up by proper documentation from their driving instructor/school.