

## **Guidance for Managers: Capability – Sickness Absence**

### **1.0 Overview**

Absence due to staff sickness can present challenges for the University, both operationally as well as financially. It is therefore important that absence is managed in line with University procedures, whilst ensuring that staff that are experiencing difficulties with their health are appropriately supported.

### **1.1 Persistent Short-Term Sickness Absence**

Persistent short-term sickness absence would normally be dealt with under the University's [Sickness and Attendance Management Procedure](#) in the first instance. However, where the short-term absences are as a result of an underlying medical problem which is recurring, the [Capability Procedure](#) may apply.

### **1.2 Long-Term Sickness Absence**

In the case of long-term sickness, a number of factors should be considered:

- Length of employment.
- Previous attendance and sickness record up to the present illness.
- The effect on the University of the Individual's continued absence and the need to engage a replacement or cover for the duties.
- Nature of the individual's job and their position within the organisation.
- Opportunities for the University to make reasonable adjustments to work requirements, such as redeployment, flexible working/phased return to work.
- The nature and duration of the illness and the prospects for recovery (with input from Occupational Health).
- Nature of ill health, and whether any adjustments under the Equality Act 2010 are appropriate.

### **1.3 Avoiding Disability Discrimination**

- Follow a fair procedure.
- Obtain an Independent medical report.
- Consider reasonable adjustments;
  - Allocating duties to another;
  - Transferring disabled person to fill an existing vacancy;
  - Altering the individual's working hours;
  - Allowing the person to be absent during working hours for rehabilitation, assessment or treatment;
- Objective justification

## **2.0 Informal Capability – Sickness Absence**

Where performance concerns are being raised due to an employee's wellbeing, the manager should, where possible, deal with the concerns informally in the first instance (see Appendix 1 for more information about conducting an informal meeting).

The Manager should contact HR to request that a referral is made to Occupational Health in order to obtain more information on the employee's condition and fitness to undertake their role. In conjunction with HR, the Manager should consider if any reasonable adjustments can be made to enable the employee to return to work, and/or meet the requirements of their role.

## **2.1 During the initial informal discussion managers should:**

- Discuss performance levels with the employee concerned;
- Provide examples/evidence of concerns;
- Discuss the expected level/improvements in relation to the previous examples and agree on whether or not the employee deems it to be achievable.
- Agree timelines for improvement;
- Discuss what support you can provide, also consider support from colleagues or out with the Department. Consideration may be given to on-the-job training or a formal training course and OHU.
- The member of staff should be set clear written performance targets using an Improvement Plan and a realistic timescale for improvement. If a PIP is not the most appropriate and agreed method of detailing objectives/improvements required then these should be detailed in a written Improvement Letter. The PIP or Improvement Letter should be jointly agreed in writing. His/her performance should be regularly reviewed until the performance targets are met.

Where an informal approach has not led to the required improvement within the agreed timescale, managers may initiate the formal Capability Process.

## **2.2 Undertaking a Capability Review (after informal stage)**

In some cases of long term continuous or intermittent sickness absence, the University may have to consider the employee's capability / fitness for working. This could occur when:

- there is no predicted date of return;
- medical evidence indicates that an individual is permanently unfit for work;
- a return to work may be unlikely within a reasonable timescale;
- there is a high level of intermittent absence;
- the member of staff is not able to fulfil their job role effectively (after appropriate interventions/reasonable adjustments to facilitate their return or improve their attendance).

A capability review will consider whether:

- Further investigation is required, for example, if recovery is taking longer than predicted or there has been a recent deterioration in relation to health or a disability. Further medical advice and relevant specialist reports may be requested to ensure any decision takes into account up to date medical information.
- Reasonable adjustments have been made where this is appropriate, and whether there are any further reasonable adjustments that can be made such

as changes to the job role/support through the Access to Work scheme for example.

- A phased return, alternative duties, or flexible working have been discussed and considered where appropriate.
- Redeployment may be appropriate and if there are other suitable job opportunities on a permanent or temporary basis that the employee may fulfil.
- Early retirement or ill health retirement may be an option if the employee is a member of an occupational pension scheme and meets the relevant criteria for retirement under the scheme rules.

A possible outcome of this meeting is that the employee will be invited to a capability hearing which will consider their future employment situation with the University.

### **2.3 Capability Hearing (any level of warning or dismissal)**

The purpose of the capability hearing is to review and consider the employees sickness absence levels, and all the relevant information obtained regarding their wellbeing. The hearing should consider:

- the level of absence/duration of absence;
- any occupational health reports;
- the impact this has had on the service and work colleagues;
- the support, actions or adjustments which have been taken so far and the outcome of these;
- if any further adjustments can be made;
- whether redeployment or early retirement has been discussed where appropriate.

## **Briefing Note for Managers: How to Conduct an Informal Meeting**

### **1.0 Overview**

The below checklist is for guidance purposes only, as it is recognised that the manager will need to determine how best to manage such a meeting based on the individual circumstances of the case.

Please ensure that all discussions during this process are fair, consistent and appropriate.

### **2.0 Preparation**

- Gather all the facts before inviting the employee to discuss specific concerns
- Identify specific examples to draw upon within the meeting e.g. particular areas of performance concerns
- Choose a private location and provide adequate time to discuss/explore the issues
- Notify employee of informal meeting, via face to face communications, or phone/email
- Briefly identify what you wish to discuss at the meeting

### **3.0 During the meeting**

Hold an informal meeting, advising that this an informal meeting aimed at supporting the individual in addressing specific concerns and/or reaching and maintaining necessary standards/expectations

#### **3.1 Explain and Explore Issues**

- Constructively explain concerns/issues (i.e. shortfall in performance or development needs), provide factual examples and allow the employee the opportunity to provide any explanations (which should be subsequently followed up and checked, where appropriate)
- Outline the impact these concerns are having on the department/area of work
- Ensure that some positive feedback is provided, where possible
- Together explore any potential causes and any special circumstances. The employee's views/perception of all matters involved should be taken fully into account, and any additional or alternative evidence considered
- Acknowledge any factors beyond the employee's control
- Explain any required standards or expectations which are not being met
- Explore possible reasons/specific problems/underlying issues preventing improvement.
- Explore how issues can be addressed. Consider any suggestions the employee may offer to address the concerns
- Clearly explain relevant expectations and the need for sustained improvement

#### **3.2 Communication**

The meeting is about information gathering as well as conveying messages so listening skills are important. Ensure there is a clear understanding of what is being said by all parties by asking open questions and agreeing points and action wherever possible. Produce evidence to support any shortcomings but also acknowledge the individuals achievements.

#### **3.3 Body Language**

It is usual for parties to be nervous and defensive, try and keep a relaxed and informal body posture, accompanied by calm, clear and unhurried speech.

### **3.4 Fairness**

Ensure you are fair and objective and apply the same approach to all team members whilst acknowledging that individuals have differing levels of experience, competence and workload. Remember tackling an individual's work issues does not amount to bullying, harassment or victimisation providing it is done in a fair, reasonable and respectful manner.

### **3.5 Conflict**

Be prepared for the individual to be unhappy with the situation and have a strategy for dealing with any emotion. Acknowledge their feelings as well as the facts and be supportive. Avoid confrontation by remaining calm and respectful at all times even in the face of provocation. Never raise your voice or enter into an argument - where emotions are running high an adjournment or a postponement of the meeting is generally the best course of action.

### **3.6 Agree Outcome**

- Together discuss and agree any follow up action/targets/SMART objectives and responsibilities for attaining a sustained improvement and the proposed timescales, including period of monitoring/review, (as appropriate). Generate a Performance Improvement Plan (PIP)/consider any reasonable adjustments (as appropriate). See PIP Template.
- Consider any possible needs for further development (i.e. training) if relevant
- Consider any need for external support (e.g. Occupational Health)
- Explain that insufficient sustained improvement, within the time-scales defined, may lead to more formal action
- Outline formal stage if improvement is not reached/situation not remedied. (Refer to Capability Procedure)
- Advise that the key points of discussion including any relevant expected improvements/review timetable will be noted and sent to the employee for information.
- Seek advice from HR Partner, if necessary
- Check if the individual wishes to add anything or has any questions to ask
- End on an optimistic but realistic note

If the issue is resolved, the employee should be advised of this and the discussion closed with no review required.

Where agreement cannot be reached, you should consult with [Human Resources](#) for advice.

### **4.0 Record**

- Record summary of the discussions, and share with staff member e.g. any agreed actions and timescales for improvement etc., ensuring that the records are factual and constructive. (This may be held in various formats e.g. via a letter, form, email etc.) See Informal Meeting Record Template (Appendix 2).
- Store records securely, as these may be subsequently required within later procedural stages and shared with all relevant parties, including the employee, if not done so originally

### **5.0 Review**

- Arrange a date for a follow up meeting to review the situation
- If appropriate, depending on the issue, regularly monitor and provide feedback on an on-going basis/not only at any potential subsequent review meeting
- Identify whether there is anything else you can reasonably do to help
- Address any new issues as they arise
- Agree further objectives/set next review meeting, if appropriate
- If process is failing to improve performance consult with your HR Partner to discuss further action under the Formal Capability Procedure

**Informal Meeting Record Template**

<b>STRICTLY PRIVATE &amp; CONFIDENTIAL FILE NOTE</b>	
Name of employee	
Job title	
Department	
Subject	
Date of Last Review Meeting (if applicable)	
Name(s) of other attendee(s) (if applicable)	

<b>Background:</b>
<b>Exploration of issues/Summary of key points discussed:</b> <i>(What is covered will depend on whether this is an initial or review meeting e.g. may include: concerns, why performance is below standard, what is going well, areas that need to be improved, progress towards any previously set objectives/ expectations, impact of any previous support, information from any management referral, etc.)</i>
<b>Agreed outcome:</b> <i>(Depending upon the issue, this section could include: summary of improvements required &amp; standards, targets/objectives (SMART) &amp; timescales for improvement, responsibilities for implementing actions, details of any agreed reasonable adjustments, date of any subsequent review meeting/discussions etc.)</i>

File note made by	
Date	