



Labour Relations

AGENCY

Improving Employment Relations in Northern Ireland

Managing sickness absence

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Foreword

For many employees work means a lot more than just their wage. Studies show that work is generally good for health and prolonged sickness absence can produce its own set of problems: isolation, de-skilling, loss of confidence, mental health issues and social exclusion.

Keeping people at work and helping them get back to work as soon as possible can help maintain an employee's health and wellbeing and improve organisational effectiveness. Managing sickness absence can be a challenge for many employers. Why is someone off? When will they come back? Is there anything I can do to help?

An important tool in managing sickness absence is advice about work provided by GPs on the medical statements they give to patients after they have been off work for over 7 days. In the past GPs could have only said that a person was either 'fit' or 'unfit' for work. Since 6 April 2010 a new medical statement offers a different option – “may be fit for work”.

The aim of the new 'Statement of Fitness for Work' (Fit note) is to give employers and their employees more useful back-to-work advice so they can be more flexible in managing sickness absence. A GP will be able to suggest ways of helping an employee get back to work. This might mean discussing a phased return to work, flexible working, amended duties or some workplace adaptations.

They will also provide written comments on the form about how a patient's condition affects what they do – such as different hours or the types of duties that may be appropriate.

To make the new Statement work employers need to talk openly and honestly to their employees. By working together to find an arrangement that works for both of you, you can deliver real benefits to your employee and your business alike.

Return to work discussions, following periods of sickness absence, are particularly important. Employers get the chance to welcome employees back, to update them on any developments or workplace news and to discuss how they can get back to a normal work routine as quickly as possible. More

detailed guidance on the Statement of Fitness for Work can be found on www.dwp.gov.uk/fitnote.

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Managing absence: an overview

This guide tries to answer some questions you might ask when an employee is absent from work due to sickness or unauthorised absence. Questions like:

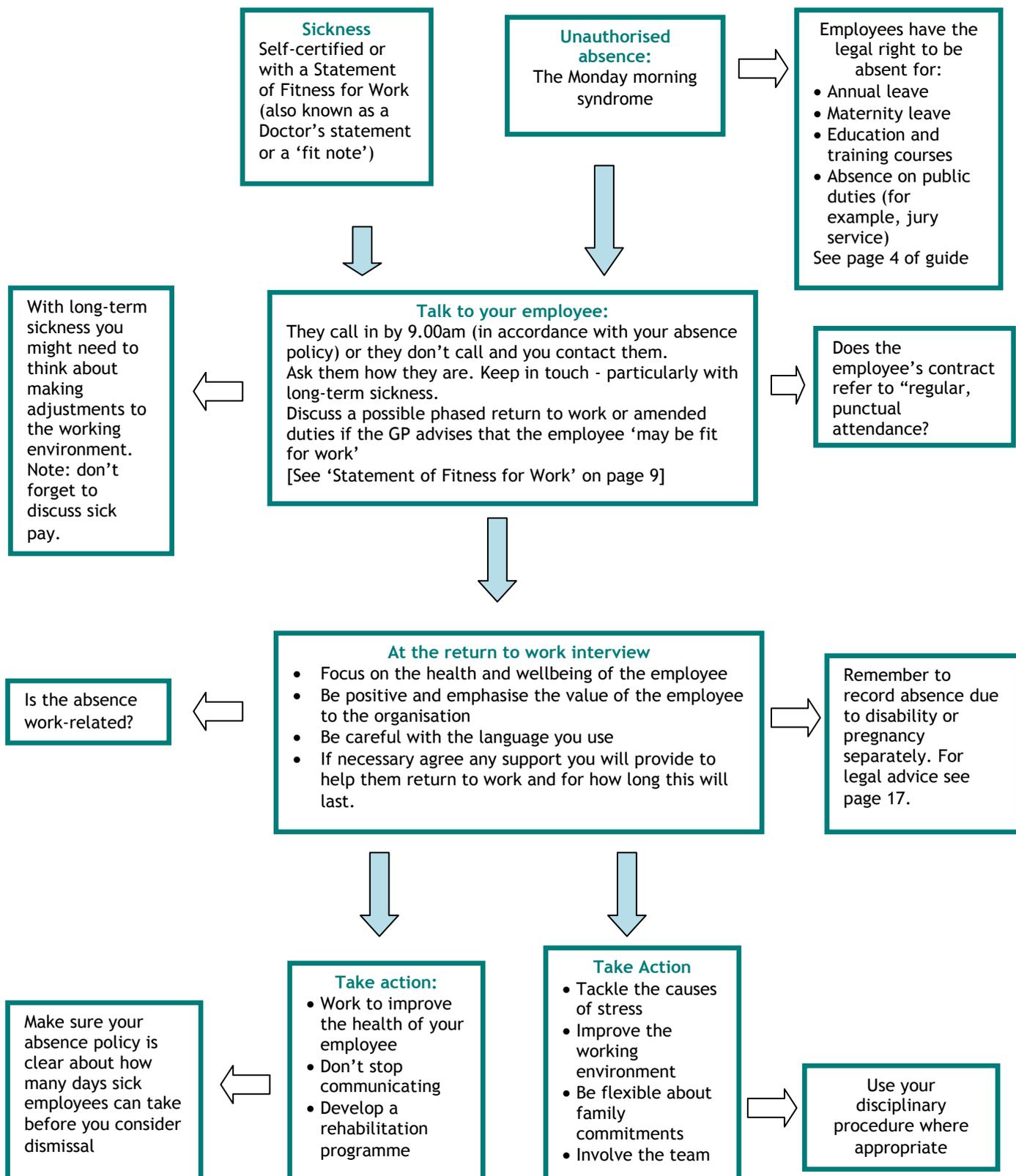
- How can I tell if someone is genuinely sick or if they just didn't feel like coming to work?
- Can I dismiss someone when they are away sick?
- How do I talk to my employees about why they were away?
- What action can I take to improve the attendance of my employees?

Most sickness is genuine and unauthorised absence may be caused by family commitments or stress. However, these situations are difficult to manage because they are often sudden and unexpected. This leaves some managers feeling unsure about what they can do. This guide will help you develop an action plan based upon:

- having the '**difficult conversation**' with an employee when they return to work
- looking after the **health and well-being** of your employees
- developing an **overall approach** to absence by linking attendance to job design, good employment relations, health and safety, flexible working and effective disciplinary procedures.

This guide covers both managing long and short-term sickness and tries to uncover the real reasons why people are absent from work.

Flowchart for managing sickness/unauthorised absence



Research increasingly shows that employers who manage attendance save money and improve effectiveness. The flowchart on page 2 shows the importance of:

- **early intervention:** if the employee doesn't call you when they should then why not call them?
- **good communication:** the way you conduct the return to work discussion is vital.
- **flexibility:** for example, turning down sudden requests for leave may not be your best option. Employees may simply take sick absence. Try to be flexible about family and caring commitments and discuss with your staff how the work can be covered.

Absence: facts and figures

Why are people absent from work?

People are absent from work for three reasons:

1. *They are sick*– they might have a common cold or a more complicated medical condition that needs medication, an operation or recuperation. Employees should either fill in a self-certificate explaining their short-term sickness or they should get a Statement of Fitness for Work (also known as a doctor’s statement or ‘fit note’) if the illness lasts more than seven days.

Statement of Fitness for Work

The government has introduced the ‘Statement of Fitness for Work’ (the ‘fit note’) to replace the sick note. As well as allowing GPs to advise that an employee is unfit for work, the statement also offers a new option – ‘may be fit for work’. A GP is now able to suggest ways of helping an employee get back to work. This might include an employer talking to an employee about a phased return to work or amended duties. For further information visit the Gov.Uk website

<https://www.gov.uk/government/collections/fit-note#fit-note-guidance>

2. They feel they are *unable to come to work* because of family or caring responsibilities or they simply do not want to come to work – they may be unhappy or lack motivation. Sometimes employees take sick absence because they feel they cannot ask for annual leave at short notice. Some unauthorised absence may require disciplinary action.

3. They are on authorised leave such as holiday, on a training course, or on maternity/paternity or some form of leave related to their caring or family commitments. They may also be on jury service or some other form of public duty.

This guide focuses on the first two kinds of absence. Most of the absences you will have to tackle will be due to short-term sickness –which account for 80 per cent of all absences. Try to get to the root causes of absence by:

- having prompt return to work discussions– no matter how long or briefly the employee has been away;
- keeping in regular contact about any ongoing concerns the employee may have. For example, if caring responsibilities sometimes require the employee to be absent at short notice;
- offering support where you can. This might mean discussing with your employee an earlier return to work especially in cases where their GP has advised that they ‘may be fit for work’.

The section on 'Looking after your employees' (page 14) looks at some of the underlying causes of absence and how you can manage attendance more effectively.

What does absence cost you?

To judge the real costs of absence in your organisation take a look at how things work when someone is away. You may see problems associated with:

- hiring, and paying for, **temporary replacement staff**
- **missed deadlines** due to a lack of trained, experienced employees
- **customer satisfaction** levels – how often have we heard someone apologise for poor service by saying 'the person who usually does this is off sick'
- **low morale** among colleagues expected to take on extra responsibilities
- **diminished reputation** with customers, potential employees and even lost business.

Absence is often unplanned, so you need to be prepared to manage the employees you have at work to cushion the impact on customers and the overall flow of work.

High absence levels affect everyone in the organisation and cannot be seen as a purely management problem. Employers, employees and their representatives should work together to monitor and control absence. This will help to:

- maintain job satisfaction
- manage workloads
- increase productivity and
- control costs.

Patterns of absence

Although each individual absence is different, general patterns often emerge. These vary from organisation to organisation because they are influenced not just by levels of illness but also by management style, culture, traditions of behaviour and working conditions. However, research has identified that these patterns often display a number of common features:

- young people tend to have more frequent, shorter periods of sickness than older people
- manual workers generally have higher levels of absence than office workers
- office workers have higher levels of stress-related illness than manual workers
- unauthorised absence is more common among new starters; longer serving workers get to know the organisation's standards and stay within the framework
- sick absence due to work-related accidents is also greater for new or inexperienced workers
- absence tends to increase where there are high levels of overtime or frequently rotating shift patterns
- absence is likely to be greater in larger working groups because it is less likely to be noticed.

Why analyse absence?

You should measure and analyse absence in your organisation to:

- confirm if you have a problem with absence levels
- identify the type of absence – is it mainly self-certified absences on a Monday or are there more cases of longer-term sickness?
- highlight some of the underlying causes for example, are absence levels higher in one particular team or at any specific time?
- compare your absence levels with those of other similar organisations.

Most employers believe they can reduce costs by tackling absence. By measuring absence levels employers can not only discover why their employees are absent but what they can do to ensure they are more likely to be at work in the future.

The evidence suggests that those employers that set targets for themselves do better than those that don't. Be realistic when setting targets for employee attendance. Many employers set their targets somewhere between five and nine days off per employee – but this will depend partly on your starting point.

Setting 'triggers'

The two most common ways of measuring absence are:

- the 'lost time rate' which shows the percentage of the total time available which has been lost because of absence
- the 'Bradford Index' which highlights repeated short-term absence by giving extra weight to the number of absences.

Appendix 1 gives details of how to use both these systems.

It can be useful to set certain trigger points for action. For example, if an employee has four separate periods of absence within a specified period, they might be asked to:

- see the organisation's doctor
- forward their GP's fit notes to their manager.

However, you need to be sensitive to the individual circumstances. For example, it would not be appropriate to caution an employee who is undergoing weekly medical treatment because they have a high absence rate.

One-to-one management skills

Having difficult conversations

It can be difficult talking to employees about why they have been absent from work. Some employees, naturally, find it difficult to discuss personal medical problems. Also, many managers shy away from what they perceive as a 'showdown' with employees, particularly if they suspect that the sickness has not been genuine or if they wish to discuss high levels of sickness absence.

For example, an employee has been over-celebrating a sporting victory. Do you talk to them even though the rest of the team don't seem too bothered by the absence? If another employee is always absent for the monthly finance meeting how soon do you realise that there may be an underlying problem?

It can also be easy to make assumptions about absence. For example, a colleague with a bad back should be ready to return to work. Is the delay in returning due to a recurrence of the medical problem or is it due to anxiety about resuming their work routine?

In the LRA's own experience it has found that early intervention and good communication are key ingredients in managing attendance. As a manager you need to:

- apply standards consistently
- look after your employees' wellbeing
- keep within the law
- look after the best interests of the employee and the company.

Keep in touch with employees when they are sick and away from work. When they return, conduct a return to work interview.

The 'Statement of Fitness for Work'

To help both employers and employees have more informed back to work discussions, the government introduced the 'Statement of Fitness for Work' which replaced the sick note from 6 April 2010. GPs provide the Statements when their patient's health condition affects their ability to work for more than 7 days. The Statement allows GPs to advise that an employee is 'unfit for work' or 'may be fit for work'. The aim of the statement is to give employees

and their employers more useful back-to-work advice so they can be more flexible in managing sickness absence. A GP will be able to suggest ways of helping an employee get back to work. This might mean discussing with your employee:

- a phased return to work
- altered hours
- amended duties
- workplace adaptations.

The GP will also provide written comments to you on the fit note offering a more detailed view of the kind of things that may help. For example, how their medical condition is likely to affect different aspects of their work.

For further information visit the Gov.UK website

<https://www.gov.uk/government/collections/fit-note#fit-note-guidance>

What is the purpose of a return-to-work discussion?

You should conduct return-to-work interviews in order to:

- welcome employees back
- check they are well enough to be at work
- discuss the details of an agreed return to work based on advice given by the GP in the Statement of Fitness for Work having already agreed the return to work in principle by talking through the issues on the phone or face - to - face
- update employees on any news while they were off
- identify the cause of the absence and find out whether they have a disability and whether the provisions of the Disability Discrimination Act 1995 applies such as the need to make a reasonable adjustment
- establish if their sickness is work-related and whether there are any health and safety issues you need to address.

A return to work interview is also a good way of teasing out any other problems an employee may have at work or at home. Problems may remain hidden unless you use tact and sensitivity during the interview. For example, will an employee:

- admit that their sick absence is really caused by having to care for an elderly relative?
- feel able to tell you they are being bullied by a manager/colleague?

Many of the causes of absence arouse very strong feelings and you may need training to help you manage the relationships with your employees

How do I prepare for a return-to-work discussion?

The majority of such discussions will be informal and brief. However, they should still be done and it's worth taking a short note of the ground covered. Where the discussion is more formal, due to the sickness record, remember that it is confidential so find a quiet place without any distractions. An employee may be building up the courage to reveal some information about their personal lives. If the employee is a homeworker you may need to have a lengthy talk on the phone.

You need to think about:

- the employee's records: have everything to hand at the meeting
- any discussion you have had with your employee following advice from their GP on the 'Statement of Fitness for Work'. If a return-to-work has been agreed you might want to think about how this will work in practice, for example, what will you tell the employee's work colleagues?
- what kind of questions you will ask. Open questions that give the employee the chance to talk freely are best, for example, 'how do you feel about being back at work'? may be better than a closed question like 'are you happy being back at work'?
- how the employee feels. Pick up clues by actively listening to what they say, making connections between the various points they make and seeking clarification. Be positive about the employee's value to the organisation
- your body language, show interest with appropriate nods, smiles and reassurance.

Remind yourself about the individual employee. Are there any issues that might crop up during the interview? For example, it might be worth:

- familiarising yourself with the Health and Safety Executive's (HSE) [stress standards](#) for more details

- thinking how you would respond to a request for flexible working or a phased return to work – this might be one of the suggestions made by the employee’s GP on the ‘Statement of Fitness for Work’.

Be prepared to discuss the employee’s absence in detail. Have there been any patterns? What does your absence policy say (see page 13)?

If the employee is returning from a period of long-term sickness plan a ‘getting back to work’ programme.

Update the employee about any changes since they’ve been away, like progress on any jobs they were working on, changes to the team, etc.

Finally, what are the options for the future? Discuss all the options and focus on positive outcomes. Where appropriate the employee may agree to be referred to your organisation’s medical officer or to an occupational health therapist. In some instances you might have to take disciplinary action if you are unhappy with the explanations for the absences or poor timekeeping. Have an open mind, agree a shared action plan where possible but don’t make any hasty decisions at the meeting.

Developing an overall approach

As part of your absence policy you may start to make connections between attendance and a wide range of issues, such as:

- flexible working
- health and safety
- job design and the working environment
- disciplinary policies and procedures.

You cannot always control the causes of sickness absence or unauthorised absence. For instance, there is little you can do to stop someone breaking a leg playing football or becoming depressed when a close relative dies. However, there are many aspects of a person’s working life that you can have a very positive impact on.

Managing attendance often means tackling some of the possible causes of absence – such as working patterns, job design and even employment relations (for more details see ‘Looking after your employees’ page 14).

Good relationships between employees and their managers are based on effective communications, consultation and shared problem-solving. Poor communication and lack of employee involvement can lead to absences.

What should an absence policy look like?

An absence policy will help you to be clear about how you intend to manage attendance. It can be given to your employees as part of their induction process. An absence policy will vary according to the size of your organisation but some common features are shown on page13.

Getting help

During discussions with your employees, you may discover that absence has been caused or exacerbated by problems with other members of staff.

If the absences are due to relationship problems – between employees or between managers/supervisors and employees – then consider using a mediator. LRA trained mediators are experts at dealing with everything from bullying to consultation and can work with organisations of every size and every sector.

Common features of an absence policy

Introductory statement	Set out the management's commitment to improve health, well-being and attendance and reduce absence to no more than xx days per employee per year.
Notification of absence	The employee should speak to their manager or their deputy as soon as possible by a set time – perhaps within an hour of their normal start time. They should also: <ul style="list-style-type: none"> • give a clear indication of the nature of the illness and • a likely return date The manager should promise to keep in regular contact.
Evidence of incapacity	Self-certification under seven days, a Statement of Fitness for Work (also known as a doctor's statement or a 'fit note') from the eighth day on. The 'Statement of Fitness for Work', introduced on 6 April 2010, allows a GP to advise that an employee is either 'unfit for work' or 'may be fit for work'. The GP can also suggest ways of helping the employee get back to work, for example, a phased return or modified duties. Your policy should include how you will discuss a return to work for employees advised that they 'may be fit for work'.
Use of medical help/advice	When an occupational health adviser will be used – some organisations intervene immediately (this is an increasingly popular approach), while others only intervene after repeated or prolonged sickness absence or during rehabilitation.
Long-term sickness	Your rehabilitation programme and use of staff counsellors.
Role of line manager	Who keeps the records of absence and investigates the possible causes
Maternity absence	How absences relating to pregnancy will be recorded and treated. For further advice see page17.
Disability absence	How absences relating to the Disability Discrimination Act 1995 will be managed For further advice see p17.
Return to work interviews	Explain when the interviews will take place and the purpose of having these discussions between employees and their managers.
Trigger points	Many organisations have a 'formal review' after a certain number (perhaps three or four) separate periods of absence in a rolling year. You can also establish trigger points linking unauthorised leave to disciplinary action.
Sick pay	Set out an employee's entitlement to sick pay and statutory sick pay. Be clear how they apply to temporary and part-time employees.
Confidentiality	References to the confidentiality of all discussions and documents relating to sickness absence. Also, how requests to obtain medical records will be handled – for further advice see page17. See also Appendix 3 on page 31.

Looking after your employees

How important is the health and wellbeing of my employees?

Employers are increasingly making the link between attendance and the health and wellbeing of their employees. Organisations are looking at issues like smoking, alcohol and stress alongside traditional occupational health issues such as noise, dust and chemical hazards.

Employers have a 'duty of care' to protect employees from risks to their health and safety. Some of these possible risks – like working very long hours and not taking sufficient rest breaks – are covered by legislation. For example, the Working Time Regulations (Northern Ireland) 1998 limit weekly working hours, provide minimum periods of rest and a minimum level of paid annual leave.

How can I increase the commitment of my employees?

There is a good deal of evidence, to show that employees who are committed to their organisation and the job they do are less likely to be absent from work. See for example, the report to Government by David MacLeod and Nita Clarke *Engaging for success: enhancing performance through employee engagement* (Department for Business, Innovation and Skills 2009). This report makes a strong case for lowering absence levels by increasing employees' commitment through:

- showing them clear leadership and letting them know how they can contribute
- engaging them in their work and giving them the power to make some decisions themselves rather than trying to control and restrict them
- showing them respect and appreciation
- giving them ways to voice their views and concerns.

There is no guaranteed way of ensuring commitment of your employees. However, the best way of keeping in touch with the way your employees feel about their workplace is to consult them.

That way you can work with employees and their representatives to ensure that:

- good physical working conditions are provided
- health and safety standards are rigorously maintained – including stress management standards
- new starters are given sufficient training and receive particular attention during the initial period of their work
- the prevailing ethos is one of teamwork
- jobs are designed so that they provide motivation and job satisfaction. They should, where possible, provide some or all of the following: variety, discretion, responsibility, contact with other people, feedback, elements of challenge and clear goals
- training, career development and promotion policies, communication procedures and welfare provision are examined to see if they can be improved
- policies on equal opportunities, discrimination and bullying and harassment are up-to-date and observed
- management training is adequate and line managers are aware of their ‘duty of care’ responsibility for their workers’ health and welfare.

Many of these issues are critical to developing an effective and committed workplace. However, the right policies and procedures won’t work unless they are introduced and used in the right way by managers who are trained and confident to do so.

How can I help my employees to achieve a good work-life balance?

It is wise to recognise openly that individuals have reasonable and legitimate reasons for needing to be absent from work, for example, they may have caring responsibility for an elderly relative. Also, there is increasing focus on the benefits of encouraging a good ‘work-life balance’. Employees have the right to request a [flexible working](#) arrangement and have it seriously considered by their employer. Management should consider

- introducing flexible working hours or varied working arrangements, as this could assist employers without conflicting with work commitments, customer service or production:
- authorising reasonable absences to cover business or medical appointments, including ante-natal care, which have been notified in

advance. All pregnant employees, regardless of service, are entitled to reasonable, paid time-off for ante-natal and other pregnancy-related care. Following changes to the Work and Families Act in April 2015, both employees and Agency workers, who have a qualifying relationship with the pregnant woman or her expected child, have the right to unpaid time off to attend up to two antenatal appointments. The time off for each appointment is capped at 6.5 hours.

- allowing for authorised absence whenever appropriate to cover specific religious observances
- allowing for special leave
- possibly providing crèche facilities.

As a manager your aim is to achieve the highest level of attendance possible. There is a clear link between attendance and levels of productivity and customer care. Try to minimise disruption to work caused by absence and treat all workers fairly and compassionately.

Legal issues

Issue	Key Points
Maternity	<ul style="list-style-type: none"> • keep absence records separate from sickness records - a woman attending regular ante-natal classes should not hit a 'trigger point' in the same way as someone with regular sickness absence. • ensure a health and safety risk assessment has been done for the pregnant employee.
Disability	<ul style="list-style-type: none"> • if your employee is disabled or becomes disabled, you are legally required under the Disability Discrimination Act 1995 to make reasonable adjustments to enable the employee to continue working - for example, providing an ergonomic chair or a power-assisted piece of equipment. • make sure the individual is not disadvantaged because of their disability. • if absence is related to disability keep record separate from other sickness absence.
Data protection	<ul style="list-style-type: none"> • you must get your employee's permission in writing in order to see their medical records • Part III of the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 (see page 31) gives an employee the right to see the medical practitioner's report - up to six months after it was supplied • an employee can ask the GP to amend their medical report if they think it is incorrect or misleading • for further information about this subject click on the following link Data Protection
Health and safety	<ul style="list-style-type: none"> • health and safety law requires you to undertake risk assessments of your activities to prevent people being harmed • review your risk assessments if your employees have suffered injury or ill health that makes them more vulnerable
Discipline and dismissal	<p>The LRA Code of Practice: disciplinary and grievance procedures sets out principles for handling disciplinary and grievance situations in the workplace. These include:</p> <ul style="list-style-type: none"> • informing the employee of the problem • holding a meeting to discuss the problem • allowing the employee to be accompanied • deciding on appropriate action • providing employees with an opportunity to appeal <p>Industrial Tribunals are legally required to take the Code into account when considering relevant cases. Tribunals will also be able to adjust any compensatory awards by between 10 and 50 per cent for unreasonable failure to comply with any provision of the Code.</p>

Employees and sickness

Short-term sickness

Short-term sickness is by far the most common form of absence accounting, on average, for around 80 per cent. Short-term sickness usually takes the form of:

- minor one-off absences, for example, toothache, colds, muscular sprains and strains, migraines, etc
- minor absences that occur more regularly, for example, an employee may be off with minor strains/injuries, etc, four times in a year or may be off every few weeks with a migraine.

Managing short-term absence

As an employer you should build up the following picture of an employee's short-term sickness:

- within an hour of their normal start time the employee should speak to you or their line manager on the phone explaining why they are absent and the nature of the problem and this can give you the chance to check if:
 - there are any concerns they have about their illness
 - they need to update you on any jobs they are working on
- if they return within seven days they fill in a self-certificate which briefly explains the nature of their absence
- if they are absent for more than seven days you receive a 'Statement of Fitness for Work' advising that the employee:
 - is unfit for work
 - may be fit for work. If the GP feels an employee may be fit for some work they can suggest ways of helping the employee get back to work, such as a phased return or modified duties. You should discuss the possible options with your employee
- keep in touch with the employee by phone while they are absent
- hold a return-to-work interview with the employee (see p8-12 for more details)
- communicate regularly with the employee when they return to check there are no ongoing problems.

What can I do if a pattern of short-term sickness emerges?

Frequent absence may indicate general ill-health which requires medical investigation and, if continued, may indicate work stress or lack of capability to do the job. Individuals should be encouraged to seek proper medical attention to establish any underlying health problem. It may also be helpful to discuss whether there are domestic difficulties or problems with the job.

Small organisations can retain the services of a medical adviser, usually a GP, on a part-time or session basis. Advisers should visit the organisation so they become familiar with the kind of work you do. Alternatively you may share the GP's services with other organisations.

Contact may be made with the employee's GP, so long as the employee agrees. Serious illness may be spotted at an early stage.

Long-term sickness

Long-term sickness is one of the most difficult problems for management to tackle. Large organisations are usually better placed to cover these problems through more flexible working. In small organisations (or where the absentee fills a key position) it is not always so easy. Do you:

- replace the worker in order to get the job done?
- aid the sick person's recovery by guaranteeing their job security?

Whether you are in a large or small organisation you will want to assess what impact the long-term sickness is having. Ask yourself:

- how much damage is being caused by this absence? Is there an immediate crisis or could the organisation afford to continue for some time without a replacement, with some re-organisation?

How do you deal with long-term sickness?

If you are dealing with an employee who is on long-term sick absence you will want to consider the following:

- does the 'Statement of Fitness for Work' say that the employee 'may be fit for some work'? If so, would a phased return, working part-time or flexible hours – help the employee to get back to work?
- in the opinion of the employee's GP or consultant, or the organisation's doctor, when will a return to work be possible?
- will there be a full recovery or will a return to the same work be inadvisable?
- could the employee return if some assistance were provided? Could some re-organisation or re-design of the job speed up a return to work?
- is alternative, lighter or less stressful work available, with retraining if necessary
- is there a requirement under the Disability Discrimination Act 1995 to make a reasonable adjustment?

To manage long-term absence:

- keep in regular contact
- discuss any options for returning to work, following advice from the employee's GP in the Statement of Fitness for Work
- use occupational health and seek medical advice
- be clear about arrangements for sick pay
- conduct return-to-work interviews
- develop a 'getting back to work' programme to support the employee's return
- dismiss fairly (after a proper investigation).

When you contact a GP or consultant for a medical opinion on an employee's health, make sure you tell them what the employee's job entails before asking any questions.

Always keep the employee fully aware of his or her position. Knowing there is a job to go back to can help relieve anxiety. In some cases, it may be appropriate to simply keep in touch with the employee and give them the time they need to recover. This is particularly true where there is a possibility that the illness has job related causes.

Can I dismiss an employee while on long-term sickness?

Only as a last resort once all other options have been considered. Before making a decision, think about all the factors mentioned earlier such as reasonable adjustment, flexible working, job design, a phased return to work, etc. You may have to satisfy an employment tribunal as to the fairness of your decision. [The LRA Code of Practice: Disciplinary and grievance procedures](#) sets out principles for handling disciplinary and grievance situations in the workplace. Employment tribunals are legally required to take the Code into account when considering relevant cases. Tribunals will also be able to adjust any compensatory awards made in these cases by between 10 and 50 per cent for unreasonable failure to comply with any provision of the Code.

After long absences, particularly those caused by work-related accidents, there is often a fear of returning to work. An understanding approach, coupled perhaps with part-time working at first, can help build up confidence and a return to normal performance. If the job can no longer be kept open, the employee should be told.

How can I help an employee return to work after a long absence?

Employees are often understandably anxious about returning to work after a long absence. They may have lots of questions to ask you. For example:

- has the working environment changed? If the sickness was work-related they may be concerned about using the equipment. Have you reviewed your risk assessment?
- could you make reasonable adjustments? If they are disabled, or have become disabled, you are required to make reasonable adjustments to help them back to work
- what do my colleagues know about my absence? Reassure the employee that all discussions and paperwork about their illness have remained strictly confidential. Ask the employee how they wish to handle the subject of their absence with colleagues.

Employees need to be reassured that you have given some thought to their return to work. Talk to the employee and their colleagues and work out a 'getting back to work' programme. This might involve:

- shorter hours in the first few weeks or flexible hours
- catching up on any new developments within the organisation

- training on new equipment or new processes/procedures
- a friendly chat about what's been going on at work – for example, any social events they may have missed or that are coming up.

What can I do about stress and mental health problems?

Stress and mental health problems are common causes of sickness absence particularly long-term sickness.

The Health and Safety Executive (HSE) has developed a set of [‘management standards’](#) to help employers tackle stress. They identify the six chief causes of stress as:

- the demands made on employees
- the level of control employees have over their work
- nature of the relationships
- the support employees receive from managers and colleagues
- the clarity of an employee's role within the organisation
- the way that change is managed.

The HSE has also developed a [Workplace Stress Management Toolkit](#) to help you identify the kind of stress people are most likely to experience in your business.

Mental health problems can be very difficult to diagnose. They may be caused by stress, by bullying or by depression brought on by a combination of factors affecting an employee at work and at home.

Try and be understanding. A counsellor can help to explore the deeper emotional problems associated with mental ill health. For further advice on mental health issues click on the following link

<http://www.mindingyourhead.info/>

Employees and unauthorised absence

This type of absence – the ‘odd day’ off work often with illness given as the reason or excuse – is generally known as ‘absenteeism’. Both management and workers will be aware that some individuals will take days off work, sometimes giving sickness as a reason, sometimes giving no reason at all. Whether paid or unpaid, this type of absence is costly to the organisation because it is unpredictable.

Lateness and poor timekeeping are similarly disruptive, particularly when others cannot begin work until arrangements are made to provide cover. However, some account must be taken of unusual travelling difficulties which workers may have to face from time to time.

On the other hand, absence of this kind may point to problems concerning the quality of management, working relationships, job design, and other factors mentioned earlier in this guide. All of these need to be examined to see if better management is the answer to the problem since, if workers know that absence will be noticed and will be investigated by management on return, they are less likely to take time off work without proper cause.

Specific measures could also include:

- careful monitoring of individual absence records and comparisons with the average for the team?
- a requirement for the absent worker (or someone acting on his or her behalf) to speak to the line manager by telephone by a given time on each day of absence
- a rule about absences before and after holidays
- restrictions on volunteering for overtime.

Absence of this kind may indicate the need, eventually, to invoke disciplinary action.

Further advice...

... on disciplinary procedures can be found in the [LRA Code of Practice on disciplinary and grievance procedures](#), and in the [LRA guide Handling Discipline and grievances at work](#). Industrial Tribunals are legally required to take the Code into account when considering relevant cases. Tribunals will also be able to adjust any compensatory awards made in these cases by between 10 and 50 per cent for unreasonable failure to comply with any provision of the Code (see p17 for details).

Where disciplinary action is invoked, representatives will have an interest in seeing that cases are well-presented and given proper consideration by management. They will also have an interest in seeing that management takes appropriate action against those who try to exploit the disciplinary and sickness provisions at the expense of the majority. In some companies formal joint consultation takes place between workers, their representatives and management to consider what remedial action may be necessary to deal with absence problems and difficult individual cases.

Company policies can occasionally encourage longer than necessary absences. Sick pay schemes which pay only for absences of three days or more, for example, may encourage three day absences when perhaps only one or two days would otherwise be lost. If strict adherence to starting times has been neglected over a period of time, a sudden tightening-up may cause some workers to stay away for the day rather than face a reprimand for lateness.

Attendance payments

Some companies make additional payments on top of normal pay in order to encourage good attendance but opinions vary over whether this is effective. Advocates of attendance payments argue that they reward those who, by turning up for work, frequently carry an additional load caused by those who stay away. It is also claimed that such payments, while not necessarily affecting persistent absentees, raise the general level of attendance.

However, managers should consider the disadvantages carefully before introducing attendance payments:

- good attendance is part of the bargain the worker makes with the employer and so is already paid for in the normal wage or salary
- only a small minority is likely to be frequently absent. Payments are paid to all to improve the attendance of only a few workers
- incentive payments tend to lessen the line manager's responsibility to encourage good attendance and deal effectively with poor attendance
- once the qualification for payment is lost, the incentive value is also lost for the remainder of the period
- too small a payment is unlikely to be effective as an incentive, but too large a payment would distort the effort-reward relationship of the normal payment system

- over a period the extra payment is increasingly seen as part of normal pay, the incentive value is lost and there is pressure to consolidate it into basic rates.

Some organisations have less direct systems of rewarding good attendance. These are sometimes based on the concept of 'banking' time which, if not used to cover absence caused by sickness, can be saved up over a period and converted into extra holidays, long or sabbatical leave, or early retirement.

Appendix 1

Measuring Absence

Lost Time Rate

The most common measure of absence is the lost time rate. This shows the percentage of the total time available which has been lost because of absence from all causes in a given period.

Total absence (hours or days) in the period	x 100	= Lost time rate
Possible total (hours or days) available in the period		

For example, if the total absence in the period is 124 hours, and the possible total is 1,550 hours, the lost time rate is:

124	x100	=8%
1,550		

The lost time rate can be regarded as an overall measure of the severity of the problem. If calculated separately by department or group of employees, it can show up particular problem areas.

Total time lost, however, may consist of a small number of people who are absent for long periods, or a large number absent for short spells. A measure of 'frequency' is needed to show how widespread the problem is, so that companies can formulate appropriate plans to reduce it.

The frequency rate shows the average number of spells of absence per employee (expressed as a percentage) irrespective of the length of each spell.

Number of spells of absence in the period	x100	= Frequency rate
Number of employees in the period		

If the organisation wishes to monitor the number of employees absent at all during the period the individual frequency rate can be used:

Number of employees having one or more spells of absence	x100	= Individual frequency rate
Number of employees		

For example, in one month an organisation employed on average 80 employees. During this time 12 employees had periods of absence: one was away three times, two were away twice and nine were away once, a total number of 16 spells of absence. The frequency rate was therefore:

16	x100	= 20%
80		

The individual frequency rate was:

12	x100	= 15%
80		

Bradford Factor

Another individual index of absence, developed by Bradford University, highlights repeated short-term absence by giving extra weight to the number of absences. It is given by the formula:

Index (I) = S x S x H, where:

S = the number of absences; and

H = total hours absent in any given period

For example:

Employee with two periods of absence totalling 10 days (80 hours):

$$I = 2 \times 2 \times 80 = 320$$

Absentee with six periods of absence totalling 10 days (80 hours):

$$I = 6 \times 6 \times 80 = 2880$$

Organisations can use the indicator to provide a trigger point for investigation. It is important, however, to examine the particular circumstances leading to a high score before action is taken.

Appendix 2

Sample Absence Policy

This is a sample policy which you should adapt to suit the particular circumstances of your organisation.

Policy statement

We are committed to improving the health, well-being and attendance of all employees. We value the contribution our employees make to our success. So, when any employee is unable to be at work for any reason, we miss that contribution. This absence policy explains:

- what we expect from managers and employees when handling absence
- how we will work to reduce levels of absence to no more than xx days per employee per year.

This policy has been written after consultation with employee representatives.

We welcome the continued involvement of employees in implementing this policy.

Key principles

The organisation's absence policy is based on the following principles:

1. As a responsible employer we undertake to provide payments to employees who are unable to attend work due to sickness. See the Company Sick Pay scheme.
2. Regular, punctual attendance is an implied term of every employee's contract of employment - we ask each employee to take responsibility for achieving and maintaining good attendance.
3. We will support employees who have genuine grounds for absence for whatever reason. This support includes:
 - a. 'special leave' for necessary absences not caused by sickness
 - b. a flexible approach to the taking of annual leave
 - c. access to counsellors where necessary
 - d. rehabilitation programmes in cases of long-term sickness absence.
4. We will consider any advice given by the employee's GP on the 'Statement of Fitness for Work'. If the GP advises that an employee may be

fit for work' we will discuss with the employee how we can help them get back to work , for example, on flexible hours, or altered duties.

5. We will use an occupational health adviser, where appropriate, to:
 - a. help identify the nature of an employee's illness
 - b. advise the employee and their manager on the best way to improve the employee's health and well-being.
6. The organisation's disciplinary procedures will be used if an explanation for absence is not forthcoming or is not thought to be satisfactory.
7. We respect the confidentiality of all information relating to an employee's 'sickness. This policy will be implemented in line with all data protection legislation and the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991.

Notification of absence

If an employee is going to be absent from work they should speak to their manager or deputy manager within an hour of their normal start time. They should also.

- give a clear indication of the nature of the illness and
- a likely return date.

The manager will check with employee if there is any information the manager needs about their current work. If the employee does not contact their manager by the required time the manager will attempt to contact the employee at home.

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. For example, an employee may prefer to discuss health problems with a person of the same sex.

Evidence of incapacity

Employees can use the organisation self-certification arrangements for the first seven days absence. Thereafter a 'Statement of Fitness for Work' from a GP is required to cover every subsequent day. If absence is likely to be protracted, ie more than four weeks continuously, there is a shared responsibility for the organisation and the employee to maintain contact at agreed intervals.

'May be fit for some work'

If the GP advises on the Statement of Fitness for Work that an employee 'may be fit for work' we will discuss with the employee ways of helping them get back to work. This might mean talking about a phased return to work or amended duties.

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 of Fitness for Work will be used in the same way as if the GP advised that the employee was 'not fit for work'.

Return-to-work discussions

Managers will discuss absences 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.

If an employee's GP has advised that they 'may be fit for work' the return-to-work discussion can also be used to agree in detail how their return to work might work best in practice.

A more formal review will be triggered by:

- frequent short-term absences
- long-term absence.

This review will look at any further action required to improve the employee's attendance and wellbeing. These trigger points are set by line managers and are available from Personnel.

Absence due to disability/maternity

Absences relating to the disability of an employee or to pregnancy will be kept separate from sickness absence records. We refer employees to our Equality Policy - covering family and disability discrimination policies.

Appendix 3

Access to medical reports for employment purposes

The Access to Personal Files and Medical Reports (Northern Ireland) Order 1991

What Part III of the Order covers

Part III of the Order applies to individuals for employment purposes.

'(Employment purposes' are defined by Article 6 of the Order as 'the purposes in relation to the individual of any person by whom he is or has been, or is seeking to be, employed (whether under a contract of service or otherwise)'. So, the Order applies to employees, potential employees and self-employed people who work under a contract for personal services.

Article 6 also defines a *medical report* as 'a report relating to the physical or mental health of the individual, prepared by a medical practitioner who is or has been responsible for the clinical care of the individual'. The medical practitioner could be the employee's GP, a hospital doctor or a consultant, depending on who is responsible for the clinical care of the individual. This definition does not include any report prepared by a named independent doctor or company doctor as long as they have not been responsible for the 'clinical care' of the individual.

Notification

An employer or future employer cannot apply to an individual's doctor for a medical report on the individual for employment purposes unless:

- the employer tells the individual that this is what he or she plans to do; and
- the individual has agreed to the employer applying for the report [Article 8(1)].

Employer's notice to the individual

The notice the employer gives to the individual must tell the individual their various rights under the Order, as follows.

- That the individual can refuse to allow the employer to apply to their doctor for a medical report [Article 8(2)].

- That if the individual does give their permission, they will be entitled to have access to the report. If the individual wants to see the report, the employer must tell the doctor at the time of applying for a medical report, and also tell the individual that he or she is applying for a report [Article 9(1)].
- That the individual can see the doctor's report, if they want to, before the doctor passes it to the employer [Article 9(2)].
- That the individual has the right to refuse to give permission for the report to be passed to the employer [Article 10(1)].
- That the individual has the right to ask the doctor to correct mistakes or, at least, to record that there is a difference of opinion over items in the report [Article 10(2)].
- That the individual has the right to see any medical report relating to him or her that the doctor has provided for employment purposes during the previous six months [Article 11(2)].

It is no longer the case that an employer can simply get an employee's or future employee's general permission to get a medical report. The employer must tell the employee all their rights.

Employer's notice to the doctor

The employer who asks for a medical report from an individual's doctor must also give the doctor certain information when they apply.

- That the individual who is to be the subject of the report has asked to see the report before it is passed to the employer [Article 9(1)].
- Where the above is the case, that the doctor must not provide the report until the individual has seen it and that they have corrected any mistakes or recorded a difference of opinion over items in the report [Article 9(2)(a)].
- That the doctor may pass the report to the employer in any case when 21 days have passed from the date of the employer's application without the doctor having received any communication from the individual about access to the report [Article 9(2)(b)].

All notices needed under the Order must be in writing [Article 14(1)(a)].

Access [Article 9]

Article 9(4) of the Order defines giving an individual access to a medical report as:

- making the report (or a copy of it) available for inspection; or
- providing a copy of the report.

The doctor may charge a reasonable fee to cover the cost of supplying a copy of the report, as long as the individual has asked to see a copy or agreed to receive one.

An individual who is the subject of a medical report and who wants to have access to it before it is passed to the employer has 21 days to contact the doctor to make arrangements to see it. This 21-day period starts on the date the employer applies for the report, or if the individual contacts the doctor at any time before the report is passed to the employer to say that he or she wants to see it, from the date the individual gives notice. If the 21 days pass without any communication from the individual, the doctor may then pass the report to the employer. However, the individual can still ask to see it later on.

Correcting mistakes

If an individual has been given access to a report, the doctor must not pass it to the employer unless the individual has given his or her permission [Article 10(1)]. The individual may also ask the doctor to amend any part of the report which he or she considers to be incorrect or misleading. The doctor may or may not agree to do this, and the individual is not allowed to say what should go in the report. However, the Order does allow an individual to ask the doctor to attach to the report a statement of the individual's views about any part of the report which the doctor refuses to amend. When this happens, the doctor **must** attach a statement to the report [Article 10(2)(b)]. Any request to a doctor to amend a report or to attach a statement of the individual's views must be in writing [Article 10(3)].

Keeping reports [Article 11]

A doctor must keep a copy of any medical report he or she has provided for employment purposes for at least six months from the date they provided it [Article 11(1)]. Everyone has the right to see any medical report relating to them provided by a doctor for employment purposes during the previous six months [Article 11(2)].

Exemptions [Article 12]

If the doctor considers that it would not be in the best interests of the individual for him or her to see part or all of the medical report, the doctor does not have to give an individual access to the medical report in the normal way if the following circumstances apply.

- Where any part of the report would be likely to cause serious harm to the physical or mental health of the individual, or other people [Article 12(1)].
- Where the information provided would show how the doctor is going to treat the individual [Article 12(1)].
- Where the report includes information about another person (unless that other person has agreed to their information being released) [Article 12(2)].
- Where the report would reveal the identity of another person who has given the doctor information about the individual. Again, there is an exception if the other person has agreed or if the other person is a health professional (not necessarily a doctor) who has been involved in looking after the individual [Article 12(2)].

The doctor may decide that the whole report is covered by one or more of the exemptions listed above. In that case the doctor must tell the individual and the doctor must not pass the report to the employer unless the individual has agreed to this in writing [Article 12(4)]. [The 21-day rule, covered in Articles 9(2) and 9(3), does not apply in these circumstances.] If the doctor decides that the employer should not see part of the report because of one or more exemptions, he or she must tell the individual. The individual can challenge a doctor's reliance on the exemptions in the County Court by claiming that the doctor has failed to follow the Order (see 'Enforcement' below).

Enforcement [Article 13]

If the County Court is satisfied that any person has failed or is likely to fail to follow any condition of the Order in connection with a medical report, the court may order that person to follow the Order. This is the only penalty for failing the Order.