



# Know your rights to sick leave

Are you confused about sick leave rights, pregnancy sick leave, medical certs or OHS? The INTO's Conditions of Employment and Leadership team provide insight on your entitlements.

## Terms of teachers' sick leave scheme

The sick leave provisions for teachers are outlined in *Department of Education Circular 0054/2019*. This article gives an overview of the key provisions of the scheme. The nature of the teacher's illness – whether ordinary or critical – will determine the amount of leave at the full rate and half rate of pay.

For an ordinary illness, a teacher has access to a total of 183 days of paid sick leave in a rolling four-year period. This is further capped at 92 days on full pay in any single 12-month period.

For example: if a teacher was sick for a consecutive six-month period, they would have three months on full pay and three months on half-pay. However, if they had been sick for three months more than a year ago, and had to take sick leave

now, their current period of sick leave will also be at full pay.

There is a 'dual look back' within the sick leave scheme. The first look back, over the previous four years, is to determine how much paid sick leave

**The nature of the illness – whether ordinary or critical – will determine the amount of leave at the full rate and half rate of pay.**

a teacher has left out of 183 days. The second lookback is at their sick leave in the past 12 months, which determines the teacher's rate of pay.

Once a teacher's ordinary paid sick leave is exhausted, they will have access to up to 18 months of Temporary Rehabilitation Remuneration (TRR), which is calculated based on service, and reflects what the teacher would be paid if they retired due to ill health. For a teacher with a lot of service, it could be worth half-pay, but for a teacher with little service, it could be around quarter pay. For a very serious illness, a teacher may also apply for extended paid sick leave under the Critical Illness Protocol.

Sick-leave payments are topped up for members of the INTO Salary Protection Scheme. Contact Cornmarket for details.



## Pregnancy-related sick leave

Pregnancy-related sick leave (PRSL) is part of a teacher's overall sick leave record and will be relevant to their dual look back.

If a teacher had three months of PRSL now, at full-pay, and then was sick again within 12 months of that, their subsequent absence will be at half-pay in line with the terms of the ordinary scheme set out above.

However, it's still important that these absences are recorded as being pregnancy-related, because there is an extension in place whereby, if a teacher were to exhaust their sick leave, by reaching the 183 day limit over four years, they will get an extension of sick leave at half-pay.

For example: if a teacher had 50 days of pregnancy-related sick leave, these days will be part of their sick leave record. Should the teacher subsequently get sick again within four years, with an unrelated condition, and

reaches the 183 day limit of their sick leave, rather than going onto TRR, this teacher will have access to an additional 50 days of sick leave at half-pay, in light of their earlier pregnancy-related absence.

Regardless of how many pregnancy-related sick leave days a teacher has taken within the relevant four-year period, they will still have access to to 183 days for non-pregnancy related illness during that time. However, some or all of this sick leave may be at half-pay.

Furthermore, there is a protection in place, which means a teacher would drop below half-pay if a condition is pregnancy-related, even if their 183 days of sick leave in four years are exhausted. For instance, if a teacher had been seriously ill in 2018, and had used six months of sick leave, for an ordinary illness they would now only receive TRR, but if their

current absence is for a pregnancy-related condition, they will have access to as much pregnancy-related sick leave, paid at half-pay, as they need.

Pregnancy-related sick leave is addressed in *Circular 0054/2019*, at part 10 of chapter one.



## Medical certificates

A teacher's medical certificate will state that they are unfit to work for a specified period – ordinarily one week, but an employer may, at their discretion, accept a certificate for up to a month at a time. For a school to record

an absence as pregnancy-related, this must be stated on the teacher's medical certificate. For teachers who pay Class A PRSI, for any absence on sick leave which is more than three consecutive days,

they must claim illness benefit from the Department of Social Protection (DSP), and their salary will be reduced by the value of illness benefit. The teacher's GP will provide the relevant forms to claim this benefit.

## Occupational Health Service referral

After inputting 28 days of sick leave in 12 months, an employer will be prompted by the OLCS to make a non-discretionary referral to the occupational health service (OHS), which is Medmark.

If a teacher has submitted a medical certificate that covers a full month, and the school records the full duration of the absence – as they reasonably would – this referral notification will be triggered, even though the teacher may only have been absent for a few days.

It's also at the discretion of an employer to make a referral to the OHS at any time. Whether a referral is discretionary or not, the employer should provide the teacher with a copy of the referral to Medmark.

Engagement and cooperation with the OHS are some of the conditions of the sick leave scheme. In most cases, the process will just involve a telephone consultation, but attendance at an assessment may be required. If there

is a difference of professional opinion between a teacher's treating doctor and the occupational health doctor, a comprehensive doctor-to-doctor report or consultation may be appropriate.

There is further information including a podcast concerning sick leave on the INTO website at [www.into.ie](http://www.into.ie). Members can also log a query via the Queryline, email or through the members portal should they require any additional information.