
Sick Pay and Sick Leave

Introduction

1. The following procedure sets out the principles and framework for sick pay and sick leave within the Scottish Further and Higher Education Funding Council.

General principles

2. In the event of illness which prevents staff from attending work, they should advise their line manager before 10.00am on the first day of sickness and complete a Self-Certificate (available from Human Resources or on SharePoint) on their return. Should their line manager not be available the member of staff should advise Human Resources of their absence. Sick leave lasting longer than seven days should be accompanied by a medical certificate (otherwise known as a Fit Note) from the General Practitioner.
3. Pre-arranged medical or dental appointments are not classed as sick leave for the purposes of this policy, but staff are entitled to a reasonable amount of paid time off for these appointments. These are recorded separately to sickness absence. Please see the Flexi Time Rules (on the intranet) for more information.

Sick pay

Key points

4. There are two types of sick pay:
 - Occupational Sick Pay: This is paid in accordance with terms and conditions of employment and is in addition to the statutory minimum.
 - Statutory Sick Pay: This is the statutory minimum amount of sick pay which is payable by law.
5. All employees apart from fee-paid staff are entitled to occupational sick pay.
6. In general, the occupational sick pay of staff must be adjusted so as to ensure that the sum of SSP or Social Security sickness benefit (for example Employment and Support Allowance) and occupational sick pay does not exceed ordinary pay.
7. For the purposes of calculating sick pay “Normal pay” does not include overtime or intermittent allowances.
8. Sick pay for SFC employees is as follows:
9. For the first six months (pro-rated for part-time staff) employees’ total sick pay should be equal to their normal pay. For example, it will be made up of an element in respect of

SSP plus an element of salary so that the total payment equals normal salary. This will be reflected in the employee's payslip.

10. Staff absent for an aggregate total of more than six months in a rolling period of 12 months and less than 12 months in a rolling period of 4 years are entitled occupational sick pay equalling half normal pay. Any SSP they are entitled to will be paid in addition to occupational sick pay.
11. Staff absent who have had an aggregate total of more than 12 months in a rolling 4 year period may be entitled to:
 - Sick pay equal not exceeding the pension they would receive if they took medical retirement.
 - Half pay if this is less than the rate of pension.

It is unlikely that these staff members will still be entitled to SSP under current legislation.

This leave (continuously or broken periods) may only be allowed at the discretion of SFC, after consulting its occupational health advisors, where it is considered there is a reasonable prospect of recovery.

Statutory sick pay – additional information

12. Statutory Sick Pay (SSP) is treated like pay in that it is subject to deduction of income tax and National Insurance contributions.
13. Statutory Sick Pay is generally paid for 28 weeks
14. Periods of incapacity for work that are separated by eight weeks or less are linked for the purposes of calculating SSP.
15. Staff who fall within one or more of the following categories are excluded from SSP (Note: the rules on SSP are periodically subject to amendment by the Government and in the event of any doubt over which rules apply the guidance on SSP for employers produced by His Majesty's Revenue and Customs will apply):
 - Earn on average less than the lower weekly earnings level for National Insurance contribution liability.
 - Report sick within 57 days of a previous claim to Social Security benefit such as sickness or invalidity benefit or maternity allowance.
 - Are getting Statutory Maternity Pay or Maternity Allowance.
 - Employees who are not entitled to Statutory Maternity Pay or Maternity Allowance but are within a disqualifying period by law.
 - Have already had their maximum entitlement to SSP.
 - Have done no work under the contract of service.

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- Are off work for a pregnancy-related illness in the 4 weeks before the week (Sunday to Saturday) that their baby is due.
 - Have taken 3 years or more 'linked periods' of sickness - where 4 or more days of sickness happen within 8 weeks of each other.
 - Were in custody or on strike on the first day of sickness (including any linked periods).
 - Are working outside the EU and SFC is not liable for their National Insurance contributions.
 - Received Employment Support Allowance within 12 weeks of starting or returning to work.
16. Staff who are not entitled to SSP must, for periods of incapacity lasting four calendar days or more, may be able to claim Employment and Support Allowance (or other state support) through Job Centre Plus.
17. In cases where no SSP is due the SFC will issue form SSP1 to the member of staff in order that they can make a claim for other state benefits to which they may be entitled.

Occupational sick pay – additional information

18. Service in an earlier period of employment will not be aggregated with the current appointment for the purpose of determining sick leave allowance but can be for SSP purposes.
19. Saturdays, Sunday and public and privilege holidays occurring within a period of sick absence are included and reckoned as part of the absence. They are not so reckoned if they occur at the beginning or at the end of a sick absence.
20. Sick leave in excess of 12 months during any four years or less does not reckon for increment or for superannuation purposes.
21. In determining the periods of 12 months and four years which govern the rate of sick pay which may be allowed, periods of secondment, special leave without pay, sabbatical leave or special leave for sandwich courses do not count.
22. If an officer submits notice of resignation before or during a period of sick absence, sick pay will normally be paid for the period until the expiry of the notice, subject to a maximum of one month for monthly paid staff and one week for weekly paid staff except that for staff with less than six months' service sick pay may be withheld from the date on which their notice of resignation is received.
23. If notice is received before or during a period of sickness absence and:
- The employee has less than six months service: occupational sick pay will be withheld from the day notice is received.

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- The employee has more than six months service: occupational sick pay will be paid until the last day of the notice period, subject to a maximum of one month for monthly paid staff and one week for weekly paid staff.
24. Where SFC believe a staff member to be entitled to state benefits in relation to their absence and exact benefit rate is not known there will, in the first instance, be a provisional adjustment to sick pay. If staff do not claim the full benefit to which there is entitlement, the full deduction will nevertheless be made from sick pay unless an acceptable explanation is given.

Monitoring of ill-health

25. In order to qualify for sick pay (both occupational and SSP), staff must provide evidence of incapacity and cause throughout any period of sickness: SFC will refuse sick pay if satisfactory evidence is not provided.
26. Evidence of incapacity must either be by an SFC self-certificate (absences of seven calendar days or less) or a medical certificate (Fit Note) provided by a qualified medical practitioner, typically a hospital doctor or your GP, for absences in excess of seven days.
27. Doctors may charge for any Fit Notes issued before seven calendar days of incapacity (note the duration of any incapacity includes non-work days).
28. For any period of incapacity lasting seven calendar days or less, staff must certify giving the duration and nature of their incapacity: a self-certificate is available from the intranet or HR and this must be sent to HR via the line manager without delay.
29. When the period of incapacity exceeds seven calendar days, staff must obtain a doctor's statement (typically a Fit Note) as evidence of incapacity. If a doctor is consulted within the first seven days of incapacity and is satisfied that the staff member will be unable to work for longer than seven days, the doctor may issue a doctor's statement to cover only the forward period, in which case staff must certify absence for the first seven days of incapacity by means of a self-certificate.
30. Doctors' statements must be submitted as soon as possible while self-certificates should be completed immediately on return to duty. Such statements and forms are treated as strictly confidential.
31. Line Managers and Human Resources monitor all absences in order that staff, who may not fully appreciate of the extent and incidence of absences attributed to ill-health, may be alerted. Appropriate meetings will take place and, if thought necessary, medical opinion sought. While SFC does have the ability to issue warnings/sanctions issued up to and including dismissal where there continues to be an unsatisfactory absence record, management of this should be done in a transparent and reasonable way. Please see Fair Absence Management Guidelines for more information.
32. Staff have the right to appeal any sanctions issued on the grounds of absence within 7 calendar days.

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33. Supplementary to the above process, the monitoring function incorporates consideration of whether environmental problems have caused staff absences and whether infectious or contagious diseases may exist which might demand further action. One further consideration made in the monitoring processes is whether the self-certification provisions are being abused.
 34. Absence will not be viewed as a disciplinary issue unless there is evidence of misconduct – for example, fraud or failure to follow reporting procedures.
 35. Where an employee is long-term absent [4 weeks] and there is no reasonable prospect of the employee returning to work within 12 months, particularly where they have exhausted their entitlement to sick pay, it may be appropriate, having sought medical advice and feedback from the employee, to dismiss on the grounds of capability or medical retirement.
 36. The SFC's ability to dismiss someone on medical retirement is dependent on the rules of the pension scheme.
 37. Where the SFC considers that the absence record is giving cause for concern, staff will be so advised in writing further to an appropriate meeting with their line manager.
 38. Staff have the right of access to information concerning their absences from duty on account of illness and any requests for information should be made to Human Resources.

Annual leave – sick leave

39. Where a member of staff falls sick or is injured while on holiday, the organisation will allow them to transfer to sick leave and take replacement holiday at a later time. This policy is subject to the following strict conditions:
 - Periods of sickness absence over seven days must be fully certified by a qualified medical practitioner.
 - The member of staff must contact the organisation (by telephone if possible) as soon as he/she knows that there will be a period of incapacity during a holiday.
 - The member of staff must submit a written request no later than 10 working days after returning to work setting out how much of the holiday period was affected by sickness and the amount of leave that they wish to take at another time.
40. Where the member of staff is overseas when he/she falls ill or is injured, evidence must still be produced that the employee was ill by way of either a medical certificate or proof of a claim on an insurance policy for medical treatment received at the overseas location.
41. Where the member of staff fulfils all of the above conditions, the organisation will grant the employee the same number of days' replacement holiday leave as the number of holiday days lost due to sickness or injury.

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- 42. If a member of staff is ill or is injured before the start of a period of planned holiday, SFC will agree to them postponing the holiday dates to another mutually agreed time. Any period of sickness absence will then be treated in accordance with the organisation's normal policy on sickness absence. The member of staff must submit a written request to postpone the planned holiday and this must be accompanied by a letter from his/her doctor confirming that he/she is unfit, or is still likely to be unfit, to take the holiday.
 - 43. A member of staff must request to take any replacement holiday in accordance with the SFC's normal holiday policy, and should endeavour to take the replacement holiday in the same holiday year in which it was accrued. However, where they have good reason for not being able to do so, SFC will allow the employee to carry that leave forward into the next holiday year. SFC may require the member of staff to take all or part of his/her replacement holiday on particular days and it is not required to provide them with any minimum period of notice to do this, although it will aim to provide reasonable notice.

Day release

- 44. Staff who are unable to attend their classes because of illness must notify Human Resources in writing for their records when they return to work. This is in addition to the requirements that they must notify their line manager.

Accidents and injuries

- 45. Special provisions exist for absences caused by accidents and injuries, particular those at work. Depending on the type of accident/injury and its effects it may be covered in the Principle Civil Service Pension Scheme or the Department for Work and Pensions (DWP) Industrial Injuries Disablement Benefit Scheme. Staff are advised to contact Human Resources or DWP for further information without delay.

Occupational health

- 46. Where necessary staff may be referred to Occupational Health advisors so that SFC can gain information on how their health may affect their ability to carry out their role and any adjustments they may require.

Further information

- 47. For further information please contact Human Resources. Further information on accidents is available in the Health & Safety policy. Information on medical/dental appointments is available in the Flexitime rules.

Document history

This Policy and Procedure is a contractual document. It is negotiated between Management and Unite collectively on behalf of staff.

Version number	Changes	Date approved
1.0	-	01/06/2016 Ratified by JNCF