

SICKNESS ABSENCE POLICY & PROCEDURE

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1. SICKNESS ABSENCE MANAGEMENT POLICY

The University recognises and accepts its obligations in respect of employees experiencing ill health. This policy will ensure that sickness absence is dealt with fairly and that decisions are made based on the information available at that time.

This policy should be read in conjunction with the following related policies:

- Psychological Wellbeing and the Avoidance and Management of Stress Policy;
- Alcohol and drugs policy;
- Dignity within the University policy.

Throughout this policy the University assumes that ill health is genuine unless there is evidence to the contrary, the reason for taking action will therefore relate to the capability of an employee and will not be because of their illness.

Capability is defined in Section 98 (3)(a) of the Employment Rights Act 1996 as follows: "capability, in relation to an employee, means his (cap)ability assessed by reference to skill, aptitude, health or any other physical or mental quality."

The aims of this Sickness Absence Management Policy are to:

- provide a framework to support employees who are unable to work due to illness and assist them back to work as quickly as possible;
- reduce the impact on other work colleagues when covering for colleagues who are absent
- secure the attendance of employees in order to minimise the cost and effects of sickness absence and to maximise operational efficiency in all areas.

The policy also makes provision for disability leave which is recognised as a separate absence type from sickness absence.

2. EQUAL OPPORTUNITIES

The University values the diversity of its people and is committed to promoting equal opportunities and eliminating discrimination. Therefore staff will apply and operate this policy fairly and in doing so ensure that there is no discrimination on the grounds of gender, race, disability, age, religious or political belief, sexual orientation, trade union membership/activity or marital status.

3. SCOPE

This policy applies to all University staff.

3.1 Exclusions

The University seeks to support employees who are temporarily absent due to sickness. However, regrettably, there are occasions when employees abuse the sick pay provision or fail to follow the notification procedures. As potential disciplinary issues these will be dealt with through the relevant Disciplinary Procedure. Examples include:

- abuse of the sick pay regulations e.g. claiming sick pay when absent for other reasons;
- absence without leave.

N.B: Absence during a probation period will be dealt with under the probation process and is therefore outside the scope of this policy.

4. SICKNESS ABSENCE NOTIFICATION

All staff should follow the Sickness Notification Procedure at Appendix 1. Failure to follow this procedure may result in sick pay being delayed or disallowed and may lead to action being taken under the relevant Disciplinary Procedure where an employee is failing to follow the procedures.

5. MANAGING SICKNESS ABSENCE

Staff who are absent from work due to illness will be treated sympathetically and the University will seek to support staff in their recovery.

When dealing with absences, either short-term or long-term, it is difficult to apply definitive triggers at which an employee's attendance is viewed as unsatisfactory, as each case has its own particular circumstances. However, if the number and length of sickness absences reaches the short-term (detailed in Para 7.1) or long-term triggers (detailed in Para 8.1), a review of an employee's sickness absence will be undertaken.

The manager should follow the University absence reporting process at the following link: <https://absencereporting.nottingham.ac.uk>. Once the process is submitted this will be forwarded automatically via email to payroll. A blank self-certification form will be forwarded to the manager to arrange completion on the employee's return to work.

The University reserves the right to refer staff for an Occupational Health assessment and for them to undertake any appropriate medical examinations, should this be deemed necessary. After any referral, the Occupational Health Unit will provide the University with a report, giving an opinion based on the medical evidence, on the individual's ability to carry out their specific role.

5.1 Maintaining Contact

The manager and the employee should maintain contact whilst the employee is absent from work due to illness. This will usually be by telephone, in the first instance, but subsequently by agreed mechanism and agreed frequency.

Where the illness is likely to be self-certified only e.g. for a period of 7 days or less, then contact arrangements may not be necessary.

Where the absence is diagnosed by a medical practitioner as work-related pressure (stress) the manager should seek to make contact with the employee as soon as practicably possible.

Referral should be made to the Policy for Psychological Wellbeing and the Avoidance and Management of Stress.

In all cases, contact should be approached sensitively and should be clearly focused on the employee's health and wellbeing and their return to work. The HR Employment Relations Adviser should be contacted for advice.

6. RETURN-TO-WORK

On return to work from sickness absence every employee is required to complete a Self-Certification form.

The University believes that maintaining an open and, where possible, informal dialogue with employees regarding their absence is a fundamental part of good management practice.

This dialogue:

- a. Allows the manager to offer support to the employee where appropriate and at the earliest opportunity;
- b. Enables the early identification of any issue which may be impacting on an employee's ability to attend work (such as an underlying health reason);
- c. Ensures that the employee is aware of the University's expectations regarding attendance and the operation of this policy;
- d. Establishes whether a risk assessment should be undertaken under the Policy for
- e. Psychological Wellbeing and the Avoidance and Management of Stress

The type of the support that needs to be offered, depending on the particular circumstances, may include:

- a. Making the employee aware of the support available through the Counselling Service and
- b. Occupational Health;
- c. Making short or longer term adjustments to their role (e.g. reducing lifting requirements
- d. Following a broken arm or agreeing a phasing in of certain tasks);
- e. Addressing any other work related issue which is contributing to absence (such as a poor
- f. working environment or relationships);
- g. Considering permanent reasonable adjustments where it has been identified that the
- h. Employee has a disability (see section 9).

For these reasons, it is expected that a discussion will be held immediately upon an employee's return to work regarding their recent absence regardless of the length/reason for the absence.

The return-to-work discussion is intended to be an informal meeting however it is good practice to make a note of the key points. This would include the fact that it has taken place and any issues that need to be taken forward (e.g. any temporary adjustments to be implemented or that the employee had been made aware of the absence triggers).

During a return-to-work discussion it may become apparent that specific Occupational Health information is needed by the line manager to enable them to manage the return to work appropriately. In this situation they will refer the employee to Occupational Health for an assessment. In exceptional circumstances, it may be appropriate to obtain a medical opinion from a General Practitioner or specialist rather than from Occupational Health, where the provision of the Access to Medical Records Act 1998 will apply, further information can be found at the following link:

<https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice>

Advice should be sought from the HR Employment Relations Adviser where a referral is required.

Where the absence is diagnosed by a medical practitioner as work-related pressure (stress) reference should be made to the Policy for Psychological Wellbeing and the Avoidance and Management of Stress, in particular Appendix 4: Arrangements for conducting a return-to-work risk assessment for stress. The manager should seek to complete the assessment jointly with the employee and, where possible, for this to be undertaken prior to the employee's return to work.

7. MANAGING SHORT-TERM ABSENCE

7.1 Definition of Short-term absence

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. Part day absences may count towards these triggers.

7.2 Reviewing a short-term absence case

Where the triggers outlined in 7.1 above have been reached the manager will need to review the case. Whilst reviewing a case the manager should take the following factors into account:

- whether the absences relate to sickness arising from a disability/or an underlying health condition (see section 8 for further information);
- whether there is a likelihood of a reoccurrence
- whether the absence record indicates a trend/pattern of absence e.g. before or after holidays, following weekends or non-working days;
- where information given at the return-to-work discussion raises concerns about the absence;
- where there has been failure to follow the Sickness Notification Procedure, especially if on
- repeated occasions reminder/s have been given;
- absence records linked to a recently completed probation period.

This list is not exhaustive and any other relevant information could be used in the review. When reviewing a sickness absence case the manager may find it useful to make reference to other University policies/procedures such as the Policy for Psychological Wellbeing and the Avoidance and Management of Stress and the Alcohol and Drugs Policy.

A review will allow a manager to decide, based on the individual case, how best to proceed. Depending on the circumstances the manager may decide to:

- a. Take no further action;
- b. Undertake an informal counselling meeting;
- c. Initiate a Formal Attendance Review Meeting.

The HR Employment Relations Adviser can provide advice and guidance at any point during the review as required.

7.3 Informal Counselling Meeting

Where an informal counselling meeting is considered to be the best approach to deal with the short-term absence, the manager should meet with the individual on a one-to-one basis. The sickness absence record should be discussed by the manager and employee. The employee will be given the opportunity to explain the reasons for their absence. At the end of the informal counselling meeting the manager will make a decision on how to proceed, either deciding not to progress further or alternatively deciding to monitor and set an Attendance Review period, (as a guideline minimum of 3 months and a maximum of 9 months), the same as that detailed in this guidance at 7.4. The employee should be informed of the decision at this meeting and, where a review period is set, clearly informed that failure to improve attendance during the review period is likely to lead to a Formal Attendance Review Meeting.

Consideration should again be given to the referral to support functions e.g. Counselling Service or Occupational Health.

A summary of the informal counselling meeting should be given to the employee following the meeting and a copy should be retained on the employee's file.

7.4 Formal Attendance Review Meeting

Where informal counselling has failed to address the issue or where the manager has considered informal counselling to be inappropriate, a Formal Attendance Review Meeting will be arranged.

The employee will be informed of the meeting in writing no less than 3 working days prior to the meeting. The letter will highlight that the employee can be accompanied by a Trade Union Representative or colleague. The HR Employment Relations Adviser will also be present. The manager will offer the employee the opportunity to explain the reasons for their absence, and explore any work related issues or other factors which are leading to the high levels of absence. The manager or individual should refer to the available Occupational Health advice. In addition to this it is essential that all operational aspects are considered and other relevant information related to the absence is reviewed.

On conclusion of the discussions the manager, with advice from the HR Employment Relations Adviser, will decide how to proceed. The manager may decide that no further action is required and record the outcome in a letter. A letter should be sent to the employee following the meeting and a copy retained on the employee's file.

Where the manager decides that the employee has not given adequate reasons for their absence, an outline of the improvements expected of the employee during a set timeframe (as a guideline minimum of 3 months and a maximum of 9 months) will be decided and communicated to the employee; this is referred to as an Attendance Review period. The length of the Attendance Review period will be decided based on the individual case.

During the Attendance Review period the employee may be required to:

- show immediate and sustained improvement;
- meet an attendance target;
- follow reporting procedures at all times during the Attendance Review period;

The above list is not exhaustive and more than one mechanism can be used where relevant to the employee's case.

An employee's attendance within the Attendance Review period will be closely monitored and failure to meet the agreed improvements may trigger an investigation meeting, as detailed in 7.5.

7.5 Investigation Meeting

The purpose of the investigation meeting is to determine what course of action should be taken next and will be managed in accordance with the relevant disciplinary procedure, which can be found at <http://www.nottingham.ac.uk/hr/guidesandsupport/performanceatwork>.

It may be that the evidence shows that there is an underlying health condition. If this is the case Section 7 of this policy should be referred to. It is the decision of the investigating manager, with advice from the HR Employment Relations Adviser, to decide how to progress the case.

Although the structure of the investigation meeting and any subsequent formal action will follow the format of the disciplinary process, sickness absence itself will not be treated as misconduct. However, sickness absence may result in disciplinary action being taken due to issues of ongoing capability.

7.6 Formal meeting following an investigation meeting

If the outcome of the investigation meeting is for action to be taken, the process of the formal meeting detailed in the applicable disciplinary procedure should be undertaken. Where the outcome of this meeting leads to a sanction being imposed the sanctions within the applicable disciplinary procedure should be applied. At this stage, due to the informal and/or formal absence management under this policy, the sanctions will be applied in-line with the relevant disciplinary procedure. See the Procedures and relevant sanctions via the web links at 7.5.

Where applicable the Chair of the formal meeting, will set an appropriate improvement standard/s, with advice from the HR Employment Relations Adviser, and will inform the employee of this standard. The case outcome will then be communicated to the manager, so they can monitor and assist the employee where needed against the improvement standard/s.

8. LONG-TERM OR SHORT-TERM REPEATED ABSENCES WITH AN UNDERLYING HEALTH CONDITION

8.1 Definition of long-term

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

8.2 Managing long-term, or short-term repeated absences with an underlying health condition

Managers should consult the HR Employment Relations Adviser for advice in cases of long-term absence, or repeated shorter periods of absence arising out of a single or underlying illness.

Every assistance will be given to the individual, particularly in cases of prolonged absence, and the manager in such cases should:

- a. Maintain supportive and sensitive contact;
- b. Encourage and advise the employee to seek guidance from their HR Employment Relations Adviser,
- c. Suggest a referral to an Occupational Health Service (via HR) or the Counselling Service;
- d. Members of staff may also wish to contact these services for themselves for advice or assistance;
- e. Advise that the Trade Union can often be of assistance.

It is likely that all these cases will be referred to Occupational Health for advice as to the nature and prognosis of the illness.

8.3 Formal Attendance Review Meeting

The purpose of this meeting will be to ascertain the nature and extent of the illness. It is likely that all these cases will be referred to Occupational Health for advice as to the nature and prognosis of the illness.

The employee will be informed of the meeting in writing no less than 3 working days prior to the meeting. The letter will highlight that the employee can be accompanied by a Trade Union Representative or colleague. The HR Employment Relations Adviser will also be present. In some cases it may be more appropriate to meet with the employee at their home; this will be stated in the letter and will only be by agreement with the employee.

8.4 Monitoring long-term or short-term repeated absences

The assessment of the employee's illness, particularly the Occupational Health advice, will provide an indication of the amount of time that should be given for an employee's health to improve, particularly in prolonged long-term absences for any treatment and/or recuperation time needed to be taken into account.

In deciding the appropriate course of action the manager will weigh up such factors in the context of the needs of the service. However, while the manager will often be in a position to determine the appropriate course of action before the sickness absence has reached six months, it is acknowledged that there will be occasions where this is not possible.

Both the manager and the HR Employment Relations Adviser are jointly responsible for investigating possible alternative duties (redeployment) or giving consideration to making reasonable adjustments. Reasonable adjustments can include such things as improvements to work equipment, adjustment to working hours or graduated return to work after a long period of absence. Any reasonable adjustments will be considered on a case by case basis.

If the prognosis is favourable and there is a likelihood that the employee will be able to return to work the manager will consult with the employee to achieve this, making any changes as appropriate, with advice from the HR Employment Relations Adviser, or other professional or expert support as appropriate.

If the prognosis is unfavourable (after consideration has been given to all the available evidence, including: the medical evidence, likely length of absence, any risk to the University and other employees, redeployment options, reasonable adjustments and ill health retirement) the employee will be asked to attend a subsequent meeting. The employee will be informed of the meeting in writing no less than 3 working days prior to the meeting. The letter will highlight that the employee can be accompanied by a Trade Union Representative or colleague.

The HR Employment Relations Adviser will also be in attendance. At this meeting the manager will inform the employee that the School/Department is unable to sustain the continued absence.

8.5 Ill Health Retirement

The employee may wish to consider making an application for ill health retirement, if they are in a Pension Scheme (with the exception of CRSP as it has no provision for Ill Health Retirement). It should be noted that the criterion for ill health retirement is having a medical condition that is permanent or likely to last until 65 years of age. Where an employee clearly has a condition that does not meet this criterion, ill health retirement should not be suggested as that would raise unrealistic expectations. However, where an employee decides that they would like to make an application for ill health retirement then the HR Employment Relations

Adviser should assist the individual in pursuing that application. Quotes from the Pensions providers should be obtained via HR. In these cases there is no requirement to delay proceeding with Section 8.6 below.

8.6 Termination on the grounds of capability

Termination of employment on the grounds of capability will be a last resort, having satisfied the criteria set out below:

- a. contact and assistance, or attempted contact*, has been provided throughout the employee's illness;
- b. adequate medical evidence is available which indicates a return to work is unlikely within a reasonable time frame;

- c. the employee has been fully consulted and given an opportunity to respond at each stage;
- d. consideration for suitable alternative employment has been exhausted;
- e. any feasible modifications to the working area and/or role have been exhausted;
- f. consideration of ill health retirement.

* Where the employee is failing to make contact despite attempts by the University, the University will proceed to make a decision to terminate based on all available information.

A formal meeting will be held as detailed in this guidance at Section 7.6.

9. DISABILITY LEAVE & DISABILITY RELATED SICKNESS ABSENCE

The University is committed to ensuring reasonable measures are taken to remove any identified disadvantage for disabled employees and to support and retain disabled employees in employment.

9.1 Disability Leave

The Equality Act specifically identifies the provision of leave as a reasonable adjustment where a disabled person needs to be absent from work for "rehabilitation, assessment or treatment", for a fixed period(s) of time known in advance. This can be termed as disability leave.

The usually predictable and fixed nature of disability leave distinguishes it from disability related sickness absence, which is unpredictable and for unknown periods of time, although there may be occasions where disability leave has to be taken at short notice and/or is unpredictable, in which case flexibility should be applied.

Examples of disability leave may include leave for:

- Assessment for conditions
- Training, for example with a guide or hearing dog or in the use of specialist equipment
- Medical appointments or specialist check-ups including monitoring of related equipment or treatment
- To allow time for adjustments or adaptations to be made

Where possible, disability leave appointments should be made outside of working hours, however the University recognises that scheduling of appointments is sometimes outside of the individual's control, in these cases paid time off will normally be granted. The manager/supervisor may reasonably request to see evidence of the appointment(s) and it is expected employees will work with their line manager to consider how any impact on work can be mitigated with the expectation that regular attendance at work will continue.

Employees should use the disability leave application form to make all requests for disability leave. The completed form should be sent to their manager for approval.

9.2 Disability Related Sickness Absence

The University recognises that some disabled employees' impairments may result in some sickness absence. Employees should have discussed their situation with their manager (or the HR Employment Relations Team) including the issue of there being some absence. Accommodating this absence may then be undertaken as a reasonable adjustment (and triggers etc. adjusted). Disability related sickness absence will still be recorded and monitored in discussion with the employee including whether there are any other reasonable adjustments that can be made to support the employee's attendance.

If a person is absent due to illness or injury for an impairment related reason, payment for the absence comes from the entitlement to sick pay.

The reason for the absence as provided either on the Statement of Fitness for Work or the Sickness Absence Self-Certification Form will be recorded on the University's recording systems. If following return to work or related discussions with the individual any particular absence is connected to their disability then this may be recorded as disability related sickness absence.

It may be a reasonable adjustment to consider how disability related sickness absence is treated under the University's absence management triggers. For example a period of disability related sickness absence might be excluded for the purposes of considering whether triggers should be set because of an individual's absence levels (as per section 6.2 and 7.4). However this will be a case by case decision depending on the circumstances.

9.3 Reasonable Adjustments

If an employee becomes disabled or their disability worsens, the University is under a legal duty to consider making reasonable adjustments as a means of enabling the employee to continue to carry out their role and to support any identified disadvantage being removed. More information relating to this is included in the Guidance for Managers in Supporting Disabled Staff.

Whilst adjustments are unique to the individual's situation some examples to support any identified disadvantages being removed may include;

- Acquiring or modifying equipment – e.g. adapted keyboards or telephone
- Providing training – to use specialist equipment
- Changing location to a more accessible office
- Altering hours of work i.e. to assist with travelling
- Reduced hours
- Providing reasonable adjustment to role responsibilities
- Reasonable adjustments to premises

The Manager should discuss with the employee the question of appropriate reasonable adjustments which could be made. All agreed reasonable adjustments should be reviewed by the employee and manager regularly.

It may be appropriate for the line manager to seek professional advice to help make an informed decision in relation to reasonable adjustments. Where the manager does need to seek advice this should be facilitated in consultation with the HR Employment Relations Team, who may recommend a referral to the University's Occupational Health Service for more specific medical advice.

Advice should be sought from the HR Employment Relations Team around considerations for trigger point management in disability related sickness absence cases. This is to ensure appropriate consideration of reasonable adjustments can be made as applicable, with appropriate regard for the individual case and in support of the removal of any disadvantage to the employee which arises as a direct result of their disability.

Where an individual has had disability leave or disability related sickness absence, it may be that as a reasonable adjustment this is not taken into account when applying other University processes, e.g. performance, promotion etc. However this will be on a case by case basis depending on the particular circumstances.

10. ROLE OF AN OCCUPATIONAL HEALTH SERVICE

An Occupational Health Service provides advice to members of staff on a number of issues, ranging from advice on sickness absence to health education. Any Occupational Health Service has a duty to maintain confidential information and observes the Access to Health Records Act 1998.

Occupational Health provides a service to University managers by providing them with a confidential report, giving an opinion, based on the medical evidence, on the individual's ability to carry out their specific role. Occupational Health may on occasions need to seek "external" specialist medical advice e.g. from a specialist consultant or a GP. Such medical reports will only be sought with the written informed consent of the staff member. The staff member may obtain a copy of this report by approaching Occupational Health directly or may indicate, at the time of consent, to have sight of this before the "external" Specialist sends it to Occupational Health.

Occupational Health will usually give the staff member's manager work advice using general terms only without needing to pass on confidential medical information. It is, therefore, not necessary for the staff member's manager to have sight of confidential Medical Reports. Confidential medical information will only be passed onto the staff member's manager with the individual's full knowledge and informed consent.

If a staff member does not consent to Occupational Health obtaining a specialist medical report or withdraws consent for the use of this information by Occupational Health, then Occupational Health will inform the manager of this. Occupational Health can advise the manager whether the individual is fit or unfit for work but can give a more informed opinion if more detailed specialist medical advice, where appropriate, has been sought. Where consent has not been given to Occupational Health, by the member of staff, to either obtain or use specialist medical advice, the manager will be made aware of the limitations of their advice.

11. PROCEDURE AGREEMENT

This procedure has been agreed by the recognised trade unions (at present UCU, Unison and Unite) under the Collective Bargaining process as described in the Recognition Agreements and Trade Union and Labour Relations (Consolidation) Act 1992 s178.