



Mind In Croydon Limited

SICKNESS ABSENCE POLICY AND PROCEDURE

1. INTRODUCTION

1.1 The purpose of this policy is:

- To ensure consistency and fairness in Mind's response to the absence from work of employees through sickness or accident
- To help Mind to balance the employee's need to recover full health and Mind's need to provide services efficiently and to maintain the morale of all employees
- To make employees aware of what is expected of them in terms of reporting sickness absence and co-operating with Mind in resolving problems of sickness absence
- To protect employees: regular or prolonged sickness can easily escalate and get out of hand. By addressing problems early a way can often be found to contain and manage the situation before it becomes a crisis.
- To protect Mind: as a relatively small organisation Mind in Croydon cannot comfortably contain repeated or prolonged terms of sickness. Unmanageable levels of sickness affect other members of staff who may have to take on extra work and may be detrimental to clients through delay and interruption of service.
- To help Mind to comply with employment and social security legislation and regulations

1.2 Sickness absence is defined as any absence from work caused by illness, accident, surgery and absence from work required to recover from these. It includes planned surgery (see paragraph 3.6). It is different from special leave, which is leave agreed between a line manager and employee for reasons other than sickness (e.g. bereavement, caring responsibilities)

1.3 The policy should be read in conjunction with the Contract of Employment and with the following policies and procedures: Disciplinary Procedure, Management of Violence, Stress at Work, Health and Safety, HIV/Aids.

2. GUIDING PRINCIPLES

2.1 Level of absence.

There will be a certain level of absence through sickness in any organisation and Mind will endeavour to take account of this in the number of people employed to run projects. An employee's level of sickness absence will cause concern if it is significantly higher than the average absence level for similar employees and/or it is impacting on the organisation.

2.2 Mind's response.

Mind will respond sympathetically to an employee's need to take sufficient time away from work to recover from illness or incapacity. However, when an employee's level of sickness absence is causing particular concern and/or is considered to have reached an unacceptable level Mind will take action in accordance with this policy and procedure .

2.3 Consistency and flexibility

While the overall aim is for employees to be treated in a consistent way there is also room for flexibility. Nothing in this policy should prevent managers, with the approval of the

trustees, paying regard to an employee's length of service with Mind and previous good sickness record when dealing with a problem of sickness absence.

2.4 **Mind's Responsibility to Employees**

Mind has a responsibility to:

- To take reasonable care to ensure that the health of employees is not placed at risk through their work
- To protect the legal rights of employees as regards sick pay entitlement and absence from work
- To respect the rights of particular groups of employees e.g. the disabled and pregnant women
- To investigate fully the reasons for absence in every case
- To maintain confidentiality as far as possible
- Within the boundaries laid down by this policy to treat each case according to the individual circumstances
- To ensure fairness to all employees by taking action if it is apparent after investigation that an employee has abused their rights

2.5. **Responsibility of Employees**

Employees also have responsibilities:

- To do everything they can to safeguard their own health and to ensure that they are fit to do their job.
- To come to work unless they are not well enough to do their job and/or their attendance would be detrimental to clients or colleagues (e.g. through risk of infection)
- To follow procedures laid down for reporting sickness absence. Failure to do so may impede the payment of Statutory Sickness Benefit and of additional Mind sick pay and may result in disciplinary action.

2.6 **Disciplinary Procedures**

Absence due to genuine ill-health is not misconduct, and is thus subject to sickness procedures, not disciplinary procedures. However, disciplinary procedures may be invoked under certain circumstances [see paragraph 3.4]

3. **POLICY ISSUES**

3.1. **Confidentiality.**

In dealing with cases under this policy, a line manager may become aware of sensitive medical or personal information. The confidentiality of this information will be maintained as far as possible. It will be disclosed only to the Chief Executive, who will decide if there are others, such as the Chairman or other managers, with a genuine need to know and who will endeavour to discuss this with the employee before disclosure to others.

3.2 **Probationary period**

The policy applies to all employees, including those in their probationary period. This period will be extended in case of prolonged or repeated sickness absence and the absence may be taken into account in determining whether to confirm the employee in post.

3.3 **Violence against employees**

Where an employee becomes incapacitated as a result of a violent incident in the course of their work the resulting absence will be regarded sympathetically and will not be counted in the calculation of the employee's entitlement to fully paid sick leave from Mind. [See Violence Policy paragraph 2.8]

3.4 **Pregnancy**

Illnesses related to pregnancy are not grounds for dismissal and in cases where there is doubt over whether an illness is linked to the pregnancy, expert medical advice will be

sought. Mind will do everything possible, if an employee's work poses a threat to them during pregnancy, shortly after the birth or while breastfeeding, to find alternative suitable work. If this cannot be found, the employee may be suspended on full pay until it is safe for them to return to work.

3.5 **Disciplinary Action**

Disciplinary procedures may be invoked, for example, where an employee

- Has reported sick and been given leave when they were not sick
- Has persistent absences from work on uncertified sick leave
- Is fit to return to work after a period of absence and fails to return
- Fails to follow the sickness reporting procedures without good reason, knowingly supplies incorrect information, or fails to co-operate in carrying out the policy.

Employees who abuse Mind's sickness policy by taking leave when there are no genuine symptoms or who produce false self-certificates may be dismissed on grounds of misconduct following a thorough investigation and a disciplinary hearing [see Disciplinary Procedure].

3.6 **Planned surgery**

Mind recognises that in most cases an employee will have very limited or no control over the timing of elective surgery or other planned treatment. However, where this is not the case, for example when the employee is covered by private health insurance, the employee should discuss with their line manager as early as possible the timing of the surgery or treatment so that minimum inconvenience is caused.

In the case of cosmetic or other non-essential surgery or treatment Mind may request a letter from the employee's doctor confirming that the surgery is in the interest of the employee's health. Otherwise the surgery or treatment will not be covered by this policy and absence from work will have to be taken as annual leave.

4. **PROCEDURE FOR DEALING WITH SICKNESS ABSENCE**

4.1 **Entitlement to Paid Sick Leave**

See Contract of Employment.

4.2 **Reporting Sickness absence**

See Appendix A.

4.3 **Return to Work Interviews**

When an employee returns to work after a period of sickness of more than one week the line manager should hold an informal interview with the employee. The purpose of the interview is not to imply any criticism of the employee but to check that they are really fit to return to work and that there are no issues requiring action such as stress or lack of motivation, harassment, the need for a phased return to work etc. The manager may also wish to check whether there is likely to be a need for further absence, e.g. for necessary treatment.

A brief note of the interview should be kept on the employee's file.

4.3 **Medical Reports**

As part of the investigation of prolonged or repeated absence through sickness Mind may ask for medical evidence in the form of a doctor's report. An employee who is unable to perform their duties owing to ill-health will be requested to agree to be examined at Mind's expense by a doctor appointed by Mind. Employees have the right to withhold a report from their own GP or decline an examination by a Mind appointed doctor but if they do so, managers will have to make a judgement on the basis of available information. Employees can discuss with their manager the possibility of obtaining their own medical report as a second opinion but this additional report, if not needed by Mind, would be at the employee's

own expense. [See **Appendix B: Disability Discrimination Act**, paragraph 6, for further guidance on obtaining medical information.]

4.4 **Categories of sickness absence**

Sickness likely to cause concern usually falls into one of the following categories:

- Persistent short term absence
- Long term/chronic illness/incapacity

4.5 **Persistent short term absence**

4.5.1 Managers may well be concerned by employees suffering from many apparently unconnected minor illnesses even if these are covered by medical certificates. Persistent short term absence is defined as follows:

- Accumulated sporadic absences exceeding ten days in any 12 month period; or
- Six working days or more, on more than one occasion, of sickness absence over any six-month period; or
- A pattern of absence: for example sickness on Mondays or Fridays or persistently on any other particular day of the week; or
- Good attendance during a monitoring period, which deteriorates when it ends.

4.5.2 Where an employee's sickness absence reaches or exceeds any of the above, the line manager will take further action as follows. Employees are entitled to have a friend or colleague present at any interview if they so choose. The line manager may also choose to have another member of staff or a representative such as a trustee present:

4.5.3 **Step 1**

Employees will receive a written request to attend a formal meeting to discuss the absence and will be advised to re-read this policy before attending any interviews so they know what to expect.

The line manager will discuss the absences and reasons for them and urge the employee, where appropriate, to see their doctor. They will also discuss any management, work environment or motivation issues which might be contributing to the situation in an effort to see if there is any help Mind could provide in dealing with the illnesses. The manager will outline any difficulties the absences might be causing for other employees and for the Mind project concerned. A review period of between six weeks and three months will be identified during which an improvement will be expected. A note of the meeting will be kept on the employee's file.

Step 2

If the level of absence persists or goes down but is then resumed a second formal meeting will be held. The employee will be asked what positive steps they have taken, if any, including visits to the doctor and the manager will ask if there is any further help Mind can provide. Permission may be sought at this stage to contact the employee's doctor for a medical report or Mind may appoint an independent doctor to produce a report with the employee's consent. Provided that medical reports do not indicate a long-term condition [Disability Discrimination Act may apply: see **Appendix B**] or a problem needing immediate medical attention the employee will be warned that they have three months in which to improve and that continued periods of absence will lead to a third formal meeting which could result in termination of employment. A note of the meeting will be kept on the employee's file.

Step 3

If there is no improvement or the improvement is not maintained a third formal interview will be held. Medical reports should have been obtained before this interview, if not obtained earlier. The employee's line manager will be present and either the Chief Executive, Director of Client Services or Human Resources Manager. The employee's attendance and sickness absence record, the effect of these on the Mind project concerned and any medical reports received will be considered. It will be made clear that Mind cannot accept the level of absence and a formal letter will be given to the employee either at or shortly after the interview stating the facts and the action to be taken if the situation is not resolved within a further three months. At managers' discretion, it may be decided at this stage that more time is needed to improve or that more evidence should be sought.

4.5.4 The results of this procedure may be any one of the following:

4.5.5

- If acceptable to Mind, arrangements may be made for reduced hours or a change of job;
- The employee may be required to retire due to ill-health;
- The employee may be dismissed on the grounds of lack of capability to do the job or on the grounds that absence levels are unacceptable. The reason for dismissal in this case would be 'some other substantial reason' [Employment Rights Act 1996]

4.6 **Long Term/Chronic Illness/Incapacity**

4.6.1 Following notification of incapacity, chronic illness etc. Mind will generally keep in contact with the employee by letter, telephone or in person. This should not be seen as pressure to return to work; Mind as employer has a responsibility to keep in touch with an employee, especially if their employment is likely to be at risk. This is distinct from any informal contact the employee may have with work colleagues in the form of visits or cards, flowers etc.

4.6.2 Employees must be prepared, however, when there has been an accident which is the liability of the employers' insurers, for the insurers to forbid contact.

4.6.3 Mind will at its own expense arrange if necessary for a medical report (with the consent of the employee) to ascertain the fitness of the employee to return to work and when this is likely to be. Mind will decide whether the job can be left open until the employee's return, or whether alternative work can be offered or adjustments can be made to hours or working conditions. If not, dismissal on grounds of incapacity may be the outcome. The employee will have the right to state their case during this period. Without the employee's consent to medical reports, managers will have to make this judgement on the basis of available information.

4.6.4 The Disability Discrimination Act may apply in cases of long-term illness or disablement. See Appendix B.

4.7 **Appeals**

An employee dismissed on grounds of ill-health has the same right of appeal as if the dismissal were on disciplinary grounds. [See Disciplinary Procedure].

The policy was last reviewed and agreed by the trustees in April 2011

APPENDIX A

PROCEDURE FOR REPORTING SICKNESS ABSENCE

The Contract of Employment and Staff Manual contain further details on reporting absences due to sickness. The basic procedure is as follows:

On the first *and subsequent* day/s of absence the employee or someone nominated by the employee, should notify their line manager or the most senior person available within one hour of the normal time for commencing work or before the start of the shift for day-care staff. *This daily reporting in must continue until such a time as the HR Manager advises the employee that daily notification is no longer necessary and agrees with them that they can report in on a less frequent basis for example, once a week, once a month etc.* In the case of employees based at the Mind Office the person receiving the call should then complete a 'COMMENCEMENT OF SICK LEAVE' form, a copy of which is attached to this Procedure and the employee will be asked to sign this on their return. In the case of employees based at Fairfield House or Enterprise House the above form may be used or a note may be made in the log book.

On return to work, **however short the period of sickness**, employees should complete a 'RETURN TO WORK AFTER SICK LEAVE' note, a copy of which is attached to this Procedure.

By the end of the fourth day's absence the employee must provide a self-certification note – the 'RETURN TO WORK AFTER SICK LEAVE' note serves this purpose, or one can be obtained from the employee's GP. In each case, employees are asked to give brief details of the reason for the sick leave. For any period of one week [7 days] or more a doctor's certificate must be sent to the Mind office, 26 Pampisford Road, Purley. Failure to do this, will affect the payment of SSP and additional sick pay and may lead to implementation of the disciplinary procedure.