



Occupational Injury or Disease

**Policy
Document**

Policy Index No.	Policy Sponsor	Page/s	Approved by	Date
PIN030	Staff and Corporate Services Directorate	8	The Director of Staff and Corporate Service	12/02/15

Related policies/standards	Date
See Section 5	

Legacy reference of policy	Date for review of policy	Date of issue/amendment
-	12/02/2017	12/02/2015

IPS Policy for Occupational Injury or Disease

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1. Aim of this policy

To outline:

- 1.1 The instances where an application can be made to have an absence deemed to be Occupational Injury or Disease (OID) related
- 1.2 The procedures for dealing with such applications
- 1.3 The grounds on which such decisions will be made
- 1.4 The pay related entitlements relating to such absences
- 1.5 The timelines which should be adhered to with such applications.

This Policy does not alter in any way the obligations on staff in relation to the reporting, certification or otherwise of sick leave absences as per the Public Service sick leave regulations.

2. Purpose of this policy

Staff & Corporate Services (S&CS) Directorate and Governors have a duty to ensure the Irish Prison Service is compliant with the Public Service sick leave circulars and that staff absences are effectively managed. S&CS Directorate and Governors equally have a duty to ensure that all employees are treated fairly and consistently in the application of the relevant circulars pertaining to occupational injury.

Background and Relevant Circulars

The Public Service Circulars 25/75, 1/82, 5/86 and 6/97 refer. Circular 1/82, entitled "Sick leave arising from accidents on duty", provides that a period of leave from work due to an occupational injury or disease suffered by an officer and which was not caused by the negligence of the officer will not normally be combined with a period of absence due to ordinary illness so as to adversely affect sick pay.

3. Scope of this policy

All IPS staff.

4. Procedures for implementation

4.1 Process and timelines

The process and timelines for dealing with applications to have absences deemed to be OID related are contained in the Irish Prison Service Process for Managing Sick Leave arising from reported Occupational Injuries and Diseases which was introduced in November 2013 - see Appendix 1.

4.2 Decisions

Decisions on applications to have absences deemed to be OID related shall be made by a member of the Attendance Management Section of the S&CS Directorate on behalf of the Personnel Officer. Such decisions shall be made taking account of all information available including:

1. Accident/Incident/Injury Report Form (AIRF) documentation on the National Adverse Events Management System (NAEMS) including witness statements
2. Governor's confirmation that the incident occurred
3. Governor's recommendation,
4. CCTV evidence, if any
5. The advice of the CMO, and
6. Whether there is any evidence or information to suggest negligence on the part of the officer.

In all cases, S&CS Directorate will inform the applicant in writing, through their HR Governor, of the decision in his/her case. In cases where an application has been unsuccessful, the applicant will be informed of the reason/s for the refusal.

Where an employee believes that a further absence is related to an incident where an absence has already been deemed to be OID related they should apply in writing to their HR Governor. Where an employee finds it difficult, for any reason, to submit a written application, assistance in completing the application should be sought from their Staff Support Officer, a staff representative or their HR Governor. It should be noted that an absence being deemed as OID related carries no guarantee that further absences will be deemed to be linked to the Incident.

4.3 Sick Pay and other payments

Absences which are deemed by S&CS Directorate to be OID related will not normally be combined with a period of absence due to ordinary illness so as to adversely affect sick pay.

An Officer may be granted paid sick leave, including allowances, up to limits below without reference to their sick leave record for ordinary illness, i.e., ordinary illness absences and OID related absences are counted separately.

Where an absence is deemed by S&CS Directorate to be OID related an Officer may be granted paid sick leave of up to:

- a maximum of 6 months (183 days) on full pay in a rolling 1 year period, followed by
- a maximum of 6 months (182 days) on half pay
- subject to a maximum of 1 year (365 days) in a rolling 4 year period.

Under Section 2.7.1 of the Proposal for Organisational Change, when an absence is deemed to be OID related, an applicant is entitled to be paid for any loss of Additional Hours and allowances for that period.

Successful applicants will be invited in the decision letter to submit details of any such losses to S&CS Directorate. Additional Hours and allowances payable are determined by the normal sick leave limits and are paid at full rate when an officer is on full pay and half rate if an officer reaches half pay.

4.4 Appeal of S&CS Decision

Where an applicant is not satisfied with the outcome of his/her application the applicant may appeal the decision in writing to the Personnel Officer within 14 days of receipt of the decision.

4.5 Appeal of CMO advice

Where an application has not been granted and the decision has been based on the advice received from the CMO, the applicant may request that the CMO review their advice. The CMO may agree to review the case, but only where new medical evidence can be provided.

4.6 Applications

All application must be made in writing, through the Governor designated with responsibility for HR matters (HR Governor), to have a sick leave absence deemed to be OID related where an officer suffers an injury or disease while carrying out their official duties. **Applications must be made within two weeks of the incident occurring and it is not necessary for staff to return to work before making an application.** Where an employee finds it difficult, for any reason, to submit a written application, assistance in completing the application should be sought from their Staff Support Officer, a staff representative or their HR Governor.

4.7 Travelling to/from Work

Absences relating to injuries suffered while travelling to or from the workplace are not eligible to be considered under this policy or Circular 1/82. Employees recruited after April 1995 may be eligible for payment for such absences under the Occupational Injuries Benefit Scheme operated by the Department of Social Protection.

4.8 Referral to Chief Medical Officer

The Office of the Chief Medical Officer (CMO), which incorporates the Civil Service Occupational Health Department (CSOHD), provides advice to the Irish Prison Service on staff medical issues. The CMO's Office is based in Dublin city centre and consists of doctors, nurses and administration staff. All doctors are on the Medical Councils Register of Medical Specialists in Occupational Medicine, and all nurses have postgraduate qualifications in occupational health.

The CMO's Office provides an advisory service and policy input for approximately 38,000 civil servants, prison officers, state industrial employees and defence industrial employees across 55 departments and offices countrywide.

In some cases appointments with the CMO will be necessary to advise the Head of the Department in relation to sick leave/attendance issues. CMO appointments are arranged according to the schedule of the CMO's office and to reduce unnecessary administrative burden on that office and on the IPS, employees should attend at the appointed time. Failure to do so, without good cause, will result in consideration being given by the Personnel Officer as to whether the officer will be paid for future sick leave. Each case will be considered on its individual merits.

Subject to the usual travel and subsistence rules, the IPS will pay public transport rates in respect of travel to CMO appointments. Subsistence will not be paid in any circumstance.

Where appointments are scheduled during working time, the officer will be credited for the time missed from work subject to the below hourly limits for officers travelling from the country and a maximum of 3 hours for officers assigned to Dublin prisons. As far as is practicable, the CMO's office will arrange appointments for staff travelling from locations outside Dublin for times no earlier than 10am and no later than 4pm. CMO appointments will be recorded as medical appointment rather than annual leave. As far as practicable, officers are required to attend work as rostered for the remaining hours on the day in question. If the officer does not attend work for the remaining hours on the day in question these hours will be debited to his/her annual leave balance.

Hours to be credited for attendance at CMO appointments:

- **Limerick** **8 hours**
- **Cork** **8 hours**
- **Castlerea** **8 hours**
- **Portlaoise/Midlands** **6 hours**
- **Loughan House** **8 hours**
- **Shelton Abbey** **6 hours**

Employees will be referred to the CMO when an absence which may be work related exceeds 14 days.

4.9 Stress and Psychological Injury

Sick leave where an employee cites that the reason for the absence is stress or which are certified by a GP as being due to stress will not be deemed to be OID related.

However, if an applicant provides evidence of suffering significant psychological harm and the Chief Medical Officer (CMO) determines that for reasons which may be attributable to the workplace the person is so incapable of work or unable to attend work then the S&CS Directorate will consider the application in accordance with the relevant circulars.

1. Evidence in this regard would require to be a consultant report from a consultant psychiatrist who is seeing the officer for ongoing regular clinical care. The consultant must hold a HSE psychiatric appointment or a full-time consultant psychiatric appointment in a private hospital.
2. Medico-Legal type reports or referrals for primarily report preparation purposes are not acceptable.
3. Where necessary, the CMO may refer an applicant for independent psychiatric assessment.

4.10 Short term absence

Where an employee is absent from work in the immediate aftermath of an incident for the purpose of a GP visit or medical/blood tests, the Officer may apply to have the absence deemed to be OID related. Medical certificates or proof of such appointments must be provided in the normal manner.

Furthermore, where an employee has not suffered a physical injury which would warrant their absence on certified sick leave but the Governor is satisfied that the employee is not ready to return to work, special leave may be granted at their discretion. Authorisation to take such leave must be sought and obtained by the employee in advance by contacting the

HR Governor's Office. It is not necessary for staff to apply in writing for such leave. The HR Governor will maintain a record of all such leave granted.

5. Related policies /standards

This Policy should be read in conjunction with the
PIN029 IPS Attendance Management Policy
PIN 031 IPS Accommodations (Rehabilitative/Restricted Duties) Policy
the IPS Critical Incident Protocol

The Public Service Circulars 25/75, 1/82, 5/86 and 6/97

6. Definitions

(CMO) - Chief Medical Officer, which incorporates the Civil Service Occupational Health Department (CSOHD),

Appendices

Appendix I –

Irish Prison Service Process for Managing Sick Leave arising from reported Occupational Injuries and Diseases - *(Introduced in November 2013)*

Appendix I

Irish Prison Service Process for Managing Sick Leave arising from reported Occupational Injuries and Diseases - (Introduced in November 2013)

1. Incident at work occurs.
2. Officer takes sick leave.
3. Incident recorded on National Adverse Event Management System (NAEMS) by prison staff.
4. AIRF documentation completed by Officer and prison. The AIRF documentation should be completed by the Officer at the time of the incident, if possible. Where necessary, assistance should be provided to the Officer to complete their part of the form.
5. Officer submits application to have injury considered under the terms of Circulars 1/82 & 6/97.
6. AIRF documentation completed and scanned onto NAEMS system, including witness statements, Governors recommendation, details of CCTV footage.
7. Staff & Corporate Services Directorate (SCS) will print reports on a bi-weekly schedule from NAEMS of incidents that occurred in the previous week and fortnight, as well as regular longer reports to capture incidents recorded on NAEMS outside the report period.
8. Where necessary advice should be sought from the CMO by SCS to ascertain whether absences are linked to work incidents. Officers will automatically be referred to the CMO for advice when an absence exceeds 14 days. In all cases where an absence is certified as stress-related, the Officer will be referred to the CMO regardless of the duration of the absence. (CMO Referral Form must be completed). The reason for the referral explained to the Officer.
9. SCS examine each incident where application has been made for the absence to be considered under the terms of Circulars 1/82 & 6/97.
10. Decision taken on OID application in SCS and ClockWise updated accordingly.

11. Where Circular terms not granted, officer informed of the reasons for the refusal and given opportunity to appeal the decision.
12. Where Circular terms granted (before or after appeal),
 - Officer informed of decision, including how to apply for medical expenses
 - Sick leave and sick pay entitlements for OID absence calculated by prison and forwarded to S&CS Directorate
 - Pay instruction forwarded to FSSC.
13. Where Circular terms not granted after appeal,
 - Officer informed of decision.
14. HR Governor has responsibility for contact with Officer concerned for HR issues.
15. **Time Frames for OID process**
 - (A) Initial record of incident on NAEMS system within 24 hours of incident occurring, with all AIRF documentation and statements to be scanned onto NAEMS within 14 days.
 - (B) Officer must submit (or be assisted in submitting) his/her section of AIRF documentation and OID application within 14 days of the incident - except in exceptional circumstances.
 - (C) OID application including witness statements, Governors recommendation, details of CCTV footage, etc., to be forwarded to SCS Directorate within 21 days.
 - (D) Initial decision to grant/refuse OID to be made not later than one month from the date of the officer submitting his/her section of AIRF documentation or, where CMO advice has been sought, within 1 week of receipt of that advice.
 - (E) If refused then officer has 14 days to submit an appeal.
 - (F) Decision on appeal to be made not later than 14 days from date of appeal submission unless further CMO advice is sought.

Staff & Corporate Services Directorate – November 2013

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