



Circular Letter 0014/2024

**To: The Managerial Authorities of Recognised Primary, Secondary,
Community and Comprehensive Schools
And The Chief Executives of Education and Training Boards**

**Sick Leave Scheme for Special Needs Assistants Employed
in Recognised Primary and Post Primary Schools**

The Minister for Education, pursuant to the power contained in Section 24 of the Education Act (as amended), directs employers to implement the regulations and procedures, as stated in this Circular, for special needs assistants (SNAs) employed in approved SNA posts funded by monies provided by the Oireachtas.

All employers and SNAs must adhere to the agreed terms and conditions as stated, with effect from the date of this Circular.

This Circular supersedes all previous circulars, memoranda, rules and regulations in relation to Sick Leave for SNAs employed in recognised primary and post primary schools.

Please ensure that the contents of this Circular are brought to the attention of all members of the Board of Management/Education and Training Boards and all SNAs in your employment, including those on leave of absence.

All queries should initially be brought to the attention of the employer who may wish to consult with their representative organisation. Any further queries may be directed to the Department at the following email addresses: -

- a) Queries on terms and conditions for Sick Leave:- teachersna@education.gov.ie
- b) Queries on recording of leave on OLCS:- onlineclaims@education.gov.ie
- c) Queries on salary:- [Payroll Query Form \(education.gov.ie\)](#)

This Circular can be accessed on the Department's website at: gov.ie.

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Definitions and Abbreviations

For the purpose of this Circular, the following terms shall have the meanings assigned to them, unless the context indicates otherwise:

DSP – means the Department of Social Protection.

Dual Look Back – means where, for the calculation of pay, an SNA's sick leave record is initially reviewed over a four year rolling period and then reviewed over a one year rolling period.

Employer – means a Board of Management/Manager in the case of primary (excluding community national schools), voluntary secondary, community and comprehensive schools and an Education and Training Board (ETB) for vocational schools/community colleges, community national schools. The Board of Management/Manager or ETB may delegate as appropriate, responsibility for matters set out in this Circular.

ETB – means an Education and Training Board established under, and governed according to the Education and Training Boards Act 2013.

Occupational Health Service (OHS) – means the providers of independent medical advice on occupational health for the employer.

On Line Claims System (OLCS) – means the system for recording of absences and input of claims for the payment of substitute SNAs which is currently operating in primary, voluntary secondary, community and comprehensive schools.

Paymaster – means the organisation in charge of paying salaries. This is the Department of Education in the case of primary (including community national schools), voluntary secondary, community and comprehensive SNAs, and the ETBs in the case of vocational/community college SNAs.

PRSI – means Pay Related Social Insurance.

Recognised School – means a school which is recognised by the Minister for Education, in accordance with Section 10 of the Education Act 1998.

School Year – as defined by the Minister for Education from time to time currently beginning on 1st September and ending on 31st August.

SNA – means Special Needs Assistant.

The Department – means The Department of Education.

Unapproved Leave (unpaid) – means leave taken by an SNA that has not been approved by the employer.

General Provisions

1. Recording of Leave

- 1.1 All approved paid and unpaid leave, regardless of whether or not a substitute is employed, must be recorded in a timely manner on the OLCS/relevant ETB system, or where relevant, on the annual Non-Teaching Staff Appointment Position Form, as failure to do so may lead to salary overpayments.
- 1.2 Where an overpayment of salary arises, the overpayment will be recovered in full from an SNA's future salary payment, in line with the relevant Department publications.
- 1.3 Where Department of Social Protection (DSP) Benefit is paid to an SNA availing of statutory leave, the Benefit may be classed as a taxable source of income. In this regard, it is the responsibility of the SNA to familiarise themselves with the most up to date information on the DSP website at link: www.welfare.ie.
- 1.4 It is the employer's responsibility to ensure the approved leave recorded on the OLCS/relevant ETB system corresponds with the SNA's leave record.
- 1.5 Leave recorded on the OLCS/relevant ETB system may not be altered by the Department/ETB at a later date, except in the most exceptional circumstances.

2. Monitoring of Leave

- 2.1 In line with best practice, the employer should monitor absences in order to identify patterns which may be of concern for the purpose of supporting the wellbeing of the SNA.

3. Leave Entitlements for Fixed Term/Fixed Purpose Appointments

- 3.1 An SNA's entitlement to Sick Leave shall cease on the expiry of a contract and that contract not having been renewed, unless that contract is followed directly by a 'back to back' contract in an approved SNA post funded by monies provided by the Oireachtas.

4. Contact during Leave

- 4.1 It is considered good practice in maintaining a positive wellbeing culture in the school, to have appropriate contact between the employer and the SNA during periods of leave. The nature of this contact should focus on the welfare of the SNA and the facilitation of a successful return to work.
- 4.2 Where appropriate, the employer and SNA should arrange a 'return to work' conversation on return to duty after a period of leave, to assist the SNA in their transition back to work.

5. Compliance

- 5.1 Failure to abide with the regulations and procedures set out in this Circular may be dealt with under the agreed disciplinary procedures and may lead to the cessation of salary in the case of an SNA and/or withdrawal of substitute cover for schools.

5.2 In the case of an unapproved absence, the SNA should be informed that such an absence will result in the employer, in the case of schools using the Department's OLCS, advising the Department to record their absence as Unapproved Leave (unpaid) on the OLCS. In the case of ETB schools, the employer will record the unapproved absence on the relevant ETB system.

6. Correspondence Address

6.1 The employer will address and send all necessary correspondence to the SNA at the personal email/home address last notified. No fault shall lie with the employer in the event that the SNA does not receive such correspondence.

7. Retention of Documentation

7.1 All documentation relating to SNA absences must be retained by the employer with the relevant personnel records in a safe and secure manner and in line with the employer's data protection policy and data protection regulations. These records may be selected for inspection by nominated Department officials.

1. Sick Leave Scheme

- 1.1 The Public Service Sick Leave Scheme, which applies to SNAs, is regulated by the Public Service Management (Sick Leave) Regulations 2014, [S.I. No. 124/2014](#), as amended by the Public Service Management (Sick Leave) (Amendment) Regulations 2015, [S.I. No. 384/2015](#) and the Public Service Management (Sick Leave) (Amendment) Regulations 2023, [S.I. No. 407/2023](#).

2. Entitlement to Sick Leave

- 2.1 A period of illness is defined as any period in which an SNA is medically unfit to carry out their full duties irrespective of whether the employing school is open or not.
- 2.2 Sick Leave may be granted to an SNA who is unable to perform their duties
- because of illness, injury or
 - when absent for the purpose of obtaining medical related services (e.g. Doctor/Dentist) provided such appointments could not have been arranged outside of regular working hours or working days.
- 2.3 The granting of Sick Leave to an SNA who is ill is intended to provide an adequate opportunity for that SNA to recover from the illness and its effects so that they may make an early return to duty without a likelihood of a relapse into illness. An SNA should co-operate fully with all rehabilitative measures to facilitate an early return to work.
- 2.4 Sick Leave periods are calculated retrospectively and include weekends, school closures and days on which an SNA is not timetabled for attendance (e.g. job sharers), occurring within the period of absence.

3. Occupational Health Strategy

- 3.1 An [Occupational Health Strategy](#) is in place as a supportive resource for SNAs. The aim of this strategy is to promote the health of SNAs in the workplace, with a focus primarily on prevention rather than cure. The Occupational Health Strategy is comprised of the Employee Assistance Service ([EAS](#)) and the Occupational Health Service ([OHS](#)).
- 3.2 The EAS called 'Wellbeing Together: Folláinne Le Chéile' provides advice to SNAs on a range of issues including wellbeing, legal, financial, bereavement, conflict and mediation. The EAS also provides advice and support to managers and delivers interventions to help them deal with health and wellbeing issues in the workplace. Where appropriate, short-term counselling is available to an SNA and their family members.
- 3.3 The dedicated EAS Freephone Helpline is **1800 411 057** and is available 24 hours a day, 365 days a year.
- 3.4 The OHS is in place to provide employers with occupational health advice in relation to SNAs' medical fitness for work. It incorporates pre-employment health assessments, sickness absence referrals, assessments of medical fitness for work

and ill health retirement assessments. Information on accessing the services of the OHS is available in the Employers Procedures Manual which is located at Appendix A of this Circular.

4. OHS Referral

- 4.1 The employer has a duty under Section 8 of the Safety, Health and Welfare at Work Act 2005 to “ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees”. The OHS is in place to assist the employer in carrying out this duty.
- 4.2 The OHS provider, contracted by the Department, is the sole recognised provider of independent medical advice for SNAs and employers. It is a requirement of the Sick Leave Scheme that all employers and SNAs abide by the OHS medical assessment. In the case of Critical Illness Provisions (CIP), the employer should refer to the CIP Managerial Discretion Guidelines at Appendix B of this Circular, before making a decision on a CIP application.
- 4.3 The employer must therefore refer the SNA to the OHS, for the purpose of an independent medical assessment. This includes where: -
- a) An SNA has been absent on Sick Leave for 4 weeks (28 days) continuous or cumulative in a 12 month rolling period of service.
 - b) Reasonable concerns exist as to the capacity of the SNA to undertake their duties in a manner that is safe such as repeated short-term Sick Leave absences, concerns regarding performance of duties as a result of health factors, work-related factors that may be adversely affecting an SNA’s health or alcohol/drug related problems.
 - c) An SNA has made an application for extended Sick Leave under the Critical Illness Provisions.
 - d) Reasonable Accommodation is under consideration.
 - e) Ill health retirement is under consideration.
 - f) An SNA is seeking the discounting of Sick Leave during a period of school closure as referred to in paragraph 17.4.
 - g) It is necessary to establish if the activity that the SNA has proposed to engage in during Sick Leave is appropriate for their progress to recovery as referred to in paragraph 6.1.
 - h) Assessment of medical fitness for work is required, following an absence greater than 2 school years. The SNA must be certified medically fit prior to return to work following such an absence.
 - i) Assessment of medical fitness for work is required where the SNA has been on Sick Leave in excess of 4 weeks prior to commencing Career Break. This is to determine whether or not they are eligible/fit to carry out limited substitute work under the terms and conditions of the Career Break Scheme
 - j) Assessment of medical fitness for work is required where the SNA has been on Sick Leave immediately prior to commencement of Carer’s Leave.
 - k) Maternity Health and Safety Leave is under consideration for a pregnant SNA as referred to in paragraph 10 of the Maternity Leave Circular.
 - l) Assessment of medical fitness for work is required when considering any extension to Unpaid Sick Leave.

4.4 The SNA is required to cooperate and engage with the OHS. While many assessments will not require attendance, it is a matter for the OHS to decide in what circumstances an SNA may be required to attend for medical assessment and/or arrange for the transmission to the OHS (by the SNA's attending doctor) of a comprehensive Doctor to-Doctor report.

5. Notification and Recording of Sick Leave

5.1 Any SNA who is absent due to illness must notify, or make suitable arrangements to notify, the employer as early as possible on the first day of the absence. The SNA should, where possible, indicate the likely duration of the absence.

5.2 Where a Job sharing SNA is absent on Sick Leave, the entire period, including the days they are not scheduled to work, must be recorded on the OLCS/ETB system.

5.3 The Sick Leave absence must be recorded in a timely manner by the employer on the OLCS/relevant ETB system.

5.4 Where a school closure occurs during a period of Sick Leave, the employer must ensure that the Sick Leave record includes the school closure period. Failure to record Sick Leave accurately may result in an overpayment of salary.

5.5 Employers are required to have procedures in place to monitor and analyse patterns of Sick Leave.

5.6 A detailed statement of all Sick Leave absences should be provided to each SNA by the employer on request, and at least one report should be provided annually. This information is available on the OLCS/relevant ETB system.

6. Employment or Travel Abroad while on Sick Leave

6.1 An SNA may not be employed, including carrying out substitution work, whilst on Sick Leave. It would be contrary to the express purpose of the Sick Leave Scheme, to engage in any activity (e.g. travel abroad, gainful employment or self-employment), which, in the opinion of the OHS, could be regarded as impeding that SNA's progress to recovery. Therefore, approval of the employer must be obtained prior to the SNA engaging in any such activity. The employer must seek the advice of the OHS before deciding on the matter.

7. Sick Leave and Other Leave Types

7.1 An SNA may not have access to two different types of leave at the same time. Where an SNA is availing of statutory leave, in general, they will have no access to sick leave. However, depending on the nature of the statutory leave it may be possible to postpone or suspend the statutory leave (e.g. parental leave). Where an SNA is availing of special leave (e.g. career break) there is no access to sick leave.

8. Self-Certified and Certified Sick Leave Requirements

8.1 Self-Certified Sick Leave

- (a) The maximum number of self-certified Sick Leave days allowable in any rolling period of 2 consecutive years of service, counting backwards from the latest self-certified Sick Leave absence, is 7.

- (b) Payment for self-certified Sick Leave may be modified or withdrawn, following due process, in cases where absences are unduly frequent or the maximum number of days is regularly approached or taken year after year.
- (c) An SNA shall not avail of a period of self-certified Sick Leave immediately after certified Sick Leave.

8.2 Certified Sick Leave

- (a) Where an SNA is absent on continuous Sick Leave in excess of 2 days, a medical certificate is required to be provided to the employer. If a sick absence extends from Friday to Monday inclusive, then a medical certificate must be provided.
- (b) To be acceptable, a medical certificate must:
 - be signed by a duly qualified medical practitioner registered with the Irish/UK Medical Council/Dental Council of Ireland. In exceptional circumstances, medical certificates may be accepted from overseas medical practitioners, such as where an SNA becomes ill abroad or is receiving a recognised medical treatment unavailable in Ireland. The advice of the OHS must be sought in such circumstances.
 - normally cover a period of no more than one week. However, certification for periods of up to one month may be permitted at the discretion of the employer.
 - state fitness to work or otherwise.

8.3 It is not obligatory to state the nature of the illness on a medical certificate. However, it would be of assistance if the medical practitioner provides the exact diagnosis so that in the event of OHS Referral, OHS medical staff can then better decide whether a telephone or face-to-face appointment is necessary. However, an employee cannot be compelled to provide personal medical details.

8.4 Medical certificates must in all cases be provided to the Employer as soon as possible, but not later than one week after the absence commences. (other than in exceptional circumstances).

8.5 Failure to adhere to the limit permitted for self-certified Sick Leave and failure to submit an acceptable medical certificate to the employer in the case of certified Sick Leave will result in the employer advising the SNA that their absence will be recorded by the Paymaster as a period of Unapproved Leave (unpaid). Repeated absences may then be dealt with by the employer under the agreed disciplinary procedures.

8.6 Employers must safeguard the confidentiality of all information relating to the Sick Leave records of individual SNAs and this applies in particular to medical certificates.

9. Ordinary Illness Provisions

- 9.1 An SNA who is absent from duty because of personal illness or injury, may be granted paid Sick Leave of:
- A maximum of 3 months (92 days) on full pay in a year
 - Followed by a maximum of 3 months (91 days) on half pay
 - Subject to a maximum of 6 months (183 days) paid Sick Leave in a rolling 4-year period.

10. Critical Illness Provisions

- 10.1 An SNA who becomes incapacitated as a result of a critical illness or serious physical injury and has supporting medical evidence may, upon application, during the period of absence to which the application relates, be granted Critical Illness Provisions (CIP), in exceptional circumstances. The following limits will apply:
- A maximum of 6 months (183 days) on full pay in a year
 - Followed by a maximum of 6 months (182 days) on half pay
 - Subject to a maximum of 12 months (365 days) paid Sick Leave in a rolling 4-year period.
- 10.2 The granting of CIP is a decision made by the employer, having considered the OHS medical advice.
- 10.3 The CIP Managerial Discretion Guidelines located at [Appendix B](#) provide assistance to guide employers through the CIP protocol and the decision making process.
- 10.4 Appropriate efforts should be made to accommodate an SNA at an early stage of a Sick Leave absence to facilitate their return to work. See [Reasonable Accommodation](#).
- 10.5 The OHS, will advise the employer whether, in its opinion, the following medical criteria are met by the SNA to be considered eligible for CIP:
- 1) The SNA is medically unfit to return to his or her current duties or, where practicable, modified duties in the same pay grade.
 - 2) The nature of this medical condition has **at least one** of the following characteristics:
 - (a) Acute life-threatening physical illness.
 - (b) Chronic progressive illness, with well-established potential to reduce life expectancy. This refers to the condition and not the individual person. It must be well established in the peer reviewed medical literature that the medical condition results in a reduction of life expectancy.
 - (c) Major physical trauma ordinarily requiring corrective acute operative surgical treatment.

- (d) In-patient or day hospital care of 10 consecutive days or greater. In the case of pregnancy related illness or assisted pregnancy related illness, this is reduced to 2 or more consecutive days of in-patient hospital/clinic care.

- 10.6 If an SNA has an ordinary illness (an illness which is not regarded as a critical illness or serious physical injury) within a 12-month period of the date of return to work following the critical illness, the CIP will apply.
- 10.7 There will be no financial loss to an SNA in circumstances where they have fully engaged with the process around the management of Sick Leave and where their own Consultant has certified fitness to return to work following critical illness, but the SNA has not been able to return to work because there is a delay in the employer referring them to the OHS, or a delay in being seen by the OHS. In such circumstances, pay will be restored and the leave record will be recorded appropriately by the Paymaster.
- 10.8 An SNA should apply to their employer for CIP, at the time of their Sick Leave absence.

11. Dual Look Back

- 11.1 The rate of pay for a current Sick Leave absence is calculated, based on the following dual look back system:

Ordinary Illness

- Step 1: Determine whether the SNA has access to paid Sick Leave

The SNA's Leave is reviewed over the previous 4-year period, counting back from the day preceding the first day of their current sick leave absence. Where there is a break in service within the look back period of 6 months or longer **and** all 3 criteria below are satisfied, the look-back should be extended accordingly. The break(s) in service must:

- i. Be unpaid
- ii. Not reckon for pensions
- iii. Not accrue annual leave

It is important to note that if a break in service meets all these criteria, the entire period will be included in the extension, not just the portion that is 6 months or longer. All periods of full pay, half pay and TRR should be included in the look-back when calculating an individual's access to paid sick leave. Periods of nil pay should be excluded from the look back.

If 6 months (183 days) paid Sick Leave has not been exhausted over the review period determined above, access may be granted to paid Sick Leave. If 183 days paid Sick Leave has been exhausted, the SNA will progress on to TRR (subject to TRR eligibility criteria).

- Step 2: Determine whether full pay, half pay or TRR applies

If Step 1 indicates the SNA has access to paid Sick Leave, their Sick Leave record is then reviewed over the previous rolling 12-month period, counting back from the day preceding the first day of the current sick leave absence, to determine the rate at which Sick Leave may be paid.

The paid Sick Leave entitlement is up to 92 days on full pay in a 12-month period, followed by up to 91 days on half pay, subject to a maximum of 183 days paid Sick Leave in a rolling 4-year period.

Critical Illness Provisions

- Step 1: Determine whether the SNA has access to paid Sick Leave

The SNA's Leave is reviewed over the previous 4-year period, counting back from the day preceding the first day of their current sick leave absence. Where there is a break in service within the look back period of 6 months or longer **and** all 3 criteria below are satisfied, the look-back should be extended accordingly. The break(s) in service must:

- i. Be unpaid
- ii. Not reckon for pensions
- iii. Not accrue annual leave

It is important to note that if a break in service meets all these criteria, the entire period will be included in the extension, not just the portion that is 6 months or longer. All periods of full pay, half pay and TRR should be included in the look-back when calculating an individual's access to paid sick leave. Periods of nil pay should be excluded from the look back.

If 12 months (365 days) paid Sick Leave has not been exhausted over the review period determined above, access may be granted to paid Sick Leave. If 365 days paid Sick Leave has been exhausted, the SNA will progress on to TRR (subject to TRR eligibility criteria).

- Step 2: Determine whether full pay, half pay or TRR applies

If Step 1 indicates the SNA has access to paid Sick Leave, their Sick Leave record is then reviewed over the previous rolling 12-month period, counting back from the day preceding the first day of their current absence, to determine the rate at which Sick Leave may be paid.

The paid Sick Leave entitlement is up to 183 days on full pay in a 12-month period, followed by up to 182 days on half pay, subject to a maximum of 365 days paid Sick Leave in a rolling 4-year period.

11.2 The scenarios set out at [Appendix C](#) of this Circular illustrate how the dual look back calculations operate.

12. Temporary Rehabilitation Remuneration (TRR)

12.1 TRR is a payment to support the rehabilitation of SNAs who are absent on extended sick leave and who have exceeded the threshold of 183 days under the Ordinary Illness Provisions or 365 days under Critical Illness Provisions in a rolling 4-year period. Where the relevant period of paid Sick Leave has been exhausted the SNA may be granted TRR subject to the following conditions:

- The SNA must have accrued two years' aggregated service in the public service. For those SNAs with more than one period of employment in the public sector, the service requirement can be satisfied by aggregating these multiple employment periods, as long as there is no break in service of 26 weeks or more.
- There must be a reasonable prospect that the SNA will return to work and deliver regular and effective service.

The rate of TRR is 37.5% of the remuneration that would otherwise accrue to the SNA were they not on sick leave.

For each new relevant absence on TRR, a 3-day wait will apply before payment can be made. This 3-day wait restarts with each new absence and is not cumulative. Saturdays, Sundays and days on which the school is closed are included in the 3-day wait, as are days on which the SNA was due to be present.

The 3-day wait does not apply in the following instances:

- Where the SNA transitions from full or half pay to TRR during an ongoing absence, or
- Where the absence occurs under the provisions of the Critical Illness Protocol (CIP).

The flat rate of 37.5% is **inclusive** of Illness Benefit (IB) that may be payable to an individual. Where an SNA is eligible for IB, they **must** apply to the Department of Social Protection with the appropriate documentation. (See paragraph 21 for additional information).

12.2 The granting of TRR will be conditional at all times on the OHS confirming that there is a reasonable prospect of recovery and return to work. The OHS will indicate at the 28-day referral stage whether there is a reasonable prospect of an SNA's recovery and return to work. Where the OHS advise that in their opinion there is no prospect of recovery and return to work, the employer should take such timely action as it deems appropriate including but not limited to termination of the contract of employment, where appropriate and must inform the Paymaster. Employers must ensure they act in accordance with the relevant employment legislation.

12.3 TRR will not exceed 18 months (**548** days) in a rolling 4-year period in the case of ordinary illness counting back from the day preceding the first day of the SNA's current absence.

- 12.4 In the case of an SNA who has been granted extended sick pay under CIP, they may have access to 12 months (365 days) TRR followed by a further period of TRR not exceeding 24 months (730 days) in a rolling 4-year period. This further TRR period is subject to 6 monthly reviews by the OHS.
- 12.5 The period during which TRR is paid is not a period of pensionable service.
- 12.6 **Transitional arrangements valid for 5 years effective 4th September 2023.**
Transitional arrangements will be in place for 5 years for SNAs whose TRR rate is calculated to be higher than the 37.5% TRR rate. This will apply as follows:
- 12.6.1 In the case of a member of a pre-existing Pension Scheme, the TRR will be calculated based on:
- Pensionable pay, and
 - Paid pensionable service accrued in the employment at the time paid Sick Leave was exhausted, together with the added years which would be awarded if ill health retirement were granted.
- 12.6.2 In the case of a member of the Single Public Service Pension Scheme, TRR will be calculated based on:
- Referable amounts accrued in accordance with the provisions of the Single Pension Scheme at the time paid Sick Leave was exhausted and
 - The enhancement of benefits as provided for in regulations.
- 12.7 The amount of TRR paid should not be taken as an accurate reflection of what the member may receive at retirement, as the circumstances may be different.
- 12.8 SNAs availing of TRR prior to 4th September 2023 will continue with the same rate of TRR for that absence if it continues past 4th September 2023. The new rate of TRR (37.5%) will apply in the event of a new absence.

13. Unpaid Sick Leave

- 13.1 An SNA who is certified medically unfit by the OHS to resume duty after all paid Sick Leave entitlements have been exhausted must notify their employer in writing if they intend to avail of a period of unpaid Sick Leave and retain their position in the school/ETB Scheme during this period.
- 13.2 For those who do not qualify for TRR, the period of unpaid Sick Leave will not normally exceed the TRR limits as set out in the 'Temporary Rehabilitation Remuneration (TRR)' paragraph. In considering any extension to the Unpaid Sick Leave entitlements, employers must seek the advice of the OHS on the SNA's prospect of recovery and return to work.
- 13.3 The granting of unpaid Sick Leave is conditional at all times on the OHS confirming that there is a reasonable prospect of recovery and return to work and the continued submission on a regular basis (maximum 3 months) of acceptable medical

certification to the employer. An SNA on unpaid Sick Leave may return to work where they have been medically certified fit by the OHS.

- 13.4 Where the OHS has certified that the SNA is unfit to return to duty following unpaid Sick Leave, the employer may take such timely action as it deems appropriate including, but not limited to, termination of the contract of employment, where appropriate. Employers must ensure they act in accordance with the relevant employment legislation.

14. Pregnancy-Related Sick Leave

- 14.1 Under the Public Service Management (Sick Leave) Regulation 19, a pregnant SNA who is certified as medically unfit for work due to a pregnancy related illness i.e. Pregnancy-Related Sick Leave (PRSL) prior to Maternity Leave, will receive not less than half pay for the absence duration where they have exhausted the Sick Leave limits.
- 14.2 Any extended period of Sick Leave at half pay, beyond the normal Sick Leave limits, under this provision, will not be included in the Sick Leave count, to establish future entitlement to paid Sick Leave.
- 14.3 Under the Public Service Management (Sick Leave) Regulation 20, an SNA may have access to additional non-PRSL at half pay where they have: -
- (a) a subsequent non-PRSL absence, following a period of PRSL in the previous 4 years and;
 - (b) exhausted their entitlement to paid Sick Leave, within the normal Sick Leave limits, (PRSL and non-PRSL included).
- 14.4 The maximum number of additional days allowed at half pay for this subsequent non-PRSL absence:
- (a) will be equivalent to the number of PRSL days taken in the previous 4 years and;
 - (b) must not exceed normal Sick Leave limits (i.e. 183 days for ordinary illness or 365 days for CIP) for non-PRSL, when counted with other non-PRSL in the previous 4 years.
- 14.5 Where a medical certificate states the Sick Leave absence is due to a pregnancy-related illness; the employer must record the period on the OLCS/relevant ETB system as a pregnancy related illness. For schools using the Department's OLCS, the approved absence is recorded under the OLCS leave category 'Sick Leave', and then sub-category 'Pregnancy Related Illness'.
- 14.6 The PRSL provision applies only to medically certified pregnancy related illness occurring during pregnancy, and may only be availed of prior to the SNA's Maternity Leave commencement date.
- 14.7 The scenarios set out at [Appendix D](#) of this Circular illustrate how the PRSL arrangements operate.

15. Reasonable Accommodation

15.1 The Employment Equality Acts require employers to take reasonable steps to accommodate the needs of employees and prospective employees with disabilities. Reasonable accommodation typically involves some modification to the tasks/structure of a job or workplace environment, which would enable such an employee to fully perform their work role and enjoy equal employment opportunities. An employer will make reasonable adjustments for SNAs who have a disability, or who have acquired a disability, to have reasonable accommodation made to facilitate their return to work.

15.2 However, employers are not obliged to provide special treatment or facilities if the cost of doing so is excessive or disproportionate. The employer should explore in conjunction with the SNA and the OHS any appropriate enabling options, for example (these examples are not exhaustive):

- Making reasonable adjustments to the school building and/or working space
- Acquiring relevant equipment or modifying existing equipment
- Partial Return to Work
- Job Sharing – subject to the provisions of the Job-Sharing Scheme

16. Partial Return to Work

16.1 This provision exists to facilitate an SNA recovering from an illness to transition back to full duties over an agreed limited period of time. Access to Partial Return to Work (PRW) is not an automatic entitlement and is subject to the recommendation of the OHS and the approval of the employer.

16.2 At the end of this period, it is expected that the SNA shall have reached sufficient medical fitness to allow them to undertake full duties on a whole time basis.

16.3 The employer should ensure all reasonable steps are taken to facilitate the PRW arrangement. Non ETB Schools must notify the department by emailing teachersna@education.gov.ie providing the following details: the SNA name, the school roll number and the agreed dates for PRW. ETB schools should record the arrangement via the relevant ETB system.

16.4 The approved PRW arrangement will commence on an agreed date. The exact duration of a PRW arrangement will be based on the advice of the OHS and is permitted for a maximum period of one school term. PRW may commence at any time within a school term but shall not extend beyond the end of that term.

16.5 An early return to full duties from PRW may take place subject to OHS approval and agreement with the employer on an agreed date. Non ETB schools should notify teachersna@education.gov.ie immediately if this occurs.

16.6 The SNA availing of the PRW must undertake to carry out their responsibilities in accordance with their contract for a minimum of 2 full school days every week. The teacher will be paid their full rate of pay for the days worked.

- 16.7 The remaining days on which the SNA does not work during the PRW (including weekends and other school closures) must be recorded as Sick Leave and notified to the Department/ETB via the OLCS/relevant ETB System. The OHS recommendation for PRW is sufficient evidence for the employer to record these Sick Leave absences. The appropriate rate of sick pay/TRR will be applied in accordance with the terms of the Sick Leave Scheme as outlined in this Circular.
- 16.8 The employer has the right to withdraw approval of any PRW arrangement if it is not operating in the best interests of the students/school. Non ETB schools should notify teachersna@education.gov.ie immediately if this occurs.
- 16.9 For the PRW period, the Paymaster will apply a salary deduction, equivalent to the DSP Partial Capacity Benefit rate in respect of the days the teacher is not working. A teacher must submit the letter received from DSP showing the rate which has been awarded to them to illnessbenefit@education.gov.ie or to the relevant ETB where they are employed in an ETB school. A teacher must have an open Illness Benefit claim for a minimum of six months with DSP before they can apply for Partial Capacity Benefit. Further details are available at www.welfare.ie.
- 16.10 The employer may appoint a substitute SNA, paid by the Paymaster, to cover the days that the SNA, availing of the PRW arrangement, is absent on Sick Leave. This must be recorded by the employer via the OLCS/relevant ETB system.

17. Return to Work

- 17.1 An SNA should be medically fit to resume full duties following a period of Sick Leave.
- 17.2 An SNA intending to resume duty prior to the date specified on their medical certificate, must provide a medical certificate of fitness from their attending doctor before the date of resumption. In the absence of such a certificate, the full period recorded on the medical certificate(s) will be counted as Sick Leave. Certificates of fitness furnished at a later date will not be accepted as evidence of fitness for duty.
- 17.3 Confirmation of fitness must also be obtained by the employer from the OHS, prior to resumption of duties, in the case of an SNA who is (i) absent on paid Sick Leave for 4 or more continuous weeks (or a shorter period where the employer has reasonable grounds for concern), or (ii) absent for any period of TRR/unpaid Sick Leave.
- 17.4 Where an SNA is absent on Sick Leave and has not returned to duty for a reasonable period before and after a period of school closure, the SNA will be deemed to be on Sick Leave for the whole duration unless;
- the SNA provides a medical certificate of fitness to resume full duties prior to or during a period of school closure and
 - the advice of the OHS as to the SNA's fitness for full duties has been obtained and whether the school closure period or any part thereof might be discounted and the OHS has deemed the period of return to duty to be reasonable taking into account the medical circumstances in individual cases.

18. Salary Adjustment

- 18.1 In cases where, prior to resumption of duty, entitlement to incremental salary has been exhausted, salary will be restored only from the date that the OHS deems the SNA fit to resume full duties. This is also conditional on the SNA actually resuming duty on the first possible day following the OHS certification.
- 18.2 Any action which necessitates an adjustment to an SNA's salary should be notified to the Paymaster immediately.

19. Status during Sick Leave

- 19.1 Absences on paid Sick Leave (full or half pay) are fully reckonable for all purposes including seniority and superannuation. Absences on TRR are not reckonable for superannuation and increment purposes.

20. Replacement SNA

- 20.1 The appointment of a replacement SNA is subject to the terms outlined in the relevant Department publications. The appointment of a substitute SNA must be recorded by the employer via the OLCS/relevant ETB system.
- 20.2 Where a replacement SNA is employed, they will not attain any seniority in the school/ETB.

21. Pay Arrangements and Illness Benefit

- 21.1 From the 1st January 2024, an SNA with accumulated sick leave in excess of 5 days in a calendar year, may be entitled to claim Illness Benefit from the DSP. This will increase to 7 days in 2025 and 10 days in 2026. For any subsequent instance(s) of sick leave, an SNA absent on Sick Leave in excess of 3 consecutive days may be entitled to claim Illness Benefit from the DSP, depending on their PRSI contributions.
- 21.2 For SNAs employed in non-ETB schools, Class A PRSI contributors must submit the DSP's Illness/Injury Benefit Application Form (IB1) and Certificate of Incapacity for Work (MED1) to the DSP, where the illness exceeds 3 consecutive days. The SNA must ensure to provide their payment details on this DSP documentation. Illness Benefit payment will issue directly from the DSP to the SNA. For further information, please refer to the Department's [Information Note](#).
- 21.3 The Paymaster will apply a salary deduction, equivalent to their Illness Benefit rate for the period of Sick Leave (this includes CIP, PRSL etc.). It is the responsibility of the SNA to ensure they have claimed the Illness Benefit directly from DSP to compensate for this deduction.
- 21.4 For SNAs employed in ETB schools, the SNA should comply with the ETB's policy on claiming Illness Benefit.
- 21.5 Illness Benefit payment is a taxable income.
- 21.6 Where an SNA has a period of Sick Leave followed by another period, within 3 days of the first absence, both periods of Sick Leave, excluding the intervening period will be

counted by the DSP for Illness Benefit payment. The Paymaster will apply a salary deduction, equivalent to their Illness Benefit rate to reflect this same period.

21.7 Where Sick Leave is not recorded by the employer on the OLCS/ETB system, at the time of the absence, the Paymaster will at a later date, apply a salary deduction, equivalent to the SNA's Illness Benefit rate. It is the responsibility of the SNA to ensure they have claimed the Illness Benefit directly from DSP to compensate for this deduction.

21.8 Further information on Illness Benefit is available on the DSP website at: www.welfare.ie.

22. Retirement on Ill Health Grounds

22.1 An SNA deemed medically unfit to continue duties on a permanent basis may be entitled to certain pension benefits under their relevant pension scheme.

22.2 For SNAs employed in primary, secondary, community and comprehensive schools who are paid their salary through the Department's payroll, information on the process is available on the Department's [website](#). For SNAs employed in ETB schools information on the process is available from their ETB.



Appendix A - Employers Procedures Manual

**Employers Procedures Manual -
Occupational Health Service for
Special Needs Assistants**

February 2024

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Purpose of The Employers Procedures Manual

(Should be read in conjunction with the Sick Leave Scheme and Definitions and Abbreviations)

1. The Employers Procedures Manual provides employers with information on accessing the Occupational Health Service.
2. The Manual aims to help employers understand how professional occupational health advice can support their management functions, the procedures to be followed and how they can obtain medical advice which meets their needs and those of their SNAs.
3. Sick Leave entitlements are governed by: -
 - a. The Public Service Management (Sick Leave) Regulations 2014 (the “Regulations”) *and* The Public Service Management (Sick Leave) (Amendment) Regulations 2023, SI No. 407/2023
 - b. The relevant Sick Leave Scheme for SNAs as detailed in the Department’s publications.

Definitions and Abbreviations

For the purpose of this Employers Procedures Manual, the following terms shall have the meanings assigned to them here, unless the context indicates otherwise.

Consultant – mean a medical Doctor who is on the relevant specialist register, and holds a HSE/ Voluntary Hospital/NHS hospital consultant appointment or has admission rights to a recognised private hospital.

Critical Illness Protocol – means the Critical Illness Protocol under the Public Service Sick Leave Scheme which was developed and agreed following a Labour Court Recommendation (LCR 20667). Special arrangements are available where an SNA with serious illness or injury may benefit from extended paid Sick Leave.

Critical Illness Provisions (CIP) – means extended paid Sick Leave that may be granted under the Critical Illness Protocol.

Current or recent Clinical Care - means the SNA has received medical investigations and treatment ordinarily under the direct care/supervision of a Hospital Consultant. They may be either a hospital inpatient or outpatient. It excludes referrals that in the opinion of the Occupational Health Physician are primarily for report preparation purposes/medico-legal purposes.

Occupational Health Physician (OHP) – means a medical Doctor registered with the Irish Medical Council who has a postgraduate qualification in Occupational Medicine/Occupational Health, or who is on a specialist training scheme in Occupational Medicine with experience in the practice of occupational medicine.

Chapter 1 – Occupational Health Strategy

An Occupational Health Strategy is in place as a supportive resource for SNAs, to promote their health in the workplace, with a focus primarily on prevention rather than cure. The Occupational Health Strategy comprises the Employee Assistance Service (EAS) and the Occupational Health Service (OHS).

1. Occupational Health Service

- 1.1 Employers have a responsibility under Section 8 of the Safety, Health and Welfare at Work Act 2005 to “*ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees*”. The Employment Equality Acts also requires employers to take reasonable steps to accommodate the needs of employees and prospective employees with disabilities.
- 1.2 In order to discharge these statutory management responsibilities effectively and efficiently, it is essential that employers have access to professional occupational health advice on employees’ medical fitness for work. The OHS is in place to assist employers in carrying out this duty.
- 1.3 The OHS Occupational Health Physicians offer a unique perspective, insight and skill set that allows them to provide an appropriate assessment and informed opinion with respect to an SNA’s medical fitness for work, as distinct from an opinion on the nature and severity of their medical complaint.
- 1.4 The OHS provides services that include pre-employment medical assessments, medical assessments of fitness for work, sickness absence management and ill health retirement assessments.
- 1.5 Where there is a difference of medical opinion between the OHS and the treating Doctor/Consultant on an SNA’s medical fitness for work, the OHS will consult with the treating Doctor/Consultant before providing final advice to the employer. If there is a specific need for an independent medical assessment, this can be facilitated through the OHS.
- 1.6 The OHS Occupational Health Physicians and the Occupational Health Nurses are bound by professional requirements to maintain confidentiality which is crucial in retaining the trust and confidence of the SNA. This does not impact upon the quality of medical advice given to employers whose concern is the SNA’s medical fitness for work and not the actual diagnosis.

1.7 The current OHS provider is Medmark Occupational Healthcare.

Contact Details

Medmark Occupational Healthcare
28 Penrose Wharf, Penrose Quay
Cork, T23FT96

Telephone helpline: **021-4550455** (open Monday to Friday, 9:00am-5:00pm,
with an out-of-hours answering system also available)

Email: info@medmark4teachersna.ie

Website: www.medmark.ie/teachersna/ or gov.ie and follow the link provided.

Chapter 2 – Medical Assessments

2.1 Pre-employment Medical Assessments

- 2.1.1 A candidate selected for appointment must be certified medically fit for employment by the OHS prior to taking up the post. The employer must inform the candidate that the employment offer is subject to them providing a valid 'Medical Fitness for Employment Assessment Report' which certifies fitness for employment.
- 2.1.2 A valid 'Medical Fitness for Employment Assessment Report' which certifies fitness for employment is also required, prior to an SNA's return to work following a leave of absence or other break in service greater than 2 school years.
- 2.1.3 Following a pre-employment medical assessment, a 'Medical Fitness for Employment Assessment Report' is issued by the OHS to the candidate, in a secure electronic format. The Report certifies whether the candidate is medically fit/unfit or fit with accommodation for employment. Where the candidate is certified medically unfit for employment, the Report also issues to the employer specified in the referral. The Report is valid for 2 calendar years from the date of the OHS medical assessment. In presenting this Report to an employer, the candidate is confirming, prior to taking up the post, that there has been no change in their physical or mental health status since the date of the OHS pre-employment medical assessment.
- 2.1.4 It is open to the employer to seek an updated 'Medical Fitness for Employment Assessment Report' even where the existing Report has not expired.
- 2.1.5 It is mandatory to complete an on-line Pre-Employment Medical questionnaire, as part of the pre-employment medical assessment where a candidate:
- (i) is taking up employment for the first time as an SNA **or**
 - (ii) has been directed by the employer do so **or**
 - (iii) wishes to obtain a revised 'Medical Fitness for Employment Assessment Report' e.g. where health status has changed.
- 2.1.6 The pre-employment medical assessment will enable the OHS to:
- a) determine the medical fitness of the candidate to safely carry out to a consistent standard, the duties of the intended position whilst ensuring compliance with current Employment Equality legislation.

- b) screen for underlying medical conditions/disabilities in order to allow employers to meet their responsibilities under Health and Safety, and Equality legislation.
- c) form the basis of an occupational health record to be held by the OHS. This record may be referred to if the candidate is referred to the OHS at a future date.

2.2 Pre-Employment Medical Assessment Protocol

2.2.1 The protocol detailed below must be followed for a pre-employment medical assessment:

- a) The employer directs the candidate to log onto www.medmark.ie/teachersna/ to complete an online Pre-Employment Medical questionnaire.
- b) If the candidate has any specific queries relating to completion of the questionnaire, they can be advised to send their query to info@medmark4teachersna.ie, or call the dedicated telephone advice line for assistance.
- c) Upon completion and online submission of the Pre-Employment Medical Questionnaire, the successful receipt of the form is acknowledged on the OHS web page.
- d) In the event that the candidate does not have internet access, a physical copy of the Pre-Employment Medical questionnaire may be requested from the OHS. Upon completion, the questionnaire must be returned by registered post to the address provided on the form.
- e) The completed Pre-Employment Medical questionnaire is reviewed by the OHS. This prompts one of the following actions:
 - i. A 'Medical Fitness for Employment Assessment Report' is issued to the candidate certifying them as fit/unfit for employment. Where the candidate is certified as medically unfit for employment, the Report also issues to the employer specified in the referral **or**
 - ii. The OHS makes contact with the candidate to clarify disclosed medical information. Once satisfactory medical clarification is received, a 'Medical Fitness for Employment Assessment Report' is issued to the candidate (and the employer specified in the referral, if the candidate is certified as medically unfit for employment) **or**

- iii. The OHS requests the candidate to attend for a pre-employment medical assessment. The decision to request that a candidate attends, is discretionary and based on the evaluation of the Pre-Employment Medical questionnaire. Once the pre-employment medical assessment is complete, a 'Medical Fitness for Employment Assessment Report' is issued to the candidate (and the employer specified in the referral if the candidate is certified as medically unfit for employment) **or**
- iv. Where the candidate is certified medically fit for employment, the 'Medical Fitness for Employment Assessment Report' will state whether there are reasonable accommodation requirements for those with a particular disability. Employers should refer to the Reasonable Accommodation paragraph in the Sick Leave Scheme.

2.3 Employment Medical Assessments

2.3.1 Referrals to the OHS

- a) The employer must refer an SNA to the OHS for the purpose of an independent medical assessment (see paragraph 4.3 of the Sick Leave Circular).

2.3.2 Protocol for referrals to the OHS

- a) The employer:
 - i. informs the SNA of the decision to refer them to the OHS and outlines the reason(s) for this decision.
 - ii. informs the SNA that the OHS will correspond with them on the basis of the referral by text message, telephone or e-mail.
 - iii. completes a secure online referral form through the dedicated online portal by logging onto www.medmark.ie/teachersna/
 - iv. provides the SNA with a copy of the referral.
- b) The OHS contacts the SNA by telephone to discuss their medical complaint, current health status and work absence (where relevant). Where the OHS is unable to contact the SNA, it will request the assistance of the employer.
- c) The outcome of the telephone call with the SNA is one of the following:
 - i. The likely duration of absence is established and a date for the SNA's return to work is agreed. The employer is informed of the return to work date and requested to re-refer the SNA if the return to work has not taken place as agreed **or**
 - ii. If it is not possible to establish a return to work date, the OHS schedules a telephonic review at an agreed interval **or**
 - iii. If appropriate, the SNA is offered an appointment with an OHP in one of the regional centres.
- d) If the SNA is offered an appointment with an OHP, the OHS provides the employer with a date and time for an appointment. If this does not suit, the employer contacts the OHS for a new appointment and reverts to the SNA.
- e) The employer is notified of the assessment outcome, followed by a 'Fitness to Work' report from the OHS. This Report will include

relevant details regarding medical fitness for work, likely timescale of return to work and any accommodations/restrictions required. The employer should provide the SNA with a copy of this Report.

- f) If the SNA is deemed to be unfit for work at the time of the OHP appointment, the employer is requested to refer the SNA for review after a period appropriate to the medical condition as determined by the OHS.

2.3.3 Maternity Health and Safety Leave protocol and OHS assessment

- a) The OHS must provide advice to an employer in advance of their (employer's) decision on an SNA's Maternity Health and Safety Leave application.
- b) The employer must refer the SNA to the OHS by logging onto: www.medmark.ie/teachersna/ and completing the Referral Form under the "Other" category, citing Health and Safety Leave.
- c) When the completed Referral Form has been received, the OHS will request the employer to provide their completed: -
 - i. Pregnancy Risk Assessment for the SNA.
 - ii. *"Certificate of Risk, Non-Feasibility of Providing Other Work and Grant of Leave on Health and Safety Grounds"*
- d) The OHS reviews the information provided by the employer. The OHS will complete the *"Certificate of Risk, Non-Feasibility of Providing Other Work and Grant of Leave on Health and Safety Grounds"* to notify the employer of their advice i.e. whether in their opinion, Maternity Health and Safety Leave is appropriate or inappropriate.

Chapter 3 – Critical Illness Provisions (CIP)

3.1 Introduction

- 3.1.1 An SNA who becomes incapacitated as a result of critical illness or serious physical injury and has supporting medical evidence may, upon application, be granted CIP in exceptional circumstances as provided for in the Labour Court recommendation (LCR 20667).
- 3.1.2 In determining whether an SNA may be considered for CIP, the SNA should ordinarily be under the current or recent clinical care of a Consultant either as an inpatient or outpatient.
- 3.1.3 The granting of CIP is a decision made by the employer having considered the OHS medical advice.

3.2 CIP Protocol

- 3.2.1 The protocol as detailed below must be followed:
- a) The SNA must apply directly to their employer for CIP on the “Employee Application for CIP” available at gov.ie.
 - b) Upon receipt of the completed “Employee Application for CIP”, the employer must initiate a referral to the OHS by logging onto www.medmark.ie/teachersna/ and completing the “Occupational Health Referral” form. The employer should provide the SNA with a copy of the referral.
 - c) The employer also downloads the “Report From Treating Consultant” (Form No. MM180) which is provided to the SNA for completion by their treating consultant. The MM180 form is available for download from the online “Occupational Health Referral” form.
 - d) The employer must scan the SNA’s completed “Employee Application for CIP” and attach it to the employer’s online “Occupational Health Referral” form.
 - e) Upon submission of the “Occupational Health Referral” form, the employer will receive a unique CIP **Referral Number** (from the OHS). This number will be required by the employer when entering absences on the OLCS/relevant ETB system. The Referral Number appears as CIPR (example CIPR-OHM-087870) on the OLCS.
 - f) The SNA (or treating Consultant) must submit, within an appropriate timeframe, the completed “Report From Treating Consultant” directly to the OHS. This medical report does not need to accompany the SNA’s CIP application.

- g) The CIP Referral Number (available from the employer) must be furnished to the OHS with the Consultant's medical report. It is the responsibility of the employer to make the SNA aware of the following in relation to this report:
 - i. The treating Consultant's specialism must be appropriate to the critical illness for which the SNA is making a claim.
 - ii. It is essential that the medical evidence submitted is comprehensive and includes all relevant clinical details, as requested.
 - iii. It must address diagnosis, treatment and prognosis and dates of hospital admissions, where relevant.
 - iv. The cost of compilation of all such reports is the responsibility of the SNA.
- h) The CIP application cannot be processed until the "Occupational Health Referral" form, the "Employee Application for CIP" and the Consultant's medical report are received by the OHS.
- i) The OHS will consider the information provided by the treating Consultant, and may confer with them if they feel this would be helpful. It is not an absolute requirement that a definitive final diagnosis has been made. The OHS may accept a presumptive diagnosis on a case by case basis.
- j) Upon examination of the "Occupational Health Referral" form and the Consultant's medical report, the OHS will advise the employer on a "Medical CIP Report to Employer" if, in their opinion:
 - i. At the time of presentation with the particular illness the SNA was medically fit/unfit to return to their current duties or modified duties (where practicable) *and*
 - ii. They fulfil the medical criteria for the granting of CIP.
- k) Where the OHS advises that the SNA's medical condition fulfils the medical criteria for CIP, the employer will be provided with a unique CIP **Recommendation Number** (example CIPA-RTX-021128). This CIPA number will also be required for employers entering absences on the OLCS.
- l) Where the OHS advises that the SNA's medical condition does not fulfil the medical criteria for CIP, the OHS will provide the SNA with additional medical information on a "Medical CIP Report to Employer".

- m) The SNA can if they so wish, provide this additional information to the employer which may assist in its decision making on the CIP application. The SNA is informed on this report that this additional medical information must be provided to the employer within 10 days of receipt of the report.
- n) Having regard to the Managerial Discretion Guidelines, the employer will make a decision on the CIP application and inform the SNA in writing.
- o) Where CIP is not granted on the basis of medical certification or managerial discretion, the employer's decision letter to the SNA will include details of the appeals process set out at Section 3 of this Chapter titled "CIP Appeal".
- p) The employer must record the SNA's CIP referral and their decision on the CIP application (including appeal, where relevant) on the OLCS/ relevant ETB System.

3.3 CIP Appeal

3.3.1 Appeal of the CIP Medical Decision

- a) An independent registered specialist in occupational medicine has been selected and approved by the OHS and the Chief Medical Officer of the Civil Service, to provide a mechanism for SNAs who wish to appeal a critical illness medical decision.
- b) An SNA may appeal the medical decision in accordance with the following procedures:
 - i. The SNA must write to the employer within 30 days of receipt of the employer's original CIP decision, setting out the grounds for appeal.
 - ii. The appeal must only be based on the medical information presented to the OHS in the SNA's original application. It is not possible to submit new medical evidence at this point of the CIP process.
 - iii. The medical decision can only be appealed in relation to the medical criteria as detailed at Appendix 1 and only if the SNA has been deemed medically unfit for work by the OHS at the time of presentation with the particular illness.
 - iv. The employer will submit the SNA's letter of appeal to the OHS who will then refer the case to the independent registered specialist in occupational medicine for review. This appeal will ordinarily be a file only review.
 - v. The cost of the appeal assessment is set at €100 and will be borne by the SNA who must include with their appeal a postal order/bank draft or cheque for the full cost of the assessment made payable to "Medmark Ltd. – CIP Appeal Account". If the appeal is successful, the cost of the assessment will be refunded by the OHS. If a SNA would prefer to pay by electronic transfer or cash, they should contact Medmark directly for the most up to date details.
 - vi. The result of the medical assessment will be notified via a report titled "CIP Appeal Outcome" to the employer for action and the OHS for record purposes.
 - vii. The final decision on the appeal lies with the employer, having considered the OHS medical advice.

3.3.2 Appeal of the CIP Managerial Decision

- a) The employer's decision to refuse CIP based on discretion can be appealed and the employer should inform the SNA about their rights in this regard. If the employer's decision is being appealed, the Grievance Procedures for the relevant sector must be followed.

Appendix 1 (Chapter 3): Medical Criteria for Granting Of CIP

The OHS will advise whether, in its opinion, the following medical criteria are met:

- 1) The SNA is medically unfit to return to his or her current duties or (where practicable) modified duties in the same pay grade.
- 2) The nature of this medical condition has **at least one** of the following characteristics:
 - (a) Acute life threatening physical illness
 - (b) Chronic progressive illness, with well-established potential to reduce life expectancy¹
 - (c) Major physical trauma ordinarily requiring corrective acute operative surgical treatment
 - (d) In-patient or day hospital care of ten consecutive days or greater².

¹ This refers to the condition and not the individual person. It must be well established in the peer reviewed medical literature that the medical condition results in a reduction of life expectancy.

² In the case of pregnancy related illness, the requirement for hospitalisation of ten consecutive days will be reduced to two or more consecutive days of in-patient hospital /clinic care.

Chapter 4 – Ill-Health Retirement

4.1 Ill-Health Retirement

- 4.1.1 The process for ill-health retirement (IHR) is outlined in the following document available at '[Retirement on medical grounds](#)'.
- 4.1.2 An SNA may decide to apply for ill-health retirement (IHR) pension having developed a medical condition and formed the view that s/he is incapacitated and that the medical infirmity is likely to be permanent.
- 4.1.3 Retirement of a pension scheme member on the grounds of ill-health has significant implications for:
- The individual in terms of: status; income, activity and social interaction.
 - The employing organisation in terms of loss of: skills, experience, costs of temporary support and recruitment.
 - The Occupational Pension Scheme.
- 4.1.4 Therefore recommendations for IHR:
- Are not made lightly and only after full investigation and consideration.
 - Are only made after all opportunities to allow the scheme member to recover and return to existing or other duties, including consideration of all possible adjustments, have been fully explored and excluded.
 - Are not used as a means of solving management problems which should be dealt with in accordance with appropriate management, administrative or disciplinary procedures.
 - Are not made to accommodate a scheme member who for non-medical reasons no longer wishes to remain in the current employment.
- 4.1.5 **For particular attention of SNAs and School Management**
- Where a scheme member applies for IHR pension benefit, the employer should be alert to the implications of such an application.
 - Where the decision not to award IHR pension benefit is made by Department/ETB, the scheme member should discuss the matter with the employer. The decision on whether or not it is appropriate for the scheme member to attend for work is a matter on which the employer must engage with the OHS.
 - Where a scheme member is in receipt of IHR pension benefit, he/she may not subsequently engage in employment in any school or college funded directly or indirectly by the State.
 - The Department will inform the employer of the outcome of the application, any appeal by the scheme member and the date of retirement in respect of a successful application. In the case of ETBs, the ETB will inform the scheme member of the outcome of the application any subsequent appeal and the date of retirement in respect of a successful application.

4.1.6 IHR Protocol

- i. The SNA applies for early retirement on grounds of ill-health using a TMED 2 form which is obtained from the Pensions Section of the Department of Education, or the H.R. Department of the ETB.
- ii. The SNA ensures that the completed TMED 2 form and detailed medical reports from their treating consultant are submitted to the OHS by e-mail or by post.
- iii. The Pensions Section of the Department of Education, or the H.R. Department of the ETB, notifies the OHS by e-mail or by post that they have received the prescribed Ill Health Retirement application form, RET.D2.
- iv. The OHS arranges the face to face appointment directly with the SNA at the OHS centre most convenient to them.
- v. Once the assessment is completed, the recommendation is issued to the Pensions section of the Department of Education, or to the HR Department of the ETB, recommending their eligibility or ineligibility for IHR. The recommendation does not contain any confidential medical information.
- vi. A detailed confidential medical report is kept on file by the OHS and provided only to the SNA upon their request.

4.2 III-Health Retirement Appeal

4.2.1 An SNA may appeal the decision to refuse the application for IHR pension benefit in accordance with the established procedures outlined in the following document available at '[Retirement on medical grounds](#)'.

4.2.2 The result of the appeal process does not interfere with the legal rights of the scheme member in respect of Internal Disputes Resolution (IDR) or the Office of the Pensions Ombudsman. Further information on the IDR process may be viewed at Appendix A of the document available at the following link: [SNA III-Health Retirement Procedures](#)

4.2.3 IHR Appeal Protocol

- i. The SNA who wishes to appeal contacts the OHS by phone or by e-mail, indicating their intention to appeal.
- ii. The OHS advise them of the process and provide them with a list of appeal physicians, who are independent registered specialists in Occupational Medicine and approved by the CMO and the OHS provider.
- iii. The SNA contacts the Pensions Section of the Department of Education, or the H.R. Department of the ETB, indicating their intention to appeal and specifying the appeal physician they have chosen.
- iv. The Pensions Section of the Department of Education, or the H.R. Department of the ETB, confirms to the OHS by e-mail the SNA's intention to appeal and the name of the chosen appeal physician.
- v. The OHS forwards the original IHR application, along with the detailed confidential medical report compiled after the initial IHR assessment, to the appeal physician as indicated. The appeal is only based on the medical information presented to the OHS in the original application and it is not possible to submit new medical evidence at this point of the process.
- vi. The appeal physician communicates the outcome directly to the Pensions Section of the Department of Education, or the H.R. Department of the ETB, and forwards a confidential medical report to the OHS.
- vii. Following the IHR appeal assessment, the OHS refunds the cost of the assessment to the SNA if the decision to award IHR is granted.



Appendix B – CIP Managerial Discretion Guidelines

Critical Illness Provisions (CIP)

Managerial Discretion Guidelines

February 2024

CIP Managerial Discretion Guidelines

1. The purpose of the Managerial Discretion Guidelines is to assist employers in making a decision regarding the granting of CIP on the basis of managerial discretion where “exceptional circumstances” exist.
2. The decision on whether any “exceptional circumstances” warrant CIP is a matter to be determined by the employer after consideration of all the relevant circumstances. The guidelines aim to assist employers in making a fair and reasonable decision.
3. **Circumstances for the granting of CIP**
 - 3.1 CIP for a critical, physical or psychiatric illness, serious injury or serious medical condition may be granted in two circumstances:
 - CIP on the basis of medical criteria
 - CIP on the basis of managerial discretion

a) CIP on the basis of medical criteria

CIP on the basis of medical certification may be granted by the employer in cases where the OHS has advised that the SNA is suffering from a critical illness, serious injury or serious medical condition based on the medical criteria detailed in the Sick Leave Scheme. While the decision to grant CIP is still made by the employer, it is based upon the OHS Medical CIP Report.

b) CIP on the basis of managerial discretion

There will be cases which involve serious illnesses, injuries or conditions, but do not fall within the medical criteria for granting of CIP.

In such cases, employers have discretion as to whether to grant CIP following an analysis of the information provided and the circumstances of the case. This is to encompass cases that involve what would generally be considered a significant illness, injury or condition but do not fulfil the medical criteria. For example, a serious operation, with an extended recovery time, which does not involve a hospital stay of the length required under the medical criteria.

It is intended that the granting of CIP on the basis of managerial discretion will only be warranted in serious and/or exceptional cases. The employer can seek guidance from the OHS on medical issues within the boundaries of medical confidentiality.

4. What must the employer establish?

4.1 The “Regulations” provide that in order to grant CIP on the basis of “exceptional circumstances” the following must be established by the employer:

- That there are “exceptional circumstances”; and
- That those exceptional circumstances relate to the illness, injury or condition of the SNA; and
- That those exceptional circumstances warrant the granting of CIP.

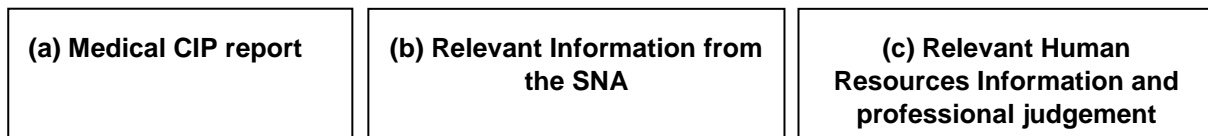
5. What should the employer consider?

5.1 The employer should consider the normal meaning of the word “exceptional”, meaning “unusual” or “not typical”. It should be considered whether the condition is a normal and typical illness, injury or condition or whether it is an unusual and/or not typical illness, injury or condition although not necessarily rare.

5.2 Three sources of Information

5.2.1 When determining if there are “exceptional circumstances” which would warrant the granting of CIP on the basis of managerial discretion, the employer should consider the following three sources of information during the decision-making process.

Employer’s Decision



(a) Medical C

When making a decision on an SNA’s application for CIP, the employer should consider the OHS “Medical CIP Report to Employer” which will advise whether the SNA’s medical condition fulfils the medical criteria for CIP.

If the illness, injury or condition does not meet the medical criteria for CIP eligibility, the OHS will provide additional medical information to the SNA which they are aware of and consider relevant. Examples include:

- a) Standard recovery times for the condition where these exist having regard to the nature of the work (e.g. elective surgical procedures);
- b) Presence of additional medical conditions where relevant;

- c) Presence of medical complications;
- d) Any other information they consider relevant to assisting the employer in making a decision to grant CIP under management discretion (e.g. a hospital inpatient stay is close to the 10-day threshold).

This additional information can be provided by the SNA to the employer, if they so wish, within 10 days of receipt of the 'Medical CIP Report to Employee' which may assist the employer in making a decision on the CIP application. The employer should therefore allow 10 days from the date of receipt of the 'Medical CIP Report' for submission of the additional information before making a decision on the SNA's application.

If the illness, injury or condition does not meet the medical criteria for CIP eligibility, the employer should consider if this additional information amounts to "exceptional circumstances" related to the relevant illness, injury or condition of the SNA.

(b) Relevant Information from the SNA

The employer should consider whether further information may be required and may wish to contact the SNA so they are aware of all of the circumstances that may amount to any "exceptional circumstances". The employer should consider the following, having contacted the SNA:

- a) Whether the medical criteria set out in the Sick Leave Scheme are close to being met, or whether there are any other factors related to the illness, injury or medical condition that should be viewed as "exceptional";
- b) The severity of the illness, injury or medical condition.

The employer should not consider the SNA's financial position or their performance at work.

(c) Relevant Human Resources Information and professional judgement

The employer should consider any relevant HR information or other sources of professional judgement. Examples include:

- i. The length of any absence to date related to this illness, injury or condition. It should be noted that this information cannot be used to treat an application any less favourably;
- ii. The approach taken by the employer in other cases and the need for consistency of approach; and
- iii. Whether granting or refusal of CIP would be reasonable, taking into account any information provided that could be viewed as exceptional circumstances.

The employer should ensure that there is no conflict of interest when considering the CIP application. They should consider whether the SNA is a close friend/relative or, alternatively, whether the SNA has raised a grievance or some other form of complaint against them.

6. Inform the SNA of the decision

- 6.1 The employer should communicate their decision to the SNA in writing, briefly summarising the matters that were considered. The employer's decision should demonstrate that all relevant information has been considered and that they have not been influenced by irrelevant information. If the employer's decision is to refuse the SNA's CIP application, the employer should inform the SNA about their right to appeal.

- 6.2 More detailed information on the process for appeal of both the Medical and Managerial decisions can be found at Chapter 3 (part 3.3 titled "CIP Appeal") of the Employers Procedures Manual.

Appendix C – Dual Look Back Sample Calculations

Scenario 1 – Ordinary Illness with no extension to look back period

Mary's Leave Record

Commencement Date	End Date	No. of Days	Leave Category
4 th December 2018	7 th December 2018	4 days	Certified Illness Full Pay
11 th January 2021	23 rd February 2021	44 days	Certified Illness Full Pay
01 st March 2022	15 th March 2022	15 days	Certified Illness Full Pay
28 th February 2023	06 th April 2023	38 days	Certified Illness Full Pay
01 st May 2023	23 rd June 2023	54 days	Certified Illness Full Pay
24 th June 2023	30 th June 2023	7 days	Certified Illness Half Pay
	Total Sick Leave	162 Days	

Mary's current Sick Leave absence is from 2nd to 31st October 2023 (30 days).

• Step 1 - Four Year Look Back to establish Mary's access to paid Sick Leave:

Prior to the start date of her current absence, Mary had 158 days Sick Leave in the previous 4-year period (02/10/19-01/10/23).

1. Mary does not require the look-back period of 4 years to be extended as she has only availed of Sick Leave in the previous 4-year period.
2. Mary has not yet reached the 183-day limit of paid Sick Leave, permitted under the Sick Leave Scheme. She has access to paid Sick Leave for part of her current absence, as she will reach the 183-day limit on 26th October 2023.

• Step 2 - One Year Look Back to establish Mary's rate of Sick pay:

Prior to the start date of her current absence, Mary had 99 days Sick Leave in the previous 12-month period (02/10/22-01/10/23) of which 92 days were on full pay. Therefore, as Mary has reached the 92-day limit at full pay, permitted under the Sick Leave Scheme, the rate of pay for her current Sick Leave absence, is as follows:

→ 2nd to 26th October 2023: 25 days on Certified Illness Half Pay.

→ 27th to 31st October 2023: 5 days on TRR (subject to TRR eligibility criteria, as detailed in the Sick Leave Scheme).

Scenario 2 – Ordinary Illness with an extension to look-back period

Mary's Leave Record

Commencement Date	End Date	No. of Days	Leave Category
4 th December 2018	7 th December 2018	4 days	Certified Illness Full Pay
1 st September 2019	31 st August 2020	365 days	Career Break
11 th January 2021	23 rd February 2021	44 days	Certified Illness Full Pay
01 st March 2022	15 th March 2022	15 days	Certified Illness Full Pay
28 th February 2023	06 th April 2023	38 days	Certified Illness Full Pay
01 st May 2023	23 rd June 2023	54 days	Certified Illness Full Pay
24 th June 2023	30 th June 2023	7 days	Certified Illness Half Pay
	Total Sick Leave	162 Days	

Mary's current Sick Leave absence is from 2nd to 31st October 2023 (30 days).

• Step 1 - Four Year Look Back to establish Mary's access to paid Sick Leave:

Prior to the start date of her current absence, Mary had 158 days Sick Leave and a career break on record in the previous 4-year period (02/10/19-01/10/23).

1. Mary's look-back period needs to be extended to account of the career break. Her revised lookback period is (02/10/2018 – 01/10/2023).
2. As a result of the revised lookback period, Mary now has 162 days Sick Leave in the rolling 4-year period.
3. Mary has not yet reached the 183-day limit of paid Sick Leave, permitted under the Sick Leave Scheme. She has access to paid Sick Leave for part of her current absence, as she will reach the 183-day limit on 22nd October 2023.

• Step 2 - One Year Look Back to establish Mary's rate of Sick pay:

Prior to the start date of her current absence, Mary had 99 days Sick Leave in the previous 12-month period (02/10/22-01/10/23) of which 92 days were on full pay. Therefore, as Mary has reached the 92-day limit at full pay, permitted under the Sick Leave Scheme, the rate of pay for her current Sick Leave absence, is as follows:

→ 2nd to 22nd October 2023: 21 days on Certified Illness Half Pay.

→ 23rd to 31st October 2023: 9 days on TRR (subject to TRR eligibility criteria, as detailed in the Sick Leave Scheme).

Scenario 3 – Critical Illness Provisions (CIP)

John's Leave Record

Commencement Date	End Date	No. of Days	Leave Category
12 th May 2019	23 rd June 2019	43	Certified Illness Full Pay
1 st December 2019	15 th December 2019	15	Certified Illness Full Pay
1 st March 2020	20 th March 2020	20	Certified Illness Full Pay
4 th April 2021	20 th June 2021	78	Certified Illness Full Pay
	Total	156 Days	

John's current absence on certified Sick Leave is from 2nd October 2022 to 26th May 2023 (237 days). John submits an application for CIP, which is approved by his employer.

• Step 1 - Four Year Look Back to establish John's access to paid Sick Leave:

1. John does not require the look-back period of 4 years to be extended as he has only availed of Sick Leave in the previous 4-year period.
2. Prior to the start date of his current absence, John had 156 days Sick Leave in the previous rolling 4-year period (02/10/18-01/10/22). John has not yet reached the 365-day limit of paid Sick Leave, permitted under the Sick Leave Scheme. He will reach the 365-day limit on 28th April 2023, so will have access to paid Sick Leave for part of his current absence.

• Step 2 - One Year Look Back to establish John's rate of Sick pay:

Prior to the start date of his current absence, John had zero days Sick Leave in the previous 12-month period (02/10/21-01/10/22). Therefore, as John has not exceeded the 183-day limit at full pay, permitted under the Sick Leave Scheme the rate of pay for his current Sick Leave absence, is as follows:

→ 2nd October 2022 to 2nd April 2023: 183 days on Certified Critical Illness Full Pay

→ 3rd April 2023 to 28th April 2023: 26 days on Certified Critical Illness Half Pay.

→ 29th April 2023 to 26th May 2023: 28 days on TRR (subject to TRR eligibility criteria, as detailed in the Sick Leave Scheme).

Scenario 4 – Temporary Rehabilitation Remuneration (TRR)

Kate's Leave Record

Commencement Date	End Date	No. of Days	Leave Category
14 th February 2023	16 th May 2023	92 days	Certified Illness Full Pay
17 th May 2023	15 th August 2023	91 days	Certified Illness Half Pay
16 th August 2023	20 th September 2023	36 days	TRR
17 th October 2023	18 th October 2023	2 days	Nil pay (3 day wait for TRR applies)
8 th December 2023	19 th December 2023	12 days	Nil pay for the first 3 days and TRR from 11 th December
	Total in 4 year look back	228 Days	(Note: Nil pay days not included in lookback)

Kate's current Sick Leave absence is on 17th May 2024 (1 day).

• Step 1 - Four Year Look Back to establish Kate's access to paid Sick Leave:

Prior to the start date of her current absence, Kate had 233 days Sick Leave in the previous 4-year period (17/05/20-16/05/24), 5 days of which were at nil pay and therefore not included in the lookback).

1. Kate does not require the look-back period of 4 years to be extended as she has only availed of Sick Leave in the previous 4-year period.
2. Kate has reached the 183-day limit of paid Sick Leave, permitted under the Sick Leave Scheme. She has no access to paid Sick Leave for her current absence so there is no need to proceed to Step 2 in this case.

Therefore, Kate's current Sick Leave absence is categorised as follows:

→ 17th May 2024: Nil pay (3-day wait applies prior to TRR)

Appendix D – Pregnancy-Related Sick Leave (PRSL) Sample Calculation

Under the Public Service Management (Sick Leave) Regulation 19: -

A pregnant SNA who is certified as medically unfit for work, due to PRSL prior to Maternity Leave, will receive not less than half pay for the duration of this absence, where they have exhausted the Sick Leave limits.

Example - Ann's Sick Leave Record Commencement Date	End Date	No. of Days	Sick Pay Category
8 th March 2021	7 th April 2021	31	Certified Illness Full Pay
27 th April 2021	27 th May 2021	31	Certified Illness Full Pay
4 th October 2021	2 nd November 2021	30	Pregnancy Related Sick Leave Full Pay
On 2 nd November 2021, Ann reached the 92-day limit of Sick Leave at full pay in the previous 12-month period. She will progress onto half pay from 3 rd November 2021.			
3 rd November 2021	1 st February 2022	91	Pregnancy Related Sick Leave Half Pay
On 1 st February 2022, Ann has reached the 183-day limit of paid Sick Leave in the previous rolling four-year period. However, as Ann is medically unfit for work due to PRSL, she will receive half pay for the duration of her PRSL until she commences her Maternity Leave.			
2 nd February 2022	3 rd April 2022	61	Pregnancy Related Sick Leave Half Pay
	Total	244	

Ann commenced Maternity Leave on 4th April 2022.

Under the Public Service Management (Sick Leave) Regulation 20: -

An SNA may have access to additional non-PRSL at half pay, where they have: -

- (a) a subsequent non-PRSL absence, following a period of PRSL in the previous 4 years and;
- (b) exhausted their entitlement to paid Sick Leave, within the normal Sick Leave limits, (PRSL and non-PRSL included).

The maximum number of additional days allowed at half pay for this subsequent non-PRSL absence:

- (a) will be equivalent to the number of PRSL days taken in the previous 4 years and;
- (b) must not exceed normal Sick Leave limits (i.e.183 days for ordinary illness or 365 days for CIP) for non-PRSL, when counted with other non-PRSL in the previous 4 years.

Ann is currently absent on certified Sick Leave (non-PRSL) from 9th January to 24th March 2023 (75 days).

- **Four Year Look Back to establish Ann’s access to paid Sick Leave:**

Prior to the start date of Ann’s current absence, she had 244 days Sick Leave (both PRSL and non-PRSL) in the previous 4-year period (09/01/19-08/01/23). Ann has exceeded the 183-day limit of paid Sick Leave, permitted under the Sick Leave Scheme. However, Ann is entitled to half pay for the equivalent number of PRSL days taken in the previous 4-year period, subject to the overall normal Sick Leave limits (i.e. 183 days for ordinary illness or 365 days for CIP).

In this example, the calculation for the four-year period 09/01/19-08/01/23, is as follows: -

- Number of days Sick Leave (PRSL and non-PRSL): 244 days
- Less
- Number of PRSL days: 182 days
- **New 4 Year Total (non-PRSL days): 62 days**

Therefore, the rate of pay for Ann’s current Sick Leave absence, is as follows:

→ 9th January 2023 to 24th March 2023: 75 days on Certified Illness
(Regulation 20) Half Pay