

Attendance Procedures – Additional Guidelines for Managers

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Appendix I Urgent Contact Letter

Appendix II Suspension from Company Sick Pay Scheme

The full procedures for attendance and how we manage employees with a disability are detailed in the Absence Reporting, Attendance at Work, Sick Pay and Disabled Persons policies. These additional guidelines are designed to give further assistance to managers to clarify some specific issues.

1. Suspension from Company Sick Pay

If the employee is entitled to Company sick pay but the manager feels that following an investigation, where appropriate, there is a reason to suspend them from the scheme, as detailed in Section 7 of the Sick Pay policy, they must contact the Area Human Resources Manager (AHRM) before taking any action. Once the Line Manager and the AHRM have agreed to suspend an employee from the Sick Pay Scheme the Line Manager must inform the employee in writing of the reason(s) for suspending them from the scheme and complete the suspension from Company Sick Pay Scheme form (Appendix II) and forward to the Payroll Department.

In cases where the suspension from sick pay is proposed because the manager is not satisfied with the reason for the absence even though the employee has provided Doctor's certificates, the Manager should send the employee to Occupational Health for a second opinion as part of the investigation.

Where the employee wishes to appeal against the decision to suspend them from the Company Sick Pay Scheme, they should do so using the Company's Grievance Procedure.

2. Triggers

2.1 Employees who Trigger Unacceptable Levels of Non-Attendance

All employees who trigger must be investigated to determine what action is appropriate; this includes employees who have returned from long term sick. It must be remembered that the fact that a sickness is genuine is not in itself sufficient grounds to exclude it when determining what action to take.

2.2 Informal Action

To ensure the AAW policy is applied consistently across the Company all types of absence, except pregnancy related, will be included in the triggers for informal action.

When an employee triggers for the first time the manager / supervisor should meet with them informally to discuss their absence. Where the employee has triggered for a reason such as an assault or major hospital treatment the manager / supervisor should still carry out the informal stage but make it clear to the employee that if they trigger again this will not automatically mean that they would be moved to the formal process, they may be seen again under the informal process.

2.3 Types of Absence That Will Not Normally Count Towards Trigger Levels When Considering Formal Stages

When considering formal action, the following types of absence will not normally count towards unacceptable levels of non-attendance trigger levels:

- Absence resulting from an employee who has been assaulted while on duty through no fault of their own
- Major hospital treatment to rectify / improve an underlying medical condition (this does not normally include cosmetic surgery). Each case is different and should be reviewed in line with the individual circumstances, (refer to your AHRM for guidance). If you are at a hearing when this is applicable, (if there is no HR representative in attendance) the Hearing Officer can seek HR advice.
- Absence directly related to pregnancy
- Absence directly related to the Company's drugs and alcohol rehabilitation and counselling programme (only whilst the employee is on the programme)

2.4 Manager's Discretion when Considering Formal Action

The manager does have discretion, if they feel it is appropriate, taking into account an individual's overall attendance and performance and the seriousness of the illness or injury, but must try to ensure that a consistent approach is exercised to all employees.

To assist with the consistency across the Company, if unacceptable levels of non-attendance have been triggered and the manager decides not to take any formal action, they must make out a report stating the reasons for their decision and send it to their manager and the AHRM.

2.5 Employees with an Underlying Medical Condition

Where an employee has an underlying medical condition and the manager is concerned that the number of absences is excessive, they should discuss the case again with the AHRM and Occupational Health

2.6 Who Should Carry Out the Relevant Stages Of AAW

The employee's immediate supervisor / manager may carry out the informal stages. The employee's Manager may chair Formal Stage 1 and Stage 2 and the Manager's Manager may chair Formal Stage 3.

All appeals should be carried out by different managers who have not previously been involved at any stage.

2.7 Release for an Employee to Attend an AAW Hearing

When an employee is requested to attend a Stage 1 or Stage 2 AAW hearing or an appeal at these stages they may be released for up to 1 hour prior to the hearing to meet with their companion (if requested) and for the duration of the hearing.

Employees will normally be released for the whole day to attend a Stage 3 AAW hearing.

3. Employees on Probation

It is not always necessary to carry out the full AAW procedure with employees who are on probation. Probationary arrangements give full details of the procedure to follow.

The following are guidelines of how you may manage the attendance of an employee during the probationary period where there are no underlying medical conditions.

1. When the employee triggers unacceptable levels of attendance, carry out the informal process of AAW.
2. Next occasion they are sick (do not have to wait until they trigger again) arrange a meeting and inform them that their attendance is still unsatisfactory and warn them that if it doesn't improve their continued employment with the company may be considered.
3. Next occasion they are sick follow the process stated in section 6 of the Probationary Arrangements Policy on Workmate (this will normally be when they have triggered for AAW Stage 1).

In cases where number 3 above happens shortly after the first 6 months, contact your AHRM for advice on what action is appropriate.

4. Notification of Absence by the Employee

The initial notification of absence must be by personal contact on the phone as soon as possible, but at least one hour before the employee's shift is due to start. It is not acceptable for an employee to notify their manager of their absence via a text message or an e-mail.

Employees should also refer to their terms and conditions and / or local instructions for any specific arrangements that may apply for the reporting of absence at their location. However, the same timescales stated above apply.

4.1 Unable to Contact an Employee Who is Signed Off Sick by the Doctor

When the Doctor signs an employee off sick the manager and employee must continue to remain in contact as detailed in the Attendance at Work Procedure. Where the manager is unable to contact the employee to arrange the necessary welfare visits, they should contact the AHRM before sending a letter requesting the employee to contact them urgently (see example letter, Appendix I).

5 Attendance at Medicals

Attendance at all Company medicals forms part of the employee's duty. When receiving confirmation of a medical the employee should notify their manager and ask how this will affect their duty. In most cases the employee will be expected to be at work for the rest of their duty. Uniformed employees should attend the medical in full uniform.

5.1 Employees Who Don't Turn Up for a Medical at Occupational Health

If an employee has an appointment for a medical at Occupational Health and we are notified by Occupational Health that they have not attended, the Line Manager must investigate fully the reason(s) for non-attendance.

Where it is found that there is no valid reason for non-attendance the employee may be disciplined. If the case is proven, then it may be appropriate to deduct 1 days pay as part of the discipline penalty to assist in the cost of the medical the Company.

6. Travel to a Different Location for Employees who are Temporarily Unfit for Normal Duties (F2)

In accordance with the employee's conditions of service the Company will endeavour to find suitable alternative employment whilst an employee is temporarily unfit for normal duties.

Where a suitable alternative post is found at a different location travelling time will only be offered in the following circumstances:

- Where the employee's present daily travelling, if less than 45 minutes, will be exceeded, on average, by more than 30 minutes in each direction
- Where the employee's new daily travelling will exceed, on average, 1 hour 15 minutes in each direction
- Where the employee's present daily travelling exceeds 1 hour 15 minutes and the new location involves more time than is currently incurred.

Where travelling time is not offered employees will be expected to work their full shift/hours at the new location.

Where travelling time is agreed then this must not incur any additional paid travelling on top of the employee's basic day (e.g. no overtime will be paid if the employee's train home is delayed due to service disruption).

7. Employees who are Medically Fit to Resume Normal Duties Following Multiple Accidents at Work

The Company has a duty to care for the health, safety and welfare of all its employees. Where an employee is medically fit to return to work following an accident at work and has had several accidents at work previously it may be appropriate to consider their suitability for their current post.

If a manager has concerns, they should discuss this with the AHRM before taking any action. In cases where the manager and the employee mutually agree to a suitable alternative post the employee will receive the salary protection as stated in their terms and conditions.

If the employee wishes to remain in their current post and the manager and AHRM agree that action is appropriate due to the number of accidents, they should refer to the Company's Capability procedure (this should be used in conjunction with the Company Safety Manual).

8. Equality Act 2010 in Relation to Disability

8.1 The Definition of Disability

The definition of "disability" for the purposes of disability discrimination is very broad and is such that a wide range of conditions that managers might not necessarily perceive as disabilities will in fact be covered.

An employee will be classed as disabled in law if they have a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

"Long-term" in this context means 12 months or more, so an individual whose disability has lasted 12 months, or is expected to last 12 months is potentially protected. Someone with a terminal condition will be classed as disabled, even if the prognosis is that they will live for less than 12 months.

"Normal day-to-day activities" is any activity that people do on a regular basis in their everyday life as opposed to at work. For example, shopping, reading and writing, washing and dressing, using the telephone and watching TV will be classed as a "normal day-to-day activity". If an individual cannot perform certain "normal day-to-day activities", or can do so only with difficulty, they may be classed as disabled.

There is no need for an employee to be registered as disabled to qualify for protection.

8.2 Conditions That May Amount to a Disability

A wide range of physical and mental conditions and illnesses may amount to a disability, depending on whether the effect of the condition on the person is substantial and long-term.

Progressive conditions such as muscular dystrophy, Alzheimer's disease and Parkinson's disease are covered under the definition of disability as soon as the condition is diagnosed and the person's normal day-to-day activities are affected in any way, whether substantial or not, so long as, in the future, the adverse effect is more likely than not to become substantial.

An employee diagnosed with cancer, multiple sclerosis or HIV is automatically deemed disabled whether or not they are experiencing any symptoms at the time in question and whether or not it is likely that the effects of the condition will, in time, become substantial.

An impairment that consists of a severe disfigurement is treated as having a substantial adverse effect on the individual's ability to carry out normal day-to-day activities.

Conditions that are intermittent, or that fluctuate in their effects, will entitle the person to protection at all times (provided that the condition is likely to recur), even if at a particular point in time the condition is in remission.

"Mental impairment" can mean an impairment resulting from or consisting of a mental illness. In addition to clinically recognised mental illnesses such as schizophrenia and bi-polar disorder, other conditions such as depression, anxiety and ME are covered, provided that their effects on the individual are substantial and long term. Many stress-related illnesses, whether or not they are precisely diagnosed, are therefore capable of amounting to a disability, and other conditions such as dyslexia may also amount to a disability.

8.3 The Effect of Medication

A condition may amount to a disability even if, as a result of medication or another form of support such as a hearing aid or prosthetic limb, the person experiences no adverse effects on a day-to-day basis. The question that determines whether or not an employee is disabled is how the condition would affect the employee if they did not take the medication or use the support.

8.4. The Duty to Make Reasonable Adjustments

The discrimination legislation places a duty on employers to make reasonable adjustments to any provision, criterion or practice that they apply and to physical features of their premises, to accommodate the needs of disabled employees and job applicants. This duty arises whenever any aspect of the employer's working practices or premises puts a disabled employee at a substantial disadvantage in comparison with employees who are not disabled. This could mean, for example:

- permitting an employee whose condition causes them to tire easily to work part time - (if appropriate) this is classed as an adjustment to the employer's working practices.

The duty to make reasonable adjustments arises only where an employer knows, or reasonably ought to know, that an individual is disabled. When seeking medical advice, the Company's Occupational Health Provider should be asked whether the employee falls under the provision of the DDA within the Equality Act 2010.

The question of what is "reasonable" will depend on the circumstances, including the size and financial or other resources of the employer, the practicability of any particular adjustment and the effectiveness of the step in preventing the disadvantage. However, line managers should bear in mind that many adjustments will cost very little, or even nothing at all, to implement. An employer may not pass on the costs of making reasonable adjustments to a disabled person.

An employer that fails to comply with the duty to make reasonable adjustments will be acting in contravention of discrimination law unless it can show that it was not reasonable to make adjustments generally, or to make a particular adjustment.

Because the law requires employers to make reasonable adjustments for employees who are disabled, more favourable or different treatment afforded to a disabled employee cannot be viewed as discrimination against others who are not disabled.

Where an existing employee becomes disabled, either gradually as a result of the onset of an illness or suddenly as a result of an accident, the line manager should consider what reasonable adjustments could be made to accommodate the employee's needs and facilitate their retention in employment. The key objective will be to take all reasonable steps to enable the employee to continue working or - where there has been a period of absence from work - to resume working.

The manager should adopt a positive attitude to the prospect of adjustments, discuss the possibilities with the disabled employee and give full and fair consideration to all reasonable possibilities. Consideration, patience and support should be shown to help the employee cope with the working environment and their changed circumstances.

If redeployment is an option then the employee must be capable of fulfilling the role, meeting the job description criteria, ensuring they are compliant with the necessary safety standards. The employee in most cases will be required to complete a job application on Recruit Active and undertake the necessary testing. If Employees require reasonable adjustments through the Recruitment process, they should ensure they raise this with the Recruitment team.

Employees will be supported in their new roles and reasonable adjustments and appropriate training will be considered if appropriate. The Area HR Manager will be able to provide advice and support in such circumstances.

9. Safety Critical Employees and Medication

Many medicines obtained with or without a prescription can affect an employee's ability to carry out their job safely. All safety critical employees must therefore inform the pharmacist or doctor of their job before taking any medication.

The employee must inform their immediate supervisor / manager of any medication they may need to take, including non-prescribed painkillers, cold and flu remedies preferably before they start to take it.

It is important that an employee first discusses with their line manager any non prescribed medication they wish to take, so that the manager can agree a way forward with the employee to ensure that any impact on the individual's ability to carry out safety critical duties is carefully considered. This may result in the manager not approving the non-prescribed medication or agreeing with the individual to carry out alternative duties.

Where the employee has advised the doctor of their job but has still been prescribed with medication that is not compatible with safety critical duties the employee will normally be assigned to other duties during the period that they will be taking the medication after occupational health advice has been received.

If an employee starts taking non-prescribed medication before notifying their immediate supervisor / manager or after their manager has advised them not to proceed with taking the medication and this then results in the employee not being fit to carry out safety critical duties, they may be sent home from work whilst they wait for the medication to be out of their system (the manager should discuss with Occupational Health how long the employee should refrain from Safety Critical duties after they have taken the last dosage).

When the employee returns to work the manager should carry out an investigation to determine whether the time spent at home should be classified as sick or unpaid leave and then process accordingly.