

## Employment

### Managing sickness absence

It is common misconception amongst employees that management cannot take any punitive action against them when they are absent due to illness. Indeed, some employees seem to think they cannot even be invited to a management meeting during a period of sickness absence.

Sickness absence can cause significant operational difficulties for employers. It requires arranging cover for the absent employee's duties and can lead to other costs in the form of additional management time required by the employee and, depending on your policy, paying company sick pay.

Unfortunately, ignoring an employee's sickness absence can create more problems than tackling it directly as it can give the workforce the impression that unlimited sickness absence is acceptable. Occasionally, employers seek to address the issue by removing or reducing company sick pay, but it is far better to robustly manage individual employee absences rather than penalise the workforce as a whole.

Typically, absence for illness falls into one of two categories: either an employee is absent for an extended period of time without a reasonably foreseeable return to work or an employee has repeated short duration periods of absence for illness.

#### Long-term absence

Some absences can become protracted with the employee remaining sick and producing new medical certificates periodically extending the period of absence. Absences such as this can become difficult to manage. It is often unclear when the employee will return to work and so making it difficult to cover their duties. Additionally, as the absence continues, the employee can find the prospect of returning to work more and more intimidating.

It is important to remember that an employer does not have to accept an indefinite period of absence and can take steps to dismiss an employee during a period of extended absence. However, most employees who have a long-term health condition resulting in extended absence will qualify as a disabled person and so any action against them must be taken carefully.

Generally, considering the termination of an employee on long-term sick leave will involve a two-step process. First, a meeting must be held to identify the employee's state of health including a consideration of medical evidence and any reasonable adjustments that the employee may require. Second, if the employee's health does not improve, then a meeting can be held to terminate their employment.

#### Persistent Short Duration Absence

Persistent periods of short duration absence can be far more difficult to manage, as it is very difficult to cover the employee's duties. Covering a single day of absence will generally involve asking the rest of the workforce to absorb the absent employee's duties, which can lead to problems between workers.

Wherever the amount of absence an employee is taking becomes a cause for concern, the employer should immediately think about holding a meeting with the employee to consider issuing them with an attendance warning. Generally, an employee cannot be dismissed for repeated short duration absence until they have been issued with one or two written warnings first. Nevertheless, employers may find that simply issuing a warning can bring about a stark improvement in attendance.

A clear policy on sickness absence can really help to manage employees robustly as it will help dispel the myth that they cannot be punished for taking sick leave.

**If you would like advice on managing an employee's absence case or with drafting a sickness absence policy, please contact our employment team.**

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