

# SICKNESS ABSENCE: SHORT TERM

*Revised January 2012*

## **Overview**

Frequent, persistent short-term absences can be extremely disruptive for line managers.

This line manager briefing aims to help line managers to understand the employment laws that impact on short-term absence, their practical implications and how to manage short-term absenteeism effectively. Another briefing, the line manager briefing on long-term sickness absence, deals with the management of long-term sickness absence.

This briefing includes information on:

1. Rights under employees' employment contracts
2. Common causes of frequent absenteeism
3. Possible impact of workplace factors on absenteeism
  - discussing the problem with the employee
4. Monitoring short-term absences
  - initiating the procedure
  - return-to-work interviews
  - certification
  - fit notes
5. Absence reviews
  - looking for patterns
6. Employees with personal or family problems
7. Suspicion that reasons given for absences are not genuine
8. Instigating formal action
9. Written warnings
10. Fair dismissal on the grounds of unsatisfactory attendance
11. Keeping records
12. Benefits of absence management

## **1. Rights under employees' employment contracts**

Employees' rights to, for example, pay in relation to short-term absence will be determined according to the terms of their employment contract. Similarly, the contract or supplementary documentation (such as a staff handbook) should state clearly what employees' obligations are when they are unable to attend work, for example how they should notify their manager and what supporting medical certification is required.

Line managers should make sure that they are familiar with their organisation's rules and requirements, and that these are applied consistently.

## **2. Common causes of frequent absenteeism**

A particular employee's frequent spells of short-term absence can have any one of a number of root causes, including:

- an underlying medical condition that flares up from time to time;
- an unusually high, but genuine, vulnerability to colds, flu, etc;
- excessive tiredness, for example because the employee stays out late at night or has a second job;
- personal or family problems;
- specific problems in the workplace; or
- demotivation.

A line manager should always strive to remain open minded about an employee's absences rather than jumping to the conclusion that the employee is taking time off work without good reason. It may be that the cause of the employee's absences is something outside his or her control.

Understanding the root cause of the absenteeism will be important. Until the cause is correctly identified, it will not be possible to identify an appropriate course of action to remedy it.

## **3. Possible impact of workplace factors on absenteeism**

Managers should be constantly alert to the possibility that employee absences might be caused or exacerbated by factors in the workplace. For example, high rates of absenteeism may be linked to:

- the volume of work or pressure of deadlines being too much for a particular employee to cope with;
- unhappy working relationships or outright conflict with colleagues;
- bullying or harassment;
- perceived ineffective management or an authoritarian management style;
- an employee's inability to cope with change or fear of inadequacy; or
- other factors causing dissatisfaction, for example ineffective procedures or equipment, or having no clear goals or targets.

Managers should be alert to signals that an employee may be suffering from stress to an extent that he or she is not coping adequately. Medical certificates that state "stress", "depression" or "anxiety" should put a manager on notice that there may be a workplace problem that needs to be addressed urgently.

## **Discussing the problem with the employee**

Line managers should always be alert to issues such as those listed above and should make enquiries of any employee who has had a high rate of short-term absences as to whether or not there is anything in the workplace that is causing or contributing to the absences.

Such enquiries should be made sympathetically, with the manager reassuring the employee of his or her genuine wish to provide support with a view to resolving the particular problem if the employee is experiencing problems at work.

If a workplace problem is identified, the manager should take steps to remove or reduce the factor that is causing the problem, if this is at all possible. Once the cause of the employee's frequent absenteeism has been removed (or at least reduced), the employee's attendance may well improve.

Managers should also bear in mind that a failure to take steps to support an employee who is known to be experiencing health problems as a result of factors in the workplace may have serious consequences. The employer could be held liable in law if the employee subsequently has a mental breakdown as a result.

#### **4. Monitoring short-term absences**

There is a great deal that a line manager can do to manage short-term absenteeism effectively with a view to reducing its frequency. It is therefore sound practice for managers to take positive steps to monitor and control employees' periods of absence from work.

There are two stages to this, the first being the action that a manager should take each time an employee has a spell of absence. The second stage kicks in if and when the employee's absences exceed a defined threshold in terms of their number and/or duration within a given period of time.

##### **Initiating the procedure**

The effective management of short-term sickness absence should start when the employee phones in to say that he or she is sick and unable to attend work.

The manager should set a procedure in place requiring the employee to telephone a named person (usually his or her immediate supervisor) rather than, for example, leaving a message with the receptionist.

A set form should be used to record the date and time of the call, the reason given for the absence and how long the employee expects to be absent. Using a set form will help to ensure consistency in approach.

##### **Return-to-work interviews**

Irrespective of the length of the absence, when the employee returns to work, the manager should hold a return-to-work interview with the employee. The very fact that such a procedure is carried out will tend to deter casual absences, because employees will know that monitoring of absences is taken seriously and that they will have to account to their manager for each absence.

The interview should be informal, so the right to be accompanied will not apply. The manager should make it clear to the employee that the purpose of this type of interview is to monitor absences and that the interview is not part of the

organisation's disciplinary procedure. On the other hand, the interview should be more than just a casual chat and should be taken seriously.

At the interview, the manager may wish to ask the employee whether or not he or she visited a GP, and how he or she is feeling now. It will also be appropriate for the manager to enquire if there is anything that he or she can do to support the employee.

The manager should not ask intrusive medical questions, but should instead seek to establish the basic cause of the absence. A record should be made of this process.

Return-to-work interviews should be:

- informal;
- private and confidential;
- taken seriously;
- structured and factual;
- carried out in a positive and supportive way; and
- recorded.

## **Certification**

Line managers should make sure that whenever an employee is absent for up to one week he or she is required to complete and sign a self-certification form on return to work.

This should be done in front of the manager, ideally at the return-to-work interview, and the manager should countersign the form. There should be no exceptions. Even absences of one day should be monitored and recorded in this way.

Rather than simply requiring a series of boxes to be ticked, the form should require the employee to write down the reason for his or her absence, the dates of absence and whether or not a doctor was consulted. This makes the task of self-certification a more active process.

## **Fit notes**

From 6 April 2010, the traditional doctors sick note was replaced by a statement of fitness for work ("fit note"). If an employee is absent for eight days or more, the line manager should ensure that the employee obtains a fit note from his or her doctor. The fit note allows doctors to state either that the employee is not fit for work or that he or she may be fit for work taking account of specified advice from the doctor.

The purpose of the fit note scheme is to facilitate return to work in circumstances where adjustments by the employer would help the employee resume working sooner than might otherwise be the case, as the employee's doctor will be able to suggest ways that the employer can help the employee return to work.

The fit note system gives doctors the opportunity to highlight one of four options to help facilitate the employees return to work. These are:

- a phased return;
- amended job duties;
- altered hours of work; and
- workplace adaptations.

The doctor may also write in any other option that he or she believes may be appropriate in the circumstances and can add any other relevant information.

There is no legal obligation on an employer to comply with any recommendation made on a doctors fit note. Equally, any changes to employee's hours or job duties, whether temporary or permanent, should be made only with the agreement of the employee, and the line manager and employee should agree how long the changes will last.

Nevertheless, line managers should take what an employee's doctor has written seriously and give fair consideration in consultation with the employee as to whether or not any of the changes recommended by the doctor can be accommodated. A doctor might make recommendations as to actions that the employer could take in the case of an employee who is persistently absent from work for short periods, so it may be that the frequency of the employee's sickness absences can be reduced if a particular change is made.

A fit note could simply be the starting point for discussions between the line manager and employee, to help the line manager identify whether or not there are any workplace problems with which he or she could assist.

## **5. Absence reviews**

The second stage of managing short-term absences will be activated once an employee's absences have reached a defined threshold set out in the employer's short-term absence procedure.

For example, action may be triggered whenever an employee has had five separate periods of absence in any 12-month period, or absences totalling more than 12 working days in the same period. Exceeding the trigger point should activate a review of the employee's attendance.

The line manager should:

- examine the employee's absence record to check the facts;
- look for patterns;
- arrange a meeting with the employee to discuss his or her absences;
- allow the employee the right to be accompanied at the meeting by a colleague or trade union official (although this type of absence review meeting is not part of a formal disciplinary process, it is good practice to allow employees to be accompanied);

- at the meeting, seek to establish whether or not there is any underlying cause of the frequent absences and, if there is, what, if any, action is required to alleviate the situation;
- check whether or not the employee's absences could be work related and, if this is the case, arrange to address the particular problem with a view to removing or reducing the root cause;
- seek to agree with the employee reasonable targets and time limits for improvements in attendance and ensure that the employee is committed to achieving these targets;
- inform the employee that continuing high levels of absence are unacceptable and that if an improvement is not achieved and sustained, formal action may be instigated; and
- consider if it would be helpful or appropriate to seek medical advice, for example to establish whether or not the employee has an underlying medical condition that is causing or contributing to the absences.

### Looking for patterns

When reviewing an individual employee's absence record, the line manager should make a point of examining whether there might be a pattern to the absences.

Examples could include frequent Monday absences or absences that tend to occur at a particular time, for example just before an important monthly deadline or towards the end of a busy shift cycle.

If such a pattern is apparent, the manager should speak to the employee about it. This should be done in a factual way without any accusations being thrown at the employee. The manager should take care not to make assumptions and should instead remain open minded. The simplest way to put the matter to the employee is first to state the facts, and second to ask the employee if he or she can explain the pattern.

Don't say	Do say
You're always off on Mondays - that's very strange, don't you think?	I have noticed that six out of your 10 absences have been on Mondays.
I suppose you'll have some excuse or other.	Would you like to comment on that apparent pattern?
You always seem to be off when some important job has to be done. We can never rely on you.	Is there any reason why nearly all your absences have been in the final week of the month?
You are no use to us if you can't cope with the shift cycle. We need you at work and not off sick.	The records show that you tend to be absent towards the end of your shift cycle. Is there any problem we can help you with in relation to shift working?

The main aim of speaking to an employee about a pattern of absences should be to try to establish the underlying reason or reasons for the frequent absenteeism. It is only when the underlying cause is identified that it will be possible to decide what to do about the problem.

Even if the employee is unable or unwilling to put forward any explanation, such a discussion will have the advantage of alerting him or her to the fact that the line manager has noticed the pattern. This in turn may deter further casual absences.

## **6. Employees with personal or family problems**

If it comes to light that an employee's absences from work are being caused wholly or partly by family problems, for example a sick child or genuine problems with childcare, the manager should be supportive towards the employee, while at the same time explaining clearly that frequent absences are unacceptable from the point of view of the employer.

The aim should be to strike a balance between the need to support an employee who has genuine difficulties and the need to get the employee's work done reliably and efficiently. While a degree of tolerance and sympathy will usually be appropriate, no manager can be expected to put up with an employee's frequent absences indefinitely. The manager should seek to reach agreement with the employee as to targets and timescales for an improvement in attendance.

## **7. Suspicion that reasons given for absences are not genuine**

If at any stage a line manager has reasonable grounds to believe that the reasons given for an employee's absences are not genuine, the manager is entitled to put these doubts directly to the employee in a factual way.

Naturally the manager should refrain from making wild or unsubstantiated accusations. If, however, there is some evidence to suggest that an employee has taken time off work without a proper reason, the manager should raise this matter with the employee to establish the truth.

One way to tackle this difficult situation is simply to put the matter to the employee as a statement of fact followed by a general question. For example, the manager might state that it has been reported that the employee was seen playing golf on the same day that he or she phoned in sick. The manager should follow this statement up by asking the employee if he or she would like to comment on this or explain it.

In this way the manager can avoid making direct accusations while giving the employee a full opportunity to offer his or her side of the story.

## **8. Instigating formal action**

Although it is important for managers to be supportive in the first instance towards employees who, for genuine reasons, have frequent absences from

work, managers also need to ensure that the work of their department is done efficiently.

If informal measures have not led to an improvement in the employee's attendance, it may be that formal procedures need to be instigated. This will be appropriate when the employee's absences have become excessive, where they are beginning to cause serious disruption or dissatisfaction or where attendance has not improved following informal action.

Managers should check with their HR department to clarify what internal procedure is appropriate, and make sure that they follow any such procedure fully.

A typical structure for such a procedure would be to:

- send the employee a confidential letter setting out the absence dates and inviting him or her to attend a formal meeting to discuss the situation, setting out the fact that a formal warning may result;
- in the letter, inform the employee that he or she has the right to bring a colleague or trade union official to the meeting;
- at the meeting, explain to the employee that his or her absences have reached a level that is considered unsatisfactory and the reasons why this is the case;
- give the employee a full and fair opportunity to explain the absences and put forward any mitigating factors or other representations;
- decide after the meeting whether or not it is appropriate to issue a formal warning;
- set down a date for a further review, typically in three or six months' time; and
- if a warning is issued, allow a right of appeal to a more senior person.

## **9. Written warnings**

A written warning should:

- state the problem from the employer's perspective, i.e. that attendance has been unsatisfactory and that this has caused problems in terms of getting the employee's work done reliably and efficiently;
- quote the precise number of absences and the total number of days of absence over a defined period of time;
- state that it is a written warning that forms part of the employer's formal procedure;
- set out the required improvement in attendance and the timescale in which the employee should strive to achieve this;
- state when the matter will be reviewed;
- state how long the warning will remain "live" in the employee's file;
- make clear that if the employee's level of attendance does not improve to the required standard within the given time period further formal action will be taken; and
- state that the employee may appeal against the warning, and to whom any such appeal should be directed.

It can be appropriate to issue a warning even in circumstances where the employee's absences have all been for genuine reasons of ill health. The warning will be on the grounds of unsatisfactory attendance, and not on account of ill health, a distinction that should be made plain. In this way it is clear that the employee is not being blamed for the absences, but is nevertheless put on notice that his or her attendance is unsatisfactory from the point of view of the employer.

## **10. Fair dismissal on the grounds of unsatisfactory attendance**

If, following a series of formal warnings, the employee's attendance has remained at a level that is clearly unsatisfactory, the employer may be able to dismiss the employee fairly. It is usual for two or three formal warnings to be given before dismissal is contemplated.

Dismissal should not, of course, be undertaken lightly and should normally be a last resort after all other possible courses of action have been explored.

The reason for the dismissal of an employee who has had an unacceptable level of absenteeism will be:

- "lack of capability", i.e. ill health that has led to the employee being unable to perform his or her job to a satisfactory standard; or
- "some other substantial reason", i.e. unsatisfactory attendance, whatever the cause.

Both of these are potentially fair reasons for dismissal.

For a dismissal to be fair, however, the employer also has to show that the employee's level of absence was sufficient in all the circumstances to justify dismissal and that it acted reasonably in dismissing the employee for this reason.

Although there are some exceptions, to be eligible to bring a complaint of unfair dismissal before an employment tribunal, an employee is usually required to have a minimum of one year's continuous service as at the date of termination of his or her employment.

## **11. Keeping records**

Full records should always be kept of employees' absences and of all discussions held with the employee about absence and attendance, whether formal or informal. Self-certificates and medical certificates should also be retained. Such records should be held confidentially, preferably by the organisation's HR department. Compliance with the laws on data protection will also be important.

## **12. Benefits of absence management**

Many managers are apprehensive about the prospect of tackling an employee's absenteeism, or uncertain as to what action they can reasonably and lawfully take.

While these doubts and fears are understandable, doing nothing can lead to further problems, including a possible general increase in absenteeism.

On the other hand, active management intervention can often help to:

- identify the cause or causes of an individual's poor level of attendance, allowing the manager to deal with the matter effectively;
- provide support to the employee, where appropriate, thus potentially increasing his or her motivation and loyalty;
- deter casual absences;
- establish whether or not an employee's level of attendance is likely to improve within a reasonable time frame;
- identify whether or not there are any problems inherent in the workplace that are contributing to employee absenteeism generally and, if there are, ensure that they are addressed;
- improve morale and motivation; and
- lead to a reduction in rates of absenteeism within the organisation and an associated reduction in costs and improvement in productivity.