



## Teachers Assessment of Industrial Injury 2018 - 22

	Date	Signed
Agreed by Trust Board:	June 2019	Chair of Board James Hargrave
Lead:	HR Committee	
Review date:	May 2023	

# Teachers' Industrial Injury Policy

## Rationale:

Teachers' Conditions of Service make provision for an extended period of full sickness pay when an individual is absent due to an industrial injury. This is defined in the Conditions of Service as, "absence due to accident, injury or assault attested to by an approved medical practitioner to have arisen out of and in the course of the teacher's employment".

This policy is particularly designed to reduce the number of disputed cases and assist in their efficient resolution.

## Aims:

This policy is designed to provide procedural guidance about the decision-making process which should be followed to enable claims for the entitlement outlined above to be considered.

In cases where the circumstances leading to the period of the teacher's absence are unclear or disputed, occupational health practitioners may be able to assist, but cannot make any judgement about the actual cause.

## Primary Evaluation:

Where a teacher's absence is either prolonged already (e.g. two to three months), or is likely to take the teacher concerned beyond his/her period of entitlement to full sickness pay, the School/Trust will normally seek support from the Trust's HR Team/caseworker and initiate a referral to an Occupational Health Service. Reference should also be made to the Trust's insurance policy.

As part of the process of gathering relevant information, the Head Teacher or CEO (or nominated person making the referral) will indicate in the referral whether s/he has any knowledge of the circumstances surrounding the absence, which might indicate that it could be attributable to accident injury or assault arising out of and in the course of the teacher's employment. In particular, information would be provided about any recorded or claimed incident(s) at work, complaints of bullying or harassment or similar.

It may be evident that the absence is the result of a specific identifiable incident which is known about by the School/Trust, in which case additional enquiries may not be required.

## Referral for an Occupational Health Report:

Any information known to the person making the referral from these enquiries will be included in the written referral to an Occupational Health Practitioner. If it is possible to form a view at this stage that the teacher is absent as a result of industrial injury, this will be indicated in the referral. In other circumstances, s/he will present the relevant circumstances surrounding the absence to the Occupational Health Practitioner and ask whether it is possible to form a view about the probable cause of the medical condition underlying the absence.

## **Decision following the Occupational Health Report:**

In most cases it is expected that the Occupational Health Practitioner will be able to make a decision as to whether s/he can state that, on the balance of probabilities, the condition causing absence meets the definition set out under 'Rationale' above.

If it is clear at this stage that the absence is due to industrial injury, appropriate steps will be taken in respect of sickness pay entitlement. If it is clear from the Occupational Health report that this is not a case where absence is attributable to industrial injury, the person making the referral will not pursue any further enquires.

Any further action to pursue a claim will then rest with the employee and/or his/her representative.

If the Occupational Health report indicates a possibility that the cause of absence may be industrial injury, if it is unclear, or asks for further information, or if s/he believes the report overlooks significant information (which may come from his/her own knowledge of the case, or information provided by or on behalf of the teacher), the person making the referral will make further enquiries.

These enquiries may include as appropriate:

- seeking further information from the school or the teacher;
- reviewing information submitted by a trade union representative;
- initiating further discussion with Occupational Health;
- initiating other relevant enquiries.

but will not assume the characteristics of a formal investigation.

On the basis of both original knowledge of the case and these further enquiries, the person making the referral will take a view (which should be agreed with the Head Teacher/CEO in cases where they are not making the referral) as to whether or not s/he believes that the absence qualifies to be treated as industrial injury and advise the teacher and/or his/her representative of this decision. The person making the referral will also communicate his/her decision and the reasons for it to the Occupational Health Practitioner.

Any further action to pursue a claim will then rest with the employee and/or his/her representative. This may be immediate or in the course of arrangements for a further appointment made for the teacher.

## **Referral to an Advisory Panel:**

The Occupational Health Practitioner will normally be able to attest independently on the basis of all the evidence available to him/her. The caseworker dealing with the case will endeavour to resolve any differences of views as to whether or not a case may be appropriately regarded as industrial injury.

If the Occupational Health Physician is unable to reach a decision because there is significant disagreement about the circumstances under which the condition leading to the teacher's absence has arisen, or whether the condition qualifies the teacher for consideration under industrial injury

provisions, it is likely that an Advisory Panel will need to be convened which will assess the evidence relating to circumstances leading to the illness. The task of the panel is to assess whether, on the balance of probabilities, the medical condition causing the teacher's absence is due to accident, injury or assault which has arisen out of and in the course of the teacher's employment.

The panel is not a means of appeal against the decision of the Occupational Health Physician.

## **The Advisory Panel:**

### Constitution of the Advisory Panel

The panel shall consist of three members, none of whom should have any significant prior knowledge of the case to be assessed and all should be in a position to reach an impartial view based on the evidence presented to them. The panel may need to consult an appropriate legal advisor.

### Collecting and Presenting Written Evidence

The person making the referral should prepare written evidence outlining the specifics of the case.

The evidence may include:

- Occupational Health, and other, medical reports.
- Relevant incident reports.
- A statement by the teacher, and by the Head Teacher
- Witnesses' statements, where relevant incidents have been observed
- The view of any relevant trade union representative

This list is not exhaustive, and not all of the above will be required in all cases.

The evidence will also be presented to the panel.

### The Panel Meeting

The panel will meet to consider the written evidence. There will be no live hearing of evidence or questioning of witnesses or representatives. If appropriate, the panel may ask for expert advice on technical points.

The panel will make a decision on the basis of the evidence presented and will give its opinion to the Occupational Health Physician dealing with case in writing, normally within ten working days. The decision of the panel will also be notified in writing to any trade union representative and the individual who submitted the evidence, indicating the reasons for the view taken.

The Occupational Health Physician will review the panel's opinion and then consider if s/he is able to reach a decision about industrial injury in the light of the panel's opinion. Having done this, the Occupational Health Physician's decision will be communicated to the member of staff and the person making the original referral. This decision will be final.

## **Period of Review:**

This policy will be reviewed every four years.

# Document History

<b>Version</b>	<b>Date</b>	<b>Comments</b>
Issue 1	April 2018	Based on SCC Model Policy