



etbi

Education and Training
Boards Ireland
*Boird Oideachais agus
Oiliúna Éireann*

SICK LEAVE

POLICY

*For all staff employed
before 01/01/2019 in
Education and
Training Boards
Ireland, other than
those on secondment*

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Sick Leave Policy for all staff in Education and Training Boards Ireland other than those on Secondment

This procedure supersedes all previous procedures, memoranda, rules and regulations in relation to sick leave for staff employed in Education and Training Boards Ireland **before 1st January 2019** other than those on Secondment.

This policy must be brought to the attention of all staff in the employment of ETBI including those on an approved leave of absence.

ETB will provide this policy and procedure to all staff through appropriate means (e.g. direct correspondence, staff intranet, CPD, induction and mentoring programmes and/or on the ETBI website).

Any queries in relation to the Sick Leave policy should be communicated to internalpolicies@etbi.ie in the first instance.

Document Reference Number	HR001 – Sick Leave Policy
Implementation Date	1st January 2019
Review Date	January 2021 Next Review Date: January 2023
DES Circular Letter	Based on CL0063/2015 Adapted for application in ETBI
Date approved by ETBI Board	January 2019

DEFINITIONS

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

Look Back: means where, for the calculation of pay, an employee's sick leave record is reviewed over a four-year rolling period.

Employer: means Education and Training Boards Ireland (ETBI).

Employee: means any person employed by Education and Training Boards Ireland (ETBI).

Leave Year: means the calendar year (January to December).

Occupational Health Physician

(OHS):

means a provider of independent medical advice.

Sick Pay:

means the pay that an employee may be awarded when they are absent on sick leave.

Period of Illness:

means any period in which an employee of ETBI is medically unfit to carry out their full duties irrespective of whether ETBI is open for normal business or not.

Pay Divisor:

means the unit by which pay is divided for absences on unpaid sick leave (i.e. 5 days).

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I. INTRODUCTION

- 1.1 The procedures outlined in this scheme will be implemented by ETBI with effect from **1st January 2019** and all employees must adhere to the terms set out in the scheme.
- 1.2 The payment of sick leave is at the discretion of ETBI and is subject to employees complying in full with the terms of this policy.
- 1.3 Sick Leave may be granted to an employee who is unable to perform their duties:
 - Because of illness, injury or
 - When absent for the purpose of obtaining health-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 employee who is ill is intended to provide an adequate opportunity for that employee to recover from the illness and its effects so that s/he may make an early return to duty without a likelihood of a relapse into illness. Therefore, it would be contrary to the express purpose of this scheme to engage in any activity (e.g. travel abroad, gainful employment or self-employment which in the opinion of the Occupational Health Physician (OHS) could be regarded as impeding that employee's progress to recovery. Referral of an employee to the OHS is dealt with in section 8 of this scheme.
- 1.5. The approval of ETBI must be sought prior to an employee travelling abroad while on sick leave. ETBI may in turn seek the advice of the OHS before deciding on the matter.
- 1.6. Sick leave periods are calculated retrospectively and include weekends, closures and days on which an employee is not scheduled for attendance (e.g. part-time), occurring within the period of absence.
- 1.7. The sick leave provisions for an employee working on a part-time basis will be adjusted pro-rata to their agreed attendance pattern and are subject to the normal provisions governing the granting of sick leave.

- 1.8. An employee's entitlement to sick leave shall cease on the expiry of the contract and that contract not having been renewed and in instances of failure to comply with the terms of the sick leave scheme.

2. ENTITLEMENT TO ILLNESS LEAVE PROVISIONS

Staff must have served 13 weeks in employment in order to avail of paid sick leave. An employee who is absent from duty because of personal illness or injury, may be granted paid sick leave as detailed below:

Category		Maximum Leave Limits
A	Service of more than 13 weeks and less than 1 year	1 calendar month at full pay (31 calendar days) 1 calendar month at half pay (30 calendar days)
B	Service in excess of 1 year	6 calendar months at full pay (183 calendar days) 6 calendar months at half pay (182 calendar days)

For the avoidance of doubt:

- The calculation of days: Saturdays, Sundays, public holidays and other closures are included. For example: an absence on a Friday and the following Monday is calculated as 4 days absence and requires a medical certificate.
- The above limits include 365 days (6 months full pay and 6 months half pay) sick leave in a rolling 4 year period.
- The above limits include 7 days self-certified sick leave, which may be availed of in a rolling 2-year period. Any self-certified sick leave in excess of 7 days will be treated as an unpaid absence and a payroll deduction will be made accordingly.

- Sick leave days will be counted as full days or half days, as applicable.
- Benefits are calculated on a pro-rata basis for part-time staff.

3. ENTITLEMENT TO UNPAID SICK LEAVE

- 3.1 An employee who, on having exhausted the maximum period of paid sick leave is still medically unfit to resume duty and wishes to retain their position in the employment must notify the employer of their intention to avail of a period of unpaid sick leave within which they may resume working if certified as fit to do so. This period of unpaid sick leave shall not exceed 1 year (12 months). An employee must exhaust their period of paid sick leave before they can apply for unpaid sick leave. The granting of a period of unpaid sick leave is subject to continued submission on a regular basis (max 3 months) of acceptable medical certification to ETBI.
- 3.2 Prior to the expiration of unpaid sick leave, ETBI will seek the advice of the OHS on the employee's prospect of recovery and return to work. Where a return to duty is not deemed viable, ETBI shall take such timely action as it deems appropriate, including but not limited to termination of the contract of employment.

4. LOOK BACK

To calculate an employee's appropriate rate of pay when absent as a result of illness or injury there will be a look back system as follows:

Step 1: Identify which category is applicable to the employee (i.e. A or B)

Determine whether the employee has access to paid sick leave.

For **Category A** review absence records back to date of appointment to determine if there is entitlement to paid sick leave (full or half).

For Category B:

Step 1: The employee's sick leave is reviewed over the 4-year period from 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 or half pay applies.

If Step 1 indicates that the employee has access to paid sick leave, their sick leave record is then reviewed over the 4-year period from the current date of absence to determine the rate at which sick leave may be paid. If the initial 6 months (183 days) limit at full pay has not been exhausted, full pay may be awarded until the limit of 6 months (183 days). Thereafter, the amount paid will be calculated based on half pay up to the maximum of 182 days

5. CERTIFIED SICK LEAVE

5.1 Where an employee is absent on continuous sick leave of more than 3 days, a medical certificate is required to be provided to ETBI on the 4th day. If a sick absence extends from Friday to Monday inclusive, then a medical certificate must be provided. Should an employee fail to provide a medical certificate to ETBI in respect of an absence on sick leave in accordance with the scheme, ETBI will contact the employee to advise if s/he fails to submit the required medical certification, ETBI will, following due process, record the leave as a period of unapproved leave and payment to the employee will be withdrawn pending a return to duty or compliance with the scheme and may be dealt with under the agreed disciplinary procedures.

Examples:

Absent on Friday and Monday: medical certificate required.

Absent on Friday and returns to work on Monday: no medical certificate required unless the employee has exhausted their 7 days' self-certified sick leave.

- 5.2 If a staff member is absent for a short period (1 week or less) they may notify their manager that they have a medical certificate, and the duration of same, and submit that certificate on their return to work to the Support Officer, HR & IR.
- 5.3 To be acceptable, a medical certificate must:
- Be signed by a duly certified 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 employee becomes ill abroad or is receiving a recognised medical treatment unavailable in Ireland. The advice of the OHS may be sought by ETBI in such circumstances.
 - Normally cover a period of no more than 1 week. However, certification for period of up to 1 month may be permitted at the discretion of ETBI.
 - State fitness to work or otherwise.
- 5.4 ETBI will safeguard the confidentiality of all information relating to sick leave records of individual employees and this applies in particular to medical certificates.

6. NOTIFICATION AND RECORDING OF SICK LEAVE

- 6.1 Any employee who is absent due to illness must notify by telephone their line manager, as early as possible on the first day of the absence but in any event not later than 30 minutes after their official starting time. The employee should, where possible, indicate the likely duration of the absence.

- 6.2 Text messages, leaving voicemails outside of office hours, and emails are not acceptable methods of notification except in exceptional circumstances and should be followed up by the normal protocol at the earliest possible opportunity.
- 6.3 The line manager, in turn, will immediately notify HR for record keeping purposes, monitoring of absences, implementation of time limits and pay adjustment, if necessary.
- 6.4 ETBI has procedures in place to monitor and analyse patterns of sick leave.
- 6.5 Each employee will have access to their records through the self-service section of the Time and Attendance System.
- 6.6 Each employee will have a personal rolling 2-year period counting backwards from the date of the latest self-certified sick leave. The maximum number of self-certified paid sick leave days allowable in that 2-year period will be 7 da

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7. PAY ARRANGEMENT AND ILLNESS BENEFIT

- 7.1 Continuation of salary during sick leave is not a statutory entitlement and is contingent upon compliance with the agreed terms and conditions of this policy.
- 7.2 Under the DEASP regulations, PRSI contributors at the modified rate (Class D) have no entitlement to Illness Benefit. Therefore, no deduction is applied to their salary and they remain on their ordinary rate of pay.
- 7.3 Under the DEASP regulations any Illness Benefit payable by the DEASP to PRSI contributors at the full rate (Class A), will issue directly to the employee in question. A deduction from salary equivalent to the maximum weekly rate of Illness Benefit payable to the employee will initially be applied by ETBI.
- 7.4 If the amount of benefit payable to the employee is less than the maximum, or if a person is not entitled to any Illness Benefit, they should notify the Finance Officer immediately to ensure that the salary adjustments are correct. Changes to the automatic deduction can be made provided the employee furnishes a copy of the DEASP's written notice of the actual benefit rate applicable, if any, to ETBI. Deductions, where appropriate, will be made during the period of paid sick leave. If the absences are recorded late any arrears due will have to be deducted from salary after the date of notification.

8. SICK LEAVE OVERPAYMENTS

Where an overpayment of salary arises, such overpayment will be recouped from the employee's future salary payment/s. The rules of the Department of Education and Skills "Policy and Procedures for dealing with the recovery of Overpayments of Salary", Circular Letter 0032/2016 will apply (or as amended from time to time).

9. REFERRAL OF EMPLOYEE TO OCCUPATIONAL HEALTH SERVICE

- 9.1 ETBI 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". ETBI will, therefore, refer the employee to ETBI's OHS for the purpose of an independent assessment where reasonable concerns exist as to the capacity of the employee to undertake their duties in a manner that is safe for both the employee and employer. It is a requirement of the sick leave scheme that all participants and beneficiaries of the scheme abide by the medical assessment of ETBI's OHS.
- 9.2 The employee is required to co-operate and engage with ETBI's OHS. While some assessment will not require attendance, it is a matter for the OHS to decide in what circumstances an employee may be required to attend for medical assessment and/or arrange for the transmission to the OHS (by the employee's attending doctor) of a comprehensive doctor-to-doctor report.
- 9.3 ETBI will not pay any travel & subsistence costs associated with attendance at such appointment/s.

10. RESUMPTION OF DUTY

- 10.1 It is expected that an employee would be medically fit to resume full duties after a period of sick leave so that a resumption of duty would not induce a relapse into illness.
- 10.2 An employee 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 as 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.
- 10.3 Prior to resumption of duties, an employee who is absent on paid sick leave for 4 or more continuous weeks or absent for any period of unpaid sick leave or a shorter period where ETBI has reasonable grounds for concern must submit medical certification of fitness for duties. Confirmation of fitness to return to duties may also be obtained by ETBI from the OHS.
- 10.4 Where an employee is absent on sick leave and has not returned to duty for a reasonable period before and after a period of office closure, the employee will be deemed to be on sick leave for the whole duration unless:

The employee provides a medical certificate of fitness to resume full duties prior to or during a period of office closure.

ETBI may seek the advice of the OHS as to the employee's fitness for full duties and whether the ETBI's closure period or any part thereof might be discounted following consideration of the reasonableness of the period of return to duty and taking into account the medical circumstances in individual cases.

- 10.5 ETBI advocates return to work interviews the purpose being (a) to bring the employee up-to-date with work reallocation during their absence and (b) to help line managers identify where they can help or take action to help prevent a recurrence. The requisite form for use is available at Appendix 1.

11. SALARY ADJUSTMENT

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 employee fit to resume full duties. This is also conditional on the employee actually resuming duty on the first possible day following the OHS's certification.

Any action which necessitates an adjustment to an employee's salary will be notified to ETBI's finance section immediately.

12. STATUTORY ANNUAL LEAVE/PUBLIC HOLIDAY ENTITLEMENT

12.1 In general, full-time employees are entitled to 20 days of statutory annual leave. Employees who work less than full hours are entitled to statutory annual leave on a pro-rata basis.

12.2 Any entitlements in respect of public holidays occurring while on sick leave will be addressed by additional annual leave.

12.3 Since 1st August 2015, arising from an Amendment to the Organisation of Working Time Act 1997, the following applies:

- Statutory annual leave entitlement continues to accrue during a period of certified sick leave. The entitlement will be to carry over such accrued annual leave for up to 15 months after the leave year in question.

- This entitlement must be availed of within 15 months of the end of the leave year to which it relates.
- Staff members who are unable to take their annual leave at the appropriate time due to certified illness and who terminate their employment/reach the end of contract/retire within 15 months of the end of the year in which annual leave is so accrued, may be entitled to payment in lieu of this leave.

Full details of this amendment may be found in section 86(1) of the Workplace Relations Act 2015. Please note that annual leave carryover will be restricted to statutory entitlement and relevant periods of closure will be reckonable for the purpose of catering for any such accrual of annual leave.

12.4 Annual leave entitlements are to be taken at a time outside of the period of sick leave.

When absent on sick leave and it is not possible to take statutory annual leave entitlements in the current leave year, the balance may be carried forward to the following leave year. Such leave will be managed in accordance with the Organisation of Working Time Act 1997 (amended 2015).

Staff members who resign/retire or whose employment ceases may be entitled to additional payment in lieu of their accrued leave.

13. STATUS DURING LEAVE

Absences on paid sick leave (full or half) are fully reckonable for all purposes including seniority. Absences on unpaid sick leave are not reckonable for pension and increment purposes.

14. PRSI ARRANGEMENTS

In the cases of Class A PRSI contributors, the MC1 Social Welfare Certificate must be submitted by the employee to the finance section of ETBI after a period of 6 consecutive days of sick leave for referral to the Department of Employment Affairs and Social Protection. This is required to comply with PRSI regulations. A full day's salary will be deducted in respect of any day for which disability benefit is due but not claimed.

15. RETIRED ON ILL HEALTH GROUNDS

An employee deemed medically unfit to work in the longer term may be referred to ETBI's OHS provider to consideration of retirement on ill health grounds. S/he may be entitled to certain pension benefits under the relevant pension scheme rules or social protection benefits

16. EMPLOYEES ON LEAVE OF ABSENCE IN EXCESS OF 2 FULL YEARS

An employee who has been on long term leave of absence of any kind in excess of 2 full years will be required, prior to return, to undergo a medical assessment and be deemed medically fit by ETBI's OHS.

17. CORRESPONDANCE ADDRESS

ETBI will address all necessary correspondence to the employee at the e-mail/home address last notified and no fault shall lie with the employer in the event that the employee does not receive such correspondence.

18. CONFIDENTIALITY

Any information which an employee provides will not be made available to any third parties and will be used only in line with the purpose for which it was provided. ETBI will safeguard the confidentiality of all information relating to the sick leave records of individual employees and this applies in particular to medical certificates.

19. COMPLIANCE

- 19.2 All employees must adhere to the regulations and procedure set out in this scheme. 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.
- 19.1 ETBI will carry out regular examinations of sick leave records. All documentation relating to sick leave (e.g. medical certificate, occupational health referrals and other supporting documentation) will be retained by ETBI with the relevant personnel records.

20. DEDUCTIONS FROM SALARY

When an employee has gone on to half pay or to unpaid sick leave, it is their responsibility to ensure that they make alternative arrangements for the continued payment to 3rd parties that would normally be deducted from salary.

21. MAINTAIN CONTACT WITH THE DEPARTMENT OF EMPLOYMENT AND SOCIAL PROTECTION

While on sick leave it is the responsibility of the employee to maintain communication with the Department of Employment Affairs and Social Protection and keep them informed of your circumstances as they may have bearing on your future entitlements.

22. VARIATION

The policy may be amended at any time following consultation between management and staff.

23. REVIEW OF POLICY

There will be a review of this policy following two full years after its introduction or earlier if deemed necessary by ETBI management.

Appendix 1

Return-to-work Interview Form

There is no minimum period of sick absence before an interview is needed. Interviews should happen on the day the employee returns to work. The aim of the return-to-work interview is:

- to bring the employee up-to-date with the reallocation of work during absence;
- to help line managers identify where they can help or take action to help prevent a recurrence.

Checklist of issues to be discussed

- How are you feeling?
- Is anything ETBI can do to support the employee? (the HR Team may also be able to give advice in respect of this.)
- Where appropriate, describe pattern of sick leave to the individual and illustrate the organisation's procedure.
- Where appropriate, remind the employee of the requirement to reimburse social welfare payment.
- Update on work during the period of absence e.g. work transferred to colleagues, new announcements, deadlines, meetings arranged.

