



## **Teachers' Sick Pay and Sick Leave Entitlement NEU guidance for members in England & Wales**

Most teachers will at some point need to take sick leave. This document sets out arrangements for teachers' sick pay and sick leave.

### **What we say**

When you read through this document you may have questions about what happens in your particular school or workplace, and there may be collective issues that affect other members. In most circumstances, you should initially discuss the matter with your workplace rep, as they will know whether similar concerns have been raised by other members. If you do not have a rep at the moment, it would be a good idea to get members together to elect one. Further advice on this is available at:

[neu.org.uk/becoming-a-rep](http://neu.org.uk/becoming-a-rep)

Although you may sometimes feel that you are the only person affected by or concerned about a particular issue, in reality this is seldom the case. Any difficulties you may experience are likely to be linked to wider conditions at your workplace and as a member of the NEU you have the advantage of being able to act collectively with your colleagues. This should give you the confidence of knowing that you have the weight of the union behind you.

### **Where can I find details of the sick pay scheme that applies to me?**

For most teachers, sick leave and sick pay entitlements are set out in the Burgundy Book national agreement on conditions of service. Details are set out below.

The vast majority of local authorities follow the terms of the Burgundy Book scheme, which is incorporated into their teachers' contracts of employment. In some local authorities, local agreements improve upon the Burgundy Book scheme. Teachers who work in academies or free schools may also be covered by different arrangements, particularly if they joined the academy or free school after it changed status. Any member who is in doubt should request a copy of the sick pay scheme from their employer.

### **What are the Burgundy Book entitlements?**

Teachers' national sick pay entitlements, set out in the Burgundy Book, give a sliding scale entitlement according to aggregated length of service, as follows:

During the first year of service:

Full pay for 25 working days and, after completing four calendar months' service, half pay for 50 working days.

During the second year of service:

Full pay for 50 working days and half pay for 50 working days.



During the third year of service:	Full pay for 75 working days and half pay for 75 working days.
During the fourth and successive years:	Full pay for 100 working days and half pay for 100 working days

This sick leave sliding scale is a minimum and employers have the discretion to extend it in any individual case.

It should also be noted that the Burgundy Book scheme operates on the basis of working days. It is only those working days for which the teacher is absent that count against the above sliding scale entitlements. Holidays and weekends do not count against these entitlements. As a rough guide, therefore, teachers can reckon on the following approximate periods of full and half pay, subject to the variations caused by any periods of school closure:

During the first year of service:	Full pay for 1½ months; and, after four calendar months' service, half pay for 3 months.
During the second year of service:	Full pay for 3 months; half pay for 3 months.
During the third year of service:	Full pay for 4½ months; half pay for 4½ months.
During the fourth and successive years:	Full pay for 6 months; half pay for 6 months.

### **I work part-time. What is my entitlement?**

Sick leave days relate to the school's working days, not the individual teacher's working days. Part-time teachers receive sick pay based on their actual salary for up to 100 of the school's working days.

For example, a part-time teacher employed on a 0.4 contract would receive their normal 0.4 salary for 100 school working days, and then 50 per cent of their 0.4 salary for a further 100 working days.

### **When does each 'year of service' begin?**

The sick leave year normally runs from 1 April to 31 March, and a new entitlement starts each year on 1 April. However, teachers absent due to illness on 31 March will not be entitled to the subsequent year's allowance until they are recovered and are back at work. Instead, sick leave will continue to be counted against the previous year's entitlement.

Some academies run their sick leave year from 1 September to 31 August, but you will need to check your employer's sick leave arrangements to see which dates apply.



### **How do I calculate my 'year of service' for sick pay purposes?**

For the purpose of calculating a teacher's entitlement during a year, a year is deemed to begin on 1 April and end on 31 March in accordance with paragraph 4 of the Burgundy Book sick pay scheme, which defines the sick leave year. Where a teacher takes up their first teaching appointment after 1 April in any year, the full entitlement that year applies. For example, for a teacher who takes up his or her first teaching appointment in September 2018, the first year of service runs from 1 April 2018 to 31 March 2019. From 1 April 2019, the teacher is in his or her second year of service.

### **What should I do if I am unable to attend work due to illness?**

Your school or college policy is likely to require you to contact them by a certain time in the morning. It should also state whom you must contact. The time is likely to be before the start of the school or college day. You should contact the school yourself, unless you are too ill to do so, in which case you should ask someone to ring on your behalf as soon as possible.

### **What happens if I ring in late or don't ring in at all?**

You will need to explain the circumstances, eg if you are admitted to hospital or you are too ill to do so. If you do not make contact, this may be judged as unauthorised absence, which could lead to disciplinary action against you and/or loss of pay for each day you do not inform your employer of your absence.

### **What is required of me in terms of medical certification?**

The Burgundy Book scheme (and also the statutory sick pay scheme) requires teachers to fill in a self-certificate form to cover any period of sickness absence lasting between four and seven calendar days. Doctors' certificates (often referred to as 'fit notes') are required for sickness absences lasting more than seven calendar days. Doctors' certificates may also be required at an earlier stage, or more frequently in the case of prolonged or frequent absences, when teachers may be required to be seen by a medical practitioner nominated by the employer.

Many schools operate absence monitoring procedures which aim to address absence levels that are causing concern. These procedures may place additional burdens upon teachers in terms of filling in forms and attending return-to-work interviews. Their terms do not, however, form part of the Burgundy Book scheme and failure to comply with any certification requirements of such procedures cannot affect teachers' entitlement to sick pay under that scheme.

### **Do I still have to submit sick notes during the school holidays?**

If your sick leave extends into the school holiday, you must continue to submit doctor's certificates, as required, even though the school is closed.

### **Does my sick entitlement start each time I am ill?**

No. The sick leave year runs from 1 April to 31 March and a new entitlement starts on 1 April each year. However, if you are absent due to illness on 31 March and continue to



remain off sick into April and subsequent months, you will not be entitled to the following year's allowance until you have recovered and have returned to work after 1 April. Rather, your sick leave will continue to be counted against the previous year's entitlement.

**Can I be required to attend a medical examination by my employer or be referred to occupational health?**

If there is concern about a prolonged period of absence or frequent spells of absence, the Burgundy Book specifies that a teacher can be required at any time to be examined by an approved medical practitioner. The teacher's own doctor may be present during such an examination at his/her request. The cost of such an examination is covered by the employer. Teachers who are not covered by the Burgundy Book scheme may be subject to different arrangements.

**What if I have an accident at work – how does this affect my sick pay?**

Under the Burgundy Book scheme, where a teacher is absent as a result of an accident arising out of, and in the course of, employment, including extra-curricular and voluntary activities, the teacher will be entitled to full pay for a maximum of six calendar months which is not reckoned against the normal sliding scale entitlement to sick pay and sick leave. The same is true when there is evidence to show that an absence was due to an infectious or contagious disease contracted as a direct result of a teacher's employment. Where the teacher is still absent after this initial six-month period, an extension may be granted. Following this, the teacher will be entitled to the normal sick pay and sick leave entitlement described above.

**What is the relationship between the Burgundy Book scheme and the statutory sick pay scheme?**

Where teachers are covered by the Burgundy Book scheme, they will not necessarily be aware of statutory sick pay (SSP). However, it forms part of sick pay from the 4th day of absence.

SSP is payable to any employee for a maximum period of 28 weeks in any spell of sickness absence. Where teachers are receiving full sick pay, SSP will form part of that sick pay. Where teachers move on to half sick pay, SSP will be paid on top of half pay until the period of sickness absence reaches 28 weeks. Following this, teachers may be entitled to receive employment and support allowance (ESA). An employer is required to notify an employee that SSP payments are ending and to fill in form SSP1 and give it to the employee, so that he/she can use it to support a claim for ESA. NEU members on long-term sick leave are advised to keep records of when they began to receive SSP so that they can request an SSP1 form, in the event that their employer fails to provide one. SSP is most relevant to teachers in their first year of service, whose entitlements under the Burgundy Book scheme will be limited but who may be entitled to receive SSP for the full 28 weeks.



**How is my entitlement to sick leave and sick pay affected if I move from one local authority to another?**

Your entitlement is not affected in any way. When you move, the new local authority should take into account any service as a teacher and/or sickness absence with the previous authority for the relevant sick pay year.

**What if I move to an independent school?**

Independent schools may set their own sick pay schemes but many follow the Burgundy Book sick pay scheme. Again, any variations will be set out in the contract of employment.

**What if I move to an academy or free school?**

Like independent schools, academies and free schools may establish their own sick pay schemes – but many follow the provisions of the Burgundy Book. Individual contracts should be checked for details, particularly to find out whether previous service with a local authority or a different academy is recognised.

**What happens if I have a break in service? Will I lose my entitlement?**

As far as the Burgundy Book scheme is concerned, it is total aggregated service as a teacher that counts, not continuous service. Academies may have different arrangements.

**What happens if I take up supply work with a school, a local authority or through a supply agency?**

Supply teachers are not covered by the Burgundy Book national agreement on occupational sick pay.

**Do holidays and weekends count against the sick leave entitlements set out in the Burgundy Book sliding scale?**

No, only the 195 working days are counted. Teachers absent due to sickness continue to receive full or half pay, as appropriate, through weekends, half-term breaks, bank holidays and the Christmas, Easter and Summer breaks; these periods do not count against their sick leave entitlements. Teachers whose sick leave extends into the school holiday must continue to submit medical certificates, as required, even though the school or academy is closed.

**What happens if I am absent due to illness on 31 March and am not fit to return to work on 1 April?**

Under normal circumstances, a teacher's new entitlement to sick leave and sick pay would start on 1 April. However, if a teacher is absent from work due to illness on 31 March, the period of absence will continue to be counted against the previous year's allowance and the new allowance will not start until the teacher is back at work.



**Is it possible to extend the periods of full and half pay set in the sliding scale?**

There is the discretion to extend the entitlements in any individual case, but no requirement upon employee to do so.

**If I am on sick leave in the period preceding a school closure period, do I have to go into school on the last day of a term/half term in order to be paid during the holiday period?**

No, this is a common misconception. If you are receiving full sick pay before the holiday and your illness continues into the holiday, you will continue to receive full sick pay during the holiday period. The same principle applies to half pay. There is no requirement to attend school on the last day of term.

**Do I continue to accrue service while on sick leave?**

Yes. For example, a teacher in their first year of service who has not completed four months' service at the start of a period of sick leave, will continue to accrue service while absent on full pay for 25 days. If by the end of that period they have accrued four months' service, they will then be entitled to receive half pay for 50 days.

**My GP says I'm fit to return to work from sick leave, but my school won't allow me back until I've had a meeting with the head teacher, which is scheduled for two weeks' time. The school has told me I need to get another sick note from my GP to cover this two-week period. Is this correct?**

No, you should come off sick pay when your GP says you are fit for work and should be medically suspended on full pay while the matter is resolved.

**I was appointed on a 12-month maternity cover contract, but have recently become seriously ill. Is my employer entitled to terminate my contract before it expires?**

That would depend on how long you are now likely to be on sick leave for and how much of your contracted period is left. If you are likely to be on sick leave for a significant proportion of the period during which you have been contracted to work, your employer may seek to argue that the contract has been 'frustrated', which essentially means you are no longer able to fulfil the contract on the terms agreed.

However, if your period of absence is likely to be relatively short (eg six weeks) and you are able to return to work before the contract expires, it is unlikely to be reasonable to treat your period of absence on sick leave as frustrating the contract. Each case will depend on its own facts. It is important, therefore, that you seek advice as soon as possible if you are threatened with dismissal.



**I have been signed off sick for two weeks with stress and anxiety. In the meantime, I have received an offer of employment at another school and references have been sought. Will my current employer declare my period of sick leave to the new employer?**

The answer is likely to be 'yes', since the referee will be under an obligation to be truthful when asked about your sickness record. Normally, the Equality Act 2010 prevents a school or college, to which an application for work is made, from asking about the health of the applicant before the applicant has been offered work. The NEU would argue that although the prohibition applies only to the prospective employer and not to the referee, disclosure by the referee of health information prior to a job applicant's appointment, and in the absence of a request for the same by the prospective employer, is likely to amount to a breach of the General Data Protection Regulation (GDPR). In your circumstances, however, a job offer has been made and your current employer is therefore permitted to disclose your sickness absence record when asked to do so by your prospective employer.

**I have been contacted and asked to do some marking/set work while I'm off sick. Should I agree?**

No. You should not carry out any work duties while off sick and you should not be contacted without prior agreement.

Schools and colleges should have arrangements in place to provide prepared, appropriate work for pupils in the event of short-term absence as well as cover for your absence.

**I have an infectious disease/share a house with someone who has an infectious disease. What should I do?**

If you have an infectious disease you should telephone and inform your school or college and then obtain a medical certificate confirming the position. If someone in your house has an infectious disease, ring in and seek guidance, as you may be asked not to attend your workplace. You should receive full pay if you are instructed to remain off work for this reason.

**What should I do next?**

If further advice is needed, contact your NEU workplace rep in the first instance. If there is no NEU rep in your workplace, or the peripatetic nature of your employment makes contact with a workplace rep difficult, contact the NEU Adviceline in England on 0345 811 8111, NEU Cymru in Wales on 029 2046 5000 or NEU Northern Ireland on 028 9078 2020. Further contact details may be found at: [neu.org.uk/contact-us](https://www.neu.org.uk/contact-us)

**Further information**

NEU guidance – available on the union website at: [neu.org.uk](https://www.neu.org.uk)

Phased Return to Work

Sickness Absence Monitoring



## **Appendix 1**

### **NEU sick pay and sick leave calendar**

The following calendar summarises the information given above and should serve as a quick guide. For the sake of simplicity, patterns of absence have been assumed to be continuous; but the guide will apply equally where this is not the case. Teachers are advised to keep a note of the number of days that they are absent due to sickness from 1 April of any given year should problems arise in relation to sick leave and pay. All days shown are working days, unless otherwise specified. Holidays and weekends are not included. The chart assumes that the teacher remains in employment throughout the period of sickness.

- |                 |   |
|-----------------|---|
| Day 1:          | Alert school of absence and of likely duration of absence.  |
| Calendar day 4: | If you are still absent on this day, you will need to fill in a Department for Work and Pensions (DWP) self-certificate form on return to work.                             |
| Calendar day 8: | If you are still absent, a doctor's certificate ('fit note') is now required; these will be required on a regular basis until declared fit to work.                         |
| Day 25:         | Full pay expires for teachers in their first year of service.   |
| Day 50:         | Full pay expires for teachers in their second year of service.  |
| Day 75:         | Full pay expires for teachers in their third year of service.<br>Half pay expires for teachers in their first year of service, with at least four calendar months' service. |
| Day 100:        | Full pay expires for teachers in their fourth or successive years of service.<br>Half pay expires for teachers in their second year of service.                             |
| Day 150:        | Half pay expires for teachers in their third year of service.   |
| Day 200:        | Half pay expires for teachers in their fourth or successive years of service.   |