

## ABSENCE POLICY

Date policy adopted: 01/04/2011

Date of last review: 01/06/2021

### 1. Purpose and Scope

The Ethical Standards Commissioner (ESC) values good attendance at work and is committed to improving the general wellbeing of employees to achieve this. This policy has been developed in order to provide guidance on what should happen when any employee is not able to attend work due to being unwell.

This policy applies to all employees regardless of working pattern or nature of employment contract. It will not apply to others carrying out work on behalf of ESC (agency staff, contractors etc) who will be governed by the contract under which they have been employed or contracted.

### 2. Policy Statement

Regular, punctual attendance is an implied term of every employee's contract of employment and all employees are expected to take responsibility for achieving and maintaining good attendance. Although there is an aim to secure regular attendance, it is not expected that employees attend when they are unwell and in such a case, sick pay will be provided (see the sick pay scheme section). Any employee who has genuine grounds for absence will be supported either through this policy or with reference to another (e.g. special leave or working hours and annual leave) and all employees can expect confidentiality in relation to any information provided to any member of the senior management team, as far as this is reasonably practicable.

In accordance with the Equality, Diversity and Inclusion policy, the provisions of this policy will not be applied in a way which would discriminate in respect of age; disability; sex; gender reassignment; gender identity; race; nationality; ethnic or national origin; religion or belief; sexual orientation; trade union membership or non-trade union membership. Reasonable adjustments will be put in place, as appropriate, to support employees with a disability.

### 3. Implementation, monitoring and review of the policy

Overall responsibility for policy implementation, monitoring and review lies with ESC. Everyone covered by the scope of the policy is obliged to adhere to, and facilitate implementation of the policy. Appropriate action will be taken to inform all new and existing employees and others covered by the scope of the existence of the policy and their role in adhering to it. The policy will be reviewed at such times as legislation or a change to the ESC policy position requires it. The policy will be made available to the general public.

#### **4. Notification of absence**

If an employee is going to be absent from work, they should speak to their line manager or another member of the senior management team by 10am on their first day of absence. They should also:

- give a clear indication of the nature of the illness
- provide a likely return date
- provide practical details of any actions required during their absence (e.g. postponing a meeting)
- agree when next to contact the office.

Unless physically unable to do so, the employee should speak directly to their line manager. If the employee does not contact their manager by the required time the manager will attempt to contact the employee.

An employee may not always feel able to discuss their medical problems with their line manager. Managers will be sensitive to individual concerns and make alternative arrangements, where appropriate.

Appointments for hospitals, doctors, dentists, etc. are expected to be organised in an employee's own time. Authorised absence for such appointments is at the discretion of the line manager.

#### **5. Evidence of incapacity**

Employees can use the self-certification arrangements for the first seven calendar days of absence. This requires the employee to complete an Absence Record form on their return to work. Thereafter a 'Statement of Fitness for Work' from a doctor is required to cover every subsequent day of absence.

If absence is likely to be protracted, i.e. more than four weeks continuously, the employee and line manager will agree a timescale and method for maintaining contact at agreed intervals.

#### **6. Return to work discussions**

Managers will discuss absences of seven calendar days or more with employees when they return to work to establish:

- the reason for, and cause of absence
- anything the manager or the organisation can do to help
- that the employee is fit to return to work.

#### **7. 'May be fit for some work'**

If the doctor advises on the 'Statement of Fitness for Work' that an employee 'may be fit for work' a discussion will take place with the employee about ways of helping them get back to work. This might mean talking about a phased return to work or amended duties. This will normally be on the basis of medical advice, but all such arrangements are at the discretion of ESC.

If it is not possible to provide the support an employee needs to return to work – for example, by making the necessary workplace adjustments – or an employee feels unable

to return - then the Statement will be used in the same way as if the doctor advised that the employee was 'not fit for work'.

## **8. Prolonged or frequent absence**

Employees with health problems who have been forced to take a prolonged period of absence or frequent, short absences will be treated sympathetically and every effort will be made to keep them in employment. All realistic alternatives will be considered before termination of employment, such as

- a return to work on a part time basis or to a different role
- adjustments which could be made to the existing role
- retirement on grounds of ill health.

Some examples of what may be considered as frequent, short absence which would trigger a discussion about possible support which may be required include:

- more than ten days' self-certificated absence in total within a rolling twelve-month period;
- four periods of absence (including single days) within a rolling six-month period;
- any patterns of absence that emerge, for example, regular absences on Mondays and/or Fridays or absences that fall during months when no public holidays/annual leave are taken

If any absences are found not to be related to health, it may be appropriate for these to be referred and considered under the disciplinary policy. It may also be appropriate to refer to some of the wellbeing policies such as mental health and wellbeing, domestic abuse, substance abuse etc.

When employees are frequently absent from work or have a prolonged period of illness, an occupational health adviser may be asked to obtain a medical report from the employee's doctor or to carry out a medical examination. This will normally happen where

- the employee is absent for four weeks
- the employee's health has resulted in four or more incidences of absence in any six-month period
- the employee has a health condition for which particular advice related to their working environment could be helpful.

When access to medical records has been requested, or the employee is to be examined by an occupational health adviser, this will be arranged and paid for by ESC. The employee will always be informed in these circumstances and consent will be required. Any records received will be treated as confidential and will be held for no longer than necessary and in accordance with the data protection legislation. An unreasonable refusal to allow access to medical records or attend a medical examination may lead to disciplinary action.

Terminating employment may eventually have to be considered. Any decision to terminate employment will only be taken after a thorough review, considering adjustments to the existing role, the employee's prognosis and previous sickness record, medical reports, contractual rights, current legislative requirements and the requirements of the business. Full consultation will take place throughout the process.

## **9. Home visits**

Where absence has been for four weeks or more or where this might become the case, a home (or an alternative venue) visit will be arranged. This will be undertaken by the line

manager or another member of the senior management team. The purpose of the visit will be to:

- Ascertain the employee's current health situation
- Inform the employee of pay arrangements
- Identify an expected date of return
- Discuss any reasonable adjustments which might be made to facilitate a return to work
- Ensure that all health or other impediments to a return to work have been identified and are being addressed
- Complete any relevant paperwork, such as an Access to Medical Records consent

Home visits will continue at regular intervals during long term sickness absence.

## **10. Long term absence**

Long term absence is defined as being, or expected to be, of 12 months or more duration. Medical advice will be sought on or after the four-week stage. This is designed to:

- Offer support towards a quicker recovery
- Provide a prognosis regarding an expected return to work
- Identify adjustments to facilitate a return to work.

If a return to work is unlikely, alternatives will be discussed.

## **11. Effect of Sickness Absence during other periods of leave**

### **Sickness Absence during Disciplinary Proceedings**

If an employee has been suspended or has been given notice of a disciplinary hearing and is subsequently absent on the grounds of sickness, the following will apply:

- They will not be eligible for any sick pay (other than any entitlement to Statutory Sick Pay) for any period of sickness absence starting after they have been suspended or given notice of a disciplinary hearing, or at any time until the suspension or disciplinary process is concluded
- They may be asked to attend a medical examination by a doctor appointed by ESC to determine if they are fit enough to return to work or fit enough to attend a disciplinary hearing. The nominated doctor may specify reasonable conditions for such a disciplinary hearing to take place. For example, the nominated doctor may say that they are fit enough to attend a disciplinary hearing, but not at their normal workplace
- If the nominated doctor states that they are fit enough to attend a disciplinary hearing and the employee subsequently fails to do so, or if they do not agree to a medical examination when requested, this will be regarded as a serious breach of contract
- If the nominated doctor concludes that the employee is unlikely to be fit enough to attend a disciplinary hearing within a reasonable period, ESC will conclude the disciplinary process in the absence of the employee. ESC will consider all the relevant information available and may decide to review the employee's employment on grounds of capability and / or conclude the disciplinary proceedings in the absence of the employee. If the disciplinary proceedings are to be concluded in the absence of the employee, they will be provided with the opportunity to send someone to represent them at the hearing and put their case forward on their behalf.

- If the employee refuses to attend the medical examination by the doctor, then the disciplinary hearing will proceed in their absence.

### Sickness Absence *immediately prior to Holidays*

If an employee is absent from work because of sickness immediately prior to a period of authorised annual holiday and the sickness extends into the authorised annual holiday period, the employee may be permitted to delay their annual leave until a later time upon submission of a “fit note” completed by a medical practitioner.

### Sickness Absence *during Holidays*

If an employee is sick whilst on holiday and wishes to be considered as sick, they must comply with the usual notification procedures (e.g. contact the line manager before 10am on the first day of illness). In addition, a “fit note” completed by a medical practitioner must be provided, even where the absence is for 7 days or fewer. Any potential charge required by the doctor for the provision of the “fit note” will be the responsibility of the employee. If the employee is abroad and has fallen ill, the usual notification procedures may be waived, provided that evidence to support the claim is provided on return to work.

### Holidays during Sickness Absence

Employees will continue to accrue holidays whilst on sick leave. They may wish to request annual holiday entitlement while off sick and can do so by sending a request in writing to the line manager. Otherwise, they will be able to take their holiday entitlement as normal on return to work. For any employee off sick over the end of the holiday year, the maximum holiday entitlement which can be carried over is 20 days.

## 12. Sick Pay Scheme

Employees who are unable to attend work due to ill health, will normally be entitled to sick pay.

Provided that all procedures outlined in this policy have been complied with, ESC may grant sick absence on full pay to employees for a maximum of six months in total during any period of 12 months. They may also be paid sick absence at half pay for a further six months in any 12 month rolling period. Depending on the level of sick absence they have incurred over the previous 12 months, half-pay or no-pay rate may commence at any time during a particular period of sick absence. Any employee who is approaching the decrease in full sick pay to half, or half to no-pay will be notified when this change is drawing near. Employees can also contact the Corporate Services team if they need any further information in relation to their own particular circumstances.

For those unable to return to duty, they may be eligible for our ill health retirement scheme. Further details about the scheme are available from the senior management team.

A week of sick pay is equivalent to the employee’s normal contracted working week. If they do not have contracted or fixed hours of work, their entitlement will be based on actual hours worked over the 12 months preceding the absence.

If benefits under the Sick Pay Scheme have been exhausted, employees may be entitled to receive Statutory Sick Pay (SSP). Please see the Statutory Sick Pay pages of [www.gov.uk](http://www.gov.uk) for more information.

Benefits under the Sick Pay Scheme or SSP are not available during periods of family leave. Further details about family leave are given in the Supporting Work Life Balance policy.

### 13. Sick Pay Exclusions

ESC reserves the right to refuse or remove sickness benefits in the following circumstances:

- Where an employee is discovered to have deliberately misrepresented their medical history during medical examinations/reports
- Where medical advice indicates that the employee could return to work in some capacity but the employee refuses to do so
- Where the requirements of this absence policy have been breached
- Where an employee suspended or facing a disciplinary hearing is absent through sickness.

### 14. Absence due to Injury, disease or assault at work

If an employee is absent due to an injury sustained or a disease contracted at work, they should report the matter immediately to their line manager or another member of the senior management team, since special arrangements may apply in certain cases.

### 15. Absence due to mental health conditions

Where an employee is absent due to a mental health condition, the ESC mental health policy should be referred to, in conjunction with the absence policy.

### 16. Absence due to disability/maternity

Absences relating to the disability of an employee or to pregnancy will be kept separate from sickness absence records.

### 17. Further information and reporting concerns

For further information about entitlements to time off work please see the Supporting Work/Life Balance policy.

Any concerns about the matters covered in this policy should be referred to a member of the senior management team.

#### Equality Impact Assessment

Does this policy comply with the general Public Sector Equality Duty (s149 Equality Act 2010)?

This policy applies to all employees. Its impact was considered when drafting and particular consideration was given to those who are disabled with provision built in to the policy in order to protect them. We consulted with all employees prior to publication to identify and address any issues.

#### Data Protection Impact Assessment

Have we considered any effect the policy may have on the collecting, processing and storing of personal data?

The records generated by this policy will contain personal data and may contain sensitive and special category personal data. Suitable retention and destruction policies are in place to manage this material.

#### Information Security Impact Assessment

Have we considered the impact any policy may have on our cyber-resilience?

This policy should have no impact on our cyber-resilience.

#### Records Management Impact

Have we considered the impact any policy may have on our ability to manage our records?

This policy should have no impact on our ability to manage our records.

<b>Version</b>	<b>Description</b>	<b>Date</b>	<b>Author</b>
1.0	First draft	01/06/21	Public Appointments Officer