

**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 to 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