

## Sickness Absence and Medical Capability policy and procedure

### Policy

The Company understands that employees may need to be absent from work from time to time due to sickness. This policy covers employees and line managers responsibilities in handling time off from work where the reason for absence is sickness. The Company aims to have as many employees as possible in attendance at all times during the working week. Sickness absence needs to be managed so that an acceptable level of attendance can be achieved and any problems resolved.

This policy also outlines the process to be taken when you are incapable of carrying out your job role due to a long-term illness or a disability, the outcome of which could be a transfer to another position or a dismissal on the grounds of capability.

### Sickness Absence

“Sickness” is defined as an incapacity to carry out the duties and responsibilities which the employee is contractually obliged to do because of employee illness or accident and resulting incapacity to work.

This policy therefore applies to absence caused by personal illness or accident, not to the need to take time off work because of the illness or accident of others, e.g. children or partners.

### Please note

Any employee who fails to comply with notification or certification procedures contained within this policy, or otherwise abuses the Company's rules on sickness absence, should know that the matter will be dealt with under the disciplinary procedure.

### Procedure

#### Notification

If you are unable to attend work due to sickness absence, you must notify your line manager before your start time by phone call on the first day of the absence. You will need to explain why you are unable to attend and indicate when you will likely be able to return to work.

If the period of sickness absence lasts for longer than 2 weeks, you will be required to contact your line manager each week to notify them of your continued absence.

#### Certification

Absences should be certified via a fit note from a GP, or other relevant clinician. However, if you are absent for seven calendar days or less in each instance, then you may instead self-certify your absence.

For absences of seven consecutive calendar days or less, upon your return to work, a self-certification form should be completed and passed to your line manager. A self-certification form can be obtained from your line manager.

For absences of eight days or more, a fit note is required. Fit notes are issued by your GP, or other relevant clinician, and should be passed to your line manager upon your return to work, or sent on as soon as it is received, by post / electronically for absences lasting over 2 weeks. The fit note should cover each day of absence and, if multiple fit notes are issued, you should email a copy to your line manager with a brief explanation of your absence, the condition and, if known, your expected return to work date or next medical appointment.

Failure to follow the certification process outlined above may be considered misconduct and may be dealt with under the Company's disciplinary process. Contractual sick pay and SSP (statutory sick pay) may be withheld during this time.

### **Return to work**

On return to work, you should report to your line manager before you begin work. They will ask about the illness and your recovery. They will also ask you to complete a self-certificate for the first seven days of illness. You need to countersign the self-certification form if you are to receive any sick pay for which you may be eligible. No matter how short the period of sickness, it must be covered by a self-certificate.

Please note: the seven days includes those days on which you do not normally work, e.g. weekends and public holidays.

In some circumstances a return-to-work interview will be arranged by your line manager with you. The return-to-work interview will confirm your fitness to return to work, update you on any changes that may have taken place in the workplace during your absence, and confirm whether any necessary support is required and make arrangements for this as appropriate.

Your sickness absence will be recorded on your personnel record.

### **Fit notes**

A fit note may make a recommendation for temporary changes to be made to your working environment or conditions to facilitate a return to work.

Where a fit note is marked as "may be fit for work", the GP usually sets out the possible alterations or amendments that could be made to your working practices to facilitate your fitness for work. Examples of the options available are:

- phased return to work
- amended duties
- altered hours
- workplace adaptations.

If your doctor provides a certificate stating that you "may be fit for work" you should inform your line manager immediately. The Company shall discuss with you whether there are any additional measures that may be needed to facilitate your return to work, considering the doctor's advice. If appropriate measures cannot be taken, you will remain on sick leave and the Company will set a date to review the situation.

### **Adjustments to your work**

The Company will send a letter confirming the discussion and any agreed adjustments that will be put in place, how long they are expected to last for, and set a date for a review of the measures. The changes should be temporary and should not be considered permanent changes to your terms and conditions of employment, unless otherwise agreed.

A review will be arranged before the end of the adjustment period to assess their continued suitability against your medical needs, and the needs of the business. It may be that any adjustments are continued, amended, or stopped. A discussion will take place with you to confirm this.

### **Phased return**

Should a phased return be recommended by a medical professional, or if the Company deems it to be appropriate to help you settle back into work, this will be discussed with you. A plan will be put in place as to how the return will be managed, and review dates will be set with a view to building you back to

your full duties and hours.

The Company will confirm in writing your return-to-work plan. This should not be seen as a change to your terms and conditions of employment, and it may be subject to change depending on your medical needs or the needs of the business.

### **Medical examination**

### **Occupational health**

If the Company has cause to be concerned about your health, e.g. you have had a number of periods of sickness absence for the same reason in a short period, or your absence has become long term, defined by the business as an absence lasting for four weeks or more, then your line manager may suggest that you undertake an assessment with the Company's preferred medical provider.

In certain circumstances, especially if your sickness absence may impact on your long-term employment, then the Company may ask you to consult a medical practitioner of its choice, to have your fitness to work arrangements assessed and confirmed.

Should the Company seek further medical information, you will be provided with detailed information relating to the report, and your access to it, and you will be asked to provide written consent.

### **Access to medical reports**

The Company may need to request a copy of your medical reports or medical records to assist in the assessment of your medical condition. Your consent, in line with requirements under the Access to Medical Reports Act 1988, will be obtained prior to the Company contacting your GP and you are entitled to see a copy of the documentation provided. In line with data protection legislation, you will also be given details on the reason for the examination, what the Company intends to do with the data obtained and the lawful basis for processing the data.

Should medical information be obtained by either route, the Company will meet with you to discuss it. There may be changes required to your work or the Company's processes because of the medical information obtained, in which case this will be discussed and agreed with you where business requirements allow. Any outcomes will subsequently be provided to you in writing.

### **Frequent and short-term absences**

#### **Trigger points**

Absence triggers enable the Company and line managers to address all absences and ensure absences are managed fairly and consistently.

The Company aims to apply these on a consistent basis but accepts that there may be times when these triggers need to be adapted to accommodate certain long-term or temporary medical conditions.

The absence triggers are as follows:

#### **Triggers for employees within their probationary period.**

<b>Criteria</b>	<b>Trigger</b>
Number of absence events	2 in a rolling 3-month period
Continuous calendar days of absence	5

#### **Triggers for employees who have completed their probationary period.**

Criteria	Trigger
Number of absence events	3 in a rolling 6-month period
Absence events totalling more than 10 working days (pro-rated)	In a rolling 6-month period
Continuous calendar days of absence	15

Any perceived pattern in sickness absence will also be considered a trigger, whether within or outside of the probationary period. A pattern could be, but is not limited to:

- The same day of the week
- Mondays and Fridays
- Days adjacent to annual leave
- Days adjacent to public holidays
- Absences coinciding with school holidays

Only one of the triggers needs to be reached for the line manager to be required to review your sickness records.

### Informal meeting

Your line manager should meet informally with you to discuss the fact that an absence trigger has been reached and to discuss necessary actions, such as considering a referral to Occupational Health; implementing reasonable adjustments that may be necessary in relation to disability or other medical condition; or any possible formal disciplinary action. The line manager may establish that there is an underlying medical condition, and it may be that advice is required from HR as to the best course of action to take. Should this be required, a further meeting will be held to discuss the outcome. Disciplinary procedures may not be necessary or appropriate in those circumstances.

A summary of the meeting will be kept on your personnel file and a copy given to you.

### Escalation to formal proceedings

Following the informal meeting, should no improvement be seen in the sickness absence and/or a further trigger point be reached, an investigation into the absence will take place with you. A meeting will be held to discuss the absences and again seek to establish if there is an underlying cause that needs to be accommodated and/or further investigated. Should this not be the case, your line manager may proceed to formal disciplinary action for high absence levels. The outcome may be a verbal warning or first written warning.

Following a formal warning, should further triggers be hit, and the absence level continues to be a concern, further investigations will take place. Should the outcome of the investigation be that the absence levels remain unacceptable, then further disciplinary proceedings may take place. Should the previous warning still be in place, this may be built on following disciplinary proceedings with a final written warning.

If there are regular or persistent absences due to illness, injury etc. the Company is unlikely to be able to support this indefinitely, after making reasonable adjustments. Ultimately, employment may be terminated after full compliance with the Company's termination procedures in these circumstances. See the dismissal section below for more information.

Should this happen, you will receive pay in lieu of your contractual or statutory notice period, whichever is longer, and any outstanding holiday pay. You may appeal against the decision to dismiss. Any appeal should be made in writing to the person named within the confirmation letter you receive within five working days. You have the right to be accompanied to the appeal hearing.

## Dismissal

Following a final written warning, should further triggers be hit, and the absence levels continue to be a concern, further investigations will take place. Should the outcome of the investigation be that the absence levels remain unacceptable, then further disciplinary proceedings may take place. Should the previous warning still be in place, this may be built on following disciplinary proceedings with a dismissal, following a full examination of the facts and where no reasonable adjustments are appropriate.

## Long-term sickness

While the Company is keen to assist employees who are absent, it cannot offer indefinite support. The Company will be eager to get any employees on long-term sickness absence back into the workplace as effectively as possible, but employment may need to be terminated if this cannot be achieved. Once you have exhausted your 28-week entitlement to statutory sick pay, or before, your line manager or someone from the HR department will discuss with you your likely return to work date and what work duties you may be able to fulfil. If necessary, the Company will ask for your permission to approach your doctor or ask them to consult with a medical practitioner of the Company's choosing, in order to determine the likely length of the absence and identify any reasonable adjustments. If it appears that a return to work in the near future is not reasonably practicable, the Company will discuss the situation with you and it is possible that your employment may be terminated under medical grounds.

The Company will usually require employees who have been absent for one month or more, or are expected to be absent for one month or more, to return some or all of your equipment. This may be requested so that the equipment can be redeployed to other employees. Equipment will be returned to affected employees immediately upon your return to work.

If there are regular or persistent absences due to illness, injury etc. the Company is unlikely to be able to support this indefinitely, after making reasonable adjustments. Ultimately, employment may be terminated after full compliance with the Company's termination procedures in these circumstances. See the dismissal section below for more information.

Should this happen, you will receive pay in lieu of your contractual or statutory notice period, whichever is longer, and any outstanding holiday pay. You may appeal against the decision to dismiss. Any appeal should be made in writing to the person named within the confirmation letter you receive within five working days. You have the right to be accompanied to the appeal hearing.

## Updates during sickness

You are expected to keep your line manager updated with details of your health and the expected date of your return to work.

Line managers will arrange periodic meetings with you to discuss your ongoing absence, so that each side is kept up to date with developments.

The location of these meetings will usually be at your usual place of work but, if a virtual meeting or home visit is necessary due to the nature of your absence, this can be arranged.

## Disability

The Company has a duty to make reasonable adjustments where you have a disability covered by the Equality Act 2010.

If the absence is because of a disability or the illness leaves you in a mental or physical condition which falls within the definition of a disability, the Company will do whatever it can to make reasonable adjustments to your job to enable you to carry on working. If effective adjustments cannot be made, dismissal may have to take place.

The duty to make the adjustments is 'reasonable' so if the suggested adjustment is not viable it will not be made. It may also be the case that no reasonable adjustments are possible to facilitate a return. There may be no alternative roles or employment available and if there is no prospect of you being able to return to work in the near future, it may be inevitable that a decision to dismiss is the last and only option.

### **Alternative employment**

If you are unable to continue in your current role due to ill health or disability, and no adjustments can be made, then the Company will make reasonable efforts to find suitable alternative employment within the Company. In these cases, your terms and conditions of employment may change from the current role to the alternative role and necessary training will be provided.

### **Ill-health dismissal**

This process would be considered if you are unable to carry out your current duties and there are no suitable alternative roles identified within the Company.

Prior to considering dismissal, the Company will:

- discuss the process with the you
- obtain medical opinion
- consider any adaptations that can be made to your current role in line with the requirement to make reasonable adjustments under the Equality Act
- consider any other suitable roles in the Company.

### **Dismissal meeting**

A formal invite letter will be sent to you inviting you to attend a dismissal meeting, informing you that a possible outcome of this meeting is a dismissal based on capability. You have the right to be accompanied at the meeting by a trade union official or a colleague.

At the meeting, your line manager will:

- discuss the reasons for your absence
- review the process so far in terms of support offered to allow you to continue in the role
- offer you the opportunity to raise any concerns with the process, provide evidence or make representations
- discuss the lack of availability of alternative roles
- ensure detailed notes are taken in the meeting.

If any new information comes to light in this meeting, the meeting will be adjourned to allow a full consideration of this information. The meeting will then be reconvened to inform you of the decision. Where a decision to dismiss is reached, this will be confirmed to you in writing.

You have the right to appeal against any dismissal decision. Further details on this right are set out in the Company's disciplinary and dismissal appeals procedure.

### **Payment arrangements and insurance**

#### **Statutory sick pay (SSP)**

You have a right to statutory sick pay (SSP) as long as you earn more than the lower earnings level (the HR department can confirm the current rate). SSP is not payable for the first three qualifying days of absence. (A qualifying day is a day on which you are normally expected to work under your contract of employment.)

There is a limit of 28 weeks SSP in any one period of sickness or linked periods. (Periods of sickness

are said to be linked if the second period starts within eight weeks of the end of the first period.) SSP payments are made subject to tax and national insurance deductions.

### **Company sick pay scheme**

For those who are contractually eligible, the Company offers Company Sick Pay up to 10 days full pay, including SSP, pro rata for part time team members. CSP runs on a rolling 12-month period and the entitlement is based on length of service. Payments such as commission, bonuses and other variable payments will not be made.

The amount of CSP you receive will depend on your length of service with the company:

- In the first 3 months of employment, you will not be eligible for company sick pay, you will be eligible for SSP.
- After 3 months of employment, you will be entitled to 5 days' company sick pay.
- After 6 months of employment, you will be entitled to 10 days' company sick pay.

CSP includes any entitlement you may have to SSP. Once payment from the Company ceases, you will still be entitled to SSP (for up to 28 weeks in total).

The Company reserves the right to refuse to pay CSP (including SSP) if it has reasonable cause to think that you are not genuinely sick, or if it has cause to believe that you are abusing the company sick pay scheme.

The Company sick pay scheme terms and conditions can be varied or revoked by the Company upon giving 1 months written notice, to be provided on any significant change to the entitlements and amounts due under the sick pay scheme.

### **Pre-booked annual leave and sickness**

Should you fall sick during a pre-booked period of annual leave, then you may ask for the annual leave period to be re-arranged. Should this arise, you will need to provide some form of medical proof of your sickness, such as a fit note. Where the annual leave is re-arranged, the original period will be treated as sick leave and be paid in accordance with the sick pay entitlements. Should this sickness absence lead to absence levels triggering the next stage in the above-mentioned procedure, then it will be dealt with accordingly.

### **Unpaid sickness**

Employees who are not eligible for SSP or for payments under the Company sick pay scheme will take that period of sickness as unpaid. No variable payments such as commission or bonuses may be paid and no basic pay shall be made.

Your annual leave entitlement will only accrue at your statutory entitlement under the Working Time Regulations 1998, i.e. pro rata up to a total of 28 days per annum. This includes public holidays.

### **Protecting employee data**

All personal data obtained during sickness absence procedures will be handled with the utmost integrity and confidentiality and in line with our data protection policy. Employees may be reminded of the types of data the Company holds, including data on health, and our practices in relation to that data by reviewing the Company's privacy notice which is available from your line manager.