

Assessment of Industrial Injury Policy



Approved by:	The Trust Board	Date: September 2020
Recognised unions have been consulted on this document via the Unity Schools Partnership Joint Consultation and Negotiation Committee. It was accepted by Unity Schools Partnership on:		Date: September 2020
Last reviewed in:	September 2020	
Next review due by:	September 2021	

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1. Introduction

Unity Schools Partnership (“the Trust”), subscribes to a set of shared values, principles and operational processes that ensure quality education for all our young people and fair treatment of all our staff colleagues.

In the case of absence due to accident, injury or assault attested by an approved medical practitioner to have arisen out of and in the course of the individual’s employment, including attendance for instruction at physical training or other classes organised or approved by the employer or participation in any extra-curricular or voluntary activity connected with the Trust, full pay shall in all cases be allowed, such pay being treated as sick pay, subject to the production of self-certificates and/or doctors’ statements from the day of the accident, injury or assault up to the date of recovery, but not exceeding six calendar months.

After that maximum period of six months’ full pay, in the event of the employee not returning to duty they shall be entitled to normal sick leave and pay according to their length of service. The following procedural guidance applies to all staff colleagues employed by the Trust and indicates how the Trust will manage the decision-making process. It will also assist the Trust’s Occupational Health Service provider to come to a decision on the basis of all the circumstances surrounding individual cases where this entitlement may apply. A decision on this matter is usually straightforward. However, in cases where the circumstances leading to the period of absence are unclear or disputed, Occupational Health may be able to state that the illness is consistent with a claim about the circumstances which led to the absence, but cannot make any judgement about the actual cause. These guidelines are particularly designed to reduce the number of disputed cases and assist in their efficient resolution.

2. Preliminary Evaluation

Where the employee’s absence is either prolonged already (e.g. two to three months), or is likely to take the employee concerned beyond their period of entitlement to full sickness pay advice will be sought from the Trust’s HR Team who will, in conjunction with the Headteacher, senior leader or line manager make a referral to Occupational Health. Prior to the referral being submitted enquiries will be made by the HR representative to obtain all relevant information. This may include but is not limited to 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 individual’s employment. In particular information will be gathered 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 (e.g. via an incident report), in which case additional enquiries may not be required.

3. Referral to Occupational Health

Information gathered from the enquiries made by the HR representative will be included in the referral to occupational health. If it is possible to form a view at this stage that the employee is absent as a result of industrial injury this will be indicated in the referral. In other circumstances, the relevant circumstances surrounding the absence will be presented to Occupational Health and Occupational Health will be asked whether it is possible to form a view about the probable cause of the medical condition underlying the absence.

4. Decision Following the Occupational Health Report

In most cases it is expected that Occupational Health will be able to make a decision as to whether they can state that, on the balance of probabilities, the condition causing absence meets the definition set out in paragraph 1 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, no further enquires will be perused. Any further action to pursue a claim will then rest with the employee and/or their 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 it is felt the report overlooks significant information (which may come from knowledge of the case, or information provided by or on behalf of the employee), then further enquiries will be made.

These further enquiries may include but are not limited to:

- Further information from the school / the central Trust team or the member of staff;
- Further information being submitted by a trade union representative (if applicable)
- Discussion taking place with Occupational Health
- Other relevant enquiries or information gathering

These enquiries may be made by telephone, letter, e-mail or meeting, but will not assume the characteristics of a formal investigation. The enquiries may be made at the same time as any other contact or enquiry connected with the employee's absence.

On the basis of both original knowledge of the case and these further enquiries, a view will be taken (which should be agreed with the Headteacher, senior leader or line manager) as to whether or not they believe that the absence qualifies to be treated as industrial injury and advise the member of staff and/or their representative of this view. This may be by letter, e-mail, telephone or meeting as appropriate to the case. The HR representative making the referral will communicate the view and the reasons for it to Occupational Health – this may be immediate or in the course of arrangements for a further appointment made for the employee.

5. Referral to an Advisory Panel

Occupational Health will normally be able to attest independently on the basis of all the evidence available. The representative from the Trust's HR team 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 Occupational Health are unable to reach a decision because there is significant disagreement about the circumstances under which the condition leading to the employee's absence has arisen, or whether the condition qualifies the employee for consideration under industrial injury provisions, Occupational Health will accept the guidance of an advisory panel 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 employee's absence is due to accident, injury or assault which has arisen out of and in the course of the individual's employment.

The panel will advise Occupational Health before they take a formal decision and Occupational Health will follow the guidance of an advisory panel in respect of the facts and circumstances leading to the employee's absence. The panel is not a means of appeal against the decision of Occupational Health.

5.1 Constitution of the Advisory Panel

The advisory panel will consist of a chair from the Trust's Executive Leadership team, a Trade Union representative from the Trust's JCNC and a representative from the Trust's HR team. None of the three panel members 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.

5.2 Collecting and Presenting Written Evidence

The employee and/or their Trade Union representative and the individual representing the Trust (whether the Headteacher, senior leader or line manager) should each prepare separately the written evidence on which their respective views of the case have been formed. The HR representative who submitted the original referral will provide support and assist the individual representative the Trust with this process. The evidence may include:

- Occupational Health, and other, medical reports
- Relevant incident reports
- A statement by the employee, and by the Headteacher
- Witnesses' statements, where relevant incidents have been observed
- This list is not exhaustive, and not all of the above will be required in all cases.

There should also be a summary statement of the trade union representative/HR representative involved with the case. The summaries should then be exchanged, and the two sides allowed a given time to comment in writing on the portfolio of evidence presented to them. The evidence will be presented to the panel.

5.3 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 Occupational Health in writing, normally within ten working days.

The decision of the panel will also be notified in writing to the employee and/or their Trade Union representative and individual representing the Trust, indicating the broad reasons for the view taken. A copy of the decision will also be provided to the HR representative supporting the case.

5.4 Outcome and Communication of Decision

Occupational Health will review the panel's opinion and then consider if it is possible to reach a reach a decision about industrial injury in the light of the panel's opinion. Having done this, the decision from Occupational Health will be communicated to the member of staff and their Trade Union representative, the individual representing the Trust and the HR representative supporting the case. This decision will be final.

6. Further Advice

If any staff, contractor or visitor requires any further information regarding this policy or support they should either ask their Headteacher **or** contact the HR Helpdesk at hrhelpdesk@unitysp.co.uk or telephone 01440 333401.