

Schools HR Update – September 2020

COVID-19 Leave of Absence

As we move into the new academic year and managing COVID within schools there are a number of people management issues/ matters that Schools are having to consider. At the moment a key area where we are receiving a number of queries is leave of absence related to COVID-19. Noted below are the current most common queries alongside some standard advice that the team are providing, which will hopefully support you in implementing the best possible route for managing absences related to COVID.

Type of absence	How this is recorded	Entitlement to pay	Policy
<p>Sickness absence – if the employee is absent through sickness absence (they are not well enough to attend for work) – whether this is related to COVID or not, it is considered as a sickness absence.</p>	<p>This should be recorded on the Sickness Absence Recording form (Sick 1) as sickness with the correct reason provided. (see Appendix 1)</p> <p>We are aware that some individuals may feel more anxious or stressed because of COVID and this may be the reason for their absence, please ensure it is classed as a period of sickness absence.</p>	<p>Yes - contractual entitlement to sick pay will apply for both staff groups, e.g. support and teaching as defined within their respective terms and conditions of employment.</p>	<p>Managing Sickness Absence Policy and Procedure – use this policy to manage this absence</p>
<p>Isolation – if the member of staff is having to isolate because they have either:</p> <ul style="list-style-type: none"> a) been identified as a close contact through their role in school b) been identified through track and trace as a close contact with someone testing positive from outside of school c) someone they live with has symptoms and has tested positive (or is awaiting test results) or d) they have symptoms themselves and are waiting for test results (but are still well enough to work) 	<p>This absence is one that they are required to have from work, and they cannot attend, through no fault of their own.</p> <p>If it is possible and you can arrange this, you can ask for them to carry out work at home.</p> <p>This should be recorded on the Sickness Absence Recording Form (Sick 1) – please speak to Payroll directly for the specific codes as these may be different ones for each reason for absence.</p>	<p>Yes - pay will apply for both staff groups, e.g. support and teaching in accordance within their respective terms and conditions of employment and based on advice provide by the LGA.</p>	<p>Terms and conditions apply</p>

<p>Isolation prior to medical procedures - the most recent information in relation to individuals requiring some form of hospital treatment remains that they needed to quarantine or isolate for 14 days prior to their operation or medical procedure.</p> <p>Your team member will need to discuss this with you prior to their planned surgery/ medical procedure as you may need to take this into consideration when planning cover for the planned absence.</p>	<p>The period prior to surgery/ medical procedure is to be considered in the same way as isolation or quarantine and should be recorded as such on the Sickness Absence Recording form (Sick 1) (please check directly with Payroll for the right information to log on here).</p> <p>The period that they are absent for the surgery/ medical procedure, or the recovery period should be recorded as sickness absence as they are not well enough to come to work.</p>	<p>Yes – terms and conditions of employment apply in relation to entitlement to paid sick leave.</p>	<p>Managing Sickness Absence Policy and procedures apply.</p>
<p>Quarantine – following return from a listed country. Employees returning from overseas should have discussed the implications of their trip and whether it is subject to periods of quarantine with you or a member of your team before they travelled.</p> <p>As part of those conversations the options / choices the employee had in taking the trip would have been discussed – one of those choices would have been if the employee could have made alternative arrangements or if they still chose to travel knowing they were going to be subject to periods of quarantine on their return.</p> <p>If the quarantine restrictions changed when they were away, then a conversation/ discussion would have needed to be had to discuss with them what options/ arrangements were to be in place on their return.</p>	<p>Leave of absence – it will need to be recorded on the Sickness Absence Recording form (Sick 1) under the appropriate Quarantine heading</p>	<p>Depends - refer to the leave of absence policy in respect of whether the individual is to be paid.</p> <p>There will be some decisions that governing bodies need to consider regarding why an individual chooses to travel and if the subsequent absence could or should not be paid.</p> <p>Schools can allow some individuals to work from home during this period, but this will be very role specific, dependent upon the individual circumstances. If that was the case then it would be appropriate for pay during this time to be paid, however if working from home was not an option then a</p>	<p>Refer to the leave of absence policy and previous advice provided regarding travel and overseas restrictions.</p>

<p>Whilst at the moment it is unlikely that School based staff will be travelling overseas for a holiday it could be that individuals need to travel for family arrangements/ unforeseen circumstances and your leave of absence policy would provide guidance on these circumstances. Additionally, individuals may be planning to travel in the October half term or over the Christmas break/ at the end of term and whilst this is some time away the guidance for having those conversations with employees and the eligibility for payment remains current.</p>		<p>period of unpaid leave may be the most appropriate options.</p>	
<p>Child in isolation - their child of school age, living with them, has to isolate, but does not have symptoms.</p> <p>There are a number of different options to consider how this can be managed and will depend upon a number of options and factors including the age of the child, who else in the household has caring responsibility, etc but the current guidance clearly states that only individuals who have been in close contact with someone who has tested positive needs to isolate - not their household.</p>	<p>Leave of absence – please refer to the policy for specific information as to what type of absence this will be considered and recorded as.</p>	<p>Depends – you have the discretion to consider whether this is a paid period of absence and if so, are you willing to grant this on a limited set of circumstances only.</p> <p>Your Leave of Absence policy will provide some initial guidance, but remember the issue is not around isolation, but childcare, so Schools should refer to their leave of absence policy for information on whether this absence can be supported and paid.</p> <p>Emergency time off for dependents could be a relevant consideration, however this will only afford a small number of days and would only expect to be used in a very narrow/ limited set of circumstances. (Please see 'Exercising</p>	<p>Leave of absence policy.</p>

		<p>Discretions' below for further information).</p> <p>The individual could agree that they will work from home, if this is possible and school agrees with this, but in other circumstances this will not be an option. You will also need to consider what school are willing to do if individual circumstances mean that they could look to make more than one application against this section of the leave of absence policy.</p>	
<p>Local area lockdown – depending on the guidance issued for specific local areas, and how that situation is being managed at a local level. It has been clearly noted that Schools will be one of the last places to be affected and there is therefore an expectation that individuals can and will go to work. This will include attending their regular place of work (your school) but specific advice will be given as and when this need arises.</p>			

Exercising Discretion – Leave of Absence

We are aware there are a number of different situations occurring in schools at the moment, and that each circumstance whilst similar has a unique set of parameters surrounding it. It is difficult to provide specific advice to cover each instance, but at the moment there appear to be two topical questions being received / asked:

- one is about leave, and the
- second is about pay.

Each school has its own Leave of Absence Policy and will have used its discretions in establishing the policy and in determining how to apply the policy. There will be caps and limitations on both paid and unpaid leave of absence; the application of a fair and consistent policy is also a key factor for schools and in normal circumstances it is not anticipated that all school employees will claim against the policy on an annual basis.

The table above provides clarification, of what schools have available to them currently, the decision that schools are facing at the moment is not one in the main of leave and if the employee themselves are poorly or in isolation, but it is about if the employee needs to take time off to care for dependents who are in isolation – remember if the family member is poorly/ has COVID-19 then the whole household will be in isolation and the other guidance noted above will apply.

Where an employee is asking/ needing to take time off to care for dependents who are in isolation or where the normal child care arrangements are not available (this could apply where schools/ child care providers/ other care arrangements (e.g. family members) are not able to provide normal schooling or childcare arrangements) – what are school going to provide? Your current leave of absence policy will offer a limited amount of time but not enough to cover up to 14 calendar/10 working days in isolation. In limited circumstances some individuals may be able to work from home – individual employees expectation may be that they were able to work from home previously, but the arrangements for schools are different now as to how schools were operating prior to the end of the 19/20 academic year - where limited numbers of children/ young people were in school and therefore school had more options/ flexibilities. At the moment the flexibilities open to schools are limited when it comes to home working, any considerations of this will be job/ role dependent and this option cannot be applied in all circumstances. Conversations with employees regarding time off to care for dependents in isolation will focus, in some instances in managing expectations regarding COVID19 operations in schools before 31st August 2020 and how school are operating now, but will in any instance resort to whether or not the employee is eligible for paid time off work or not.

Paid or Unpaid Time?

We are aware that the decision to grant or not grant paid time off is not an easy decision for schools to make - they are reliant upon the good will of their staff, recognise the contributions that staff have made to support schools since the 23rd March 2020 and what all staff in schools are still doing on a daily basis; we know that schools have financial considerations and the potential numbers of staff applying for leave of absence for caring for dependents in isolation has the potential to be in significantly greater numbers than school will have experienced in its normal operations in any one year to-date.

In terms of using the current flexibilities in your Leave of Absence Policy, School need to think about what you are going to allocate in terms of time off to care for dependents in isolation and if you are going to stay with what is in your existing policy or if you are going to vary this as an exception due to COVID19. At the moment Schools appear to be faced with the prospect of a request for time being made up by the majority of individuals and on more than one occasion by some employees. Whilst a key challenge will be the cost of such absence and how school cover this, there is also the challenge

of consistency in the approach to how School consider each application and applying the discretions it has available. Schools may feel that it is easier to cover some posts more than others, staff work at different levels in the organisation or work different patterns/ hours – whilst this may appear to be a justification/ reason for variance, great care needs to be taken to ensure that School do not find itself in a situation where it may be challenged for being unfair or treating others less favourably.

Comparability/ Equity

In the past as a reference we have noted to Schools what other non-school based employers have considered/ decided, however, this is not a factor currently as the vast majority of cases for comparable employers are organisations where the individual can work for home, be allocated alternative duties, use other paid time (e.g. annual leave, lieu time, flexi leave), therefore those organisations are not looking to extend any of their existing arrangements currently (and in those organisations the existing arrangements for paid time off do not cover the full period of isolation for individuals asking for time off to support dependents who are isolating).

School Survey

We know that Schools are keen to understand what other local schools/ school employers may be/ are considering and to have this information to hand to help to inform their decisions. To support Schools to achieve this, we are we are going to undertake a survey of local schools asking them what they are considering in terms of leave of absence for individuals caring for dependents in isolation. This survey will ask 5 key questions:

1. *Are you looking to extend the current number of paid days in your leave of absence policy for those caring for dependents who are in isolation?*

Yes

No

2. *If the answer above is yes, how many days are you looking to extend the leave by – up to 5 work-days, up to 7 work-days, up to 10 work-days? (prorating will take place for those who work less than 5 days/ full time hours).*

Up to 5

Up to 7

Up to 10

3. *Irrespective of whether or not you are looking to extend the number of paid leave days for individuals caring for dependents in isolation, are you going to cap this at one period of leave per employee, two periods of leave or uncapped?*

One period of Paid Leave per Employee

Two Periods of Paid Leave per Employee

Uncapped

4. *If you choose to offer more than one paid period of absence, for the second or third absence for paid leave days for individuals caring for dependents, are you going to offer the second period of absence at 50% pay, the third at 25% pay or are you going to offer all absence at 100% pay or other options*

<i>Second Period of Absence Paid at</i>	<i>50%</i>	<i>Third Period of Absence Paid at</i>	<i>25%</i>
<i>All absence to be paid at</i>	<i>100%</i>	<i>Other – please provide additional information</i>	

5. *If you choose to only offer one period of paid leave for individuals caring for dependents in isolation, would you look to offer a lieu time arrangement for others where the individual owes you the hours and can work them back over a set period of time?*

<i>Yes</i>	<i>No</i>
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Once we have the results of the survey we will share this with schools so that you have some information from other schools to allow you to shape your further temporary changes to your Leave of Absence policy which can be added to your policy as a specific COVID19 addendum. In the interim, if you are minded to review your Leave of Absence Policy, we suggest that for current situations for time off for employees caring for dependents in isolation, you note to employees what your existing policy provides, but advise that you are currently reviewing your arrangements and will be able to provide an update in due course – there is no impact on individuals pay currently as any changes are too late for September payroll and there is still time before the cut off for the October payroll to make a better informed decision/ review your Leave of Absence Policy.

Remember in reviewing your Leave of Absence Policy (if you choose to do so) you will need to ensure you do not make this decision in isolation and you must consult your Chair of Governors or Governor led staffing committee to review any recommendations/ decisions taken during this period - as this will affect pay and will have a budgetary consideration. It is also important that any decision is noted, advised to your employees with a rationale and you maintain a record of applications for leave, a record of the requests (and the circumstances) plus the reason for the decision; not only is this good practice, but it will prove invaluable should the granting of paid/ unpaid leave (or the declining of an application) be challenged.

Additionally, once the Survey results are received we will as part of our work with the Local Authority ensure that we discuss the outcome of the Survey with colleagues in both Finance and School improvement, as we are aware that the funding of additional leave of absence (even where school choose not to extend its current policy but are in receipt of more applications) will have a budgetary impact on all schools. We are aware of the additional considerations /circumstances for those schools who are in a deficit position, or who may be facing the possibility of deficit.

For SLA Schools you continue to have access to our weekly HR Drop-ins, our HR Help/ Service line and access to our experienced Schools HR Team. If you do not feel you are able to determine under which category the absence falls, or wish to discuss a specific case further then please do not hesitate to speak to one of the **Designated Schools HR COVID team, by contacting the HR Helpline on 07 583 102 482**

APPENDIX 1

ABSENCE CODES FROM SICKNESS ABSENCE RECORDING FORM (SICK 1)

COVID-19 Self Isolation Symptomatic - Work from Home (Self-isolation due to the employee having symptoms consistent with COVID-19 as recommended by PHE (Please see PHE advice.) but well enough, and able, to undertake duties from home)

COVID-19 Self Isolation Symptomatic - Cannot Work from Home (Self-isolation due to the employee having symptoms consistent with COVID-19 as recommended by PHE (Please see PHE advice.) consider themselves well enough to work, but unable to undertake duties from home)

COVID-19 Self Isolation Non-Symptomatic (household) - Work from Home (Self-isolation due to someone the employee lives with having symptoms consistent with COVID-19 as recommended by PHE (Please see PHE advice.) but employee able to undertake duties from home)

COVID-19 Self Isolation Non-Symptomatic (household) - Cannot Work from Home (Self-isolation due to someone the employee lives with having symptoms consistent with COVID-19 as recommended by PHE (Please see PHE advice.) but employee unable to undertake duties from home)

COVID-19 At Risk Group - Work from Home (Employee is in a group classed as more at risk as recommended by the government advice and having to socially isolate. Able to work from home.)

COVID-19 At Risk Group - Cannot Work from Home (Employee is in a group classed as more at risk as recommended by the government advice and having to socially isolate. Unable to work from home.)

COVID-19 Shielding - Work from Home (Employee has received a letter from the NHS advising them that their condition is one that requires them to remain at home for at least 12 weeks. Able to work from home.)

COVID-19 Shielding - Cannot Work from Home (Employee has received a letter from the NHS advising them that their condition is one that requires them to remain at home for at least 12 weeks. Unable to work from home.)

COVID-19 Linked Caring Responsibility - Full time WFH possible (Employee is having to stay at home due to school closures, but no one in household is symptomatic and no significant impact on ability to undertake duties due to the age of children. Able to work from home without restriction.)

COVID-19 Linked Caring Responsibility Full Time (Full time carers leave due to assisting someone affected by COVID-19)

COVID-19 Linked Caring Responsibility (Part-time carers leave due to assisting someone affected by COVID-19)

COVID-19 Un-Official Self Isolation (Unauthorised absence code for individuals not affected by COVID-19 but refusing to attend work due to COVID-19 only)

COVID-19 Overseas Isolation (Employee has been on holiday abroad and now unable to get back home.)