



Circular Letter 0060/2019

**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**

Please refer to [Circular 0040/2021](#) titled '*Partial Return to Work for Special Needs Assistants employed in Recognised Primary and Post Primary Schools*' which should be read in conjunction with paragraph 12 of this Circular.

The Minister for Education and Skills, pursuant to the power contained in Section 24 of the Education Act (as amended), directs employers to implement the regulations and procedures, as stated, for special needs assistants (SNAs) employed in 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 address: teachersna@education.gov.ie

This Circular can be accessed on the Department's website at www.education.ie.

Alfie Barrett
Principal Officer
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18th October, 2019

DEFINITIONS

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

DEASP – means the Department of Employment Affairs and Social Protection.

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

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

ETB – means an Education and Training Board.

Leave Year – means the period 1st September to 31st August inclusive in each year.

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 and Skills in the case of primary (including community national schools), voluntary secondary, community and comprehensive SNAs and the ETBs in the case of vocational schools/community college SNAs.

PRSI – means Pay Related Social Insurance.

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

School Year – as defined by the Minister for Education and Skills 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 and Skills.

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

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, [SI 124 of 2014](#), as amended by the Public Service Management (Sick Leave) (Amendment) Regulations 2015, [SI 384 of 2015](#).
- 1.2 A period of illness is defined as any period in which an SNA is medically unfit to carry out his/her full duties irrespective of whether the employing school is open or not.
- 1.3 Sick Leave may be granted to an SNA who is unable to perform his/her 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.
- 1.4 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 he/she 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.
- 1.5 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.
- 1.6 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.
- 1.7 Entitlement to the Sick Leave Scheme provisions shall cease on the expiry of the contract and that contract not having been renewed.

2. Occupational Health Strategy

- 2.1 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 & Wellbeing Programme \(EAWP\)](#) and the Occupational Health Service ([OHS](#)).
- 2.2 The EAWP incorporates free confidential counselling on issues such as health, relationships, bereavement, stress, conflict, critical incident and trauma. In addition

to counselling, other services include family life advice, specialist information and manager support.

- 2.3 The EAWP Freephone Helpline is **1800 411 057** and is available 24 hours a day, 365 days a year.
- 2.4 The OHS is in place to provide employers with occupational health advice in relation to SNAs' 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](#).

3. Referral of SNAs to the OHS

- 3.1 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.
- 3.2 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), employers should refer to the CIP Managerial Discretion Guidelines at [Appendix B](#) before making a decision on a CIP application.
- 3.3 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 his/her 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 12.4](#).

- g) It is necessary to establish if the activity that the SNA has proposed to engage in during Sick Leave is appropriate for his/her progress to recovery as referred to in [paragraph 1.6](#).
- 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 e.g. where the SNA has been on Sick Leave immediately prior to commencement of Carer's Leave.
- j) Health and Safety Leave is under consideration for a pregnant SNA as referred to in Paragraph 10 of Circular [17/2013](#) 'Maternity Protection Entitlements for Special Needs Assistants in recognised Primary and Post Primary Schools'.
- k) Assessment of medical fitness for work is required when considering any extension to [Unpaid Sick Leave](#).

3.4 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.

4. Notification and Recording of Sick Leave

- 4.1 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.
- 4.2 The school must record all Sick Leave absences via the OLCS/relevant ETB system regardless of whether or not a substitute SNA was employed. It is imperative that all Sick Leave absences are notified to the Department/ETB in a timely manner as failure to do so may result in overpayment of salary to an SNA and/or the withdrawal of substitute cover for schools.
- 4.3 Employers are required to have procedures in place to monitor and analyse patterns of Sick Leave.
- 4.4 A detailed statement of all Sick Leave absences should be supplied 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.

5. Self-Certified and Certified Sick Leave requirements

5.1 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.

5.2 Certified Sick Leave

- (a) Where an SNA is absent on continuous Sick Leave of more than 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.
- 5.3 It is not obligatory to state the nature of the illness on a medical certificate.
- 5.4 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.
- 5.5 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.

6. Ordinary Illness Provisions

6.1 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.

7. Critical Illness Provisions (CIP)

7.1 An SNA who becomes incapacitated as a result of a critical illness or serious physical injury and has supporting medical evidence may, upon application, be granted CIP, in exceptional circumstances as provided for in the Labour Court Recommendation (LCR 20667). 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.

7.2 The granting of CIP is a decision made by the employer having considered the OHS medical advice.

7.3 The CIP Managerial Discretion Guidelines located at [Appendix B](#) provide assistance to guide employers through the CIP protocol and the decision making process.

7.4 Appropriate efforts should be made to accommodate an SNA at an early stage of a Sick Leave absence to facilitate his/her return to work. See [Reasonable Accommodation](#).

7.5 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, this is reduced to 2 or more consecutive days of in-patient hospital/clinic care.

7.6 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.

7.7 There will be no financial loss to an SNA in circumstances where he/she has 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 him/her 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.

8. Temporary Rehabilitation Remuneration (TRR)

8.1 Where the relevant period of paid Sick Leave has been exhausted, an SNA:

- Who is a member of a pre-existing pension scheme, with a minimum of 5 years' service (in a pensionable position either in a whole-time or part-time capacity) at the end of the period of paid Sick Leave, may be granted TRR subject to certain conditions.
- Who is a member of the Single Public Service Pension Scheme and has completed the 2 year vesting period (in a pensionable position either in a whole-time or part-time capacity) at the end of the period of paid Sick Leave, may be granted TRR subject to certain conditions.

TRR will be calculated:

In the case of a member of a pre-existing pension scheme 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.

In the case of a member of the Single Public Service Pension Scheme 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.

8.2 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.

8.3 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.

8.4 TRR will not exceed 18 months (548 days) in the case of ordinary illness.

8.5 In the case of an SNA who has been granted extended sick pay under CIP, he/she may have access to 12 months (365 days) TRR followed by a further period of TRR not exceeding 24 months (730 days). This further TRR period is subject to 6 monthly reviews by the OHS.

8.6 The period during which TRR is paid is not a period of pensionable service.

9. Unpaid Sick Leave

9.1 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.

9.2 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.

9.3 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 he/she has been medically certified fit by the OHS.

- 9.4 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.

10. Pregnancy Related Illness Provisions

- 10.1 Where an SNA is medically unfit for work due to a pregnancy related illness she will not receive less than half pay for the duration of her Pregnancy Related Sick Leave (PRSL), prior to commencement of Maternity Leave. This is regardless of whether she has reached the maximum limit for half pay due to prior Sick Leave.
- 10.2 The Sick Leave Regulations provide for ongoing arrangements whereby PRSL taken in the previous 4 years will be credited back at half pay, subject to the overall non-pregnancy related Sick Leave limits.
- 10.3 Employers, upon receipt of a medical certificate stating the illness to be pregnancy related, must record the absence as “pregnancy related illness” on the OLCS/relevant ETB system. This arrangement applies only to illness occurring during pregnancy and before commencement of Maternity Leave.
- 10.4 The scenarios set out at [Appendix C](#) of this Circular illustrate how the arrangements operate.

11. Dual Look Back

- 11.1 An SNA’s Sick Leave rate of pay will be 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 Sick Leave is reviewed over the 4 year period prior to the current date of absence. If 6 months (183 days) paid Sick Leave has not been exhausted over that 4 year period, access may be granted to paid Sick Leave.

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

If Step 1 indicates that the SNA has access to paid Sick Leave, his/her Sick Leave record is then reviewed over the 12 month period prior to the current date of absence to determine the rate at which Sick Leave may be paid. If the SNA has not exhausted their initial 3 months (92 days) limit at full pay, full pay may be awarded until the limit of 3 months (92 days) has been reached. Thereafter, the amount paid will be calculated based on half pay or TRR, as appropriate.

Critical Illness

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

The SNA's Sick Leave is reviewed over the 4 year period prior to the current date of absence. If 12 months (365 days) paid Sick Leave has not been exhausted over that 4 year period, access may be granted to paid Sick Leave.

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

If Step 1 indicates that the SNA has access to paid Sick Leave, his/her Sick Leave record is then reviewed over the 12 month period prior to the current date of absence to determine the rate at which Sick Leave may be paid. If the SNA has not exhausted his/her initial 6 months (183 days) limit at full pay, then full pay may be awarded until the limit of 6 months (183 days) has been reached. Thereafter, the amount paid will be calculated based on half pay or TRR, as appropriate.

- 11.2 The scenarios set out at [Appendix D](#) of this Circular illustrate how the dual look back arrangement operates.

12. Reasonable Accommodation

- 12.1 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. 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

- Job Sharing – subject to the provisions of the Job-Sharing Scheme

13. Return to Work

- 13.1 An SNA should be medically fit to resume full duties following a period of Sick Leave.
- 13.2 An SNA intending to resume duty prior to the date specified on his/her medical certificate, must provide a medical certificate of fitness from his/her 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.
- 13.3 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.
- 13.4 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.

14. Salary Adjustment

- 14.1 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.
- 14.2 Any action which necessitates an adjustment to an SNA's salary should be notified to the Paymaster immediately.

15. Sick Leave Related Overpayments

- 15.1 Where an overpayment of salary arises, the overpayment will be recovered in full from an SNA's future salary payment in line with Circular 84/2015 "Policy and Procedures for dealing with the recovery of overpayments of salary or pension" or

in the case of SNAs employed in ETBs, [Circular 32/2016](#) “Policy and Procedures for dealing with the recovery of overpayments of salary”, following notification to the Paymaster.

16. Status during Sick Leave

16.1 Absences on paid Sick Leave (full or half pay) are fully reckonable for all purposes including seniority, determination of panel rights (in accordance with relevant Department publications) and superannuation. Absences on TRR are not reckonable for superannuation and increment purposes.

17. Replacement SNA

17.1 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.

18. PRSI Arrangements

18.1 Where the Department is the Paymaster, in the case of Class A PRSI contributors, the IB1 and Med1 Social Welfare Certificates must be submitted by the SNA to the DEASP if an illness exceeds 6 consecutive days. This is required for compliance with PRSI regulations. [Information Note](#) Where the ETB is the Paymaster, the SNA should comply with the ETB’s policy on claiming Illness Benefit.

19. Retirement on Ill Health Grounds

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

19.2 Information on the process may be accessed on the [Department’s website](#) or in the case of ETB SNAs from their ETB.

20. Statutory Annual Leave/Public Holidays

20.1 Statutory Annual Leave and Public Holiday entitlement is regulated by the Organisation of Working Time Act, 1997 (as amended). In general, full time employees are entitled to a minimum of 20 days Annual Leave in each leave year.

20.2 Employees who work less than full hours are entitled to Annual Leave on a pro rata basis.

20.3 Any entitlements in respect of Public Holidays occurring while absent on Sick Leave will be addressed by additional Annual Leave.

- 20.4 These Annual Leave entitlements should be taken on existing school closure days that occur during the relevant leave year i.e. and which are outside of the period of Sick Leave.
- 20.5 Where there are not enough school closure days in the leave year to absorb all Annual Leave entitlements, it is permitted to take the necessary days immediately after Sick Leave. Alternatively, SNAs are permitted to carry the balance forward to the following leave year but must then take this leave during school closures.
- 20.6 An SNA who resigns/retires or whose employment ceases may be entitled to additional payment in lieu of their accrued Annual Leave.
- 20.7 In accordance with Section 19 of the Organisation of Working Time Act as amended by Section 86(1) of the [Workplace Relations Act 2015](#), the following applies:
- (a) Statutory Annual Leave entitlement continues to accrue during a period of certified Sick Leave.
 - (b) Statutory Annual Leave so accrued during a period of certified Sick Leave must be availed of within 15 months of the end of the Annual leave year to which the leave was accrued.
 - (c) In accordance with paragraph 20.3, such accrued Annual Leave must be taken during existing school closures, where available.
 - (d) An SNA who is unable to take his/her Annual Leave at the appropriate time due to Sick Leave, where there are insufficient school closures available to absorb this leave and who terminates his/her employment/reaches the end of contract/retires within 15 months of the relevant leave year, may be entitled to payment in lieu of this leave, provided he/she does not move directly to another Oireachtas funded position in this State.
 - (e) Examples of accrual of Annual leave are attached at [Appendix E](#).

21. Correspondence Address

- 21.1 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.

22. Compliance

- 22.1 Failure to abide with the regulations and procedures will be dealt with under the agreed disciplinary procedures and may lead to the cessation of salary in the case of SNAs and/or withdrawal of substitute cover for schools.

23. Retention of Documentation

- 23.1 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.

Appendix A - Employers Procedures Manual

An Roinn Oideachais
agus Scileanna
Department of
Education and Skills



Employers Procedures Manual

Occupational Health Service for Special Needs Assistants

October 2019

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(Should be read in conjunction with the [Sick Leave Scheme](#) and [Definitions](#))

PURPOSE OF THE EMPLOYERS PROCEDURES MANUAL

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 2014¹ (the “Regulations”) *and*
 - b. The relevant Sick Leave Scheme for SNAs as detailed in the Department’s publications.

¹ <http://www.irishstatutebook.ie/eli/2014/si/124/made/en/print>

DEFINITIONS

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 Recommendations (LCR 20667) that special arrangements were to be put in place under which SNAs with serious illnesses or injury might be able to 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 & Wellbeing Programme (EAWP) and the Occupational Health Service (OHS).

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 medical fitness for work. The OHS is in place to assist employers in carrying out this duty.
- 1.3 The OHS Occupational 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 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 provider of this service is Medmark Occupational Healthcare Ltd.

Contact Details

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

Dedicated telephone helpline: 1890 235 711

(open from Monday to Friday, 9:00am – 5:00pm, with an out-of-hours answering system also available)

Website: www.medmark4teachersna.ie or
www.education.ie and follow the link provided

CHAPTER 2 – MEDICAL ASSESSMENTS

1. Pre-employment Medical Assessments

- 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 him/her providing a valid 'Medical Fitness for Employment Assessment Report' which certifies fitness for employment.
- 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.
- 1.3 A 'Medical Fitness for Employment Assessment Report' is issued by the OHS to the candidate, in a secure electronic format, following a Pre-Employment Medical Assessment. The Report certifies whether the candidate is medically fit/unfit 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 his/her physical or mental health status since the date of the OHS Pre-Employment Medical Assessment.
- 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.
- 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.
- 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. Pre-Employment Medical Assessment Protocol

- 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.medmark4teachersna.ie 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 him/her 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. 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. Employment Medical Assessments

2.1 Referrals to the OHS

- a) The Employer must refer an SNA to the OHS for the purpose of an independent medical assessment (see paragraph 3.3 of the Sick Leave Circular).

2.2 Protocol for referrals to the OHS

- a) The employer:
 - i. informs the SNA of the decision to refer him/her to the OHS and outlines the reason(s) for this decision.
 - ii. informs the SNA that the OHS will correspond with him/her 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.medmark4teachersna.ie
 - 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 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.

CHAPTER 3 – CRITICAL ILLNESS PROVISIONS (CIP)

1. Introduction

- 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).
- 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.
- 1.3 The granting of CIP is a decision made by the employer having considered the OHS medical advice.

2. CIP Protocol

- 2.1. The protocol as detailed below must be followed:
 - a) The SNA must apply directly to his/her employer for CIP on the “Employee Application for CIP” available at www.education.ie.
 - b) Upon receipt of the completed “Employee Application for CIP”, the employer must initiate a referral to the OHS by logging onto www.medmark4teachersna.ie and completing the “Occupational Health Referral” form. The employer should provide the SNA with a copy of the referral.
 - c) The employer must scan the SNA’s completed “Employee Application for CIP” and attach it to the employer’s online “Occupational Health Referral” form.
 - d) 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.
 - e) The SNA (or treating Consultant) must also submit, within an appropriate timeframe, a completed medical report from the treating Consultant directly to the OHS. This medical report does not need to accompany the SNA’s CIP application.
 - f) 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.
- g) 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.
- h) 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.
- i) 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 his/her current duties or modified duties (where practicable) *and*
 - ii. He/she fulfils the medical criteria for the granting of CIP.
- j) 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.
- k) 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 Employee".
- l) The SNA can if he/she so wishes, 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 can be provided to the employer within 10 days of receipt of the report.
- m) Having regard to the Managerial Discretion Guidelines, the employer will make a decision on the CIP application and inform the SNA in writing.

- n) 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".
- o) 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. CIP Appeal

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.
 - 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.

3.2 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 expectancy²
 - (c) Major physical trauma ordinarily requiring corrective acute operative surgical treatment
 - (d) In-patient or day hospital care of ten consecutive days or greater³.

² 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.

³ 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

1. Ill Health Retirement

1. The process for ill-health retirement (IHR) is outlined in the following documents available at www.education.ie – Home – Education Staff – Services – Retirement/Pensions – Non-Teaching Staff Pensions– Retirement on Medical Grounds:
 - a) ***IHR info – SNAs Ill Health Retirement Procedures***
 - b) ***Circular 0006/2012 “Oireachtas Funded Pension Schemes – Ill Health Retirement Procedures”***
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 permanently incapacitated and that the medical infirmity is likely to be permanent.
3. Retirement of a pension scheme member on the grounds of ill health has significant implications for:
 - a) The individual in terms of: status; income, activity and social interaction.
 - b) The employing organisation in terms of loss of: skills, experience, costs of temporary support and recruitment.
 - c) The Occupational Pension Scheme.
4. Therefore recommendations for IHR:
 - a) Are not made lightly and only after full investigation and consideration.
 - b) 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.
 - c) Are not used as a means of solving management problems which should be dealt with in accordance with appropriate management, administrative or disciplinary procedures.
 - d) Are not made to accommodate a scheme member who for non-medical reasons no longer wishes to remain in the current employment.
5. **For particular attention of SNAs and School Management**
 - a) Where a scheme member applies for IHR pension benefit, the employer should be alert to the implications of such an application.
 - b) 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.
 - c) 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.
 - d) 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.

2. Ill Health Retirement Appeal

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 documents available at www.education.ie – Home – Education Staff – Services –Retirement/Pensions – Non-Teaching Staff Pensions– Retirement on Medical Grounds:
 - a) ***IHR info – SNAs Ill Health Retirement Procedures***
 - b) ***Circular 0006/2012***

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: https://www.education.ie/en/Education-Staff/Services/Retirement-Pensions/pen_ill_health_procedures_2019.pdf

Appendix B – CIP Managerial Discretion Guidelines

**An Roinn Oideachais
agus Scileanna**
Department of
Education and Skills



Critical Illness Provisions (CIP)

Managerial Discretion Guidelines

October 2019

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 CIP report	(b) Relevant Information from the SNA	(c) Relevant Human Resources Information and professional judgement
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(a) Medical CIP report

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 titled "CIP Appeal") of the Employers Procedures Manual.

Appendix C - Pregnancy Related Illness Sample Calculations

Pregnancy Related Illness Provisions

Pregnancy Related Sick Leave Ongoing Arrangement

Regulation 20 of the Public Service Management (Sick Leave) states that:

All certified PRSL absences under the current Sick Leave scheme will be credited back at the half rate of pay *within the normal Sick Leave limits*.

Regulation 20 is **ONLY APPROPRIATE WHERE:**

- An SNA has reached their 4 year threshold for paid Sick Leave (183 or 365 days).
- The current absence is not a certified PRSL absence.
- An SNA has a previous certified PRSL absence occurring in the previous 4 year period.

Patricia's Sick Leave record is as follows:

From	To	No of days	Details
1 st March 2016	31 st March 2016	31	Certified Illness
4 th April 2016	4 th May 2016	31	Certified Illness
3 rd October 2016	1 st November 2016	30	Pregnancy Related Sick Leave
2 nd November 2016	31 st January 2017	91	Pregnancy Related Sick Leave Half Pay
8 th May 2017	30 th May 2017	23	Pregnancy Related Sick Leave Half Pay
	TOTAL	206	

Patricia goes on certified Sick Leave from 7th January 2019 to 7th April 2019 (91 days).

- Looking back over 4 years – 183 days exceeded
PRSL ongoing arrangement- *All PRSL credited back at half pay (within normal Sick Leave limits under Regulation 20)* New 4 year (Non-PRSL) Total = 62 (206 – 144)
- Looking back over 4 years – 183 days Sick Leave was not reached (balance 121 days)

Patricia will be paid half pay for 91 days taking her 'Non-PRSL' Sick Leave total to 153 days in 4 years.

Appendix D – Dual Look Back

Dual Look Back

Scenario 1 – Ordinary Illness

Ann's Sick Leave record is as follows:

From	To	No of days	Details
12 th Jan 16	19 th Feb 16	39 days	Certified Illness
1 st March 17	15 th March 17	15 days	Certified Illness
28 th Feb 18	6 th April 18	38 days	Certified Illness
7 th April 18	30 th May 18	54 days	Certified Illness
31 st May 18	5 th Jul 18	36 days	Certified Illness Half Pay
	TOTAL	182 days	

Ann goes on certified Sick Leave from the 2nd October 2019 to 31st October 2019 (30 days).

- Looking back over 4 years – 183 days Sick Leave was not reached
- Looking back over 1 year – 92 days Sick Leave was not reached

Ann will be paid full pay for 1 day. Using the dual look back, Ann has already had 182 days in the rolling 4 year period therefore she has 1 day of paid Sick Leave remaining. As she has not had any Sick Leave in the 12 months prior to 2nd October 2019, she has access to full pay for that day. If Ann fulfils the criteria for TRR, the remaining 29 days would be paid at that rate.

Scenario 2 – Critical Illness

John's Sick Leave is as follows:

From	To	No of days	Details
12 th May 16	23 rd Jun 16	43 days	Certified Illness
1 st Dec 16	15 th Dec 16	15 days	Certified Illness
1 st Mar 17	3 rd April 17	34 days	Certified Illness
4 th April 17	20 th Jun 17	78 days	Certified Illness
	TOTAL	170 days	

John goes on certified Sick Leave from the 2nd October 2019 to 29th April 2020 (211 days). John submits an application for critical illness which is approved.

- Looking back over 4 years – 365 days Sick Leave was not reached
- Looking back over 1 year – 183 days Sick Leave was not reached

John already had 170 days prior to commencement of this leave in the rolling 4 year period but has had no Sick Leave in the rolling 1 year back to October 2018, therefore he will be paid 183 days on full pay. This brings the total Sick Leave to 353 days in 4 years. He will then have the remaining 12 days at half pay and, if eligible the final 16 days at TRR.

Appendix E – Accrual of Annual Leave Sample Calculations

Example 1:

Joe on Sick Leave from 01/09/2017 to 31/08/2018.

Annual Leave accrued: 20 days.

Leave to be taken before 30/11/2019.

Joe returns to work on 01/09/2018.

Joe retires on 31/08/2019.

Accrued Annual Leave absorbed in school closures during 2018/19 school year so there is no entitlement to payment in lieu.

Example 2:

Mary on Sick Leave from 01/09/2017 to 31/08/2018.

Annual Leave accrued: 20 days.

Leave to be taken before 30/11/2019.

Mary retires on 31/08/2018.

No opportunity to avail of leave or no school closures available in 2017/18 due to absence on Sick Leave.

Payment in lieu of accrued leave may be granted.

Example 3:

Sarah on Sick Leave from 01/09/2015 to 31/08/2018.

Annual Leave accrued as follows:

Leave year 2015/16: 20 days to be taken before 30/11/2017.

Leave year 2016/17: 20 days to be taken before 30/11/2018.

Leave year 2017/18: 20 days to be taken before 30/11/2019.

Sarah retires on 31/08/2018.

2015/16: No opportunity to take Annual Leave due to absence on Sick Leave, but entitlement foregone as time limit has expired.

2016/17 and 2017/18: 40 days Annual Leave accrued. No opportunity to take leave and no school closures available so payment in lieu of accrued leave may be granted.