



1. Introduction

This operational guidance has been produced to assist managers in fairly and effectively dealing with employees experiencing ill health. This and all associated policies and guidelines (see Appendix 3) should be read and understood to ensure that all employees experiencing ill health are treated fairly.

You should read this guidance alongside the Sickness Absence Management Policy and seek advice from your HR Employment Relations Adviser where you are in any doubt about the appropriate way to proceed.

Exclusions – conduct issues, which relate to sickness absence (para 2.1 in sickness absence management policy).

Certain situations relating to sickness absence should be dealt with under the relevant disciplinary policy at:

<http://www.nottingham.ac.uk/hr/guidesandsupport/performanceatwork/disciplinaryprocedures>.

These situations are generally where an individual has failed to follow the appropriate process or has abused the provisions of the sick pay scheme.

Some examples include:

- Claiming sick pay when absent due to another reason;
- Being absent without leave/authorisation;
- Failure to follow the sickness absence notification procedure;
- Failure to provide sick notes;
- Failure to attend Occupational Health interviews.

If you consider it a possibility that the situation should be dealt with as a matter of misconduct, please seek advice from your HR Employment Relations Adviser before taking any action.

2. Definitions

Short-term sickness absence is broadly defined as frequent, recurring periods of sickness absence, which do not relate to an underlying health issue. Short-term absences are likely to be self-certified; however, they can also be covered by a Doctor's certificate.

The absence of an employee due to sickness for **three periods of absence in a rolling 12-month period or 8 working days or more within the same period** will trigger a review of their absence record.

Long-term sickness absence, for the purpose of the sickness absence management policy, is defined as a continuous period of absence for **six weeks or more**.

3. Roles and Responsibilities

Managers

- To be responsible for recording and monitoring absence
- To ensure employees know the correct absence and notification procedures
- To be a point of contact when employees are off work
- To provide information to the employee regarding their sickness record
- To be aware of the triggers and take action accordingly when these triggers are reached
- To make employees aware of support mechanisms available such as the counselling service and Occupational Health where appropriate
- To consider reasonable adjustments eg a phased return from long-term sickness absence and implement where appropriate
- To know an employee's circumstances and, where possible, become aware of problems at an early stage
- To provide a safe working environment for staff

Human Resources

- To provide managers with guidance and support, as and where required, throughout the process
- To provide employees with advice on the policy and their entitlements
- To provide information to the employee regarding their sickness
- To advise the manager on the most appropriate course of action for the employee
- To advise on what further information should be sought eg from Occupational Health, in order to assist the manager in dealing with the employee's absence

Trade Union

- To advise employees who are their members at any stage of the process. In particular, accompanying them at the Formal meetings
- To be consulted on the policy

Occupational Health

- To provide specialist medical advice to managers and employees
- Providing advice on reasonable adjustments to be considered, where appropriate
- Identifying where an underlying medical condition exists and provide advice in relation to the condition and the employee's work
- To support the employees return to work and their continued attendance at work

Organisational & People Development

- To provide appropriate training for managers on effective and fair management of sickness absence (supported by HR from time-to-time)

4. Sickness Absence Notification

You must ensure that all employees are aware of whom they should contact if they are absent due to sickness and that they understand the Sickness Notification Procedure, particularly if you have local requirements. When staff initially phone in sick, you need to obtain certain information.

- What are the reasons for the sickness and the symptoms?
- Have they been to the doctor? If so, what was their advice?
- When do they expect to return to work?
- Agree how contact will be maintained should they be unable to return on the expected date
- Confirm, if needed, any current telephone numbers and/ or contact address

It is important to be sensitive in these discussions, particularly if the reason for the absence is stress/depression related. You should try to have this conversation in a place that is not readily overheard, so as to maintain the employee's privacy. You should also make a note that the conversation has taken place and perhaps any key points and retain for your information.

5. Maintaining Contact

It is important to keep in contact with an employee whilst they are absent due to sickness. Maintaining contact allows you to be aware of changes in an employee's circumstances, offer appropriate support and keep the employee informed of developments within the workplace. It also helps you to plan workload and manage cover arrangements during the employee's absence and make preparations for their return. This is particularly important where the employee is absent for an extended period of time.

You should ensure any contact is reasonable and necessary to avoid any perceived harassment/bullying. It is advisable to explain to the employee why you need to keep in contact; their responsibilities to keep you informed (detailed in the Sickness Notification Procedure) and agree with them how to maintain that contact and a contact number.

For example, following an initial discussion with the absent employee they submit a doctor's certificate for two weeks you may agree that they contact you towards the end of the two-week period to confirm their return to work or extension of sickness absence.

If the employee does not come in to work when expected, attempts should be made to contact the employee. If this is unsuccessful, you should contact HR to decide how to proceed. This is particularly important for migrant workers for whom there is a legal requirement for the University to inform the UK Visas and Immigration of any possible unauthorised absence. Please contact hr@nottingham.ac.uk if you have any concerns regarding this requirement or if you are unsure whether to contact someone.

6. Work-Related Stress

Always inform HR if an employee's medical condition is diagnosed by a medical practitioner (eg GP or OH doctor) as work-related stress. You should follow the Policy for Psychological Wellbeing and the Avoidance and Management of Stress, which details how to assess situations and advises on the management of such situations.

It is good practice to undertake this process where an employee attributes the cause of their absence to work-related stress during the return to work interview, or raises concerns about their workload or environment and its effect upon their health or ability to cope with the demands of their job.

7. Assisted Conception and Sickness Absence

Please see Appendix 2 for further information on how absence related to assisted conception should be treated where this results in sickness absence.

8. Statement of Fitness for Work

A member of staff is required to produce a Statement of Fitness for Work' (Med 3), also known as a 'fit note', if they are off work sick for more than seven days. On receipt of the statement, you should review the content in order to establish the most appropriate action to be taken.

The 'Statement of Fitness for Work' may state that an employee is 'unfit for work'. If this is the notified status, the current management process should continue and consecutive doctor's medical statements should be submitted by the employee. Please note: an employee is no longer required to obtain a doctor's medical statement of fitness to resume duties.

Where a doctor states that an employee 'may be fit for work', whilst taking account of the doctor's advice, the employee will be required to contact their manager and discuss the doctor's advice as soon as they receive this information.

The employee may be required to attend a meeting with you so that you can discuss the advice and decide whether or not this can be implemented and agreed. Examples of temporary adjustments to assist in a return to work could include a gradual increase in hours or work activities, flexibility in working hours eg different start/finish times and/or the removal of certain activities.

The doctors' advice can only be implemented with the employer's agreement. However, it is strongly recommended that the advice is considered in all cases. When considering the advice, you should take into account the feasibility of the suggestions, which may include, but are not limited to, the following:

- Is it operationally possible to accommodate?
- Can the duties within the role be varied?
- Is there any impact on pay?

If an employee does not make contact with you to discuss the advice, and you receive a doctor's medical statement, which suggests that, the employee 'may be fit for work', you should make contact directly with the employee and progress as above, as soon as you receive this information.

As part of the consideration of whether to implement any temporary changes, in line with the doctor's advice, you may decide to refer the employee to the University's Occupational Health service. A doctor may also state this on the doctor's medical statement. This should be done at the earliest opportunity. This may be particularly relevant where an employee does not agree with your view that a return to work can be supported. On receipt of the Occupational Health advice, you should consider this alongside the doctor's advice and discuss this with the employee. You may also wish to undertake a Health and Safety risk assessment.

Where you are considering advice, which is likely to impact on pay eg a return to work on reduced hours, you should discuss with your HR Employment Relations Adviser, who will provide you with the necessary advice.

Whilst in the process of gathering additional information the employee should be informed that they must continue to remain absent from work due to sickness, pending a decision.

If the doctor's advice can be implemented you should discuss this with the employee and explain that this is a temporary arrangement, discuss the timeframe, agree a start date and schedule a date for a review. The doctor should provide a timeframe as part of their advice. The details of the arrangements should be provided to the employee in writing. You should also complete and forward to the Payroll Office the [Statement of Fitness for Work discussion form](#) attaching the doctor's medical statement. This can be sent separately if the doctor's medical statement has already been forwarded.

If the doctor's advice cannot be implemented you should discuss this with the employee and follow-up in writing. Where an employee does not return to work on a supported basis the doctor's medical statement should be used as if the doctor had advised 'not fit for work'. Doctors' medical statements will continue to be submitted until the employee is well enough to return to work on their full contractual hours.

There are benefits to the University and the employee through supporting a return to work including a reduction in absenteeism levels and assisting an employee in a quicker return to work.

Further information is available on the Department for Work and Pensions web site at: <http://www.dwp.gov.uk/docs/fitnote-employer-guide.pdf> and incorporates an example of the 'Statement of Fitness for Work' (Med 3), case studies and frequently asked questions.

If you have any questions please direct to your relevant HR Employment Relations Adviser.

Return to Work

When an employee returns from any sickness absence, a discussion should be held in order to find out the reasons for the absence and whether they are likely to recur:

- Check whether the absence is being taken under the correct policy eg if the absence was to care for a dependent in an emergency this would be covered by the Special Leave Policy
- Let the employee know that they were missed
- Update the employee on any developments that have occurred during their absence
- Let the employee know if their absence has triggered any requirement for an informal or formal meeting under the policy
- Consider whether any adjustments should be made to assist the employee at work in the light of the medical information
- In the light of information eg relating to an accident at work, consider whether a risk assessment is required of the area and procedures

This discussion is informal and should be held as soon as practicably possible on an employee's return to work. It may in some situations be a quick chat eg if the sickness absence was very short and a full recovery had been made. Return to work discussions help to ensure that employees are aware that their absence has been noticed and their attendance is valued. It also allows you to discover any underlying problems that are causing the absence with a view to resolving them at an early stage, before the absence reaches problematic levels.

If you are concerned at any stage about the effects work may be having on an employees health, or the effects their health may be having on their work, please contact Human Resources and/or Occupational Health for advice. Referrals can be made to Occupational Health, at any time, where there is a need to gain that medical advice.

Inform the employee that you will be taking notes (where relevant) of the discussion and explain that the notes may be referred to in the future, where necessary. Notes may include requests for adjustments; informal arrangements in relation to agreed adjustments; reasons why adjustments could not be made; concerns raised by the employee or any actions that should be followed up after the discussion. There is no reason why the record of the meeting should not be shared with the employee, and good practice suggests that you should do, and agree the content. A suggested [Return to Work Form](#) for these notes should you wish to use one. Any notes made should be stored in a confidential manner.

9. Managing Sickness Absence

You should be sensitive when dealing with sickness absence and the University assumes that ill health is genuine unless there is evidence to the contrary, the reason for taking any action will therefore relate to the impact on the employee's ability to carry out their role and will not be because of their illness itself.

The detail of the reason for a person's absence is sensitive personal data. There are extra obligations under the Data Protection Act to ensure that such information is kept securely and only made available to others on a strictly need to know basis. You should consider carefully whether, for example, other colleagues need to know the detail of a medical condition that an individual has or whether the impact alone can be discussed. An illustration of this is that you may want to discuss an employee's need for extra support from colleagues on their return rather than explaining that they have been absent due to a particular condition.

Short-term Absence

If an employee meets the triggers under short-term absence, you will be required to review the case.

Informal Counselling Meeting

In an informal counselling meeting, the employee should be made aware that the meeting is informal and given a copy of the Sickness Absence Management Policy if they have not previously received a copy.

You will need to make a decision about the best way forward once the informal counselling meeting has been undertaken. The way in which you manage the case will be based on the information that you have obtained during the meeting.

Should it become apparent from medical evidence that the employee may be suffering from an underlying medical condition the long-term or short-term repeated absence with an underlying health condition section within the policy should be followed. The medical advice will be able to distinguish which absences are related to the condition. In addition to those absences, if there are other absences that are not related to the condition these should be considered within the attendance review period and triggers.

Long-term or short-term repeated absence with an underlying health condition

Once an employee has been absent for a period of six weeks, or the doctor's certificate indicates that they will be absent for a period of six weeks or more, contact HR for advice and this may include arranging a formal attendance review meeting.

Advice on the effects of an employee's health condition on work, and the effects of work on their health condition, should be gained from appropriate medical information. Occupational Health can offer qualified judgments on medical issues and you should refrain from making such judgments yourself, wherever possible.

Should the medical advice involve consideration of reasonable adjustments, which may facilitate a return to work or improved attendance, these should be considered.

In a case where there is an underlying health condition and prognosis is not favourable, you should have further formal meetings with the employee as appropriate on advice from HR.

Occupational Health may advise that the employee is not fit and is unlikely to be fit to do their current role for the foreseeable future even in consideration of reasonable adjustments. However, Occupational Health may advise that the employee is fit to undertake less or alternative duties, in the latter case HR may advise that the employee register on the redeployment list.

10. Occupational Health referrals

An Occupational Health referral can be made in the following ways:

- Self (employee) referral, where an employee gains confidential advice. This advice is not automatically made available to the manager
- Manager referral, where a manager has a reasonable concern about the impact of an employee's health condition
- HR referral, usually during formal proceedings under the Sickness Absence Management policy. However, HR can make referrals at any stage

11. Annual leave and sickness absence

If an employee is sick during a period of annual leave (or if a pre-booked period of personal annual leave falls whilst an employee is off sick), he or she cannot receive both sick pay and holiday pay for the same period of time. If the employee follows the sickness notification procedure and reports that they are sick during a period of annual leave, that period should be recorded as sick leave.

It is not generally appropriate to allow an employee to re-designate a period of sick leave as annual leave simply to avoid loss of pay where they are not eligible to receive or have exhausted their sick pay.

See further guidance on annual leave at:

<http://www.nottingham.ac.uk/hr/guidesandsupport/absenceandannualleave>.

11. Other information

Pay: An employee who is absent from work for a long period may enter a period of half-pay or no sick pay when their entitlement is exhausted. In these cases, they still need to provide doctor's certificates to certify their absence, and you will need to forward them to Payroll as soon as you receive them.

Records: An employee's absence record should be available for reference during a return to work discussion and other meetings under the policy where necessary. Records can be produced from the Business Intelligence Portal.

Notice of a meeting: Employees will be given no less than three working days' notice of a formal meeting. However, should the employee be unable to attend or cannot be accompanied by a work colleague or a trade union representative on this date, the meeting will be arranged for an alternative date, but only once.

Home visits: In some cases, as an exception, it may be more appropriate to meet an absent employee in their own home. This should only be done following advice from the HR Employment Relations Adviser. Home visits should never be undertaken unaccompanied and can only be undertaken with the express permission and agreement of the individual and by prior arrangement.

Part day absences: If an employee is absent for part of the working day, they will receive normal pay rather than sick pay and the absence will not be recorded on the Business Intelligence Portal. However, you should still record the absence and include it as part of the absence triggers detailed in the policy. Where there are patterns of part-days in an employee's absence record, you should explore the reasons for this. There may be other contributing factors for this pattern of absence, which may include:

- Avoiding receipt of sick pay
- Avoiding triggers
- Personal commitments
- An underlying health condition

If an employee is absent due to sickness resulting from an accident at work or pregnancy related ill health you should still apply the triggers consistently and review any appropriate action based on the information available at the time.

The Legal Position

Disability in the Equality Act 2010

Disability is defined in the Equality Act 2010 as a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities, which would include things like using a telephone, reading a book or using public transport.

The Equality Act places additional responsibilities on employers where the employee suffers from a disability. In practical terms, this means that if an employee is persistently absent because of ill health due to a disability, then you should consider making reasonable adjustments to an employee's working environment in order to accommodate them. Even if the employee's condition does not fall under the definition of a disability, but the medical advice is that they have an underlying medical condition, it is advisable to see what can be done to improve the attendance and productivity of an employee.

Possible reasonable adjustments include:

- making adjustments to premises
- reallocating work
- transferring someone to another post or place of work
- being more flexible about hours, possibly allowing additional time off work for rehabilitation, assessment or treatment
- providing training
- providing specialised equipment
- making instructions and manuals more accessible
- using a reader or interpreter
- providing more supervision

The requirement is for 'reasonable' adjustments. What is 'reasonable' depends on the individual situation and the size and resources of the organisation. For example, it may not be practicable to fit lifts in a building for the use of one employee because the costs could be prohibitive. In this case, it might be more reasonable to resolve the problem by changing the employee's workstation to a more accessible location.

Assisted Conception and Sickness Absence

Having treatment to assist conception can be difficult emotionally and physically. If the employee becomes sick or unwell as a result of their treatment, they should follow the usual sickness absence procedure (<https://www.nottingham.ac.uk/hr/guidesandsupport/absenceandannualleave/sicknessabsence/index.aspx>). Any sickness absence, which is directly attributed to the fertility treatment itself (eg direct physical side effects from the treatment), will not normally be used as a trigger for the sickness absence procedure.

Managers should be flexible to allow staff to work around their appointments and recovery time where possible (for example allowing the employee to work from home if they are unable to drive immediately following treatment or changing working patterns where operationally possible).

Finding out the fertility treatment was unsuccessful, can be a challenging and disappointing time for the employee. If the employee does not feel well enough to attend work as a result of this, they should follow the usual sickness absence reporting procedure. Many fertility clinics also offer their own counselling service that is geared towards infertility, which employees may wish to explore. Employees can also access the [University Counselling Service](#) and/or [Employee Assistance Programme](#), which may be helpful during this time.

Associated Policies & Guidelines

- Psychological Wellbeing and the Avoidance and Management of Stress Policy
<http://www.nottingham.ac.uk/hr/guidesandsupport/healthandwellbeing/psychologicalwellbeing>
- Alcohol and Drugs Policy
<http://www.nottingham.ac.uk/safety/documents/alcohol-policy.pdf>
- Counselling Service
<http://www.nottingham.ac.uk/counselling>
- Nottingham Occupational Health Service
<http://www.nottingham.ac.uk/hr/guidesandsupport/healthandwellbeing/occupational-health/occupational-health.aspx>
- Policy on Dignity within the University
<http://www.nottingham.ac.uk/hr/guidesandsupport/complaintsgrievanceanddignity/dignity>
- Disciplinary Procedures
<http://www.nottingham.ac.uk/hr/guidesandsupport/performanceatwork/disciplinaryprocedures/index.aspx>
- Sick Pay Schemes
<http://www.nottingham.ac.uk/hr/guidesandsupport/absenceandannualleave/sicknessabsence/sickpayscheme>
- Health and Safety Policy Statement
<http://www.nottingham.ac.uk/safety/safetyhandbookstatement.htm>