



***Managing Short Term Absence:
A Guide for Managers and Business Owners***



This e-book is a guide to help managers and business owners to record, measure, manage and reduce short term absence.

Introduction

For most managers and business owners some form of absence occurs every day within their workforce and, if not managed, will affect the performance of the business.

This absence can be as little as an employee being a few minutes late, to the employee absent on annual leave for the next two weeks.

If we add together all the absence, which occurs on average each year for each employee, we can see that the management of absence is of fundamental importance to every business.

For example:

Days available to attend = 52 x 5 = 260 days

Annual Leave = 20 days (min.)

Public Holidays = 8 days

Sickness/Injury Absence = 8 days (average)

Training/Other Absence = 3 days (average)

Total = 39 days per annum or 15%

Unplanned, odd day absences are the most disruptive to any business. This eBook has been written to help managers and business owners to record, measure, manage and reduce short term absence wherever possible ...

Managing Short Term Absence

The prospect of tackling an employee's absenteeism leaves many managers apprehensive 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.

This eBook looks at the law and good practice on managing short-term sickness absence, including, recording and monitoring absence levels and the care needed to avoid disability discrimination, including how to go about obtaining medical advice. The Do's and Don'ts of what to say and explores how to manage an employee's return to work.

What are the benefits of managing absence?

Active management intervention can often help to:

- lead to a reduction in rates of absenteeism within the organisation and an associated reduction in costs and improvement in productivity.
- 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 their 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

Rights under employees' employment contracts

In its most simplistic form the employment contract is such that the employee agrees to pitch up for work and the employer will pay them an agreed amount for their time. Where this simplistic view unravels is what happens in the event that the employee, for whatever reason, can't fulfill their part of the contract? i.e. they are unwell or unable to attend work.

The following is a list of leave that is a statutory right for employees subject to them qualifying under the specific terms of each right.: -

- Public duties (Justice of the Peace, official or member of a public body)
- Antenatal care for a pregnant employee where attendance is recommended by a registered medical practitioner, midwife or nurse
- Antenatal appointments for a father or partner to accompany the mother
- Parental leave for a parent whose child is under the age of five (18 if the child is in

receipt of disability living allowance), or who has an adopted child under the age of 18

- Trade union learning representative duties and training
- Trade union representative duties and training
- Health and safety representative duties and training
- Trade union activities
- Pension scheme trustee duties and training
- Study or training (for employees in organisations with 250 or more employees).
- Study or training for 16 or 17-year-olds, leading to a relevant academic or vocational qualification.
- Mobilisation of a member of the volunteer reserve or regular reserve force
- Employees given notice of dismissal by reason of redundancy, to look for new employment or make arrangements for training for future employment
- For dependents
- Companion at a disciplinary or grievance hearing or request to undertake study or training hearing
- Employee representative duties and training
- European Works Council, special negotiating body and information and consultation duties

Not all statutory leave is paid, and the amount of leave / pay is either specified or limited to a reasonable amount.

There is **no statutory right to have time off sick** and or for an employer to pay sick pay over and above Statutory Sick Pay (SSP), yet many employers do.

So why do some employers make up SSP to full pay and in some cases for longer periods than the 26 weeks that SSP is payable? Any good employer will want to offer the best employment package it can afford to attract and retain good quality staff. There are productivity and health considerations too. If there is no sick pay employees with flu for example may struggle in whereas a day or two in bed might contain the outbreak.

The entitlement to SSP is subject to the employee following the correct notification procedure so if this is not followed it is possible to withhold pay.

Any statutory leave, unauthorized and or sickness absence is a cost upon the organization and it is therefore essential that companies accurately record who is taking what leave and review to apply the test of whether such leave is reasonable under the circumstances.

Managers need to ensure that they are familiar with their organisation's rules and requirements, and that these are applied consistently. 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 staff handbook should state clearly what employees' obligations are when they are unable to attend work, for example how and when they should notify their manager and what supporting medical certification is required.

So, if employers are providing a benefit it makes sense that this benefit is appreciated by staff and any abuse must be carefully managed and the cost controlled such that the Company can afford to provide the benefit. There is a very real need to manage sickness absence.

The real challenge however is “what is an acceptable amount of absence”. I have lost count of the number of supervisors and manager who are confused about this and say, “how can we challenge – we are not medically trained- they are entitled”. Going back to the fundamentals of the contract if an employee cannot pitch up for work this is a breach of the contract. However, there is a statutory rate to pay persons who are on sick leave. This does not entitle every employee to take 26 weeks each year off as sick leave.

So how do we manage absence to an acceptable level?

The first thing to do is to measure the sickness absence levels for the Company. What gets measured gets done. A review regularly this against the average for the UK and or the relevant industry sector. Anything in excess of the norm can be seen to be unacceptable. Managers have an important role to play in managing absence. There is no need for medical qualification as you are looking at an acceptable amount of attendance irrespective of the reason for the absence, although medical information may be required when considering dismissal for sickness absence., more of that later.

Short terms / odd day absences are far more disruptive to the business than long term illnesses. If you read nothing else in this eBook read the following...

“the single most effective way to reduce odd day absences is to conduct prompt return to work interviews. See below for more information but basically you will be setting out your stall to understand the reason for the absence and remind the employee if they are taking more absences than the industry norm.

Managers 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 their 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.

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.

The above list is not exhaustive

Managers should be alert to signals that an employee may be suffering from stress to an extent that they are 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/ Return to Work Interview

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 that they have their support with to resolve the particular problem if the employee is experiencing problems at work.

A key communication process in a Managers toolkit is the **Return-to-work meeting**, which facilitates the appropriate setting to discuss a problem/ concern with an employee and to ensure that appropriate support is in place. For those pessimists amongst us the value of spending the time to do this is that 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 **Return-to-work meeting** should be informal, so there is no formal of accompaniment. From the outset the Manager should make the purpose of the meeting clear i.e. to monitor absences and that the meeting is not part of the organisation's disciplinary procedure.

HOT SPOT.... There is a fine balance to be struck at the Return to Work meeting. It should be informal, but care needs to be sure that it is effectively communicated to the employee that it is more than just a casual chat and should be taken seriously.

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.

At the meeting, the manager may wish to ask the employee whether or not they visited a GP, and how they are feeling now. It will also be appropriate for the manager to enquire if there are any reasonable adjustments i.e. anything that they or the organisation 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.

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 e.g. the employer could be held liable in law.

A record should be made of this process.

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

The Company Absence Procedure should detail the expected procedure required of an employee when they are absent. The manager should record the date and time of the call, the reason given for the absence and how long the employee expects to be absent.

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.

Certification

Whenever an employee is absent for 8 days or less they are required to complete and sign a self-certification form on return to work.

Ideally this is completed so that it can be discussed 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.

Fit Notes

From 6 April 2010, the traditional doctor's 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 their doctor. The fit note allows doctors to state either that the employee is "not fit for work" or that they "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 employee's 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 they believe 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 doctor's fit note. Equally, any changes to employees' hours or job duties, whether temporary or permanent, should be made only with the agreement of the employee, and the manager and employee should agree how long the changes will last.

Nevertheless, 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 manager and employee, to help the line manager identify whether or not there are any workplace problems with which they could assist.

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 totaling more than 12 working days in the same period. Exceeding the trigger point should activate a review of the employee's attendance.

The Manager should:

- examine the employee's absence record to check the facts;
- look for patterns;
- arrange a formal meeting with the employee to discuss his/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 manager should make a point of examining whether there might be a pattern to the absences.

Examples could include frequent Monday/ Friday 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 they can explain the pattern.

What to say and what not to say

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 are 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?

xpertHR, (2014)

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.

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.

Suspicion that reasons given for absences are not genuine

If at any stage a 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.

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 they phoned in sick. The manager should follow this statement up by asking the employee if they 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 their side of the story.

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/ advisors 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 they have the right to bring a colleague or trade union official to the meeting;
- at the meeting, explain to the employee that their 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.

Written warnings

A written warning should:

- state the problem from the employer's perspective, ie 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 their attendance is unsatisfactory from the point of view of the employer.

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 their 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 required to have a minimum of two years' continuous service, as at the date of termination of their employment.

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