

## Policy on Sickness Absence

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## **1.0 Policy Statement**

- 1.1 The Public Services Ombudsman for Wales (PSOW) recognises that staff will, on occasion, be unable to attend work due to ill-health. However, a satisfactory level of employee attendance at work is crucial to the success of the PSOW service and thus staff are encouraged and supported to maintain the highest possible level of attendance.
- 1.2 This policy relates to the management of absence due to illness, injury or because of an infectious disease, and recognises the key factors to reducing absence is through early intervention and good communication by all parties.
- 1.3 This policy applies to all employees regardless of length of service or hours worked.

## **2.0 Principles**

- ensure employees are treated fairly and consistently when they are unable to attend work due to ill health;
  - provide a clear framework for managers to follow, in managing both long and short term absence effectively;
  - minimise frequent absenteeism which is disruptive to clients and corporate services and impacts all teams;
  - give clear guidelines to staff on how absence is handled and the implications for unacceptable levels of absence; and
- 2.2 The PSOW will deal with sickness absence in a sensitive manner and starts from the position that all reported sickness absence is genuine. The PSOW aims to manage absence in a way that both reflects an honest concern for staff and develops a positive attitude towards attendance.
  - 2.3 Any confirmed misuse of the sick leave arrangements, or the Sick Pay scheme, is misconduct and dealt with under the PSOW Disciplinary Procedure.
  - 2.4 Information about the nature of sickness absence is confidential. It is only disclosed to staff involved directly in monitoring and to those who require information on a need to know basis for management purposes. PSOW staff have the right to see their own sickness records.

## **3.0 Notification and Certification of Sickness Absence**

- 3.1 If an employee is unable to attend work they must ensure that:
  - 1 They telephone their manager (or if not possible the next senior manager) by 10.00am on the first day of absence. Leaving a message with a colleague will not be acceptable.

- 2 However, in cases of serious illness it may not be possible for the employee to contact their manager personally, in these circumstances a relative or friend of the employee should contact the manager.
  - 3 Details should be given about the following:
    - details of absence;
    - anticipated length of absence; and
    - details of any outstanding or urgent work that needs to be dealt with.
    - any meetings that will need to be cancelled or rescheduled
  - 4 Employees must keep their manager up to date if their absence is likely to be longer than originally anticipated.
  - 5 If the absence is no more than seven calendar days, they must complete a self certification of their sickness, authorised by their line manager. This should be completed immediately upon their return to work.
  - 6 If the absence lasts for longer than seven calendar days, they must forward a medical certificate to the Corporate Services Manager no later than the eighth calendar day of absence (in certain circumstances management may require a medical certificate to be produced for periods of absence shorter than eight days).
  - 7 Subsequent medical certificates will be required if the absence extends beyond the period covered by the initial medical certificate.
- 3.2 A Fit for Work Certificate from the employee's GP must be provided, if requested.
- 3.3 The PSOW reserves the right to ask an employee at any stage of absence to undergo an occupational health medical examination. If the employee does not accept this invitation, decisions will need to be made on the medical evidence available.

## **4.0 Unauthorised Absence**

- 4.1 If the employee fails to notify their Manager of their absence or provide the necessary evidence of incapacity for work, the absence will be treated as unauthorised.
- 4.2 Recurring lateness will also be viewed as unauthorised absence and will be dealt with under the PSOW Disciplinary or Capability Policy.
- 4.3 Unauthorised absence and/or failure to follow the notification/certification procedures may result in a loss of sick pay and could result in disciplinary action being taken.
- 4.4 Actions by an employee may result in PSOW considering an absence to be unauthorised if it is considered to be inconsistent with genuine sickness or injury or to contravene this policy. Examples include, but are not exhaustive;

- participation in any sport, hobby, social or other activity which could aggravate the illness or injury or which could delay recovery
- undertaking any other employment during sickness absence whether paid or unpaid which is in any way inconsistent with the nature of any illness or injury
- engaging in any other activity which is inconsistent with the nature of any illness or injury.
- altering or causing to have altered any of the details on any medical certificate, e.g. date, signature, reason for absence etc.
- giving the PSOW inaccurate or misleading information about any absence.

## 5.0 Return to Work

5.1 Regardless of the length of absence, managers must conduct a **Return to Work Interview** with the employee before the sickness absence is authorised by the Manager. The nature of the absence should be established, and if appropriate, any other factors which may have caused the absence should be discussed.

*Please refer to the return to work interview guidance notes*

## 6.0 Long Term Sickness Absence

6.1.1 When a member of staff has been absent from work due to sickness or injury for 10 working days or more, it will be considered long term sick leave. The PSOW seeks to deal with employees on long term sick leave sympathetically, providing whatever support necessary and appropriate to help the employee's return to work.

6.1.2 It is likely that long term sickness absence cases will need to be treated differently, therefore, the medical reason for the absence should be clearly identified, if possible.

6.1.3 While a member of staff is absent from work, if appropriate they may be asked to attend a meeting at PSOW premises to meet with their manager and the Director of Corporate Services as part of the support process. Alternatively, a home visit may be arranged with their consent. The purpose of these meetings will be to ensure that the employee is receiving appropriate support and to ensure that the PSOW has an up to date understanding of the medical situation and prognosis.

The specific issues that will be considered will be the likelihood of an improvement in health and subsequent attendance, the availability of alternative work, the effect of past and future absences on the PSOW and whether there are any reasonable adjustments which could be made to assist a return to work, such as a phased return to work or a temporary reduction in hours worked. The period of phased return to work would normally be treated as paid special leave. The period of phased return will vary according to individual's circumstances.

Whilst these meetings are informal, the employee may wish to be accompanied by a colleague or trade union representative. Notes of these meetings will be retained by the Manager.

6.1.4 Generally, if an individual has been off sick for 4 weeks they will be referred to the PSOW's Occupational Health Advisor and requested to undertake a medical examination. However, consideration on the timing of the referral will be based on individual circumstances. If the employee wishes to receive a copy of the occupational health report, they should request this at the time of the referral.

Employees will normally be able to access their medical records at any time according to the Access to Medical Records Act 1988.

6.1.5 The purpose of the examination would be to:

- identify the medical reason for the absence;
- identify a likely return to work date;
- establish whether the illness will have a long term effect on the employee's ability to carry out the duties of the post;
- establish the effect the illness has on the employee's ability to attend work on a regular basis; and
- try and identify any adjustments that the PSOW could make to help the employee's return to work.

6.1.6 Occupational Health Advisor may seek additional information from the employee's General Practitioner and/or consultant. If this is necessary such information will be obtained in accordance with the Access to Medical Reports Act 1988 and the employee's consent will be sought in writing.

6.1.7 Once the occupational health report has been received by the PSOW, further consultation will take place with the employee before any decisions are made regarding the individuals' employment with the organisation.

6.1.8 If the individual refuses to give consent for the PSOW to view the medical report and/or the release of medical records the line manager should point out that the PSOW would prefer to base its decision on up-to-date medical evidence but that, if such evidence is withheld, a decision will be made upon the information available at the time.

6.1.9 If an individual is unable to return to work due to ill health, even if reasonable adjustments are made and no suitable alternative employment can be found or agreed, notice of termination may be issued by the Director of Corporate Services, authorised by the Ombudsman, following consultation with the PSOW's HR Advisor.

Please see section 15 and 16 for information on alternative employment and termination of employment.

6.1.10 or employees dismissed on the grounds of inefficiency arising from unsatisfactory attendance, due to sickness absence staff maybe eligible to some compensation from the CSCS funded by the PSOW if they are a member. However, this is at the PSOW's discretion and each case would be considered on an individual basis.

6.1.11 If it is clear that the individual is unlikely to be able to return to work for PSOW can recommend the employee, (if they are a member of PCSPS or LGPS) for **ill health retirement**, if the scheme medical advisers, believes the employee's health is likely to be permanent and prevent them from carrying out their work.

Benefits payable may vary according to the scheme the employee is a member of.

6.1.12 Information acquired by the PSOW on employee's health is to be treated in the strictest confidence at all times.

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

7.1 Persistent and short term absenteeism which is claimed to be sickness absence (including recurring lateness) has a detrimental impact on the business and is unacceptable.

7.2 Attendance levels will be monitored throughout the period of employment. Where an employee's absence becomes frequent and persistent, or there are concerns about the reason for the absences, the manager should intervene, and discuss the issues informally with the individual. Alternatively the manager should arrange for a meeting with the individual and the relevant Director to discuss the absences.

7.3 The meeting will aim to identify the reason for the absences and establish whether there are any underlying problems or circumstances attributing to the absences.

7.4 The employee may, where appropriate, be referred to an occupational health physician for examination/assessment to assess whether there is an underlying health problem.

7.5 If the absence is related to work, the Manager and the individual will discuss what can be done to ensure the situation does not re-occur.

7.6 Likewise, if the absences are occurring due to personal problems, support arrangements will be discussed to assist the employee in their return to work. If absences are caused by circumstances beyond the control of the employee, such as childcare difficulties, the manager should discuss possible ways to resolve them, for example refer to the policy on Special and Emergency Leave.

7.7 If satisfactory explanations are given, then no further action will be taken. However, a brief report of the meeting will be placed on the employee's personnel file for 12 months. The employee's manager will agree with the employee a reasonable amount of time during which their attendance will be further monitored to ensure that the level of attendance is raised to a satisfactory level. If the employee fails to meet the required standard in this review period, or the explanations provided are unsatisfactory then the matter may need to be managed under the PSOW's disciplinary procedure.

## **8.0 Stress Related Illness**

8.1 Stress is something that anyone can suffer from at any time. The PSOW encourages staff who feel that they are having difficulties to discuss the situation with their Manager at an early stage.

8.2 Please refer to the Health and Safety Policy for further information and guidance.

## **9.0 Specialist Health Problems**

- 9.1 Where it is established that an employee is suffering from alcohol or drug problems, these will usually be treated as a medical matter, rather than dealing with the issue through disciplinary procedures. This is with the exception of when a person's conduct at work is such that this becomes inappropriate.

## **10. Sick Pay**

- 10.1 The PSOW operates a Sick Pay Scheme comprising Occupational Sick Pay and Statutory Sick Pay. Payment is made to members of staff who are absent from work because of certified sickness, or injury that is not attributable to their own negligence or misconduct.
- 10.2 Within any span of twelve months, payment for sickness absence shall be in accordance with that stipulated in your contract of employment.
- 10.3 In order to access these benefits you must comply with the sickness absence procedures outlined in this policy. Entitlement to Sick Pay is subject to notification of absence and production of self certificates and medical certificates. Failure to comply at any stage will jeopardise the receipt of these benefits. Falsifying sickness records is misconduct and dealt with under the PSOW Disciplinary Procedure.

## **11. Absence and Disability**

- 11.1 If an individual has or is diagnosed with a condition which is a disability or would be considered a disability, they should notify their Manager.
- 11.2 Disabled people generally take no more or less sick leave than other employees. However, a minority, owing to their condition may need to take additional disability-related absence. In employing and managing disabled employees, it will be important to distinguish between sick leave and disability-related absence to ensure that the disabled employee is dealt with in a non-discriminatory way. Any disability related absences should be recorded as special paid leave in absence recording.
- 11.3 The PSOW will comply with its obligations to make reasonable adjustments under the Disability Discrimination Act 1995.
- 11.4 The PSOW will consider all reasonable adjustments which could be made to the employee's place of work in order to help their return to work. The PSOW will consult with the employee regarding any adjustments that may be required and if necessary seek expert advice. Such adjustments may include a reduction in hours, a phased return (ie, to work shorter hours for a time limited period), the transfer of certain duties to other employees, physical adjustments and re-training. Any adjustments may be adopted on a temporary or permanent basis depending on the circumstances of each case.

## **12.0 Absence and pregnancy**

- 12.1 Absence related to pregnancy should not be included in any assessment of an employee's sickness record. Inclusion of such records may be considered as sex discrimination. Employees absent from work with a pregnancy related illness are advised to contact Director of Corporate Services.

- 12.2 If a woman is sick due to a pregnancy related illness, it maybe appropriate to commence the maternity leave earlier than anticipated. Please see the PSOW Maternity Leave policy.

### **13.0 Effect on Incremental Pay**

- 13.1 In cases where the employee has been absent for less than nine months within the review period, they will be assessed in the normal way and awarded an incremental pay increase, to reflect their performance whilst at work.
- 13.2 For employees who have been absent for more than nine months during the review period, they will receive the cost of living rise only.

### **14.0 Alternative employment**

- 14.1 If the employee is unable to return to their own job their manager will, with the assistance of Director of Corporate Services and advice from an occupational health physician where appropriate, consider offering a suitable alternative role (either on a temporary or permanent basis), although the PSOW will not be obliged to create a new position for this purpose.
- 14.2 If the employee refuses to co-operate in providing medical evidence or to undergo an independent medical examination, the employee will be notified in writing that a decision will be taken on the information available and that it could result in dismissal.
- 14.3 If the employee returns to work in an alternative role the employee will be offered the terms and conditions that are applicable to that role.

### **15.0 Termination of Employment**

- 15.1 Where no reasonable alternatives can be identified, or ill-health retirement has been rejected, the PSOW may consider it necessary to terminate employment.
- 15.2 Where medical evidence indicates that a return to work in the foreseeable future is unlikely, the PSOW will give consideration into keeping the employee's job open, in light of the effect upon the business and other staff.
- 15.3 If alternative employment is not an option, ill-health retirement may be considered as an option. This would be in accordance with the Pension Scheme rules the employee is a member.
- 15.4 If the employee is dismissed authorised by the Director of Corporate Services, they will be given the appropriate level of notice and the right of appeal.
- 15.5 Through this process the employee will have the right to be accompanied by a companion, at all meetings. Their companion would be a trade union representative or a work colleague.

### **16.0 Appeals against Termination of Employment**

- 16.1 If an employee wishes to appeal against their termination of employment on the grounds of ill health / sickness absence they should put their appeal in writing, to the Ombudsman within 5 working days of their termination date. If

the employee wishes further evidence to be considered as part of their appeal, this should be submitted as part of their appeal letter.

- 16.2 An appeal hearing will be arranged within 10 working days of receiving the appeal notification. The employee will be informed of the time, date and location of the meeting and will be reminded of their right to be accompanied.
- 16.3 Notes of the meeting will be taken. These notes will be circulated to the employee for agreement. The notes should be returned with any amendments within 5 working days. A copy of the finalised notes will be re-issued to the employee.
- 16.4 The employee will be notified of the decision in writing, within 2 working days of the agreed notes being reissued.
- 16.5 The decision of the appeal meeting is final.

The return to work interview should be conducted after each period of absence.

### ***Reasons for conducting a Return to Work Interview***

- to indicate that the employee's absence was notified and they were missed;
- to welcome the employee back, bring them up-to-date and help them settle in;
- to determine an employee's reasons for absence;
- to discuss whether the absence was related to work and, if so, what can be done to ensure that the situation does not arise again;
- to assess any future impact on work performance and consider whether the employee requires any assistance;
- to ensure that they are fit to return to work;
- to review their absence record; and
- to agree any action/improvements necessary for the future.

### ***Aim of Interview***

- to make people feel valued members of the team;
- to reinforce the importance of regular attendance at work;
- to raise the threshold of "avoidable" sickness absence; and
- to demonstrate that absence is a high priority for PSOW and that policies are put into practice.

### ***Good Practice in conducting the interview***

- The return to work interview provides an opportunity to talk issues through with the employee in a constructive and positive manner, and to prevent "minor" absence problems developing into more serious ones.
- The emphasis should be on "active listening" with an overriding sense of fairness, respect and empathy throughout.
- The interview should not be used as a "disciplinary" interview.
- The manager must make a written note of the return to work interview, which may become relevant if the formal capability procedure needs to be invoked at a later stage.

The process is about Good Management ie, communicating openly and sensitively with an employee to reach an agreed course of action, where appropriate.

## ***Reasons for Absence***

Managers should recognise that in some cases the “stated” reason(s) for absence may disguise the real reason. It is important to listen, ask questions, avoid making quick judgements or assumptions about their reasons for absence prior to a fair and two-way discussion.

Absence may be due to any one or a combination of the following reasons:

- Sickness, serious or minor.
- Stress/anxiety.
- Domestic issues.
- Boredom.
- Job dissatisfaction.
- Travel problems.
- Financial worries.
- Harassment.
- Demanding hobby.
- Other employment.

## ***Style of Interview***

For cases of unavoidable absence due to an illness which is clearly evident, for example measles, which may be self-certified or certified by a doctor, the interview will probably be very informal and will take only a short time. The emphasis should be on welcoming the employee back to work, and discussing issues focused on resuming their normal duties as soon as possible.

In less obvious situations the interview will need to be more searching. The manager will need to listen carefully to the reason for absence and make an informed judgement based on the facts and background to each situation.

## ***Points to consider***

- prepare for the interview;
- set aside time;
- arrange privacy;
- welcome employee back, show concern and empathy;
- ask them why they were absent;
- define the problem;
- discuss the overall situation in context with their job;
- agree any action;
- follow up; and
- keep a record.

**Return To Work Interview Report Form**

**Name:** \_\_\_\_\_ **Department:** \_\_\_\_\_

**Payroll Number:** \_\_\_\_\_

1st Day of return to work: \_\_\_\_\_ Nature of Absence: \_\_\_\_\_

Duration of absence: From \_\_\_\_\_ to \_\_\_\_\_ Working days \_\_\_\_\_

Was absence work related: YES/NO

If Yes, How?

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Notification process followed:	Yes/No/Not Applicable
Certification process followed:	Yes/No/Not Applicable
Doctor consulted:	Yes/No/Not Applicable
Occupational health appointments kept:	Yes/No/Not Applicable
Absence Record shared with employee:	Yes/No/Not Applicable
Is a pattern emerging:	Yes/No/Not Applicable
Is an occupational health referral appropriate:	Yes/No/Not Applicable
Management referral/Self referral?	Yes/No/Not Applicable

Comments: (including Problems identified, action to be taken, re-interview arrangements)

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Explanations provided by employee for absence:

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Future Action: (eg referral to Occupational Health, change in working arrangements, Disciplinary action)

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Disability Discrimination Legislation; do the reasons for absence require any reasonable adjustments under the Disability Discrimination Legislation?

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Line Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_